

# **Appendix K**

## **Cultural Resources**

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Portions of this appendix are confidential, but are available upon request  
to qualified professionals



# **Planned Programmatic Agreement Outline and Content**

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## **Notes on PA from Meeting with BLM on April 23, 2010**

The PA will describe the process for BLM to follow to identify historic properties within the APE and to resolve adverse effects to historic properties from the proposed project. The PA is not a decision document. It is required regardless of the decision to approve or not approve the project. Participation in the PA process as a consulting party does not imply consent/approval of the project. The PA must be signed prior to the ROD.

### **Signatory Parties:**

- Lead = BLM
- SHPO
- ACHP (so far has declined, reserves right to join process later)
- CPUC
- First Solar

### **Invited Concurring Parties:**

- Indian Tribes (26)
- California Union for Reliable Energy (CURE)
- National Trust for Historic Preservation
- Sacred Lands Institute (?)
- And potential others that submit written request to BLM (will be considered by BLM in consultation w/ SHPO and ACHP)

### **PA will document:**

- The process for activities to proceed in areas where no historic properties exist
- The process for the phased completion of field investigations for the evaluation of resources and assessment of effects
- The procedure to resolve adverse effects
- Coordination between the CEQA process and Section 106 compliance
- Procedure for inadvertent discoveries
- Process for treating human remains
- Compliance monitoring
- Dispute resolution
- Tribal participation

### **PA will include as Appendices (among others):**

HPTP/Mitigation Plan

Discovery Plan

### **Process for PA development**

- BLM will provide ECORP with a template w/ initial language (based on recent similar projects)
- ECORP will tailor PA for Desert Sunlight in coordination with First Solar
- BLM will review and comment; ECORP to revise as needed
- Initial Draft to all consulting parties--30 days for review and comment
- Use electronic delivery of draft versions to expedite review and conference calls with all signatories as needed. Schedule in-person meetings only if necessary

## **Other Comments:**

***Rolla Queen (BLM):*** The PA will allow work to proceed in a phased approach to clear areas where there are no historic properties so work can begin there while we deal with areas that contain historic properties that would have adverse effects. This allows flexibility.

Locations of archaeological sites and sacred sites will not be identified in the EIS. The document will only state that they occur in the area. The EIS will give enough information to the public to evaluate impacts of the alternatives, but protect sensitive resources.

Treatment of adverse effects will not be limited to excavation. It may include research and documentation, and use or creation of historic contexts (esp. of landscape features like DTC and prehistoric trails). DTC is best handled through a historic context. The artifacts and features are limited in their informational potential, but they have associative significance.

Only need to sign PA prior to ROD. PA can be implemented after ROD.

***Dwight Dutschke (SHPO):*** Agrees with phased approach.

***Chris Dalu (BLM):*** First Solar should work with its consultants to identify areas where work can proceed—areas that are clear of CR, bio, and other issues. Notices to Proceed (NTP) will be issued by BLM for specific portions of the APE. BLM regulations state that they can issue NTPs in stages for a project.

Chris agrees that DTC research will be far more valuable than field work. Sources include aerial photographs and the National Archives, among other available publications, maps, and reports.

# **Native American Consultations**

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# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Palm Springs-South Coast Field Office

1201 Bird Center Drive

Palm Springs, CA 92262-8001

(760) 833-7100 Fax (760) 833-7199



Visit us on the Internet at  
[www.blm.gov/ca/palmsprings/](http://www.blm.gov/ca/palmsprings/)

APR 15 2010

*In Reply Refer To:*

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CACA 048649

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Chairman Richard Milanovich  
Agua Caliente Band of Cahuilla Indians  
5401 Dinah Shore Drive  
Palm Springs, CA 92264

RE: First Solar Desert Sunlight Solar Power Generation Project, Riverside County, California

Chairman Milanovich:

The Bureau of Land Management Palm Springs Field Office (BLM) is currently reviewing an application from First Solar Development, Inc. (Applicant), for a right-of-way (ROW) grant to develop a photovoltaic solar energy generating facility, referred to as the Desert Sunlight Power Project, on federal land in eastern Riverside County. Pursuant to section 106 of the National Historic Preservation Act (NHPA), the BLM has concluded that this proposed project has reached a level of complexity such that a programmatic agreement (PA) will be required to resolve issues related to inventory and evaluation efforts, potential effects to historic properties, and proposed treatment strategies. The BLM has notified the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP) of our intent to develop a PA pursuant to 36 CFR 800.14(b)(3) of the section 106 implementing regulations. The BLM has been consulting with the Tribe on this proposed project and is now seeking to determine whether the Tribe would like to join in consultation with the BLM, the SHPO, the ACHP and other consulting parties in developing a PA for this undertaking.

