

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
RIGHT OF-WAY LEASE/GRANT

SERIAL NUMBER CACA-49537

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1. As authorized by the Record of Decision for the Calico Solar LLC, a right-of way lease/grant is hereby issued pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and the Bureau of Land Management right of-way regulations (43 CFR Part 2800).
2. Nature of Interest:
  - a. By this instrument, the holder:

Calico Solar, LLC  
4800 North Scottsdale Road, Ste. 5500  
Scottsdale, AZ 85251 7639

receives a right to use and occupy the following described public lands to construct, operate, maintain, and decommission a 663.5 MW thermal concentrated solar power electric generation project, and its ancillary facilities as described in the approved Plan of Development (POD):

See attached legal description and map (Exhibit A).
  - b. The instrument issued herein consists of a concentrated thermal solar power facility, generation-tie transmission line, project site perimeter road and auxiliary facilities, and contains 4,604 acres, more or less.
  - c. This instrument for the thermal concentrated solar power electric generation project, and its ancillary facilities shall expire on December 31, 2039, 30 years from its effective date, unless, prior thereto, it is relinquished, abandoned, or terminated pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
  - d. This instrument may be renewed by the Authorized Officer. The holder is required to submit an application for renewal at least 120 calendar days prior to the expiration date of this instrument. The Authorized Officer will review the application for renewal to ensure the holder is complying with the terms, conditions, and stipulations of this instrument and applicable laws and regulations. If renewed, the right of-way shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the Authorized Officer deems necessary to protect the public interest.

- e. Notwithstanding the renewal, expiration, relinquishment, abandonment, or termination of this instrument, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the renewal, expiration, relinquishment, abandonment, or termination of this authorization.
- f. The Authorized Officer retains the right of access to the lands included within the right-of-way at any time and may enter any facility on the right of-way in accordance with 43 CFR 2805.15(a). The holder shall pay monitoring fees in accordance with 43 CFR 2805.16 as specified in the master agreement with BLM for the reasonable costs incurred in monitoring the construction, operation, maintenance, and decommission of the right of way.
- g. This instrument is issued subject to valid existing rights in accordance with 43 CFR 2805.14.

3. Rental:

- a. For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management the fair market value of the right-of way, which includes both base rent and a megawatt capacity fee, as determined by the Authorized Officer unless specifically exempted from such payment by law or regulation. Provided, however, that the rental may be adjusted by the Authorized Officer, whenever necessary, to reflect changes in fair market value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices. The rental provisions of this authorization may also be modified consistent with the provisions of any regulatory changes or pursuant to the provisions of any new or revised statutory authorities.
- b. The rental includes an annual base rent for the acreage of the public land included in the authorization and a megawatt capacity fee based on the authorized megawatt capacity of the approved solar energy facilities. The base rent is due and payable upon the date of issuance of this instrument and will be paid on an annual basis consistent with the regulations. The base rent will be adjusted each year based on the Implicit Price Deflator Gross Domestic Product (IPD GDP) index. The megawatt capacity fee is based on the authorized megawatt capacity approved by the Authorized Officer, or an approved phase of development, and will be paid on an annual basis upon the start of electric generation from the solar energy facilities. The megawatt capacity fee will be phased in over a 5 year period after the start of electric generation (at the rate of 20 percent the first year, 40 percent the second year, 60 percent the third year, 80 percent the fourth year, and 100 percent the fifth and subsequent years of operations). The 5 year phase-in period will apply separately to each phase of development as approved by the Authorized Officer. The Calico Solar Rental Payment Proposal authorized by the California State Director approves the MW Capacity Fee payment for quarterly annual for actual capacity that begins generation.

