July 25, 2010

DECLARATION OF SERVICE

I, Tom Budlong, declare that on _____, 2010, I served and filed copies of the attached Genesis 09AFC8 Exhibits 700-709, dated _____, 2010. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: **[http://ww.energy.ca.gov/sitingcases/genesis_solar].**

The documents have 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:

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09-AFC-8
DATE
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(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

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

_____ by personal delivery;

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AND

FOR FILING WITH THE ENERGY COMMISSION:

X sending an original paper copy and ~~one electronic copy~~, mailed and emailed respectively, to the address below (***preferred method***);

OR

_____ depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 09-AFC-8
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, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Tom Budlong
7-25-2010

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION FOR THE
GENESIS SOLAR ENERGY PROJECT

Docket No. 09-AFC-8

PROOF OF SERVICE
(Revised 6/7/10)

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DECLARATION OF SERVICE

I, Tom Budlong, declare that on July 3, 2010, I served and filed copies of the attached ED with exhibits 700-709. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [http://ww.energy.ca.gov/sitingcases/genesis_solar].

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Tom Budlong

*indicates change

Genesis 8x4 700

Proposed Order for Temporary Closure of Selected Routes of Travel or Areas in Imperial County, Riverside County, and San Bernardino County, California | Federal Register Environmental Documents | USEPAJump to main content.Federal Register Environmental Documents
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Proposed Order for Temporary Closure of Selected Routes of Travel or Areas in Imperial County, Riverside County, and San Bernardino County, CaliforniaNote: EPA no longer updates this information, but it may be useful as a reference or resource.

[Federal Register: June 15, 2001 (Volume 66, Number 116)]
[Notices]
[Page 32639-32640]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr15jn01-84]

DEPARTMENT OF THE INTERIOR
Bureau of Land Management
[CA-610-01-1610-DL]

Proposed Order for Temporary Closure of Selected Routes of Travel or Areas in Imperial County, Riverside County, and San Bernardino County, California

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Selected routes of travel or areas in two locations in the California Desert Conservation Area (CDCA) will be temporarily closed to vehicle use pursuant to 43 CFR 8364.1. The proposed closure is to provide interim protection for the desert tortoise, desert tortoise habitat, and other resource values from motorized vehicle use authorized under the CDCA Plan. By taking these interim actions, BLM contributes to the conservation of the endangered and threatened species in accordance with section 7(a) (1) of the Endangered Species Act (ESA). BLM also avoids making any irreversible or irretrievable commitment of resources which would foreclose any reasonable and prudent alternatives which might be required as a result of the consultation on the CDCA plan in accordance with 7(d) of the ESA. These closures will remain in effect until records of decision are signed for amendments to the CDCA Plan for the Northern and Eastern Colorado Desert and the West Mojave Desert.

The vehicle route closures are as follows: 1. In the Edwards Bowl area vehicle use is restricted to specified routes. 2. In two areas of desert tortoise critical habitat in the Northern and Eastern Colorado Desert (NECO) planning area vehicle use is restricted to specified routes.

Exceptions to the vehicle closures include Bureau of Land Management (BLM) operation and maintenance vehicles, law enforcement and fire vehicles, and other emergency vehicles.

The Orders for closure will be posted in the appropriate BLM Field Office and at places near and/or within the area to which the closure or restriction applies (see Field Offices at end of this Notice).

DATE: No sooner than July 16, 2001, Federal Register Orders of final closure will be published for each of the two areas.

ADDRESSES: Written comments may be sent to the appropriate Field Office, Attn: Route Closure, at the addresses listed below.

