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November 17, 2009

VIA E-MAIL JBABULA@ENERGY.STATE.CA.US

Jared Babula
Staff Counsel
California Energy Commission
1516 Ninth Street, MS 14
Sacramento, CA 95814-5504

Re: Beacon Solar Energy Project: Cultural Resources Conditions of Certification

Dear Mr. Babula:

Attached to this letter are Beacon Solar, LLC's ("Beacon") proposed changes to the Cultural Resources Conditions of Certification. The current requirements for preconstruction activities in the cultural resources conditions extend in some cases as far as 382 days prior to ground disturbance. These conditions would require Beacon to be submitting documents and beginning cultural resources investigations a full year in advance of initiating construction of the Beacon Solar Energy Project. Beacon has proposed modifications to the substance and timing of these conditions to reduce the requirements to six months (180 days) prior to ground disturbance.

Beacon would appreciate Staff's consideration of these proposed changes to the conditions of certification.

Very truly yours,

DOWNEY BRAND LLP

/S/

Jane E. Luckhardt

JEL
1041355.1
cc: Eric Solario
Ken Celli
Service List (08-AFC02)

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION FOR THE BEACON SOLAR ENERGY PROJECT	DOCKET NO. 08-AFC-2

Beacon Solar, LLC's Comments on Cultural Resources Conditions of Certification

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Dated: November 17, 2009

CULTURAL RESOURCES

The following provides modifications to the COCs for cultural resources to more effectively allow the compliance efforts to be completed within project constraints. With this approach some submittals have been combined to reduce the number of documents that require review and approval, time periods for some submittals have been compressed, and provisions of the monitoring efforts and site treatment have been rescaled. The rationales for the modifications are provided after each condition where a change is presented.

Requested Changes to the Conditions of Certification for Cultural Resources

Beacon's proposed changes to several Conditions are presented below.

CUL-1 *Cultural Resources Personnel.* Prior to the start of ground disturbance (includes "preconstruction site mobilization," "construction ground disturbance," and "construction grading, boring and trenching," as defined in the General Conditions for this project) the project owner shall obtain the services of a Cultural Resources Specialist (CRS) and one or more alternate CRSs, if alternates are needed. The CRS shall manage all monitoring, mitigation, curation, and reporting activities required in accordance with the Conditions of Certification (Conditions). The CRS may elect to obtain the services of Cultural Resources Monitors (CRMs) and other technical specialists, if needed, to assist in monitoring, mitigation, and curation activities. The project owner shall ensure that the CRS makes recommendations regarding the eligibility for listing in the California Register of Historical Resources (CRHR) of any cultural resources that are newly discovered or that may be affected in an unanticipated manner. No ground disturbance shall occur prior to Compliance Project Manager (CPM) approval of the CRS and alternates, unless such activities are specifically approved by the CPM. Approval of a CRS may be denied or revoked for non-compliance on this or other projects.

CULTURAL RESOURCES SPECIALIST

The resumes for the CRS and alternate(s) shall include information demonstrating to the satisfaction of the CPM that their training and backgrounds conform to the U.S. Secretary of Interior's Professional Qualifications Standards, as published in Title 36, Code of Federal Regulations, part 61 (36 CFR Part 61). In addition, the CRS shall have the following qualifications:

1. The CRS's qualifications shall be appropriate to the needs of the project and shall include a background in anthropology, archaeology, history, architectural history, or a related field;
2. At least three years of archaeological or historical, as appropriate (per nature of predominant cultural resources on the project site), resource mitigation and field experience in California; and
3. At least one year of experience in a decision-making capacity on cultural resources projects in California and the appropriate training and experience to knowledgably make recommendations regarding the significance of cultural resources.

The resumes of the CRS and alternate CRS shall include the names and telephone numbers of contacts familiar with the work of the CRS/alternate CRS on referenced projects and demonstrate to the satisfaction of the CPM that the CRS/alternate CRS has the appropriate training and experience to implement effectively the Conditions.

CULTURAL RESOURCES MONITORS

CRMs shall have the following qualifications:

1. a B.S. or B.A. degree in anthropology, archaeology, historical archaeology or a related field and one year experience monitoring in California; or
2. an A.S. or A.A. degree in anthropology, archaeology, historical archaeology or a related field, and four years experience monitoring in California; or
3. enrollment in upper division classes pursuing a degree in the fields of anthropology, archaeology, historical archaeology or a related field, and two years of monitoring experience in California.

CULTURAL RESOURCES TECHNICAL SPECIALISTS

The resume(s) of any additional technical specialist(s), e.g., historical archaeologist, historian, architectural historian, and/or physical anthropologist, shall be submitted to the CPM for approval.

Verification

1. At least ~~112~~ 180 days prior to the start of ground disturbance anywhere on the project site ~~30 meters or greater to the southwest of the provisional boundary of Archaeological Zone 1 or on the portions of the project area beyond the project site, and at least 382 days prior to the start of ground disturbance anywhere in Archaeological Zone 1 or 30 meters or less to the southwest of the provisional boundary for the Zone,~~ the project owner shall submit the resume for the CRS, and alternate(s) if desired, to the CPM for review and approval.
2. At least 10 days prior to a termination or release of the CRS, or within 10 days after the resignation of a CRS, the project owner shall submit the resume of the proposed new CRS to the CPM for review and approval. At the same time, the project owner shall also provide to the proposed new CRS the AFC and all cultural resources documents, field notes, photographs, and other cultural resources materials generated by the project. If there is no alternate CRS in place to conduct the duties of the CRS, a previously approved monitor may serve in place of a CRS so that construction ~~project~~ -related ground disturbance may continue up to a maximum of 3 days without a CRS. If cultural resources are discovered then ground disturbance will remain halted until there is a CRS or alternate CRS to make a recommendation regarding significance.
3. At least 20 days prior to any construction-related ground disturbance, the CRS shall provide a letter naming anticipated CRMs for the project and stating that the identified CRMs meet the minimum qualifications for cultural resources monitoring required by this Condition.
4. At least 5 days prior to additional CRMs beginning on-site duties during the project, the CRS shall provide additional letters to the CPM identifying the CRMs and attesting to their qualifications. If additional CRMs are obtained during the project, the CRS shall provide additional letters to the CPM identifying the CRMs and attesting to the qualifications of the CRMs, at least 5 days prior to the CRMs beginning on-site duties.

5. At least 10 days prior to any technical specialists beginning tasks, the resume(s) of the specialists shall be provided to the CPM for review and approval.

6. At least 7 days prior to the start of the preparation of the Historical Resources Management Plan (HRMP) (**CUL-4**), the project owner shall confirm in writing to the CPM that the approved CRS will be available for and is prepared to implement the cultural resources conditions.

RATIONALE

General - Consistency with General Conditions Definitions, page 7-1.

The requirement for submittal of the resume for the CRS prior to the start of ground disturbance is linked to preparation and implementation of a Historical Resources Management Plan (HRMP). The same cultural resources personnel will be conducting work on the two areas within the plant site identified by CEC staff (i.e., Archaeological Zone 1 and the area outside Archaeological Zone 1). To reduce the number of submittals only one resume submittal will be made for the CRS and alternate(s) to the CPM for review and approval. Assuming 60 days for preparation and approval of the HRMP and another 120 days to implement the field portion of data recovery, a reasonable preconstruction time period for identification of the CRS is 180 days. This schedule is dependent on project approval by the end of April 2010.

CUL-2 *Project Documentation for Cultural Resources Personnel.* Prior to the start of ground disturbance anywhere on the project site 30 meters or greater to the southwest of the provisional boundary of Archaeological Zone 1 or on the portions of the project area beyond the project site, if the CRS has not previously worked on the project, the project owner shall provide the CRS with copies of the AFC, data responses, confidential cultural resources reports, all supplements, and the Energy Commission's Final Staff Assessment (FSA) for the project. The project owner shall also provide the CRS and the CPM with maps and drawings showing the footprints of the power plant, all linear facility routes, all access roads, and all laydown areas. Maps shall include the appropriate USGS quadrangles and a map at an appropriate scale (e.g., 1:2000 or 1" = 200') for plotting cultural features or materials. If the CRS requests enlargements or strip maps for linear facility routes, the project owner shall provide copies to the CRS and CPM. The CPM shall review map submittals and, in consultation with the CRS, approve those that are appropriate for use in cultural resources planning activities. No ground disturbance anywhere on the project site 30 meters or greater to the southwest of the provisional boundary of Archaeological Zone 1 or on the portions of the project area beyond the project site shall occur prior to CPM approval of maps and drawings, unless such activities are specifically approved by the CPM.
If construction of the project would proceed in phases, maps and drawings not previously provided shall be submitted prior to the start of each construction phase. Written notification identifying the proposed schedule of each project phase shall be provided to the CRS and CPM.

