

**MEMORANDUM OF AGREEMENT**  
**AMONG THE BUREAU OF LAND MANAGEMENT,**  
**U.S. DEPARTMENT OF ENERGY WESTERN AREA POWER ADMINISTRATION,**  
**THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER,**  
**AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
**REGARDING THE PROPOSED RICE SOLAR ENERGY PROJECT**  
**RIVERSIDE COUNTY, CALIFORNIA**

WHEREAS the Palm Springs-South Coast Field Office of the Bureau of Land Management (BLM) plans to grant a right of way (undertaking) to SolarReserve, LLC (Applicant) for the generator tie-line of the Rice Solar Energy Project (project) pursuant to the Federal Land Policy and Management Act, Public Law 94-579, 43 USC 1701; and

WHEREAS the Western Area Power Administration (Western), acting on behalf of the Department of Energy, plans to approve an interconnection agreement (undertaking) with the Applicant for the project pursuant to Western being a transmitting utility subject to sections 210 through 213 of the Federal Power Act (16 U.S.C. §§ 824i-824l); and

WHEREAS the Rice Solar Energy Project consists of a proposed 150-MW solar electric power plant located on private land and a new 10-mile long 230-kV generator tie-line, electric substation, and access road on BLM land in the Sonoran Desert in eastern Riverside County, California; and

WHEREAS, the BLM has defined the undertaking's area of potential effects (APE) to include the entire project area including limits of disturbance; limits of potential visual, audible, and atmospheric effects to historic properties; and the limits of foreseeable effects to historic properties that may occur later in time, be farther removed in distance, or be cumulative; and the APE is illustrated in Attachment 1; and

WHEREAS, the BLM has determined that the undertaking will have an adverse effect on the Rice Army Airfield/Camp Rice, eligible for listing in the National Register of Historic Places, and has consulted with the California State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f); and

WHEREAS, Western has identified the BLM as the lead Federal agency under Section 106 of the National Historic Preservation Act in accordance with 36 CFR § 800.2(a)(2); and

WHEREAS, the BLM has consulted with the following tribes:

- Agua Caliente Band of Cahuilla Indians
- Ramona Band of Cahuilla Mission Indians
- San Manuel Band of Mission Indians
- Torres-Martinez Desert Cahuilla Indians
- Quechan Tribe
- Cocopah Indian Tribe
- Twenty-Nine Palms Band of Mission Indians

MOA REGARDING THE PROPOSED RICE SOLAR ENERGY PROJECT

Chemehuevi Reservation  
Colorado River Reservation  
Morongo Band of Mission Indians  
Fort Mojave Indian Tribe  
Hopi Tribe  
Hualapai Tribe  
Salt River Pima-Maricopa Indian Community  
Tohono O'odham Nation  
Yavapai-Prescott Indian Tribe  
Twenty-Nine Palms Indian Tribe

(Tribes), for which as yet unidentified properties within the project area may have religious and cultural significance, and has invited the Tribes to sign this Memorandum of Agreement (MOA) as a concurring party; and

WHEREAS, the BLM has consulted with the Applicant regarding the effects of the undertaking on historic properties, and BLM has invited them to sign this MOA as an invited signatory; and

WHEREAS, the California Energy Commission (Energy Commission) is the lead State agency for the purpose of complying with the California Environmental Quality Act (CEQA) and has certain responsibilities under State law and regulation to take into account and mitigate any significant impacts that this Undertaking may have on cultural resources listed in or eligible for listing in the California Register of Historical Resources (CRHR) and is coordinating the efforts to comply with CEQA with Federal agency responsibilities to comply with Section 106 of the NHPA, and, as the Energy Commission has agreed to assume certain responsibilities to facilitate the implementation of this MOA, the BLM has invited them to be an invited signatory; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), the BLM has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation, and the ACHP has chosen to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the Energy Commission has issued its *Commission Decision* regarding the project which includes certain conditions of certification (Attachment 2) regarding resolution of significant effects to cultural resources listed in or eligible for listing in the CRHR, which the Applicant is required to satisfy, and the satisfaction of which the Energy Commission has the jurisdiction to enforce, and whereas these conditions would also resolve adverse effects to historic properties eligible for listing in the National Register of Historic Places (NRHP); and

WHEREAS, the signatories to this MOA acknowledge that the cultural resources conditions imposed and enforceable by the Energy Commission constitute a significant investment by the Applicant in the documentation of the historic properties affected and the education of the public regarding the significance of those resources that qualify as historic properties, and assert that the reiteration of those conditions in this MOA would be redundant and unnecessary.