SUPPLEMENTARY INFORMATION: On March 16, 2000, the Center for Biological Diversity, and others (Center) filed for injunctive relief in U.S. District Court, Northern District of California (Court) against the Bureau of Land Management (BLM) alleging that the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under the CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

Although BLM has received biological opinions on selected activities, consultation on the overall CDCA Plan is necessary to address the cumulative effects of all the activities authorized by the CDCA Plan. Consultation on the overall Plan is complex and the completion date is uncertain. Absent consultation on the entire Plan, the impacts of individual activities, when

[[Page 32640]]

added together with the impacts of other activities in the desert are not known. The BLM entered into negotiations with plaintiffs regarding interim actions to be taken to provide protection for endangered and threatened species pending completion of the consultation on the CDCA Plan. Agreement on these interim actions avoided litigation of plaintiffs' request for injunctive relief and the threat of an injunction prohibiting all activities authorized under the Plan. These interim agreements have allowed BLM to continue to authorize appropriate levels of activities throughout the planning area during the lengthy consultation process while providing appropriate protection to the desert tortoise and other listed species in the short term. By taking interim actions as allowed under 43 CFR Part 8364.1, BLM contributes to the conservation of endangered and threatened species in accordance with 7(a)(1) of the ESA. BLM also avoids making any irreversible or irretrievable commitment of resources which would foreclose any reasonable and prudent alternative measures which might be required as a result of the consultation on the CDCA plan in accordance with 7(d) of the ESA. In January 2001, the parties signed the Stipulation and Proposed Order Concerning All Further Injunctive Relief and included the closures (paragraphs 40 and 43) described in this Notice.

All existing routes in the subject areas are being or will be evaluated and proposed for designation as Open, Closed, or Limited through the land use planning process as amendments to the California Desert Conservation Area Plan. These designations will be based on criteria identified in 43 CFR 8342.1. Management of routes proposed for closure will minimize the potential for any adverse effects pending designation.

The BLM Field Offices listed below have prepared environmental assessments (EA) which are available for a 15 day public review prior to publication of the final Federal Register Order. The beginning of the 15 day review for each EA may be different but all generally coincide with the publishing of this Notice. Interested parties should contact the Field Offices for the EAs and review dates.

In general, the EAs indicate the following reasons for each

closure:

Edwards Bowl: By reducing the size of the available route network and better controlling OHV use in the area, the potential for direct impacts to desert tortoise, Mojave ground squirrel, burrowing owl, and other species will be diminished. The proposed closure will help to prevent burrow collapse and species mortality caused by motorized vehicles. In addition the closure will have an overall positive impact on habitat by reducing soil loss and erosion and increasing vegetation regrowth and plant community establishment.

NECO Routes: The proposed closure will have a positive impact on many special status and other species. The proposed closure will reduce potential for significant adverse impacts to wildlife in critical seasons, such as when young are being reared. As desert tortoise commonly travel in washes and use the banks of washes for burrowing, restricting motorized vehicle use to specific routes and prohibiting use of certain washes within desert tortoise habitat management units 1 and 2 of the NECO plan will reduce tortoise mortality and crushing of burrows. The proposal will also provide added protection for other species including bighorn sheep, burro deer, several species of bats, prairie falcon, golden eagle Couch's spadefoot toad, and other species occurring in the area of the proposed closure.

The closures are described as follows:

1. Edwards Bowl (Barstow Field Office): The proposed route closures are north of the El Mirage Recreation Area and the town of Adelanto. The area covered by the closure will include all of the public lands within Sections 6, 7, 8, 16, 20 in T.8N., R.7W., San Bernardino Principle Meridian.

2. NECO Routes Areas (Palm Springs, Needles, El Centro Field Offices): The geographic center of Unit 1 is located about 35 miles southwest of Needles, California. It is generally bounded on the north by Interstate Highway 40; on the northeast by the Camino to U.S. Highway 95 powerline road; on the east by U.S. Highway 95, except that a portion of the Chemehuevi Valley east of Highway 95, and west and northwest of the Whipple Mountains Wilderness is included in the unit; on the southeast by the Colorado River Aqueduct; on the south by the northern end of the Turtle Mountains; on the southwest by the eastern flank of the Old Woman Mountains; and on the northwest by the western boundary of the Clipper Mountains Wilderness. The geographic center of Unit 2 is located about 50 miles east-southeast of Indio, California. It is generally bounded on the north by the southern boundary of Joshua Tree National Park and Interstate Highway 10; on the east by the southeast boundary of the Chuckwalla Mountains Wilderness and the lower northeastern boundary of the Chocolate Mountains Aerial Gunnery Range, though detached segments of the unit further to the east are comprised of the Little Chuckwalla Mountains Wilderness, a portion of the Palo Verde Mountains Wilderness, and the Chuckwalla Valley Dune Thicket Area of Critical Environmental Concern; and on the south and southwest by a line running southeast to northwest through the middle of the Chocolate Mountains Aerial Gunnery Range and extending to the boundary of Joshua Tree National Park.

