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**PROPOSED FINAL
PROGRAMMATIC AGREEMENT
AMONG
THE BUREAU OF LAND MANAGEMENT – CALIFORNIA,
THE CALIFORNIA OFFICE OF HISTORIC PRESERVATION,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
REGARDING RENEWABLE ENERGY DEVELOPMENT ON A PORTION OF PUBLIC
LANDS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT -
CALIFORNIA**

WHEREAS, in August 2005, the United States Congress enacted the Energy Policy Act of 2005, Public Law 109-58. In Section 211 of this Act, Congress directed that the Secretary of the Interior (the “Secretary”) should, before the end of the 10-year period beginning on the date of enactment of the Act, seek to have approved non-hydropower renewable energy projects located on the public lands with a generation capacity of at least 10,000 megawatts of electricity; and

WHEREAS, by Secretarial Order No. 3285 issued March 11, 2009, amended February 22, 2010, the Secretary stated as policy that encouraging the production, development, and delivery of renewable energy is one of Department of the Interior’s (DOI) highest priorities and that agencies and bureaus within the DOI will work collaboratively with each other, and with other Federal agencies, departments, states, local communities, and private landowners to encourage the timely and responsible development of renewable energy and associated transmission while protecting and enhancing the Nation’s water, wildlife, and other natural resources; and

WHEREAS, by Secretarial Order No. 3330 issued October 31, 2013 the Secretary established a department-wide mitigation strategy to ensure consistency and efficiency in the review and permitting of infrastructure development projects and in conserving our Nation's valuable natural and cultural resources by (1) using a landscape-scale approach to identify and facilitate investment in key conservation priorities in a region, (2) early integration of mitigation considerations in project planning and design, (3) ensuring the durability of mitigation measures over time, (4) ensuring transparency and consistency in mitigation decisions, and (5) a focus on mitigation efforts that improve the resilience of our Nation's resources in the face of climate change; and

WHEREAS, to achieve the goals established by Congress in Section 211 of Public Law 109-58, to support the Secretary’s declaration of policy in Secretarial Orders No. 3285 and 3330, and to support the goals of the Bureau of Land Management to encourage appropriate development of renewable energy on public lands, the Bureau of Land Management and the Department of Energy utilized the analysis in the six state Solar Programmatic Environmental Impact Statement (Solar PEIS) to inform withdrawal and land use planning decisions, including whether to identify design features to reduce the environmental impacts of solar development on public lands; and

WHEREAS, the Solar PEIS analysis was used to support the development of a technology-specific Section 106 Programmatic Agreement (Solar PA) for right-of-way (ROW) applications for projects on public lands managed by the Bureau of Land Management in six states where the

47 Bureau of Land Management is the lead federal agency (available online at:
48 http://solareis.anl.gov/documents/docs/Solar_PA.pdf); and

49
50 **WHEREAS**, the Bureau of Land Management – California (BLM) intends to further refine the
51 approach of the Solar PEIS and Solar PA on lands administered by the BLM within the
52 boundaries of the Desert Renewable Energy Conservation Plan (DRECP) by amending the Solar
53 PEIS through its land use planning process and replacing the Solar PA with a Programmatic
54 Agreement (Agreement) that accommodates all renewable energy projects, which for the
55 purposes of this Agreement includes any renewable energy project or transmission line ROW
56 application and any connected actions, for solar, wind, geothermal production, and transmission
57 lines that also includes appurtenant facilities (renewable energy projects), and provides
58 additional, locally developed management considerations in California; and

59
60 **WHEREAS**, to achieve the goals established by Congress in Section 211 of Public Law 109-58,
61 to support the Secretary’s declaration of policy in Secretarial Orders No. 3285 and 3330, and to
62 support the goals of the BLM to encourage appropriate development of renewable energy on
63 public lands, the BLM is proposing to amend the California Desert Conservation Area (CDCA)
64 Plan, and portions of the Bakersfield Resource Management Plan (RMP), and the Bishop RMP
65 that are within the boundaries of the DRECP via a BLM Land Use Plan Amendment (LUPA);
66 and

67
68 **WHEREAS**, the BLM has prepared an environmental impact statement (EIS) under the National
69 Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*) for the LUPA to identify
70 alternatives for the purposes of NEPA and comparatively examined the relative effects of the
71 alternatives to inform the agency’s consideration of future specific renewable energy projects,
72 including the possible identification of Development Focus Areas (DFAs) and lands where
73 renewable energy project development may occur; and,

74
75 **WHEREAS**, the BLM has provided the public opportunities to comment on the LUPA through
76 NEPA process consistent with 36 C.F.R. § 800.2(d)(3), including public scoping meetings and
77 public meetings held in November and December 2011, April and May 2013, and October,
78 November, and December 2014; release of a Description and Comparative Evaluation of Draft
79 DRECP Alternatives in December 2012; and a public website with additional information. All
80 public materials included information about the National Historic Preservation Act (NHPA) and
81 the Section 106 process, and the BLM considered comments received through the NEPA and
82 NHPA processes concerning cultural resources in the development of this Agreement.; and

83
84 **WHEREAS**, through the Record of Decision (ROD), the BLM will determine whether to amend
85 BLM land use plans to include:

- 86
- 87 ▪ Areas suitable for renewable energy project development (DFAs);
 - 88 ▪ Areas potentially available for renewable energy project development (Variance Process
89 Lands or VPLs);
 - 90 ▪ Areas to be managed for biological, cultural, and scientific conservation (National
91 Conservation Lands or NCLs, Areas of Critical Environmental Concern or ACECs, and
 Wildlife Allocation areas);

- 92 ▪ Areas to be managed for recreational use (Special Recreation Management Areas or
93 SRMAs);
94 ▪ Areas that will continue to be managed for multiple use without a specified allocation
95 (unallocated land);
96 ▪ Establish basic avoidance, minimization, compensation, conservation, and mitigation
97 requirements (Conservation Management Actions or CMAs) for renewable energy
98 development within the LUPA to ensure the most environmentally responsible
99 development and delivery of renewable energy; and

100

101 **WHEREAS**, any terms and conditions established by the ROD will apply to new applications
102 for renewable energy project development as defined in the ROD. The stipulations of this
103 Agreement will also apply to those same applications; and

104

105 **WHEREAS**, the BLM has determined that its LUPA is an undertaking subject to Section 106 of
106 the NHPA at 54 U.S.C. § 306108, and its implementing regulations at 36 C.F.R. § 800 (2004);
107 and

108

109 **WHEREAS**, the BLM has determined that its LUPA decisions consistent with the DRECP
110 constitutes a controversial and non-routine undertaking where the effects may be regional in
111 scope and cannot be fully determined prior to approval of the Undertaking, and the BLM
112 proposes the development and approval of a Programmatic Agreement under 36 C.F.R. §
113 800.14(b)(3), which meets the threshold of review by the Advisory Council on Historic
114 Preservation (ACHP) under Component 5(b) and (c) of the *National Programmatic Agreement*
115 *among the BLM, ACHP, and National Conference of State Historic Preservation Officers*
116 (hereinafter referred to as the *National Programmatic Agreement*); and

117

118 **WHEREAS**, pursuant to the *National Programmatic Agreement* and 36 C.F.R. § 800.6(a)(1)(c),
119 the BLM has notified the ACHP that some implementation activities allowed by the LUPA have
120 the potential for adverse effects and of the BLM's intent to develop this Agreement, and the
121 ACHP has elected to participate by formal notification received October 22, 2013 and is a
122 Signatory to this Agreement; and

123

124 **WHEREAS**, the BLM has consulted with the California State Historic Preservation Office
125 (SHPO) regarding the LUPA pursuant to 36 C.F.R. § 800. Because the effects of the LUPA's
126 implementation on historic properties cannot be fully determined prior to the Undertaking's
127 approval, the BLM has chosen to assess potential adverse effects from the Undertaking and
128 provide for the resolution of any such effect through the implementation of this Agreement
129 consistent with 36 C.F.R. § 800.14(b)(3); and

130

131 **WHEREAS**, the BLM has consulted with the SHPO and the ACHP pursuant to 36 C.F.R. §
132 800.14(b)(3), and following the procedures outlined at 36 C.F.R. § 800.6, has developed the
133 process outlined in this Agreement to govern the BLM's compliance with Section 106 of the
134 NHPA during implementation of the LUPA; and

135

136 **WHEREAS**, pursuant to the special relationship between the Federal Government and federally
137 recognized Indian tribes (codified in Section 101(d)(6)(B) of the NHPA, 36 C.F.R. §

138 800.2(c)(2)(ii), the American Indian Religious Freedom Act (AIRFA), Executive Orders 13007
139 and 13175, and Section 3(c) and Section 12 of the Native American Graves Protection and
140 Repatriation Act (NAGPRA)) the BLM is responsible for government-to-government
141 consultation with federally recognized Indian tribes; and

142
143 **WHEREAS**, the BLM has formally notified and invited federally recognized Indian tribes
144 (Tribes) (see Appendix A) with interests in the lands managed by the BLM to consult on the
145 LUPA, the development of this Agreement, and to participate in this Agreement as Concurring
146 Parties; and

147
148 **WHEREAS**, the BLM has formally notified and invited non-federally recognized tribes and
149 tribal organizations (Tribal Organizations) (see Appendix A) with interests in the lands managed
150 by the BLM to consult on the LUPA, the development of this Agreement, and to participate in
151 this Agreement as Concurring Parties; and

152
153 **WHEREAS**, the BLM has invited the Tribes to participate in Tribal Federal Leadership
154 Conferences between September 2011 and September 2015 to identify issues, concerns, and
155 interests and to share information regarding any and all resources within the DRECP plan area
156 pertinent to renewable energy project development, natural and cultural resource conservation,
157 and to solicit information pertinent to renewable energy project development and land use
158 planning, and the BLM considered this information in the preparation of the LUPA EIS; and

159
160 **WHEREAS**, the BLM has consulted and will continue to consult with the Tribes and Tribal
161 Organizations on the LUPA and the development of this Agreement, and will continue to consult
162 with the Tribes and Tribal Organizations throughout the implementation of this Agreement,
163 regarding historic properties to which they attach religious and cultural significance. The BLM
164 will carry out its responsibilities to consult with Tribes and Tribal Organizations that request
165 such consultation with the further understanding that, notwithstanding any decision by these
166 Tribes and Tribal Organizations to decline concurrence, the BLM shall continue to consult with
167 these Tribes and Tribal Organizations throughout the implementation of this Agreement,
168 pursuant to Stipulation II; and

169
170 **WHEREAS**, the BLM has invited federal and state government agencies (see Appendix A) with
171 interests in the lands managed by the BLM to consult on the LUPA and to participate in this
172 Agreement as Concurring Parties; and

173
174 **WHEREAS**, the BLM has invited local governments (see Appendix A) with interests in the
175 lands managed by the BLM to consult on the LUPA and to participate in this Agreement as
176 Concurring Parties; and

177
178 **WHEREAS**, the BLM has invited organizations and individuals (see Appendix A) with interests
179 in the lands managed by the BLM to consult on the LUPA and to participate in this Agreement
180 as Concurring Parties; and

181
182 **WHEREAS**, signing of this Agreement by a Concurring Party indicates participation in the
183 Section 106 consultations and acknowledgment that their party's views were taken into

184 consideration, but does not indicate approval of the outcome of NEPA analysis for the LUPA nor
185 does it indicate a preference for or endorsement of a specific alternative; and

186
187 **WHEREAS**, for the purposes of this Agreement, “Consulting Parties” collectively refers to the
188 Signatories, Concurring Parties, and all Tribes or Tribal Organizations regardless of their
189 decision to sign this Agreement as a Concurring Party; and

190
191 **WHEREAS**, This Agreement does not negate or supersede any other Memorandum of
192 Agreement (MOA) or Programmatic Agreement (PA) governing the LUPA Area, pursuant to 36
193 C.F.R. Part 800, with the exception of the Solar PA. If any MOA or PA in effect at the time this
194 Agreement is executed is found to be in conflict with this Agreement, the respective Signatories
195 will confer to resolve the conflict per Stipulation X of this Agreement. If the resolution results in
196 a proposed amendment to this Agreement, the provisions under Stipulation IX will be followed;
197 and

198
199 **WHEREAS**, the provisions of this Agreement apply to future, site-specific renewable energy
200 project applications when the BLM is the lead federal agency and the application is for
201 renewable energy projects on BLM administered public lands within the LUPA Area, and
202 connected actions; and

203
204 **NOW, THEREFORE**, the BLM, SHPO, and ACHP mutually agree that the BLM will carry out
205 its Section 106 responsibilities with respect to any future renewable energy project development
206 within the LUPA Area in accordance with the following stipulations.

207
208 **DEFINITIONS**

209
210 Terms used in this Agreement are defined in Appendix B. All other terms not defined have the
211 same meaning as set forth in the regulations at 36 C.F.R. § 800.16.