4. Bond:

- a. A Performance and Reclamation bond, in an amount determined by the Authorized Officer, shall be obtained by the holder to ensure compliance with the terms and conditions of this instrument. The Authorized Officer will require that the holder submit a Reclamation Cost Estimate for review and to assist the Authorized Officer in determining the bond amount. The holder shall provide the Authorized Officer proof that a bond in the required amount has been obtained by such date as specified by the Authorized Officer. The amount of the bond will be limited to the anticipated liabilities associated with the activities approved by the Notice to Proceed. If the Notice to Proceed is limited to only an initial phase of development or activity, the bond amount will be limited to that phase or activity. The bond amount would increase with the issuance of a Notice to Proceed for future phases of development or additional activities. The bond must be maintained in effect until removal of improvements and restoration of the right-of way has been accepted by the Authorized Officer. Acceptable bond instruments include cash, cashier's or certified check, certificate or book entry deposits, negotiable U.S. Treasury securities (notes, bills, or bonds) equal in value to the bond amount, surety bonds from the approved list of sureties (U.S. Treasury Circular 570) payable to the Bureau of Land Management (BLM), irrevocable letters of credit payable to the BLM issued by financial institutions that have the authority to issue letters of credit and whose operations are regulated and examined by a federal agency, or a policy of insurance that provides BLM with acceptable rights as a beneficiary and is issued by an insurance carrier that has the authority to issue insurance policies in the applicable jurisdiction and whose insurance operations are regulated and examined by a federal or state agency. The Authorized Officer will not accept a corporate guarantee as an acceptable form of bond. The Authorized Officer will review the bond on an annual basis to ensure adequacy of the bond amount. The bond will also be reviewed at the time of any assignment, modification, or renewal of this instrument. The Authorized Officer may increase or decrease the bond amount at any time during the term of the right of-way authorization, consistent with the regulations.
- b. The holder agrees that any bond held as security for holder's performance of the terms and conditions of this instrument may, upon failure on the holder's part to fulfill any of the requirements herein set forth or made a part hereof, be retained by the United States to be applied as far as may be needed to the satisfaction of the holder's obligations assumed hereunder, without prejudice whatever to any other rights and remedies of the United States.
- c. Should the bond delivered under this instrument become unsatisfactory to the Authorized Officer, the holder shall, within 30 calendar days of demand, furnish a new bond. In the event of noncompliance with the terms and conditions of this instrument, the BLM will notify the holder that the surety or other bond instrument is subject to forfeiture and will allow the holder 15 calendar days to respond before action is taken to forfeit the bond and suspend or terminate the authorization.

5. Terms and Conditions:

- a. This instrument is issued subject to the holder's compliance with all applicable laws and regulations and, in particular, with the regulations contained in Title 43 Code of Federal Regulations Part 2800, including the terms and conditions required by 43 CFR 2805.12. Failure of the holder to comply with applicable law or regulations or any terms, conditions, or stipulations of this instrument shall constitute grounds for suspension or termination thereof. The Authorized Officer may change the

terms and conditions of this instrument as a result of changes in legislation, regulations, or as otherwise necessary to protect public health or safety or the environment in accordance with 43 CFR 2805.15(e).