The Applicant is proposing to develop a solar powered photovoltaic electrical generating facility north of the town of Desert Center, California, west of State Highway 177 (please see enclosed maps). The Project will include components such as photovoltaic solar cell panels, and an on-site substation. Once constructed, the proposed Project would permanently occupy approximately 4,092 acres with an additional 228 acres of linear facilities including a new electrical substation (90 acres).

The area of potential effect (APE) encompasses approximately 7,240 acres and includes the proposed generation plant, alternative transmission line interconnects, and alternate substation locations south of the proposed solar facility, where the system will interconnect with existing utility transmission lines.

We would like to summarize activities which have been carried out to date for the purposes of conducting the review of this proposed First Solar Desert Sunlight Solar Power Project.

In processing the applications, the BLM must comply with the requirements of the National Environmental Policy Act (NEPA), which requires that Federal agencies reviewing projects under their jurisdiction consider the environmental impacts associated with their construction and operation. This will be accomplished through preparation of a Draft and Final Environmental Impact Statement (EIS).

#### **Status of Cultural Resource Studies**

ECORP is the cultural resources consultant for this project. A BLM Class III survey was conducted over 4,245 acres of the APE alternatives and areas since removed from the proposed project footprint. The BLM is expecting the preliminary results of survey via a draft report in mid to late May, 2010. The survey efforts, to date, have resulted in the identification of 157 archaeological sites and 198 isolates. Of the 157 sites identified, 46 are prehistoric, 101 are historic. The isolates include 101 prehistoric and 198 historic finds. The final draft Cultural Resources Class III Survey Report from the consultant is expected in mid or late May, 2010.

#### **Status of Consultation with Native American Tribes**

With the filing of the application for a right-of-way, the BLM took the lead in formal Tribal consultation pursuant to the NHPA as well as other laws and regulations. The Native American Heritage Commission was contacted by letter about the project and they provided a list of Tribal contacts. We then initiated Section 106 consultation in the early stages of project planning by letter in November 2009 and have followed up with an additional letter and other information since then. To date, fourteen Tribes or related institutions have been identified and invited to consult on this project including those listed below. The Tribes as well as the general public were also invited to a general informational meeting about the project held on January 28, 2010. We have thus far received one written comment letter from Mike Jackson, President of the Ft. Yuma Quechan Tribe, and one e-mail memo from H. Jill McCormick, Cultural Resources Manager, Cocopah Indian Tribe. Communications have been ongoing between concerned parties since the early planning efforts in the summer of 2009, and consultation will continue throughout the process.

#### **List of Tribes or Related Institutions Contacted:**

Cabazon Band of Mission Indians  
Augustine Band of Cahuilla Mission Indians  
Agua Caliente Band of Cahuilla Indians THPO  
Morongo Band of Mission Indians  
Chemehuevi Reservation  
Colorado River Reservation  
Fort Mojave Indian Tribe  
Pauma Band of Luiseño Mission Indians

Colorado River Indian Tribes  
Cocopah Tribal Council  
San Manuel Band of Mission Indians  
Ft. Yuma Quechan Indian Tribe  
Torres-Martinez Desert Cahuilla Indians  
Twenty-Nine Palms Band of Mission Indians  
Ramona Band of Mission Indians

## Programmatic Agreement

As noted at the outset of this letter, our primary purpose is to notify the Tribe that BLM is proposing to develop a PA to govern the section 106 review of this project and to seek to determine whether the Tribe would like to consult and participate in the development of the PA. Even if the Tribe elects not to participate in the development of a PA for this project, BLM will continue to keep the Tribe informed and consult on this project.

We appreciate your review of our request and look forward to hearing whether you would like to participate in consultation on this undertaking. If you have specific questions or need any clarification, please contact George Kline, BLM Palm Springs Archaeologist, at (760) 833-7135.

Sincerely,



John R. Kalish  
Field Manager

Enclosures - 1

1. Map: 04/07/2010 2009-104.003 Desert Sunlight Class III Surveys. ECORP Consulting, Inc.

cc electronically:

Rolla Queen (Rolla\_Queen@blm.gov)  
Charlotte Hunter (Charlotte\_Hunter@blm.gov)  
Greg Miller (Greg\_Miller@blm.gov)