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**MEMORANDUM OF AGREEMENT
AMONG THE
BUREAU OF LAND MANAGEMENT-CALIFORNIA,
THE UNITED STATES ARMY CORPS OF ENGINEERS,
OCOTILLO EXPRESS LLC,
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING
THE OCOTILLO EXPRESS WIND ENERGY PROJECT
IMPERIAL COUNTY, CALIFORNIA**

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WHEREAS, Ocotillo Express LLC (Applicant), has applied for a right-of-way (ROW) grant on public lands administered by the Bureau of Land Management (BLM) and has submitted a plan of development to construct, operate and maintain a wind turbine electrical energy generation plant on federal and non-federal lands, including construction of access and maintenance roads, meteorological testing towers, a substation and energy collecting system, laydown and staging areas, and support facilities and infrastructure (hereinafter, the “Project”) (see Appendix A); and

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WHEREAS, the original proposed Project included 155 turbine locations and the Applicant has reduced the number of turbine locations to a maximum of 112 to help avoid and minimize adverse effects; and

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WHEREAS, the BLM has determined that the issuance of a ROW (proposed federal action) to the Applicant in accordance with the Federal Land Policy and Management Act (FLPMA) (Pub. L. 940-579; 43 U.S.C 1701) and authorization of the Project is an undertaking subject to Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470(f), and its implementing regulations under 36 C.F.R. Part 800 (2004); and

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WHEREAS, the United States Army Corps of Engineers (COE) may also have Section 106 responsibilities since it may issue a Department of the Army (DA) permit pursuant to Section 404 of the Clean Water Act (proposed federal action) for discharges of dredged or fill material into jurisdictional waters of the United States associated with the Project, which is an undertaking subject to Section 106 of the NHPA, and therefore has participated in this consultation and is a Signatory to this Memorandum of Agreement (hereinafter, the Agreement); and

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WHEREAS, the BLM is the lead federal agency for the Undertaking as provided at 36 C.F.R. § 800.2(a)(2) fulfilling the collective responsibilities for complying with Section 106 on behalf of itself and COE, and the BLM shall be responsible for managing Historic Properties within the Area of Potential Effects (APE) (see Appendix B); and

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WHEREAS, the BLM and the COE have consulted with the California State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800 of the regulations implementing Section 106 of the NHPA and is a Signatory to this Agreement; and

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47 **WHEREAS**, in accordance with the regulations at 36 C.F.R. § 800.6(a)(1) BLM has
48 notified the Advisory Council on Historic Preservation (ACHP) regarding the effects of
49 alternatives of the Undertaking on Historic Properties and has invited the ACHP to participate in
50 consultation to resolve the potential effects on historic properties, and as per their letter dated
51 December 9, 2011, the ACHP is participating in this consultation and is a Signatory to this
52 Agreement (see 36 C.F.R. § 800.6(b)(2), “Resolution with Council Participation); and
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54 **WHEREAS**, in accordance with the regulations at 36 C.F.R. § 800.2(c)(3) the County of
55 Imperial was invited to consult on the Project and has consulted informally about it, but
56 ultimately did not participate in the Section 106 consultations regarding this Agreement and
57 therefore has requested that it not be identified as party to the Agreement.
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59 **WHEREAS**, the BLM and the County of Imperial have prepared the *Final Plan*
60 *Amendment and Final Environmental Impact Statement/Environmental Impact Report for the*
61 *Ocotillo Wind Energy Facility (2012)* to identify the Project alternatives for purposes of the
62 National Environmental Policy Act (NEPA) and the California Environmental Quality Act
63 (CEQA), and have comparatively examined the relative effects of the alternatives on known
64 historic properties; and
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66 **WHEREAS**, the Applicant has participated in this consultation per 36 C.F.R. §
67 800.2(c)(4), will be the entity to whom the BLM may grant a ROW and the COE may issue a
68 permit related to Project activities, and has the responsibility for carrying out the specific terms
69 of this Agreement under the oversight of the BLM, and is an Invited Signatory to this
70 Agreement; and
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72 **WHEREAS**, the BLM has authorized the Applicant to conduct specific identification
73 efforts for the undertaking including a review of the existing literature and records and cultural
74 resources surveys to identify and evaluate cultural resources that might be located within the
75 APE; and
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77 **WHEREAS**, the reports *Archaeological Survey Report for the Ocotillo Wind Energy*
78 *Project, Imperial County, CA*, prepared by Tierra Environmental Services, 2012, and the
79 *Historical Resources Evaluation and Impact Analysis for the Ocotillo Express Wind Energy*
80 *Project, Imperial County, CA*, prepared by Scott Moomjian, 2012 present the results of
81 identification and evaluation efforts for archaeological and historic built environment resources;
82 and
83

84 **WHEREAS**, the Fort Yuma Quechan Indian Tribe, Manzanita Band of Kumeyaay
85 Indians, Viejas Band of Kumeyaay Indians, and the Southern California Tribal Chairman’s
86 Association have identified a Traditional Cultural Property (TCP) that is a traditional cultural
87 landscape with cultural and religious value to their tribes and is a sacred site under Executive
88 Order 13007, and the Undertaking falls within the boundaries of the TCP identified by the tribes;
89 and
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91 **WHEREAS**, through Section 106 consultation with Consulting Parties and government-
92 to-government consultation with Indian tribes, the BLM has determined that the Historic
93 Property, CA-IMP-6988 known as the “Spoke Wheel Geoglyph”, is locally significant and
94 eligible for the National Register of Historic Places (NRHP) under Criterion A for its association
95 with historical patterns or events significant to the cultural traditions of the community. The
96 Spoke Wheel Geoglyph was previously determined eligible and listed on the National Register
97 of Historic Places (NRHP) under Criteria C and D because of its distinctive construction and the
98 likelihood of providing important information. The BLM assumes the portion of the TCP (and
99 associated Cultural Resources) as identified by the tribes within the APE is eligible for the
100 NRHP under Criterion A. The BLM also recognizes the TCP and its associated Cultural
101 Resources as identified by the tribes as having cultural and religious value to the tribes.
102

103 **WHEREAS**, the SHPO in correspondence to the County of Imperial has recommended,
104 through an independent professional review by staff, that there appears to be a relationship
105 between the NRHP eligibility of the Spoke Wheel Geoglyph and the other tribally identified
106 resources. There appears to be a NRHP eligible archaeological district within a larger cultural
107 use area which in and of itself may be a NRHP eligible resource; and
108

109 **WHEREAS**, through Section 106 consultation and government-to-government
110 consultation with Indian tribes, the BLM has determined that all build alternatives under
111 consideration for implementation would have an adverse effect on the following Historic
112 Properties: CA-IMP-6988 known as the “Spoke Wheel Geoglyph”, the portion of the TCP as
113 identified by tribes within the APE, and the cultural resources that the tribes have identified that
114 are related to the TCP to which Indian tribes attach religious and/or cultural significance. The
115 BLM and COE have consulted with the SHPO pursuant to 36 C.F.R. § 800.6 of the regulations
116 implementing Section 106 of the NHPA and have concluded that the Undertaking shall have an
117 adverse effect; and
118

119 **WHEREAS**, the BLM will treat all known archaeological sites within the APE as
120 eligible for inclusion on the NRHP; and
121

122 **WHEREAS**, pursuant to 36 C.F.R. § 800.2(c)(2)(ii) and Executive Order 13175, the
123 BLM is responsible for government-to-government consultation with federally recognized Indian
124 tribes and is the lead federal agency for all tribal consultation and coordination. The BLM has
125 formally notified and invited federally recognized tribes (Tribes), including the Barona Band of
126 Diegueno Indians, Campo Band of Mission Indians, Cocopah Indian Tribe, Ewiiapaayp Band
127 of Kumeyaay Indians, Fort Yuma Quechan Indian Tribe, Jamul Indian Village, La Posta Band of
128 Kumeyaay Indians, Manzanita Band of Kumeyaay Indians, Mesa Grande Band of Mission
129 Indians, San Pasqual Band of Diegueno Indians, Santa Ysabel Band of Diegueno Indians,
130 Sycuan Band of Kumeyaay Nation, Torres-Martinez Desert Cahuilla Indians, and Viejas Band of
131 Kumeyaay Indians to consult on the Undertaking and participate in this Agreement as a
132 Concurring Party; and
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134 **WHEREAS**, the BLM has invited Carmen Lucas of the Kwaaymii Laguna Band of
135 Indians (Tribal Organization) to consult on the Undertaking and participate in this Agreement as
136 a Concurring Party; and
137

138 **WHEREAS**, the Campo Band of Mission Indians, Cocopah Indian Tribe, Fort Yuma
139 Quechan Indian Tribe, Manzanita Band of Kumeyaay Indians, San Pasqual Band of Diegueno
140 Indians, Viejas Band of Kumeyaay Indians, Kwaaymii Laguna Band of Indians, and the
141 Southern California Tribal Chairman’s Association, have proposed that the BLM select a ‘no
142 Project’ alternative due to adverse effects identified by the Tribes on the TCP and cultural
143 landscape; and
144

145 **WHEREAS**, the Ewiiapaayp Band of Kumeyaay Indians supports the Project; and
146

147 **WHEREAS**, the BLM shall continue to consult in a government-to-government manner
148 with the Tribes throughout the implementation of this Agreement regarding effects to Historic
149 Properties to which they attach religious and cultural significance. BLM will carry out its
150 responsibilities to consult with Tribes that request such consultation with the further
151 understanding that, notwithstanding any decision by these Tribes to decline concurrence, BLM
152 shall continue to consult with these Tribes throughout the implementation of this Agreement; and
153

154 **NOW, THEREFORE**, the BLM, COE, SHPO, and ACHP (Signatories), and the
155 Applicant (Invited Signatory), agree that the Undertaking shall be implemented in accordance
156 with the following stipulations in order to take into account the adverse effect of the Undertaking
157 on Historic Properties, resolve such adverse effects through the process set forth in this
158 Agreement, and provide the ACHP with a reasonable opportunity to comment in compliance
159 with Section 106.
160

161 **STIPULATIONS**
162

163 The BLM shall ensure that the following measures are implemented:
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165 **I. DEFINITIONS**
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167 The definitions found at 36 C.F.R. § 800.16 and in Appendix C shall apply throughout this
168 Agreement.
169

170 **II. AREA OF POTENTIAL EFFECTS**
171

172 The Area of Potential Effects (APE) is described and depicted in Appendix B to this Agreement.
173 Appendix B as set forth hereunder may be modified through consultation among the Parties to
174 this Agreement without amending the Agreement. The APE, as currently defined, encompasses
175 an area sufficient to accommodate all of the proposed and alternative Project components under
176 consideration as of the date of execution of this Agreement. If it is determined in the future that
177 the Undertaking may directly or indirectly affect Historic Properties located outside the

178 currently defined APE, then the BLM, in consultation with SHPO and pursuant to 36 C.F.R. §
179 800.4(a)(1), shall determine and document modifications to the APE using the following
180 process:

- 181
- 182 a) Consulting Parties to this Agreement may propose that the APE established herein be
183 modified. If the Signatories and Invited Signatories decide that such modification
184 requires an amendment of the Agreement, the BLM shall follow the procedures in
185 Stipulation X.
 - 186 b) If the Signatories and Invited Signatory agree to the proposal, then the BLM will prepare
187 a description and a map of the modification to which the Signatories and Invited
188 Signatory agree. The BLM will keep copies of the description and the map on file for its
189 administrative record and distribute copies of each to the other Consulting Parties within
190 30 days of the day upon which agreement was reached.
 - 191 c) Where modification to the APE adds a new geographic area, the BLM shall take the steps
192 necessary to identify, evaluate and take into account the effects of the Undertaking on
193 Historic Properties in the new geographic area in consultation with Consulting Parties
194 and Tribes in accordance with this Agreement.

195 **III. AVOIDANCE, PROTECTIVE MEASURES AND TREATMENT PLANS**

196
197 The BLM will ensure compliance with treatment that helps avoid and/or minimize adverse
198 effects to identified Historic Properties including the TCP identified by several Tribes.
199

- 200 a) Where archaeological resources are avoided, the BLM will implement the management
201 or protective measures identified in Table 1 of Appendix D and the following:
202
 - 203 i. Archaeological sites that are protected from physical impacts, but are within 150 feet
204 of proposed construction activities, the BLM will ensure they are identified and
205 labeled by archaeological and Native American monitors as Environmentally
206 Sensitive Areas (ESAs). This includes archaeological sites determined eligible for
207 inclusion in the NRHP and sites that have not been formally evaluated, but are being
208 treated as eligible.
 - 209 ii. The ESAs will be designated by marking the boundaries of sites with appropriate
210 buffer zones using temporary fencing or other easily recognizable boundary defining
211 materials.
 - 212 (1) These ESAs will be shown on the engineering plans for the Project as off-limits to
213 construction activities.
 - 214 (2) Once established, an ESA will define areas where construction activities cannot
215 occur to prevent damage to archaeological sites within the designated ESA.
 - 216 (3) Construction work areas will also be clearly defined using temporary fencing or
217 other easily recognizable boundary defining materials.
 - 218 iii. ESAs will be identified and established prior to initiation of ground disturbing
219 activities and will be maintained and monitored for the duration of the work effort in
220 the ESA vicinity.

- 221 iv. Violations of permits, stipulations or other requirements will be investigated by the
222 BLM and subject to requirements and/or penalties under the Antiquities Act,
223 Archaeological Resources Protection Act (ARPA), Federal Land Policy and
224 Management Act of 1976, the rights-of-way regulations at 43 C.F.R. § 2805.12 and/or
225 other relevant laws and regulations.
- 226 v. Prior to the termination of the Project ROW authorization, a decommissioning and
227 reclamation plan shall be developed in consultation with the BLM, COE, and Tribes.
228
- 229 b) Approval of any alternative other than the No Action/No Project alternative would
230 adversely affect the Historic Property, CA-IMP-6988, referred to as the Spoke Wheel
231 Geoglyph and the TCP and its associated Cultural Resources as identified by the Tribes.
232 The BLM will resolve the adverse effects and values of cultural and religious importance
233 to the Tribes as follows:
234
- 235 i. The BLM shall take such steps necessary to ensure the Tribes' rights to express their
236 traditional cultural values, including those associated with their religions, and their
237 right to access federally managed lands, consistent with applicable laws and
238 regulations, to conduct cultural and religious practices, as variously specified in E.O.
239 13007, the Religious Freedom Act (RFA), and the American Indian Religious
240 Freedom Act (AIRFA).
241
- 242 ii. The BLM shall develop a historic properties treatment plan (HPTP) in consultation
243 with Consulting Parties to this Agreement. The Applicant will be responsible for
244 implementing all provisions of the HPTP.
245
- 246 (1) The HPTP shall be finalized by the date of the Record of Decision (ROD). The
247 BLM shall submit the draft HPTP to consulting parties for review. A Consulting
248 Party may provide any comments directly to SHPO with a copy to the BLM
249 within the 30-day comment period. The BLM will forward to the other
250 Signatories and the Invited Signatory all comments regarding the HPTP received
251 during the comment period. The BLM shall submit the revised HPTP to all
252 Consulting Parties for a final, 15 day review period. BLM will consider any
253 timely comments in finalizing the HPTP. The final HPTP will be made Appendix
254 E to this Agreement.
- 255 (2) Amendments to the HPTP will be considered by the Consulting Parties and Tribes
256 and shall not require an amendment to the Agreement.
257
- 258 iii. The HPTP will finalize and provide expanded detail on treatment measures to resolve
259 adverse effects. The Applicant will implement the following measures in accordance
260 with the stipulations of the final HPTP:
261
- 262 (1) The HPTP will include treatment measures that will address the values important
263 to the traditional use of the Spoke-Wheel Geoglyph and its relationship to the
264 larger TCP, other related sites and the cultural landscape as described by the
265 Tribes. The measures developed shall include, but are not limited-to:

- 266 a. Visual values associated with the environmental/cultural setting and
- 267 traditional use of the historic property.
- 268 b. Audible values important to the traditional use of the property.
- 269 c. Providing for access to the property.
- 270 d. Measures that might be implemented through coordination or scheduling of
- 271 traditional use of the property with on-going Project activities.
- 272 e. Development of treatments for the physical protection and stabilization of
- 273 the Spoke-Wheel Geoglyph and other sites determined through
- 274 consultation to be finalized in accordance with Stipulation IV(c).
- 275 f. Mandatory cultural sensitivity training for all Applicants staff and
- 276 contractors during construction and long term operation associated with
- 277 this Project.
- 278

279 (2) The Applicant will provide funding at a level adequate to provide for the
280 following measures:

- 281
- 282 a. An independent ethnographic study to further document the tribal values
- 283 and traditional use of the resources within the Project area that are
- 284 considered of religious or cultural significance by Tribes and Tribal
- 285 organizations. The study will explore how these resources fit into the larger
- 286 TCP as identified by Tribes and document and identify the boundaries of the
- 287 larger TCP, and its potential eligibility under all NRHP criteria; and if
- 288 eligible, a formal nomination to the NRHP shall be prepared.
- 289 b. Synthesis study to explore the potential for one or more archaeological
- 290 districts that may be eligible to the NRHP under any of the four criteria
- 291 using a regional approach and the latest GIS technology; and if district(s) are
- 292 identified, or have elements that are contributing to existing districts, formal
- 293 NRHP nomination forms shall be prepared.
- 294 c. Prehistoric trails continuation study.
- 295 d. Support and enhance public education and interpretation programs at a
- 296 museum for the interpretation of Native American uses of the area for a
- 297 better understanding by the public.
- 298 e. Professional training of a representative from each Tribe in curation
- 299 management.
- 300 f. Monitoring training for tribal monitors.
- 301 g. Video documentation of the traditional area and the songs associated with
- 302 the Project area.
 - 303 i. Video documentation of the Project area shall be accomplished
 - 304 prior to the issuance of a Notice to Proceed.
- 305 h. Support for existing or new language preservation initiatives for the Tribes.
- 306 i. Evaluation and recommendation of the excluded portions of the Project and
- 307 any adjacent lands as a new Area of Critical Environmental Concern during
- 308 the next BLM planning effort.
- 309 j. College scholarship endowment for local Tribes.
- 310 k. Acquisition of Cultural Resource conservation lands.

- l. Support to Anza-Borrego Foundation for cultural preserves.
- m. Support for an annual tribal gathering.

(3) The BLM and the Applicant, in consultation with Tribes and the appropriate land owner(s) and within the limits of agency authority, will identify and implement resource protection measures during the period of construction, such as fencing, gating, and law enforcement patrols, to stabilize and/or protect cultural resources within the vicinity of the APE during the construction. Where continuing resource protection measures are considered appropriate after the period of construction, such measures will be developed as provided in Stipulation IV(c).

- iv. Should the Undertaking be approved by the BLM and COE, the HPTP will be implemented after the ROW is granted by the BLM and the DA permit is issued by the COE, and prior to the issuance of a Notice to Proceed for construction in those portions of the Undertaking as required by the terms of the HPTP.
- v. Within thirty (30) days after the BLM has determined that all work required by HPTP has been completed, the BLM shall notify and submit a summary report to the Consulting Parties. Within twelve (12) months after BLM has determined that all work required by HPTP has been completed, or pursuant to an alternative schedule required by any HPTP implementing the requirements of this Agreement, the Applicant will submit a written draft technical report to the BLM that documents the results of implementing the HPTP. The BLM will provide the draft technical report to Consulting Parties for review as provided in Stipulation VII(a).
- vi. Copies of the final technical report documenting the results of implementing the requirements of the HPTP will be distributed by BLM to the Consulting Parties and to the appropriate California Historical Resources Information Survey (CHRIS) Regional Information Center.

IV. MONITORING

a) Archaeological Monitoring

- i. The Applicant, in consultation with the other Consulting Parties to this Agreement, shall develop a comprehensive archaeological monitoring plan. A comprehensive archaeological monitoring plan that has been approved by the Signatories and Invited Signatory shall take precedence over those stipulations provided below. A comprehensive archaeological monitoring plan shall be incorporated into the plan for post-review discoveries and unanticipated effects and will be attached as Appendix F to this Agreement. In the absence of a comprehensive archaeological monitoring plan, Paragraphs 1 – 4 of this stipulation shall apply.

(1) The Applicant shall ensure that archaeological monitors will be on site during initial ground disturbing activities for any facilities, roads or other Project

356 components related to the Undertaking and during any ground disturbing
357 activities near ESAs and in other areas designated for full-time monitoring, as
358 detailed in Stipulation III, Appendix D and/or Appendix F.
359

360 (2) The Applicant shall ensure that archaeological monitors will meet the standards
361 specified in Stipulation VIII(a), will be approved and permitted by the BLM, will
362 be familiar with the types of historic and prehistoric archaeological resources that
363 may occur in the APE, and will be directly supervised by a principal investigator
364 (PI).
365

366 (3) The Applicant shall ensure that the PI will submit bi-weekly documentation of
367 archaeological monitoring activities to the BLM by email. Documentation will
368 include the location of archaeological monitoring activities for the reporting time
369 period, as well as a description of any archaeological resources identified and any
370 actions taken. The Applicant shall ensure the PI prepares a monthly field
371 monitoring verification report with the compiled monitoring observations, results,
372 and actions taken for submission and approval to the BLM. The BLM will
373 provide copies of biweekly and monthly archaeological monitoring reports to the
374 Consulting Parties, unless otherwise directed by a Consulting Party.
375

376 (4) Upon completion of all archaeological monitoring tasks and requirements
377 implemented pursuant to this Agreement, the Applicant shall ensure that the PI
378 will submit within three months a final monitoring report to the BLM for review
379 and approval. The final monitoring report will describe the monitoring program
380 and its findings and results, and present a detailed professional description,
381 analysis, and evaluation of any cultural resources that were encountered and
382 evaluated during construction. The BLM will provide a copy of the monitoring
383 report to the consulting parties.
384

385 b) Tribal Participation Plan
386

- 387 i. To facilitate continued tribal consultation for this Undertaking, the Applicant in
388 consultation with the BLM, and interested Tribes and the Tribal Organization may
389 develop and implement a tribal participation plan. This plan will afford tribally
390 designated representatives (tribal cultural consultants) the opportunity to monitor and
391 be on site during all ground disturbing construction activities for facilities, roads or
392 other Project components related to the Undertaking near ESAs and in other areas
393 designated for monitoring as detailed in Appendix D and/or F.
394 ii. The BLM shall continue to consult with Tribes on implementation of the Project and
395 all shall be eligible to participate in the development of a tribal participation plan
396 whether they elect to concur with the Agreement or not.
397

398 (1) In consultation with the BLM, the Applicant will contact and identify Tribes who
399 want to participate in the development and implementation of the plan.

