

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT
CALIFORNIA DESERT DISTRICT
AND THE CALIFORNIA ENERGY COMMISSION STAFF**

**CONCERNING JOINT ENVIRONMENTAL REVIEW
FOR SOLAR THERMAL POWER PLANT PROJECTS**

I. PURPOSE

This Memorandum of Understanding (MOU) documents the relative roles, responsibilities and procedures to follow in conducting a joint environmental review of solar thermal power plant projects by the Bureau of Land Management and the California Energy Commission staff. The parties to this MOU are: U.S. Department of the Interior, Bureau of Land Management (BLM), and the California Energy Commission (Commission) staff (staff), collectively referred to herein as "the Parties." A number of large solar thermal power plant projects (Projects) are proposed to be built within the state on land owned by the federal government and managed by BLM. Because applicants would each need a right-of-way from BLM and certification from the Commission, these projects are subject to both BLM and Commission jurisdiction. This MOU shall also apply to any other project that is proposed on federal land managed by BLM and is under the Energy Commission's jurisdiction.

Under federal law, BLM is responsible for processing requests for rights-of-way to authorize the Projects and associated transmission lines and other appurtenant facilities to be constructed and operated on land it manages. In processing the applications, BLM must comply with the requirements of the National Environmental Policy Act (NEPA), which requires that federal agencies reviewing projects under their jurisdiction consider the environmental impacts associated with their construction and operation. In the case of solar thermal power plant projects, this will be accomplished through preparation of Draft and Final Environmental Impact Statements (EIS) in coordination with CEC and its Preliminary and Final Staff Analyses. Separate consultation requirements and associated documentation are required for Section 106 of the National Historic Preservation Act and Endangered Species Act (ESA) section 7 consultations associated with the Projects. These consultations will be completed by BLM during the process outlined in this MOU. BLM is also responsible for Native American consultation, including Government to Government consultation. The result of this cooperative effort is intended to result in a public participation process and environmental documents that fully meet BLM's requirements.

Under California law, the Commission is responsible for reviewing the applications for certification filed for the Projects, and also has the role of lead agency for the environmental review of the Projects under the California Environmental Quality Act (CEQA). (Pub. Resources Code, section 25500 et seq; Pub. Resources Code, section 21000 et seq.) The Commission conducts this review in accordance with the administrative adjudication provisions of the Administrative Procedure Act (Gov. Code, section 11400 et seq.) and its own regulations governing site certification proceedings (Cal. Code Regs., tit. 20, section 1701 et seq.) These

provisions require the staff to conduct an independent analysis of applications for certification and prepare an independent assessment of a project's potential environmental impacts, feasible mitigation measures, and alternatives as part of this process. The Commission considers the staff assessments, along with those of the applicant, interested local, regional, state, and federal agencies, intervenors, and interested Native American tribes, in developing its decision on an application for certification. The Commission has a certified regulatory program under CEQA that exempts the agency from having to draft an environmental impact report and, instead, requires a final staff assessment, evidentiary hearings, and a decision based on the hearing record, which includes the staff's and other parties' assessments.

It is in the interest of the Parties to share in the preparation of an environmental analysis of each of the Projects in a public process in California to avoid duplication of staff efforts, to share staff expertise and information, to promote intergovernmental coordination at the local, state, and federal levels, and to facilitate public review by providing a joint document and a more efficient environmental review process.

II. BACKGROUND

BLM has received right-of-way requests encompassing more than 300,000 acres for the development of approximately 34 large solar thermal power plants totaling approximately 24,000 megawatts. This large number of projects has not yet reached the stage of an Application for Certification (AFC) with the California Energy Commission. Attachment A to this MOU describes the Projects currently known to BLM. The Parties have conducted pre-application meetings jointly and separately with the project developers. Attachment B consists of a flow chart describing how the integrated CEC/BLM process is expected to function. This flow chart may be modified by agreement of the Parties without amending the MOU, as we continue to work with the process.