212
213 **STIPULATIONS**

214
215 The BLM shall ensure that the following measures are carried out:

216 **I. APPLICABILITY**

217
218 **A. General Purpose.**

- 219
220 1. The LUPA establishes a framework for permitting for all renewable energy
221 project and transmission line ROW applications and portions of any connected
222 actions, for solar, wind, geothermal production, and transmission lines that also
223 includes appurtenant facilities (renewable energy projects), on lands administered
224 by the BLM. It also includes those connected actions that may extend onto other
225 jurisdictions. This Agreement and the LUPA will inform the agency’s
226 consideration of future, site-specific, renewable energy project applications
227 including the identification of DFAs and other lands administered by the BLM
228 where renewable energy project development may occur, areas where renewable
229 energy project development will not be permitted, and development of CMAs to

230 establish basic avoidance, minimization, and mitigation requirements for
231 renewable energy project development within the DRECP LUPA Area, to ensure
232 the most responsible development of renewable energy on BLM-administered
233 public lands. A more detailed description of the BLM Undertaking and
234 corresponding maps are included in Appendix C.
235

- 236 2. This Agreement establishes the process the BLM will follow to fulfill its
237 responsibilities under Section 106 of the NHPA for site-specific, renewable
238 energy project application decisions that are implemented in accordance with the
239 decisions supported by the LUPA and BLM policy. This Agreement does not
240 provide streamlining or fast-tracking of renewable energy project applications.
241 Instead, provisions of this Agreement will be incorporated in the LUPA to ensure
242 a consistent, predictable, and timely approach to take into account the effects of
243 renewable energy project application decisions upon historic properties across the
244 LUPA Area.
245

246 B. Tiered Agreements 247

- 248 1. The BLM will execute MOAs pursuant to 36 C.F.R. § 800.6 (c), as opposed to
249 PAs, to fulfill the intent of this Agreement for site-specific, renewable energy
250 projects that result in adverse effects whenever possible. MOAs are usually based
251 upon knowledge of specific resources; therefore, resolutions of adverse effects are
252 more accurate. Where there is adequate information regarding the nature of
253 historic properties within areas of potential effect (APEs), MOAs can specify
254 avoidance, minimization, and/or mitigation measures more precisely.
255
- 256 2. Creation of new, project-specific PAs tiered from this Agreement is not
257 anticipated, but may be necessary where any of the conditions pursuant to 36
258 C.F.R. § 800.14 (b)(1) for using a PA are met. New PAs, however, are generally
259 discouraged and are not considered appropriate for most specific undertakings,
260 where determinations of eligibility and findings of effect can be completed before
261 the BLM makes a decision on the undertaking.
262

263 II. GOVERNING CONSULTATION PRINCIPLES 264

265 A. Advisory Council on Historic Preservation Consultation

266 The BLM shall invite the ACHP to participate in consultation when the following
267 thresholds for ACHP review are met: (1) non-routine interstate and/or interagency
268 projects or programs; (2) undertakings that adversely affect National Historic Landmarks
269 (NHLs); (3) undertakings that the BLM determines to be highly controversial; (4)
270 undertakings that will have an adverse effect and with respect to which disputes cannot
271 be resolved through formal agreement between BLM-SHPO, such as a MOA; and (5)
272 development and approval of program alternatives, including project-specific PAs. The
273 ACHP shall determine whether it will participate in the consultation within 15 days of
274 receipt of notice, according to the criteria set forth in Appendix A to 36 C.F.R. § 800. A
275 decision by the ACHP not to participate in Section 106 consultation does not preclude

276 ACHP entry into the process at a later time if the ACHP determines that its involvement
277 is necessary to ensure that the purposes of Section 106 are met. If the ACHP determines
278 that its involvement is necessary, the ACHP will notify the BLM and Consulting Parties
279 per 36 C.F.R. § 800.2(b)(1).
280

281 B. State Historic Preservation Office Consultation

282 The BLM shall enter into formal consultation with SHPO on all renewable energy project
283 applications within the LUPA Area pursuant to 36 C.F.R. § 800.2(c)(1). Formal
284 consultation shall be initiated during the pre-application phase of all renewable energy
285 project applications in order to facilitate early and robust coordination and consultation.
286 Consultation with SHPO shall follow the procedures outlined in this Agreement.

287 C. Coordination with other Federal Agencies

288 Any other Federal agencies that may have Section 106 responsibilities on a renewable
289 energy project application within the LUPA Area will be invited to coordinate their
290 review with the BLM pursuant to 36 C.F.R. § 800.2(a)(2). The Federal agencies will
291 consult to determine whether the BLM can act on their behalf as the lead Federal agency
292 and fulfill their collective responsibilities under Section 106. Those Federal agencies that
293 do not designate a lead Federal agency remain individually responsible for their
294 compliance under Section 106.

295 D. Secretary of the Department of the Interior

296 In accordance with 36 C.F.R. § 800.10(c), the BLM shall notify the Secretary of the
297 Department of Interior of any consultation involving an NHL and invite the Secretary to
298 participate in the consultation continuing under this Agreement.
299

300 E. Tribal Consultation
301

- 302 1. The BLM acknowledges its government-to-government responsibilities to Tribes
303 for Section 106 review and implementation of this Agreement and commits to
304 accord tribal officials the appropriate respect and dignity of their position as
305 leaders of sovereign nations. The BLM shall continue to facilitate meaningful
306 consultation with Tribes and Tribal Organizations during the development of the
307 DRECP LUPA, as well as the planning and implementation of any activities or
308 decisions that tier from the LUPA.
309
- 310 2. The BLM will engage the Tribes and Tribal Organizations in early and
311 meaningful consultation on all renewable energy project applications. The BLM
312 will consult with Tribes and Tribal Organizations at the earliest stages of the
313 proposed undertaking to gather ethnographic information, property information,
314 and other resource information to help identify areas which may be of religious
315 and cultural significance to them and which may be eligible for the National
316 Register of Historic Places (NRHP). Engaging in consultation at the earliest
317 stages of project planning will assist the BLM in identifying significant issues and

318 resources that may not be identified through the course of conventional cultural
319 resources survey and identification efforts. As part of the consultation process the
320 BLM shall endeavor to provide information and maps that are easily understood
321 by tribal representatives.
322

323 3. The BLM will continue to discuss and seek agreement with Tribes and Tribal
324 Organizations regarding processes of consultation that are clear, open, and
325 transparent and that can be used to discuss multiple projects in the most efficient
326 manner possible. If a Tribe would like government-to-government consultation
327 with the BLM on an individual basis, this request will be honored at the earliest
328 possible time. If a Tribe or Tribal Organization would like to establish regular
329 meetings with a BLM Field Office, the Tribe or Tribal Organization and the BLM
330 Field Manager should consult to develop specific procedures for consultation.
331

332 4. The BLM will encourage renewable energy project Applicants (Applicant) to
333 provide the Tribes and Tribal Organizations with opportunities to participate in
334 the archaeological surveys and construction monitoring for individual projects.
335 Participation during archaeological surveys should be coordinated by the
336 Applicant's cultural resources consultant. Procedures for participation during
337 project construction should be coordinated with all Tribes and Tribal
338 Organizations the BLM consulted with on the individual project and through the
339 development of a project-specific Tribal Participation Plan.
340

341 F. Coordination with state and local process

342 The BLM will endeavor to coordinate its responsibilities under NHPA and the Section
343 106 process with the state and local agency responsibilities under the California
344 Environmental Quality Act (CEQA) and other applicable authorities for all renewable
345 energy project applications. The BLM will also endeavor to collaborate its NRHP
346 eligibility determinations with state and local agency determinations of eligibility to the
347 California Register of Historical Resources (CRHR). To facilitate this coordination the
348 BLM has consulted with the Consulting Parties, which includes state and local agencies
349 with CEQA responsibilities, to develop this Agreement. Participation by state and local
350 agencies in the consultation for specific renewable energy project applications, and their
351 desired level of participation, will be identified by the responsible agency on a project-
352 by-project basis after receiving BLM's invitation to consult per Stipulation III (B).
353

354 G. Applicant Role

355 The BLM shall invite any Applicant that submits an application for a ROW grant on
356 public lands within the LUPA Area to construct, operate, and maintain a renewable
357 energy project, to participate in the Section 106 process pursuant to 36 C.F.R. §
358 800.2(c)(4). The Applicant will be the entity to whom the BLM may issue a ROW grant
359 related to any renewable energy project activities, and will have the responsibility for
360 carrying out the terms of any project-specific MOA or PA, with BLM oversight. The
361 BLM will therefore invite the Applicant to sign any project-specific MOA or PA as an
362 Invited Signatory pursuant to 36 C.F.R. § 800.6(c)(2)(iii) and 36 C.F.R. § 800.14(b)(3).

363 H. Additional Consulting Parties

364
365 The BLM shall involve individuals and organizations with a demonstrated interest in the
366 undertaking as provided at 36 C.F.R. § 800.2(c)(5). These parties may include
367 historical societies, archaeological societies, and other groups or individuals with a legal
368 or economic relation to the undertaking or affected properties, or due to a concern with
369 the undertaking's effects on historic properties.

370
371 I. Public Involvement

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373 The BLM shall involve the public in the Section 106 process as provided at 36 C.F.R. §
374 800.2(d) and 36 C.F.R. § 800.3(e). The BLM shall ensure that the public is informed
375 through press releases, posting of documents on the internet, or other mechanisms; about
376 the manner in which the BLM is meeting its Section 106 responsibilities, and how the
377 BLM is coordinating Section 106 with other public involvement processes including
378 NEPA as described in Stipulation II (I).

379
380 J. Section 106/NEPA Coordination

381 The BLM will endeavor to coordinate the Section 106 process with NEPA process such
382 that the agency meets its requirements under both authorities in an efficient manner. The
383 BLM will complete the Section 106 process within the timeframe of NEPA process prior
384 to the approval of all future renewable energy project ROW grants authorized pursuant to
385 this program. To facilitate this coordination the BLM will utilize the public review
386 process described in NEPA to partially meet its public involvement responsibilities under
387 NHPA.

388 **III. CONSULTATION PROCEDURES AND TIMELINES**

389
390 A. The BLM has considered the views and recommendations of the Consulting Parties
391 regarding the identification, protection, treatment, and/or management of historic
392 properties possibly affected by renewable energy projects proposed under the LUPA and
393 this Agreement and has taken this information into account in the following decision-
394 making processes:

- 395
396 1. Through the LUPA the BLM is determining which areas may be appropriate for
397 renewable energy project development based on information generated through
398 the LUPA and other existing information on historic properties, reconnaissance or
399 sample inventories, existing ethnographic information, the results of public
400 scoping, the tribal federal leadership conferences, and feedback from tribal
401 consultation. The areas potentially available for renewable energy project
402 development are identified as DFAs, VPLs, utility corridors, or unallocated public
403 lands within the LUPA Area.
404
405 2. Through the LUPA the BLM is determining which areas are not available for
406 renewable energy project development based on information generated through
407 the same process as in Stipulation III (A)(1).

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3. Areas excluded from renewable energy project development may include, but are not limited to, areas where renewable energy project development could fundamentally alter or harm the value, integrity, or experience at historic properties such as a National Historic Trail (NHT) or NHL; areas containing Traditional Cultural Properties (TCP) or sites with cultural or religious significance to a Tribe; or areas where the density or complexity of historic properties would require extremely costly programs of mitigation.
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4. In accordance with the DRECP Draft EIS/Environmental Impact Report (EIR), the DRECP Phase 1 Final LUPA EIS, the Phase 1 LUPA ROD and Stipulation III (C)(4), the BLM will encourage renewable energy project development on lands administered by the BLM and designated as DFAs or utility corridors. The BLM will also consider renewable energy project development on lands designated as VPLs or unallocated. The consultation processes and mitigation defined in the DRECP Phase 1 Final LUPA EIS and ROD and specified in this Agreement will govern the consideration and authorization of these proposed undertakings on lands administered by the BLM.
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- B. The BLM will conduct a pre-application review of, and invite potential consulting parties to consult on, all proposed renewable energy project ROW applications within the LUPA Area. Pre-application procedures include:
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1. The BLM will hold a pre-application meeting with the Applicant and invite the SHPO, Tribes and Tribal Organizations, and any other potential consulting parties to a specific renewable energy project, as identified in 36 C.F.R. § 800.2, to the meeting in order to discuss inventory or research needs to identify historic properties. The pre-application meeting must be completed prior to formal acceptance of any ROW application, and prior to initiating NEPA review process for all renewable energy projects.
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2. While the BLM may meet with Tribes and Tribal Organizations independently, the agency will invite Tribes and Tribal Organizations to participate in pre-application meetings with the Applicant to discuss and consult regarding project design, cultural resource inventory strategies, TCPs and resources with cultural or religious significance to Tribes, review of available ethnographic information, the need for project-specific ethnographic assessments, or other issues of concern.
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3. Through the ROW application review process specified in Stipulation III (C)(2), the BLM will prioritize the processing of applications within DFAs and further prioritize applications within DFAs that are also in areas with lower potential for cultural resource concerns, as defined by the cultural resources sensitivity analysis and the results of pre-application models described in Stipulation VI (A).
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4. The BLM Section 106 review process detailed in Stipulations IV and V below will be appropriately tailored to the proposed project and in accordance with this Agreement. The process described below is intended to provide flexibility while also enhancing the BLM's ability to meet its Section 106 responsibilities

450 efficiently, without compromising the consideration of effects to historic
451 properties.

452 5. The objective of consultation is to identify as early as possible any potentially
453 eligible properties, properties with cultural or religious significance to Indian
454 tribes, or other issues that may pose difficulties for the proposed undertaking and
455 future management concerns including landscape-level resources.

456 C. The following consultation timelines and parameters will apply to any future renewable
457 energy project applications within the LUPA Area:

458 1. The Section 106 review process for all proposed renewable energy project
459 applications within DFAs, as defined in Stipulation IV to this Agreement, will be
460 subject to the following timelines (see also Appendix D):

461 a) The BLM shall define the APE and proposed identification efforts in
462 accordance with Stipulation IV (A) and (B) and provide them concurrently
463 to the SHPO and project-specific consulting parties for a single 30
464 calendar day review and comment period.

465 b) The BLM shall propose determinations of eligibility and findings of effect
466 in accordance with Stipulation IV (C) and (D) and provide them
467 concurrently to the SHPO and project-specific consulting parties for
468 review and comment. The BLM shall, to the extent possible, make and
469 submit its determinations of eligibility and findings of effect in a single
470 consolidated decision for a 30 calendar day review and comment period.

471 c) The BLM will forward to the SHPO all comments received during the 30
472 day review and comment periods identified in (a) and (b) above.
473 Alternatively, a project-specific consulting party may provide their
474 comments directly to the SHPO with a copy to the BLM within the 30 day
475 comment period. The BLM will respond to any request from a project-
476 specific consulting party for consultation within the 30 day comment
477 period.

478 d) After the 30 day comment period the SHPO will have 10 calendar days to
479 provide any comments on the APE and proposed identification efforts, or
480 to comment or concur on the BLM's determinations of eligibility and
481 findings of effect. Should SHPO not comment, the BLM shall document
482 that SHPO has elected not to comment, provide notification to all project-
483 specific consulting parties, and may proceed in accordance with its
484 proposed designations. If the BLM and SHPO disagree on a proposed
485 determination of eligibility, the BLM shall seek a determination from the
486 Keeper of the National Register. If the BLM and SHPO disagree on the
487 proposed APE, identification efforts, or findings of effect the BLM and
488 SHPO shall consult to resolve the disagreement in accordance with
489 Stipulation X.