400 (2) The Applicant will develop a draft framework for the tribal participation plan and

- 401 submit it to the BLM and the participants for their review and comment.
402 (3) The tribal participation plan will describe the role of all parties in the program,
403 specify the terms, expectations, notifications, reports, training, or deliverables to
404 be provided, including all documentation requirements. The plan will include a
405 specific procedure to be followed in the event that a tribal cultural consultant is
406 not provided or is not available.
407 (4) Tribal cultural consultants will be individuals designated by the Tribes and will
408 report to the PI.
409 (5) The tribal participation plan will be finalized and implemented prior to the start of
410 ground-disturbing activities in areas designated for monitoring and consistent
411 with the provisions of Stipulation IX (Implementation of the Undertaking).
412

413 c) Long Term Management Plan
414

- 415 i. The Applicant, in consultation with the other Consulting Parties to this agreement,
416 and Tribes, will establish and fund a Long Term Management Plan (LTMP) for the
417 post-construction archaeological monitoring, and condition assessment of sites in the
418 APE which could be affected by on-going operations and maintenance activities, and
419 law enforcement patrols as provided in Stipulation III(b)(iii)(3). The Applicant shall
420 submit a draft LTMP to the BLM within 9 months from the date of the issuance of the
421 Notice to Proceed for the Undertaking. The BLM will submit the LTMP to the
422 Consulting Parties for review following the provisions of Stipulation VII(a). The
423 LTMP will be made Appendix G to this Agreement.
424

425 **V. POST-REVIEW DISCOVERIES AND UNANTICIPATED EFFECTS**
426

427 The Applicant, in consultation with the other Consulting Parties to this Agreement, shall
428 develop a comprehensive plan to manage post-review discoveries and unanticipated effects
429 pursuant to 36 C.F.R. § 800.13(a). It shall be attached as Appendix F to this Agreement.
430

- 431 a) If human remains and/or associated funerary objects compose all or part of the discovery,
432 then the BLM shall follow the process described in Stipulation VI.
433
434 b) The BLM at its discretion, but in consultation with SHPO, may treat any discovered
435 property as eligible for inclusion in the NRHP for Project management purposes pursuant
436 to 36 C.F.R. § 800.13(c).
437

438 **VI. TREATMENT OF HUMAN REMAINS OF NATIVE AMERICAN ORIGIN**
439

- 440 a) The BLM shall ensure that any Native American burials and related items discovered on
441 BLM administered lands during implementation of the terms of the Agreement will be
442 treated respectfully and in accordance with the requirements of the Native American
443 Graves Protection and Repatriation Act (NAGPRA) (Pub. L. 101-601) and the Plan of
444 Action (POA) outlined in Appendix H.
445

446 b) The BLM shall ensure that Native American burials and related cultural items on non-
447 federal lands are treated in accordance with the applicable requirements of the California
448 Public Resources Code at Sections 5097.98 and 5097.991, and of the California Health
449 and Human Safety Code at Section 7050.5(c) and the POA in Appendix H.
450

451 c) The primary goal will be to avoid and protect newly encountered human remains and
452 associated funerary objects and leave them in-place. If any burial site or human remains
453 are discovered within a direct impact area of the Project, then any turbine or Project
454 facility related to such impact area shall be moved 250 feet away from the burial site or
455 human remains. If another burial site or human remains are found within a 200 foot
456 buffer zone of the newly selected facility location, then additional relocation of the
457 facility consistent with the foregoing shall be considered. If burial sites or human
458 remains are found at such a newly selected turbine location, then consideration shall also
459 be given to utilizing one of the proposed alternate turbine locations in lieu of additional
460 relocation of the turbine location in question. No turbine location will be constructed
461 within 250 feet of a burial site or human remains.
462

463 **VII. COMMUNICATION AND REPORTING**
464

465 a) BLM shall submit all documents relating to the Agreement to the Consulting Parties in
466 complete but draft form for review. Consulting Parties will be afforded 45 days following
467 receipt of a draft document to submit written comments to BLM unless otherwise
468 mutually agreed to by the Consulting Parties. The BLM will provide Consulting Parties
469 with written documentation indicating whether and how the document will be modified in
470 response to comments. Unless Consulting Parties object to the revisions in writing to the
471 BLM within 30 days following receipt of the revised document, BLM may finalize the
472 document.
473

474 i. If a Consulting Party objects to the revisions during the comment period, the BLM
475 will consult with the objecting party for no more than 30 days to resolve the
476 objection. If the objection is resolved, the BLM will notify Consulting Parties of the
477 resolution and may revise and finalize the document. If the objection cannot be
478 resolved, the BLM shall follow the procedures in Stipulation XI(c).
479

480 ii. The BLM will provide a copy of the final document to the consulting parties.
481

482 b) The BLM shall prepare a letter report on a yearly schedule summarizing the fulfillment of
483 the stipulations contained within this Agreement. The report will be submitted to all
484 Consulting Parties to this Agreement by December 31, 2013, for the initial reporting
485 period and every year thereafter for the duration of this Agreement.
486

487 i. The implementation and operation of this Agreement shall be evaluated on an annual
488 basis by the parties to this Agreement. This evaluation, to be conducted after the
489 receipt of the BLM letter report, may include in-person meetings or conference calls,

- 490 and may provide suggestions for modifications or amendments.
491
492 ii. During the construction phase of the undertaking, the consulting parties will meet
493 annually between January and March to discuss the fulfillment of the stipulations
494 contained within this Agreement.
495
496 c) To the extent consistent with the NHPA, Section 304, and the ARPA, Section 9(a),
497 Cultural Resources data from BLM-administered lands will be treated as confidential by
498 all Consulting Parties and Tribes and is not to be released to any entity or individual not a
499 party to this Agreement. Duplication or distribution of Cultural Resource data from
500 BLM-administered lands by any Consulting Party requires written authorization from the
501 BLM El Centro Field Manager. Confidentiality concerns for Cultural Resources that
502 have traditional religious and cultural importance to the Tribes will be respected and will
503 be protected to the extent allowed by law.
504
505

506 **VIII. ADMINISTRATIVE STANDARDS**

507

- 508 a) **PROFESSIONAL QUALIFICATION STANDARDS.** All actions prescribed by this
509 Agreement that involve the identification, evaluation, analysis, recordation, treatment,
510 monitoring, and disposition of Historic Properties and that involve the reporting and
511 documentation of such actions in the form of reports, forms or other records, shall be
512 carried out by or under the direct supervision of a person or persons meeting, at a
513 minimum, the Secretary of the Interior's Professional Qualifications Standards (PQS), as
514 appropriate (48 Fed. Reg. 44739 dated September 29, 1983). However, nothing in this
515 Stipulation may be interpreted to preclude any party qualified under the terms of this
516 paragraph from using the services of persons who do not meet the PQS, so long as the
517 work of such persons is supervised by someone who meets the PQS. Tribes have the sole
518 authority to certify and approve tribal cultural consultants who may participate in
519 activities in support of implementation of this Agreement.
520
521 b) **DOCUMENTATION STANDARDS.** Reporting on and documenting the actions cited in
522 this Agreement shall conform to every reasonable extent with the Secretary of the
523 Interior's Standards and Guidelines for Archeology and Historic Preservation (48 Fed
524 Reg. 44716-40 dated September 29, 1983), as well as, the BLM 8100 Manual, the
525 California Office of Historic Preservation's Preservation Planning Bulletin Number 4(a)
526 December 1989, Archaeological Resource Management Reports (ARMR):
527 Recommended Contents and Format (ARMR Guidelines) for the Preparation and Review
528 of Archaeological Reports, and any specific and applicable county or local requirements
529 or report formats.
530
531 c) **CURATION STANDARDS.** On BLM-administered land, all records and materials
532 resulting from the actions required by this Agreement shall be curated in accordance with
533 36 C.F.R. Part 79, and the provisions of the NAGPRA, 43 C.F.R. Part 10, as applicable.
534 To the extent permitted under Sections 5097.98 and 5097.991 of the California Public

535 Resources Code, the materials and records resulting from the actions required by this
536 Agreement for non-federal lands shall be curated in accordance with 36 C.F.R. Part 79.
537 The BLM will seek to have the materials retrieved from non-federal lands donated
538 through a written donation agreement.

539

540 **IX. IMPLEMENTATION OF THE UNDERTAKING**

541

542 a) The BLM may authorize construction activities, including but not limited to those listed
543 below, to proceed in specific geographic areas where there would be no physical effects
544 to Historic Properties; where an archaeological monitoring and post-review discovery
545 process or plan is in place per Stipulation IV and V. Such construction activities may
546 include:

547

- 548 i. demarcation, set up, and use of staging areas for construction of the Undertaking, and
- 549 ii. conduct of geotechnical boring investigations or other geophysical and engineering
550 activities, and
- 551 iii. grading, constructing buildings, collection system installation, and installing wind
552 turbines, and
- 553 iv. construction of transmission towers

554

555 b) Initiation of any construction activities on federal lands shall not occur until after the
556 BLM issues the ROD and ROW grant. The Notice(s) to Proceed may be issued
557 immediately upon issuance of the ROD by BLM and the ROW grant. Construction shall
558 not occur in waters of the United States on or off federal lands unless and until the COE
559 issues the DA permit.

560

561 **X. AMENDMENTS TO THE AGREEMENT**

562

563 This Agreement may be amended only upon written agreement of the Signatories and Invited
564 Signatory.

565

566 a) Upon receipt of a request by a Consulting Party to amend this Agreement, the BLM will
567 immediately notify the other Consulting Parties and initiate a 30 day period during which
568 all Consulting Parties shall consult to consider such amendment.

569

570 b) If agreement to the amendment cannot be reached within the 30 day period, resolution of
571 the issue may proceed by following the dispute resolution process in Stipulation XI.

572

573 c) Amendments to this Agreement shall take effect on the dates that they are fully executed
574 by the Signatories and Invited Signatory.

575

576 d) Modifications, additions, or deletions to the appendices made as a result of continuing
577 consultation among the Consulting Parties do not require the Agreement to be amended.

578

579 e) The terms of this Agreement are a condition of the ROD and the ROW grant that the

580 BLM may issue and the DA permit that the COE may issue and are binding on the
581 Applicant. For purposes of this Agreement, changes in the corporate name of the
582 Applicant or reassignment of the ROW or DA permit to a subsidiary company or other
583 entity may be authorized by the BLM or the COE and does not require the Agreement to
584 be amended.

585

586 **XI. DISPUTE RESOLUTION**

587

588 a) Should the Signatories or Invited Signatories object at any time to the manner in which
589 the terms of this Agreement are implemented, the BLM will immediately notify the other
590 Signatories and Invited Signatory and consult for no more than 30 days to resolve the
591 objection.

592

593 i) If the objection can be resolved within the consultation period, the BLM may
594 authorize the disputed action to proceed in accordance with the terms of such
595 resolution.

596 ii) If the objection cannot be resolved through such consultation, the BLM will forward
597 all documentation relevant to the objection to the ACHP with copies to the
598 Consulting Parties to the Agreement. Any comments provided by the ACHP within
599 30 days after its receipt of all relevant documentation will be taken into account by
600 the BLM in reaching a final decision regarding the objection. The BLM will notify
601 Consulting Parties in writing of its final decision within 14 days after it is rendered.

602

603 b) At any time during implementation of the terms of this Agreement, should an objection
604 pertaining to the Agreement be raised by a Concurring Party or a member of the
605 interested public, the BLM shall immediately notify the Consulting Parties, consult with
606 the SHPO about the objection, and take the objection into account. The other Consulting
607 Parties may comment on the objection to the BLM. The BLM shall consult with the
608 objecting party for no more than 30 days. Within 14 days following closure of
609 consultation, the BLM will render a final decision regarding the objection and proceed
610 accordingly after notifying all parties of its decision in writing. In reaching its final
611 decision, the BLM will take into account all comments from the parties regarding the
612 objection.

613

614 c) The BLM's responsibility to carry out all other actions under this Agreement that are not
615 the subject of the objection will remain unchanged.

616

617 **XII. TERMINATION**

618

619 a) If any Signatory or Invited Signatory to this Agreement determines that its terms will not
620 or cannot be carried out, that party shall immediately consult with the other parties to
621 amend this Agreement in accordance with Stipulation X above. If within sixty (60) days
622 resolution regarding an amendment has not been reached, a Signatory or Invited
623 Signatory may terminate the Agreement upon 10 days' written notification to the other

624 Signatories and Invited Signatories. Following written notification, the terminating
625 Signatory or Invited Signatory will inform the other Consulting Parties and Tribes.
626

- 627 b) If the Agreement is terminated, and prior to work continuing on the Undertaking, the
628 BLM and COE shall either (a) execute a new Agreement pursuant to 36 C.F.R. § 800.6 or
629 (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R.
630 800.7. Each party shall notify the other parties to the Agreement as to the course of action
631 that it will pursue.
632

633 **XIII. ADDITION TO OR WITHDRAWAL OF PARTIES FROM THE AGREEMENT**

- 634 a) Should conditions of the Undertaking change such that other federal agencies, state
635 agencies, Indian tribes, tribal organizations or other organizations or individuals not
636 already party to this Agreement request in writing to participate, the BLM will notify the
637 Consulting Parties and consider the request to participate in the Agreement. Should the
638 BLM agree to the request to participate, the Agreement shall be amended following the
639 procedures in Stipulation X.
640
- 641 b) In the event that the Applicant applies for additional federal funding or other federal
642 approvals, such funding or approving agency may comply with Section 106 by agreeing
643 in writing to the terms of this Agreement and notifying and consulting with SHPO and
644 ACHP. Any necessary modifications will be considered in accordance with Stipulation
645 X.
646
- 647 c) Should a Concurring Party determine that its participation in this Agreement is no longer
648 warranted, the party may withdraw from participation by informing the BLM. The BLM
649 shall inform the other Consulting Parties to this Agreement of the withdrawal.
650 Withdrawal of a Concurring Party to the Agreement does not require an amendment of
651 the Agreement.
652

653 **XIV. SOVEREIGN IMMUNITY**

- 654
- 655 a) The Tribes do not waive their sovereign immunity by entering into this Agreement and
656 each fully retains all immunities and defenses provided by law with respect to any action
657 based on or occurring as a result of the Agreement.
658

659 **XV. DURATION OF THIS AGREEMENT**

- 660
- 661 a) This Agreement will expire if construction has not been initiated and the BLM ROW
662 grant expires or is withdrawn, or the stipulations of this Agreement have not been
663 initiated, within thirty (30) years from the date of execution. Prior to such time, the BLM
664 may consult with the other Signatories and Invited Signatory to reconsider the terms of
665 the Agreement and amend it in accordance with Stipulation X above.
666
- 667 b) Unless the Agreement is terminated pursuant to Stipulation XII, another agreement

668 executed for the Undertaking supersedes it, or the undertaking itself has been terminated,
669 this Agreement will remain in full force and effect for thirty (30) years or until BLM, in
670 consultation with the other Signatories and Invited Signatory, determines that
671 implementation of all aspects of the Undertaking has been completed and that all terms of
672 this have been fulfilled in a satisfactory manner. The effective period of this Agreement
673 may be extended as provided in Stipulation X. Upon a determination by BLM that
674 implementation of all aspects of the Undertaking have been completed and that all terms
675 of this Agreement have been fulfilled in a satisfactory manner, BLM will notify the
676 parties to this Agreement in writing of the agency's determination. This Agreement will
677 terminate and have no further force or effect 30 days after BLM so notifies the
678 Consulting Parties to this Agreement, unless BLM retracts its determination before the
679 end of that period.

680

681 **XVI. EFFECTIVE DATE**

682

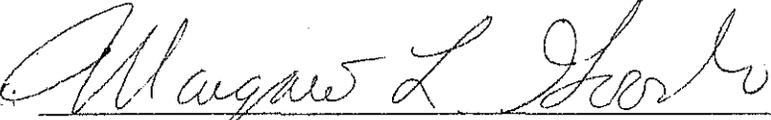
- 683 a) This Agreement and any amendments shall take effect on the date that it has been fully
684 executed by the Signatories. The Agreement and any amendments thereto shall be
685 executed in the following order: (1) BLM, (2) COE, (3) SHPO, and (4) ACHP.
686
- 687 b) Execution and implementation of this Agreement is evidence that the BLM and the COE
688 have taken into account the effect of the Undertaking on Historic Properties, afforded the
689 ACHP a reasonable opportunity to comment, and that the BLM, and the COE have
690 satisfied their responsibilities under Section 106 of the NHPA. The BLM shall be
691 responsible for managing Historic Properties within the APE for the Undertaking
692 pursuant to the NHPA. The Signatories and Invited Signatory to this Agreement represent
693 that they have the authority to sign for and bind the entities on behalf of whom they sign.

694

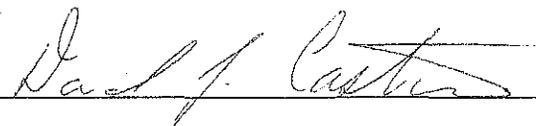
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SIGNATORY PARTIES

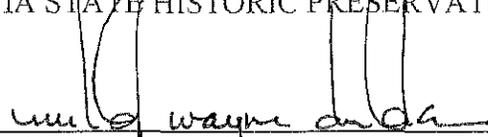
U.S. BUREAU OF LAND MANAGEMENT

BY:  DATE: 4/26/12
Margaret L. Goodro
Field Manager, El Centro Field Office

U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

BY:  DATE: 4-27-12
David J. Castanon
Chief, Regulatory Division

CALIFORNIA STATE HISTORIC PRESERVATION OFFICE

BY:  DATE: 1 MAY 2012
Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

BY:  DATE: 5/8/2012
John M. Fowler
Executive Director

INVITED SIGNATORY PARTY

OCOTILLO EXPRESS LLC

BY:  DATE: 4/30/2012
TITLE: Authorized Signatory

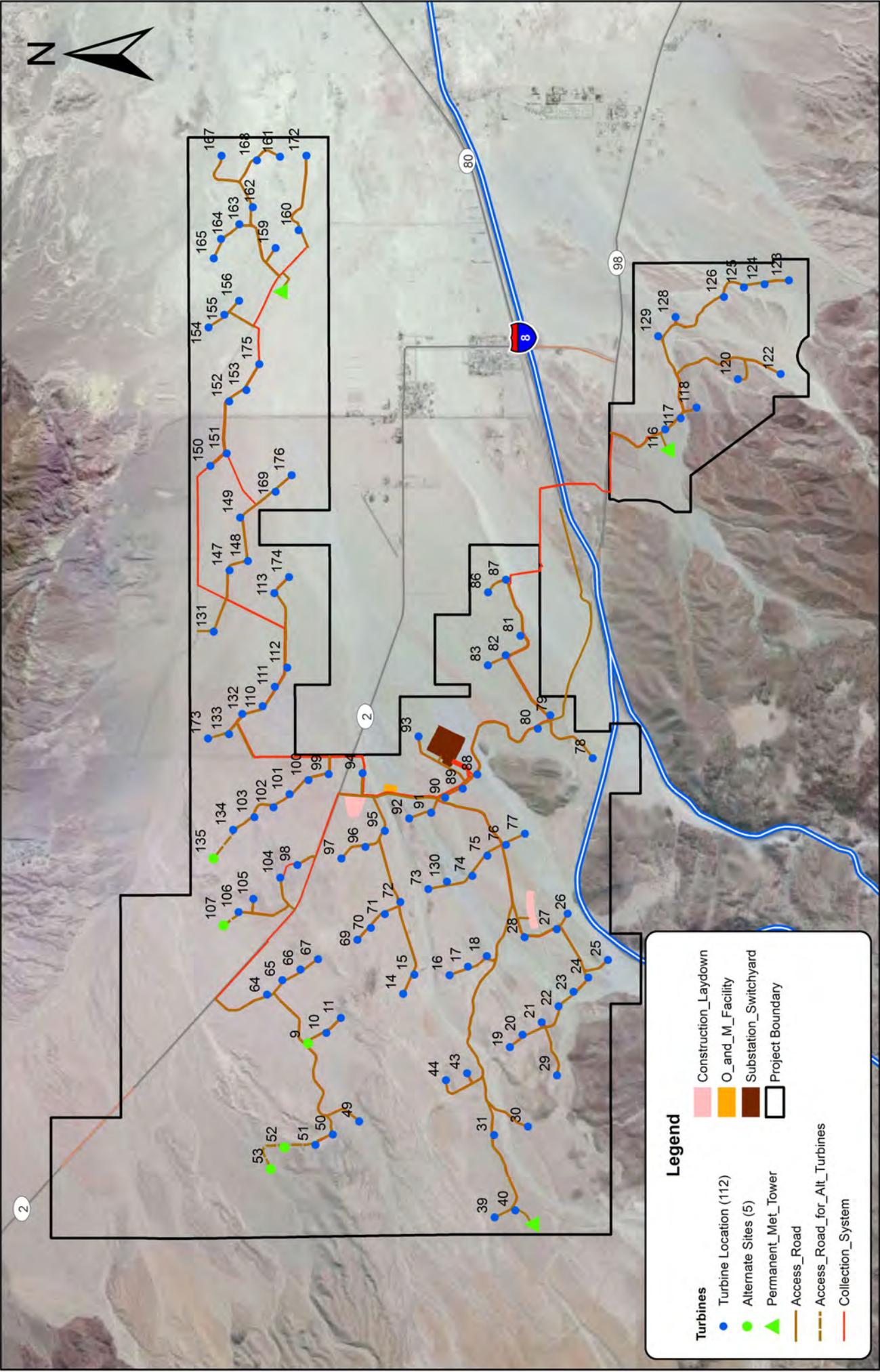
PARTIES INVITED TO CONCUR IN THE AGREEMENT

BARONA BAND OF DIEGUENO INDIANS
CAMPO BAND OF MISSION INDIANS
COCOPAH INDIAN TRIBE
EWIIAAPAYP BAND OF KUMEYAAY INDIANS
FORT YUMA QUECHAN INDIAN TRIBE
JAMUL INDIAN VILLAGE
KWAAYMII LAGUNA BAND OF INDIANS
LA POSTA BAND OF KUMEYAAY INDIANS
MANZANITA BAND OF KUMEYAAY INDIANS
MESA GRANDE BAND OF MISSION INDIANS
SAN PASQUAL BAND OF DIEGUENO INDIANS
SANTA YSABEL BAND OF DIEGUENO INDIANS
SYCUAN BAND OF KUMEYAAY NATION
TORRES-MARTINEZ DESERT CAHUILLA INDIANS
VIEJAS BAND OF KUMEYAAY INDIANS

APPENDICES

- A. Reference Maps
- B. Area of Potential Effect
- C. Definitions
- D. Table Summary of Eligibility and Management Recommendations for Archaeological Sites
- E. Historic Properties Treatment Plan
- F. Plan for Archaeological Monitoring, Post-Review Discovery, and Unanticipated Effects
- G. Long Term Management Plan
- H. NAGPRA Plan of Action

APPENDIX A: REFERENCE MAPS



Legend

- | | |
|--------------------------------|-----------------------|
| Turbines | Construction_Laydown |
| • Turbine Location (112) | O_and_M_Facility |
| • Alternate Sites (5) | Substation_Switchyard |
| ▲ Permanent_Met_Tower | Project Boundary |
| — Access_Road | |
| — Access_Road_for_Alt_Turbines | |
| — Collection_System | |



Ocotillo Express Wind



Pattern



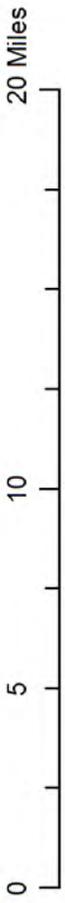
Mount Signal

Coyote Mountain

Sugarloaf Mountain



Ocotillo, CA Wind Farm Project



Created: 2 May 2012 (PP)
Privileged and Confidential

APPENDIX B: AREA OF POTENTIAL EFFECT

The APE means the geographic area or areas within which an Undertaking may directly or indirectly cause alterations in the character or use of Historic Properties, if any such properties exist. The APE is influenced by the scale and nature of an Undertaking and may be different for different kinds of effects caused by the Undertaking ((36 CFR §800.16 (d)). Adverse effects on Historic Properties include, but are not limited to: physical destruction or alteration of a property or introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features (36 CFR §800.5(a)(2)). There is potential for indirect and cumulative effects on these other sites and properties. Adverse effects may include reasonably foreseeable effects caused by the Undertaking that may occur later in time, be further removed in distance, or be cumulative (36 CFR §800.5(a)). If additional information reveals indirect and/or cumulative effects on other properties eligible for listing on the NRHP, revision of the APE may be appropriate.

The APE for this Undertaking is comprised of the following:

1. For archaeological resources, the horizontal APE is defined as the entire 12,436-acre area included within the ROW grant. The vertical APE is defined by the depth of ground disturbance (approximately 8-10 feet) associated with the construction of the project and the height of the turbines (maximum of 448 feet). For the purpose of the archaeological study, the APE was divided into the direct and indirect impact APEs:

- The direct impact APE includes all areas where ground-disturbing activities may take place, including turbine locations, transmission corridors, substation, staging areas, access roads, and other supporting infrastructure and improvements, along with a 500-foot buffer surrounding all facilities.

- The indirect impact APE is defined as those areas within the ROW grant that might be subject to indirect impacts and all portions of the ROW grant that will not be subject to direct impacts.

2. For ethnographic resources, the APE takes into account traditional use areas and TCP which may be far-ranging, including views that contribute to the significance of the property. These resources are often identified in consultation with Native Americans and other ethnic groups, and issues that are raised by these groups may define the area of analysis. Representatives of some of the Tribes have informed the BLM of a TCP which encompasses the Project area and the surrounding region. Accordingly, the APE for the TCP is the portion of it that falls within the Project footprint and the viewsheds toward culturally important mountains including Mount Signal, Sugarloaf and Coyote Mountains.

3. For built-environment resources, the APE is the Project area plus a 1-mile buffer. The APE for built-environment resources also includes the community of Nomirage and the viewshed from the Desert View Tower, to account for possible visual impacts.

APPENDIX C - DEFINITIONS

- a) **Applicant.** Refers to Ocotillo Express LLC, and to the same organization in the event of a change of the name of the LLC, provided the Signatories and Invited Signatories are notified in writing of the name change.
- b) **Area of Potential Effect.** The total geographic area or areas within which the Undertaking may directly or indirectly cause alterations in the character or use of Historic Properties per 36 C.F.R. 800.16(d). The APE is influenced by the scale and nature of an Undertaking and includes those areas which could be affected by an Undertaking prior to, during and after construction.
- c) **Concurring Parties.** Collectively refers to parties (not Signatories or Invited Signatories) with a demonstrated interest in the Undertaking, who agree, through their signature, with the terms of this Agreement. Concurring Parties may propose amendments to this Agreement.
- d) **Cultural Resource.** An object or definite location of human activity, occupation, use, or significance identifiable through field inventory, historical documentation, or oral evidence. Cultural Resources are prehistoric, historic, archaeological, or architectural sites, structures, buildings, places, or objects and locations of traditional cultural or religious importance to specified social and/or culture groups. Cultural Resources include the entire spectrum of objects and places, from artifacts to cultural landscapes, without regard to eligibility for inclusion on the National Register of Historic Places (NRHP) or California Register of Historical Resources (CRHR).
- e) **Consulting Parties.** Collectively refers to the Signatories, Invited Signatory and Concurring Parties who have signed this Agreement.
- f) **Historic Properties.** Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the NRHP maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.
- g) **Historical Resources.** Cultural Resources that meet the criteria for listing on the CRHR as provided at California Code of Regulations Title 14, Chapter 11.5, Section 4850 and may include, but are not limited to, any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.
- h) **Invited Signatory.** A party that has specific responsibilities as defined in this Agreement. The Invited Signatory who signs this Agreement has the same rights with regard to seeking amendment or termination of this Agreement as the Signatory Parties, but whose signature is not required for execution of the Agreement. The Invited Signatory to this Agreement is the Applicant.
- i) **Lands Administered by the U.S. Department of Interior, Bureau of Land Management (BLM)** Federal lands under the administrative authority of the BLM.
- j) **Signatories.** Parties that have the sole authority to execute, amend or terminate this Agreement. Signatories to this Agreement are the BLM, COE, SHPO, and ACHP.

- k) **Traditional Cultural Property.** A property that is important to a living group or community because of its association with cultural practices or beliefs that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community. It is a place, such as a traditional gathering area, prayer site, or sacred/ceremonial location that may figure in important community traditions. These places may or may not contain features, artifacts, or physical evidence, and are usually identified through consultation. A traditional cultural property may be eligible for inclusion in the NRHP and the CRHR.
- l) **Tribes.** The federally recognized Indian tribes that the BLM is consulting with on this undertaking.
- m) **Tribal Organization.** A non-federally recognized Indian tribe or Native American organization that the BLM is consulting with on this Undertaking.
- n) **Undertaking.** Collectively refers to all projects, activities, or programs funded in whole or in part under the direct or indirect jurisdiction of the federal agencies (BLM, COE) that are party to this Agreement, including those carried out by or on behalf of the federal agency; those carried out by federal financial assistance; and those requiring a federal permit, license, or approval.