Weekly, until ground disturbance is completed, the project construction manager shall provide to the CRS and CPM a schedule of project activities for the following week,

including the identification of area(s) where ground disturbance will occur during that week.

The project owner shall notify the CRS and CPM of any changes to the scheduling of the construction phases.

Verification

1. At least ~~97~~ 180 days prior to the start of ground disturbance anywhere on the project site ~~30 meters or greater to the southwest of the provisional boundary of Archaeological Zone 1 or on the portions of the project area beyond the project site, and at least 367 days prior to the start of ground disturbance anywhere in Archaeological Zone 1 or 30 meters or less to the southwest of the provisional boundary for the Zone,~~ the project owner shall provide the AFC, data responses, confidential cultural resources documents, all supplements, and the Energy Commission's Final Staff Assessment (FSA) to the CRS, if needed, and the subject maps and drawings to the CRS and CPM. The CPM will review submittals in consultation with the CRS and approve maps and drawings suitable for cultural resources planning activities.

2. At least 15 days prior to the start of ground disturbance, if there are changes to any project-related footprint, the project owner shall provide revised maps and drawings for the changes to the CRS and CPM.

3. At least 15 days prior to the start of each phase of a phased project, the project owner shall submit the appropriate maps and drawings, if not previously provided, to the CRS and CPM.

4. Weekly, during ground disturbance, a current schedule of anticipated project activity shall be provided to the CRS and CPM by letter, e-mail, or fax.

5. Within 5 days of changing the scheduling of phases of a phased project, the project owner shall provide written notice of the changes to the CRS and CPM.

RATIONALE

The provisional boundary of Archaeological Zone encompasses the northeastern corner of the project area as indicated on Figure 2. The requirement to provide the CRS with copies of the AFC, data responses, confidential cultural resources reports, all supplements, and the Energy Commission's Final Staff Assessment (FSA) for the project, along with maps and drawings showing the footprints of the power plant, all linear facility routes, all access roads, and all laydown areas is linked to preparation of a HRMP. The same cultural resources personnel will be conducting work on the two areas within the plant site identified by CEC staff (i.e., Archaeological Zone 1 and the area outside Archaeological Zone 1). To reduce the number of submittals one set of project data will be provided to the CRS. Assuming 60 days for preparation and approval of the HRMP and another 120 days to implement data recovery, a more reasonable preconstruction time period for the transfer of data is 180 days.

CUL-3 *Alteration of Project Area*. Changes to the proposed project or to the character of its construction, operation, and maintenance that may become necessary subsequent to the approval of the project, were such approval to occur, may in turn require the re-consideration of the extent of the original project area. Where such changes indicate the need to alter the original project area to include additional lands that were not elements of

analysis during the certification process, the effects of any proposed changes on historical resources that may be on such lands would need to be taken into account. Changes in the character of the construction, operation, and maintenance of the proposed project may include such actions as decisions to use non-commercial borrow sites or disposal sites. Upon the recognition that proposed changes to the project would require the use of lands that were not a part of the original project area, the project owner shall ensure that the CRS surveys any such lands for cultural resources and record each newly found resource on DPR 523 forms. Exceptions would be made to this protocol in cases where cultural resources surveys no greater than five years in age are documented for the entirety of the subject lands and approved by the CPM. Where new cultural resources surveys are warranted, the project owner shall convey the results of such surveys, along with the CRS's recommendations for further action, to the CPM, who will determine whether further action is necessary. If the CPM determines that historical resources may be present and that any such resource may be subject to a substantial adverse change in its significance, the project owner shall ensure that the CRS provides the CPM with substantiated recommendations on whether each such resource is eligible for listing in the CRHR and recommendations for the resolution of any such significant effects. The CRS, the project owner, and the CPM shall then confer on said recommendations, and, upon the concurrence of the CPM with those recommendations, the project owner shall ensure that the CRS proceeds to implement them, and reports on the methods and the results of any such work in the final Cultural Resources Report (CRR) (**CUL-10**).

Verification

1. Upon the recognition that proposed changes to the project or to the character of the construction, operation, and maintenance of the project would require the use of lands that were not a part of the original project area, the project owner shall notify the CRS and CPM. The project owner shall then provide, for CPM review and approval, documentation of any cultural resources surveys five years or less in age that exist for the additional lands.

2. At least ~~105~~ 60 days prior to the use of the new additional project area lands, in the absence of any such cultural resources surveys or when the extant cultural resources surveys do not cover the entirety of the lands to be added to the project area, the project owner shall ensure that the CRS surveys the additional lands for cultural resources, notifies the project owner and the CPM of the results of the new cultural resources survey, and recommends further action.

3. No more than 15 days subsequent to the receipt of the information in verification 2, CUL-3, above, the CPM shall determine whether historical resources may be present and whether any such resources may be subject to substantial adverse changes in significance.

4. At least ~~60~~ 30 days prior to the use of the new additional project area lands, if the CPM determines that historical resources may be subject to substantial adverse changes in significance, the project owner shall ensure that the CRS provides the CPM with substantiated evaluations, based on archival and field research, on whether each such resource is eligible for listing in the CRHR and recommendations for the resolution of any potential significant effects.

5. For no longer than 15 days, the project owner, the CRS, and the CPM shall confer about the above evaluations and recommendations, and, upon the concurrence of the CPM with those evaluations

and recommendations, the project owner shall ensure that the CRS proceeds to resolve any significant effects pursuant to the above recommendations prior to the use of the new additional project area lands.

6. The project owner shall ensure that the CRS reports on the methods and the results of all such work in the CRR (**CUL-10**).

RATIONALE

Additional project areas are anticipated to be small and avoidance of resources will be given a high priority. Based on this, the notification period can reasonably be moved closer to the start of ground disturbance.

CUL-4 *Historical Resources Management Plan*. The Historical Resources Management Plan (HRMP) shall govern the implementation of the overarching program to reduce the effects of the proposed project on historical resources to less than significant. The preparation and implementation of the different elements of the historical resources management program, by the project owner, shall be the result of a number of protocols and consultations set out in this condition of certification and others (**CUL-5** through **CUL-10**) below.
Prior to the start of any project -related ground disturbance (includes "preconstruction site mobilization," "construction ground disturbance," and "construction grading, boring and trenching," as defined in the General Conditions for this project), the project owner shall submit the HRMP, as prepared by or under the direction of the CRS, to the CPM for review and approval. The HRMP shall follow the content and organization of a similar document, the Cultural Resources Monitoring and Mitigation Plan, a draft model version of which will be provided by the CPM, as general guidance. The authors' name(s) shall appear on the title page of the HRMP. The HRMP shall also incorporate the final results of the January 2009 geoarchaeology study for the proposed project into the appropriate elements of the HRMP. Implementation of the HRMP shall be the responsibility of the CRS and the project owner. Copies of the HRMP shall reside with the CRS, alternate CRS, each CRM, and the project owner's on-site construction manager. No ground disturbance shall occur prior to CPM approval of the HRMP, unless such activities are specifically approved by the CPM.

The HRMP shall include, but not be limited to, the following elements:

Primacy of the Conditions of Certification

1. The statement in the introduction to the HRMP that "any discussion, summary, or paraphrasing of the Conditions of Certification in this HRMP is intended as general guidance and as an aid to the user in understanding the conditions and their implementation. The conditions, as written in the Commission Decision, shall supersede any summarization, description, or interpretation of the conditions in the HRMP. The Cultural Resources Conditions of Certification from the Commission Decision are contained in Appendix A."

Implementation of the Historical Resources Management Program

2. Specification of the implementation sequence and the estimated time frames needed to accomplish all historical resources management program tasks prior to and during

construction ~~project~~ -related ground disturbance, and during those analysis phases of the management program that may occur subsequent to construction ~~project~~ -related ground disturbance.