- b. The right of-way Stipulations (Exhibit B), attached hereto, and the approved Final Plan of Development, are incorporated into and made a part of this instrument as fully and effectively as if they were set forth herein in their entirety.
- c. The holder shall perform all operations in a good and workmanlike manner, consistent with the approved Plan of Development, so as to ensure protection of the environment and the health and safety of the public. The Authorized Officer may order an immediate temporary suspension of operations, orally or in writing, in accordance with 43 CFR 2807.16 to protect public health or safety or the environment if the Authorized Officer determines that the holder has violated one or more of the terms, conditions, or stipulations of this instrument. An immediate temporary suspension order is effective until the holder receives a written Notice to Proceed from the Authorized Officer.
- d. The holder will not initiate any construction or other surface disturbing activities on the right-of-way without prior written authorization of the Authorized Officer. Such authorization will be a written Notice to Proceed (Form 2800-15) issued by the Authorized Officer or his/her delegated representative. Each Notice to Proceed will authorize construction or use and occupancy only as therein expressly stated and only for the particular location or use and occupancy therein described, i.e., a construction phase or site location. The Authorized Officer will issue a Notice to Proceed subject to such terms and conditions as deemed necessary when the design, construction, use, occupancy, and operation proposals are in conformity with the terms and conditions of this instrument.
- e. The holder shall start construction of the initial phase of development within 12 months after issuance of a Notice to Proceed but no later than 24 months after the effective date of the issuance of this right of way lease/grant. The holder shall complete construction within the timeframes approved in the Plan of Development, but no later than 24 months after start of construction, unless the project has been approved for phased development as provided for in paragraph (5)(f).
- f. If this right-of-way lease/grant and approved Plan of Development provides for a phased development, construction of each subsequent phase must begin within 3 years of the start of construction of the previous phase. A Notice to Proceed will be required to be issued by the Authorized Officer for each phase of development. The Notice to Proceed for a particular phase of development may be subject to the issuance of additional Notices to Proceed for specific activities within the particular development phase.
- g. During operations, the holder shall maintain all onsite electrical generation equipment and facilities in accordance with the design standards in the approved Plan of Development. Any idle, improperly functioning, or abandoned equipment or facilities that have been inoperative for any continuous period of 3 months or more must be repaired, placed into service, and/or removed from the site within 30 calendar days from receipt of a written Notice of Failure to Ensure Diligent Development from the Authorized Officer, unless the holder is provided an extension of time by the Authorized Officer. To obtain an extension of the 30-day deadline, the holder must submit a written request to the Authorized Officer and show therein good cause for any delays in repairs, use, or removal; an

estimate when corrective action will be completed; and evidence of diligent operation of the equipment and/or facilities.

- h. Failure of the holder to comply with any diligent development provision of this instrument may cause the Authorized Officer to suspend or terminate the authorization in accordance with 43 CFR 2807.17 - 2807.19, and use the posted Performance and Reclamation bond to cover the costs for removal of any equipment and/or facilities. The Authorized Officer will provide the holder a written Notice of Failure to Ensure Diligent Development prior to the suspension or termination of the authorization. The holder will be provided an opportunity to correct any noncompliance in accordance with 43 CFR 2807.18 or submit a written request to the Authorized Officer for an extension of the timelines in the approved Plan of Development.
- i. Upon termination by the Authorized Officer or expiration of this instrument, all improvements shall be removed from the public lands within 180 calendar days or otherwise disposed of as provided for in the approved Plan of Development, or as directed by the Authorized Officer.
- j. This instrument shall, at a minimum, be reviewed by the Authorized Officer at the end of the 10th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that this instrument may be reviewed at any time deemed necessary by the Authorized Officer in accordance with the regulations.
- k. This instrument may be assigned consistent with the regulations, but all assignments are subject to approval by the Authorized Officer. In addition, the qualifications of all assignees must comply with the requirements of the regulations. A partial assignment of this instrument shall not be approved if such action would hinder the Authorized Officer's management of the authorization or the associated public lands.
- l. Upon the request of the Authorized Officer, the holder shall provide access to environmental, technical, and financial records, reports, and other information related to construction, operation, maintenance, and decommissioning of the right-of-way. Any information marked confidential or proprietary will be kept confidential to the extent allowed by law. Failure of the holder to cooperate with such request, provide data, or grant access to such records, reports, and information may, at the discretion of the Authorized Officer, result in suspension or termination of the right-of-way lease/grant in accordance with the regulations.
- m. The holder shall provide a survey and separate legal description for each Phase of the project area, as identified in Alternative 5.5 in the FEIS. The BLM shall have 45 days to review, verify and approve the survey and legal descriptions.

IN WITNESS WHEREOF, The undersigned agree to the terms and conditions of this right-of way.