FOR FURTHER INFORMATION CONTACT:

Edwards Bowl:

Barstow Field Office Manager, 2601 Barstow Road, Barstow, CA 92311, Tel: 760-252-6000.

NECO Routes:

El Centro Field Office Manager, 1661 So. 4th Street, El Centro, CA 92243, Tel: 760-337-4000.
Palm Springs-South Coast Field Office Manager, 690 W. Garnet Ave., P.O. Box 1260, North Palm Springs, CA 92258, Tel: 760-251-4800.

Needles Field Office Manager, 101 W. Spikes Rd., Needles, CA 92363, Tel: 760-326-7000.

Dated: June 8, 2001.
James Wesley Abbott,
Associate State Director.
[FR Doc. 01-15242 Filed 6-14-01; 8:45 am]
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Genesis Sch 701

The National Environmental Policy Act of 1969, as amended

(Pub. L. 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, § 4(b), Sept. 13, 1982)

An Act to establish a national policy for the environment, to provide for the establishment of a Council on Environmental Quality, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Environmental Policy Act of 1969."

Purpose

Sec. 2 [42 USC § 4321].

The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

TITLE I

CONGRESSIONAL DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

Sec. 101 [42 USC § 4331].

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consist with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may --

1. fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
2. assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
3. attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
4. preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice;
5. achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

6. enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

Sec. 102 [42 USC § 4332].

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall --

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on --

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

(D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

(i) the State agency or official has statewide jurisdiction and has the responsibility for such action,

(ii) the responsible Federal official furnishes guidance and participates in such preparation,

(iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and

(iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this Act; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.

(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(I) assist the Council on Environmental Quality established by title II of this Act.

Sec. 103 [42 USC § 4333].

All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act.

Sec. 104 [42 USC § 4334].

Nothing in section 102 [42 USC § 4332] or 103 [42 USC § 4333] shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

Sec. 105 [42 USC § 4335].

The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.

TITLE II

COUNCIL ON ENVIRONMENTAL QUALITY

Sec. 201 [42 USC § 4341].

The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter referred to as the "report") which shall set forth (1) the status and condition of the major natural, manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban an rural environment; (2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation; (3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.

Sec. 202 [42 USC § 4342].

There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in title I of this Act; to be conscious of and responsive to the scientific, economic, social, aesthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

Sec. 203 [42 USC § 4343].

(a) The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(b) Notwithstanding section 1342 of Title 31, the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.

Sec. 204 [42 USC § 4344].

It shall be the duty and function of the Council --

1. to assist and advise the President in the preparation of the Environmental Quality Report required by section 201 [42 USC § 4341] of this title;
2. to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in title I of this Act, and to compile and submit to the President studies relating to such conditions and trends;

3. to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in title I of this Act for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;
4. to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;
5. to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;
6. to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;
7. to report at least once each year to the President on the state and condition of the environment; and
8. to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

Sec. 205 [42 USC § 4345].

In exercising its powers, functions, and duties under this Act, the Council shall --

1. consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order No. 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and
2. utilize, to the fullest extent possible, the services, facilities and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

Sec. 206 [42 USC § 4346].

Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates [5 USC § 5313]. The other members of the Council shall be compensated at the rate provided for Level IV of the Executive Schedule Pay Rates [5 USC § 5315].

Sec. 207 [42 USC § 4346a].

The Council may accept reimbursements from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council.

Sec. 208 [42 USC § 4346b].

The Council may make expenditures in support of its international activities, including expenditures for: (1) international travel; (2) activities in implementation of international agreements; and (3) the support of international exchange programs in the United States and in foreign countries.