3. Identification of the person(s) expected to perform each of the historical resources management program tasks, their responsibilities, and the reporting relationships between project construction management and the treatment and monitoring teams.
4. A statement from the project owner that the CRS shall have, for the duration of construction ~~project~~ -related ground disturbance, access to equipment and supplies necessary for site mapping, photography, and recovery of any cultural resource materials that are found during such ground disturbance, where such materials cannot be treated prescriptively.

Historical Resources Management Program Research Design

5. A project area-specific research design that includes a discussion of archaeological research questions and testable hypotheses appropriate to the archaeological data sets known for the project area. The research design shall provide the broader context for and facilitate tiering down to the research design that the project owner shall prepare, pursuant to **CUL6**, for Archaeological Zone 1. The project area research design shall clearly articulate why it is in the public interest to address the research questions that it poses. That research design shall also develop a discussion of artifact and ecofact collection, retention, and disposal policies as related to the research questions in the research design.

Documentation and Curation Standards

6. A statement that all found cultural resources over 50 years old shall be recorded on Department of Parks and Recreation (DPR) 523 Series forms, and mapped and photographed. In addition, all artifacts and ecofacts retained as a result of the archaeological investigations (survey, testing, and data recovery) shall be curated in accordance with the California State Historical Resources Commission's *Guidelines for the Curation of Archaeological Collections*, into a retrievable storage collection in a public repository or museum.

7. A statement that the project owner shall pay all curation fees for artifacts and ecofacts recovered and for related documentation produced during cultural resources investigations conducted for the project. The project owner shall identify three possible curation facilities that could accept cultural resources materials resulting from project activities.

8. A description of the contents, the format, and the review and approval process for the CRR (**CUL-10**), which shall be prepared according to ARMR guidelines (COHP 1990).

Native American Participation

9. A description of the roles which Native American observers or monitors shall play in the implementation of the HRMP, including the procedures that shall govern the selection of such observers and monitors, and the authority and responsibility of each role.

Treatment and Management of Historical Resources

10. A protocol that articulates, pursuant to **CUL-5**, the avoidance measures that the project owner shall implement to preserve archaeological site Site 17. **CUL-5** sets out the structure and the details of the avoidance measures. If it is not feasible to avoid Site 17, Site 17 shall be included in the treatment plan pursuant to **CUL-5**, the purpose of which is to reduce the effects of the proposed project on the historical resource to less than significant through a program of data recovery, resource registration, and public outreach.
11. A treatment plan for Archaeological Zone 1, pursuant to **CUL-6**, the purpose of which is to reduce the effects of the proposed project on the historical resource to less than significant through a program of data recovery, resource registration, and public outreach. The structure and the details of the program are set out in **CUL-6**.

Construction Monitoring and Discovery

12. A Worker Environmental Awareness Program (WEAP) to guide the orientation of every new worker in the project area to cultural resources statutes and regulations, to the effects of the proposed project on cultural resources, to the management program that has been negotiated to address those effects, to the role of the workers in the management program, to the types of cultural resources in the project area and how to recognize them, and to the protocols that workers are to follow upon the discovery of different types of cultural resources. The structure and the details of the WEAP program are set out in **CUL-7**.

13. A description of the structure, and the review and approval process for the Monitoring and Discovery Plan (**CUL-8** and **CUL-9**).

14. Prescriptive treatment plans, where appropriate, for cultural resources that represent marginal data sets (**CUL-9**).

Verification

1. Prior to the preparation of the HRMP, the project owner shall submit the final technical report for the January 2009 geoarchaeology study for the proposed project to the CPM for review and approval.

2. Upon approval of the CRS proposed by the project owner, the CPM shall provide to the project owner, as general guidance, an electronic copy of the draft model Cultural Resources Monitoring and Mitigation Plan for the use of the CRS.

3. At least ~~30~~ 150 days prior to the start of ground disturbance anywhere on the project site ~~30 meters or greater to the southwest of the provisional boundary of Archaeological Zone 1 or on the portions of the project area beyond the project site, and at least 270 days prior to the start of ground disturbance anywhere in Archaeological Zone 1 or 30 meters or less to the southwest of the provisional boundary for the Zone,~~ the project owner shall submit the HRMP to the CPM for review and approval.

4. At least 30 days prior to the start of ground disturbance anywhere on the project site ~~30 meters or greater to the southwest of the provisional boundary of Archaeological Zone 1 or on the portions of the project area beyond the project site, and at least 270 days prior to the start of ground~~

~~disturbance anywhere in Archaeological Zone 1 or 30 meters or less to the southwest of the provisional boundary for the Zone,~~ a letter shall be provided to the CPM indicating that the project owner agrees to pay curation fees for any materials collected as a result of the archaeological investigations (survey, monitoring, testing, data recovery).

RATIONALE

General - Consistency with General Conditions Definitions, page 7-1.

To allow time for a review period and 120 days for implementation, the HRMP and Treatment Plan should be submitted well in advance of the fieldwork. A distinction between Archaeological Zone I and other portions of the project area is not needed for compliance documents. The need for a commitment to curate cultural materials collected during archaeological investigations is linked to implementation of the HRMP. Such a commitment could reasonably be provided 30 days prior to start of ground disturbance.

CUL-5 *Historical Resource Avoidance Measures, Site 17*. The project owner shall direct the CRS to actively implement a sequence of avoidance measures to ensure that there would be no physical damage to Site 17 as a result of the construction, operation, or maintenance of the project. Prior to the onset of any construction ~~project~~ -related ground disturbance in the southwestern portion of the project site, the CRS shall re-establish the known boundary of Site 17, add a 10-meter wide buffer around the periphery of that boundary, and flag the boundary around the site and the buffer in a conspicuous manner. The CRS, alternate CRS, or a CRM would subsequently enforce the avoidance of the flagged area during project construction.

The CRS would, subsequent to the construction of the project, permanently mark the boundary around Site 17 and the above buffer, and then set the bounded area aside as an environmentally sensitive area that would not be subject to disturbance during the life of the project. The character of the permanent marking shall be decided on the basis of consultation and consensus among the property owner, the CRS, and the CPM. If avoidance of Site 17 is not feasible, provisions for data recovery at Site 17 will be included in the Historical Resource Treatment Plan.

Verification

1. At least 30 days prior to the onset of construction ~~project~~ -related ground disturbance in the SE 1/4 of section 8, T. 31 S., R. 37 E., the CRS shall re-establish the known boundary of Site 17, add a 10-meter wide buffer around the periphery of that boundary, and flag the boundary around the site and the buffer in a conspicuous manner.

2. The CRS, alternate CRS, or a CRM shall enforce the avoidance of the above flagged area for the duration of construction ~~project~~ -related ground disturbance.

3. No longer than 30 days subsequent to the conclusion of construction ~~project~~ -related ground disturbance in the SE 1/4 of section 8, T. 31 S., R. 37 E., the CRS shall permanently mark the boundary around Site 17 and the above buffer. The area so marked shall then be an environmentally sensitive area that shall not be subject to any disturbance during the life of the

project. The CRS shall continue to enforce the avoidance of the originally flagged area until the area has been permanently marked.

4. The CRS shall ensure that the measures and verifications of this condition of certification are, pursuant to subpart 10, **CUL-4**, completely incorporated as a protocol in the HRMP.

RATIONALE
General - Consistency with General Conditions Definitions, page 7-2.

To address other environmental issues the loop area for the rerouted wash has been reconfigured. The loops now are located very close to Site 17. If it is not feasible to avoid Site 17, treatment in the form of data recovery will be needed.

CUL-6 *Archaeological Zone 1 Historical Resource Treatment Plan.* The project owner shall prepare and implement a treatment plan the purpose of which is to reduce the effects of the proposed project on Archaeological Zone 1 to less than significant. The treatment plan shall accomplish the reduction of effects through a program of data recovery, resource registration, and public outreach. Prior to the onset of any construction ~~project~~ -related ground disturbance within 30 meters of the provisional boundary for Archaeological Zone 1, the project owner shall prepare, secure the approval of the CPM for, and conclude the field investigation portions of the Archaeological Zone 1 Historical Resource Treatment Plan (HRTP). The HRTP shall, at a minimum, include and set out the details of each of the following elements:

1. *Research Design*. A research design specific to Archaeological Zone 1 that tiers off of the research design for the project area in the HRMP (Subpart 5, **CUL-4**) and that clearly articulates why it is in the public interest to address the research questions that it poses. The research design shall evidence consideration of archaeological themes that relate to the identity and the lifeways of Native American groups in the prehistoric and historic periods.