Helicia R. Bellar  
(Signature of Holder)

Vice President  
(Title)

10/21/10  
(Date)

Roxie Trost, Achy  
(Signature of Authorized Officer)

Roxie Trost, Field Manager  
(Title)

10/21/10  
(Effective Date of Lease/Grant)

**Attachments**

Exhibit A: Legal Description and Map

Exhibit B: Stipulations

EXHIBIT A

LEGAL DESCRIPTION AND MAP

*Below is the legal description for the lands affected by the right-of-way grant/lease.*

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**LEGAL LAND DESCRIPTION – ENTIRE SITE**

Within Township 8 North, Range 5 East, San Bernardino Meridian:

Section 2: Lots 1 and 2 in the NE1/4, SE1/4;

Section 8: That portion of the N1/2, N1/2N1/2SE1/4 southerly of the southerly right-of-way of the Burlington Northern Santa Fe (BNSF) railroad and northerly of right of-way LA 0107127;

Section 10: S1/2, S1/2NE1/4 southerly of the southerly right-of-way of the BNSF railroad.

Section 11: NE1/4 excluding the BNSF right-of way, W1/2SW1/4NW1/4 southerly of the BNSF right-of-way, W1/2SW1/4, W1/2E1/2SW1/4, E1/2NE1/4SW1/4, N1/2SE1/4, E1/2SE1/4SE1/4;

Section 12: All section excluding the BNSF right-of way.

Section 14: NE1/4NE1/4NE1/4, W1/2NW1/4, W1/2E1/2NW1/4, SE1/4SE1/4NW1/4 northerly of the northerly right-of-way of Interstate 40 (I-40);

Section 15: N1/2N1/2, N1/2S1/2N1/2 northerly of the northerly right-of-way of I-40.

Within Township 8 North, Range 6 East, San Bernardino Meridian:

Section 5: A portion of SW1/4SW1/4, a portion of SW1/4SE1/4SW1/4;

Section 6: A portion of lot 2 in the NE1/4, a portion of lot 2 in the NW1/4, lot 1 in the NW1/4, lot 1 in the NE1/4, lot 2 in the SW1/4, lot 1 in the SW1/4, SE1/4;

Section 7: All section excluding the BNSF right-of-way;

Section 8: N1/2, SW1/4, NW1/4NE1/4SE1/4, NW1/4SE1/4, NW1/4SW1/4SE1/4, all portions westerly of SCE Transmission right-of-way;

Section 17: The NW portion westerly of SCE Transmission right of-way and excluding the BNSF right-of-way;

Section 18: NE1/4 excluding the BNSF right-of-way, Lot 1 in the NW1/4, N1/2 Lot 2 in the NW1/4, a portion of S1/2 of lot 2 in the NW1/4, a portion of N1/2 of lot 2 in the SW1/4, S1/2 of lot 2 Northerly of the northerly right-of way of I-40, lot 1 in the SW1/4 northerly of the northerly right-of-way of I-40, SE1/4 westerly of SCE Transmission right-of way.

Acres: 4604, more or less

*The exact project footprint (4604 acres) falls within this legal description and is subject to a metes and bounds survey, provided by the applicant. See attached map for detail.*

