

MEMORANDUM OF UNDERSTANDING
Between
THE BUREAU OF LAND MANAGEMENT
U. S. Department of the Interior
And
THE CALIFORNIA ENERGY COMMISSION
Regarding the
**DEVELOPMENT OF A PROGRAMMATIC
ENVIRONMENTAL IMPACT STATEMENT**
“FOR SOLAR ENERGY DEVELOPMENT”

I. PARTIES

This Memorandum of Understanding (MOU) is entered into by and between the United States Department of the Interior, Bureau of Land Management (BLM) and the California Energy Commission (Energy Commission).

II. PURPOSE

The purpose of this MOU is to form a partnership between the BLM and the Energy Commission to assist in the development and preparation of the Programmatic Environmental Impact Statement (PEIS) to evaluate utility-scale solar energy development, to develop and implement BLM-specific programs that would establish environmental policies and mitigation strategies for solar energy projects, and to amend relevant BLM land use plans with the consideration of establishing a new BLM-wide solar energy development program. This MOU establishes the Energy Commission as a “cooperating agency” in the environmental impact analysis and documentation process, and establishes procedures through which the Energy Commission and the BLM will participate with the PEIS team to conduct the analyses and develop the PEIS.

III. INTRODUCTION AND BACKGROUND

The PEIS will assess the environmental, social and economic impacts associated with solar energy development on public lands in six western states and evaluate a number of alternatives to determine the best management approach to mitigating potential impacts and facilitating solar energy development. The PEIS will support the adoption of a federal policy for the development of solar energy projects on BLM lands. The Department of Energy (DOE) and the BLM will be co-lead agencies for this effort, with the Energy Commission participating as a cooperating agency.

The western states include: Arizona, California, Colorado, Nevada, New Mexico, and Utah. The PEIS applies only to Federal lands.

A PEIS evaluates the environmental impacts of broad agency actions, such as the development of programs or the setting of national policies. Designation of areas of West-wide solar energy zones that are on Federal lands will lead to the amendment of federal land use plans that will facilitate processing of anticipated site specific right-of-way applications for solar energy development.

IV. AUTHORITIES

A. **BLM Authority:** Section 307(b) of the *Federal Land Policy and Management Act of 1976* (43 USC 1737) provides that the Secretary of the Interior may undertake programs of resource management through cooperative agreements. Title 40, Code of Federal Regulations, section 1502.4(b) provides that a programmatic EIS could be prepared for a broad federal action, such as the adoption of a regulation, policy, plan, or program. The PEIS is a useful tool for integrating environmental considerations into agency policy making and planning.

B. **California Energy Commission Authority:** Title 40, Code of Federal Regulations, section 1501.6, provides that a state agency may request to be designated a cooperating agency by the lead agency. Under section 1508.5, a cooperating agency is one that has “jurisdiction by law” or “special expertise” with respect to any environmental impact. The Energy Commission has “special expertise,” as defined in section 1508.26, based on its statutory responsibility under Public Resources Code sections 25302 and 25324 to do the following:

- prepare and present to the Governor and Legislature a biennial integrated energy policy report (*Energy Report*), which forms the basis of state energy policy; and
- prepare a Strategic Transmission Investment Plan (*Strategic Plan*) for the state’s electric transmission grid.

As a result of these efforts, the Energy Commission is able to provide substantial energy-related information that may be useful in developing alternatives and designating solar energy zones on Federal lands in California.

V. PRINCIPLES OF AGREEMENT

A. The BLM and the Energy Commission mutually agree to:

1. Work together through an interagency working group, involving pertinent federal and state agencies, to coordinate, share, and/or combine resources and data in conducting environmental and resource analyses to assist in the development and preparation of the PEIS.
2. Work together to ensure consistency and coordination in the development and preparation of the PEIS.
3. Work together to ensure involvement of state agencies, local governments and agencies, Indian tribes, non-governmental organizations, energy companies and utilities, and other interested parties in public meetings of benefit to the process

of the developing and preparing the PEIS, particularly for Federal lands in California.

4. Work together in apprising each other, as far in advance as possible, of any related actions or problems that might affect the environmental analyses and documentation process or that might affect either party.

