

**PHOENIX DISTRICT OFFICE NEPA COMPLIANCE RECORD
FOR CATEGORICAL EXCLUSIONS
AND ADMINISTRATIVE DETERMINATIONS**

**Abengoa Solar Permit – Trespass Resolution
DOI-BLM-AZ-P020-2010-014-CX**

A. Background

BLM Office: Lower Sonoran Field Office
Lease/Serial/Case File No.: AZA-35161

Proposed Action Title/Type: Land Use Authorization – Permit

Location of Proposed Action: T. 6 S., R. 7 W., Section 5, E $\frac{1}{2}$ E $\frac{1}{2}$ W $\frac{1}{2}$

Description of Proposed Action: Akbengoa Solar, Inc. has applied for a land use authorization – permit in order to remove a man-made berm that was constructed in trespass across BLM land by previous land owners. The berm was constructed to direct water run-off from BLM land to the north end of the adjacent private property, which is now owned by Abengoa Solar, Inc. The proposed action would require dozers to remove the berm and return the land to its prior elevations. The dirt from the berm would be removed and placed appropriately on the Abengoa Solar property. The BLM land would be reclaimed and weed-free, and native seed would be used as approved by the BLM for re-vegetation.

B. Land Use Plan Conformance

Land Use Plan (LUP) Name: The Lower Gila South Resource Management Plan
Date Approved/Amended: June 1988/Amended July 2005.

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s):

Lower Gila Resource Area processes a variety of land actions in the Lower Gila South RMP/EIS area – rights-of-way, communication sites, easements, permits, and unauthorized occupancy. All land cases would continue to be evaluated on a case-by-case basis. (Page 11)

C: Compliance with NEPA:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 2, Appendix 1, ___ or 516 DM 11.9, **E (20)** which states: *One-time issuance of short-term (3-years or less) rights-of-way or land use authorizations which authorize trespass action where no new use or construction is allowed, and where the proposal includes rehabilitation to restore the land to its natural or original condition.* This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM2 apply.

BLM Categorical Exclusions: Extraordinary Circumstances¹

Attachment 1

EXTRAORDINARY CIRCUMSTANCES REVIEW AND CHECKLIST			
<p>IMPORTANT: Appropriate staff should review the circumstances listed below, comment and initial for concurrence. Rationale supporting the concurrence should be included where appropriate.</p>			
EXTRAORDINARY CIRCUMSTANCES	YES/NO & RATIONALE (If Appropriate)	RESOURCE/PROGRAM AND STAFF SIGNATURE(S)	DATE
Does the proposed action...			
1. Have significant impacts on public health and safety?	NO		
		Health & Safety	
	NO		
		Fuels / Fire Management	
	NO		
		Wastes, Hazardous or Solid	

¹ If an action has any of these impacts, you must conduct NEPA analysis.

EXTRAORDINARY CIRCUMSTANCES Does the proposed action...	YES/NO & RATIONALE (If Appropriate)	RESOURCE/PROGRAM AND STAFF SIGNATURE(S)	DATE
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness or wilderness study areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas?	NO		
		Geology	
	NO		
		Cultural/Paleontological	
	NO		
		Recreation	
	NO		
		Wilderness & WSA	
	NO		
		Wild & Scenic Rivers	
	NO		
		National Natural Landmark	
	NO		
	Soils		
NO			
	Water quality		
NO			
	Air		
NO			
	Wetlands		
NO			
	Floodplains		

EXTRAORDINARY CIRCUMSTANCES Does the proposed action...	YES/NO & RATIONALE (If Appropriate)	RESOURCE/PROGRAM AND STAFF SIGNATURE(S)	DATE	
	NO	National Monuments		
	NO	Migratory Birds		
	NO	Areas of Critical Environmental Concern		
	3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?	NO	Biology	
NO		Lands/Realty		
NO		Minerals		
NO		Law Enforcement		
NO		Visual Resource Mgmt		
NO		Wild Horses/Burros		
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?		NO		
			Biology	

EXTRAORDINARY CIRCUMSTANCES Does the proposed action...	YES/NO & RATIONALE (If Appropriate)	RESOURCE/PROGRAM AND STAFF SIGNATURE(S)	DATE
5. Establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?	NO		
		Project Lead	
	NO		
		Biology	
	NO		
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?	NO		
		Project Lead	
7. Have significant impacts on properties listed or eligible for listing, on the National Register of Historic Places as determined by either the Bureau or office?	NO		
		Archeology	
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?	NO		
		Birds/Wildlife/habitat	
	NO		
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?	NO		
		Project Lead	

EXTRAORDINARY CIRCUMSTANCES Does the proposed action...	YES/NO & RATIONALE (If Appropriate)	RESOURCE/PROGRAM AND STAFF SIGNATURE(S)	DATE
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?	NO		
		Project Lead	
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners, or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007)?	NO		
		Native American Coordinator	
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112)?	NO		
		Invasive & Non-Native Weeds	

STIPULATIONS

1. All applicable regulations in accordance with 43 CFR 2920.
2. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the permittee, or any person working on its behalf, on BLM administered land must be immediately reported to the Authorized Officer. Abengoa Solar Inc., shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. Abengoa Solar, Inc. will be responsible for the cost of evaluation and the Authorized Officer will make any decision as to proper mitigation measures after consulting with the permittee.
3. Abengoa Solar, Inc. shall reclaim the affected BLM land, and a native seed shall be applied, as approved by BLM for re-vegetation.