2. *Data Recovery Program.* Thorough descriptions of the overall goals of the data recovery program, how the data sets that are anticipated for Archaeological Zone 1 will contribute to our knowledge of the prehistoric and historic period Native American themes of the research design and answer particular research questions, of the purposes and the methods of the different field phases of the data recovery program, and of the purposes and methods of the material analyses that will also occur. The descriptions of the field and laboratory efforts for the data recovery program shall include, at a minimum, and more thoroughly articulate the following phases:

    a. *Inventory, Phase 1 (Geophysical Test).* The initial component of the data recovery program shall be a discontiguous 1-acre test of the efficacy of the use of magnetometry to derive a representative sample of the predominant type of archaeological deposits that are now thought to make up Archaeological Zone 1, fire features or hearths that occur both as feature clusters and as isolate features and that may or may not occur in association with fire-affected rock. The test shall include a small magnetometer survey

through and in the near vicinity of (approximately 30 meters beyond) known archaeological sites in Archaeological Zone 1, and the subsequent ground truthing of a representative sample of the magnetic anomalies found in the survey areas for the test. The ground truthing sample shall, at a minimum, be the lesser of 25 percent of the anomalies or 12 individual anomalies. The excavation of the anomalies may, at the discretion of the CRS, be by hand or mechanical means. The CRS shall ensure that the field notes and the forms for the survey areas and for the ground truthing are sufficient to completely document the geophysical test.

b. *Inventory, Phase 2a (Geophysical Survey)*. If the CRS and CPM agree, after consultation, that the geophysical test demonstrates that the use of magnetometry appears to be reasonably reliable, the project owner shall ensure that the CRS proceeds to a broader magnetometry sample survey of Archaeological Zone 1 and of the area 30 meters to the southwest of the provisional district boundary (Cultural Resources Figure 2). The CRS and CPM shall first derive and agree upon, in consultation with one another, the precise location of the provisional district boundary on the surface of the project site. The project owner shall then ensure that the CRS develops a single stratified random sample for Archaeological Zone 1 and the adjacent area 30 meters to the southwest of the provisional district boundary that would result in a magnetometry survey of ~~a minimum of 10~~ no more than 5 percent of that total area not to exceed 27 acres. The CRS and the CPM shall, in consultation, derive and agree upon criteria that shall form the basis for the stratification of the survey sample. The criteria shall reflect the spatial variability in the physical and material character and in the chronology of Archaeological Zone 1, as such variability is presently known from the field investigations in the project area. The results of the broader magnetometry survey would also be subject to the ground truthing of a representative sample of the magnetic anomalies found in the survey areas to more precisely establish the range of error of the survey results. The ground truthing sample shall, at a minimum, be the lesser of 10 percent of the anomalies or 48 individual anomalies. The excavation of the anomalies may, at the discretion of the CRS, be by hand or mechanical means. The project owner shall ensure that the CRS's field notes and the forms for the survey areas and for the ground truthing are sufficient to completely document the geophysical survey to the satisfaction of the CPM.

c. *Inventory, Phase 2b (Mechanical Subsurface Survey)*. Should the results of the initial geophysical test demonstrate that the use of magnetometry is not reasonably well able to locate the types of archaeological deposits that make up Archaeological Zone 1, the applicant would conduct a broader subsurface sample survey of the Zone using construction equipment such as a road grader or a backhoe rather than proceeding with the broader geophysical survey. This mechanical subsurface survey would employ transects, the proposed width and length of which the CPM would approve, and would involve the excavation of the transects in thin (no thicker than

approximately 5 centimeters) layers to carefully expose and facilitate the accurate preliminary documentation of target archaeological deposits. The project owner shall ensure that the CRS, with CPM concurrence, derives criteria to form the basis for the stratification of the survey sample and develops a single stratified random sample for the Zone and the adjacent area to the southwest that would result in the mechanical subsurface survey of ~~a minimum~~ no more than ~~of~~ 2.5 percent of that total area not to exceed 14 acres. The criteria shall reflect the spatial variability in the physical and material character and in the chronology of Archaeological Zone 1, as such variability is presently known from the field investigations in the project area. The project owner shall submit, for CPM review and approval, the CRS's methodology for the mechanical subsurface survey. The methodology would prescribe how archaeological deposits found during the survey would be preserved intact until the conclusion of the survey so that the CRS could structure a representative data recovery sample of the found deposits. The methodology would also take into account how the CRS would recover a sample of the buried land surfaces that may surround individual hearths or groups of hearths and document the material culture assemblages that may be found on such surfaces when the act of the mechanical exposure of the hearths may often truncate the surface from which they were constructed and used. The project owner shall ensure that the CRS's field notes and the forms for the survey areas are sufficient to completely document the mechanical subsurface survey to the satisfaction of the CPM.

d. *Inventory, Phase 3 (Refinement of Provisional District Boundary)*. The project owner shall ensure that the CRS, on the basis of the results of either phase 2a or phase 2b of the data recovery program, drafts a refined provisional boundary for Archaeological Zone 1 that shall become an integral part of the implementation of, among other conditions of certification, **CUL-8 and** subparts 2e and 2f of this condition, **CUL-6**.

e. *Data Recovery, Phase 1 (Hearth Excavations)*. One component of the actual data recovery phase of the data recovery program would be to excavate small (approximately 1–~~3~~ 2 meters square) exposures to uncover and document a sample of the individual hearths that are one constituent of the Zone. The purpose of this documentation would be to gather data to describe the physical variability of the features, to identify and inventory the artifacts and ecofacts that are found in them, and to interpret the methods of construction and the potential uses of the features. The excavation of the hearths shall proceed by hand to, where feasible, remove the archaeological deposits in anthropogenic layers. Where appropriate, the project owner shall ensure that the CRS retain samples of each layer sufficient to submit for radiocarbon assays, and macrobotanical, palynological, geochemical, or other analyses. The balance of each layer shall be screened through hardware cloth of no greater than 1/8-inch mesh. The project owner shall ensure that the CRS excavates a ~~minimum~~ maximum of 12 such small exposures. In consultation, the CRS and the

CPM shall develop and agree upon a sample of the hearths found as a result of the entire cumulative effort to inventory the archaeological deposits of Archaeological Zone 1 to subject to data recovery excavation. The sample shall reflect the apparent physical, material, and chronological variability of the found features. The project owner shall ensure that the CRS's field notes and the forms for the excavation of the hearths are sufficient to acquire the thorough complement of data necessary to the description of each feature, and the interpretation of the construction and use of each feature to the satisfaction of the CPM.

f. *Data Recovery, Phase 2 (Excavation of Former Land Surfaces)*. The other component of the actual data recovery phase of the data recovery program would be to excavate larger (~~5~~ 3 meters square) block exposures to attempt to uncover a sample of the buried land surfaces that may surround individual hearths or groups of them, and to document the material culture assemblages that may be found on such surfaces. If such surfaces are identified, the area of excavation can be expanded to a maximum of 5 meters square. The excavation of the surfaces shall proceed by hand to, where feasible, remove the archaeological deposits in anthropogenic layers. Where appropriate, the project owner shall ensure that the CRS retain samples of each layer sufficient to submit for radiocarbon assays, and macrobotanical, palynological, geochemical, or other analyses. The balance of each layer shall be screened through hardware cloth of no greater than 1/8-inch mesh. The CRS shall try to excavate each block exposure as a single excavation unit rather than as ~~25~~ separate one meter square excavation units. The project owner shall ensure that the CRS excavate a ~~minimum~~ maximum of 4 block exposures or excavation blocks, where intact buried land surfaces are found in each excavation block. ~~The CRS shall excavate a maximum of 8 block exposures, where intact buried land surfaces are not found in at least four of the blocks excavated.~~ In consultation, the CRS and the CPM shall develop and agree upon a sample of the buried surfaces that would be subject to excavation. The sample shall reflect the apparent physical, material, and chronological variability of the hearth features around which the buried surfaces may be found. The project owner shall ensure that the CRS's field notes and the forms for the excavation of the surfaces are sufficient to acquire the thorough complement of data necessary to the description of the distributions of artifacts and ecofacts across each surface, and the interpretation of the use of each surface, to the satisfaction of the CPM.

g. *Material Analyses*. The project owner shall ensure that the HRTP articulates the anticipated scope of the analyses of the cumulative artifact and ecofact collections that have been and will be the result of the investigations of Archaeological Zone 1, articulates the analytic methods to be used, and articulates how the data sets that such analyses will produce are relevant to the themes and questions in the research design for the Zone.

h. *Report Preparation*. The project owner shall ensure that the HRTP states that a conclusory report is one of the requirements of the data recovery program, and also articulates the outline of, and the production schedule and approval process for the subject report.