Sec. 209 [42 USC § 4347].

There are authorized to be appropriated to carry out the provisions of this chapter not to exceed $300,000 for fiscal year 1970, $700,000 for fiscal year 1971, and $1,000,000 for each fiscal year thereafter.

The Environmental Quality Improvement Act, as amended (Pub. L. No. 91- 224, Title II, April 3, 1970; Pub. L. No. 97-258, September 13, 1982; and Pub. L. No. 98-581, October 30, 1984.

42 USC § 4372.

(a) There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (hereafter in this chapter referred to as the "Office"). The Chairman of the Council on Environmental Quality established by Public Law 91-190 shall be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Office of Management and Budget.

(c) The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the Office to carry out its functions ;under this chapter and Public Law 91-190, except that he may employ no more than ten specialists and other experts without regard to the provisions of Title 5, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of Title 5.

(d) In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by --

1. providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91- 190;
2. assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by Congress, which affect environmental quality;
3. reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;
4. promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encouraging the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;
5. assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;
6. assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established throughout the Federal Government;
7. collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

(e) The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to section 3324(a) and (b) of Title 31 and section 5 of Title 41 in carrying out his functions.

42 USC § 4373. Each Environmental Quality Report required by Public Law 91-190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report.

42 USC § 4374. There are hereby authorized to be appropriated for the operations of the Office of Environmental Quality and the Council on Environmental Quality not to exceed the following sums for the following fiscal years which sums are in addition to those contained in Public Law 91- 190:

(a) $2,126,000 for the fiscal year ending September 30, 1979.

(b) $3,000,000 for the fiscal years ending September 30, 1980, and September 30, 1981.

(c) $44,000 for the fiscal years ending September 30, 1982, 1983, and 1984.

(d) $480,000 for each of the fiscal years ending September 30, 1985 and 1986.

42 USC § 4375.

(a) There is established an Office of Environmental Quality Management Fund (hereinafter referred to as the "Fund") to receive advance payments from other agencies or accounts that may be used solely to finance --

1. study contracts that are jointly sponsored by the Office and one or more other Federal agencies; and
2. Federal interagency environmental projects (including task forces) in which the Office participates.

(b) Any study contract or project that is to be financed under subsection (a) of this section may be initiated only with the approval of the Director.

(c) The Director shall promulgate regulations setting forth policies and procedures for operation of the Fund.

Genesis Exh 702

Executive Order 13212: 66 FR 28357 (22 May 2001)
Executive Order 13212--Actions To Expedite Energy-Related Projects

May 18, 2001

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to take additional steps to expedite the increased supply and availability of energy to our Nation, it is hereby ordered as follows:

Section 1. Policy.

The increased production and transmission of energy in a safe and environmentally sound manner is essential to the well-being of the American people. In general, it is the policy of this Administration that executive departments and agencies (agencies) shall take appropriate actions, to the extent consistent with applicable law, to expedite projects that will increase the production, transmission, or conservation of energy.

Sec. 2. Actions to Expedite Energy-Related Projects.

For energy-related projects, agencies shall expedite their review of permits or take other actions as necessary to accelerate the completion of such projects, while maintaining safety, public health, and environmental protections. The agencies shall take such actions to the extent permitted by law and regulation, and where appropriate.

Sec. 3. Interagency Task Force.

There is established an interagency task force (Task Force) to monitor and assist the agencies in their efforts to expedite their review of permits or similar actions, as necessary, to accelerate the completion of energy-related projects, increase energy production and conservation, and improve transmission of energy. The Task Force also shall monitor and assist agencies in setting up appropriate mechanisms to coordinate Federal, State, tribal, and local permitting in geographic areas where increased permitting activity is expected. The Task Force shall be composed of representatives from the Departments of State, the Treasury, Defense, Agriculture, Housing and Urban Development, Justice, Commerce, Transportation, the Interior, Labor, Education, Health and Human Services, Energy, Veterans Affairs, the Environmental Protection Agency, Central Intelligence Agency, General Services Administration, Office of Management and Budget, Council of Economic Advisers, Domestic Policy Council, National Economic Council, and such other representatives as may be determined by the Chairman of the Council on Environmental Quality. The Task Force shall be chaired by the Chairman of the Council on Environmental Quality and housed at the Department of Energy for administrative purposes.