## MOA REGARDING THE PROPOSED RICE SOLAR ENERGY PROJECT

NOW, THEREFORE, the BLM, Western, the Applicant, the Energy Commission, the California SHPO, and the ACHP agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

### STIPULATIONS

The BLM shall ensure that the following measures are implemented:

#### I. STANDARDS

- A. PROFESSIONAL QUALIFICATIONS. All actions prescribed by this MOA that involve the identification, evaluation, analysis, recordation, treatment, monitoring, and disposition of Historic Properties and that involve the reporting and documentation of such actions in the form of reports, forms, or other records, shall be carried out by or under the direct supervision of a person or persons meeting, at a minimum, the Secretary of the Interior's Professional Qualifications Standards (PQS) for archaeology, history, or architectural history, as appropriate (48 FR. 44739). However, nothing in this stipulation may be interpreted to preclude any party qualified under the terms of this paragraph from using the services of Tribal personnel or properly supervised archaeology personnel who do not meet the PQS.
- B. DOCUMENTATION STANDARDS. Reporting on and documenting the actions cited in paragraph A of this stipulation shall conform with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR. 44716-44740), as well as the California Office of Historic Preservation's Preservation Planning Bulletin Number 4(a), December 1989, Archaeological Resource Management Reports (ARMR): Recommended Contents and Format (ARMR Guidelines) for the Preparation and Review of Archaeological Reports, and any specific county or local requirements or report formats, as necessary.
- C. CURATION AND CURATION STANDARDS. To the extent permitted under § 5097.98 and § 5097.991 of the California Public Resources Code, the materials and records resulting from the actions cited in paragraph A of this stipulation and located on non-Federal lands shall be curated in accordance with 36 CFR 79. Where Federal lands are involved, all records and materials resulting from the actions cited in paragraph A of this stipulation shall be curated in accordance with 36 CFR 79 and the provisions of the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), 43 CFR 10, as applicable. Unless otherwise agreed to and stipulated in the Historic Property Management Plan (see stipulation II), the BLM will attempt to have all collections curated at one location appropriate to Riverside County. If cultural materials are recovered from private lands, the BLM will seek to have the materials donated through a written donation agreement to be curated with other cultural materials that are found as a result of implementing the subject undertaking. No human remains will be curated. If any human remains are discovered in the course of the project, the preferred course of treatment will be identified as provided for in the Historic Properties Management Plan, in consultation with the most likely descendant, and consistent with State and Federal legal requirements.

## MOA REGARDING THE PROPOSED RICE SOLAR ENERGY PROJECT

### II. HISTORIC PROPERTIES TREATMENT PLAN/HISTORIC PROPERTIES MANAGEMENT PLAN

- A. Prior to the issuance of any notice to proceed with the construction of the project, the BLM shall develop, in consultation with the parties to this MOA, a Historic Properties Treatment Plan (HPTP) that will address, but is not limited to: Protocols for implementing the Energy Commission's cultural resources conditions CUL-2 through CUL-9 and CUL-11 through CUL-12 (see Attachment 2).
- B. The BLM shall submit the HPTP to the parties to this MOA for review and comment. The BLM will provide the reviewing parties to this MOA with written documentation indicating whether and how the draft HPTP has been modified in response to any timely comments received from the parties within thirty (30) days. Absent comments within this time frame, the BLM may proceed with the undertaking and issue the notice to proceed for project construction. Any conflicts that may arise regarding the content of the HPTP shall be resolved in accordance with stipulation IX below.
- C. In consultation and agreement among the parties to this MOA, components of the HPTP, such as further survey, may be prepared and implemented prior to the completion of the final HPTP and will be incorporated into the HPTP as agreed. Upon completion of the field work associated with the HPTP, BLM in consultation with the other consulting parties shall determine the need to amend the HPTP into a Historic Property Management Plan (HPMP) to guide implementation of the Project.
- D. BLM may amend the Treatment Plan and /or management plan with mutual consent of the signatory parties. Such amendment will not require amendment of this MOA. If project plans change such that an amendment is necessary, BLM will prepare an amendment to the Plan that takes into account anticipated impacts to historic properties that were not previously considered. BLM will send amendments to consulting parties to this MOA for a 30-day review period.