**APPENDIX D: TABLE SUMMARY OF ELIGIBILITY AND MANAGEMENT
RECOMMENDATIONS FOR ARCHAEOLOGICAL SITES**

Appendix D: Table Summary of Eligibility and Management Recommendations for Archaeological Sites

Resource Designation	Site Type	Recommended Eligibility	Nearest Project Component	Project Component within ESA's 150' Buffer	Construction Management Strategy
CA-IMP-008/H	Camp Site, Agave Processing Area, Rock Features & Historic Refuse Scatter	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-055	Artifact Scatter & Rock Feature	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-103/H	Artifact Scatter, Historic Mining Site & Refuse Scatter	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-443	Lithic Scatter & Rock Features	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-1427	Lithic Scatter & Rock Feature	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-1431/H	Artifact Scatter, Rock Features & Historic Mining Site	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-2430	Camp Site	Eligible (Criterion D)	Road	No	Avoid
CA-IMP-2471/H	Camp, Cremation, Trail & Historic Refuse Scatter	Eligible (Criterion D); contributor to TCP (Criterion A)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-2488	Lithic Scatter & Rock Features	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-3705/H	Artifact Scatter & Historic Refuse Scatter	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-3712	Lithic Scatter	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-3720H	Historic Mining Site	Not Eligible	Assembly Areas	No	Avoid
CA-IMP-6508/H	Artifact Scatter, Rock Features & Historic Refuse Scatter	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-6915	Camp Site	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-6919	Artifact Scatter	Eligible (Criterion D)	Assembly Areas	No	Avoid
CA-IMP-6920	Lithic Scatter & Trail/ Geoglyph	Eligible (Criteria C and D); contributor to TCP (Criterion A)	Collection Line	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-6921/H	Lithic Scatter, Rock Features, Historic Foundations & Refuse Scatter	Not Eligible	Assembly Areas	No	Avoid
CA-IMP-6922	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring

Appendix D: Table Summary of Eligibility and Management Recommendations for Archaeological Sites

Resource Designation	Site Type	Recommended Eligibility	Nearest Project Component	Project Component within ESA's 150' Buffer	Construction Management Strategy
CA-IMP-6923/H	Lithic Scatter, Historic Refuse & Road	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-6924	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-6988	Artifact Scatter, Agave Processing Area & Geoglyph	Listed (Criteria C and D); contributor to TCP (Criterion A)	Electrical Interconnect	Yes	Avoid; Temporary Fencing/Monitoring
CA-IMP-10885/H	Artifact Scatter & Mining Site	Not Eligible	Transmission/Road	No	Avoid
OCO-003	Camp Site, Rock Feature & Modern Geoglyph	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-008	Lithic Scatter & Rock Feature	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-011	Lithic Scatter & Agave Processing Area	Not Eligible	Road	No	Avoid
OCO-012	Lithic Scatter & Agave Processing Area	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-014	Lithic Scatter & Agave Processing Area	Eligible (Criterion D)	Road	No	Avoid
OCO-019	Lithic Scatter & Agave Processing Area	Eligible (Criterion D)	Assembly Areas	No	Avoid
OCO-021	Artifact Scatter & Agave Processing Area	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-023	Artifact Scatter & Agave Processing Area	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-024	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-025	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-026	Agave Processing Area	Eligible (Criterion D)	Transmission/Road	No	Avoid
OCO-AMC-001/H	Lithic Scatter, Rock Feature & Historic Refuse Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-003	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-004	Ceramic Scatter	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring

Appendix D: Table Summary of Eligibility and Management Recommendations for Archaeological Sites

Resource Designation	Site Type	Recommended Eligibility	Nearest Project Component	Project Component within ESA's 150' Buffer	Construction Management Strategy
OCO-AMC-005H	Historic Refuse Scatter	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-006	Ceramic Scatter	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-010H	Historic Refuse Scatter	Not Eligible	Assembly Areas	No	Avoid
OCO-AMC-027H	Historic Mining Site	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-028	Artifact Scatter & Agave Processing Area	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-032	Lithic Scatter	Not Eligible	Assembly Areas	No	Avoid
OCO-AMC-035	Lithic Scatter	Not Eligible	Transmission/Road	No	Avoid
OCO-AMC-042	Lithic Scatter & Rock Features	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-044/H	Artifact Scatter, Agave Processing Area & Historic Mining Site	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-052	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-053H	Historic Survey Marker & Rock Feature	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-054	Camp Site & Rock Features	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-064	Lithic Scatter	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-065	Lithic Scatter	Not Eligible	Transmission/Road	No	Avoid
OCO-AMC-066	Lithic Scatter & Rock Features	Not Eligible	Transmission/Road	No	Avoid
OCO-AMC-067	Lithic Scatter & Rock Features	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-068/H	Lithic scatter, Rock Features & Historic Mining Site	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-069	Lithic Scatter	Not Eligible	Road	No	Avoid
OCO-AMC-070	Lithic Scatter	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-072	Lithic Scatter & Rock Features	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-076/H	Lithic Scatter, Historic Mining Site & Road	Not Eligible	Turbine155	Yes	Avoid; Temporary Fencing/Monitoring

Appendix D: Table Summary of Eligibility and Management Recommendations for Archaeological Sites					
Resource Designation	Site Type	Recommended Eligibility	Nearest Project Component	Project Component within ESA's 150' Buffer	Construction Management Strategy
OCO-AMC-078	Lithic Scatter	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-083	Modern Redeposited Artifact Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-086	Lithic Scatter	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-088	Lithic Scatter & Rock Features	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-090	Artifact Scatter	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-091	Artifact Scatter & Rock Features	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-094	Agave Processing Area	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-097	Artifact Scatter & Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-100	Lithic Scatter & Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-102	Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-125	Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-126	Agave Processing Area	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-AMC-129	Lithic Scatter	Not Eligible	Transmission/Road	No	Avoid
OCO-AMC-130	Lithic Scatter	Not Eligible	Transmission/Road	No	Avoid
OCO-AMC-500T	Trail & Rock Features	Eligible (Criterion D); contributor to TCP (Criterion A)	Assembly Areas	No	Avoid
OCO-AMC-501T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Assembly Areas	No	Avoid
OCO-BF-001	Camp Site	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-004H	Historic Mining Site	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-005	Lithic Scatter & Rock Features	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-008	Lithic Scatter	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-009H	Historic Mining Site	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-012	Lithic Scatter	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring

Appendix D: Table Summary of Eligibility and Management Recommendations for Archaeological Sites

Resource Designation	Site Type	Recommended Eligibility	Nearest Project Component	Project Component within ESA's 150' Buffer	Construction Management Strategy
OCO-BF-013/H	Lithic Scatter, Rock Features & Survey Markers	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-017	Lithic Scatter & Rock Features	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-018/H	Lithic Scatter & Historic Mining Site	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-019/H	Lithic Scatter & Historic Mining Site	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-020	Lithic Scatter	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-026/H	Lithic Scatter & Historic Mining Site	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-034	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-035	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-040	Artifact Scatter & Rock Features	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-041	Camp Site & Rock Features	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-042T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-044	Agave Processing Area	Eligible (Criterion D)	Road	No	Avoid
OCO-BF-048	Lithic Scatter & Agave Processing Area	Eligible (Criterion D)	Road	No	Avoid
OCO-BF-049	Agave Processing Area	Eligible (Criterion D)	Assembly Areas	No	Avoid
OCO-BF-050	Agave Processing Area	Eligible (Criterion D)	Assembly Areas	No	Avoid
OCO-BF-054	Agave Processing Area	Eligible (Criterion D)	Assembly Areas	No	Avoid
OCO-BF-055	Agave Processing Area	Eligible (Criterion D)	Assembly Areas	No	Avoid
OCO-BF-056	Agave Processing Area	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-057	Ceramic Scatter & Agave Processing Area	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-059	Lithic Scatter & Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-BF-060	Artifact Scatter	Not Eligible	Road	No	Avoid

Appendix D: Table Summary of Eligibility and Management Recommendations for Archaeological Sites					
Resource Designation	Site Type	Recommended Eligibility	Nearest Project Component	Project Component within ESA's 150' Buffer	Construction Management Strategy
OCO-BF-061	Agave Processing Area	Eligible (Criterion D)	Road	No	Avoid
OCO-CWB-001T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Road	No	Avoid
OCO-CWB-002T	Trail & Rock Feature	Eligible (Criterion D); contributor to TCP (Criterion A)	Road	No	Avoid
OCO-CWB-003T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Assembly Areas	No	Avoid
OCO-CWB-004T	Trail & Rock Features	Eligible (Criterion D); contributor to TCP (Criterion A)	Road	No	Avoid
OCO-EAM-001	Camp Site	Not Eligible	Transmission/Road	No	Avoid
OCO-EAM-002	Artifact Scatter & Agave Processing Area	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-005	Lithic Scatter	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-010	Camp Site & Rock Features	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-011	Artifact Scatter	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-012	Camp Site, Trail & Rock Features	Eligible (Criterion D); contributor to TCP (Criterion A)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-013	Lithic Scatter & Rock Features	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-014	Lithic Scatter & Rock Features	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-015	Lithic Scatter & Rock Features	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-017	Artifact Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-018H	Historic Mining Site	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-019	Camp Site	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-020	Artifact Scatter	Not Eligible	Assembly Areas	No	Avoid
OCO-EAM-023	Lithic Scatter & Rock Feature	Not Eligible	Assembly Areas	No	Avoid
OCO-EAM-024	Lithic Scatter & Rock Feature	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-025	Lithic Scatter	Not Eligible	Transmission/Road	No	Avoid

Appendix D: Table Summary of Eligibility and Management Recommendations for Archaeological Sites

Resource Designation	Site Type	Recommended Eligibility	Nearest Project Component	Project Component within ESA's 150' Buffer	Construction Management Strategy
OCO-EAM-026	Lithic Scatter & Rock Feature	Not Eligible	Transmission/Road	No	Avoid
OCO-EAM-027	Lithic Scatter	Not Eligible	Assembly Areas	No	Avoid
OCO-EAM-028	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-030	Lithic Scatter	Not Eligible	Road	No	Avoid
OCO-EAM-031	Artifact Scatter & Agave Processing Area	Eligible (Criterion D)	Road	No	Avoid
OCO-EAM-032	Lithic Scatter	Not Eligible	Road	No	Avoid
OCO-EAM-033H	Historic Mining Site	Not Eligible	Assembly Areas	No	Avoid
OCO-EAM-034	Agave Processing Area	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-035	Lithic Scatter	Not Eligible	Assembly Areas	No	Avoid
OCO-EAM-036	Lithic Scatter	Not Eligible	Assembly Areas	No	Avoid
OCO-EAM-037	Lithic Scatter	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-038	Lithic Scatter	Not Eligible	Road	No	Avoid
OCO-EAM-039	Lithic Scatter	Not Eligible	Transmission/Road	No	Avoid
OCO-EAM-040	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-042	Camp Site & Agave Processing Area	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-043	Lithic Scatter	Not Eligible	Assembly Areas	No	Avoid
OCO-EAM-044	Lithic Scatter	Not Eligible	Road	No	Avoid
OCO-EAM-046	Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-047	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-048H	Historic Mining Site	Not Eligible	boundaries	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-049	Agave Processing Area	Not Eligible	boundaries	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-050	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-052	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-053	Lithic Scatter & Rock Feature	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-054	Artifact Scatter	Not Eligible	boundaries	Yes	Avoid; Temporary

Appendix D: Table Summary of Eligibility and Management Recommendations for Archaeological Sites					
Resource Designation	Site Type	Recommended Eligibility	Nearest Project Component	Project Component within ESA's 150' Buffer	Construction Management Strategy
					Fencing/Monitoring
OCO-EAM-055	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-056T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-057	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-058	Camp Site & Agave Processing Area	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-061	Artifact Scatter	Not Eligible	Road	No	Avoid
OCO-EAM-062	Lithic Scatter	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-064	Rock Feature	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-065	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-067/H	Lithic Scatter, Rock Features & Historic Mining Site	Not Eligible	Assembly Areas	No	Avoid
OCO-EAM-068	Agave Processing Site	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-069	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-070	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-071	Lithic Scatter & Rock Feature	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-072	Lithic Scatter & Rock Features	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-074	Camp Site & Rock Feature	Eligible (Criterion D)	Assembly Areas	No	Avoid
OCO-EAM-075/H	Artifact Scatter, Rock Features & Historic Refuse Scatter	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-076	Lithic Scatter & Rock Feature	Not Eligible	Transmission/Road	No	Avoid
OCO-EAM-077	Camp Site & Rock Features	Eligible (Criterion D)	Transmission/Road	No	Avoid
OCO-EAM-078	Lithic Scatter	Not Eligible	Assembly Areas	No	Avoid
OCO-EAM-079	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-081	Lithic Scatter & Cremation Site	Eligible (Criterion D); contributor to TCP (Criterion A)	Road	No	Avoid

Appendix D: Table Summary of Eligibility and Management Recommendations for Archaeological Sites

Resource Designation	Site Type	Recommended Eligibility	Nearest Project Component	Project Component within ESA's 150' Buffer	Construction Management Strategy
OCO-EAM-082	Artifact Scatter	Not Eligible	Transmission/Road	No	Avoid
OCO-EAM-083	Artifact Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-084	Artifact Scatter & Rock Features	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-085	Agave Processing Area	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-087	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-088	Artifact Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-089	Agave Processing Area	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-100	Lithic Scatter & Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-101	Lithic Scatter & Agave Processing Area	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-102	Lithic Scatter & Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-103	Lithic Scatter & Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-104	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-106	Lithic Scatter & Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-107	Lithic Scatter & Agave Processing Area	Eligible (Criterion D)	Road	No	Avoid
OCO-EAM-108	Lithic Scatter & Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-109	Lithic Scatter & Agave Processing Area	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-110	Artifact Scatter & Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-111	Artifact Scatter & Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-112	Lithic Scatter & Agave Processing	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring

Appendix D: Table Summary of Eligibility and Management Recommendations for Archaeological Sites					
Resource Designation	Site Type	Recommended Eligibility	Nearest Project Component	Project Component within ESA's 150' Buffer	Construction Management Strategy
	Area				
OCO-EAM-113	Lithic Scatter & Geoglyph	Eligible (Criteria C and D); contributor to TCP (Criterion A)	Assembly Areas	No	Avoid
OCO-EAM-114	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-151	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-152	Camp Site & Rock Features	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-200T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-EAM-300H	Historic Mining Site & Refuse Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-JLU-173/H	Artifact Scatter & Historic Mining Site	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KAM-001T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Transmission/Road	No	Avoid
OCO-KRM-001	Lithic Scatter & Rock Features	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-003	Artifact Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-004	Lithic Scatter	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-005	Lithic Scatter	Not Eligible	Road	No	Avoid
OCO-KRM-006	Artifact Scatter & Rock Features	Not Eligible	Turbine 155	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-007	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-008	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-009	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-020	Ceramic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-022	Artifact Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-023	Artifact Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-024	Artifact Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-025	Artifact Scatter	Not Eligible	Road	No	Avoid
OCO-KRM-026	Artifact Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring

Appendix D: Table Summary of Eligibility and Management Recommendations for Archaeological Sites					
Resource Designation	Site Type	Recommended Eligibility	Nearest Project Component	Project Component within ESA's 150' Buffer	Construction Management Strategy
OCO-KRM-032	Artifact Scatter	Not Eligible	Road	No	Avoid
OCO-KRM-033	Ceramic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-037	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-044	Lithic Scatter	Not Eligible	Transmission/Road	No	Avoid
OCO-KRM-048T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-051	Camp Site & Rock Features	Eligible (Criterion D)	Electrical Inter-connect	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-052/H	Lithic & Historic Refuse Scatter	Not Eligible	Electrical Inter-connect	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-053	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-059/H	Artifact Scatter, Rock Features & Survey Markers	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-KRM-065T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Assembly Areas	No	Avoid
OCO-KRM-066T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Assembly Areas	No	Avoid
OCO-KRM-067	Camp Site & Rock Features	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-LPM-001	Artifact Scatter	Not Eligible	Transmission/Road	No	Avoid
OCO-LPM-002	Lithic Scatter	Not Eligible	Transmission/Road	No	Avoid
OCO-LPM-004	Lithic Scatter & Agave Processing Area	Not Eligible	Assembly Areas	No	Avoid
OCO-LPM-006	Artifact Scatter & Agave Processing Area	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-LPM-007	Lithic Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-LPM-008	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-LPM-009	Camp Site & Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-LPM-010	Camp Site & Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-LPM-011T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring

Appendix D: Table Summary of Eligibility and Management Recommendations for Archaeological Sites					
Resource Designation	Site Type	Recommended Eligibility	Nearest Project Component	Project Component within ESA's 150' Buffer	Construction Management Strategy
OCO-LPM-012	Agave Processing Area	Eligible (Criterion D)	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-LPM-013	Agave Processing Area	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MD-001T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Assembly Areas	No	Avoid
OCO-MD-002T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Assembly Areas	No	Avoid
OCO-MD-003T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Assembly Areas	No	Avoid
OCO-MHN-001T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Assembly Areas	No	Avoid
OCO-MOW-001H	Historic Refuse Scatter	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-002	Artifact Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-004H	Historic Refuse Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-005	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-010	Ceramic Scatter	Not Eligible	Assembly Areas	No	Avoid
OCO-MOW-011	Ceramic Scatter	Not Eligible	boundaries	No	Avoid
OCO-MOW-012/H	Artifact Scatter & Historic Mining Site & Refuse Scatter	Not Eligible	Assembly Areas	No	Avoid
OCO-MOW-013/H	Lithic Scatter, Rock Feature, Historic Refuse Scatter & Survey Marker	Not Eligible	Assembly Areas	No	Avoid
OCO-MOW-014	Artifact Scatter	Not Eligible	Assembly Areas	No	Avoid
OCO-MOW-016	Artifact Scatter	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-022/H	Artifact Scatter & Historic Mining Site	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-026H	Historic Mining Site	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-027H	Historic Mining Site	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-028	Artifact Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-029H	Historic Mining Site	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring

Appendix D: Table Summary of Eligibility and Management Recommendations for Archaeological Sites					
Resource Designation	Site Type	Recommended Eligibility	Nearest Project Component	Project Component within ESA's 150' Buffer	Construction Management Strategy
OCO-MOW-032	Lithic Scatter	Not Eligible	Electrical Interconnect	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-037H	Historic Mining Site & Survey Marker	Not Eligible	Road	No	Avoid
OCO-MOW-038	Artifact Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-039	Artifact Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-040H	Historic Mining Site	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-042	Artifact Scatter	Not Eligible	Assembly Areas	No	Avoid
OCO-MOW-043/H	Ceramic & Historic Refuse Scatter	Not Eligible	Assembly Areas	No	Avoid
OCO-MOW-045H	Historic Mining Site	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-046H	Historic Mining Site	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-047H	Historic Mining Site & Survey Marker	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-048H	Historic Mining Site & Survey Marker	Not Eligible	Transmission/Road	No	Avoid
OCO-MOW-049H	Historic Refuse Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-050H	Historic Refuse Scatter	Not Eligible	boundaries	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-051	Lithic Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-052/H	Ceramic Scatter & Historic Mining Site	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-054	Artifact Scatter	Not Eligible	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-055	Camp Site & Rock Features	Eligible (Criterion D)	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-059H	Historic Refuse Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-064/H	Artifact Scatter & Historic Mining Site & Refuse Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-065H	Historic Mining Site	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-066	Artifact Scatter	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-067H	Historic Mining Site & Survey Marker	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-068	Lithic Scatter & Rock Features	Not Eligible	Transmission/Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-069	Lithic Scatter	Not Eligible	Assembly	Yes	Avoid; Temporary

Appendix D: Table Summary of Eligibility and Management Recommendations for Archaeological Sites

Resource Designation	Site Type	Recommended Eligibility	Nearest Project Component	Project Component within ESA's 150' Buffer	Construction Management Strategy
			Areas		Fencing/Monitoring
OCO-MOW-070	Lithic Scatter	Not Eligible	Assembly Areas	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MOW-071	Lithic Scatter	Not Eligible	Road	No	Avoid
OCO-MOW-072	Lithic Scatter	Not Eligible	Road	No	Avoid
OCO-MOW-073H	Historic Mining Site	Not Eligible	Road	No	Avoid
OCO-MOW-074	Lithic Scatter	Not Eligible	Road	No	Avoid
OCO-MOW-200T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Assembly Areas	No	Avoid
OCO-MOW-201T	Trail	Eligible (Criterion D); contributor to TCP (Criterion A)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-MTE-006/H	Camp Site & Historic Mining Site	Eligible (Criterion D)	Road	No	Avoid
OCO-SAC-003	Artifact Scatter & Agave Processing Area	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-SAC-100T	Trail & Rock Features	Eligible (Criterion D); contributor to TCP (Criterion A)	Assembly Areas	No	Avoid
OCO-VAP-023	Artifact Scatter & Cremation Site	Eligible (Criterion D); contributor to TCP (Criterion A)	Road	Yes	Avoid; Temporary Fencing/Monitoring
OCO-VAP-025	Artifact Scatter	Eligible (Criterion D)	Road	Yes	Avoid; Temporary Fencing/Monitoring
P-13-012210	Road (Dos Cabezas)	Not Eligible	Road	Yes	None

APPENDIX E: HISTORIC PROPERTIES TREATMENT PLAN

**HISTORIC PROPERTIES TREATMENT PLAN FOR
THE OCOTILLO WIND ENERGY FACILITY PROJECT,
IMPERIAL COUNTY, CALIFORNIA.**

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1. INTRODUCTION

Through consultation and resulting consensus, the Bureau of Land Management (BLM) has determined that the Ocotillo Wind Energy Facility Project (Project) will have an adverse effect on historic properties, including a National Register of Historic Places (NRHP) listed site, and a Traditional Cultural Property (TCP). Visual and auditory effects will change the character of historic properties in the Project's area of potential effects (APE) and the qualities that make the resources eligible for the National Register of Historic Places (NRHP). As required by the Project Memorandum of Agreement (MOA) and the Final Environmental Impact Statement/Final Environmental Impact Report (FEIS/FEIR) Mitigation Measure CUL-4, a Historic Properties Treatment Plan (HPTP) has been developed in order to recover, document, and preserve the important archaeological and other significant values of the cultural resources affected by this Project, thus resolving the Project's adverse effects. As well, this HPTP details measures that have been or shall be implemented to avoid adverse effects to other historic properties.

This document constitutes the HPTP for the cultural resources within the APE of the Project. This Project involves the construction of no more than 112 wind turbines dispersed across a right-of-way (ROW) that is approximately 12,436 acres in size. This HPTP is designed to satisfy Stipulation III(b) of the MOA developed for this Project, and Mitigation Measures outlined in the FEIS/FEIR.

The next section of this document outlines the regulatory context for the Project, including a discussion of cultural resources in the ROW and Project adverse effects. Avoidance and protection measures are outlined next, followed by treatment measures. Discussion of the potential development of a tribal access plan concludes the HPTP.

REGULATORY CONTEXT

This HPTP has been developed to assist the BLM in their compliance with Section 106 of the National Historic Preservation Act (NHPA), and other applicable federal, state, and/or local laws, ordinances, rules, regulations, and policies.

Pursuant to 36 CFR § 800, the regulations implementing the NHPA, an MOA has been developed for Project. Stipulation III of the MOA and Mitigation Measure CUL-4 of the FEIS require the development of a HPTP for the project. This document is responsive to these stipulations.

NHPA Section 106 is applicable to federal undertakings, including projects financed or permitted by federal agencies, regardless of whether the activities occur on land that is managed by federal agencies, other governmental agencies, or private landowners. 36 CFR Part 800.1(a) states the purpose and goal of the Section 106 process as follows:

The section 106 process seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties commencing at the early stages of project planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties.

"Historic properties" are significant cultural resources that are listed in or determined eligible for listing in the NRHP. The criteria for NRHP eligibility are defined at 36 CFR §60.4 and include:

The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and that:

- (a) are associated with events that have made a significant contribution to the broad patterns of our history; or
- (b) are associated with the lives of persons significant in our past; or
- (c) embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- (d) have yielded or may be likely to yield, information important in prehistory or history.

Significant impacts under CEQA, in slight contrast, occur when "historically significant" or "unique" cultural resources are adversely affected. Historically significant cultural resources are defined by eligibility for or by listing in the California Register of Historical Resources (CRHR). In practice, the NRHP criteria for significance applied under Section 106 are generally (although not entirely) consistent with CRHR criteria (see PRC § 5024.1, Title 14 CCR, Section 4852 and § 15064.5(a)(3)).

Under CEQA, significant impacts to cultural resources are those that alter or destroy prehistoric or historical archaeological sites, features and artifacts, and historical properties (e.g., buildings) that are themselves determined to be significant or unique. Significant archaeological resources and historical properties that are:

- (A) Are associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- (B) Are associated with the lives of persons important in our past;
- (C) Embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of an important creative individual, or possess high artistic values; or
- (D) Have yielded, or may be likely to yield, information important in prehistory or history.

Unique resources under CEQA, again in slight contrast, are those that represent:

an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

- (1) Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.
- (2) Has a special and particular quality such as being the oldest of its type or the best available example of its type.
- (3) Is directly associated with a scientifically recognized important prehistoric or historic event or person (PRC § 21083.2(g)).