- 490 e) Where a project-specific consulting party objects to the BLM’s proposals
491 within the 30 day comment period, the BLM shall consult with the
492 objecting party and the SHPO regarding the nature of the objection and
493 reconsider. If the objection is not resolved, the BLM shall further consult
494 with the SHPO and follow the process provided at 36 C.F.R. § 800.4
495 (c)(2) and 36 C.F.R. § 800.5 (c)(2). While the consultation on the
496 objection continues, the BLM may proceed with other portions that are not
497 subject to objection.
- 498 2. Should the APE require modification as a result of a refinement in the Plan of
499 Development (POD), the BLM will consult with SHPO for no more than 15
500 calendar days to reach agreement on the new APE. The BLM will then prepare a
501 description and map(s) of the modified APE and any additional identification
502 efforts and provide them to the project-specific consulting parties within 30
503 calendar days of the day upon which agreement was reached.
- 504 3. The BLM will review its findings of effect when the sixty-percent design is
505 provided by the Applicant, and provide the results of this review to the project-
506 specific consulting parties. The sixty-percent project design is a conventional
507 engineering milestone and is developed by the Applicant in response to public
508 comment received through the ongoing NEPA process. If significant changes to
509 the project are proposed in the sixty-percent design, a supplemental NEPA or
510 additional Section 106 review may be required. Significant changes can include,
511 but are not limited to: new information, new alternatives, or changes in the
512 proposed project.
- 513 4. Renewable energy project applications proposed outside of DFAs are not given a
514 priority status for processing. For these projects, the Section 106 review timelines
515 will include the 30 day review timelines outlined in Stipulation III (C)(1) above as
516 a minimum, but consultation on the APE and identification efforts, and the
517 determinations and findings for a proposed renewable energy project may take
518 longer than 30 days each.
- 519 5. The BLM shall make reasonable attempts to contact the project-specific
520 consulting parties as defined in Stipulation II to confirm that the party has elected
521 not to comment or agrees with the course of action proposed by the BLM.
522 “Reasonable attempts” include two forms of written communication, including a
523 formal letter and/or email to the Tribal Chairperson and designated representative
524 for the Tribe; and two follow-up phone calls. Unless otherwise agreed to, the
525 BLM shall respond to any request by a project-specific consulting party for
526 information and clarification about any proposed language or element under this
527 Agreement, within 30 calendar days of receipt of the request. Where the time
528 period for review or comment has passed after such reasonable attempts, the BLM
529 may assume that the project-specific consulting parties have elected not to
530 comment and may proceed with the course of action proposed.
531

532

533 **IV. IDENTIFICATION, EVALUATION AND ASSESSMENT OF EFFECTS**

534 The BLM will conduct Section 106 review of all proposed renewable energy project applications
535 within the portions of the LUPA Area that are available for renewable energy project
536 development in accordance with the timelines established in Stipulation III (C) and with the
537 following processes:

538 A. Area of Potential Effects

539 1. The BLM will determine the APE for all individual renewable energy projects
540 proposed within the LUPA Area. The APE will be defined based on the accepted
541 POD for the proposed project. The APE for proposed projects will consider the
542 following factors:

- 543
- 544 a) Typically, the BLM may consider the ROW application area, plus any
545 buffers when defining the direct effects APE. Factors considered will
546 include all proposed temporary and permanent, surface and subsurface
547 project components. The components may include, but are not restricted
548 to: all areas where renewable energy generation components are proposed
549 to be constructed; all laydown and construction yards; all linear
550 components including access roads, gas pipelines, water pipelines,
551 transmission line corridors, etc.; all pull-areas associated with transmission
552 line corridors; any helicopter or other alternative equipment use areas; and
553 any other areas associated with project construction where historic
554 properties could sustain direct effects as a result of the project.
555
 - 556 b) For projects with large ROW application areas, where only a small portion
557 of the ROW would be directly affected by any proposed temporary and
558 permanent, surface and subsurface project components, and where historic
559 properties could sustain direct effects as a result of the project, the BLM
560 shall consider the entire ROW application area as part of the APE but may
561 further distinguish between the potential for direct and indirect effects.
562
 - 563 c) When defining the APE for indirect effects, the BLM shall consider the
564 area within which historic properties could sustain visual, auditory, and
565 atmospheric effects as a result of the project, and may extend well beyond
566 the ROW application area.
567
 - 568 d) The cumulative effects APE will entirely encompass the direct and
569 indirect APEs and can include reasonably foreseeable effects caused by
570 the undertaking that may occur later in time or be farther removed in
571 distance.
572
 - 573 e) When defining the APE, the BLM may also consider lands outside of
574 BLM administered public lands where the BLM is required to analyze
575 project impacts under NEPA and effects to historic properties under

576 NHPA as a connected action to the portion of the project proposed on
577 BLM administered public lands within the LUPA Area.

578 2. The BLM will prepare a description and map(s) of the APE and provide them to
579 the project-specific consulting parties for review and comment and will
580 concurrently request SHPO review pursuant to Stipulation III (C).
581

582 B. Identification Efforts

583
584 The BLM may require the development of the following types of cultural resources
585 studies to identify and assess adverse effects to historic properties from the construction,
586 operation, maintenance, and decommissioning of individual renewable energy projects.
587 This is not an exhaustive list and additional studies may be required, as necessary. All
588 studies listed here are described in more detail in Appendix E. Non-confidential versions
589 of final reports will be made available to the project-specific consulting parties.
590

591 1. The BLM will require the development of a BLM Class I records search and
592 literature review of existing cultural resources information. This information will
593 be used to develop a research design and work plan for all cultural resources
594 studies for the proposed project. The BLM will also develop an ethnographic
595 literature review based on the review of existing information.
596

597 a) The BLM will send the research design and work plan to the project-
598 specific consulting parties for review and comment and will concurrently
599 request SHPO review and concurrence on the proposed identification
600 efforts, pursuant to Stipulation III (C).
601

602 b) The BLM will submit the ethnographic literature review to the SHPO,
603 Tribes and Tribal Organizations for review and comment, and to seek any
604 additional information regarding resources in the APE with cultural or
605 religious significance to the Tribes.
606

607 2. The BLM will require the development of a new Class III inventory for the entire
608 direct effects APE, except where the following conditions apply: (1) where
609 reliable Class III inventory data already exist; (2) where Class III inventories
610 greater than 15 years in age may be reliable, with additional review; or (3) where
611 geomorphological or human-caused land disturbances would preclude the
612 existence of historic properties.
613

614 3. The BLM will require the development of a geo-archaeological study of the entire
615 direct effects APE. The study will consider natural and archaeological site
616 formation processes to determine the likelihood of subsurface archaeological
617 remains within the APE. The study will utilize information obtained during any
618 geotechnical testing conducted as part of the overall project design process to
619 inform this analysis.
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4. The BLM may require the development of a separate indirect effects study for the entire indirect effects APE. The study will consider indirect effects to all known historic properties and other properties identified in consultation with project-specific consulting parties within the indirect effects APE, whose NRHP significance may be adversely affected by visual, auditory, or atmospheric intrusions from the proposed project.
 5. The BLM may require the development of a separate historic built-environment study for the entire APE, if there are built-environment resources within the APE that have the potential to be historic properties.
 6. The BLM will require a peer review of the studies described in (1) through (5) above, and a final report of the peer review produced, in accordance with Stipulation VI (B)(3) of this Agreement.
 7. The BLM will consult with the Tribes and Tribal Organizations to identify any resources that have cultural or religious significance to the Tribes or Tribal Organizations. The BLM may require the development of an ethnographic assessment for the project, if the Tribes or Tribal Organizations indicate that they have additional information that should be considered in the Section 106 review and analysis.

642 C. Determinations of Eligibility

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1. Based on the results of the identification efforts described in (B) above, and the results of the peer review report identified in (B)(6), the BLM will determine if any of the cultural resources identified within the APE, including resources with cultural or religious significance to a Tribe, meets one or more of the NRHP eligibility criteria specified in 36 C.F.R. § 60.4. Resources that meet one or more criteria shall be considered historic properties.
 2. Where resources are identified that are evaluated as not eligible under Criteria A-C, and where their Criterion D values are unknown but will be avoided by project design or by implementing protection measures, the BLM will treat such resources as eligible for the NRHP under Criterion D without formal evaluation, for that project only, and their significant values will be avoided. The Applicant must submit a formal letter committing to avoidance of any resources that are unevaluated under Criterion D and avoided.
 3. The BLM will submit the agency proposed determinations of eligibility to the project-specific consulting parties for review and comment, and will concurrently request SHPO review and concurrence on the agency proposed determinations of eligibility and findings of effect pursuant to Stipulation III (C).

662 D. Findings of Effect

- 663 1. The BLM shall make findings of effect consistent with 36 C.F.R. § 800.4(d) and
664 identify the type of adverse effect for each effected property in accordance with
665 the criteria established in 36 C.F.R. § 800.5(a)(1) and (2)(i)-(vii).
666
- 667 2. The BLM will submit the agency proposed findings of effect to the project-
668 specific consulting parties for review and comment, and will concurrently request
669 SHPO review and concurrence on the agency proposed determinations of
670 eligibility and findings of effect pursuant to Stipulation III (C).

671 **V. HISTORIC PROPERTIES TREATMENT AND MANAGEMENT**

672 A. Avoidance of historic properties is the preferred method to address adverse effects and
673 the BLM will require avoidance to the maximum extent practicable. Where adverse
674 effects to historic properties from any proposed renewable energy project application
675 within the LUPA Area are identified, the BLM will execute a project-specific MOA
676 pursuant to 36 C.F.R. § 800.6 to fulfill the intent of this Agreement. Historic properties
677 will be treated and managed in accordance with the following processes:

678 1. Resolution of Adverse Effects

- 679 a) The BLM will invite the ACHP to participate in the resolution of adverse
680 effects to historic properties should any of the thresholds for ACHP
681 participation identified in Stipulation II (A) be met.
682
- 683 b) The BLM will notify and consult with the SHPO, the ACHP (if
684 participating), and project-specific consulting parties regarding the
685 resolution of adverse effects from individual projects.
686
- 687 c) The BLM will seek agreement to avoid, minimize, or mitigate adverse
688 effects to historic properties. The BLM will execute an MOA with the
689 SHPO and the ACHP (if participating) to conclude the Section 106
690 process and will file a copy with the ACHP.
691
- 692 d) The BLM will identify all mitigation measures for historic properties that
693 will be adversely affected by a specific project in an Historic Properties
694 Treatment Plan (HPTP) that will be included as an appendix to the MOA.
695 The Applicant is responsible for implementing all of the terms of the
696 MOA, with BLM oversight. Potential appendices are described in more
697 detail in Appendix D.
698
- 699 e) Where the BLM, SHPO, and ACHP (if participating) are unable to
700 execute an MOA, the BLM will follow the process at 36 C.F.R. § 800.7.

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2. Post-Review Discoveries and Unanticipated Effects

- a) The BLM, in consultation with the SHPO, the ACHP (if participating), and project-specific consulting parties, will develop a comprehensive plan to manage post-review discoveries and unanticipated effects during project construction. The plan will be attached to any project-specific MOA or PA as an appendix, and implemented by the Applicant, with BLM oversight.
- b) Should any post-review discoveries or unanticipated effects occur prior to the development of a monitoring plan, or where an MOA or PA for a specific project has not been executed, the BLM shall follow the process at 36 C.F.R. § 800.13(b).

3. Treatment of Human Remains of Native American Origin

- a) The BLM shall ensure that any Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony discovered on federal lands shall be treated in accordance with the provisions of NAGPRA and its implementing regulations at 43 CFR Part 10.
- b) In consultation with the Tribes and Tribal Organizations for the specific undertaking, the BLM shall seek to develop a written plan of action pursuant to 43 C.F.R. 10.5(e) to manage the inadvertent discovery or intentional excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony.
- c) The BLM shall ensure that the Native American Heritage Commission is notified so that Native American human remains and/or funerary objects discovered on non-federal 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).
- d) Once the BLM has verified that the requirements of the NAGPRA or California state laws have been met, the BLM may authorize the Applicant to resume operations in the vicinity of the discovery.

4. Historic Properties Management

The BLM shall ensure that an Historic Properties Management Plan (HPMP) will be developed for all projects where historic properties require long term management. The HPMP will be developed in consultation with the SHPO, the ACHP (if participating), and project-specific consulting parties. The HPMP will identify how historic properties will be managed through project Operations and Maintenance, and Decommissioning. The Applicant is responsible for implementing the terms of the HPMP, with BLM oversight.

744 B. Creation of new PAs tiered from this Agreement are generally discouraged and are not
745 anticipated, but may be appropriate where any of the conditions pursuant to 36 C.F.R. §
746 800.14(b)(1) for using a PA are met. Where the BLM determines that a project-specific
747 PA is necessary, the BLM may develop a project-specific PA that tiers from this
748 Agreement, executed pursuant to 36 C.F.R. § 800.14(b) and consistent with Stipulation I
749 (B)(2) herein, instead of following the process outlined in Subpart A above.

750 1. The BLM will notify the ACHP, SHPO, Tribes and Tribal Organizations, and
751 other potential consulting parties of its intent to develop a project-specific PA and
752 invite the parties to participate in its development as appropriate pursuant to 36
753 C.F.R. § 800.2(c) to consult and participate in the development of the PA.

754 2. The PA shall be consistent with requirements of 36 C.F.R. § 800.14 (b). It shall
755 address, but is not limited to, determination of the APE; a process for
756 identification and evaluation of historic properties; consideration of provisions
757 requiring ethnographic data collection; determination of adverse effects to historic
758 properties; a process for incorporating design changes to avoid or minimize
759 adverse effects to historic properties; development of an HPMP for those projects
760 with historic properties that require management or monitoring for avoidance and
761 protection within or near a project’s boundaries; a process for development and
762 implementation of an HPTP for incorporating methods for avoiding, minimizing,
763 or mitigating adverse effects; and processes for amending the PA, resolving
764 disagreements, and terminating the PA. The Applicant is responsible for
765 implementing all of the terms of the PA, with BLM oversight.

766 VI. CONSERVATION MANAGEMENT ACTIONS

767
768 The CMAs in this section are consistent with the general purpose of this Agreement detailed in
769 Stipulation I. These CMAs do not replace the adverse effect resolution measures that will be
770 developed in consultation on individual renewable energy projects. Instead, these CMAs provide
771 a programmatic framework for specific regional scale commitments that the BLM is making to
772 avoid, minimize, and mitigate cumulative effects to historic properties associated with renewable
773 energy project development in the LUPA Area.