3. *California Register of Historical Resources Registration*. The project owner shall prepare a California Register of Historical Resources nomination for Archaeological Zone 1 and submit the nomination to the State Historic Resources Commission for formal consideration. The project owner shall ensure that the CRS, as a part of the registration effort, derives a permanent district name for the Zone to replace the temporary designation of "Archaeological Zone 1." The CRS shall also ensure that the nomination reflects a final formal boundary for the district, a boundary that the CRS shall derive on the basis of the results of the data recovery program and present in the conclusory report for that program.

4. *Outreach Initiatives*
   a *Professional Outreach*. The project owner shall prepare a research paper and present it at a professional conference, or prepare and publish a peer-reviewed journal article to inform the professional archaeological community about Archaeological Zone 1 and to interpret its implications for our understanding of the prehistory and early history of Native American life in the region.
   b. *Public Outreach*. The project owner shall prepare and present materials that interpret Archaeological Zone 1 for the public. Potential public interpretation efforts may include the preparation of an instructional module for use in local school districts, or the preparation of a display for existing public interpretation venues such as Red Rock Canyon State Park.

Verification

1. ~~At least 210 days p~~ Prior to the onset of construction ~~project~~-related ground disturbance anywhere in Archaeological Zone 1 or 30 meters or less to the southwest of the provisional boundary for the Zone, the project owner shall ensure that the CRS completes the geophysical test referred to in subpart 2a, **CUL-6,** above, and as set out in the HRTP component of the HRMP (**CUL-4**), and submit, for the review and approval of the CPM, a formal assessment of the reliability of the use of magnetometry to locate buried hearths in the Zone. If the geophysical test demonstrates that the use of magnetometry appears to be reasonably reliable in this regard, then the project owner shall also submit, for the review and approval of the CPM, the precise geographic coordinates of the provisional boundary of Archaeological Zone 1 and a stratified random sample for a broader magnetometry survey of ~~10~~ 5 percent of Archaeological Zone 1 and of the area 30 meters to the southwest of the provisional district boundary. If the geophysical test demonstrates that the use of magnetometry does not appear to be reasonably reliable, then the project owner shall submit, for the review and approval of the CPM, a stratified random sample for a mechanical subsurface survey of 2.5 percent of Archaeological Zone 1 and of the area 30 meters to the southwest of the provisional district boundary.

2. ~~At least 105 days p~~ Prior to the onset of construction ~~project~~ -related ground disturbance anywhere in Archaeological Zone 1 or 30 meters or less to the southwest of the provisional boundary for the Zone, the project owner shall ensure that the CRS completes the formal inventory of that area under, as appropriate, subparts 2b or 2c, **CUL-6** and submits, for the review and approval of the CPM, a preliminary report, prepared by or under the direction of the CRS, of the results of the

formal inventory, the precise geographic coordinates of the refined provisional district boundary (subpart 2d, **CUL6**), and separate samples for the data recovery excavation of a finite number of the hearths found in Archaeological Zone 1 (subpart 2e, **CUL-6**) and of a finite number of block exposures to reveal intact buried land surfaces there (subpart 2f, **CUL-6**). The project owner shall ensure that the preliminary report is a concise document that provides descriptions of the schedule and methods of the inventory field effort, a preliminary tally of the numbers and, where feasible, the types of archaeological deposits that were found, a discussion of the potential range of error in that tally, and a map of the locations of the found archaeological deposits that has topographic contours and the project site landform designations as overlays. The results of the formal inventory, as set out in the preliminary report, shall be the basis for the refinement of the provisional district boundary. The project owner shall ensure that the CRS then derives the samples for the hearths and the buried land surface block exposures relative to the refined provisional district boundary.

3. ~~At least 30 days p~~ Prior to the onset of construction ~~project~~ -related ground disturbance anywhere to the northeast of the refined provisional boundary for Archaeological Zone 1, subsequent to the CPM's approval of said boundary, the project owner shall ensure that the CRS completes the data recovery phases of the data recovery program (subparts 2e and 2f, **CUL-6**) and submits, for the review and approval of the CPM, a preliminary report of the results of those phases. The preliminary report shall be a concise document that provides descriptions of the schedule and methods of the data recovery effort, technical descriptions of excavated archaeological features and buried land surfaces that, while draft in format, present the highest resolution of technical data that can be derived from the data recovery field notes, plan and, as appropriate, profile drawings and photographs of excavated archaeological features and buried land surfaces, and technical descriptions and appropriate graphics of the stratigraphic contexts of excavated archaeological features and buried land surfaces. No construction ~~project~~ -related ground disturbance shall occur to the northeast of the refined provisional boundary for Archaeological Zone 1 prior to the project owner's receipt, in writing, of the CPM's approval of the preliminary data recovery report.

4. No longer than 180 days subsequent to the CPM's approval of the preliminary data recovery report, the project owner shall ensure that the CRS completes the requisite material analyses for, prepare, and submits, for the approval of the CPM, the conclusory report for the data recovery program (subpart 2h, **CUL-6**).

5. No longer than 240 days subsequent to the CPM's approval of the preliminary data recovery report, the project owner shall ensure that the CRS completes the preparation of the California Register of Historical Resources nomination for Archaeological Zone 1 and submits the nomination to the State Historic Resources Commission for formal consideration (subpart 3, **CUL-6**). The nomination shall reflect the formal district boundary that shall be one result of the implementation of the data recovery program, as presented in the conclusory report for that program.

6. No longer than 240 days subsequent to the CPM's approval of the preliminary data recovery report, the project owner shall ensure that the CRS completes requirements of subpart 4a, **CUL-6** and provides the CPM with three copies of the final product of that effort, and prepares, and submits for the approval of the CPM, a product that fulfills the requirements of subpart 4b, **CUL-6**. Upon the CPM's approval of the latter product, the project owner shall ensure, as appropriate, the product's installation, implementation, or display.

RATIONALE

General - Consistency with General Conditions Definitions, page 7-2.

Magnetometry is labor intensive and expensive. As currently proposed the area of study (Archaeological Zone 1) could be up to 50 acres. One to two days per acre for field time and the same for post-processing and analysis equate to 100 to 200 days of investigation, prior to initiating excavations for data recovery. A more feasible approach would be up to a 5% magnetometry sample as long as the investigations are identifying buried anomalies.

Excavations ranging in size from 1 to 2 meters are typically sufficient to expose hearth features such as those identified at BSEP. For areas where the potential for buried land surfaces that may surround the hearths is to be investigated, larger excavations of 3 meters square provide an adequate exposure. If a cultural land surface is identified, the area of excavation could then be expanded up to a maximum of 5 meters square to provide a larger exposure.

CUL-7 *Worker Environmental Awareness Program (WEAP)*. Prior to and for the duration of construction ~~project~~ -related ground disturbance, the project owner shall provide Worker Environmental Awareness Program (WEAP) training to all new workers within their first week of employment at the project site, laydown area, and along the linear facilities routes. The training shall be prepared by the CRS, may be conducted by any member of the archaeological team, and may be presented in the form of a video. The CRS shall be available (by telephone or in person) to answer questions posed by employees. The training may be discontinued when ground disturbance is completed or suspended, but must be resumed when ground disturbance, such as landscaping, resumes. The training shall include:

1. A discussion of applicable cultural resources statutes, regulations, and related enforcement provisions;

2. A summary of the effects of the proposed project on cultural resources;

3. A summary of the historical resources management program that has been negotiated to address the effects of the proposed project on cultural resources;

4. A discussion of the role of the workers in the historical resources management program;

5. Samples or visuals of artifacts that might be found in the project area;

6. A discussion of what such artifacts may look like when partially buried, or wholly buried and then freshly exposed;

7. A discussion of what prehistoric and historical archaeological deposits look like at the surface and when exposed during construction, the range of variation in the appearance of such deposits across the project area, and, more especially, the known range of variation in the archaeological deposits of Archaeological Zone 1;

8. Instruction that the CRS, alternate CRS, and CRMs have the authority to halt construction ~~project~~ -related ground disturbance in the area of a discovery to an extent

sufficient to ensure that the resource is protected from further impacts, as determined by the CRS;

9. Instruction that employees are to halt work on their own in the vicinity of a potential cultural resources discovery, particularly in Archaeological Zone 1 for prehistoric archaeological deposits that are inconsistent with the known range of variation in the archaeological deposits there, and shall contact their supervisor and the CRS or CRM, and that redirection of work would be determined by the construction supervisor and the CRS;

10. An informational brochure that identifies the reporting procedures for Archaeological Zone 1 and non-Archaeological Zone 1 areas in the event of a discovery;

11. An acknowledgement form signed by each worker indicating that they have received the training; and

12. A sticker that shall be placed on hard hats indicating that environmental training has been completed.

No ground disturbance shall occur prior to implementation of the WEAP program, unless such activities are specifically approved by the CPM.