CULTURAL RESOURCES WITHIN THE PROJECT ROW

A total of 287 archaeological sites have been recorded within the Project APE (Tierra Environmental Services 2012); 229 of these are prehistoric, 29 are historic, and 29 are multi-component sites. The reader is referred to the BLM Class III archaeological inventory report (Tierra Environmental Services 2012) for information on these sites. Physical effects to all of these sites have been avoided by changes in turbine locations. CA-IMP-6988, known as the "Spoke Wheel Geoglyph," is located within the APE and has been determined through consensus as locally significant and eligible for the National Register of Historic Places (NRHP), as an individual historical property, under Criterion A for its association with historical patterns or events significant to the cultural traditions of the community. The Spoke Wheel Geoglyph was previously determined eligible and listed on the NRHP as an individual historical property under Criteria C and D in 2003 because of its distinctive construction and the likelihood of providing important information. All 287 of these resources are being treated as NRHP eligible, as individual historical properties, for Project management purposes however.

The Colorado Desert region was the setting for spiritual events that resulted in the creation of the world, the tribes themselves, and their individual ritual practices (Bourke 1889; Kroeber 1925; von Werlhof 2004; Whitley 2000). Specific locations may be associated with individual spirits and Creation events, including the Creator; and known routes follow their movements across the region. In ethnographic and contemporary times, rituals were/are conducted at the locations of these spiritual events, and pilgrimages and initiations were/are undertaken to follow the sequence of Creation events, following designated trails. These rituals include spiritual cleansing, honoring the Creator and other spirits, healing, acquiring supernatural power or assistance, burial, and puberty initiations, among others. Based on chronometric analyses of specific ritual sites, the time-depth of these practices is believed to be at least 2000 years (von Werlhoff et al. 1995).

The area containing the Project specifically was and continues to be acknowledged as a ritual landscape by Native American tribes. A traditional Kwaaymii legend describes Coyote Mountain as the location where a son named *Huta-pah* conducted his father's cremation ritual, in order to reunite the father's heart with the desert valley and mountains nearby. A number of the tribes recognize Coyote Mountain, Signal Mountain, and Sugarloaf Mountain as spiritually significant, with Coyote Mountain in particular featured in Creation stories, religious songs and oral

traditions. Sacred, religious and cultural values are also attached to the cremations/burials that have been identified within the APE (FEIS Section 5-17).

Ritual/spiritual locations are also important in the transmission of cultural knowledge between generations, and are used for educational purposes. They are further important in fostering indigenous self-identity, and preserving social memory (Whitley and Whitley 2012). The ritual landscape, in this sense, can be understood as having both religious and social importance to the tribes. Because many spiritual beliefs and ritual practices are shared among the tribes in the region, despite potentially different languages or dialects, concern with and use and knowledge of this ritual landscape is widespread.

The use of these ritual locations and landscape features varies and, depending upon circumstance, can involve group or alternatively private ceremonies. Some rituals are conducted regularly; others less frequently but still periodically; and still others, only rarely. Some locations are associated with very specific spirits and/or powers, and may only be used by or under the direction of individuals with appropriate knowledge and training; other ritual locations may be employed by any individual, with the appropriate intent and attitude. The nature of the ceremonies conducted also varies, depending upon location, purpose, and numbers of individuals involved. The rituals range from group events involving singing and dancing, the public recitation of creation sequences, lengthy group runs across the landscape to foster dreams signaling the acquisition of supernatural power, puberty initiations of various kinds, individual and private prayer, fasting and meditation, censuring with white sage, cremation/burial of human remains, deposition of offerings, the construction of earth figures and cairns, to the creation of petroglyphs.

Archaeological manifestations of these rituals include trails, cairns, dance circles and paths, offerings, petroglyphs and, especially earth figures. Otherwise ostensibly natural features, including springs, rockshelters/caves and locally prominent peaks are also common components of the ritual landscape, and potentially may be invested with more religious significance than humanly-constructed ritual places (Whitley 1998). Coyote Mountain, north of the Project, has been identified as one such sacred feature, as have Signal and Sugarloaf Mountains. Regardless of specific form, ethnography across far western North America emphasizes the importance of the view-shed of many ritual locales (e.g., Hudson et al. 1979; Keyser and Whitley 2000; Stoffle et al. 2001). View-shed may have been important for celestial observations, and may have involved the positioning of alignments and/or rock art (e.g., with solstitial events). Alternatively, certain rituals may have been primarily conducted facing a specific direction, often towards a mountain that itself has religious significance.

Through consultation with Indian Tribes on the Project, a TCP has been identified that has cultural, natural and religious value pursuant to the above discussion. Tribes have also identified it as a sacred site under Executive Order 13007. It is larger than and encompasses the Project APE.

The ACHP, SHPO, and the BLM have acknowledged that the Tribes identify this area, which includes the Project area, as a TCP. The BLM recognizes and understands that this TCP is of significant cultural, natural and religious importance to at least some Tribes. The BLM assumes that the part of the TCP that is within the Project APE is eligible for the NRHP; that it has

cultural, natural and religious value to the Tribes; and that the part of the TCP that is within the Project area and any potentially contributing resources are being adversely affected by the Project. Of the 287 archaeological sites evaluated by Tierra, 32 (including those containing trails, rock features, cremations, and/or geoglyphs), and the Spoke-Wheel Geoglyph (CA-IMP-6988), are also considered eligible by the BLM as potential contributors to the TCP under Criterion A (i.e., in addition to their eligibility as individual historical properties). The final number of sites that ultimately are included as potential contributors to the TCP will depend upon the outcome of the BLM's Tribal consultation. The BLM will continue consultation through implementation of the terms of the MOA and this HPTP.

ADVERSE EFFECTS

Ethnography throughout far western North America documents the widespread Native American belief that development, including the construction of railroads, transmission lines and dams, within or in the vicinity of sacred sites destroys their spiritual values (see citations in Whitley 2000). As has been verified through consultation with the Tribes, the construction of a wind farm within the TCP will result in adverse effects to the values that make this area important to Native Americans, including their ability to continue traditional uses. While the proposed Project has been designed to avoid physical impacts to the archaeological resources, the construction and operation of wind turbines within the TCP will result in adverse effects including visual and auditory that have the potential to impact the setting and use of these locations for cultural and religious purposes. Inasmuch as the ritual landscape extends beyond the Project ROW, and visual and auditory effects cannot be limited to the Project boundaries, adverse effects may also occur to additional ritual sites beyond the Project area and traditional uses of the landscape as a whole.

MITIGATION REQUIREMENTS, FEIS AND MOA

As part of compliance with NEPA, the BLM prepared the FEIS for the Project to identify alternative and preferred turbine alignments, examine the relative effects of the alternatives on known historic properties, and identify mitigation measures that would avoid, reduce, or resolve adverse effects. The cultural resource mitigation measures are outlined in the FEIS Mitigation Measures for the Project (Section 4.4.10). They also include recommended BLM Best Management Practices (BMPs) from the BLM's Programmatic EIS for Wind Energy Development. Subsequently, the BLM executed the MOA as evidence that the Advisory Council for Historic Preservation (ACHP) was afforded the opportunity to comment on the undertaking. The mitigation measures provided in the FEIS are coordinated with the requirements of MOA and this document, as identified below.

2. AVOIDANCE AND PROTECTION MEASURES

The avoidance and protection of cultural resources within the Project APE is a primary goal of this plan, as outlined in Mitigation Measures CUL-2, -3, -4, -5, -6, -7, -8, -10, -11 and -12. Compliance with these measures included changes to the final Project design involving re-alignments, adjustments and changes in tower locations.

As part of early Project planning, all wind turbines were relocated to assure that there would be no effects within the physical boundaries of the archaeological and historical resources identified for the undertaking. Additionally, approximately 3000 acres were eliminated from the original ROW boundary to protect sensitive cultural and biological resources in the southwest corner of the project area.

Through consultation, the number of proposed turbines has been reduced from 155 to 112 to help reduce the visual and auditory effects to NRHP-listed site CA-IMP-6988 (Spoked-Wheel Geoglyph) in the direction of important geologic features including Coyote and Signal Mountains and to help address impacts to the TCP and cultural landscape identified by several Tribes. Turbines were also removed from the 155 layout to protect cremation locations.

SITE PROTECTION DURING PROJECT CONSTRUCTION

In accordance with CUL-5, -6, -7, -8 and -10, the BLM and the Applicant, in consultation with Tribes and the appropriate land owner(s) and within the limits of agency authority, shall identify and implement resource protection measures during the period of construction, such as temporary fencing, gating, and law enforcement patrols, to protect cultural resources within the vicinity of the APE during the construction. Mandatory cultural sensitivity training for all Applicants staff and contractors shall also be conducted during construction and long-term operation associated with this Project. Where continuing resource protection measures are considered appropriate after the period of construction, such measures shall be developed as provided in Stipulation IV(c) of the MOA and Appendix G, Long Term Management Plan.

A series of measures shall be completed to help protect known and any sites found during the post review process during Project construction.

Buried Site Sensitivity Model and Buried Sites Testing Plan

All proposed turbine locations have been positioned to avoid direct disturbance to known archaeological sites. Prior to construction at the designated turbine locations, a buried site testing (BST) plan shall be implemented to further safeguard cultural resources. This plan is based on a buried site sensitivity model that has been developed using a series of geological and geomorphological variables (e.g., soil type and slope) that are potentially indicative of subsurface archaeological deposits, combined with the results of relevant local archaeological studies. This sensitivity model is included with MOA Appendix F: Plan for Archaeological Monitoring, Post-Review Discovery, and Unanticipated Effects. Although the entirety of the APE was determined to have low overall subsurface archaeological sensitivity, the BST plan

requires subsurface archaeological testing at certain turbine locations with higher potential for subsurface deposits, to ensure that cultural resources are not present that would be inadvertently destroyed by the project.

Should a subsurface archaeological deposit be identified, that resource may be evaluated and treated following the procedures outlined in the unanticipated discoveries plan, as specified in MOA Appendix F: Plan for Archaeological Monitoring, Post-Review Discovery, and Unanticipated Effects. A tribal cultural consultant shall be present during all archaeological testing procedures.

ESAs

In order to ensure that sites are not impacted during the construction of the Project, and in accordance with FEIS CUL-2 and 5, and MOA Appendix D and F, all recorded site areas within 150 feet of areas of direct impact, including turbine locations, access roads, the substation, operations facilities and staging zones, shall be temporarily fenced and labeled as Environmentally Sensitive Areas (ESAs). No access of any kind shall be permitted into these areas by Project personnel or equipment without prior authorization.

Monitoring During Construction

In accordance with CUL-3, -5, -8 and -10, MOA Stipulation IV(b) and Appendix F, and the Tribal Participation Plan, a team consisting of a tribal cultural consultant and an archaeologist shall be present to monitor construction activities. A sufficient number of monitoring teams shall be present during any ground disturbing construction activities within 150 feet of known sites and on an as needed basis in additional areas. These monitors shall have stop-work authority in the event that cultural resources are threatened. Post construction monitoring of ESAs shall also occur.

3. LONG-TERM PROTECTIVE MEASURES

LONG-TERM MANAGEMENT PLAN

In accordance with CUL-10, and MOA Stipulation IV(c) a Long-Term Management Plan (LTMP) shall be established in consultation with the BLM and Tribes, and funded, for post-construction monitoring, and condition assessment of sites in the APE. The LTMP shall be established to protect NRHP eligible sites, CRHR sites or sites treated as eligible from direct impacts of Project operation and maintenance and from indirect impacts (such as erosion and access) that could result from the presence of the Project. The LTMP shall also include protective measures for the cultural resources within the transmission line corridor or main Project area that may experience operational and access impacts as a result of the Project. Measures considered shall include restrictive fencing or gates, permanent access road closures, signage, stabilization of potential erosive areas, site capping, site patrols and interpretive/educational programs, or other measures that will be effective for protecting the resources. The LTMP shall also require mandatory cultural sensitivity training for all Applicants staff and contractors during the long- term operation associated with this Project.

LAW ENFORCEMENT PROTECTION

In accordance with CUL-12, and MOA Stipulation IV(c), the Applicant shall provide funding to ensure protection of cultural and natural resources. Specifically, to control unauthorized use of project access roads and to provide for the general protection of cultural and natural resources made more accessible as a result of the project facilities, the Applicant shall provide funding to land management entities for law enforcement patrols for the term of the ROW. The responsible land management entities will formulate what funding is reasonable to implement the above.

4. TREATMENT MEASURES

The treatment measures listed below shall be completed to resolve adverse effects resulting from the project. Treatment measures were determined through BLM consultations with the Project's consulting parties, including Indian Tribes. The cost of the treatment measures shall be borne by the Applicant (see Attachment 1: Ocotillo Express LLC Ocotillo Wind Energy Project Financial Commitment Letter) and shall be completed to the satisfaction of the BLM and consulting parties.

In accordance with CUL-1, -2, -3 and -4, within 60 days of the issuance of the notice to proceed for this Project, Ocotillo Express LLC shall identify to the BLM the consultant(s) who, under contract to Ocotillo Express LLC, shall be responsible for developing and completing any of the off-site treatment products described below. Prior to carrying out any activities related to any treatment measure, the consultant(s) shall meet with the BLM and Ocotillo Express LLC to discuss the goals of the project and work plan requirements, including lines of communication, deliverables, schedules, and any terms and conditions.

Within 45 days of meeting with the BLM and Ocotillo Express LLC, and prior to initiation of any work related to the specific measure, the consultant(s) shall provide the BLM with a draft work plan for completing the work required. The work plan shall document lines of communication, key personnel, and provide any appropriate contexts to support the design and methods proposed for completion of the mitigation measure. The work plan shall also include a schedule of milestones and timeline for completion of the work.

The BLM shall provide copies of the draft work plan to the consulting parties including SHPO in accordance with the communication and reporting procedures in Section VII of the MOA. Upon approval of the work plan by the BLM, the BLM shall authorize Ocotillo Express LLC and the consultant(s) to initiate work. Any products or studies described in the mitigation measures required by this MOA shall be developed in a manner to allow other proposed undertakings that may occur in the region to augment or expand the scope of the products or studies, provided that such augmentation or expansion proposed by other undertakings are the result of consultation under Section 106 or is an appropriate mitigation measure developed through the NEPA or CEQA process. Cost sharing may also be provided for as appropriate in consultation with Ocotillo Express LLC and the BLM, however no additional burden shall be placed on Ocotillo Express LLC unless the proposed measures is related to an Ocotillo Express LLC undertaking.

TRADITIONAL TRIBAL RESOURCES USE AND ETHNOGRAPHIC STUDY

In further accordance with CUL-9, an ethnographic study to further document the tribal values and traditional uses of the cultural resources within the TCP that are considered of religious, cultural or natural significance by Indian Tribes and tribal organizations shall be developed. The study shall utilize as a reference the National Register Bulletin 38, "Guidelines for Evaluating and Documenting Traditional Cultural Properties" (Parker and King 1998), as well as previous ethnographic studies and research. The study shall focus on how the resources within the project

area fit into the larger TCP and cultural landscape as identified by Tribes. The study shall document and attempt to identify the boundaries of the larger TCP and evaluate its potential eligibility to the NRHP. Consultation between the BLM and Tribes shall occur on the NRHP eligibility recommendations. If the TCP is recommended as eligible to the NRHP, a formal nomination to the NRHP shall be prepared. This study shall involve structured interviews with tribal participants conducted by an experienced professional anthropologist or ethnographer. The Applicant shall include Tribes in the selection process of the ethnographic consultant.

As part of this ethnographic study at the request of Tribes, and with participation at the discretion of the individual Tribes, the Applicant may include a program designed to train and support interested Native American tribal members in ethnographic data collection and analysis, provide direction and guidance in the collection of their tribal ethnographic data, and assist with the writing of the specific tribal ethnography, by members of those Tribes. This would include training in the identification of information needs, kinds and types of ethnographic data, qualitative interview techniques, the use of structured questionnaires, and data compilation and analysis. The focus of this study shall be the ritual landscape within and surrounding the Project ROW, including traditional uses of this landscape and its sites, including traditional ecological knowledge. To the degree possible, data collected in this study shall be made available to the BLM for future planning purposes. At the request of individual Tribes, however, specific tribal data may be kept confidential and not shared with the public, agencies, archaeologists or anthropologists, or other Tribes or groups.

REGIONAL SYNTHESIS AND STUDY

In accordance with CUL-4, the BLM acknowledges that future research and new information may reveal that some of the archaeological resources within the project area are part of a previously identified district, such as the In-Ko-Pah Gorge Discontiguous District; the Yuha Basin Discontiguous District, or a larger yet-to-be identified district. There is also a potential for additions to the multiple property listing of the Earth Figures of the California-Arizona Colorado River Basin Thematic Group.

A synthetic study of existing data shall be prepared to explore the potential for one or more archaeological districts to be eligible to the NRHP under one or more criteria, as defined in terms of proximity and functional, cultural and/or chronological associations. This shall include data obtained during the Class III inventory of the Project, as well as other relevant studies in the immediate region. A regional approach shall be employed using the latest GIS technology. Variables that shall be considered include site types, chronologies, environmental contexts, tribal values and locations relative to other sites. If one or more district(s) are identified, or have elements that are contributing to existing districts, formal NRHP nomination forms shall be prepared. NRHP eligibility recommendations shall utilize and include all applicable NRHP criteria.

PREHISTORIC TRAILS CONTINUATION STUDY

The project APE is located at the center of a currently proposed Yuha-Jacumba Prehistoric Corridor Cultural Landscape (Noah 2012). Anchoring this context study is a partially reconstructed network of trails and travel corridors that native peoples used for movements between the desert lowlands and mountainous uplands. These trails served multiple purposes including seasonal transhumance, trade, cultural exchange, ceremonialism, and access to localized resources such as toolstone, soapstone, agave, mesquite, and Lake Cahuilla wetland resources to name a few.

The project area is located in a particularly important zone for addressing many of the research questions that are posed in the Yuha-Jacumba context study. This western end of the Palm Canyon Wash Basin is at a virtual gateway between the desert and upland zones that were connected by several intersecting travel corridors. One major route that was used by the Kamia bands of Ipai/Kumeyaay, described by Gifford (1931), ran up In-ko-pah Gorge to Jacumba Valley and points east. Two routes described by Tom Lucas of the Kwaaymii band (Cline 1984) ran up Carrizo Canyon and Carrizo Gorge, respectively, and intersected on the desert floor west of Ocotillo. Other routes, such as one extending south through Davies Valley, are also documented. Some segments of these routes are known from ethnographic or historical accounts while others are hypothesized from what appear to be natural landscape corridors (von Werlhof 1988). Archaeological evidence of these specific trails systems provide only an incomplete corroboration because of natural forces and historical roads or developments that have obliterated physical traces. Many additional trail segments remain to be discovered through archaeological survey. Where trails segments no longer exist, the spatial analysis of localized artifact types such as ceramics and geologically specific tool stone are indirect evidence for travel routes. A major research objective of the cultural context and with direct application to research in the project area is the articulation of additional empirical evidence of this trail network both within the APE and as it can be traced beyond its limits.

A synthetic study shall be completed, accordingly, that shall incorporate the Project data obtained from the Class III inventory of the Project area with that available in the Yuha-Jacumba Prehistoric Corridor Cultural Landscape study, and other relevant regional data bases. It shall also include archaeological survey that shall follow known or assumed trail segments to determine accuracy, extent, and potential connections with other trail segments. The purpose of this synthesis shall be to augment the cultural landscape study by identifying additional evidence for previously known prehistoric trail systems and networks, and to potentially identify previously unknown trails. To the degree possible, with tribal concurrence, data from the ethnographic study may also be incorporated into this analysis. State of the art GIS technology and LIDAR information shall also be utilized if applicable (if a LIDAR study has not already been completed, one shall be implemented). Both GIS and LIDAR shall be employed to map and analyze the distribution of trail segments and other archaeological evidence of trade networks and trail systems.

EDUCATIONAL AND INTERPRETIVE PROGRAM

The Applicant shall fund a program to enhance and support public education and interpretation in coordination with tribal museums and/or offices or facilities at the Imperial Valley Desert Museum in Ocotillo, California. This program shall include provisions for the interpretation of Native American past and present uses of the area to communicate the importance of the values embodied in the archaeological and cultural resources contained within the Project area and facilitate a better understanding of these values to the lay public and other stakeholders. The program shall include funding for the development and implementation of one or more traveling exhibits and/or programs at tribal museums and/or facilities to aid in developing tribal museum capacities in addition to permanent displays at the museum.

PROFESSIONAL CURATION MANAGEMENT AND CONSERVATION TRAINING

A fund to allow for a representative from each Tribe to participate in museum curation training and ethnographic object and archaeological artifact conservation shall be established. The training opportunity shall be conducted at an appropriate tribal museum or other regional curation facility that meets the Secretary of the Interior's 36 CFR 79 requirements. The training program shall be conducted as a daily workshop not to exceed two weeks in length that shall introduce the attendees to the principles of museum curation, including artifact registration, data management, artifact storage, and interpretation, and the conservation of ethnographic objects and archaeological objects, including archaeological field conservation. Additional funding to allow for this training opportunity shall be provided every four years for the life of the Project.

MONITORING TRAINING FOR TRIBAL MONITORS

A fund to allow for the continuation of existing training programs or development of new training programs for Native American monitors shall be established. Training topics may include instruction in compliance with NHPA Section 106, daily reporting procedures, artifact identification, safety protocols at construction projects, site surveying and mapping procedures, terminology, and other practical details, as needed or required by individual Tribes. Additional funding to allow for this training opportunity shall be provided every four years for the life of the Project.

VIDEO DOCUMENTATION OF THE TRADITIONAL AREA

A final broadcast quality video shall be produced in partnership with interested Tribes and their members to document the traditional setting, teachings, songs and dances that may be associated with the Project area. The film may also feature images of the landscape looking towards the Project area as well as images from within the Project area before during or after construction, interviews with knowledgeable Native Americans about this specific traditional landscape and its importance to tribal values, and a discussion of the different components of a traditional landscape within the Project area. Participation in this program shall be at the discretion of individual Tribes and tribal members and they may assist in choosing the film production company. Footage created in the process of making the final video shall be provided to tribal

participants. In cases where traditional information, songs, dances are considered proprietary or confidential, Tribes may (if desired) request that video documentation be recorded for the exclusive use of these same Tribes/tribal member(s), but not included in the video intended for public viewing.

SUPPORT FOR LINGUISTIC PROGRAMS

The Applicant shall establish a fund to provide financial support to existing or new native language programs or language initiatives being conducted by Tribes in the region. This shall assist in the perpetuation of these languages, as well as associated traditional beliefs and practices. This fund shall provide financial support to help off-set the costs of instructors, facilities and/or educational materials associated with these programs.

ESTABLISHMENT OF AN AREA OF CRITICAL ENVIRONMENTAL CONCERN (ACEC)

The area of BLM lands that were excluded from development for the Project, as well as any adjacent or surrounding land that meets the requirements for ACECs shall be recommended for designation as a BLM cultural resources ACEC during the completion of the next planning level document (Resource Management Plan) for the BLM El Centro Field Office. This will help provide for enhanced management and protection of the cultural resources on BLM managed lands within that area.

COLLEGE SCHOLARSHIP FUND ENDOWMENT

An endowment fund that shall provide support for college education for tribal members shall be established. This fund shall be available competitively to eligible tribal students on a yearly basis, renewable up to four years based on satisfactory scholastic progress, for the life of the project. Additional funding shall be deposited into the scholarship fund every year for the life of the Project.

ACQUISITION OF CULTURAL RESOURCE CONSERVATION LANDS AND/OR DEVELOPMENT EASEMENTS

Funds shall be provided for the acquisition of cultural resource mitigation land and/or development easements that contain significant cultural resources, and that are threatened by development. The ownership and/or management of said lands shall be arranged in cooperation with the Kumeyaay-Diegueno Land Conservancy, Native American Land Conservancy or other appropriate non-profit (501[3]c) organization.

ANZA-BORREGO CULTURAL PRESERVE

To support the Anza-Borrego State Park's activities within its cultural preserves, funding shall be provided to the Anza-Borrego Foundation to be used as needed towards the benefit of the cultural preserves. In support of ongoing visitor operation costs, funding shall also be provided

each year for the life of the Project. Funds should first be applied to the Piedras Grandes cultural preserve as it is the closest cultural preserve in proximity to the Project. Consultation between State Parks, the Anza-Borrego Foundation and Tribes on the use of the funds shall be encouraged.

TRIBAL ANNUAL GATHERING

To support an annual tribal gathering at the Ocotillo area or an area of the Tribes choosing, funds shall be provided to cover the cost of an annual tribal gathering for the life of the Project. The funds shall cover costs associated with but not limited to the following: organization and planning expenses, information distribution, clean up and restoration.

5. TRIBAL ACCESS

In accordance with CUL-9 and -11, the Applicant may develop a Tribal Access Plan in consultation with and upon request by Tribes or tribal organizations to address ritual sites access and management issues with the BLM and Tribes. The contents of such a plan shall be developed in consultation with the BLM and Tribes. Regardless of whether a Tribal Access Plan is developed, Tribes shall have access to the public lands with regards to the Project area pursuant to Stipulation III(b)(i) of the MOA as outlined below:

The BLM shall take such steps necessary to ensure the Tribes' rights to express their traditional cultural values, including those associated with their religions, and their right to access federally managed lands, consistent with applicable laws and regulations, to conduct cultural and religious practices, as variously specified in E.O. 13007, the Religious Freedom Act (RFA), and the American Indian Religious Freedom Act (AIRFA).