B. The BLM agrees to:

1. Keep the Energy Commission apprised of current events in relation to the PEIS.
2. Utilize the Energy Commission's input and proposals to the maximum extent possible in the development and preparation of the PEIS, consistent with legal requirements and BLM's responsibility as co-lead agency.
3. Actively participate in the interagency working group.
4. Share with the Energy Commission predecisional documents and drafts related to the preparation of the PEIS to foster candid discussions.
5. Make any decisions resulting from the PEIS in regard to solar energy zones on BLM-administered lands and federal mineral estates under BLM jurisdiction in consultation with California.
6. Encourage other Federal land-managing agencies to consult with the Energy Commission in regard to the designation of solar energy zones under their jurisdiction and any decisions resulting from the PEIS.

C. The Energy Commission agrees to:

1. Facilitate meetings of the PEIS interagency working group.
2. Assist in identifying issues and defining the scope of the PEIS.
3. Provide energy background information and expertise as needed to help identify and assess alternative solar energy zones for the PEIS, including determining if proposed solar energy zones are consistent with both state and local land use designations and are appropriate for energy infrastructure development in light of relevant environmental information, land use plans for surrounding areas, and other relevant data.
4. Provide Geographical Information Systems (GIS) staff, technical expertise, and products to assist the BLM and the interagency working group in the development of the PEIS.
5. Provide information and analyses related to the *Energy Report* or the *Strategic Plan* as may be needed in the preparation of the PEIS.
6. Under Government Code section 6254(k), maintain the confidentiality of predecisional documents and drafts received from the BLM or other agencies related to the development of the PEIS.
7. Coordinate the comments and analyses of other state agencies.
8. Coordinate a nondisclosure agreement among members of the interagency working group to maintain the confidentiality of confidential information and drafts determined to be confidential by BLM and DOE.

VI. OTHER PROVISIONS

1. Nothing in this MOU shall be construed as limiting or affecting in any way the authority or legal responsibilities of either the BLM or the Energy Commission.
2. Nothing in this MOU binds either the BLM or the Energy Commission to perform beyond their respective authorities.
3. Nothing in this MOU requires either the BLM or the Energy Commission to assume or expend any funds in excess of available appropriations, authorized by law.
4. The mission requirements, funding, personnel, and other priorities of either the BLM or the Energy Commission may affect their ability to fully implement all the provisions identified in this MOU.
5. This MOU is neither a fiscal nor a funds obligation document. Specific activities that involve the transfer of money, services, or property between the BLM and California shall require execution of separate agreements or contracts.
6. Nothing in this MOU restricts either the BLM or California from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals.
7. Any information furnished to the BLM under this MOU is subject to the *Freedom of Information Act* (5 USC 552) and the California Public Records Act (Calif. Govt. Code § 6250 et seq).
8. Each and every provision in this MOU is subject to the laws of the State of California, the laws of the United States of America, and to the delegated authority assigned in each instance.
9. All cooperative work under the provisions of this MOU will be accomplished without discrimination against any employee because of race, creed, color, or national origin.
10. Amendments or supplements to this MOU may be proposed by either the BLM or the Energy Commission and shall become effective upon written approval of both Parties.
11. Either the BLM or the Energy Commission may terminate its participation in this MOU at any time through written notification to the other Party at least 30 days prior to termination.
12. This MOU shall become effective upon signature by both Parties. This MOU may be executed in one or more counterparts, each of which will be considered an original document.
13. This MOU shall remain in effect until the completion of the PEIS or three years after the effective date of this MOU, terminating on the earliest of the two options.

VII. CONTACTS

The primary points of contact for carrying out the provisions of this MOU are:

California Energy Commission

Mignon Marks, Roger Johnson or Terry O'Brien

BLM

Robert Doyel, Duane Marti, or Tom Pogacnik

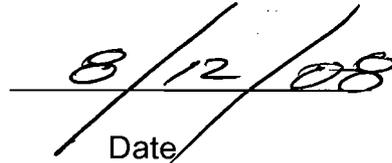
VIII. APPROVALS



MIKE POOL

State Director, California

Bureau of Land Management



Date



MIKE CHRISMAN

Secretary of Resources, California

Resource Agency of California



Date