774 A. Cultural Resources Sensitivity Analysis

775
776
777 1. Renewable energy project Applicants will consider the results of a cultural
778 resources sensitivity analysis using the BLM geodatabase of recorded
779 archaeological sites and other known resources as part of the initial planning pre-
780 application process described in Stipulation III (B). The cultural resources
781 sensitivity analysis is to be used to select specific footprints for further
782 consideration that will minimize impacts to recorded cultural resources including
783 places with cultural and religious significance to Tribes. If the proposed project
784 footprint lies within an area identified or forecast as sensitive for cultural
785 resources the Applicant must provide justification in the application for why the
786 project merits further consideration. The justification from the Applicant to
787 proceed with an application will be project and resource specific, and is intended

788 to inform the Consulting Parties. Sensitivity analysis will not replace required
789 project-specific identification efforts but rather is intended to identify resource
790 patterns. Details revealing specific cultural resources or other information will
791 remain confidential and this process will remain consistent with Stipulation VIII
792 (C).
793

- 794 2. A committee comprised of a subset of the Consulting Parties will be established
795 to work with the BLM to define how the data from recorded archaeological sites
796 and other known resources in the geodatabase will be used and depicted as more
797 sensitive or less sensitive for cultural resources so that the general information can
798 be used by Applicants during the initial planning pre-application process. At a
799 minimum, the committee will include at least one representative from each of the
800 following interest groups: SHPO, Tribes and Tribal Organizations, other agencies,
801 archaeological and historic preservation groups, and Applicants.
802
- 803 3. The committee will develop this process within one year, or other period as
804 determined by the Signatories, of execution of this Agreement. A summary of
805 how the cultural resources sensitivity analysis was developed for use in the pre-
806 application process will be provided to all Consulting Parties for a 30 day review
807 and comment period. After the 30 day review and comment period, the BLM will
808 consider all comments received, revise the process as appropriate, and provide the
809 final summary to all Consulting Parties. Details regarding the development and
810 implementation of the sensitivity analysis will be included as Appendix F to this
811 Agreement. Renewable energy project applications processed after the execution
812 of this Agreement but prior to the development of the sensitivity analysis will not
813 benefit from the analysis, but will use information obtained from the project-
814 specific identification efforts as described in Stipulation IV (B).
815
- 816 4. In accordance with the reporting intervals described in Stipulation VII, the BLM
817 will provide a report of the status of the geodatabase and its use for informing the
818 pre-application to the Consulting Parties.
819

820 B. Peer Review Process

821

- 822 1. When the BLM accepts a renewable energy project application, the Applicant will
823 hire a third-party cultural resources consultant to provide cultural resources
824 technical support to the BLM. This support will include, but not be limited to,
825 assisting the BLM as needed throughout the processes identified in Stipulations IV
826 and V. The BLM must review and approve the scope of work for the third-party
827 cultural resources consultant's services. Third-party cultural resources consultants
828 must meet the same permitting requirements as the cultural resources consultant,
829 consistent with Stipulation VIII (A), and report directly to the BLM lead
830 archaeologist for the project. The purpose of the third-party peer review is to
831 ensure information accuracy and consistency with all BLM requirements and to
832 assist the BLM in meeting its Section 106 compliance requirements.
833

- 834 2. Third-party peer reviews may include, but are not limited to the following
835 activities:
836
837 a) Review of all documents developed for a project.
838
839 b) Review of all fieldwork conducted by the cultural resources consultants,
840 including on-site check-ins during fieldwork and post-fieldwork field
841 verification assessments.
842
843 c) Third party consultant may also complete other tasks to assist the BLM
844 with meeting its Section 106 compliance requirements including, but not
845 limited to: drafting letters, meeting coordination, and consulting party
846 coordination.
847
848 3. The results of the field verification and review of the information presented in the
849 technical report will be documented in a summary report to be submitted to the
850 BLM within 60 days of completion of the peer review of those components. The
851 BLM will review and approve the final third-party peer review report.
852
853 4. The BLM will consider the information presented in the third-party peer review
854 when making determinations and findings for the project consistent with
855 Stipulation IV (A)(3) and (4).
856

857 C. Compensatory Mitigation Fee for Cumulative Effects
858

- 859 1. The BLM will impose a compensatory mitigation fee for all approved renewable
860 energy projects within the LUPA Area to address cumulative and some indirect
861 adverse effects to historic properties. The mitigation fee will be calculated in a
862 manner that is commensurate to the size and regional impacts of the project, the
863 details of which will be established in Appendix G.
864
865 2. The same committee identified in Stipulation VI (A)(2) for the development of
866 the Cultural Resources Sensitivity Analysis in Appendix E will establish how
867 compensatory mitigation fees will be used. Individual mitigation efforts will be
868 organized along one of four broad themes within the LUPA Area:
869
870 a) Regional research to address gaps in knowledge or to address synthesis of
871 regional data
872
873 b) Education, training, interpretation, and outreach regarding cultural
874 resources
875
876 c) Maintenance/retention of social and cultural heritage values of people
877 affiliated with LUPA Area
878

- 879 d) Acquisitions of additional land to be brought into Federal conservation
880 within the LUPA Area due to important cultural values
881
- 882 3. The committee will develop a process for the management and use of the
883 compensatory mitigation fees within six months, or other period as determined by
884 the Signatories, of execution of this Agreement and provide to all Consulting
885 Parties for a 30 day review and comment period. After the 30 day review and
886 comment period, the BLM will consider all comments received, revise the
887 document as appropriate, and provide the final version to all Consulting Parties.
888 The final document will be included as Appendix F to this Agreement.
889
- 890 4. In accordance with the reporting intervals described in Stipulation VII the BLM
891 will provide a report on the status of all activities funded with compensatory
892 mitigation fees, a review of the effectiveness of ongoing activities, and discuss
893 future activities with the Consulting Parties.
894

895 D. Cultural Resources Training

- 896
- 897 1. The BLM will facilitate training in Section 106 of the NHPA and construction
898 compliance for all Consulting Parties, and all future project-specific consulting
899 parties, to enhance the consultation process for all renewable energy projects by
900 encouraging better information sharing and communication. This training will be
901 in addition to the Worker Environmental Awareness Training required by the
902 BLM for all project construction personnel.
903
- 904 a) Section 106 of the NHPA training will be funded by the regional
905 mitigation fee and will be open to all Consulting Parties, and all future
906 project-specific consulting parties, . The need for additional Section 106 of
907 the NHPA training will be assessed in the annual report identified in
908 Stipulation VII.
909 b) All approved renewable energy projects will hold a single, in-person
910 construction compliance training for all cultural resources compliance
911 personnel, including contractors, the Applicant, and the BLM prior to the
912 start of construction. Training will include an introduction to all applicable
913 cultural compliance documents and requirements for construction,
914 sensitivity training by a designated Tribal representative, and a visit to the
915 project site. This project-specific training will be funded by the Applicant,
916 approved by the BLM, and conducted by the cultural resources contractor.

917 **VII. REPORTING REQUIREMENTS**

- 918 A. The BLM acknowledges the complexity and scale of the Undertaking and will continue
919 to facilitate meaningful consultation throughout the life of this Agreement. The
920 implementation and operation of this Agreement shall be evaluated on an annual basis by
921 the Consulting Parties for the first five (5) years after the signing of the Agreement and
922 the implementation of the Undertaking. The BLM shall prepare an annual letter report
923 summarizing the fulfillment of the stipulations contained within this Agreement. The

924 report will be submitted to all Consulting Parties by January 31, 2017, for the initial
925 reporting period, and by January 31 for all subsequent reporting years.

- 926
- 927 1. The annual letter report shall include a general summary of actions processed
928 under this Agreement, a report of the implementation of the CMAs; an accounting
929 of the projects where regional mitigation fees have been collected; a description
930 of the mitigation projects that have been, or are being funded with the fee money,
931 and a discussion of additional mitigation projects that should be considered.
932
 - 933 2. If the BLM reports activity under this Agreement, the BLM may hold a
934 Consulting Parties meeting, either in-person or via a conference call, to evaluate
935 the activities conducted under this Agreement during the reporting year, discuss
936 overall trends in project implementation under this Agreement, and address
937 program-level concerns with implementation of this Agreement. The Consulting
938 Parties may provide suggestions for modifications to this Agreement based on
939 information shared at reporting meetings.
940
- 941 B. At the fifth year, the BLM shall prepare a letter report and meet with the Consulting
942 Parties to evaluate the implementation and operation of this Agreement and consult
943 regarding the reporting intervals.

944 VIII. STANDARDS AND QUALIFICATIONS

- 945
- 946 A. PROFESSIONAL QUALIFICATIONS. All actions prescribed by this Agreement shall
947 be carried out by or under the direct supervision of a person or persons meeting, at a
948 minimum, the applicable professional qualification standards set forth in the Office of
949 Personnel Management professional qualifications for archaeology and historic
950 preservation, or the Secretary of the Interior’s Professional Qualifications Standards
951 (PQS), as appropriate (48 Fed. Reg. 44739 dated September 29, 1983, and C.F.R. § 61.
952 The PQS are also available online at: [http://www.nps.gov/history/local-
953 law/arch_stnds_9.htm](http://www.nps.gov/history/local-law/arch_stnds_9.htm)). Individuals must also meet the regional experience or other
954 requirements of a BLM-issued Cultural Resources Use Permit issued under the authority
955 of Archaeological Resources Protection Act of 1979 (ARPA) (16 U.S.C. 470aa-mm) and
956 its regulations (43 CFR 7), the Antiquities Act of 1906 (P.L. 59-209; 34 Stat. 225, 16
957 U.S.C. 431-433) and its regulations (43 CFR 3), and/or the Federal Land Policy and
958 Management Act of 1976 (FLPMA)(Public Law 94-570). However, nothing in this
959 Stipulation may be interpreted to preclude any party qualified under the terms of this
960 paragraph from using the services of persons who do not meet the PQS, so long as the
961 work of such persons is directly supervised in the field and laboratory by someone who
962 meets the PQS.
963
 - 964 B. DOCUMENTATION STANDARDS. Reporting on and documenting the actions cited in
965 this Agreement shall conform to every reasonable extent with the Secretary of the
966 Interior’s Standards and Guidelines for Archeology and Historic Preservation (48 Fed.
967 Reg. 44716-40 dated September 29, 1983), as well as, the BLM 8100 Manual, the
968 Archaeological Resource Management Reports (ARMR): Recommended Contents and
969 Format (ARMR Guidelines) for the Preparation and Review of Archaeological Reports,

970 and any specific and applicable county or local requirements or report formats. This list
971 represents the guidelines available during development of this Agreement. Should the
972 guidelines be updated after the execution of this Agreement, the latest versions will take
973 precedent. In the event that any guidelines are modified in the future to conflict with this
974 Agreement, the BLM shall notify all Consulting Parties and will consult to determine
975 how this Agreement should be revised, if necessary, pursuant to Stipulation IX.
976

977 C. CONFIDENTIALITY. Information concerning the nature and location of any historic
978 property, archaeological resource (historic or prehistoric), or other confidential cultural
979 resource will be considered sensitive and protected from release under the provisions of
980 the Freedom of Information Act (FOIA)(5 U.S.C. 552, as Amended by Public Law No.
981 104-231, 110 Stat. 3048), Section 9 of ARPA(16 U.S.C. 470hh), Section 304 of the
982 NHPA (54 USC § 307103), and Executive Order 13007. For the purposes of consultation
983 under this Agreement, the Agency official may release certain information for the benefit
984 of the resource. Consideration may result in the sharing of summary reports that do not
985 contain sensitive location information. The BLM will only consider the release of
986 complete reports or other information concerning the nature and location of any historic
987 property, archaeological resource, or other confidential cultural resource to a project-
988 specific consulting party with a demonstrated interest in the information requested and a
989 signed data sharing agreement. All Consulting Parties to this Agreement will ensure that
990 all sensitive information is protected from release.
991

992 D. CURATION STANDARDS. On BLM-administered land, all records and materials
993 resulting from the actions cited in Stipulation IV and V of this Agreement shall be
994 curated in accordance with 36 C.F.R. § 79, and the provisions of the NAGPRA, 43
995 C.F.R. § 10, as applicable. To the extent permitted under Sections 5097.98 and 5097.991
996 of the California Public Resources Code, the materials and records resulting from the
997 actions cited in Stipulations IV and V of this Agreement for private lands shall be curated
998 in accordance with 36 C.F.R. § 79, with the consent of the private property owner.

999 IX. AMENDMENTS TO THE AGREEMENT

1000
1001 A. Upon receipt of a request to amend this Agreement, the BLM will immediately notify the
1002 other Consulting Parties and initiate a 30 day period in which all Parties shall consult to
1003 consider such amendments.
1004

1005 B. This Agreement may be amended when such an amendment is agreed to in writing by all
1006 Signatories. Amendments to this Agreement shall take effect on the dates that they are
1007 fully executed by the Signatories.
1008

1009 C. Modifications, additions, or deletions to the appendices made as a result of continuing
1010 consultation among the Consulting Parties do not require this Agreement to be amended.

1011 X. DISPUTE RESOLUTION

1012
1013 A. Should the Signatories object at any time to the manner in which the terms of this
1014 Agreement are implemented the BLM will immediately notify all Consulting Parties and

1015 consult with the other Signatories to resolve the objection. The other Consulting Parties
1016 may comment on the objection to the BLM.

- 1017
- 1018 1. If the objection can be resolved within a 30 day consultation period (or other
1019 period as determined by the Signatories), the BLM may authorize the disputed
1020 action to proceed in accordance with the terms of such resolution.
1021
 - 1022 2. If the objection cannot be resolved through such consultation, the BLM will
1023 forward all documentation relevant to the objection to the ACHP. Any comments
1024 provided by the ACHP within 30 days after its receipt of all relevant
1025 documentation will be taken into account by the BLM in reaching a final decision
1026 regarding the objection. The BLM will move forward based on its final decision
1027 and will notify all Consulting Parties in writing of its final decision within 14 days
1028 after it is rendered.
1029

1030 B. The BLM’s responsibility to carry out all other actions under this Agreement that are not
1031 the subject of the objection will remain unchanged.
1032

1033 C. At any time during implementation of the terms of this Agreement, should an objection
1034 pertaining to this Agreement be raised by a Concurring Party, the BLM shall immediately
1035 notify all Consulting Parties, in writing, consult with the SHPO about the objection, and
1036 take the objection into account. The other Consulting Parties may comment on the
1037 objection to the BLM. The BLM shall consult with the objecting party for no more than
1038 30 days. Within 14 days following closure of consultation, the BLM will render a final
1039 decision regarding the objection, taking into account all comments from the parties
1040 regarding the objection, and proceed accordingly after notifying all parties of its decision,
1041 in writing.

1042 **XI. TERMINATION**

1043

1044 A. If any Signatory to this Agreement determines that its terms will not or cannot be carried
1045 out, that party shall immediately consult with the other parties to attempt to develop an
1046 amendment per Stipulation IX above.
1047

1048 B. If within sixty (60) days an amendment cannot be developed, a Signatory to this
1049 Agreement may initiate termination by providing written notice to the other parties of
1050 their intent.
1051

1052 C. Should this Agreement be terminated the BLM may execute a new Memorandum of
1053 Agreement pursuant to 36 CFR 800.6 or Programmatic Agreement pursuant to 36 CFR
1054 800.14(b); or request, take into account, and respond to the comments of the ACHP
1055 pursuant to 36 CFR 800.7. The BLM shall notify the Consulting Parties to this
1056 Agreement as to the course of action it will pursue.

1057
1058
1059

1060 **XII. DURATION OF THE AGREEMENT**

1061

1062 A. Unless this Agreement is terminated pursuant to Stipulation XI, this Agreement will
1063 remain in full force and effect for twenty (20) years from the date of its execution.