Verification

1. At least 30 days prior to the start of ground disturbance anywhere on the project site ~~30 meters or greater to the southwest of the provisional boundary of Archaeological Zone 1 or on the portions of the project area beyond the project site, and at least 270 days prior to the start of ground disturbance anywhere in Archaeological Zone 1 or 30 meters or less to the southwest of the provisional boundary for the Zone,~~ the CRS shall provide, as a stand-alone document or as an element of the HRMP, the training program draft text and graphics and the informational brochure to the CPM for review and approval.

2. At least 30 days prior to the start of ground disturbance anywhere on the project site, the CPM will provide to the project owner a WEAP Training Acknowledgement form for each WEAP-trained worker to sign.

3. Monthly, until all construction ~~project~~ -related ground disturbance is complete, the project owner shall provide in the Monthly Compliance Report (MCR) the WEAP Training Acknowledgement forms of workers at the project site and on the linear facilities who have completed the training in the prior month and a running total of all persons who have completed training to date.

RATIONALE

General - Consistency with General Conditions Definitions, page 7-2.

Submittal of the training program draft text and graphics and the informational brochure to the CPM 30 days prior to ground disturbance allows sufficient review time. Only one WEAP program is needed for the project.

CUL-8 *Construction Monitoring Program*. The Monitoring and Discovery Plan (subpart 13, **CUL-4**) shall include separate protocols for construction monitoring, and for the discovery and treatment of new cultural resources that are found or when unanticipated effects to known cultural resources become evident during construction ~~project~~ -related ground disturbance. The construction monitoring protocol shall specify the different procedures below that the project owner shall follow during construction ~~project~~ -related ground disturbance in different parts of the project area and on different landforms in the project area, where the lateral extent and the character of project area landforms are known. As the source of the water that would be necessary to operate the proposed project remains an active focus of discussion, staff includes specifications here for the monitoring procedures that the project owner would need to follow in the event that the project owner ultimately chooses to construct either the Rosamond Community Service District or the City of California City treated wastewater pipeline alternative. Other alterations of the project area under **CUL-3** shall require the project owner to append the Monitoring and Discovery Plan to include monitoring procedures for the actions that would occur in any lands added to the original project area. The appended procedures shall be consistent with the landform-specific monitoring protocols below.

The project owner shall ensure that the CRS, alternate CRS, or CRMs actively monitor, full time, all construction ~~project~~ -related ground disturbance in the project area, in accordance with the landform-specific protocols below, to ensure that there are no impacts to undiscovered resources and to ensure that known resources are not impacted in an unanticipated manner. Additionally, the project owner shall ensure that construction personnel, trained to recognize what archaeological site types are and are not known for Archaeological Zone 1, passively monitor construction ~~project~~ -related ground disturbance in the project area, also in accordance with the landform-specific protocols below.

Landform-specific Monitoring Protocols. The construction monitoring protocols specific to the different landform contexts in the project area variously have active and passive components. The active components relate to the construction monitoring protocols that are required for landform contexts that are outside of Archaeological Zone 1, and the passive components relate to the protocols for such contexts that are in Archaeological Zone 1. The efficacy of the whole series of construction monitoring protocols below depends on the project owner, prior to the initiation of construction ~~project~~ -related ground disturbance, physically staking out the boundary of each landform and the refined provisional district boundary for Archaeological Zone 1, and ~~ensuring that the primary author of the January 2009 geoarchaeology study for the proposed project conduct~~ will conduct field orientations for the CRS, the alternate CRS, and each CRM so that they are able to recognize the project area landforms and key subsurface sedimentary features such as paleosols and sedimentary contacts. The boundary lines on the surface of the project site are the referents that direct the differential implementation of the active and passive components of the protocols, and the subsurface paleosols and sedimentary contacts are the referents that vertically bound the requisite construction monitoring areas.

Monitoring Protocol for Landform Hf1

Active component. The active component of the monitoring protocol for the Hf1 landform requires the project owner to have the CRS, alternate CRS, or CRMs actively monitor all construction ~~project~~ -related ground disturbance down to the upper boundary of the paleosol that is buried in the landform. That boundary, which is the upper boundary of a preserved A horizon, is approximately 2 meters below the present surface of the landform.

Passive component. The owner shall have construction personnel on the project passively monitor for and halt construction upon the discovery of buried archaeological deposits in the portion of Archaeological Zone 1 on the Hf1 landform that appear to represent archaeological site types not previously known for the Zone. Any such discovery shall be subject to the discovery protocol of **CUL-9**. Construction personnel shall be given training, as part of the training program of **CUL-7**, which would facilitate the field recognition of archaeological site types that are and are not known for the district.

Applicability

Project Site. Active monitoring to the southwest of the refined provisional district boundary, and passive monitoring to the northeast of the refined provisional district boundary.

Transmission Line Infrastructure. Not applicable.

Emergency Access Road. Not applicable.

Rosamond Community Service District or City of California City Treated Wastewater Pipeline Alternatives. Passive monitoring to the northeast of the refined provisional district boundary.

Monitoring Protocol for Landform Hf1d

Active component. The active component of the monitoring protocol for the Hf1d landform requires the project owner to have the CRS, alternate CRS, or CRMs actively monitor all construction ~~project~~ -related ground disturbance down approximately 2 meters from the present surface of the landform to the upper contact of what are presently thought to be Pleistocene-age deposits of pebbles and cobbles.

Passive component. No passive monitoring on the Hf1d landform.

Applicability

Project Site. Active monitoring across the whole extent of the landform on the project site.

Transmission Line Infrastructure. Active monitoring across the whole extent of the landform in the portion of the project area that encompasses the construction area for the transmission line infrastructure. To implement the protocol for the Hf1d landform in the construction area for the transmission line infrastructure, the project owner shall project out the boundary between the Hf1d and Hf3 landforms, which appears to be coincident with the Cantil Valley fault, to the southwest of the project site, and implement the protocol for the Hf1d landform to the southeast of that projected boundary.

Emergency Access Road. Not applicable.

Rosamond Community Service District or City of California City Treated Wastewater Pipeline Alternatives. Not applicable.

Monitoring Protocol for Landform Hf2

Active component. The active component of the monitoring protocol for the Hf2 landform requires the project owner to have the CRS, alternate CRS, or CRMs actively monitor all construction ~~project~~ -related ground disturbance to the maximum depth of such disturbance.

Passive component. The project owner shall have construction personnel on the project passively monitor for and halt construction upon the discovery of buried archaeological deposits in the portion of Archaeological Zone 1 on the Hf2 landform that appear to represent archaeological site types not previously known for the Zone. Any such discovery shall be subject to the discovery protocol of **CUL-9**. Construction personnel shall be given training, as part of the training program of **CUL-7**, which would facilitate the field recognition of archaeological site types that are and are not known for the district.

Applicability
Project Site. Active monitoring to the southwest of the refined provisional district boundary, and passive monitoring to the northeast of the refined provisional district boundary.

Transmission Line Infrastructure. Not applicable.

Emergency Access Road. Not applicable.

Rosamond Community Service District or City of California City Treated Wastewater Pipeline Alternatives. Passive monitoring to the northeast of the refined provisional district boundary.

Monitoring Protocol for Landform Hf3

Active component. No active monitoring on the Hf3 landform.

Passive component. No passive monitoring on the Hf3 landform.

Applicability
Project Site. Not applicable.

Transmission Line Infrastructure. Not applicable.

Emergency Access Road. Not applicable.

Rosamond Community Service District or City of California City Treated Wastewater Pipeline Alternatives. Not applicable.