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ATTACHMENT 1

Ocotillo Express LLC Ocotillo Wind Energy Project Financial Commitment Letter



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April 27, 2012

Ocotillo Wind Energy Project Financial Commitments

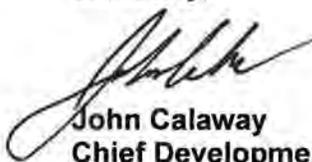
Ocotillo Express LLC ("Ocotillo Express") is pleased to outline below the financial commitments it will be making for the treatment measures under the Historic Properties Treatment Plan that will be completed to resolve adverse effects resulting from the Ocotillo Express Wind Project (the "Project"). Treatment measures were determined through BLM consultation with the Project's consulting parties, including Indian Tribes. In the event that the Project or portions of the Project become inoperable and unable to generate revenue (whether due to governmental or court-imposed restrictions, acts of God, or otherwise) for any period longer than 30 days after commencement of electric power generation operations, the annual recurring funding required by this Historic Properties Treatment Plan (HPTP) will be prorated to account for the period(s) of inoperability. Any cease in operations due to equipment maintenance would not affect the funding obligation under the HPTP. Ocotillo Express shall notify the BLM in the event that the Project becomes inoperable for any period longer than 30 days. In addition, if construction on the Project is halted due to governmental or court-imposed restrictions, the funding obligations hereunder shall be suspended until such restrictions are rescinded. The costs and timing for funding associated with the treatment measures are detailed below. The timing for funding is broken in to three general categories: 1) upon the commencement of construction per the issuance of Notice to Proceed by BLM 2) upon the closing and initial funding of the project financing (Financial Closing) 3) upon COD of the entire project (Commercial Operations). Any funds that are not used in their entirety towards fulfilling treatment measure obligations may be used towards supplementing the Native American college scholarship fund. All timing and funding obligations will be coordinated as required per the MOA.

1. **Long Term Management Plan (LTMP):** To develop the LTMP, funds of \$20,000 will be provided by Ocotillo Express but not until the closing and initial funding of financing for the full construction of the project ("Financial Closing") and the plan will be submitted to BLM within 9 months of receiving Notice to Proceed. The total cost to Ocotillo Express of these measures, including implementation and monitoring, are not to exceed \$50,000 per year for operations. Monitoring of sites selected during consultation with BLM shall be conducted annually by a professional archaeologist for a minimum period of 5 years.
2. **Ranger and Law Enforcement Patrols:** Ocotillo Express shall provide funding to land management entities for ranger and law enforcement patrols during construction and for the term of the ROW, not to exceed \$50,000 per year. Initial funds will be made available, as needed, upon the commencement of construction.

3. **Traditional Tribal Resources Use and Ethnography Study:** The cost of the study, which shall be borne by Ocotillo Express, shall not exceed \$250,000. The study shall be completed to the satisfaction of the BLM and consulting parties, to the extent that any additional cost is needed to complete the study, such costs shall be reasonable and within the \$250,000 limit. Ocotillo Express will provide funding for this study as the costs are incurred, but will not provide any such funding before the Financial Closing.
4. **Regional Synthesis and Study:** The cost of the study, which shall be borne by Ocotillo Express, shall not exceed \$150,000. The study shall be completed to the satisfaction of the BLM and consulting parties, to the extent that any additional cost is needed to complete the study, such costs shall be reasonable and within the \$150,000 limit. Ocotillo Express will provide funding for this study as the costs are incurred, but will not provide such funding until the Financial Closing.
5. **Prehistoric Trails Continuation Study:** The cost of the study, which shall be borne by Ocotillo Express, shall not exceed \$100,000. The study shall be completed to the satisfaction of the BLM and consulting parties, to the extent that any additional cost is needed to complete the study, such costs shall be reasonable and within the \$100,000 limit. Ocotillo Express will provide funding for this study as the costs are incurred, but will not provide such funding before the Financial Closing.
6. **Education and Interpretive Program:** Ocotillo Express will fund \$750,000 to the Imperial Valley Desert Museum to support public education and interpretation of Native American past and present uses of the area to communicate the importance of the values embodied in the archaeological and cultural resources contained within the project. 25% of the initial funds will go toward support and integration of other local tribal museums. Such \$100,000 will not be paid until Financial Closing with the remaining \$650,000 to be paid upon COD. In addition, Ocotillo Express will fund \$70,000 per year to the Imperial Valley Desert Museum for the first 2 years after COD. For years 3 through 5 after COD, Ocotillo express will pay \$35,000 per year. An additional \$20,000 will be provided per year for years 6 through 10. Such amounts to be funded on the anniversaries of COD.
7. **Professional Curation Management and Conservation Training:** The cost of the training, which shall be borne by Ocotillo Express, shall not exceed \$25,000 and will be deposited into a fund every 4 years for the life of the project. Ocotillo Express will not provide funding for the training until Financial Closing, provided however that Ocotillo Express will have no obligation to provide the funding if no tribal representatives indicate an interest to undertake this training.
8. **Monitoring Training for Tribal Monitors:** The cost of the training, which shall be borne by Ocotillo Express, shall not exceed \$25,000 and will be deposited into a fund every 4 years for the life of the project. Ocotillo Express will provide funding for this training, if interest is expressed by the consulting tribes, but will not provide any funding until the commencement of construction, provided however that Ocotillo Express will have no obligation to provide the funding if no tribal representatives indicate an interest in this undertaking.

9. **Video Documentation of the Traditional Area:** The cost of the video, which shall be borne by Ocotillo Express, shall not exceed \$100,000. The video shall be completed to the satisfaction of the BLM and consulting parties, to the extent that any additional cost is needed to complete the video, such costs shall be reasonable and within the \$100,000 limit. Ocotillo Express will not provide funding for the video until Financial Closing, provided however that if no Native American tribes indicate interest in participating in the video production, Ocotillo Express shall not be required to produce the video.
10. **Support for Linguistic programs:** To support language preservation initiatives for the local Native American tribes, Ocotillo Express will pay a lump sum of \$225,000 into a fund to be used in consultation with BLM and consulting Tribes. These funds would not be made available until COD.
11. **College Scholarship Fund Endowment:** An endowment fund to be funded by Ocotillo Express with annual contributions of \$30,000 per year for the life of the operation of the Project will be established and held by a local fund to provide financial support towards college education for tribal members. The initial \$30,000 payment to the fund by Ocotillo Express shall not be made until COD, and subsequent annual payments will be made on or before the yearly anniversary of COD thereafter for the life of the operation of the Project. Ocotillo Express shall have no obligation to administer the fund and shall not have any obligation to make payments to the fund until an appropriate fund has been identified or established.
12. **Acquisition of Cultural Resource Conservation Lands and /or Development Easement:** Ocotillo Express will provide funds, not to exceed \$200,000, to an appropriate agency or organization to be identified in consultation with the BLM and consulting tribes to provide for the acquisition of cultural resource mitigation land and/or development easements that contain significant cultural resources, and that are threatened by development. Ocotillo Express shall not be required to provide any such funding until COD, and in no event until an appropriate beneficiary has been identified.
13. **Anza-Borrego Cultural Preserve:** To support Anza-Borrego's activities within its cultural preserves, funding of \$100,000 would be provided to the Anza-Borrego Foundation to be used as needed towards the benefit of the cultural preserves. To support ongoing visitor operation costs, \$10,000 will be paid each year for the life of the project. Funds should first be applied to the Piedras Grandes cultural preserve being the closest cultural preserve in proximity to the Ocotillo Wind Energy Facility. Ocotillo Express shall not make the funds available until COD. Consultation between State Parks, the foundation and Tribes on the use of the funds shall be encouraged
14. **Tribal Annual Gathering:** To support an annual tribal gathering at the Ocotillo area or an area of the tribes choosing, Ocotillo will provide funds of \$15,000 per year to the benefit of all tribes. Ocotillo Express will not provide funding for the gathering until Financial Closing.

Sincerely,



John Calaway
Chief Development Officer

**APPENDIX F: PLAN FOR ARCHAEOLOGICAL MONITORING, POST-REVIEW
DISCOVERY AND UNANTICIPATED EFFECTS**

**MANAGEMENT PLAN FOR ARCHAEOLOGICAL MONITORING,
POST-REVIEW DISCOVERY, AND UNANTICIPATED EFFECTS
For The
OCOTILLO WIND ENERGY PROJECT
IMPERIAL COUNTY, CA**

Submitted to:

Bureau of Land Management
El Centro Office
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April 2012

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Chart 1. Post-Review Discovery

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1. INTRODUCTION

This Management Plan (Plan) was prepared for the Ocotillo Wind Energy Facility Project (Project) in western Imperial County, California. Ocotillo Express LLC, is proposing to construct, operate and maintain a wind energy generation facility consisting of up to 112 wind turbine generators with up to a total capacity of 315 MW. Tierra Environmental Services, Inc. (Tierra) of San Diego was commissioned to conduct an archaeological survey of the Project area. This Management Plan describes methods to be implemented for the protection and avoidance of physical effects from Project construction to all archaeological sites in the APE as identified. This Management Plan also describes methods for the treatment of post-review discoveries.

1.1 APPLICABILITY

The following Management Plan applies to all properties that are considered in the Project as approved by the BLM and defined below. The BLM has overall jurisdiction for ensuring the actions stipulated in this Plan are implemented to comply with Section 106 of the National Historic Preservation Act (NHPA), unless otherwise stipulated in the *Memorandum of Agreement Among the Bureau of Land Management-California, the United States Army Corps Of Engineers, Ocotillo Express LLC, the California State Historic Preservation Officer, and the Advisory Council On Historic Preservation Regarding the Ocotillo Express Wind Energy Project Imperial County, California* (Agreement) or in the following plan. The County of Imperial will be consulted on all matters concerning private lands and the regulations set forth in California Environmental Quality Act. The Management Plan is in accordance with Stipulations IV through VII of the Agreement that govern Monitoring, Post-Review Discoveries and Unanticipated Effects, Treatment of Human Remains of Native American Origin and Communication and Reporting.

2. CONSTRUCTION MONITORING

In conjunction with the details expressed in Stipulation III, Appendix D (Table 1) of the Agreement, a sufficient number of monitoring teams, consisting of an archaeologist and tribal cultural consultant, shall be present during any grading, trenching, and/or other ground disturbing activities for any facilities, roads and/or other Project components within 150 ft of Environmentally Sensitive Areas (ESAs). Additionally, monitoring shall also occur during the initial ground disturbance at any facilities, roads or other Project components and on an as needed basis during non-ground disturbing construction activity near ESAs or in other areas designated for full or part time monitoring within 150 ft of ESAs as well as in areas determined for monitoring after implementation of the *Buried Sites Sensitivity Model and Buried Sites Testing Plan for the Ocotillo Express Wind Energy Project, Imperial County, CA* found in Appendix A of this report.

2.1 ENVIRONMENTALLY SENSITIVE AREAS (ESAs)

Sites that can be protected from direct physical impacts, but are within close proximity (within 150 ft) of proposed construction activities will be identified and labeled as ESAs. This includes archaeological sites determined eligible for inclusion in the National Register of Historic Places (NRHP) or California Register of Historic Resources (CRHR) and sites that have not been formally evaluated, but are being treated as eligible and avoided for Project management purposes [see Stipulation III(a) of the Project Agreement].

As noted in Stipulation III(a) of the Agreement:

- a.) Where archaeological resources are avoided, the BLM will implement the management or protective measures identified in Table 1 of Appendix D and the following:
 - i. Archaeological sites that are protected from physical impacts, but are within 150 feet of proposed construction activities, the BLM will ensure they are identified and labeled by archaeological and Native American monitors as Environmentally Sensitive Areas (ESAs). This includes archaeological sites determined eligible for inclusion in the NRHP and sites that have not been formally evaluated, but are being treated as eligible.
 - ii. The ESAs will be designated by marking the boundaries of sites with appropriate buffer zones using temporary fencing or other easily recognizable boundary defining materials.
 - (1) These ESAs will be shown on the engineering plans for the Project as off-limits to construction activities.
 - (2) Once established, an ESA will define areas where construction activities cannot occur to prevent damage to archaeological sites within the designated ESA.
 - (3) Construction work areas will also be clearly defined using temporary fencing or other easily recognizable boundary defining materials.
 - iii. ESAs will be identified and established prior to initiation of ground disturbing activities and will be maintained and monitored for the duration of the work effort in the ESA vicinity.
 - iv. Violations of permits, stipulations or other requirements will be investigated by the BLM and subject to requirements and/or penalties under the Antiquities Act, Archaeological Resources Protection Act (ARPA), Federal Land Policy and Management Act of 1976, the rights-of-way regulations at 43 C.F.R. § 2805.12 and/or other relevant laws and regulations.

- v. Prior to the termination of the Project ROW authorization, a decommissioning and reclamation plan shall be developed in consultation with the BLM, COE, and Tribes.

The establishment of ESAs is a non-destructive means to avoid impacts to recorded cultural resources within the Project. The ESAs will be designated by marking boundaries of known sites or other identified areas with appropriate buffer zones using temporary fencing, stakes, and /or flagging. ESAs will not be marked or identified as archaeological sites to avoid disclosure of sensitive resources. Once established, ESAs will define areas where construction and restoration can occur while preventing activities and damage to archaeological resources within them.

ESAs will be identified and established by a qualified archaeologist using sub-meter GPS unit(s) prior to initiation of ground disturbing activities and will be maintained and monitored for the duration of the work effort in the ESA vicinity, with archaeological monitoring of construction and restoration activities required within 150 ft of all ESA locations. Additionally, post-construction monitoring of the ESAs will be conducted by a roving monitoring team. The archaeological monitors will report on any violations of the protected areas. ESAs will not be identified and labeled when cultural resources are located more than 150 ft from proposed construction activities, and such areas of proposed construction activities will not be monitored.

2.2 MONITORING SPECIFICS

Cultural resource monitors, including archaeologists and tribal cultural consultants, will be present during construction activities at selected locations based on the occurrence of recorded archaeological sites and ESAs.

While the Agreement stipulates [Stipulation IV(a)(i)] that a comprehensive monitoring plan may be developed in consultation with the parties to the Agreement, in absence of such a comprehensive plan, the following stipulations shall apply:

- i. The Applicant, in consultation with the other Consulting Parties to this Agreement, shall develop a comprehensive archaeological monitoring plan. A comprehensive archaeological monitoring plan that has been approved by the Signatories and Invited Signatory shall take precedence over those stipulations provided below. A draft comprehensive archaeological monitoring plan shall be incorporated into the plan for post-review discoveries and unanticipated effects and will be attached as Appendix F to this Agreement. In the absence of a comprehensive archaeological monitoring plan, Paragraphs 1 – 4 of this stipulation shall apply.
 - (1) The Applicant shall ensure that archaeological monitors will be on site during initial ground disturbing activities for any facilities, roads or other Project components related to the Undertaking and during any ground disturbing activities near ESAs and in other areas designated for full-time monitoring, as detailed in Stipulation III, Appendix D and/or Appendix F.
 - (2) The Applicant shall ensure that archaeological monitors will meet the standards specified in Stipulation VIII(a), will be approved and permitted by the BLM, will be familiar with the types of historic and prehistoric archaeological resources that may occur in the APE, and will be directly supervised by a principal investigator (PI).

- (3) The Applicant shall ensure that the PI will submit bi-weekly documentation of archaeological monitoring activities to the BLM by email. Documentation will include the location of archaeological monitoring activities for the reporting time period, as well as a description of any archaeological resources identified and any actions taken. The Applicant shall ensure the PI prepares a monthly field monitoring verification report with the compiled monitoring observations, results, and actions taken for submission and approval to the BLM. The BLM will provide copies of biweekly and monthly archaeological monitoring reports to the Consulting Parties, unless otherwise directed by a Consulting Party.
- (4) Upon completion of all archaeological monitoring tasks and requirements implemented pursuant to this Agreement, the Applicant shall ensure that the PI will submit within three months a final monitoring report to the BLM for review and approval. The final monitoring report will describe the monitoring program and its findings and results, and present a detailed professional description, analysis, and evaluation of any cultural resources that were encountered and evaluated during construction. The BLM will provide a copy of the monitoring report to the consulting parties.

Schedule and Notification

A tentative schedule for construction activities will be provided by the construction company in consensus with Ocotillo Express LLC. Ocotillo Express, by way of the PI will disperse this construction schedule as and when it becomes available to all archaeological monitors and tribal cultural consultants (hereafter “cultural resource monitors”). The term “cultural resource monitors” refers to both archaeological monitors and tribal cultural consultants. It is the objective of Ocotillo Express and Tierra to supply all cultural resource monitors with adequate advance notice of one week prior to the commencement of initial construction. The construction site manager will notify the PI at least five days prior to mobilization of work in all areas identified as requiring cultural resource monitoring. Updates to the construction schedule will be distributed as appropriate and as available.

Training

Training of all Project construction personnel will be conducted prior to the commencement of construction activities. The training program will be designed by Tierra and Ocotillo Express LLC in consultation with the BLM, and must be completed by all Project personnel prior to entry into the Project area. The training program will also have a cultural sensitivity component to ensure that participants are aware of the tribal concerns for the area.

All Project personnel will attend a safety and Worker Environmental Awareness Program (WEAP) prior to the start of the construction activities. All cultural resource monitors will be required to complete safety and WEAP training prior to commencing work on the Project. The WEAP training program must be completed by all personnel prior to entry into the Project area. Additionally, all cultural resource monitors will be trained on or prior to their first day in the field by the PI on jobsite protocol, their duties and expectations regarding field activities, lines of authority, reporting, and documentation.

2.2.1 MONITORING BY ARCHAEOLOGISTS

Monitors will be qualified professional archaeologists with familiarity and knowledge of the types of historical and prehistoric resources within the Project area under the direct supervision of a BLM approved PI. The PI is responsible for notifying the BLM of all post-review discoveries, unanticipated effects as well as for providing recommendations on identified resources.

Full time monitoring by a professional archaeologist will occur during all ground disturbing construction activities within 150 feet ESAs. Additionally, monitoring shall also occur during the initial ground disturbance at any facilities, roads or other Project components and in other areas determined appropriate for monitoring on an as needed basis and as determined after implementation of the *Buried Sites Sensitivity Model and Buried Sites Testing Plan for the Ocotillo Express Wind Energy Project, Imperial County, CA*. Should a post-review discovery be identified during the monitoring effort, the archaeologist on site will immediately notify the PI. Due to the large scale of the Project and its compacted schedule, it is probable that multiple construction crews will be working near ESAs simultaneously. In this event, should the PI not be immediately available to respond, the archaeologist on site will have the authority of the PI to halt work for allowance of the discovery to be properly assessed and appropriately treated. At a minimum, the duties performed by the archaeological monitors include:

- (1) Requesting excavation work to be re-directed so that discoveries can be evaluated;
- (2) Sharing information so that others will understand the cultural importance of the features involved;
- (3) Ensuring excavation that is disturbing discovery is halted and the appropriate laws are followed when human remains are discovered;
- (4) Helping to insure that Native American human remains and any associated grave items are treated with culturally appropriate dignity, consistent with the Native American Graves Protection and Repatriation Act (NAGPRA) or applicable state law;
- (5) Coordination with tribal consultants consistent with the Tribal Participation Plan (TPP) [see Section 2.2.2 below].

Archaeological monitors will be required to submit daily logs denoting activities, resources, and any actions observed. As noted in the Agreement, the PI will be responsible for the submission of biweekly, monthly, and final monitoring reports to the BLM for the duration of Project construction. Copies of these reports will be provided to the consulting parties of the Agreement by the BLM. In the event that ESAs require modification, all Project work in the immediate vicinity will be diverted to a buffer distance determined by the archaeological monitor until authorization to resume work has been granted by the BLM or CEQA lead agency (see Chapter 3. Treatment of Post-Review Discoveries). Ocotillo Express LLC will notify the BLM or CEQA lead agency [County of Imperial] of any unanticipated effects to cultural resources or ESAs immediately. If such effects occur, Ocotillo Express LLC will consult with the BLM or the CEQA lead agency regarding the damages, appropriate mitigation and to increase effectiveness of ESAs. Mitigation measures for these effects will be determined through consultation and will be executed in compliance with the requirements established in Stipulations III and IV of the Agreement. Maximum depths for monitoring at locations deemed probable for subsurface components will be determined on site by the archaeologist based on the existence of sterile soils. Once ground disturbing activities have reached the maximum depth for these locations, no additional monitoring is required.

All archaeological monitors will have at their disposal the necessary equipment (GPS units, cameras, measuring tape, etc.) needed to complete essential documentation, preliminary evaluation, and recovery of post-review discoveries. If the evaluation or data recovery work prescribed is more extensive than the archaeological monitor alone can complete without further assistance, the archaeological consultant will supply additional crew and equipment to complete the work. All recovered archaeological materials will be transported to the consultant's laboratory for processing, analysis, reporting, and preparation for curation.

Monitoring Reporting for ESAs

Daily Logs

Daily logs depicting observances and activities will be completed by archaeologists and tribal cultural consultants alike. The logs will be submitted at the end of each day to the PI.

Summary Reports

Preliminary archaeological monitoring summaries will be submitted biweekly by the archaeological monitoring consultant to the BLM for review with the intended goal of distribution to all consulting parties by email along with monthly verification report described below. Preliminary results will include the location and activities conducted during the archaeological monitoring activities for the reporting time period, as well as a description of any cultural resources identified and appropriate action taken. The archaeological consultant will prepare a monthly field monitoring verification report with the compiled archaeological monitor observations, results, and actions taken for submission to the BLM. The report will be submitted to Ocotillo Express LLC, the agencies and other stakeholders after review by the BLM. Copies will also be provided to the consulting parties of the Agreement.

Monitoring Report

Upon completion of all monitoring tasks and requirements the archaeological consultant will prepare a draft monitoring report for the BLM or CEQA lead agency and other stakeholders describing the monitoring program, the findings and results of the monitoring effort, and presenting a detailed professional description, analysis, and evaluation of any cultural resources that were encountered and evaluated during construction. The monitoring program consists of the methods utilized to determine designated monitoring locations (ie: ESAs and areas with a higher probability for subsurface components ascertained during the buried site sensitivity analysis), the observations noted during the monitoring effort (ie: construction machinery and activities, cultural resources observed, biological and/or geographical observations as they pertain to cultural resources, etc), as well as protocols for cultural resources encountered during the effort. A draft version of this report shall be submitted to the BLM for initial review within three months of completion of all archaeological monitoring tasks and requirements. Once it has been reviewed by the BLM, the draft report shall be provided to all consulting parties for a 45 day review period. The final report will be provided to all consulting parties along with a written documentation of any changes. Non-confidential data will also be disseminated to the public and other interested parties, as appropriate.

2.2.2 Tribal Participation Plan (TPP)

As stipulated in the Agreement [Stipulation IV(b)], a Tribal Participation Plan (TPP) may be developed to facilitate continued tribal consultation for this undertaking by Ocotillo Express LLC and interested Tribes, in consultation with the BLM. This plan will provide representatives

designated by Tribes (tribal cultural consultants) the opportunity to monitor and be on site during construction to observe grading, trenching or ground disturbing activities for facilities, roads or other activities near ESAs, in other areas designated for monitoring and as detailed herein or in Appendix D of the Agreement.

The TPP will describe the role of all parties in the program, specify the terms, expectations, notifications, reports, training and/or deliverables to be provided, and include a specific procedure to be followed in the event that a tribal cultural consultant is not provided or is not available. The tribal cultural consultants will be designated by the Tribes and contracted by the PI. The TPP will be finalized prior to the start of ground-disturbing activities in areas designated for monitoring (see Stipulation IV(b) of the Agreement).

3. TREATMENT FOR POST-REVIEW DISCOVERIES

3.1 DISCOVERY AND EVALUATION

In the event of an discovery of archaeological materials within a work area during construction monitoring, all ground disturbing work at that area will be suspended or redirected. The archaeological monitor will carefully inspect the ground surface around the discovery and the displaced dirt in order to determine whether the discovery is an isolated find (fewer than three items) or a site (three or more items, or a feature). If the find is determined to be an isolated find (with the exception of human remains or items of cultural patrimony), the discovery will be documented on the appropriate Department of Parks and Recreation 523a form, reported and described in the monitoring report; all consulting parties will be apprised of such discoveries in the biweekly monitoring summaries. Isolated finds will only be collected if they are diagnostic artifacts. Please see Action Plan Chart 1 in Appendix B for further information.

If the discovery is determined to be a site, after securing the work area from additional disturbance, in concert with the construction site manager, the PI will notify the BLM or CEQA lead agency archaeologist immediately by telephone of the nature and extent of the discovery. In consultation with the PI, the BLM or CEQA lead agency [County of Imperial] will determine what additional fieldwork is necessary, such as limited test excavation, to determine the site's potential eligibility for the NRHP or CRHR. It may be determined that a site visit by the BLM or CEQA lead agency is necessary to make that determination. Avoidance and protection of the site will be the first strategy investigated. In the event that avoidance is not feasible or reasonable, as determined in accordance with the BLM Manual 8140, evaluation will be necessary and the newly discovered site will be designated as an Unavoidable New Discovery (UND).

If test excavation is required to evaluate an UND, the PI in coordination with the BLM (or County if on private land) will formulate a testing program at that time, taking into account the site type, research issues, methods, and interpretive criteria against which the site will be evaluated, and it will be implemented. In general any evaluation effort will be focused on the area of direct impact (ADI) including a reasonable buffer (not more than 30 feet from the maximum extent of the find). If more than 70 percent of the UND falls within the ADI, the entire site will be evaluated. The focus will be to determine the nature of the archaeological resource and to assess the quantity, quality, and variety of archaeological items that are or may be present. Evaluation may include Controlled Surface Collections (CSC), Shovel Test Pits (STPs) of a sufficient number to characterize the extent of subsurface archaeological deposits and a minimum of one Control Unit (CU) to evaluate the condition of the discovery and acquire a controlled sample of the preserved cultural materials. For additional information, please see Section 3.2.