1064

1065 B. This Agreement will expire if the LUPA or the stipulations of this Agreement have not
1066 been initiated within five (5) years from the date of its execution. Prior to such time, the
1067 BLM will consult with the Consulting Parties on whether to extend this Agreement or
1068 reconsider the terms of this Agreement and amend it in accordance with Stipulation IX.
1069 The BLM shall notify the Consulting Parties as to the course of action it will pursue 90
1070 days before the 5-year anniversary of the execution of this Agreement.

1071

1072 **XIV. EFFECTIVE DATE**

1073

1074 This Agreement will take effect on the date that it has been executed by the Signatories.
1075 This Agreement and any amendments thereto shall be executed in the following order:
1076 (1) BLM, (2) SHPO, and (3) ACHP.

1077

1078 Execution of this Agreement by the BLM, the SHPO, and the ACHP, and subsequent
1079 implementation of its terms, shall evidence that the BLM has taken into account the
1080 effects of the Undertaking on historic properties and that BLM has afforded the ACHP an
1081 opportunity to comment on the Undertaking and its effects on historic properties.

1082

1083 The remainder of this page is blank.

1084 **SIGNATORY PARTIES**

1085

1086 U.S. BUREAU OF LAND MANAGEMENT

1087

1088

1089

1090

1091 James G. Kenna Date

1092 State Director

1093

1094

1095 CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

1096

1097

1098

1099

1100 Julianne Polanco Date

1101 State Historic Preservation Officer

1102

1103

1104 ADVISORY COUNCIL ON HISTORIC PRESERVATION

1105

1106

1107

1108

1109 John M. Fowler Date

1110 Executive Director

1111 Advisory Council on Historic Preservation

1112

1113 **Concurring Party**

1114 NAME OF CONCURRING PARTY

BY: _____ DATE: _____

TITLE: _____

1115
1116
1117
1118
1119
1120
1121

This is an example Concurring Party signature page
Each Consulting Party listed in Appendix A will have a separate signature page in this format

1122
1123
1124

**APPENDIX A:
INVITED CONSULTING PARTIES**

APPENDIX A

List of parties notified and invited to consult on the development of this Agreement

- 1125
1126
1127
1128 Federally Recognized Indian Tribes
1129 Agua Caliente Band of Cahuilla Indians
1130 Augustine Band of Cahuilla Indians
1131 Barona Band of Mission Indians
1132 Big Pine Tribe of the Owens Valley
1133 Bishop Paiute Tribe
1134 Cabazon Band of Mission Indians
1135 Cahuilla Band of Mission Indians
1136 Campo Band of Mission Indians
1137 Chemehuevi Indian Tribe
1138 Cocopah Indian Tribe
1139 Colorado River Indian Tribes
1140 Ewiiapaayp Band of Kumeyaay Indians
1141 Fort Independence Band of Paiute Indians
1142 Fort Mojave Indian Tribe
1143 Fort Yuma Quechan Tribe
1144 Inaja-Cosmit Band of Mission Indians
1145 Jamul Indian Village
1146 La Jolla Band of Luiseno Indians
1147 La Posta Band of Kumeyaay Indians
1148 Las Vegas Tribe of Paiute Indians
1149 Lone Pine Paiute-Shoshone Tribe
1150 Los Coyotes Band of Cahuilla and Cupeno Indians
1151 Manzanita Band of Kumeyaay Indians
1152 Mesa Grande Band of Mission Indians
1153 Moapa Band of Paiute Indians
1154 Morongo Band of Mission Indians
1155 Pala Band of Mission Indians
1156 Pauma/Yuima Band of Mission Indians
1157 Pechanga Band of Mission Indians
1158 Ramona Band of Mission Indians
1159 Rincon Luiseno Band of Indians
1160 San Manuel Band of Mission Indians
1161 San Pasqual Band of Diegueno Indians
1162 Santa Rosa Band of Mission Indians
1163 Santa Ynez Band of Mission Indians
1164 Santa Ysabel Band of Diegueno Indians
1165 Soboba Band of Luiseno Indians
1166 Sycuan Band of Kumeyaay Nation
1167 Tejon Indian Tribe
1168 Timbisha Shoshone Tribe
1169 Torres-Martinez Desert Cahuilla Indians
1170 Tule River Reservation

- 1171 Twenty-Nine Palms Band of Mission Indians
- 1172 Utu Utu Gwaitu Paiute Tribe
- 1173 Viejas Band of Kumeyaay Indians
- 1174
- 1175 Non-Federally Recognized Indian Tribes and Tribal Organizations
- 1176 Kawaiisu Tribe
- 1177 Kern Valley Indian Council
- 1178 Kern Valley Paiute Council
- 1179 Kwaaymii Laguna Band of Indians
- 1180 Monache Intertribal Association
- 1181 Pahrump Paiute Tribe
- 1182 Tubatulabals of Kern Valley
- 1183
- 1184 Federal Agencies
- 1185 Bureau of Indian Affairs
- 1186 National Park Service - Pacific West Region
 - 1187 Death Valley National Park
 - 1188 Joshua Tree National Park
 - 1189 Juan Bautista De Anza National Historic Trail
 - 1190 Manzanar National Historic Site
 - 1191 Mojave National Preserve
 - 1192 Old Spanish National Historic Trail
- 1193 U.S. Environmental Protection Agency
- 1194 U.S. Fish and Wildlife Service - National Wildlife Refuge System
 - 1195 Ash Meadows National Wildlife Refuge
 - 1196 Coachella National Wildlife Refuge
 - 1197 Salton Sea National Wildlife Refuge
- 1198 U.S. Forest Service – Region 5
 - 1199 Angeles National Forest
 - 1200 Cleveland National Forest
 - 1201 Inyo National Forest
 - 1202 San Bernardino National Forest
 - 1203 Sequoia National Forest
- 1204 Department of Defense:
 - 1205 U.S. Air Force
 - 1206 Edwards Air Force Base
 - 1207 Chocolate Mountain Aerial Gunnery Range
 - 1208 U.S. Army - Office of the Deputy Assistant Secretary
 - 1209 U.S. Marine Corps - Installations West
 - 1210 Air Ground Combat Center, Twentynine Palms
 - 1211 Marine Corps Air Station, Yuma, Arizona
 - 1212 Marine Corps Logistics Base Barstow
 - 1213 U.S. Navy Region - Southwest
 - 1214 Naval Air Weapons Station China Lake
 - 1215 Naval Air Facility El Centro
- 1216 U.S. Army Corps of Engineers

- 1217 State Agencies
- 1218 California Department of Fish and Wildlife
- 1219 California Department of Transportation
 - 1220 District 6
 - 1221 District 7
 - 1222 District 8
 - 1223 District 9
 - 1224 District 11
- 1225 California Energy Commission
- 1226 California Historic Resources Information Centers
 - 1227 Eastern Information Center
 - 1228 South Coastal Information Center
 - 1229 Southern San Joaquin Valley Info Center
- 1230 California Independent System Operator
- 1231 California Public Utilities Commission
- 1232 California State Lands Commission
- 1233 California State Parks
- 1234 Governor's Office of the Tribal Advisor
- 1235 Native American Heritage Commission
- 1236 State Historic Resources Commission
- 1237
- 1238 Local Agencies
- 1239 Counties:
 - 1240 Imperial County
 - 1241 Inyo County
 - 1242 Kern County
 - 1243 San Bernardino County
 - 1244 San Diego County
- 1245 Cities:
 - 1246 City of California City
 - 1247 City of Hesperia
 - 1248 City of Lancaster
 - 1249 City of Victorville
- 1250 Water/Irrigation Districts:
 - 1251 Antelope Valley-East Kern Water Agency
 - 1252 Apple Valley Ranchos Water Company
 - 1253 California Water Service Company
 - 1254 Hi-Desert Water District
 - 1255 Indian Wells Valley Water District
 - 1256 Inyo County Water Department
 - 1257 Imperial Irrigation District
 - 1258 Joshua Basin Water District
 - 1259 Lake Elizabeth Mutual Water Company
 - 1260 Littlerock Creek Irrigation District
 - 1261 Los Angeles County Waterworks Districts
 - 1262 Mammoth Community Water District

- 1263 Metropolitan Water District Headquarters
- 1264 Mojave Water Agency
- 1265 Palm Ranch Irrigation District
- 1266 Palo Verde Irrigation District
- 1267 Quartz Hill Water District
- 1268 Tehachapi-Cummings County Water District
- 1269 Twentynine Palms Water District
- 1270 Victorville Water District
- 1271 Others:
- 1272 City of Tehachapi Public Works
- 1273 Death Valley Chamber of Commerce
- 1274 Golden Hills Community Services District
- 1275 Heber Public Utility District
- 1276 Lone Pine Chamber of Commerce
- 1277 Los Angeles County Planning Division
- 1278 Riverside Co Regional Parks & Open Space District
- 1279 Riverside County Planning Department
- 1280 Rosamond Community Services District
- 1281 Salton Community Services District
- 1282 San Bernardino County Department of Public Works
- 1283 San Bernardino County Special Districts Department
- 1284
- 1285 Organizations
- 1286 Alliance for Historic Landscape Preservation
- 1287 Amargosa Conservancy
- 1288 Amargosa Opera House and Hotel
- 1289 American Motorcyclist Association
- 1290 American Rock Art Research Association
- 1291 American Society of Landscape Architects
- 1292 Anza Trail Foundation
- 1293 Basin and Range Watch
- 1294 California Archaeological Site Stewardship Program
- 1295 California Archaeology Journal
- 1296 California Association of Off-Road Vehicles
- 1297 California Historic Route 66 Association
- 1298 California Missions Foundation
- 1299 California Native Plant Society
- 1300 California Off-Road Vehicle Association
- 1301 California Preservation Foundation
- 1302 California Unions for Reliable Energy (Adams Broadwell Joseph & Cardozo)
- 1303 California Wind Energy Association
- 1304 Center for Biological Diversity
- 1305 Center for Energy Efficiency & Renewable Technologies
- 1306 Conference of California Historical Societies
- 1307 Death Valley Conservancy
- 1308 Death Valley Natural History Association

- 1309 Defenders of Wildlife
- 1310 Desert Renewable Energy Tribal Coalition
- 1311 Environmental Consulting
- 1312 Friends of El Mirage
- 1313 Friends of Jawbone
- 1314 Friends of Manzanar
- 1315 Friends of Public Lands Cabins
- 1316 Friends of the Desert Mountains
- 1317 Friends of the Eastern California Museum
- 1318 Friends of the Inyo
- 1319 Historic American Landscape Survey
- 1320 Historic Roads Marriott & Associates
- 1321 Independent Civic Club
- 1322 Joshua Tree National Park Association
- 1323 Journal of California and Great Basin Anthropology
- 1324 La Cuna de Atzlan Sacred Sites Protection Circle
- 1325 Los Angeles Conservancy
- 1326 Mojave Desert Land Trust
- 1327 Mojave National Preserve Conservancy
- 1328 Morongo Basin Conservation Association
- 1329 National Historic Route 66 Federation
- 1330 National Public Lands News
- 1331 National Scenic Byway Foundation
- 1332 National Trust for Historic Preservation
- 1333 Natural Resources Defense Council
- 1334 Off-Road Business Administration
- 1335 Old Spanish Trail Association
- 1336 Research Issues in San Diego Prehistory
- 1337 Resources Law Group LLP
- 1338 Roadside Heritage
- 1339 Route 66 Preservation Foundation
- 1340 Save our Desert
- 1341 Scenic America
- 1342 Sierra Club
- 1343 Society for American Archaeology
- 1344 Society for California Archaeology
- 1345 Society for Historical Archaeology
- 1346 Society of Architectural Historians
- 1347 Southern California Railway Plaza Association
- 1348 The Archaeological Conservancy
- 1349 The California Wilderness Coalition
- 1350 The Cultural Landscape Foundation
- 1351 The Nature Conservancy
- 1352 The Wilderness Society
- 1353 The Wildlands Conservancy
- 1354 Union of Concerned Scientists

- 1355 United Four Wheel Drive Association
- 1356 USDA Natural Resources Conservation Service
- 1357
- 1358 Academic Institutions
- 1359 East Carolina University
- 1360 California State Polytechnic University Pomona
- 1361 California State University:
- 1362 Dominguez Hills Department of Anthropology
- 1363 Fullerton Department of Anthropology
- 1364 Northridge Department of Anthropology
- 1365 Sacramento Department of Anthropology
- 1366 San Marcos Department of Anthropology
- 1367 San Bernardino Department of Anthropology
- 1368 San Diego Department of Anthropology
- 1369 University of California:
- 1370 Davis Department of Anthropology
- 1371 Irvine History Department
- 1372 Los Angeles Cotsen Institute of Archaeology
- 1373 Los Angeles Department of Anthropology
- 1374 Riverside Department of Anthropology
- 1375
- 1376 Museums & Historical Societies
- 1377 Associated Historical Societies of LA County
- 1378 Autry National Center of the American West
- 1379 Bishop Museum & Historical Society
- 1380 California Garden & Landscape History Society
- 1381 Coachella Valley Archaeological Society
- 1382 Conference of California Historical Societies
- 1383 Eastern California Museum
- 1384 General Patton Museum
- 1385 Historical Society of the Upper Mojave Desert
- 1386 Imperial Valley Desert Museum
- 1387 Imperial County Historical Society Pioneers Park Museum
- 1388 Laws Museum
- 1389 Malki Museum
- 1390 Maturango Museum
- 1391 Mojave Desert Heritage & Cultural Association
- 1392 Mojave River Valley Museum
- 1393 National Railway Historical Society
- 1394 Pacific Coast Archaeological Society
- 1395 Palo Verde Historical Museum & Society
- 1396 Railway & Locomotive Historical Society
- 1397 Riverside Historical Society
- 1398 San Bernardino County Museum
- 1399 San Diego Archaeological Center
- 1400 San Diego Archaeological Society

1401 San Diego History Center
1402 Searles Valley Historical Society
1403 Shoshone Village Museum and Inn
1404 San Bernardino Historical Society
1405
1406 Industry Representatives
1407 Abengoa Solar
1408 AGG Associates
1409 Applied Earthworks
1410 ASM Affiliates
1411 Bechtel Energy
1412 Brightsource
1413 Celtic Energy
1414 EDF Renewables
1415 EnXco
1416 Far Western Archaeological Research Group
1417 First Solar
1418 Geothermal Energy Association
1419 Iberdrola Renewables
1420 Jill K. Gardner & Associates, Inc.
1421 K Road Power
1422 Large Scale Solar Association
1423 LightSource Renewables
1424 NextEra Energy Resources
1425 Pacific Gas & Electric Company
1426 Recurrent Energy
1427 Renewable Resources Group
1428 Resource Sciences and Planning
1429 Solar Reserve
1430 Sempra Energy Utilities
1431 Southern California Edison
1432 SoCal Gas
1433 Statistical Research, Inc.
1434 Tenaska
1435 TerraGen
1436
1437 Individuals
1438 Claude Warren
1439 Jim Mattern
1440 Mark Algazy
1441 Matt Bischoff
1442 Sophia Ann Merk
1443