188,34

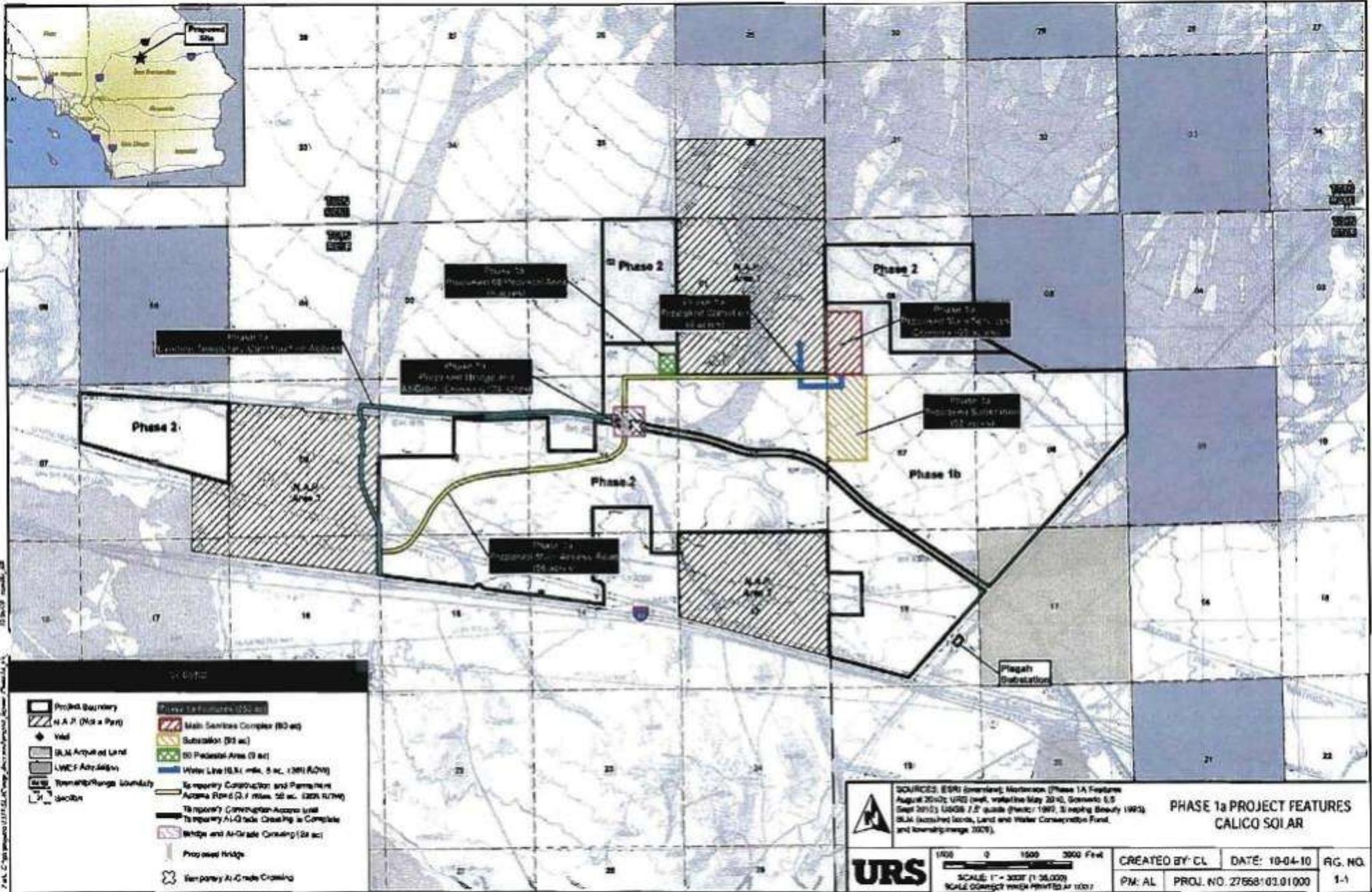


EXHIBIT A  
 CACA-49537  
 Calico Solar, LLC

## EXHIBIT B

## STIPULATIONS

1. The holder shall construct, operate, and maintain the facilities, improvements, and structures within this right-of-way in strict conformity with the approved Final Plan of Development, as amended or supplemented by approval of the Authorized Officer. Any relocation, additional construction, or use that is not in accord with the approved Final Plan of Development, shall not be initiated without the prior written approval of the Authorized Officer. A copy of the complete right-of-way authorization, including all stipulations and approved Final Plan of Development, shall be made available on the right-of-way area during construction, operation, and decommission. Noncompliance with the above will be grounds for immediate temporary suspension of activities if it constitutes a threat to public health and safety or the environment.
2. The holder shall comply with the CEC License and Conditions of Certification, issued by the California Energy Commission. Noncompliance with the requirements of the License and Conditions of Certification will be grounds for immediate temporary suspension of activities and operations within the right-of-way by the Authorized Officer.
3. The holder shall comply with the Biological Opinion/Conference Opinion dated October 15, 2010 for listed and proposed species associated with this project signed by the US Fish and Wildlife Service. Failure to comply with the requirements of the Biological Opinion/Conference Opinion shall be cause for suspension or termination of the right-of-way authorization.
4. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the Authorized Officer. The holder 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. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the Authorized Officer after consulting with the holder.
5. The holder shall comply with the construction practices and mitigating measures established by Army Corps of Engineers as set forth in the parameters for the individuals permit required by Section 404 of the Clean Water Act. The holder shall obtain the required individual permit from the appropriate office of the Army Corps of Engineers and provide the Authorized Officer with a copy of same. Failure to comply with this requirement shall be cause for suspension or termination of the right-of-way authorization.
6. Unless otherwise agreed to in writing by the Authorized Officer, powerlines shall be constructed in accordance to standards outlined in "Suggested Practices for Raptor Protection on Powerlines", Raptor Research Foundation, Inc., 1996. The holder shall assume the burden and expense of proving that pole designs not shown in the above publication are "eagle safe." Such proof shall be provided by a raptor expert approved by the Authorized Officer. The BLM reserves the right to require modifications or additions to all power line structures placed on this right-of-way, should they be necessary to ensure the

safety of large perching birds. Such modifications and/or additions shall be made by the holder without liability or expense to the United States.

7. The holder will arrange and attend preconstruction conference(s) prior to the holder's commencing construction and/or surface disturbing activities on the right-of-way or specific construction phase of the right of way as specified by the Authorized Officer. The holder and/or his representatives will attend this conference. The holder's contractor, or agents involved with construction and/or any surface disturbing activities associated with the right-of-way, will also attend this conference to review the stipulations of the authorization, including the Plan of Development, as applicable. The holder shall notify the Authorized Officer of the schedule for any preconstruction conference at least 10 calendar days in advance of the preconstruction conference or such timeframe as may be required by the Notice(s) to Proceed.