### III. PROJECT ACTIVITIES ON FEDERAL LAND UNDER BLM CONTROL

- A. The Applicant's construction, operations, and maintenance activities will avoid known historic properties on BLM land following the protocols for avoidance to be defined in the HPMP (see stipulation II).
- B. The Applicant will provide a monitor meeting the professional standards for an archaeologist stipulated in this MOA (see stipulation I A.) at all times during construction activities on BLM land. The monitor will carry out the monitoring protocol to be defined in the HPMP (see stipulation II).
- C. Unanticipated discoveries of human remains on BLM land will be governed by the protocols of the BLM for compliance with the Native American Graves Protection and Repatriation Act of 1990 (Pub.L. 101-601; 25 USC 3001-3013; 104 Stat. 3048-3058) including the Department of the Interior regulations at 43 CFR 10, and shall take into account and, to the extent feasible,

## MOA REGARDING THE PROPOSED RICE SOLAR ENERGY PROJECT

accommodate Energy Commission requirements on the treatment of the discovery of human remains under California State statutes and regulations.

### IV. NATIVE AMERICAN CONSULTATION

The BLM, mindful of its government-to-government responsibilities, shall continue to facilitate consultation with the Indian tribes regarding the project. The BLM will carry out its responsibilities under Section 106 to consult with the Indian tribes that request such consultation regardless of their status as a concurring party to this MOA and regardless of their Federally recognized status. Indian tribes will be consulted regarding the HPMP (see stipulation II), and the BLM will endeavor to address concerns regarding the protection of properties of religious and cultural significance to them before finalizing the HPMP.

### V. DURATION

This MOA will terminate if its terms are not carried out within thirty years (30) from the date of its execution. Prior to such time, the BLM may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with stipulation X below.

Western shall be a party to this agreement until the Rice Solar facility is generating power. At this point Western will consult with the parties to this agreement to terminate Western's participation in the agreement.

### VI. POST-REVIEW DISCOVERIES

- A. The BLM, in consultation with the parties to this MOA, shall develop a monitoring and discovery plan for the project pursuant to 36 CFR 800.13(a)(2). A finalized monitoring and discovery plan will be included in the HPMP (see stipulation II).
- B. If the BLM determines that implementation of the project will affect a previously unidentified property that may be eligible for the NRHP, or affect a known historic property in an unanticipated manner, and a monitoring and discovery plan has not been finalized, the BLM, in coordination with the Energy Commission, shall address the discovery or unanticipated effect by following the procedures at 36 CFR 800.13(b)(3) where a process has not yet been agreed to pursuant to 36 CFR 800.13(a)(2).
- C. The BLM at its discretion may assume any discovered property to be eligible for inclusion in the NRHP. The BLM's compliance with this stipulation shall satisfy the requirements of 36 CFR 800.13(a)(2).

### VII. TREATMENT OF HUMAN REMAINS OF NATIVE AMERICAN ORIGIN

- A. The BLM shall ensure that any Native American burials and related items discovered on BLM administered lands during implementation of the terms of this MOA will be treated in accordance with the requirements of the NAGPRA. The BLM shall consult with concerned Tribes, Tribal organizations, or individuals in accordance with the requirements of Sections 3(c) and 3(d) of the NAGPRA and implementing regulations found at 43 CFR Part 10 to

## MOA REGARDING THE PROPOSED RICE SOLAR ENERGY PROJECT

address the treatment of Native American burials and related cultural items that may be discovered during implementation of this MOA.

- B. In consultation with the Tribes, the BLM shall seek to develop a written NAGPRA plan of action pursuant to 43 CFR 10.5(e) to manage the inadvertent discovery or intentional excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony. The finalized NAGPRA plan of action shall be included in the HPMP (see stipulation II).
- C. The BLM shall ensure that Native American burials and related cultural items on private lands are treated in accordance with the applicable requirements of the California Public Resources Code at Sections 5097.98 and 5097.991, and of the California Health and Human Safety Code at Section 7050.5(c).

### VIII. REPORTING

Each year following the execution of this MOA until it expires or is terminated, the BLM shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the BLM's efforts to carry out the terms of this MOA.