Monitoring Protocol for Landform Hf4

Active component. The active component of the monitoring protocol for the Hf4 landform requires the project owner to have the CRS, alternate CRS, or CRMs actively monitor all construction ~~project~~ -related ground disturbance to the maximum depth of 4 meters ~~such disturbance~~.

Passive component. The owner shall have construction personnel on the project passively monitor for and halt construction upon the discovery of buried archaeological deposits in the portion of Archaeological Zone 1 on the Hf4 landform that appear to represent archaeological site types not previously known for the Zone. Any such discovery shall be subject to the discovery protocol of **CUL-9**. Construction personnel shall be given training, as part of the training program of **CUL-7**, which would facilitate the field recognition of archaeological site types that are and are not known for the district.

Applicability
Project Site. Active monitoring to the southwest of the refined provisional district boundary, and passive monitoring to the northeast of the refined provisional district boundary.

Transmission Line Infrastructure. Not applicable.

Emergency Access Road. Not applicable.

Rosamond Community Service District or City of California City Treated Wastewater Pipeline Alternatives. Active monitoring to the southwest of the refined provisional district boundary, and passive monitoring to the northeast of the refined provisional district boundary.

Monitoring Protocol for Unknown Landforms

Active component. The active component of the monitoring protocol for unknown landforms requires the project owner to have the CRS, alternate CRS, or CRMs actively monitor all construction ~~project~~ -related ground disturbance to the maximum depth of any such disturbance.

Passive component. No passive monitoring on unknown landforms.

Applicability
Project Site. Not applicable.

Transmission Line Infrastructure. Not applicable.

Emergency Access Road. Active monitoring for the whole length of the proposed emergency access road, which is outside and projects east of the project site to Neuralia Road.

Rosamond Community Service District or City of California City Treated Wastewater Pipeline Alternatives. Active monitoring for the whole length of either pipeline route alternative, both of which are outside and to the east and south of the project site.

Full-time archaeological monitoring for this project shall be the archaeological monitoring of all construction ~~project~~ -related ground disturbance in the project area, in accordance with the Landform-specific Monitoring Protocols, above. ~~Where excavation equipment is actively removing dirt and hauling the excavated material farther than fifty feet from the location of active excavation, full-time archaeological monitoring shall require at least two monitors per excavation area. In this circumstance, one monitor shall observe the location of active excavation and a second monitor shall inspect the dumped material. For excavation areas where the excavated material is dumped no further than fifty feet from the location of active excavation, one monitor shall both observe the location of active excavation and inspect the dumped material.~~

In the event that the CRS believes that the current level of monitoring is not appropriate in certain locations, a letter or e-mail detailing the justification for changing the level of monitoring shall be provided to the CPM for review and approval prior to any change in the level of monitoring.

The research design in the HRMP shall govern the collection, treatment, retention/disposal, and curation of any archaeological materials encountered.

A Native American monitor shall be obtained to monitor ground disturbance in areas where Native American artifacts may be discovered. Contact lists of interested Native Americans and guidelines for monitoring shall be obtained from the Native American Heritage Commission. Preference in selecting a monitor shall be given to Native Americans with traditional ties to the area that shall be monitored. If efforts to obtain the services of a qualified Native American monitor are unsuccessful, the project owner shall immediately inform the CPM. The CPM will either identify potential monitors or will allow ground disturbance to proceed without a Native American monitor.

On forms provided by the CPM, CRMs shall keep a daily log of any monitoring and other cultural resources activities and any instances of noncompliance with the Conditions and/or applicable LORS. Copies of the daily monitoring logs shall be provided by the CRS to the CPM, if requested by the CPM. From these logs, the CRS shall compile a monthly monitoring summary report to be included in the MCR. If there are no monitoring activities, the summary report shall specify why monitoring has been suspended.

The CRS or alternate CRS shall report daily to the CPM on the status of the project's cultural resources-related activities, unless reducing or ending daily reporting is requested by the CRS and approved by the CPM.

In the event that the CRS believes that the current level of monitoring is not appropriate in certain locations, a letter or e-mail detailing the justification for changing the level of monitoring shall be provided to the CPM for review and approval prior to any change in the level of monitoring.

The CRS, at his or her discretion, or at the request of the CPM, may informally discuss cultural resources monitoring and mitigation activities with Energy Commission technical staff. Cultural resources monitoring activities are the responsibility of the CRS. Any interference with monitoring activities, removal of a monitor from duties assigned by the CRS, or direction to a monitor to relocate monitoring activities by anyone other than the CRS shall be considered non-compliance with these Conditions.

Upon becoming aware of any incidents of non-compliance with the Conditions and/or applicable LORS, the CRS and/or the project owner shall notify the CPM by telephone or e-mail within 24 hours. The CRS shall also recommend corrective action to resolve the problem or achieve compliance with the Conditions. When the issue is resolved, the CRS shall write a report describing the issue, the resolution of the issue, and the effectiveness of the resolution measures. This report shall be provided in the next MCR for the review of the CPM.

Verification

1. At least 30 days prior to the start of ground disturbance anywhere on the project site ~~30 meters or greater to the southwest of the provisional boundary of Archaeological Zone 1 or on the portions of the project area beyond the project site, and at least 270 days prior to the start of ground disturbance anywhere in Archaeological Zone 1 or 30 meters or less to the southwest of the provisional boundary for the Zone,~~ the project owner shall submit the Monitoring and Discovery Plan to the CPM for review and approval.

2. At least 30 days prior to the start of construction ~~project~~ -related ground disturbance, the CPM will provide to the CRS an electronic copy of a form to be used as a daily monitoring log.

3. Monthly, while monitoring is on-going, the project owner shall include in each MCR a copy of the monthly summary report of cultural resources-related monitoring prepared by the CRS and shall attach any new DPR 523A forms completed for finds treated prescriptively, as specified in the HRMP.

4. At least ~~30~~ 10 days prior to the start of construction ~~project~~ -related ground disturbance, the project owner shall physically stake out, ~~every 200 feet~~ along the surface of the ground and in a conspicuous manner, either the provisional boundary of Archaeological Zone 1, or, if it has been given the approval of the CPM, the refined provisional district boundary for the Zone, and the known boundary of each landform on the project site as each such boundary is reported in the February 6, 2009 preliminary field report for the geoarchaeology study (Young 2009b). The project owner shall engage the author of that preliminary report to assist in the location of each landform boundary on the ground.

5. At least 30 days prior to the start of construction ~~project~~ -related ground disturbance, the project owner shall ~~engage the author of the February 6, 2009 preliminary field report for the geoarchaeology study (Young 2009b) to~~ conduct field orientations for the CRS, the alternate CRS, and each CRM so that they are each able to recognize the project area landforms and key subsurface sedimentary features in the landform-specific monitoring protocols such as paleosols and sedimentary contacts. The replacement of the CRS, the alternate CRS, or CRMs shall necessitate new field orientations to train new personnel.

6. At least 30 days prior to the start of construction ~~project~~ -related ground disturbance in any portion of the project area added under **CUL-3**, the project owner shall submit a numbered appendix to the Monitoring and Discovery Plan to the CPM for review and approval. Each such appendix shall include monitoring procedures for the actions that would occur in lands added to the original project area. The appended procedures shall be consistent with the landform-specific monitoring protocols of **CUL-8**.

7. Daily, as long as no cultural resources are found, the CRS shall provide a statement that "no cultural resources over 50 years of age were discovered" to the CPM as an email, or in some other form acceptable to the CPM.

8. At least 24 hours prior to reducing or ending daily reporting, the project owner shall submit to the CPM, for review and approval, a letter or e-mail (or some other form of communication acceptable to the CPM) detailing the CRS's justification for reducing or ending daily reporting.

9. At least 24 hours prior to implementing a proposed change in monitoring level, documentation justifying the change shall be submitted to the CPM for review and approval.

10. No later than 30 days following the discovery of any Native American cultural materials, the project owner shall submit to the CPM copies of the information transmittal letters sent to the Chairpersons of the Native American tribes or groups who requested the information.

11. Within 15 days of receiving them, the project owner shall submit to the CPM copies of any comments or information provided by Native Americans in response to the project owner's transmittals of information.

RATIONALE

General - Consistency with General Conditions Definitions, page 7-2.