8. The holder shall designate a representative who shall have the authority to act upon and to implement instructions from the Authorized Officer. The holder's representative shall be available for communication with the Authorized Officer within a reasonable time when construction or other surface disturbing activities are underway.
9. The holder shall protect all survey markers found within the right-of-way. Survey markers include, but are not limited to, Public Land Survey System line and corner markers, other property boundary line and corner markers, and horizontal and vertical geodetic monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the Authorized Officer and the respective installing authority if known. Where any of the above survey markers are obliterated or disturbed during operations, the Authorized Officer will determine how the marker is to be restored. The holder will be instructed to secure the services of a registered land surveyor or informed that an official survey will be executed by the Bureau of Land Management (BLM). All surveying activities will be in conformance with the Manual of Surveying Instructions and appropriate State laws and regulations. Surveys by registered land surveyors will be examined by the Authorized Officer and the BLM State Office Chief Cadastral Surveyor for conformance with the Manual of Surveying Instructions and State laws and regulations before being filed in the appropriate State or county offices of record. The holder shall be responsible for all administrative and survey costs.
10. Use of pesticides and herbicides shall comply with all applicable Federal and State laws. Pesticides and herbicides shall be used only in accordance with their registered uses within limitations imposed by the Secretary of the Interior. Prior to the use of the pesticides, the holder shall obtain from the Authorized Officer, written approval of a Pesticide Use Proposal Plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, locations of storage and disposal of containers, and any other information deemed necessary by the Authorized Officer.
11. Only those chemicals (pesticides and herbicides) listed on the BLM approved label list are authorized for use on public lands. A Pesticide Use Proposal (PUP) must be submitted for each chemical used, and it cannot be used until approval has been obtained in writing from the Authorized Officer. The report needs to include any surfactants or dyes used in the spraying operation. Applicator(s) of chemicals used must have completed the pesticide certification training and have a current up to date Certified Pesticide Applicator's License. Pesticide and herbicide application records for the areas and acres treated must be submitted to the Authorized Officer each year. This includes the following:

Brand or Product name  
EPA registration number  
Total amount applied (use rate #A.I./acre)  
Date of application  
Location of application  
Size of area treated  
Method of treatment (air/ground)  
Name of applicator  
Certification number and dates  
Costs to treatment  
Amount of surfactants or dyes used in spraying operation

The record information must be recorded no later than 14 calendar days following the pesticide or herbicide application and must be maintained for ten years.

12. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. 'Waste' means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment. A litter policing program shall be implemented by the holder which covers all roads and sites associated with the right of way.
13. The holder shall comply with all applicable Federal, State, and local laws and regulations, existing or hereafter enacted or promulgated, with regard to any hazardous materials, as defined by 43 CFR 2801.5 that will be used, produced, or transported on or within the right-of-way, or used in the construction, operation, maintenance, or decommissioning of the right of way or any of its facilities. The holder agrees in accordance with 43 CFR 2807.12(e) to fully indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 et seq., or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
14. Within 120 calendar days of completion of construction, the holder will submit to the Authorized Officer, as-built drawings and a certification of construction verifying that the facility has been constructed in accordance with the design, plans, specifications, and applicable laws and regulations.
15. The holder will be liable for all fire suppression costs resulting from fires caused during construction or operations. The holder shall comply with all guidelines and restrictions imposed by agency fire control officials.
16. The holder shall fund in accordance with 43 CFR 2805.16 a third party Compliance and Inspection Program as deemed necessary by the Authorized Officer to ensure compliance with the terms, conditions, and stipulations of this right of-way lease/grant and applicable laws and regulations.

17. Bald and/or golden eagles may now or hereafter be found to utilize the project area. The BLM will not issue a notice to proceed for any project that is likely to result in take of bald eagles and/or golden eagles until the applicant completes its obligation under applicable requirements of the Eagle Act, including completion of any required procedure for coordination with the FWS or any required permit. The BLM hereby notifies the applicant that compliance with the Eagle Act is a dynamic and adaptable process which may require the applicant to conduct further analysis and mitigation following assessment of operational impacts. Any additional analysis or mitigation required to comply with the Eagle Act will be developed with the FWS and coordinated with the BLM.
18. The holder shall comply with the Environmental and Construction Compliance Monitoring Plan.
19. The holder shall comply with the Executed Programmatic Agreement, signed and dated on September 21, 2010. Noncompliance with the requirements of the will be grounds for immediate temporary suspension of activities and operations within the right-of way by the Authorized Officer.
20. Upon discovery of human remains in California, all work in the area must cease immediately, nothing disturbed and the area is to be secured. The County Coroner's Office of the county where the remains were located must be called. The Coroner has two working days to examine the remains after notification. The appropriate land manager/owner or the site shall also be called and informed of the discovery.

If the remains are located on federal lands, federal land managers/federal law enforcement/federal archaeologist are to be informed as well because of complementary jurisdiction issues. It is very important that the suspected remains and the area around them remain undisturbed and the proper authorities called to the scene as soon as possible as it could be a crime scene.

The Coroner will determine if the bones are historic/archaeological or a modern legal case.

#### Modern Remains

If the Coroner's Office determines the remains are of modern origin, the appropriate law enforcement officials will be called by the Coroner and conduct the required procedures. Work will not resume until law enforcement has released the area.

#### Archaeological Remains

If the remains are determined to be archaeological in origin and there is no legal question, the protocol changes depending on whether the discovery site is located on federally or non-federally owned/managed lands.

After the Coroner has determined the remains are archaeological or historic and there is no legal question, the appropriate Field Office Archaeologist must be called. The archaeologist will initiate the proper procedures under ARPA and/or NAGPRA. If the remains can be determined to be Native American, the steps as outlined in NAGPRA, 43 CFR 10.6 Inadvertent discoveries, must be followed.