After site evaluation, the PI will prepare a summary letter report assessing the site's eligibility and recommending appropriate treatment measures, such as the need for archaeological data recovery, if the site is recommended eligible. The PI will endeavor to complete this summary letter report within five business days, but may require longer depending upon the nature of the site. The letter report will be submitted to the BLM or CEQA lead agency, and the consulting parties as appropriate, who will have 10 business days to review the report and evaluate the proposed recommendations and any proposed treatment measures. Determinations concerning NRHP or CRHR eligibility and the implementation of proposed treatment measures will be made by the BLM or the CEQA lead agency. If any portions of the site within the ADI on private property and BLM administered lands meet the following conditions, they may be determined not contributory to the NRHP/CRHR

eligibility of the entire site, in addition to the ADI, as a whole, by the BLM in consultation with the CEQA lead agency, where necessary, if:

1. the ADI lacks intact subsurface archaeological deposits;
2. the ADI lacks chronological data;
3. no human remains are present within the ADI or known on the site as a whole;
4. no intact features are present within the ADI other than bedrock milling stations, lithic chipping stations or historical refuse scatters determined to be single incident refuse dumps;
5. in addition, prehistoric surface artifact densities within the ADI shall not exceed 0.5 archaeological specimens per meter square or contain more than three types indicating a diverse assemblage.

No further SHPO consultation will be required for eligibility determinations for site areas that meet the above conditions. Findings that exceed these criteria will be submitted to the SHPO for concurrence for a 10-day review period. If the determination is that the discovered resource is not eligible for listing in the NRHP or CRHR, the BLM or CEQA lead agency will issue written notice to proceed for all BLM-administered lands, or in consultation with the CEQA lead agency for state or private lands.

If a discovered site is determined to be eligible for the NRHP or CRHR, further treatment measures may be required. In consultation with the BLM, CEQA lead agency, and other consulting parties, the PI will prepare a treatment plan for BLM review and approval for all BLM land, and for review and consultation with the CEQA lead agency for state or private lands. After review and concurrence, the BLM or CEQA lead agency archaeologist will notify the PI that the proposed treatment plan can proceed. Should data recovery be required, efforts will be focused only on that portion of the site within the ADI with a reasonable buffer. To the degree possible, the construction and engineering teams will be included in discussions to avoid or minimize potential damage to the discovered resource. Any portion of a site undergoing data recovery will be fenced until implementation of the data recovery plan is completed.

The level of effort for treatment will be dictated by the nature and extent of the discovery and on the results of the initial evaluation effort. The focus of any data recovery efforts will be on recovering a sufficiently large sample to characterize the discovery and to address regional research questions, as appropriate. Upon completion of any required fieldwork the PI will prepare a brief interim letter report summarizing the results. The BLM or CEQA lead agency archeologist will endeavor to review the report and make any determinations within five business days but more time may be required depending upon the nature of the site. Determinations will be made by the BLM or CEQA lead agency archaeologist as to whether or not construction work at the discovery site can resume or if additional sampling is required. The BLM or CEQA lead agency archaeologist in consultation with the other stakeholders will notify Ocotillo Express LLC when work can resume. A final data recovery report will be prepared after laboratory studies and analyses.

A second type of discovery, an Avoidable New Discovery (AND), will also be described for the Project. The category of AND applies to sites that are identified by the cultural resources monitors during monitoring, but are not in areas of potential direct impact. These ANDs may be an expansion of a previously recorded site or may be an entirely new resource. Please refer to Action Plan Chart 2 in the Appendix for further information.

If the AND is part of a previously recorded site, it will be mapped and described and the boundary of the site will be modified using a DPR Site Record Update form. If the increased site size results in the new site boundary encroaching into a Project work area or into a portion of the Project with the potential for direct impacts, the first alternative will be to explore establishing or modifying the existing ESA to protect the enlarged area from damage. If impacts to the newly described resource cannot be reasonably or feasibly avoided, consistent with BLM Manual 8140, it will be treated as a UND and the process described above will be implemented, as appropriate.

Alternatively, if the AND is not within the Project work area that is vulnerable to direct ground or Project impacts, the data pertaining to the AND will be acquired by the cultural resource monitor and a DPR Site Record or Site Record Update, as appropriate, will be prepared for submission to the South Coastal Information Center. It will also be described and presented in the final monitoring report. If the AND is within 150 ft of the Project, an ESA will be established to ensure protection during construction. Avoidable New Discoveries would not require immediate reporting or consultation with the SHPO or other agencies or consulting parties, but will be included as part of the Project data record.

3.2 FIELD METHODS

This section describes in more detail the methods used to evaluate discoveries identified during construction monitoring that require subsurface excavations. These methods are essentially the same as those used for site-specific evaluations.

Evaluation methods are essentially sampling methods focused on recovering a large enough sample to estimate the density and diversity of the cultural deposit and to expose enough of the site stratigraphy to assess site integrity. A general approach is described below, from surface inspection and collection to various kinds of subsurface investigation.

The first step is to mark all exposed artifacts, artifact concentrations and features with color-coded pin flags to provide an overall view of the site's potential contents. If the discovery is a buried site, the area involved will tend to be limited. If the discovery's surface material is part of a site that was missed during the original survey, these finds will be sampled with CSCs ranging from 5 x 5 m units to 15 x 15 m units according to surface artifact density. Enough grids will be used to collect from ca. 30 to 50% of all surface artifacts. The CSCs will be supplemented by the collection of all formal tools inside and outside of the CSCs. If practical, all artifacts will be collected on sites with a sparse surface scatter.

Four types of subsurface excavation units may be used.

- (1) 30 x 30 or 50 x 50 cm Shovel Test Pits (STPs), excavated in 20-cm levels to depths of no more than 80 cm, usually spaced at 10-m intervals and/or subjectively placed. These would be used to help define site boundaries, focusing on the edges of the site.
- (2) 1.0 x 0.5 m Shovel Test Units (STUs), excavated in 10 or 20-cm levels, to depths between 40 and 100 cm, helping to provide a stratigraphic profile of the deposit. Excavation will cease when two levels of completely sterile soil or subsoil are encountered. The location and number of STUs will vary depending upon the size and

artifact density of the deposit, with STUs placed within each discrete site locus, with additional STUs in artifact concentrations.

- (3) If an STU yields substantial artifact densities, a 1 x 1 m standard test unit (TU) will be excavated in 10-cm levels adjacent to the STU until sterile soil or bedrock is reached. Additional TUs may be used if it is judged necessary to properly evaluate the site in terms of its contents and depositional integrity.
- (4) Shovel Scrape Units (SSUs), which are rectangular in shape but variable in size depending upon the deposit. Typically SSUs are only 5-10 cm in depth and are placed in areas where the terrain and other data suggest the site deposit is very shallow. These may be used to obtain a representative sample of the shallow areas of the deposit, thereby complementing the results of the STPs, STUs, and TUs.

All excavated material will be screened through 1/8-in (3 mm) wire mesh. Typically most sites range between 0 and 20 cm in depth, below which either decayed bedrock, bedrock or a calcareous B-horizon is typically encountered. When artifacts drop to trace quantities or are absent, either a 50-cm square STP or an auger with a 4-in diameter blade will be used to check for deeper deposits. Sidewall profiles will be drawn and photographed where appropriate, with small soil samples taken for Munsell color and/or constituent classification. All features, except for those containing human remains or burials, will be photographed. All features will be drawn carefully in plan view and then bisected to obtain a feature profile which will also be photographed and drawn.

As appropriate, the site will be mapped using either with Trimble sub-meter GPS data receivers with real-time correction capabilities and down to 10 cm accuracy to plot all formed artifacts, surface collection grids (CSCs), excavations units (STPs, STUs, TUs, SSUs), and the boundaries of any defined loci and features. The GPS will also be used to record site boundaries, landform edges, drainages, roads, and other relevant surface features. A series of site overview photographs will be taken to illustrate the site's landscape context and important artifact concentrations, features and artifacts will be photographed as appropriate.

3.3 LABORATORY METHODS

Laboratory work will include standard processing and cataloguing of the materials recovered in the field, and special studies to address the program's research issues.

3.3.1 Standard Processing, Cataloging, and Analysis

Initial lab procedures include cleaning (as appropriate), sorting, and cataloguing of all items. Each item will be individually examined and catalogued according to class, subclass, and material, counted (except for bulk invertebrate and vertebrate remains), and weighed on a digital scale. Very large items, such as oversized ground stone, will be weighed on a dial scale. All coded data will be entered into a MS Excel database.

Cultural material will be sorted during cataloguing into the following categories: 11 classes of prehistoric artifacts, two classes of ecofacts, ethnohistoric items, historic, and modern items, and organic samples. The prehistoric artifact classes included debitage, cores, utilized flakes, retouched flakes, bifaces, percussion tools, ground stone, ceramics, bone artifacts, shell artifacts, and miscellaneous items.

When possible, cores will be separated by platform variability into subclasses such as multidirectional, unidirectional and bifacial types. Debitage, including both flakes and debris, will be sorted by material type and cortical variation (primary, secondary, and interior) during cataloguing. The classification of flaked stone tools will be determined by typology and production technology. Simple flake tools, i.e., unmodified utilized flakes, will be identified based on the presence of macroscopic use-wear traces. Retouched tools include scrapers, graters, notched pieces, and other edge modified flakes. Bifaces include projectile points, drills, and standard non-patterned bifaces. Length, width, and thickness measurements will be taken for all tools and cores using a sliding caliper.

Percussion tools, including hammers and abraders, will be defined based on their morphology and the type of macroscopic use-wear they exhibit. Ground stone artifacts will be classified by type, including millstones and hand stones. Length, width, and thickness measurements will be taken on complete ground stone items.

Organic artifact classes (ecofacts) consisted of vertebrate and bulk shell specimens. After bulk shell is catalogued, it will be sorted to taxon and coded into an Excel sub-catalog. Modified bone and shell artifacts will be separated from the unmodified bone and shell assemblages. Historic resources, as well as modern items, will be catalogued and identified as specifically as is appropriate. Finally, other organic samples will be catalogued by type.

After preliminary cataloguing of the material is completed, more detailed attribute analysis of lithics and groundstone will be performed. Stone artifacts (both flaked and ground) will be individually analyzed for selected morphological and technological attributes, as well as material and condition, in an attempt to gain insight into the period of occupation and range of activities undertaken. Specific analytical methods will be described in the analytical results section. All artifacts, ecofacts, and samples will be subject to appropriate conservation in the field and laboratory including proper packaging and handling.

3.3.2 Special Studies

Special studies to assess a site's research potential and/or to address the research objectives of data recovery programs (as deemed necessary), may include radiocarbon dating, obsidian sourcing, obsidian hydration dating, protein residue analysis, and/or ceramic petrographic analyses.

Radiocarbon Dating

If organic samples are recovered that are appropriate for dating either human activity at the site or natural Holocene depositional events associated with Lake Cahuilla or other landforms, they will be submitted to an appropriate laboratory for radiocarbon measurement. A maximum of four samples may be submitted for evaluation studies.

Obsidian Sourcing and Hydration Analysis

If suitable obsidian artifacts are recovered, samples will be submitted to appropriate laboratories for sourcing and hydration measurement. A maximum of four samples may be submitted for evaluation studies.

Protein Residue Studies

If flaked or ground stone tools that are suitable for protein residue analysis are recovered, samples will be submitted to an appropriate laboratory. A maximum of four samples will be submitted.

Ceramic Petrographic X-Ray Fluorescence (XRF) Studies

A sample of Brownware sherds will be subjected to petrographic analysis or XRF to distinguish sherds produced in the Colorado Desert from sherds produced in the Peninsular Range. A maximum of four samples may be submitted.

3.4 REPORTS

Documentation of sites will comply with the reporting specifications in the BLM 8100 Manual guidance as stipulated in the BLM Cultural Resources Use Permit and Field Authorizations for this Undertaking, and to every reasonable extent with the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716-44740), as well as the *California Office of Historic Resource Management Reports (ARMR): Recommended Contents and Format (ARMR Guidelines) for the Preparation and Review of Archaeological Reports*.

All excavation unit and artifact locational information shall be placed in a separate, confidential appendix (or appendices) to the report. Reports shall first be submitted in draft form, in a format as close to the final report as possible, including copies of photographs (as JPEGs), maps, figures, and tables. The BLM and other authorized interested parties will be afforded the opportunity to review the draft report and to access the evaluation data, as needed and when requested in compliance with the terms of the Agreement. This will be coordinated through the BLM. Based on review comments, the draft report shall be revised and a final report shall be submitted.

3.5 MANAGEMENT AND TREATMENT OF HUMAN REMAINS

Pursuant to the Agreement and Native American Graves Protection and Repatriation Act (NAGPRA) Plan of Action, treatment of any bone identified will be reported and a tentative, unofficial assessment of the likelihood of its being human will be established. If the bone is determined to be human by the Principal Investigator, the PI will notify the appropriate BLM staff and will also be responsible for notifying the County of Imperial Office of the Coroner. The Coroner will in turn notify the Native American Heritage Commission.. All remains will be left in place and protected until they can be examined by the Medical Examiner and jurisdiction is determined.

As stipulated in the Agreement in Stipulation VI(a&b), the BLM will ensure that any Native American human remains, sacred objects, or items of Native American cultural patrimony are encountered on BLM administered lands during the implementations of this Management Plan will be treated in accordance with the requirements of the NAGPRA (Pub. L. 101-601). The BLM will also ensure to the extent possible that Native American burials and related cultural items on non-federal lands are treated in accordance with the applicable requirements of the California Public Resources Code in Sections 5097.98 and 5097.991, and of the California Health and Human Safety Code in Section 7050.5(c). All NAGPRA consultation will be carried out by the BLM. Immediate telephone notification will be made to the appropriate agency officials, followed by written confirmation.

3.6 CURATION

Prior to commencement of construction, Ocotillo Express LLC will establish a curation agreement for the permanent curation of all cultural resources collected during archaeological work associated with the Ocotillo Wind Energy Project, preferably with the Imperial Valley Desert Museum or a recognized curation facility.

4. SUMMARY

This management plan describes the protocol for construction monitoring of cultural resources and the treatment of post-review discoveries. Qualified archaeological monitors will be present during initial ground disturbing activities and to observe all ground disturbing activity near archaeological sites to ensure adherence to Environmentally Sensitive Areas (ESAs). Exclusionary fencing will be used to protect sites that have construction activity within or near ESA's. All construction personnel will receive cultural resources training to ensure awareness of the archeological and cultural sensitivity of the Project area, and especially for ESAs. Unavoidable new discoveries will undergo formal archaeological evaluation to determine the extent and character of newly identified cultural deposits for the purposes of supporting recommendations of NRHP or CRHR eligibility. The same evaluation methods can be used for data recovery of the discovery, if it cannot be avoided.

APPENDICES

A. Buried Sites Sensitivity Model and Buried Sites Testing Plan

B. Action Plan Charts

Chart 1. Post Review Discovery

Chart 2. Avoidable New Discovery

Chart 3. Unavoidable New Discovery

APPENDIX A.

Buried Sites Sensitivity Model and Buried Sites Testing Plan

**BURIED SITES SENSITIVITY MODEL AND
BURIED SITES TESTING PLAN
FOR THE
OCOTILLO EXPRESS WIND ENERGY PROJECT,
IMPERIAL COUNTY, CALIFORNIA**

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PN 18980.01

Buried Site Sensitivity Model and Buried Sites Testing Plan

This sensitivity model and testing plan has been developed in accordance with the Final Environmental Impact Statement Mitigation Measure CUL-8 for the Ocotillo Wind Energy Facility (OWEF) Project. The purpose is to assess the potential for buried archaeological sites to be located within the areas of direct impact prior to construction and mitigation monitoring. Since all surface manifestations of prehistoric activity are avoided through project design, the probability that buried sites will be found in other areas is very low. Furthermore, the probability of locating any buried sites, should any exist, is also very low without causing even more direct impacts to the landscape than the proposed project will incur. A thorough examination would require widespread backhoe trenching or mass grading to a considerable depth. Therefore a more temperate sampling approach based on existing information has been proposed that reasonably examines all areas adjacent to known archaeological sites and surfaces that appear to have sustained the least natural effects of recent alluvial action. The focus is on a sample of turbine locations, but these locations serve as good representations of adjacent geomorphic surfaces, including locations of access roads. If this testing plan reveals patterns of subsurface archaeological occurrences with specific landforms or soil types, then additional recommendations can be made for additional testing, project redesign to avoid impacts, or treatment of cultural resources. If the results are uniformly negative, then a monitoring program as proposed in the HPTP should be sufficient to meet the Secretary of the Interior's Standards.

Buried Site Sensitivity Model

Several sources were examined to assess the potential for buried sites to be located in the project area and to inform recommendations for the buried site testing (BST) program. The available 1:125,000 geological map of Imperial County (Morton 1977) is at too imprecise a resolution to be of any practical use. Soils in the western half of the project are characterized as Older Quaternary Alluvium (Qc) with partly dissected, largely unconsolidated poorly sorted silt and gravel of alluvial fans, and desert pavements on the margins of larger canyons and terraces. This area is west of the existing APS/SDG&E 500 kV line. The eastern half is characterized as recent Quaternary Alluvium (Qal) with unconsolidated clay, silt, sand, and gravel occurring primarily as valley fill and stream wash deposits.

The 2008 USGS geological maps of the project area compiled by Aron and Kelley (2011) further delineate the two major soil units (Figure 1). The older Quaternary alluvial terraces, specifically of Pleistocene age on the west side of the projects area (Qoa) occur as two broad units paralleling either side of Palm Canyon Wash. Between them and covering all of the eastern portion of the project area are the more recent surficial Quaternary alluvial sand and deposits (Qa) and low terrace formations (Qt). At the far end of the project area, the QA adjoins outcrops of Palm Springs Formation sandstone. The southeastern component of the project area has a more complex association of Palm Spring Formation sandstone ridges with Pleistocene terraces and recent Quaternary deposits emanating from the mountains.

Next, the Imperial County Soil Survey was reviewed that describes different soil types in the area (Zimmerman 1981). Although mapping does not extend to the project area, the general

range of soil types on the western end of West Mesa do apply. The two major soil units include:

- Rositas: Holocene nearly level to moderately steep, somewhat excessively drained sand, fine sand, and silt loam in alluvial basins on fans and sand hills.
- Antho-Superstition-Rositas: Holocene or Pleistocene nearly level well drained and somewhat excessively drained fine sand and loamy fine sand in alluvial basins and on alluvial fans and terraces.

Approximately six finer soil unit discriminations are described by Zimmerman in comparable drainage areas on West Mesa similar to the project area; all Holocene or Pleistocene alluvial and silts, sands, and gravels and fine aeolian silts.

The buried site sensitivity model and monitoring recommendations prepared by geoarchaeological consultant, Jill Onken (2011), for the Sunrise Powerlink Transmission Line (Sunrise) tower sites was also reviewed. She assessed the potential sensitivity for buried sites along both the chosen and an adjacent power line route that runs diagonally through the project area. She applied some of the same sources as for this study plus she had access to the geotechnical data that was collected at selected transmission tower locations. She assessed this portion of the project area as having a moderate to (mostly) high sensitivity due to proximity to stream courses with areas of thick sediment mantles of relatively low-energy Holocene deposits. Except for the southern portion of the transmission line route through the project area near Sugarloaf Mtn., this right-of-way, was not near recorded archeological sites although many sites are recorded elsewhere in the Ocotillo Wind project area. As a result, she generally did not access the higher alluvial terraces with more developed desert pavement surfaces. For the Sunrise right-of-way, however, she wrote:

Areas predicted to have moderate or high sensitivity for buried archaeological sites contain thick (> 1 meter) mantles of generally sandy or silty Holocene sediments with relatively little gravel, including stream and fan alluvium, [a]eolian deposits, and shoreline deposits. The relatively fine-grained texture of these deposits indicated a low to moderate energy depositional environment conducive to the nondestructive burial of sites. Archaeological material buried by more than a meter of sediment is unlikely to be brought to the present ground surface by bioturbation or pedoturbation, and any deeply buried sites in such contexts are unlikely to be detected during traditional pedestrian surveys (Onken 2011:5).

Onken's predictions of buried site sensitivity was disproved, however, by subsequent monitoring of deep excavations at 10 tower locations in the current project area during the 2011-2012 project construction phase. A total of 40 excavations for tower footings, each measuring 10-14 feet on each side and from 25-35 feet deep were excavated with heavy equipment and monitored by archaeologists. All proved negative for archaeological sites or artifacts.

This current sensitivity assessment was informed by the above information and by very high resolution aerial photographs of the project area that were provided by the project applicant. These photographs allowed for an assessment of surface geomorphology, surface hydrology, and vegetation, all providing proxy data to predict if buried sites are present. The photographs were also used with GIS site data and site maps from the archaeological survey (Underwood and Baksh 2011), which also provided essential information for selecting turbine locations adjacent to known archaeological sites and at comparable geomorphic settings as recorded archaeological sites. Aerial photographs reveal a somewhat more complex situation than present geology and soils maps indicate, with active Holocene braided stream channels and recent alluvium throughout but older terraces occurring in higher locations nearest rock outcrops or furthest away from major washes to the west of the existing 500 kV line (Qc) and much lighter alluvium and complex active braided stream channels to the east (Qal). Turbine locations were examined at 1:1500 scale or better to assess the potential for stable alluvial terraces where there was higher sensitivity for buried sites. Darker colored areas were interpreted as areas with some developed desert pavement or more stable grass surfaces while lighter areas were interpreted as more active and unstable. It was therefore no surprise that the darkest areas coincided with many of the archaeological sites where raw lithic materials could be assayed and procured. By avoiding these areas, most proposed turbine locations are on the younger lower-order terraces. No areas were distinguished where it appeared that older stable alluvial terraced were overlain by younger alluvial flows from upslope. Such circumstances would have been better indicators of subsurface sites. Therefore, in general, the entire project area was assessed as generally low in sensitivity for buried sites.

Geomorphic locations with known surface sites are expected to have a higher probability of also containing subsurface deposits. These locations are representing on soils maps as having older Quaternary alluvium. Criteria for selecting those areas with slightly higher potential for buried sites had the following characteristics when viewed on the aerial photographs:

- relatively darker color,
- more dense and developed vegetation
- few braided stream channels
- and proximity to darker terraces with archaeological sites

Criteria for areas with lower potential for buried sites had these traits when viewed on aerial photographs:

- light color
- dispersed and low density vegetation
- abundant braided stream channels
- distant from darker terraces with archaeological sites.

Buried Sites Testing Plan

A total of 50 turbine locations were selected for testing based on these criteria (Figure 2). Given the location of turbine tower rows, they provide virtual transects across the geomorphological landscape of the project area. All of the different soil units are sampled, with

emphasis given to the older units with more stable surfaces. Included are substantial amounts of the older Quaternary units which elsewhere have recorded surface sites but upon which these had no visible surface sites. The one area where no turbine locations were selected for this sample is at the northern end where both geomorphology suggests very active alluvial flows and where the Sunrise project subsurface monitoring produced negative results to depths greater than 25 feet.

A phased approach to BST is proposed whereby two (2) subsurface shovel test pits are examined at selected turbine locations. Exact locations must be determined from GIS data provided by the applicant. These test pits should be at least 50 cm in diameter, larger than more typical STPs, in order to reach a greater depth, to examine subsurface soils with greater ease, and to counter the effects of side-wall collapse in loose sandy fills. The STPs will be excavated in uniform levels to assess the depth of any discoveries. All sediment will be sifted through 1/8' gauge screens and professional protocols will be observed for recording the location of all STPs with GPS, and recording the results on standard STP forms (Attachment A). If positive results are obtained, then an additional four STPs shall be excavated elsewhere on the same geomorphic unit at least 20 meters from the original STPs. Priority will be given to access road alignments near the positive STPs. Two additional STPs will also be placed at adjacent turbine locations with comparable surface morphology if not previously tested. If negative results are consistently obtained, then two units per location would provide a representative sample of the nature of subsurface sedimentology.

Results that would indicate no potential for buried sites include one or more of the following attributes:

- Coarse sands and gravels indicative of an active alluvial wash circumstance in which sites are unlikely to occur or be preserved,
- Shallow calcareous B-horizons indicative of Pleistocene deposition predating human occupation,
- Absence of artifacts

Results indicative of buried sites or the potential for buried sites include one or more of the following attributes:

- Buried anthrosols or humic layers,
- Buried features, fire-affected rock, lithics or ceramics

Should positive results be obtained at any STPs (i.e. subsurface anthrosols, features, or artifacts, the BLM archeologist will be notified immediately for consultation. An additional four (4) STPs will be placed on the terrace surface to assess if the find is likely a spatially discrete occurrence or if a more extensive site is present. The STPs will be placed to assess the depth and general horizontal extend of any deposits. As discussed above, positive results on specific geomorphic units are likely to require a need to test adjacent turbine locations on similar surfaces, if they are not already scheduled for testing in the initial testing phase. Based

on consultation with BLM, additional STP testing and excavation of controlled units may be necessary to assess the NRHP-eligibility of buried sites and from there, development of appropriate treatment through avoidance or other impact mitigation in accordance with the terms of the Section 106 Memorandum of Agreement developed for the OWEF Project.