Sec. 4. Judicial Review.

Nothing in this order shall affect any otherwise available judicial review of agency action. This order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

George W. Bush

The White House,
May 18, 2001.

Genesis Exh 703

ENERGY POLICY ACT OF 2005

(e) REPORT.—Not later than October 1, 2010, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Resources, the Committee on Energy and Commerce, and the Committee on Agriculture of the House of Representatives, a report describing the results of the grant programs authorized by this section. The report shall include the following:

(1) An identification of the size, type, and use of biomass by persons that receive grants under this section.

(2) The distance between the land from which the biomass was removed and the facility that used the biomass.

(3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations.

SEC. 211. SENSE OF CONGRESS REGARDING GENERATION CAPACITY OF ELECTRICITY FROM RENEWABLE ENERGY RESOURCES ON PUBLIC LANDS.

It is the sense of the Congress that the Secretary of the Interior should, before the end of the 10-year period beginning on the date of enactment of this Act, seek to have approved non-hydropower renewable energy projects located on the public lands with a generation capacity of at least 10,000 megawatts of electricity.

Subtitle B—Geothermal Energy

John Rishel Geothermal Steam Act Amendments of 2005.
30 USC 1001 note.

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "John Rishel Geothermal Steam Act Amendments of 2005".

SEC. 222. COMPETITIVE LEASE SALE REQUIREMENTS.

Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended to read as follows:

"SEC. 4. LEASING PROCEDURES.

"(a) NOMINATIONS.—The Secretary shall accept nominations of land to be leased at any time from qualified companies and individuals under this Act.

"(b) COMPETITIVE LEASE SALE REQUIRED.—

"(1) IN GENERAL.—Except as otherwise specifically provided by this Act, all land to be leased that is not subject to leasing under subsection (c) shall be leased as provided in this subsection to the highest responsible qualified bidder, as determined by the Secretary.

"(2) COMPETITIVE LEASE SALES.—The Secretary shall hold a competitive lease sale at least once every 2 years for land in a State that has nominations pending under subsection (a) if the land is otherwise available for leasing.

"(3) LANDS SUBJECT TO MINING CLAIMS.—Lands that are subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency may be available for noncompetitive leasing under this section to the mining claim holder.

"(c) NONCOMPETITIVE LEASING.—The Secretary shall make available for a period of 2 years for noncompetitive leasing any

Genesis Ex 4704

THE SECRETARY OF THE INTERIOR

WASHINGTON

ORDER NO. 3285

Subject: Renewable Energy Development by the Department of the Interior

Sec. 1 **Purpose**. This Order establishes the development of renewable energy as a priority for the Department of the Interior and establishes a Departmental Task Force on Energy and Climate Change. This Order also amends and clarifies Departmental roles and responsibilities to accomplish this goal.

Sec. 2 **Background**. The Nation faces significant challenges to meeting its current and future energy needs. Meeting these challenges will require strategic planning and a thoughtful, balanced approach to domestic resource development that calls upon the coordinated development of renewable resources, as well as the development of traditional energy resources. Many of our public lands possess substantial renewable resources that will help meet our Nation's future energy needs while also providing significant benefits to our environment and the economy. Increased production of renewable energy will create jobs, provide cleaner, more sustainable alternatives to traditional energy resources, and enhance the energy security of the United States by adding to the domestic energy supply. As the steward of more than one-fifth of our Nation's lands, and neighbor to other land managers, the Department of the Interior has a significant role in coordinating and ensuring environmentally responsible renewable energy production and development of associated infrastructure needed to deliver renewable energy to the consumer.

Sec. 3 **Authority**. This Order is issued under the authority of Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended, and pursuant to the provisions of Section 211 of the Energy Policy Act of 2005 (P.L. 109-58).