III. ROLES AND RESPONSIBILITIES

The Commission's siting process is divided into several phases, as is the NEPA process. The Parties agree to cooperate in their respective reviews of the project and to discuss the project and exchange information about the project on a regular basis. All information exchanged during the project review shall be provided electronically, unless there is a specific need for a paper copy of a document. The Parties will identify a primary point of contact for each Project who will coordinate the communications and exchange of information between the Parties. The Parties have developed a flow chart to demonstrate how the integrated process to produce joint environmental documents will function. This flow chart can be shared with Applicants at the pre-application stage so that they are fully informed of how the process will work and of the information they will need to provide at each stage in the process.

The Parties agree to coordinate in the following specific ways during each joint environmental review process: 1. Pre-application. The Parties shall encourage all potential applicants to attend pre-application meetings, and shall coordinate such meetings to the fullest extent possible, so that representatives of all interested Parties may attend. Pre-application meetings will provide the Parties the opportunity to discuss and comment on a project developer's site selection process

as well as provide the appropriate survey protocols for biological and cultural resources. A primary objective of this process for the Parties is to ensure that Applicants are fully informed of the data and information needs of both the Energy Commission and the BLM at the time an Application for Certification (AFC) is filed with the Energy Commission. It is critical, and in the interest of the Applicants, that the AFC meet the Parties' data and information needs for the Parties' integrated process to function effectively.

2. Data Adequacy. The Energy Commission staff reviews AFC applications to determine whether they meet the informational requirements of the Energy Commission's regulations and, if so, to recommend to the Energy Commission that the application be accepted as complete. During this period of up to 30 days, the Energy Commission staff will confer with the staff of the BLM regarding the sufficiency of information provided in the AFC. To the extent feasible, BLM staff will provide detailed and specific requests for the information needed to complete the Environmental Impact Statement (EIS). If any such requests go beyond the scope of informational requirements in the Energy Commission's regulations, the Energy Commission staff will send such requests to the applicant immediately following acceptance of the AFC as complete pursuant to the Energy Commission's regulations. If the Commission determines the AFC to be complete, the AFC will be accepted for purposes of beginning the Commission's statutory timeline of 12 months for a final decision. (Pub. Resources Code, section 25522.) Some applications may result in the need for BLM to amend existing land use plans. BLM's planning regulations and NEPA regulations require that this be identified at the beginning of the process. The potential need for a plan amendment may be associated with a need to upgrade the utility system infrastructure farther down line in the transmission system, a factor that is typically determined in a System Impact Study (SIS). Typically, this study is initiated at the AFC stage in the Energy Commission's process. However, since BLM must identify this need as part of the proposed action and alternatives, the SIS will need to be provided much earlier in the process than indicated by the Energy Commission's data adequacy regulations.

3. Discovery. After the AFC for a project is determined by the Commission to be complete, the Parties agree to cooperate in developing the scope of issues to be addressed in the NEPA/CEQA joint document, and in making decisions regarding public meetings, mailing lists, agency website information, and the preparation and distribution of fact sheets, news releases, announcements, and public notices during the NEPA/CEQA joint process. Energy Commission staff and BLM shall coordinate and hold a publicly noticed scoping meeting to assist in determining the appropriate scope of project review. BLM shall make a representative available for the scoping meeting. Dates for public workshops will be coordinated among the Parties to the fullest extent possible and, to the extent that it has sufficient resources, BLM shall endeavor to have a staff representative available at each publicly noticed staff workshop at which project alternatives, biological resources, and cultural resources will be discussed. These public workshops satisfy the Energy Commission's requirements for public workshops and BLM's need for public meetings.

Each Party agrees to promptly provide the other Party with any information it possesses or receives that is relevant to the responsibilities of the other party in its review of the projects. Each Party agrees to inform the other Party of any outstanding information it needs that is in possession of the other Party. Energy Commission staff shall coordinate and formally file any

information requests of the applicant. Within 21 days of the date the Commission deems the application for certification complete, BLM agrees to provide Commission staff a list of the information it needs to complete the environmental analysis to meet BLM's needs and to conform with the requirements of NEPA. Energy Commission staff shall incorporate BLM's information needs in its data requests and shall require the applicant to provide the data within 30 days of the receipt of the request, unless the applicant provides notification to the Energy Commission pursuant to subdivision (f) of Section 1716 of the Commission's siting regulations. (Cal. Code Regs., tit. 20, section 1701 et seq.).