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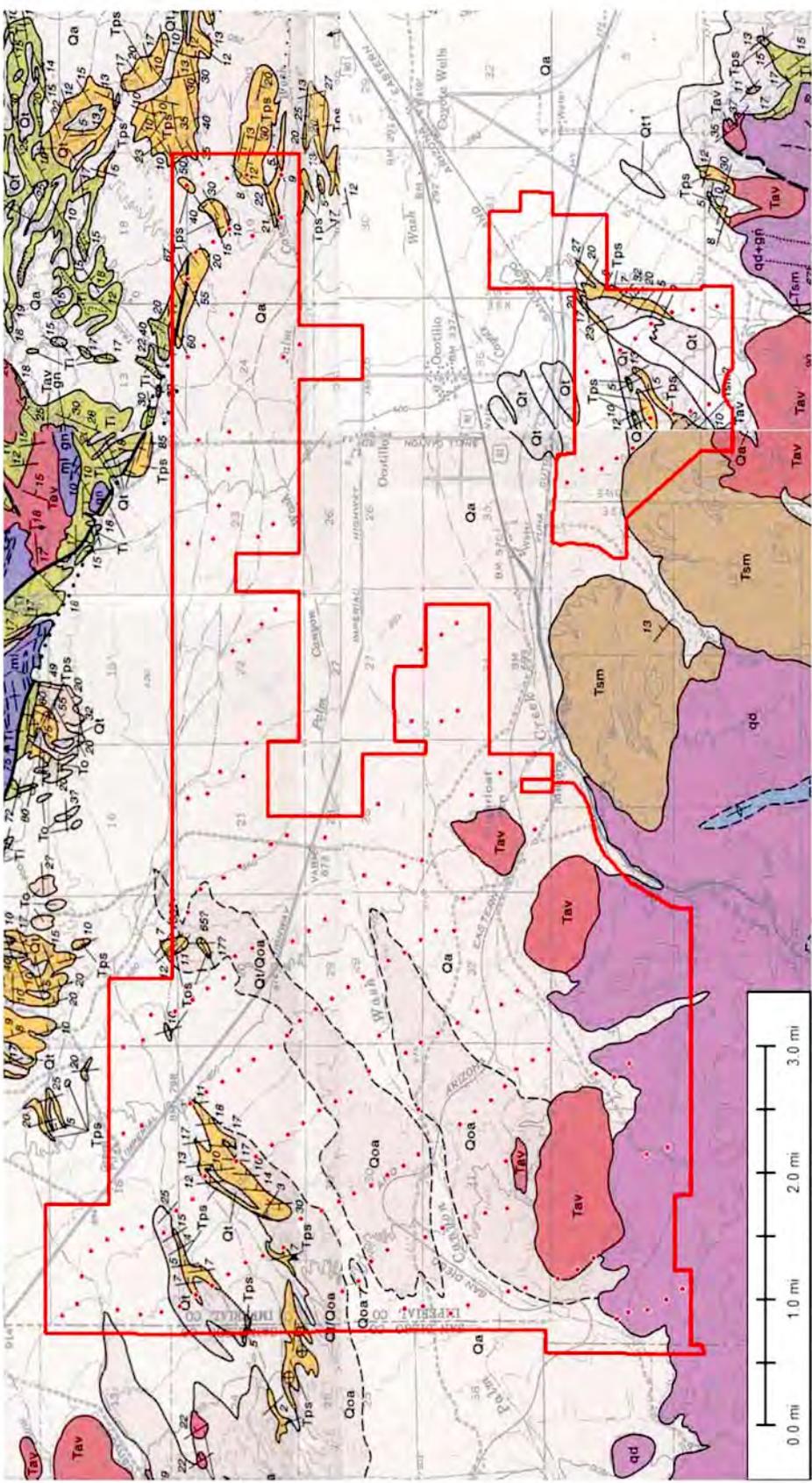
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FIGURES



EXPLANATION
(FROM TERRACE MAP)

Ca	Ca-Oc	Ca	Ca	Qa	Qa	Qa
SERRANAL SEDIMENTS						
Unconsolidated, fine-grained, silty, and clayey alluvium, terrace deposits, and other recent deposits.						
Qa	Qa-Oc	Qa	Qa	Qa	Qa	Qa
Imperial alluvium (Qa) and older alluvium (Qoa) are generally composed of sand, silt, and clayey alluvium, terrace deposits, and other recent deposits.						
Qa	Qa-Oc	Qa	Qa	Qa	Qa	Qa
Imperial alluvium (Qa) and older alluvium (Qoa) are generally composed of sand, silt, and clayey alluvium, terrace deposits, and other recent deposits.						

Qoa	Qoa
OLDER ALLUVIUM	
Locally formed detritus of larger alluvium and may represent a variety of alluvium.	
Qoa	Qoa
Older alluvium (Qoa) is generally composed of sand, silt, and clayey alluvium, terrace deposits, and other recent deposits.	

Tps
PALM SPRING FORMATION
Consolidated, fine-grained, silty, and clayey alluvium, terrace deposits, and other recent deposits.
Tps
Palm Spring Formation (Tps) is generally composed of sand, silt, and clayey alluvium, terrace deposits, and other recent deposits.

Tsm
SPLIT MOUNTAIN CONGLOMERATE
Consolidated, coarse-grained, silty, and clayey alluvium, terrace deposits, and other recent deposits.
Tsm
Split Mountain Conglomerate (Tsm) is generally composed of sand, silt, and clayey alluvium, terrace deposits, and other recent deposits.

Tav
ALIVERTON FORMATION
Consolidated, fine-grained, silty, and clayey alluvium, terrace deposits, and other recent deposits.
Tav
Aliverton Formation (Tav) is generally composed of sand, silt, and clayey alluvium, terrace deposits, and other recent deposits.

Tam
MOUNTAIN CONGLOMERATE
Consolidated, coarse-grained, silty, and clayey alluvium, terrace deposits, and other recent deposits.
Tam
Mountain Conglomerate (Tam) is generally composed of sand, silt, and clayey alluvium, terrace deposits, and other recent deposits.

Qd	Qd	Qd
UNCONFORMITY		
Basement rocks		
Qd	Qd	Qd
Etiwagan Group		
Qd	Qd	Qd
Etiwagan Group		

Qd	Qd	Qd
Etiwagan Group		
Qd	Qd	Qd
Etiwagan Group		

Figure 1. Geological map of the Ocotillo Wind Express Project area (qd, Mesozoic and older crystalline basement rocks; Tsm, Split Mountain Formation; Tav, Aliverson Formation; Ti, Latrania Formation of Imperial Group; Tps, Palm Spring Formation; Qoa, older alluvium; Qt, terrace deposits; Qa, alluvium (adapted from Dibblee (2008a-d)).

GEOLOGIC SYMBOLS

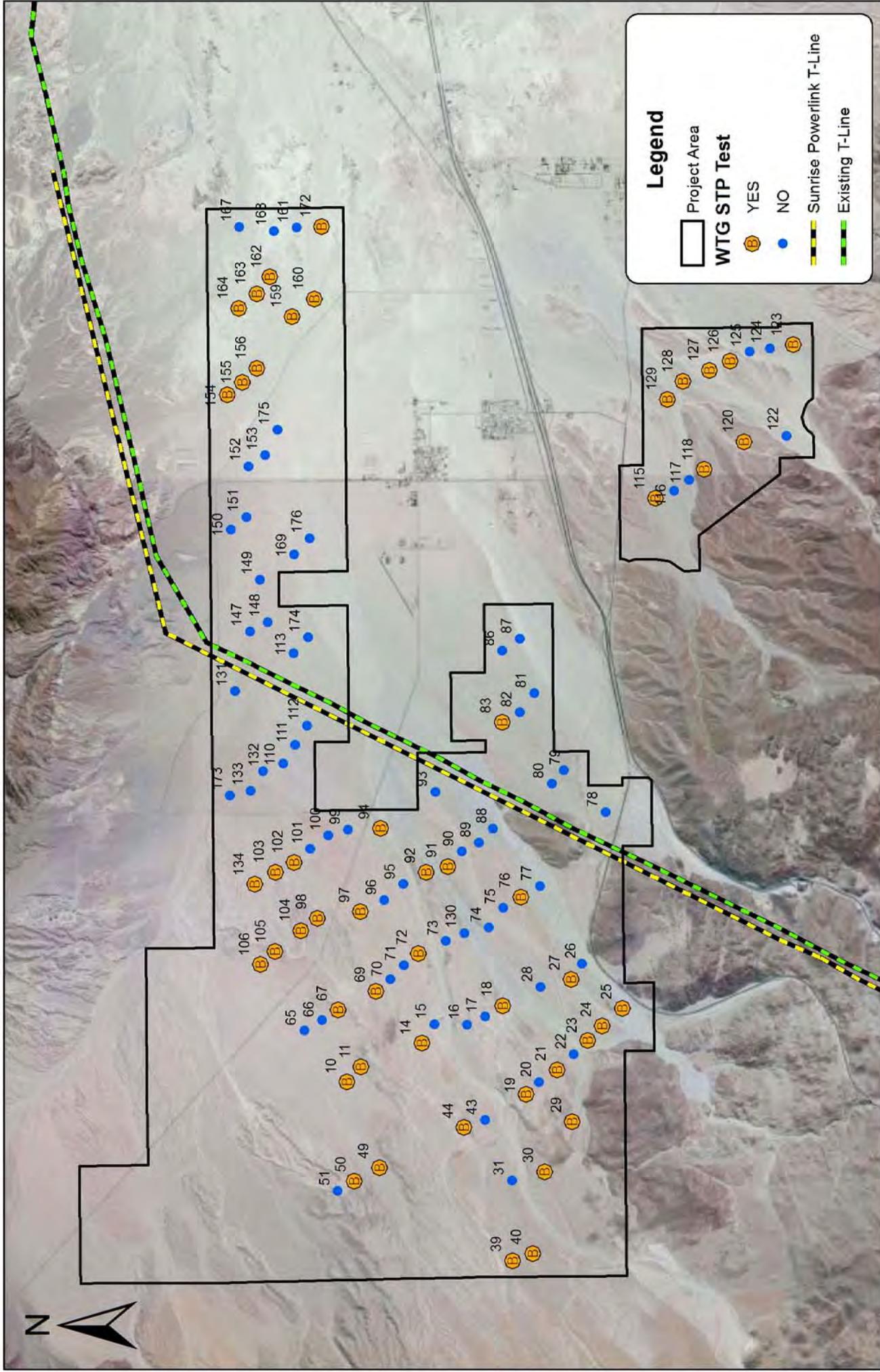
FORMATION (SYMBOL)	MEMBER (SYMBOL)	UNITARY (SYMBOL)
Imperial alluvium (Qa)	Imperial alluvium (Qa)	Imperial alluvium (Qa)
Older alluvium (Qoa)	Older alluvium (Qoa)	Older alluvium (Qoa)
Palm Spring Formation (Tps)	Palm Spring Formation (Tps)	Palm Spring Formation (Tps)
Split Mountain Conglomerate (Tsm)	Split Mountain Conglomerate (Tsm)	Split Mountain Conglomerate (Tsm)
Aliverton Formation (Tav)	Aliverton Formation (Tav)	Aliverton Formation (Tav)
Mountain Conglomerate (Tam)	Mountain Conglomerate (Tam)	Mountain Conglomerate (Tam)
Etiwagan Group (Qd)	Etiwagan Group (Qd)	Etiwagan Group (Qd)

OTHER SYMBOLS

Project Boundary	Turbine
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PERMIT REFERENCES

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2. Dibblee, T.W., 2008b, Geological Map of the Coyote Wells and Heber 15 Minute Quadrangles (DF-405), Imperial County, California.
3. Dibblee, T.W., 2008c, Geological Map of the Plaster City and Brewery 15 Minute Quadrangles (DF-444), Imperial County, California.
4. Dibblee, T.W., 2008d, Geological Map of the Mount Laguna and Carrizo Mountain 15 Minute Quadrangle (DF-407), San Diego and Imperial Counties, California.



Ocotillo, CA Wind Farm Project
Figure 2. Selected turbine locations
for subsurface testing



Attachment A
Shovel Test Recording Form



Ocotillo Express Wind Energy Project - Shovel Test Pit Form

Turbine No.: _____ GPS Coordinates (NAD 83): _____ E _____ N STP No.: _____

Recorded by: _____ Date: _____

Excavators: _____

Size: _____ cm diameter Maximum Depth: _____ cm Provenience/Location of STP: _____

Dry Screen Size: 1/4" 1/8" 1/16"

Depth	Sediment Description (type, color, texture, compactness, gravel content and size, etc.)

Depth	Prehistoric Artifacts (#)								In-vertebrates (#)	Vertebrates (#)	F.A.R. (#)	Charcoal (y/n)	Modern/ Historic (#)		
	debitage	biface (proj. point)	uniface	core	ground stone	metate	ceramics								

Comments (note disturbance, and changes in artifact distribution, sediment and prominent faunal types with depth): _____

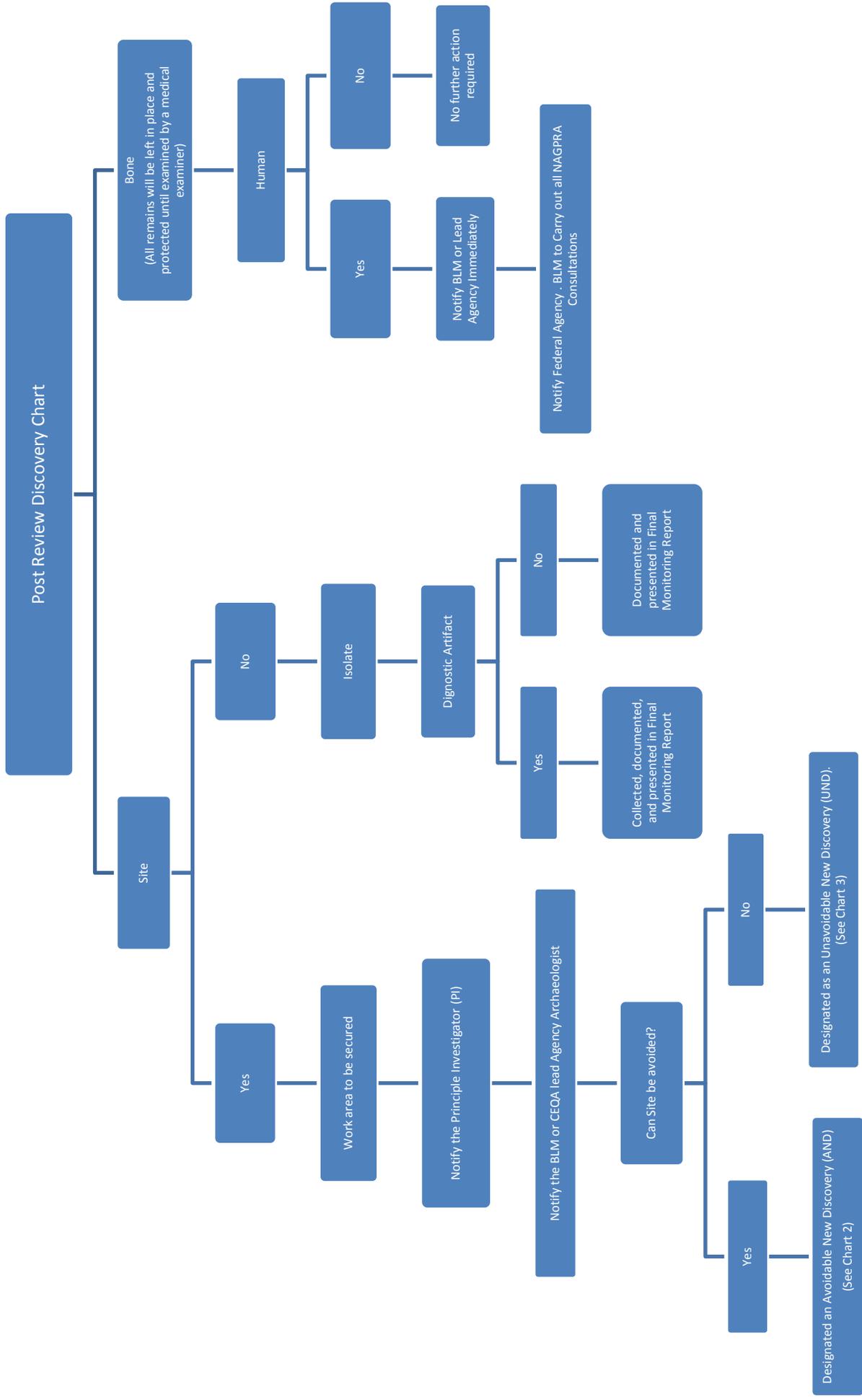
APPENDIX B.

Chart 1. Post Review Discovery

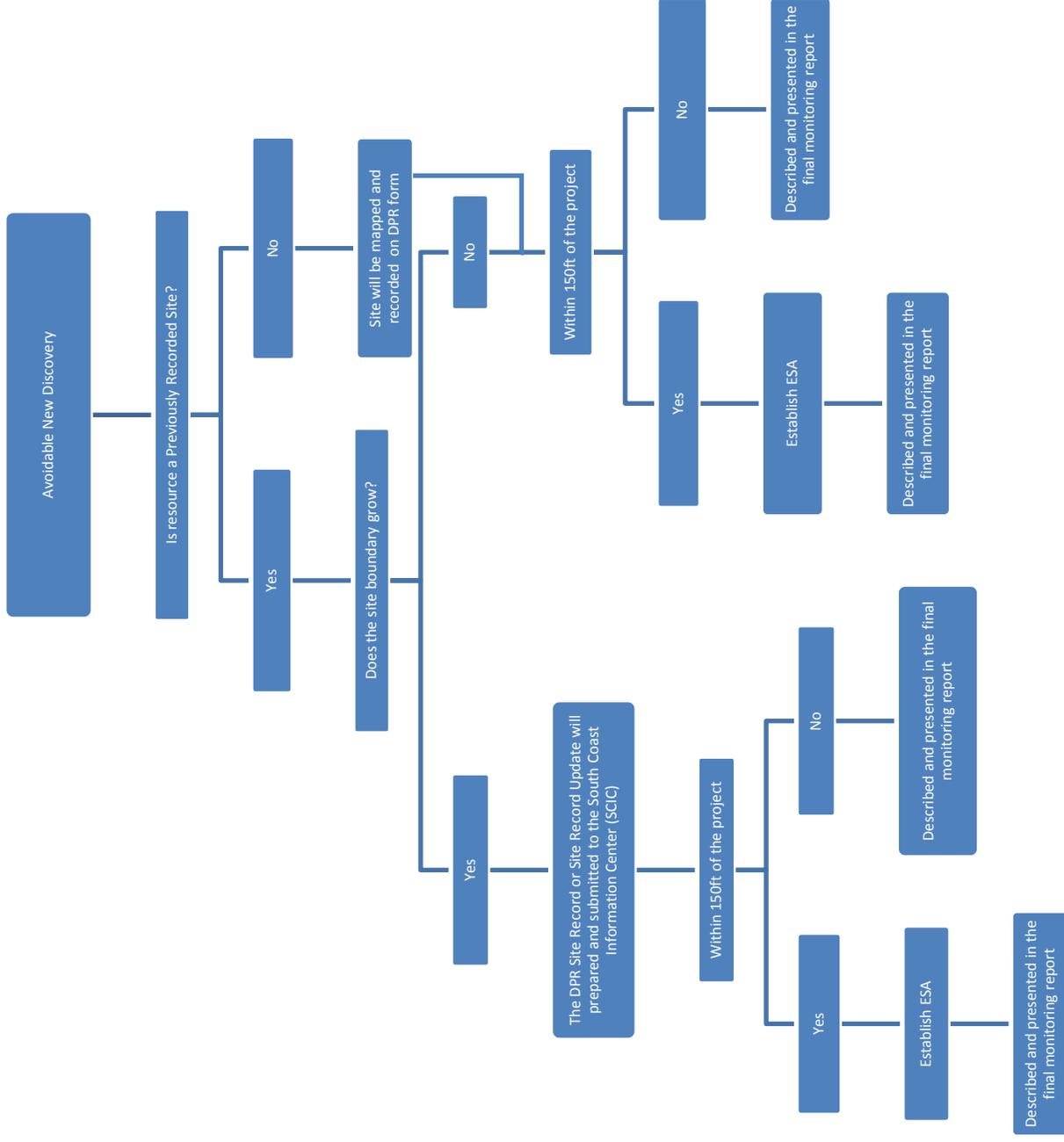
Chart 2. Avoidable New Discovery

Chart 3. Unavoidable New Discovery

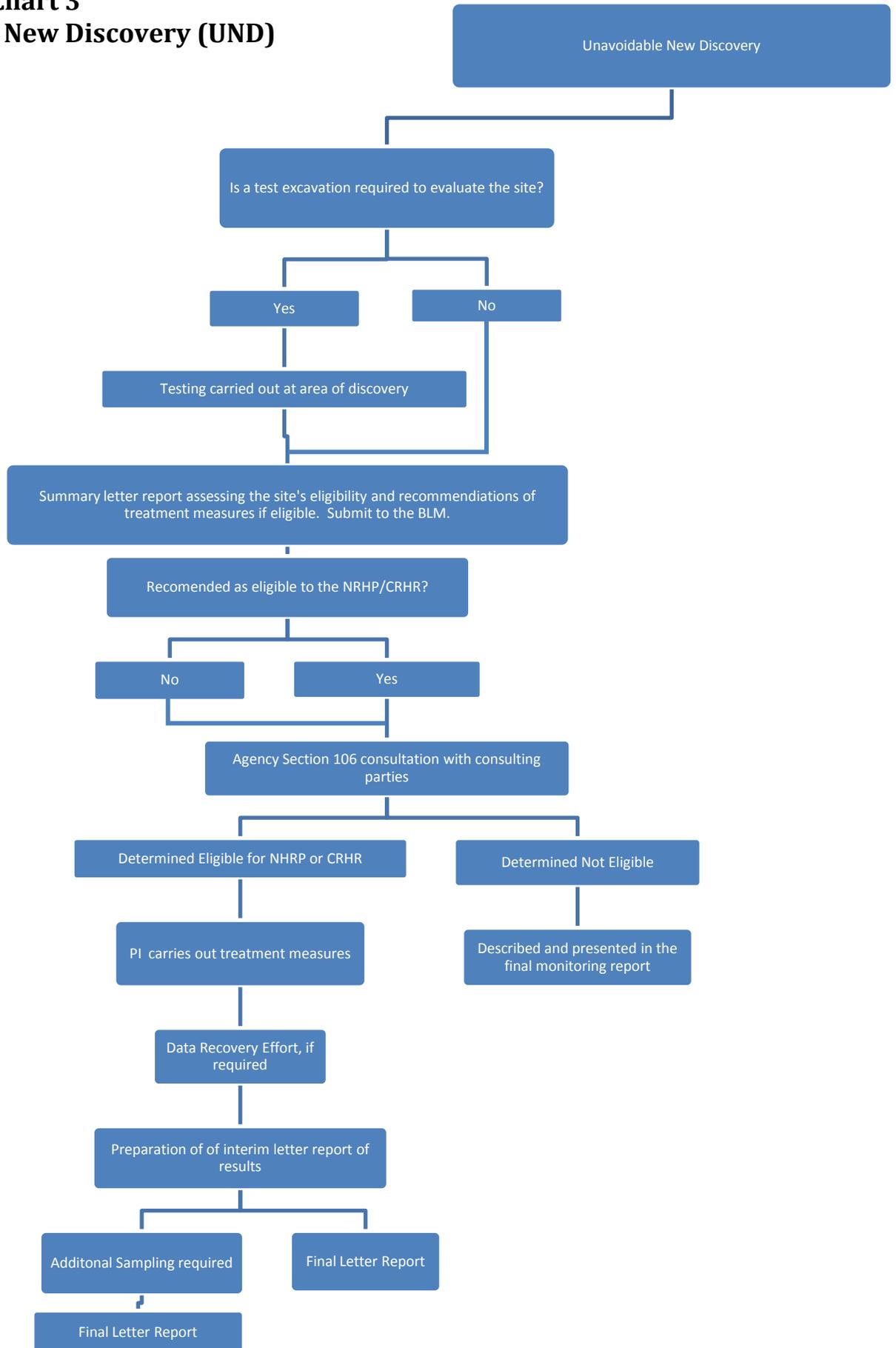
Action Plan Chart 1 – Post Review Discovery Chart



Action Plan Chart 2 – Avoidable New Discovery (AND)



Action Plan Chart 3 Unavoidable New Discovery (UND)



APPENDIX G: LONG TERM MANAGEMENT PLAN

APPENDIX H: NAGPRA PLAN OF ACTION

NAGPRA PLAN OF ACTION

1 INTRODUCTION

Stipulation VI of the Memorandum of Agreement (Agreement) stipulates that a Plan of Action (POA) is to be implemented if human remains are discovered within the APE, and that the POA will address the roles of the Bureau of Land Management (BLM), Tribes, and Ocotillo Express LLC.

While the steps to be taken in the event of any discovery within the Area of Potential Effect (APE) are described in Appendix F (Plan for Archaeological Monitoring, Post-Review Discovery, and Unanticipated Effects), the procedures specifically related to the discovery of human remains, funerary objects, sacred objects, and objects of cultural patrimony are detailed in Stipulation VI and the present appendix.

This POA is considered a critical component for this Undertaking as the Project is situated within a Traditional Cultural Property that has significant cultural and religious values to the Tribes. Cremations have also been identified within the APE for this Undertaking and were physically avoided through project design. This POA is necessary to ensure that appropriate and culturally sensitive procedures are followed pursuant to the stipulations of NAGPRA, should human remains, funerary objects, and other objects covered by NAGPRA be encountered during Project construction and implementation.

2 APPLICABLE LAWS

Depending on land ownership and other factors, either Federal law or State law, or both, will apply to any human remains, funerary objects, sacred objects, or objects of cultural patrimony that may be discovered within the APE. Federal statutes, most notably the Archaeological Resources Protection Act (ARPA) and the Native American Graves Protection and Repatriation Act (NAGPRA) govern discoveries on Federal or Tribal land. State laws, prominently H&SC 7050.5(b) and PRC 5097.98(a-b) in California govern discoveries on non-Federal/non-Tribal land.