Sec. 4 **Policy**. Encouraging the production, development, and delivery of renewable energy is one of the Department's highest priorities. Agencies and bureaus within the Department will work collaboratively with each other, and with other Federal agencies, departments, states, local communities, and private landowners to encourage the timely and responsible development of renewable energy and associated transmission while protecting and enhancing the Nation's water, wildlife, and other natural resources.

Sec. 5 **Energy and Climate Change Task Force**. A Task Force on Energy and Climate Change is hereby established in the Department. The Deputy Secretary and the Counselor to the Secretary shall serve as Co-Chairs. The Task Force on Energy and Climate Change shall:

a. develop a strategy that is designed to increase the development and transmission of renewable energy from appropriate areas on public lands and the Outer Continental Shelf, including the following:

(1) quantifying potential contributions of solar, wind, geothermal, incremental or small hydroelectric power on existing structures, and biomass energy;

(2) identifying and prioritizing the specific locations in the United States best suited for large-scale production of solar, wind, geothermal, incremental or small hydroelectric power on existing structures, and biomass energy (e.g., renewable energy zones);

(3) identifying, in cooperation with other agencies of the United States and appropriate state agencies, the electric transmission infrastructure and transmission corridors needed to deliver these renewable resources to major population centers;

(4) prioritizing the permitting and appropriate environmental review of transmission rights-of-way applications that are necessary to deliver renewable energy generation to consumers;

(5) establishing clear roles and processes for each bureau/office;

(6) tracking bureau/office progress and working to identify and resolve obstacles to renewable energy permitting, siting, development, and production;

(7) identifying additional policies and/or revisions to existing policies or practices that are needed, including possible revisions to the Geothermal, Wind, and West-Wide Corridors Programmatic Environmental Impact Statements and their respective Records of Decisions; and

(8) working with individual states, tribes, local governments, and other interested stakeholders, including renewable generators and transmission and distribution utilities, to identify appropriate areas for generation and necessary transmission;

b. develop best management practices for renewable energy and transmission projects on the public lands to ensure the most environmentally responsible development and delivery of renewable energy;

c. establish clear policy direction for authorizing the development of solar energy on public lands; and

d. recommend such other actions as may be necessary to fulfill the goals of this Order.

Sec. 6 **Responsibilities**.

a. Program Assistant Secretaries. Program Assistant Secretaries overseeing bureaus responsible for, or that provide assistance with, the planning, siting, or permitting of renewable energy generation and transmission facilities on the public lands and on the Outer Continental Shelf, are responsible for:

(1) establishing and participating in management structures that facilitate cooperation, reporting, and accountability across agencies, including the Task Force on Energy and Climate Change;

(2) establishing joint, single-point-of contact offices that consolidate expertise to ensure a coordinated, efficient, and expeditious permitting process while ensuring appropriate siting and compliance with the National Environmental Policy Act, the Endangered Species Act, and all other applicable laws; and

(3) working collaboratively with other departments, state, and local authorities to coordinate and harmonize non-Federal permitting processes.

b. The Assistant Secretary - Policy, Management and Budget is a member of the Task Force and shall:

(1) ensure that investments associated with Interior managed facilities meet Federal standards for energy efficiency and greening applications; and

(2) coordinate with the Energy and Climate Change Task Force, as appropriate.

c. Bureau Heads. Each bureau head is responsible for designating a representative to the Task Force on Energy and Climate Change.

Sec. 7 **Implementation**. The Deputy Secretary is responsible for ensuring implementation of this Order. This responsibility may be delegated as appropriate.

Sec. 8 **Effective Date**. This Order is effective immediately and will remain in effect until its provisions are converted to the Departmental Manual or until it is amended, superseded, or revoked, whichever comes first. The termination of this Order will not nullify implementation of the requirements and responsibilities effected herein.