Both the Energy Commission and BLM will determine whether the Applicant's responses are adequate. If the applicant's responses are not sufficient, or a new issue arises resulting in a need for BLM to obtain more data, BLM shall notify the Energy Commission staff of the need for the additional data as soon as possible. Energy Commission staff shall require the applicant to provide the additional data within 30 days, unless the applicant provides notification to the Commission as identified in the previous paragraph.

4. Analysis. The Parties agree that BLM will prepare an analysis addressing NEPA project alternatives and the Purpose of and Need for the action, as required by NEPA. In addition, BLM will be responsible for completing Native American consultation that is required by federal law. Energy Commission staff will prepare an assessment addressing impacts on air quality, biological resources, cultural resources, water resources, geological resources and hazards, hazardous materials handling, land use, noise, paleontological resources, public health, socioeconomics, soils, traffic and transportation, visual resources, waste management and worker safety and fire protection, as well as facility design engineering, efficiency, reliability, transmission system engineering and transmission line safety and nuisance. Energy Commission staff's assessment will also identify mitigation measures that may be considered to reduce any potential significant impacts. The assessments provided by the Parties must be sufficient to meet all federal and state requirements for NEPA and CEQA and shall be included as part of the joint Preliminary Staff Assessment/Draft Environmental Impact Statement and the joint Final Staff Assessment/Final Environmental Impact Statement. BLM and the Energy Commission recognize that BLM's requirements under NEPA to "select the contractor" will be satisfied through the process described in this section of the MOU only when BLM determines that the analyses prepared by Energy Commission staff sufficiently incorporate BLM's concerns into the analyses.

Draft preliminary analyses prepared by each Party shall be shared with the other Party at least 21 days prior to publication, and draft final analyses prepared by each Party shall be shared with the other Party at least 21 days prior to publication. The Parties agree to identify all concerns and recommended changes within 10 days of receipt of the draft analyses, and to work together to resolve any issues concerning the analyses or timing of review.

5. Hearings. The Parties agree that, for the Energy Commission's evidentiary hearings on each project, each will provide witnesses capable of sponsoring the analysis of each subject area for which the Party has responsibility pursuant to Section 4 above. The Energy Commission staff will consult with BLM and take the lead preparing any post-evidentiary-hearing briefs if the

Energy Commission's committee overseeing the case calls for briefs from the parties in the Energy Commission's proceeding.

6. Proposed Decision. The Parties agree to confer with each other as needed to comment on the Presiding Member's Proposed Decision (PMPD) in the Energy Commission's proceeding and to identify any findings or conclusions of the PMPD that are contrary to or inconsistent with the testimony of any Party. After completion of the Final EIS and a 30-day period, the BLM will prepare its Record of Decision (ROD), which describes BLM's decision. That decision can be appealed to the Interior Board of Land Appeals (IBLA), in the U.S. Department of the Interior.

IV. IMPLEMENTATION AND AMENDMENT

This MOU becomes effective upon signature by all the Parties, and may be subsequently amended or modified through written agreement of all Parties.

V. RESOLVING DISAGREEMENTS

If there are disagreements between the Energy Commission staff and BLM staff regarding the provisions of this agreement, representatives of each staff will meet to discuss the issues in dispute and shall work towards resolution. If agreement is not reached within 21 days of this initial meeting, the signatories of this MOU or his/her representative shall confer to attempt to resolve the disagreement.

V. TERMINATION

This MOU will remain in effect until all terms set forth herein are carried out to the satisfaction of the Parties. This MOU may be formally terminated in writing by any Party upon providing 30 days written notice to the other Party of an intention to terminate.

VI. SIGNATURES

The Parties hereto have executed this MOU on the dates shown below.



Mike Pool, State Director
Bureau of Land Management California

Date: 7/23/07



B.B. Blevins, Executive Director
California Energy Commission

Date: 8/8/07