This POA complies with the NAGPRA regulations, which state that the Federal agency official “must complete a written Plan of Action (described in [43 CFR] § 10.5(e)) and execute the actions called for in it” (43 CFR 10.3(c)(2)). The regulations also specify that a copy of the POA must be provided to the involved lineal descendants and Indian tribes, and that such descendants and tribes may sign the POA (43 CFR 10.5(e)). Moreover, the regulations require the POA to comply with 43 CFR 10.3(b)(1), which speaks to responsibilities under ARPA, and to address and document nine topics (see 43 CFR 10.5(e)(1-9) related to the discovery and treatment of human remains and cultural items as defined at 43 CFR 10(2)(d). These nine topics are taken up in Subsections 3- 9, below.

3 PLAN OF ACTION

3.1 Cultural Items

Ocotillo Express LLC has applied for a right-of-way grant on lands administered by BLM and has submitted a plan of development to construct, operate, and maintain a wind turbine electrical energy generation plant on federal and non-federal lands, referred to as the Ocotillo Express Wind Energy Project (Project). The POA provides specific direction for how the El Centro Field Office of the BLM, Tribes, and Invited Signatory will comply with legal requirements governing treatment and custody of human remains for the Undertaking. This POA is meant to address the requirements of the NAGPRA as well as state-specific statutes concerning human remains. As lead Federal agency for Cultural Resources compliance for this Undertaking, the BLM is the primary contact and executor for the POA.

According to NAGPRA and implementing regulations, a POA must identify “the kinds of objects to be considered ‘cultural items’ as defined in [43 CFR] § 10.2(d)” (43 CFR 10.5(e)(1)).

In this POA, human remains and three types of Native American cultural items are recognized: (1) “funerary objects,” including both “associated funerary objects” and “unassociated funerary objects”; (2) “sacred objects”; and (3) “objects of cultural patrimony.” The full definitions of these terms, as set forth in the NAGPRA regulations (43 CFR 10.2(d)(1-4)), are incorporated herein by reference and adopted for use throughout this POA. Also for the purposes of this POA, the term “grave goods,” as used in California law (e.g., in PRC 5097.98), is deemed to be subsumed by the Federal term “funerary objects.” More generally, the term “cultural items,” as used in this POA, includes funerary objects, sacred objects, and objects of cultural patrimony.

3.2 Custody

The POA is to present “the specific information used to determine custody pursuant to [43 CFR] § 10.6” (43 CFR 10.5(e)(2)).

3.2.1 Federal Land

In the event of any discovery of human remains and/or funerary objects on Federal land within the APE, custody (i.e., ownership or control per 43 CFR 10.6(a)) shall vest in the lineal descendant of the deceased individual (per 43 CFR 10.6(a)(1)), or, “in cases where a lineal descendant cannot be ascertained and no claim is made, and with respect to unassociated funerary objects, sacred objects, and objects of cultural patrimony,” in the Indian tribe identified in accordance with the priority and criteria set forth at 43 CFR 10.6(a)(2). BLM is responsible for ensuring that the custody of any human remains and/or funerary objects discovered within the APE of the Project is established in accordance with these regulations. Additionally, prior to the transfer of custody of the remains and/or objects to the lineal descendant or Indian tribe, BLM must publish general notices of the proposed disposition in accordance 43 CFR 10.6(c) (see also Subsection 3.9.1, below).

3.2.2 Non-Federal/Non-Tribal Land

The custody of human remains discovered on non-Federal/non-Tribal lands is a complex matter and ultimately, after prescribed consultation with the Native American individual or group identified by the Native American Heritage Commission (NAHC) as the Most Likely Descendant (MLD), lies with the land owner. Relevant procedures and responsibilities are set forth at PRC 5097.98(a-b, e-f) and summarized in Subsection 3.3 of this POA.

3.3.3 Treatment, Care, and Handling

The NAGPRA regulations require the POA to address “the planned treatment, care, and handling of human remains, funerary objects, sacred objects, or objects of cultural patrimony recovered” (43 CFR 10.5(e)(3)).

In the event that human remains are discovered within the APE, either inadvertently or in the course of archaeological investigations, and without respect to land ownership, the Ocotillo Express LLC Project Manager will:

- (1) Immediately cease or cause to be ceased any earth-disturbing activity within an area extending not less than 5 and not more than 50 meters (to be determined in the field on a case-by-case basis by the lead archaeological monitor) from the discovered remains;
- (2) Take whatever feasible steps may be needed to ensure that the subject remains are not disturbed further and are secure pending implementation of the treatment measures prescribed in this POA;
- (3) Ensure that the remains are treated with appropriate respect and cultural sensitivity at all times;
- (4) Within 24 hours, contact both the El Centro BLM Project Manager and the El Centro BLM Archaeologist to report the discovery; and
- (5) Cooperate fully with the parties responsible for carrying out the treatment measures described in Subsections 3.3.1- 3.3.3, below.

3.3.1 Discoveries on Federal Land

If human remains or funerary objects are discovered on Federal lands, all activity in the area of the discovery will cease immediately. The Ocotillo Express LLC Project Manager will notify both the El Centro BLM Project Manager and the El Centro BLM Archaeologist by telephone within 24 hours of the discovery, followed within three days by written confirmation. The BLM will then be responsible for notifying the appropriate Tribe(s), and for initiating tribal consultation as prescribed by 43 CFR 10.5. The Ocotillo Express LLC Project Manager will also notify the appropriate county coroner who, pursuant to H&SC 7050.5 et seq. and PRC 5097.98, will determine whether the remains are those of a Native American; if so, the coroner will contact the NAHC, and the procedures set forth at PRC 5098.98 will be implemented together with the Federal procedures required by 43 CFR 10.3-10.6.

BLM will ensure that the stipulations of this POA are fully implemented before authorizing Ocotillo Express LLC to continue any ground-disturbing activity. Such activity will be suspended in the discovery area (i.e., within not less than 5 nor more than 50 meters in all directions from the discovered remains and/or objects) until authorized by BLM to resume such activities. Such activity will be suspended in the discovery area until the Tribes, Ocotillo Express LLC, and BLM can resolve treatment in this manner, then BLM shall consult with the California State Historic Preservation Officer (SHPO) to develop a treatment plan within 15 days of notification of discovery. Preservation and protection in place shall be the preferred treatment measure. Absent objection by the SHPO, BLM will then implement the treatment plan, or, if the SHPO objects, BLM will utilize the dispute resolution process set forth in Stipulation XI of the Agreement to resolve any objection. Human remains and any funerary objects will not be excavated or otherwise removed unless approved by BLM and after consultation with the Tribes as appropriate. Disposition of any such remains discovered on or removed from Federal or Tribal lands will follow the protocols discussed in Subsection 3.9, below.

3.3.2 Discoveries on Non-Federal/Non-Tribal Land

When human remains and/or “grave goods” (i.e., funerary objects) are discovered on non-Federal/non-Tribal land other than a dedicated cemetery in California, the party responsible for the discovery must notify the county coroner. If such remains and/or grave goods are found within the APE of the Project, Ocotillo Express LLC will notify the BLM and the Imperial County coroner. After notification, BLM will be responsible for notifying appropriate Signatories, the Invited Signatory, and Tribes.

The coroner will determine whether or not the circumstances, manner, and cause of death require further investigation. If the coroner determines that the remains are Native American, the coroner will contact the NAHC (CH&SC 7050.5(b)). The NAHC will then immediately identify those persons it believes to be to be most likely descended from the deceased Native American. With the permission of the landowner, the MLD may inspect the site of the discovery and recommend means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The MLD will complete the inspection and make a recommendation within 48 hours of being granted access to the site. If the NAHC is unable to identify a MLD, or if the MLD fails to make a recommendation, or if the landowner rejects the MLD’s recommendation and mediation by the NAHC fails to provide measures acceptable to the landowner, the landowner will reinter the human remains and associated items with appropriate dignity on the property in a location not subject to further subsurface disturbance (PRC 5097.98).

3.4 Archaeological Recording

Also to be discussed in the POA is “the planned archaeological recording of the human remains, funerary objects, sacred objects, or objects of cultural patrimony recovered” (43 CFR 10.5(e)(4)).

Following the initial discovery and identification of any human remains, funerary objects, sacred objects, or objects of cultural patrimony within the APE, no further archaeological excavation or recording of such remains and/or objects will occur until after either (1) the lineal descendant or Tribe entitled to custody pursuant to 43 CFR 10.6(a), if the discovery is on Federal or Tribal land, or (2) the MLD identified pursuant to PRC 5097.98, if the discovery is on non-Federal or

non-Tribal land in California, or (3) “the group with cultural affinity” has made a recommendation to BLM and the landowner with respect to the disposition of the remains and/or objects.

Thereafter, BLM will take into account the recommendation(s) of the appropriate Native American lineal descendant or Tribe, or MLD, or group with cultural affinity and will decide on the nature of any archaeological excavation or recording to be done of the discovered remains and/or funerary objects.

3.5 Analysis

The regulations also call for the POA to identify “the kinds of analysis planned for each kind of object” (43 CFR 10.5(e)(5)).

No scientific analysis of human remains and/or funerary objects will occur until after either (1) the lineal descendant or Tribe entitled to custody pursuant to 43 CFR 10.6(a), if the discovery is on Federal or Tribal land, or (2) the MLD identified pursuant to PRC 5097.98, if the discovery is on non-Federal or non-Tribal land in California, or (3) “the group with cultural affinity” has made a recommendation to BLM and the landowner with respect to the disposition of the remains and/or objects, including whether or not destructive and/or nondestructive analysis should be permitted.

Thereafter, BLM will take into account the recommendation(s) of the appropriate Native American lineal descendant or Tribe, or MLD, or group with cultural affinity and will decide on the nature of any scientific analysis is to be done of the discovered remains and/or funerary objects.

3.6 Tribal Contacts

Another important feature of the POA is that it must state “any steps to be followed to contact Indian tribe officials at the time of intentional excavation or inadvertent discovery of specific human remains, funerary objects, sacred objects, or objects of cultural patrimony” (43 CFR 10.5(e)(6)). As discussed in the Agreement, BLM has invited fourteen Indian tribes (Tribes) and one Tribal Organization to participate in the Section 106 consultation process and to be Concurring Parties to the Agreement. The Tribes, the Tribal Organization and the Kumeyaay Cultural Repatriation Committee are listed below together with specifications as to how each wishes to be contacted and involved if human remains are discovered within the APE.

In the event that human remains and/or funerary objects, or sacred objects, or objects of cultural patrimony are discovered within the APE, either inadvertently or in the course of intentional archaeological excavations, Ocotillo Express LLC will immediately (1) cease or cause to be ceased any earth-disturbing activity within an area extending not less than 5 meters and not more than 50 meters (to be determined in the field on a case-by-case basis) from the discovered remains; (2) ensure that the remains and/or cultural objects are protected from further disturbance; and (3) inform BLM by telephone within 24 hours following the discovery. BLM will then contact the appropriate Tribes, Tribal Organizations, Signatories, and Invited Signatory. The Tribes will be contacted and consulted in accordance with the information provided below,

including the designated Point of Contact (POC) for each Tribe or Tribal Organization, and in other sections of this POA.

BARONA BAND OF DIEGUENO INDIANS

*POC Contact Information
How the Tribe Wishes to Be Involved*

CAMPO BAND OF MISSION INDIANS

*POC Contact Information
How the Tribe Wishes to Be Involved*

COCOPAH INDIAN TRIBE

*POC Contact Information
How the Tribe Wishes to Be Involved*

EWIAAPAAYP BAND OF KUMEYAAY INDIANS

*POC Contact Information
How the Tribe Wishes to Be Involved*

FORT YUMA QUECHAN INDIAN TRIBE

*POC Contact Information
How the Tribe Wishes to Be Involved*

JAMAL INDIAN VILLAGE

*POC Contact Information
How the Tribe Wishes to Be Involved*

KWAAYMII LAGUNA BAND OF INDIANS

*POC Contact Information
How the Tribe Wishes to Be Involved*

KUMEYAAY CULTURAL REPATRIATION COMMITTEE

*POC Contact Information
How the Organization Wishes to Be Involved*

LA PSOTA BAND OF KUMEYAAY INDIANS

*POC Contact Information
How the Tribe Wishes to Be Involved*

MANZANITA BAND OF KUMEYAAY INDIANS

POC Contact Information
How the Tribe Wishes to Be Involved

MESA GRANDE BAND OF MISSION INDIANS

POC Contact Information
How the Tribe Wishes to Be Involved

SAN PASQUAL BAND OF DIEGUENO INDIANS

POC Contact Information
How the Tribe Wishes to Be Involved

SANTA YSABEL BAND OF DIEGUENO INDIANS

POC Contact Information
How the Tribe Wishes to Be Involved

SYCUAN BAND OF KUMEYAAY NATION

POC Contact Information
How the Tribe Wishes to Be Involved

TORRES-MARTINEZ DESERT CAHUILLA INDIANS

POC Contact Information
How the Tribe Wishes to Be Involved

VIEJAS BAND OF KUMEYAAY INDIANS

POC Contact Information
How the Tribe Wishes to Be Involved

3.7 Traditional Treatment Measures

As stipulated in the NAGPRA regulations (43 CFR 10.5(e)(7)), the POA must describe “the kind of traditional treatment, if any, to be afforded the human remains, funerary objects, sacred objects, or objects of cultural patrimony by members of the Indian tribe...”

Following any discovery of Native American human remains and/or funerary objects, and prior to the disposition of such remains and/or objects, BLM will consult with the appropriate Native American lineal descendant or Tribe, or MLD, or group with cultural affinity, and will ascertain the wishes of such lineal descendant or Tribe, or MLD, or group with cultural affinity with respect to the kind of traditional treatment, if any, to be afforded the human remains or objects. BLM will then take the necessary steps to ensure that the lineal descendant or Tribe, or MLD, or group with cultural affinity is granted the opportunity, access, and privacy required for the traditional treatment of the remains and/or objects in compliance with NAGPRA, AIRFA, and all other applicable statutes and regulations.

3.8 Reporting

The POA also must address “the nature of reports to be prepared” (43 CFR 10.5(e)(8)). Although it is difficult to suggest the nature of reports to be prepared without knowing the kinds of remains and/or objects that would be discovered, or whether the discovery would be made inadvertently or in the course of planned and permitted archaeological excavations, one can define the procedures to be followed with respect to deciding on the scope, content, distribution, and confidentiality of any reports that may be produced.

Decisions about report preparation and content will be based on a consultative process very similar to what is described for scientific analysis (see Subsection 3.5, above). No reports of human remains and/or funerary objects will be released until after either (1) the lineal descendant or Tribe entitled to custody pursuant to 43 CFR 10.6(a), if the discovery is on Federal land, or (2) the MLD identified pursuant to PRC 5097.98, if the discovery is on non-Federal or non-Tribal land in California, or (3) “the group with cultural affinity” has made a recommendation to BLM and the landowner with respect to the disposition of the remains and/or objects, including whether or not archaeological reporting should take place.

Thereafter, BLM will take into account the recommendation(s) of the appropriate Native American lineal descendant or Tribe, or MLD, or group with cultural affinity and will decide on the nature of any archaeological report to be prepared on the discovered remains and/or funerary objects. BLM also will ascertain whether or not photographs of the subject remains and/or objects are culturally permissible, who (i.e., which agencies, Tribes, institutions, etc.) should receive copies of any report that is produced, and how best to maintain the confidentiality of such report and the information therein to comply with ARPA, NAGPRA, and other laws.

3.9 Disposition of Remains and Objects

Finally, the NAGPRA regulations require the POA to set forth a plan for “the disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony following [43 CFR] § 10.6” (43 CFR 10.5(e)(9)). The procedures to be followed in arriving at decisions regarding disposition depend upon land ownership in which the remains and/or objects are found. In addition, the final disposition or custody of human remains, funerary objects, sacred objects, or objects of cultural patrimony is also subject to consultation with the parties having claim(s) to the remains and materials in question. During consultation the remains and/or objects shall be treated respectfully and stored in a secure location.

3.9.1 Discoveries on Federal Land

In the event that human remains and/or cultural items are found within the APE of the Project on Federal lands, preservation and protection in place shall be the primary treatment strategy. Should preservation and protection in place not be possible, following consultation as required by 43 CFR 10.6, the BLM will ascertain custody in accordance with 43 CFR 10.6(a–c) (see Subsection C.3.2 of this POA). Once BLM has made a determination of the party entitled to custody, BLM will publish at least two notices of the proposed disposition of the remains and/or objects, as required by 43 CFR 10.6(c). These notices must be published at least one week apart. If no additional claimants come forward within 30 days following the second publication of the

notice, then BLM will transfer custody of the remains and/or cultural items to the party named in the notices pursuant to 43 CFR 10.6(c). The party having custody will then decide on the ultimate disposition of the remains and/or cultural items. If the party given custody should decide that any of the remains and/or items are to be curated, then they will select for that purpose and deliver such remains and/or items to a repository that meets the standards and criteria set forth at 36 CFR 79.

3.9.2 Discoveries on Non-Federal/Non-Tribal Land

If Native American human remains and/or grave goods are found within that portion of the APE—and after Ocotillo Express LLC has notified the BLM and the Imperial County coroner, and the coroner has contacted the NAHC, and the NAHC has designated a MLD, and the MLD has visited the discovery site, pursuant to CH&SC 7050.5 *et seq.* and PRC 5097.98(a-b)—the landowner will discuss and confer with the MLD “all reasonable options” regarding the MLD’s preferences for treatment of the human remains and/or grave goods. These options may include:

- A. Preservation of Native American human remains and associated items in place.
- B. The nondestructive removal and analysis of human remains and items associated with Native American human remains. Relinquishment of Native American human remains and associated items to the descendants for treatment.
- C. Other culturally appropriate treatment [PRC 5097.98(b)(1)(A-D)].

The landowner may accept the MLD’s recommendation, or agree to extend discussions taking into account the possibility that additional or multiple Native American human remains may be present, or reject the MLD’s recommendation. If the NAHC is unable to identify an MLD, or the MLD does not make a recommendation, or if the landowner rejects the MLD’s recommendation, and if mediation (as provided for by PRC 5097.98(k)), if invoked, fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall inter the human remains and items associated with Native American remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance. To protect these sites, that landowner shall do one or more of the following:

- 1. Record the site with the commission [i.e., the NAHC] or the appropriate Information Center [of the California Historical Resources Information System (CHRIS)].
- 2. Utilize an open-space or conservation zoning designation or easement.
- 3. Record a document with the county in which the property is located [PRC 5097.98(e)(1-3)].

In these circumstances, it is the landowner who, after the prescribed consultation, makes the final decision regarding the disposition of Native American human remains and/or grave goods governed by PRC 5097.98. The Undertaking, however, remains under Federal jurisdiction, so

these restrictions of California law may only take effect after pertinent Federal requirements are complied with.

4 SUMMARY OF THE POA

In summary, in the event that human remains and/or funerary objects are found within the APE of the Undertaking, the POA to be implemented includes;

- (1) BLM will be the lead Federal Agency responsible for seeing that the terms of the POA are executed and that the Undertaking is in compliance with NAGPRA, and other applicable Federal statutes and regulations.
- (2) BLM will maintain ongoing consultation, as necessary and appropriate, with the PA Signatories, Invited Signatory, and Tribes, and specifically will involve the Tribes in decision making with respect to any human remains and/or cultural items that may be discovered within the APE, in accordance with 43 CFR 10.
- (3) Ocotillo Express LLC will summarize in construction and maintenance contracts all relevant legal requirements regarding the discovery and treatment of human remains and/or funerary objects, and will take appropriate steps to ensure that its contractors and employees are familiar with the required procedures.
- (4) In the event that human remains and/or funerary objects are found within the APE of the Project, Ocotillo Express LLC will immediately cease or cause to be ceased any activity within an area extending not less than 5 meters and not more than 50 meters (to be determined in the field on a case-by-case basis) from the discovered remains;
- (5) If human remains or funerary objects are discovered on Federal land, Ocotillo Express LLC will notify BLM by telephone as soon as possible, but no later than 24 hours after the discovery, followed within three business days by written confirmation. BLM will then be responsible for notifying the appropriate Tribe(s), and for initiating Tribal consultation as prescribed by 43 CFR 10.5. The Ocotillo Express LLC Project Manager will also ensure that the Imperial County coroner is notified, pursuant to H&SC 7050.5 *et seq.* The telephone number of the coroner's main office in Imperial County is 760-339-6301. BLM's El Centro Field Office main number is 760-337-4400. Ocotillo Express LLC can be reached at 858-587-5834.
- (6) The BLM in coordination with the Imperial County coroner will make a determination as to whether the remains are human, or non-human. This determination will be made by qualified personnel, such as a physical or forensic anthropologist (in conjunction with a cultural resources contractor, if one is involved with the discovery). If the remains are identified as non-human, no further notification or action is required,

although further archaeological assessment may be needed. If the remains are human, additional measures and procedures, as described below, apply.

- (7) Ocotillo Express LLC, under the direction of BLM will take whatever steps may be needed to ensure that the subject remains and or/funerary objects are not disturbed further and are secure pending further implementation of the treatment measures as prescribed in the POA. BLM, in coordination with Ocotillo Express LLC, will ensure that the remains and/or objects are treated with appropriate respect and cultural sensitivity at all times.
- (8) In the event of an inadvertent discovery of human remains on Federal lands, any potentially disturbing activity will be suspended in the discovery area (i.e., within not less than 5 nor more than 50 meters in all directions from the discovered remains and/or objects) until authorized by BLM to resume such activities. BLM will ensure that the stipulations of this POA are fully implemented. Such activity will be suspended in the discovery area until the Tribes, Ocotillo Express LLC, and BLM can determine if preservation and protection in place or other treatment is necessary. If preservation in place is not possible, the BLM shall consult with the SHPO to develop a treatment plan within 15 days of notification of discovery. Absent objection by the SHPO, BLM will then implement the treatment plan, or, if the SHPO objects, BLM will utilize the dispute resolution process set forth in Stipulation XI of the Agreement to resolve any objection.
- (9) Human remains and/or funerary objects discovered on Federal land will not be excavated or otherwise removed unless approved by BLM and after consultation with the Tribe(s) and BLM, as appropriate. Disposition of any such remains and/or objects discovered on or removed from Federal lands will follow the protocols discussed in POA Subsection 3.9.
- (10) The Imperial County coroner will determine whether or not the circumstances, manner, and cause of death require further investigation as a crime scene. If not, the coroner will endeavor to determine if the remains are those of a Native American. This will be accomplished in consultation with a physical anthropologist, human osteologist, or other qualified specialist to verify that the remains are human and, if so, whether or not they appear to be those of a Native American. This aspect of the work will be coordinated very closely with the coroner, as required by law, to ensure that any potential evidence of a crime is not disturbed.
- (11) If the coroner determines that the remains are Native American and not related to a crime, the coroner will contact the Native American Heritage

Commission [per CH&SC 7050.5(b)]. The NAHC will then immediately identify those persons it believes to be to be most likely descended from the deceased Native American. With the permission of the landowner, the MLD may inspect the site of the discovery and recommend means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The MLD will complete the inspection and make a recommendation within 48 hours following notification by the NAHC. If the NAHC is unable to identify an MLD, or if the MLD fails to make a recommendation, or if the landowner rejects the MLD's recommendation and mediation by the NAHC fails to provide measures acceptable to the landowner, the landowner will reinter the human remains and any associated items with appropriate dignity on the property in a location not subject to further subsurface disturbance, given the restrictions addressed in Item 16 (below), and subject to any additional compliance measures that address human remains within the APE of the Undertaking [PRC 5097.98].

- (12) Regardless of the discovery site's ownership status (Federal or private), if the human remains are not those of a Native American, then BLM and the landowner, if the discovery site is not on Federal land, will consult with the coroner, a biological anthropologist or human osteologist, and a qualified historical archaeologist to develop an appropriate plan for treatment. BLM will consult with the SHPO and other concerned parties to determine if historical research, further archaeological excavations, and/or other studies may be necessary before a treatment plan can be finalized. Also, if the remains are those of an identifiable individual and not part of a crime scene, BLM will notify the next of kin. Such kin may wish to influence or control the subsequent disposition of the remains.
- (13) If the next of kin (for non-Indian remains), MLD, or other appropriate Native American entity (e.g., culturally affiliated tribe, indigenous tribe, other tribe likely to have a cultural relationship, or lineal descendants) so requests, BLM will coordinate discussion between concerned parties to determine if reburial at or near the original site in a location not subject to further disturbance is feasible. If a proximate reburial location is not feasible, then BLM may continue to coordinate discussions until a final disposition of the remains is decided upon
- (14) Following the initial discovery and identification of any human remains, funerary objects, sacred objects, or objects of cultural patrimony within the APE, no further archaeological excavation, recording, or analysis, of such remains and/or objects will occur until after (1) the lineal descendant or Tribe entitled to custody pursuant to 43 CFR 10.6(a), if the discovery is on Federal or Tribal land, or (2) the MLD identified pursuant to PRC 5097.98, if the discovery is on non-Federal land in California, or (3) "the group with cultural affinity has made a recommendation to BLM and the landowner with respect to the disposition of the remains and/or objects.

Thereafter, BLM will take into account the recommendation of the appropriate Native American lineal descendant or Tribe, or MLD, or group with cultural affinity and will decide on the nature of any archaeological excavation, recording, or analysis, to be done of the discovered remains and/or funerary objects.

Following any discovery of Native American human remains and/or funerary objects, and prior to the disposition of such remains and/or objects, BLM will consult with the appropriate Native American lineal descendant or Tribe, or MLD, or group with cultural affinity, and will ascertain the wishes of such lineal descendant or Tribe, or MLD, or group with cultural affinity with respect to the kind of traditional treatment, if any, to be afforded the human remains or objects. BLM, will then take the necessary steps to ensure that the lineal descendant or Tribe, or MLD, or group with cultural affinity is granted the opportunity, access, and privacy required for the traditional treatment of the remains and/or objects in compliance with NAGPRA, AIRFA, and all other applicable statutes and regulations.