The closer to the start of construction the more likely the staking will be in place at the start of construction. Although field orientation will be conducted, It is not feasible to commit to engage a specific individual to conduct the field orientation regarding landforms. Standard archaeological monitoring of mechanical excavations consists of viewing soils as they are removed from their in situ location and does not involve a second monitor.

Maximum excavation in landform Hf4 is limited to 4 meters based on the geoarchaeological investigation that identified area below that depth as high energy and not conducive to intact preservation of archaeological sites (Young 2009:14).

CUL-9 *Discovery and Discovery Treatment Protocols*. The Monitoring and Discovery Plan (subpart 13, **CUL-4**) shall include separate protocols for construction monitoring, and for the discovery and treatment of new cultural resources that are found outside of the refined provisional

boundary for Archaeological Zone 1, when archaeological site types not previously known for the Zone are found inside said boundary, or when unanticipated effects to known cultural resources become evident during construction ~~project~~ -related ground disturbance. The Discovery Protocol shall specify the procedures that the project owner shall follow upon the discovery of a new resource outside of Archaeological Zone 1, of a new archaeological site type in Archaeological Zone 1, or upon the recognition of an unanticipated effect. The project owner shall, in any such instance, grant authority to halt construction ~~project~~ -related ground disturbance to the CRS, alternate CRS, and the CRMs. Redirection of ground disturbance shall be accomplished under the direction of the construction supervisor in consultation with the CRS.

In the event that cultural resources that may be over 50 years of age are found, or, if younger, determined exceptionally significant by the CPM, or archaeological site types not previously known for Archaeological Zone 1 are found in it, or impacts to such resources can be anticipated, ground disturbance shall be halted or redirected in the immediate vicinity of the discovery sufficient to ensure that the resource is protected from further impacts. Monitoring and daily reporting as provided in **CUL-8** shall continue during all ground-disturbing activities elsewhere on the project site. The halting or redirection of ground disturbance shall remain in effect until the CRS has visited the discovery, and all of the following have occurred:

1. The CRS has notified the project owner, and the CPM has been notified within 24 hours of the discovery, or by Monday morning if the cultural resources discovery occurs between 8:00 AM on Friday and 8:00 AM on Sunday morning, including a description of the discovery (or changes in character or attributes), the action taken (i.e., work stoppage or redirection), a recommendation of CRHR eligibility, and recommendations for mitigation of any cultural resources discoveries, whether or not a determination of CRHR eligibility has been made.

2. If the discovery would be of interest to Native Americans, the CRS has notified all Native American groups that expressed a desire to be notified in the event of such a discovery.

3. The CRS has completed field notes, measurements, and photography for a DPR 523A "Primary Record" form. Unless the find can be treated prescriptively, as specified in the HRMP, the "Description" entry of the DPR 523A "Primary Record" form shall include a recommendation on the CRHR eligibility of the discovery. The project owner shall submit completed forms to the CPM.

4. The CRS, the project owner, and the CPM have conferred, and the CPM has concurred with the recommended eligibility of the discovery and approved the CRS's proposed data recovery, if any, including the curation of the artifacts, or other appropriate mitigation; and any necessary data recovery and mitigation have been completed.

   The discovery and discovery treatment protocols in the Monitoring and Discovery Plan shall specify that the preferred treatment strategy for any buried archaeological deposits found during the course of the construction, operation, and maintenance of the proposed project is avoidance. A mitigation plan shall be prepared for any CRHR-eligible (as

determined by the CPM) resource, impacts to which cannot be avoided, except for archaeological site types in Archaeological Zone 1 that are already known to be characteristic of that district.

Prescriptive treatment plans may be included, where appropriate, in the HRMP for cultural resources that represent marginal data sets.

Verification

1. At least 30 days prior to the start of ground disturbance anywhere on the project site ~~30 meters or greater to the southwest of the provisional boundary of Archaeological Zone 1 or on the portions of the project area beyond the project site, and at least 270 days prior to the start of ground disturbance anywhere in Archaeological Zone 1 or 30 meters or less to the southwest of the provisional boundary for the Zone,~~ the project owner shall submit the Monitoring and Discovery Plan to the CPM for review and approval.

2. At least 30 days prior to the start of ground disturbance, the project owner shall provide the CPM and CRS with a letter confirming that the CRS, alternate CRS, and CRMs have the authority to halt construction ~~project~~ -related ground disturbance in the vicinity of a cultural resources discovery, and that the project owner shall ensure that the CRS notifies the CPM within 24 hours of a discovery, or by Monday morning if the cultural resources discovery occurs between 8:00 AM on Friday and 8:00 AM on Sunday morning.

3. Within 48 hours of the discovery of a resource of interest to Native Americans, the project owner shall ensure that the CRS notifies all Native American groups that expressed a desire to be notified in the event of such a discovery.

4. Unless the discovery can be treated prescriptively, as specified in the HRMP, completed DPR 523 Series forms for resources newly discovered during ground disturbance shall be submitted to the CPM for review and approval no later than 24 hours following the notification of the CPM, or 48 hours following the completion of data recordation/recovery, whichever the CRS decides is more appropriate for the subject cultural resource.

RATIONALE

General - Consistency with General Conditions Definitions, page 7-2.

In an effort to reduce the number of documents submitted for review and approval, one Monitoring and Discovery Plan will be prepared. There is not a need for more than one Monitoring and Discovery Plan.

CUL-10 *Cultural Resources Report (CRR)*. The project owner shall submit the final CRR to the CPM for approval. The final CRR shall be written by or under the direction of the CRS and shall be provided in the ARMR format (COHP 1990). The final CRR shall report on all field activities including dates, times and locations, findings, samplings, and analyses. All survey reports, DPR 523 Series forms, data recovery reports, and any additional research reports not previously submitted to the California Historical Resource Information System (CHRIS) and the State Historic Preservation Officer (SHPO) shall be included as appendices to the final CRR.

If the project owner requests a suspension of construction ~~project~~ -related ground disturbance and/or construction activities, then a draft CRR that covers all cultural resources activities associated with the project shall be prepared by the CRS and submitted to the CPM for review and approval on the same day as the suspension/extension request. The draft CRR shall be retained at the project site in a secure facility until ground disturbance and/or construction resumes or the project is withdrawn. If the project is withdrawn, then a final CRR shall be submitted to the CPM for review and approval at the same time as the withdrawal request.

Verification

1. Within 90 days after completion of all construction ~~project~~ -related ground disturbance (including landscaping), the project owner shall submit the final CRR to the CPM for review and approval. If any reports have previously been sent to the CHRIS, then receipt letters from the CHRIS or other verification of receipt shall be included in an appendix.

2. Within 90 days after completion of all construction ~~project~~ -related ground disturbance (including landscaping), if cultural materials requiring curation were collected, the project owner shall provide to the CPM a copy of an agreement with, or other written commitment from, a curation facility that meets the standards stated in the California State Historical Resources Commission's *Guidelines for the Curation of Archaeological Collections*, to accept cultural materials, if any, from this project. Any agreements concerning curation will be retained and available for audit for the life of the project.

3. Within 10 days after CPM approval, the project owner shall provide documentation to the CPM confirming that copies of the final CRR have been provided to the SHPO, the CHRIS, the curating institution, if archaeological materials were collected, and to the Tribal Chairpersons of any Native American groups requesting copies of project-related reports.

4. Within 30 days after requesting a suspension of construction activities, the project owner shall submit a draft CRR to the CPM for review and approval.

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION FOR THE BEACON SOLAR ENERGY PROJECT	DOCKET NO. 08-AFC-2 **PROOF OF SERVICE** (Revised 4/28/09)

APPLICANT	**COUNSEL FOR APPLICANT**	**ENERGY COMMISSION**
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Declaration of Service

I, Lois Navarrot, declare that on November 17, 2009, I served and filed copies of the Beacon Solar, LLC's Comments on Cultural Resources Conditions of Certification. The original documents, filed with the Docket Unit, are accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: www.energy.ca.gov/sitingcases/beacon. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service List) and to the Commission's Docket Unit, in the following manner:

(check all that apply)

For Service to All Other Parties

__X__ sent electronically to all email addresses on the Proof of Service list;

__X__ by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service List above.

For Filing with the Energy Commission

__X__ sending an original paper copy mailed, to the address below;

OR

____ depositing in the mail an original and 12 paper copies as follow:

California Energy Commission
Attn: Docket No. 08-AFC-2
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.

/s/
Lois Navarrot