### IX. DISPUTE RESOLUTION

- (i) Should any party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the BLM shall consult with such party to resolve the objection. Pursuant to Section 106 § 800.6 (c)1, any invited signatory that signs the Memorandum of Agreement shall have the same rights with regard to seeking amendment or termination of the Memorandum of Agreement as other signatories. If the BLM determines that such objection cannot be resolved, the BLM shall:
  - A. Forward all documentation relevant to the dispute, including the BLM's proposed resolution, to the ACHP. The ACHP shall provide the BLM with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the BLM shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories, invited signatories, and concurring parties, and provide them with a copy of this written response. The BLM will then proceed according to its final decision.
  - B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the BLM may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the BLM shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories, invited signatories, and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.
  - C. The BLM's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

## MOA REGARDING THE PROPOSED RICE SOLAR ENERGY PROJECT

### X. AMENDMENTS

This MOA may be amended when such amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

### XI. TERMINATION

A. If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per stipulation X, above. If within three hundred and sixty five (365) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

B. Once the MOA is terminated, and prior to work continuing on the undertaking, the BLM must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The BLM shall notify the signatories as to the course of action it will pursue.

### XII. EFFECTIVE DATE

Execution of this MOA by BLM, Western, the California SHPO, and the ACHP and implementation of its terms evidence that the BLM has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

### XIII. EXECUTION

This MOA will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

MOA REGARDING THE PROPOSED RICE SOLAR ENERGY PROJECT

SIGNATORY PARTIES:

BUREAU OF LAND MANAGEMENT,  
PALM SPRINGS – SOUTH COAST FIELD OFFICE



*for* John Kalish  
Field Manager

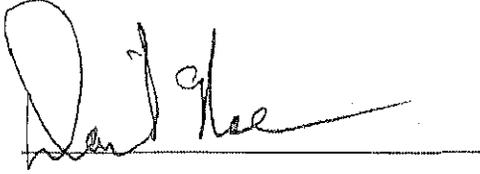


Date

MOA REGARDING THE PROPOSED RICE SOLAR ENERGY PROJECT

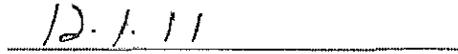
SIGNATORY PARTIES:

DEPARTMENT OF ENERGY, WESTERN AREA POWER ADMINISTRATION

A handwritten signature in black ink, appearing to read "Darrick Moe", written over a horizontal line.

Darrick Moe  
Regional Manager, DSW

12.1.11

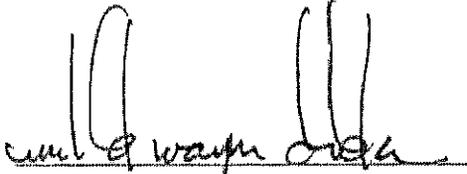
A handwritten date "12.1.11" written in black ink over a horizontal line.

Date

MOA REGARDING THE PROPOSED RICE SOLAR ENERGY PROJECT

SIGNATORY PARTIES:

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

Handwritten signature of Milford Wayne Donaldson in black ink, written over a horizontal line.

Milford Wayne Donaldson, FAIA  
State Historic Preservation Officer

Handwritten date "29 NOV 2011" in black ink, written over a horizontal line.

Date

MOA REGARDING THE PROPOSED RICE SOLAR ENERGY PROJECT

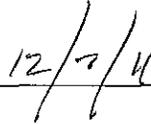
SIGNATORY PARTIES:

ADVISORY COUNCIL ON HISTORIC PRESERVATION



A handwritten signature in cursive script, appearing to read "John M. Fowler", written over a horizontal line.

John M. Fowler  
Executive Director



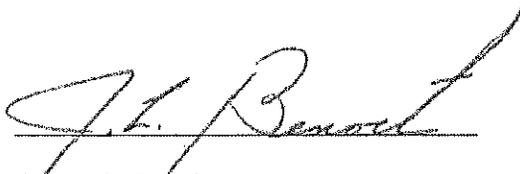
A handwritten date "12/7/11" written over a horizontal line.

Date

MOA REGARDING THE PROPOSED RICE SOLAR ENERGY PROJECT

INVITED SIGNATORIES:

SOLARRESERVE, LLC



Jeffrey L. Benoit  
Project Director

9-14-2011

Date

MOA REGARDING THE PROPOSED RICE SOLAR ENERGY PROJECT

INVITED SIGNATORIES:

THE CALIFORNIA ENERGY COMMISSION

---

Robert Oglesby  
Executive Director

---

Date

MOA REGARDING THE PROPOSED RICE SOLAR ENERGY PROJECT

CONCURRING PARTIES:

[ *Signature page for each participating tribe* ]

---

Name:  
Title:

---

Date