1444
1445
1446

**APPENDIX B:
DEFINITIONS AND ACRONYMS**

1447 **APPENDIX B**
1448 **Definition of Terms**
1449

1450 **Adverse Effects:** An adverse effect is found when an undertaking may alter,
1451 directly or indirectly, any of the characteristics of a historic property that qualify the
1452 property for inclusion in the NRHP in a manner that would diminish the integrity
1453 of the property's location, design, setting, materials, workmanship, feeling, or
1454 association. Consideration shall be given to all qualifying characteristics of a
1455 historic property, including those that may have been identified subsequent to the
1456 original evaluation of the property's eligibility for the NRHP. Adverse effects may
1457 include reasonably foreseeable effects caused by the undertaking that may occur
1458 later in time, be farther removed in distance or be cumulative.
1459

1460 **Agreement:** Agreement refers to this Programmatic Agreement which has been developed to
1461 consider adverse effects to historic properties from the BLM Land Use Plan Amendment
1462 (LUPA) associated with the Desert Renewable Energy Conservation Plan (DRECP).
1463

1464 **Area of Potential Effects:** The Area of Potential Effects (APE) is defined as the total geographic
1465 area or areas within which a project may directly or indirectly cause alterations in the character
1466 or use of historic properties per 36 C.F.R. § 800.16(d). The APE is influenced by the scale and
1467 nature of an undertaking and includes those areas which could be affected by a project prior to,
1468 during and after construction.
1469

1470 **Class I – Existing Information Inventory and Overview:** A professionally prepared study that
1471 includes a compilation and analysis of all reasonably available cultural resource data and
1472 literature, and a management-focused, interpretive, narrative overview, and synthesis of the data.
1473 Full definition for all three survey classes is available in the BLM 8110 Manual.
1474

1475 **Class II – Probabilistic Field Survey:** A statistically based sample survey, designed to aid in
1476 characterizing the probable density, diversity, and distribution of cultural properties in an area, to
1477 develop and test predictive models, and to answer certain kinds of research questions. Within
1478 individual sample units, survey aims, methods, and intensity are the same as those applied in
1479 Class III survey.
1480

1481 **Class III – Intensive Field Survey:** A professionally conducted, systematic pedestrian survey of
1482 an entire target area, intended to locate and record all historic properties.
1483

1484 **Concurring Parties:** Collectively refers to consulting parties with a demonstrated interest in the
1485 DRECP LUPA, who agree, through their signature, with the terms of this Agreement. Signing of
1486 this Agreement by a Concurring Party indicates participation in the Section 106 consultations
1487 and acknowledgment that their party's views were taken into consideration, but does not indicate
1488 approval of the outcome of the NEPA analysis for the LUPA nor does it indicate a preference for
1489 or endorsement of a specific alternative. Concurring Parties may propose amendments to this
1490 Agreement.
1491

1492 **Connected Action:** Refers to any proposed project or portions of a proposed project that is
1493 located on non-federal lands, but which would require a ROW grant from the BLM to proceed,
1494 and is therefore subject to Section 106 of the NHPA review and compliance by the BLM.
1495

1496 **Conservation Management Actions (CMAs):** As part of the proposed LUPA, CMAs would
1497 include proposed changes to the existing management plans concerning cultural resources and
1498 tribal interests, as defined in this Agreement.
1499

1500 **Consulting Parties:** Collectively refers to the Signatories and Concurring Parties, and shall
1501 include Tribes or Tribal Organizations regardless of their decision to sign this Agreement.
1502

1503 **Cultural Resource:** A cultural resource is an object or definite location of human activity,
1504 occupation, use, or significance identifiable through field inventory, historical documentation, or
1505 oral evidence. Cultural resources are prehistoric, historic, archaeological, or architectural sites,
1506 structures, buildings, places, or objects and locations of traditional cultural or religious
1507 importance to specified social and/or culture groups. Cultural resources include the entire
1508 spectrum of objects and places, from artifacts to cultural landscapes, without regard to eligibility
1509 for inclusion on the National Register of Historic Places (NRHP).
1510

1511 **Cultural Resources Sensitivity Analysis:** GIS modelling of known archaeological resources to
1512 consider the archaeological sensitivity of a given area. The goal of the cultural resources
1513 sensitivity analysis is to select specific renewable energy project footprints for further
1514 consideration that will minimize impacts to cultural resources.
1515

1516 **Desert Renewable Energy Conservation Plan (DRECP):** The DRECP is an interagency strategy
1517 to provide for renewable energy projects and for the conservation of sensitive species,
1518 ecosystems, and cultural resources in California’s Mojave and Colorado/Sonoran deserts.
1519

1520 **Development Focus Areas (DFAs):** Areas available for solar, wind and geothermal development
1521 and transmission. An application within a DFA would still go through the BLM right-of-way
1522 process including environmental and Section 106 review, but would benefit from the DRECP
1523 environmental document and this Agreement. See Appendix C for more information.
1524

1525 **Evaluation:** The application of the National Register eligibility criteria, 36 CFR § 60.4.
1526

1527 **Historic Properties:** Cultural resources that are included in, or eligible for inclusion in, the
1528 NRHP maintained by the Secretary of the Interior and per the NRHP eligibility criteria at 36
1529 C.F.R. § 60.4 and may include any prehistoric or historic district, site, building, structure,
1530 traditional cultural property or object. This term includes artifacts, records, and remains that are
1531 related to and located within such properties. The term includes properties of traditional religious
1532 and cultural importance to an Indian tribe or Native Hawaiian organization that meet the NRHP
1533 criteria. The term “eligible for inclusion in the NRHP” refers both to properties formally
1534 determined as such in accordance with regulations of the Secretary of the Interior and all other
1535 properties that meet the NRHP criteria.
1536

1537 **Identification:** The general term for the component of BLM's cultural resource management
1538 program that includes locating, recording, and determining the legal, scientific, public, and
1539 conservation values of cultural resources, i.e., giving cultural resources a management identity.
1540

1541 **Inventory:** a term used to refer to both a record of cultural resources known to occur within a
1542 defined geographic area, and the methods used in developing the record. Depending on intended
1543 applications for the data, inventories may be based on (a) compilation and synthesis of
1544 previously recorded cultural resource data from archival, library, and other indirect sources; (b)
1545 systematic examinations of the land surface and natural exposures of the subsurface (survey) for
1546 indications of past human activity as represented by artificial modifications of the land and/or the
1547 presence of artifacts; and (c) the use of interviews and related means of locating and describing
1548 previously unrecorded or incompletely documented cultural resources, including those that may
1549 not be identifiable through physical examination.
1550

1551 **Lands Administered by the U.S. Department of Interior, Bureau of Land Management (BLM):**
1552 Any federal lands under the administrative authority of the BLM.
1553

1554 **Land Use Plan Amendment (LUPA):** BLM land use plan amendment developed pursuant to 43
1555 C.F.R. § 1610.4. See Appendix C for more information.
1556

1557 **Literature Review:** A literature review is one component of a BLM class I inventory, as defined
1558 in BLM Manual Guidance 8110.21(A)(1), and is a professionally prepared study that includes a
1559 compilation and analysis of all reasonably available cultural resource data and literature, and a
1560 management-focused, interpretive, narrative overview, and synthesis of the data. The overview
1561 may also define regional research questions and treatment options.
1562

1563 **Memorandum of Agreement (MOA):** The document that records the terms and conditions
1564 agreed upon to resolve the adverse effects of an undertaking upon historic properties.
1565

1566 **National Programmatic Agreement:** Agreement among the BLM, ACHP, and National
1567 Conference of State Historic Preservation Officers which defines how the BLM plans for and
1568 manages cultural resources under its jurisdiction in accordance with the spirit and intent of
1569 Section 106 of the NHPA, consistent with 36 C.F.R. § 800, and consistent with its other
1570 responsibilities for land-use planning and resource management under FLPMA, NEPA, other
1571 statutory authorities, and executive orders and policies.
1572

1573 **National Register:** The National Register of Historic Places, expanded and maintained by the
1574 Secretary of the Interior, as authorized by section 2(b) of the Historic Sites Act and section
1575 101(a)(1)(A) of the National Historic Preservation Act. The National Register lists cultural
1576 properties found to qualify for inclusion because of their local, State, or national significance.
1577 Eligibility criteria and nomination procedures are found in 36 C.F.R. § 60. The Secretary's
1578 administrative responsibility for the National Register is delegated to the National Park Service.
1579

1580 **Peer Review:** Process by which a third-party cultural resources consultant is hired to assist the
1581 BLM's review of all work conducted by the main cultural resources consultant to ensure
1582 accuracy and consistency of information provided.

1583 **Plan Amendment:** The process of considering or making changes in the terms, conditions, and
1584 decisions of approved plans. Usually only one or two issues are considered that involve only a
1585 portion of the planning areas.

1586
1587 **Programmatic Agreement (PA):** A document that records the terms and conditions agreed upon
1588 to resolve the potential adverse effects of a Federal agency program, complex undertaking or
1589 other situations in accordance with 36 C.F.R. § 800.14 (b).

1590
1591 **Project-specific consulting parties:** Project-specific consulting parties are identified in
1592 accordance with 36 C.F.R. § 800.2 (c). This includes all parties with a demonstrated interest in a
1593 specific renewable energy project application, or the historic properties located within the APE
1594 of a specific renewable energy project application, and are involved in the Section 106
1595 consultation for that project.

1596
1597 **Records Search:** A records search is one component of a BLM class I inventory and an
1598 important element of a literature review. A records search is the process of obtaining existing
1599 cultural resource data from published and unpublished documents, BLM cultural resource
1600 inventory records, institutional site files, State and national registers, interviews, and other
1601 information sources.

1602
1603 **Renewable Energy Project:** All renewable energy production and transmission right of way
1604 authorizations and portions of connected actions, for solar, wind, geothermal production, and
1605 transmission lines that also include appurtenant facilities.

1606
1607 **Signatories:** Parties that have the sole authority to execute, amend, or terminate this Agreement.
1608 Signatories to this Agreement are the BLM, SHPO, and ACHP.

1609
1610 **Solar PA:** A Section 106 Programmatic Agreement for solar energy development right-of-way
1611 applications on public lands managed by the BLM in six western states, where the BLM is the
1612 lead federal agency. Available online at: http://solareis.anl.gov/documents/docs/Solar_PA.pdf

1613
1614 **Tiering:** Tiering is a form of incorporation by reference that refers to previous documents and
1615 decisions. Tiering allows the scope of analysis for individual projects to be narrowed to focus on
1616 specific issues. All future MOAs and PAs developed for individual renewable energy projects
1617 within the LUPA Area will be tiered from this Agreement.

1618
1619 **Traditional Cultural Property (TCP):** A traditional cultural property is defined generally as a
1620 property that is important to a living group or community because of its association with cultural
1621 practices or beliefs that (a) are rooted in that community's history, and (b) are important in
1622 maintaining the continuing cultural identity of the community. It is a location that may figure in
1623 important community traditions. These places may or may not contain features, artifacts, or
1624 physical evidence, and are usually identified through consultation with the respective
1625 community. A traditional cultural property may be eligible for inclusion in the NRHP and the
1626 CRHR.

1627
1628 **Tribal Organizations:** The non-Federally recognized Indian tribes and Native American
1629 organizations that the BLM is consulting with on the BLM LUPA for Phase 1 of the DRECP.

- 1630
1631 **Tribes:** The federally recognized Indian tribes that the BLM is consulting with on the BLM
1632 LUPA for Phase 1 of the DRECP.
1633
1634 **Undertaking:** Collectively refers to all projects, activities, or programs funded in whole or in
1635 part under the direct or indirect jurisdiction of the BLM, including those carried out by or on
1636 behalf of a federal agency; those carried out by federal financial assistance; and those requiring a
1637 federal permit, license, or approval.
1638
1639 **Variance Process Lands (VPL):** These areas would be potentially available for renewable
1640 energy project development but would require a more extensive pre-application process to
1641 collect additional information before BLM makes a determination on a project application. See
1642 Appendix C for more information.

Common Acronyms

| | | |
|------|--------|--|
| 1647 | ACEC | Area of Critical Environmental Concern |
| 1648 | ACHP | Advisory Council on Historic Preservation |
| 1649 | AIRFA | American Indian Religious Freedom Act |
| 1650 | APE | Area of Potential Effects |
| 1651 | ARMR | Archaeological Resource Management Report |
| 1652 | ARPA | Archaeological Resources Protection Act |
| 1653 | BLM | Bureau of Land Management |
| 1654 | BMP | Best Management Practice |
| 1655 | CEQA | California Environmental Quality Act |
| 1656 | CDCA | California Desert Conservation Area |
| 1657 | CFR | Code of Federal Regulations |
| 1658 | CMA | Conservation Management Action |
| 1659 | CRHR | California Register of Historic Resources |
| 1660 | DFA | Development Focus Area |
| 1661 | DOI | Department of the Interior |
| 1662 | DPR | Department of Parks and Recreation |
| 1663 | DRECP | Desert Renewable Energy Conservation Plan |
| 1664 | EIR | Environmental Impact Report |
| 1665 | EIS | Environmental Impact Statement |
| 1666 | FLPMA | Federal Land Policy and Management Act |
| 1667 | FOIA | Freedom of Information Act |
| 1668 | GIS | Geographic Information System |
| 1669 | GPS | Global Positioning System |
| 1670 | HPMP | Historic Properties Management Plan |
| 1671 | HPTP | Historic Properties Treatment Plan |
| 1672 | IM | Instruction Memorandum |
| 1673 | LUPA | Land Use Plan Amendment |
| 1674 | MOA | Memorandum of Agreement |
| 1675 | NAGPRA | Native American Graves Protection and Repatriation Act |

| | | |
|------|------|---|
| 1676 | NCL | National Conservation Land |
| 1677 | NEPA | National Environmental Policy Act |
| 1678 | NHL | National Historic Landmark |
| 1679 | NHPA | National Historic Preservation Act |
| 1680 | NHT | National Historic Trail |
| 1681 | NPS | National Park Service |
| 1682 | NRHP | National Register of Historic Places |
| 1683 | PA | Programmatic Agreement |
| 1684 | PEIS | Programmatic Environmental Impact Statement |
| 1685 | POD | Plan of Development |
| 1686 | PQS | Professional Qualifications Standards |
| 1687 | RMP | Resource Management Plan |
| 1688 | ROD | Record of Decision |
| 1689 | ROW | Right-of-way |
| 1690 | SHPO | State Historic Preservation Officer |
| 1691 | SRMA | Special Recreation Management Area |
| 1692 | TCP | Traditional Cultural Property |
| 1693 | VPL | Variance Process Land |
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**APPENDIX C:
BLM LAND USE PLAN AMENDMENT DESCRIPTION**

APPENDIX C
BLM Land Use Plan Amendment

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The DRECP (BLM, CEC, USFWS, and CDFW) agencies announced in March 2015 that the DRECP will be finalized following a phased approach, starting with the BLM public lands component. The BLM will decide whether to amend the California Desert Conservation Area (CDCA) Plan, as currently amended, as well as the Bakersfield and Bishop Resource Management Plans (RMPs). These Land Use Plan Amendments (LUPA) would identify (1) desired outcomes expressed as specific goals and objectives and (2) allowable uses and management actions designed to achieve those specific goals and objectives. Renewable energy projects are defined for the purposes of this Programmatic Agreement as any renewable energy project or transmission right-of-way (ROW) application and any connected actions, for solar, wind, geothermal production, and transmission lines that also includes appurtenant facilities.

