

BLM Solar Energy Program Design Features

Programmatic Design Features for Native American Concerns

The following design features have been identified to avoid, minimize, and/or mitigate potential impacts in areas of Native American concern regarding solar energy development; they are identified and discussed in Sections 5.16.1 and 5.16.2 of the Draft and Final Solar PEIS.

General

- NA1-1** The BLM shall consult with federally recognized Indian tribes early in the planning process to identify issues and areas of concern regarding any proposed solar energy project as required by the National Historic Preservation Act (NHPA) and other authorities to determine whether construction and operation of a project is likely to disturb traditional cultural properties or sacred sites, impede access to culturally important locations, disrupt traditional cultural practices, affect movements of animals important to tribes, or visually affect culturally important landscapes.
- (a) Identifying issues and areas of concern to federally recognized Indian tribes shall include, but is not limited to, the following:
- Covering planning, construction, operation, and reclamation activities during consultation. Agreements or understandings reached with affected tribes shall be carried out in accordance with the terms of MOAs or State Specific Procedures as defined within the Solar PA.
 - The BLM consulting with affected Indian tribes during the Section 106 process at the points specified in the Solar PA.
 - The BLM consulting with Indian tribes under the terms of the Native American Graves Protection and Repatriation Act (NAGRA). Any planning for treatment of historic properties or mitigation will take such consultations into account.
 - The BLM seeking, during consultation, to develop agreements with affected tribes on how to appropriately respond to input and concerns in advance to save time and avoid confusion.
- (b) Methods to minimize issues and areas of concern to federally recognized Indian tribes may include, but are not limited to, the following:
- Employing standard noise design features for solar facilities located near sacred sites to minimize the impacts of noise on culturally significant areas.

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- Employing health and safety design features for the general public for solar facilities located near Native American traditional use areas in order to minimize potential health and safety impacts on Native Americans.
- Avoiding known human burial sites. Where there is a reasonable probability of encountering undetected human remains and associated funerary objects by a solar energy project, the BLM will carry out discussions with Indian tribes before the project is authorized, in order to provide general guidance on the treatment of any cultural items (as defined by NAGPRA) that might be exposed.
- Avoiding visual intrusion on sacred sites through the selection of the solar facility location and solar technology. When complete avoidance is not practicable or economically feasible, the BLM shall engage in timely and meaningful consultation with the affected tribe(s) and shall attempt to formulate a mutually acceptable plan to mitigate or reduce the adverse effects.
- Avoiding rock art (panels of petroglyphs and/or pictographs). These panels may be just one component of a larger sacred landscape, in which avoidance of all impacts may not be possible. Mitigation plans for eliminating or reducing potential impacts on rock art shall be formulated in consultation with the appropriate tribal cultural authorities.
- Avoiding springs and other water sources that are or may be sacred or culturally important. If it is necessary for construction, maintenance, or operational activities to take place in proximity to springs or other water sources, appropriate measures, such as the use of geotextiles or silt fencing, shall be taken to prevent silt from degrading water sources. The effectiveness of these mitigating barriers shall be monitored. Measures for preventing water depletion impacts on springs shall also be employed. Particular mitigations shall be determined in consultation with the appropriate Indian tribe(s).
- Avoiding culturally important plant species. When it is not possible to avoid affecting these plant resources, consultations shall be undertaken with the affected Indian tribe(s). If the species is available elsewhere on agency-managed lands, guaranteed access may suffice. For rare or less-common species, establishing (transplanting) or propagating an equal amount of the plant resource elsewhere on agency-managed land accessible to the affected tribe may be acceptable (e.g., for mesquite groves).

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and rice grass fields, identified as tribally important plant species in the ethnographic studies).

- Avoiding culturally important wildlife species and their habitats. When it is not possible to avoid these habitats, solar facilities shall be designed to minimize impacts on game trails, migration routes, and nesting and breeding areas of tribally important species. Mitigation and monitoring procedures shall be developed in consultation with the affected tribe(s).
- Securing a performance and reclamation bond for all solar energy generation facilities to ensure compliance with the terms and conditions of the ROW authorization. When establishing bond amounts and conditions, the BLM authorized officer shall require coverage of all expenses tied to identification, protection, and mitigation of cultural resources of concern to Indian tribes. These may include, but are not limited to, costs for ethnographic studies, inventory, testing, geomorphological studies, data recovery, curation, monitoring, treatment of damaged sites, and generation and submission of reports (see ROW authorization policies, Section 2.2.1.1 of the Final Solar PEIS).

Site Characterization, Siting and Design, Construction

- NA2-1** Prior to construction, the project developer shall provide training to contractor personnel whose activities or responsibilities could affect issues and areas of concern to federally recognized Indian tribes.

Operations and Maintenance

- NA3-1** Consultation with affected federally recognized Indian tribes shall be ongoing during the life of the project.
- NA3-2** The project developer shall train facility personnel regarding their responsibilities to protect any known resources of importance to federally recognized Indian tribes.

Reclamation and Decommissioning

- NA4-1** The project developer shall confine reclamation and decommissioning activities to previously disturbed areas and existing access roads to the extent practicable.
- NA4-2** The project developer shall return the site to its pre-construction condition, to the extent practicable and approved by the BLM.