Through the LUPA, renewable energy projects would be allowed in Development Focus Areas (DFA), Variance Process Lands (VPL), and unallocated lands, but would not be allowed in Areas of Critical Environmental Concern (ACEC), National Conservation Lands (NCL), and Wildlife Allocation areas, or Special Recreation Management Areas (SRMA) and Extensive Recreation Management Areas (ERMA). Transmission facilities would be prioritized in existing designated utility corridors, but would also be allowed outside of corridors in DFAs, VPLs, and unallocated lands. Transmission facilities would be allowed in NCLs, ACECs, Wildlife Allocations, SRMAs, and ERMAs but only within the defined corridors, and must be consistent with all conservation and management actions (CMAs) for these units.

Specifically, in furtherance of the purpose of the DRECP to conserve biological, ecological, cultural, social, and scenic resources; respond to federal renewable energy goals and policies and consider state renewable energy targets; and comply with the Federal Land Policy and Management Act (FLPMA) multiple-use management goals, the LUPA would identify:

- Areas of the public lands that are suitable and available for utility-scale solar, wind, and geothermal energy development and transmission facilities (DFAs, VPLs).
- Areas of the public lands that are not suitable and are unavailable for these types of uses (NCLs, ACECs, Wildlife Allocation areas, and SRMAs).
- Areas of the public lands and actions that may be used as mitigation for these types of uses.
- Public lands within the CDCA to be managed under BLM conservation designations pursuant to the Omnibus Public Lands Management Act (NCLs).
- Allowable uses, management actions, stipulations, best management practices and mitigation measures to reduce, minimize, or avoid impacts associated with large-ground disturbing activities, including renewable energy projects on public lands, and allowable uses and management actions designed to enhance resources and visitor experiences on public lands.

The BLM LUPA component of the Preferred Alternative from the DRECP Final Environmental Impact Statement (EIS) covers 9.8 million acres of BLM-managed public lands. Key allocations proposed on BLM lands include:

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- **Development Focus Areas (DFA):** Available for solar, wind and geothermal development and transmission facilities. An application on BLM-managed land would still go through the BLM right-of-way process including environmental review, but would benefit from the DRECP environmental document, BLM incentives, and procedures established in the Section 106 Programmatic Agreement for the DRECP. The DRECP Preferred Alternative would designate 388,000 acres of DFAs on BLM lands.
 - **Variance Process Lands (VPL):** These areas would be potentially available for renewable energy project development. Project applications within VPLs do not receive the incentives described in the LUPA and this Agreement for projects applications within DFAs, and would require a more extensive pre-application process to collect additional information before BLM makes a determination on a project application. The DRECP Preferred Alternative would designate 40,000 acres of VPLs for potential renewable energy project development on BLM lands.
 - **BLM Conservation Areas:** The DRECP proposes to designate NCLs, , ACECs, and wildlife allocation areas to conserve biological, cultural, and other values and uses. Lands within these designations would not be available for renewable energy project development.
 - *National Conservation Lands (NCL):* The Preferred Alternative proposes about 3.6 million acres of BLM-administered land as NCLs and emphasizes habitat connectivity, cultural-botanical resource values, and National Scenic and Historic Trail Corridors with total ground disturbance limited to 1 percent.
 - *Areas of Critical Environmental Concern (ACEC):* The Preferred Alternative proposes about 1.3 million acres of BLM-administered land as ACECs only. In these areas, special management is needed to protect certain values. These areas would limit total ground disturbance from 0.1 to 1 percent of the total area. The most conservation protective ground disturbance cap applies, where a 1 percent NCL overlays a more protective ACEC disturbance cap.
 - *Wildlife Allocations:* The Preferred Alternative proposes about 18,000 acres of additional BLM-administered lands that are conserved for wildlife and are not available for renewable energy project development. There is no ground disturbance cap for Wildlife Allocations.
 - **Special Recreation Management Areas(SRMA):** SRMAs are public lands managed to be high-priority outdoor recreation areas. The Preferred Alternative would designate 32 SRMAs on BLM-administered land that total 2.8 million acres. The vast majority of lands within SRMAs are not available for renewable energy project development. At Ocotillo Wells SRMA a portion of the SRMA is available for non-surface occupancy geothermal renewable energy development, and three specific parcels are available for limited surface occupancy geothermal development.
 - **Un-allocated Land:** BLM-managed lands not covered by any of the above designations, or the Extensive Recreation Management Area designation. Renewable energy project applications would not be allowed unless the project can meet the requirements in the CMAs for these lands. Renewable energy development would also require amending the BLM land use plan.

1789 The LUPA would also make the following management decisions:

1790 **Conservation and Management Actions (CMA):** As part of the proposed LUPA, CMAs would
 1791 include proposed changes from the existing management plans for many resources, including
 1792 biological resources, air resources, comprehensive trails and travel management, cultural
 1793 resources and tribal interests, lands and realty, livestock grazing, minerals, paleontology,
 1794 recreation and visitor services, soil, water, and water-dependent resources, visual resources
 1795 management, wild horses and burros, and wilderness characteristics.

1796 **Lands with Wilderness Characteristics:** BLM-administered lands within the LUPA Area that
 1797 could be affected by renewable energy projects or other development authorized under the
 1798 LUPA were inventoried for wilderness characteristics in 2012 and 2013 under the direction of
 1799 BLM Manual 6310. Under the Preferred Alternative, 546,000 acres of lands with wilderness
 1800 characteristics would be managed to protect those characteristics.

1801 **California Desert Conservation Area (CDCA):** The LUPA would apply management
 1802 decisions to the entire CDCA area, but not for all resources and issues. The Multiple Use
 1803 Classifications used to determine land use and tenure in the CDCA Plan would be replaced by
 1804 the new land designations and CMAs described above.

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FIGURES

1809 The figures included here show the BLM LUPA Preferred Alternative from the DRECP
 1810 Proposed LUPA and Final EIS (Figure 1) and the No Action Alternative (Figure 2). On the
 1811 figures, green represents conserved areas (areas where renewable energy project development
 1812 would not be allowed). Pink represents DFAs and other areas available for renewable energy
 1813 project development. Applications for renewable energy projects in the pink areas would be
 1814 required to go through the BLM right-of-way process for individual project environmental
 1815 review as specified in this PA and NEPA. Yellow reflects all other BLM lands potentially
 1816 available for renewable energy project development. Applications in yellow areas would be
 1817 required to go through the BLM right-of-way process for individual project environmental
 1818 review as specified in this PA and NEPA, and would also require an additional amendment to the
 1819 land use plan.

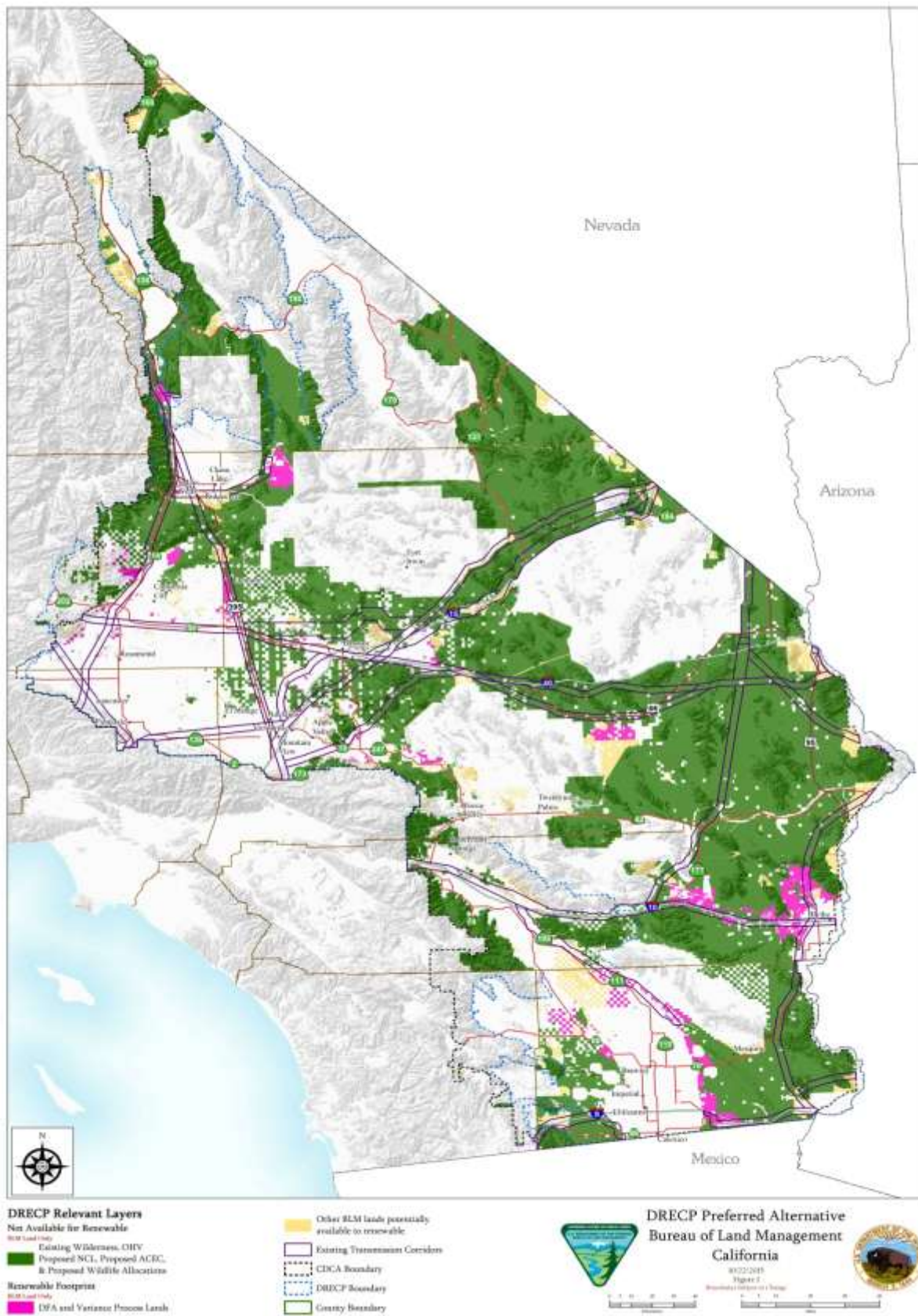
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1821 Table 1 represents the acreages for each designation category for both the Preferred Alternative
 1822 and the No Action Alternative.

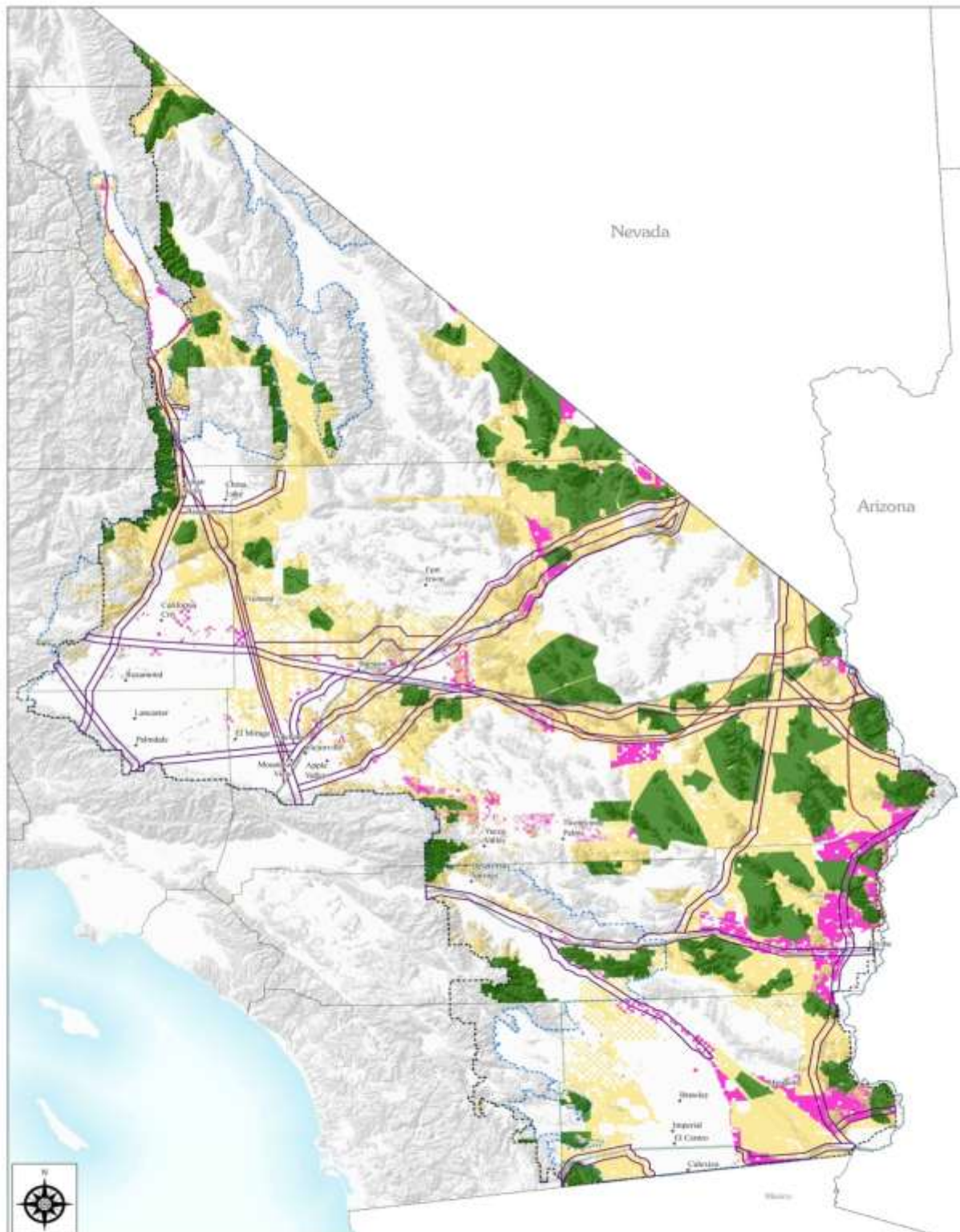
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| | Conserved Areas | Development Focus Areas | All other BLM lands potentially available for renewable energy project development |
|---|-----------------|-------------------------|--|
| Figure 1. Preferred Alternative Final EIS | 8,707,600 | 388,000 | 842,000 |
| Figure 2. No Action Alternative | 3,452,600 | 0 | 7,421,200 |

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DRECP Relevant Layers

Not Available for Renewable

BLM Land Only

Existing BLM Wilderness

Renewable Footprint

Existing SEZ and Variation Lands

Other BLM lands potentially available to renewable

Existing Transmission Corridors

CDCA Boundary

DRECP Boundary

County Boundary

DRECP No Action Alternative

Bureau of Land Management

California

6/11/15

Figure 2

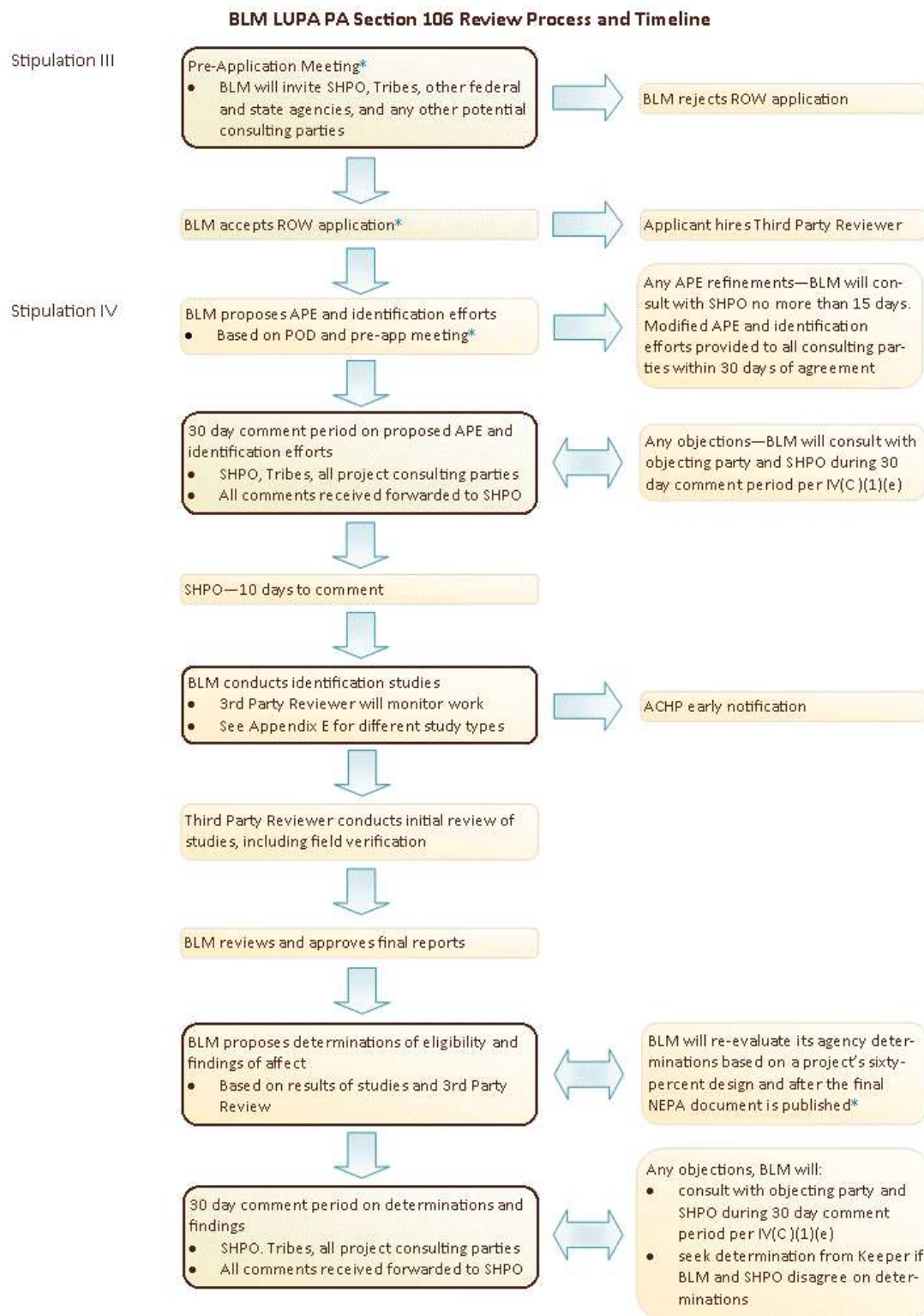
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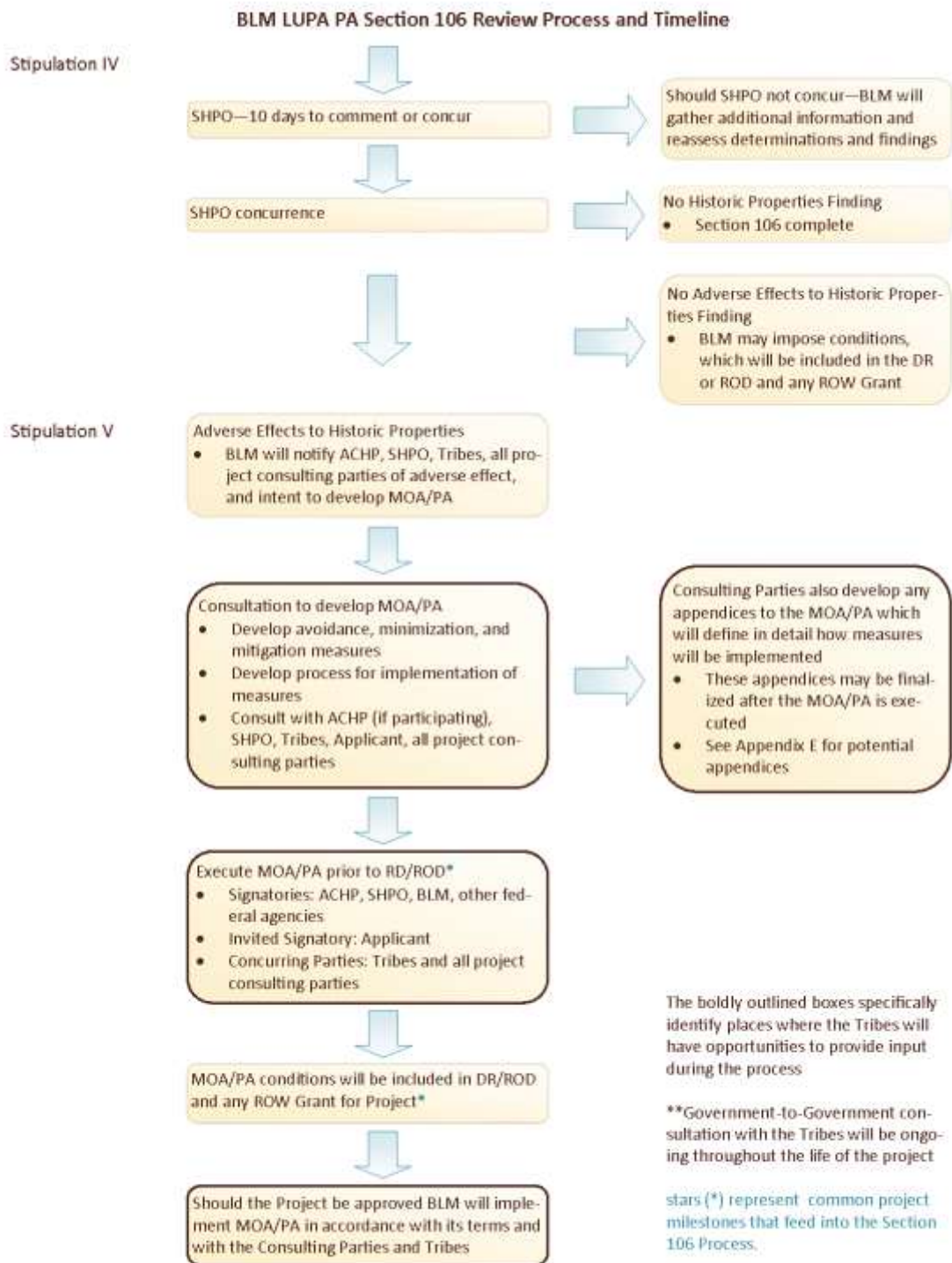


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**APPENDIX D:
FLOW CHART: SECTION 106 REVIEW PROCESS AND TIMELINES AS DEFINED
IN THE AGREEMENT**





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**APPENDIX E:
EXAMPLE DOCUMENT TYPES**

1838 This appendix includes a list of example cultural resources studies and a list of example
1839 PA/MOA appendices that may be required for individual renewable energy development
1840 projects. These are example documents only. This is not an exhaustive list, and not every
1841 document type will be required for every renewable energy development project.

1842

1843 **Identification Efforts**

1844

1845 ***Class I Literature Review and Records Search***

1846 A professionally prepared study that includes a compilation and analysis of all reasonably
1847 available cultural resource data and literature, and a management-focused, interpretive, narrative
1848 overview, and synthesis of the data. Study will also identify previously documented NRHP listed
1849 or eligible historic properties.

1850

1851 ***Class II Probabilistic Field Survey***

1852 A statistically based sample survey, designed to aid in characterizing the probable density,
1853 diversity, and distribution of cultural properties in an area, to develop and test predictive models,
1854 and to answer certain kinds of research questions. Within individual sample units, survey aims,
1855 methods, and intensity are the same as those applied in Class III survey. All recorded cultural
1856 resources are evaluated for the NRHP and eligibility recommendations provided.

1857

1858 ***Class III Intensive Field Survey***

1859 A professionally conducted, thorough pedestrian survey of an entire target area, intended to
1860 locate and record all cultural resources. All recorded cultural resources are evaluated for the
1861 NRHP and eligibility recommendations provided.

1862

1863 ***Ethnographic Assessment***

1864 A professionally conducted study that identifies ethnographic resources that are significant to
1865 Indian tribes and that may be affected by a proposed undertaking. Study will be planned and
1866 conducted in coordination with participating tribes, and may include additional archival research,
1867 field visits, and interviews with tribal informants. Tribal informants will be identified by
1868 participating tribes. Tribal informants and participating tribes will be invited to review the draft
1869 report. All identified resources will be evaluated for the NRHP and eligibility recommendations
1870 provided. Study will analyze the effects to resources identified from a proposed undertaking.

1871

1872 ***Ethnographic Literature Review***

1873 A professionally prepared summary of all publically available ethnographic literature that
1874 identifies specific places or resources that have documented significance to Indian tribes and that
1875 may be affected by a proposed undertaking.

1876

1877 ***Geo-archaeological Study***

1878 A professionally prepared study that includes a review of geological information on land-
1879 formation processes within a target area, prevalence of archaeological sites in the region with
1880 subsurface components, and results of any geotechnical testing within the proposed project area.
1881 Study will provide a conclusion regarding the potential for encountering subsurface
1882 archaeological resources throughout the target area.

1883

1884 ***Historic Built Environment Study***

1885 A professionally conducted study that identifies all built-environment resources within the
1886 indirect effects APE. All recorded historic built environment resources are evaluated for the
1887 NRHP and eligibility recommendations provided. Study will analyze the effects to historic
1888 properties identified from a proposed undertaking. This study may be incorporated into the
1889 indirect effects study.

1890

1891 ***Indirect Effects Study***

1892 A professionally conducted study that identifies all previously documented NRHP listed or
1893 eligible historic properties, and documents and evaluates any new resources that may be NRHP
1894 eligible under Criteria A-C within the indirect effects APE. Study will analyze the effects to the
1895 Criteria A-C values of the historic properties from a proposed undertaking.

1896

1897

1898 **Example MOA/PA Appendices**

1899

1900 ***Historic Properties Treatment Plan***

1901 A plan that includes detailed measures for resolving adverse effects to historic properties as
1902 identified in a project-specific MOA or PA. The HPTP typically describes in detail the
1903 requirements that must be met in order to minimize or mitigate adverse effects to specific
1904 historic properties. Plan will include what the resolution measures are, how they will be
1905 implemented, who will be responsible for implementation, communication protocols, and
1906 reporting requirements.

1907

1908 ***Historic Properties Management Plan/Long Term Management Plan***

1909 A plan that identifies specific procedures for the long term management of identified historic
1910 properties within a project area, or properties within the project vicinity that have the potential
1911 for long-term indirect effects from a project. HPMP/LTMPs will identify any resources within
1912 the project area that require long-term management, what the long-term management procedures
1913 are, how they will be implemented, who will be responsible for implementation, communication
1914 protocols, and reporting requirements.

1915

1916 ***Post-Review Discovery and Unanticipated Effects Plan***

1917 A plan that identifies the procedures for managing any post-review discoveries or unanticipated
1918 effects to identified historic properties that may occur during project construction activities. This
1919 plan will identify any properties that should be designated as Environmentally Sensitive Areas
1920 and avoided by project construction, areas that have the potential for subsurface archaeological
1921 materials, and any other areas where archaeological monitoring is required. Plan will also
1922 identify archaeological monitoring procedures and provide a process that should be followed in
1923 the event that a post-review discovery or unanticipated effect is identified. Plan will identify
1924 roles and responsibilities of all parties, notification procedures, communication protocols, and
1925 reporting requirements.

1926

1927 ***NAGPRA Plan of Action***

1928 A plan that identifies specific procedures that should be followed in the event of a NAGPRA
1929 discovery during project construction activities on federal lands. This Plan will identify
1930 management procedures for any NAGPRA materials that may be discovered, procedures for
1931 notification and consultation with Indian tribes that may affiliated with the NAGPRA materials,
1932 communication protocols, and reporting requirements.

1933

1934 ***Tribal Participation Plan***

1935 A plan that identifies specific procedures for continued tribal participation during the project
1936 construction process. The plan is developed in coordination with all participating tribes and the
1937 Applicant. The plan should include specific procedures for tribal participation, a participation
1938 schedule, roles and responsibilities of all parties, communication protocols, and reporting
1939 requirements.

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**APPENDIX F:
CULTURAL RESOURCES SENSITIVITY ANALYSIS**

1943 To be developed as specified in Stipulation VI (A).

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1945
1946

**APPENDIX G:
COMPENSATORY MITIGATION FEE FOR CUMULATIVE EFFECTS TO
CULTURAL RESOURCES**

1947 To be developed as specified in Stipulation VI (C).