Ken Salazar

Secretary of the Interior

Date: 3/11/2009

Genesis Exh 705

MEMORANDUM FOR FEDERAL NEPA LIAISONS, FEDERAL, STATE, AND LOCAL OFFICIALS AND OTHER PERSONS INVOLVED IN THE NEPA PROCESS

Subject: Questions and Answers About the NEPA Regulations

During June and July of 1980 the Council on Environmental Quality, with the assistance and cooperation of EPA's EIS Coordinators from the ten EPA regions, held one-day meetings with federal, state and local officials in the ten EPA regional offices around the country. In addition, on July 10, 1980, CEQ conducted a similar meeting for the Washington, D.C. NEPA liaisons and persons involved in the NEPA process. At these meetings CEQ discussed (a) the results of its 1980 review of Draft EISs issued since the July 30, 1979 effective date of the NEPA regulations, (b) agency compliance with the Record of Decision requirements in Section 1505 of the NEPA regulations, and (c) CEQ's preliminary findings on how the scoping process is working. Participants at these meetings received copies of materials prepared by CEQ summarizing its oversight and findings.

These meetings also provided NEPA liaisons and other participants with an opportunity to ask questions about NEPA and the practical application of the NEPA regulations. A number of these questions were answered by CEQ representatives at the regional meetings. In response to the many requests from the agencies and other participants, CEQ has compiled forty of the most important or most frequently asked questions and their answers and reduced them to writing. The answers were prepared by the General Counsel of CEQ in consultation with the Office of Federal Activities of EPA. These answers, of course, do not impose any additional requirements beyond those of the NEPA regulations. This document does not represent new guidance under the NEPA regulations, but rather makes generally available to concerned agencies and private individuals the answers which CEQ has already given at the 1980 regional meetings. The answers also reflect the advice which the Council has given over the past two years to aid agency staff and consultants in their day-to-day application of NEPA and the regulations.

CEQ has also received numerous inquiries regarding the scoping process. CEQ hopes to issue written guidance on scoping later this year on the basis of its special study of scoping, which is nearing completion.

NICHOLAS C. YOST
General Counsel

Genesis Exh 706

NEPA's Forty Most Asked Questions
Questions 1-10

1a. Range of Alternatives. What is meant by "range of alternatives" as referred to in Sec. 1505.1(e)?

A. The phrase "range of alternatives" refers to the alternatives discussed in environmental documents. It includes all reasonable alternatives, which must be rigorously explored and objectively evaluated, as well as those other alternatives, which are eliminated from detailed study with a brief discussion of the reasons for eliminating them. Section 1502.14. A decisionmaker must not consider alternatives beyond the range of alternatives discussed in the relevant environmental documents. Moreover, a decisionmaker must, in fact, consider all the alternatives discussed in an EIS. Section 1505.1(e).

1b. **How many alternatives** have to be discussed when there is an infinite number of possible alternatives?

A. For some proposals there may exist a very large or even an infinite number of possible reasonable alternatives. For example, a proposal to designate wilderness areas within a National Forest could be said to involve an infinite number of alternatives from 0 to 100 percent of the forest. When there are potentially a very large number of alternatives, only a reasonable number of examples, covering the full spectrum of alternatives, must be analyzed and compared in the EIS. An appropriate series of alternatives might include dedicating 0, 10, 30, 50, 70, 90, or 100 percent of the Forest to wilderness. What constitutes a reasonable range of alternatives depends on the nature of the proposal and the facts in each case.

2a. Alternatives Outside the Capability of Applicant or Jurisdiction of Agency. If an EIS is prepared in connection with an application for a permit or other federal approval, must the EIS rigorously analyze and discuss alternatives that are outside the capability of the applicant or can it be limited to reasonable alternatives that can be carried out by the applicant?

A. Section 1502.14 requires the EIS to examine all reasonable alternatives to the proposal. In determining the scope of alternatives to be considered, the emphasis is on what is "reasonable" rather than on whether the proponent or applicant likes or is itself capable of carrying out a particular alternative. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant.

2b. Must the EIS analyze alternatives outside the jurisdiction or capability of the agency or beyond what Congress has authorized?

A. An alternative that is outside the legal jurisdiction of the lead agency must still be analyzed in the EIS if it is reasonable. A potential conflict with local or federal law does not necessarily render an alternative unreasonable, although such conflicts must be considered. Section 1506.2(d). Alternatives that are outside the scope of what Congress has approved or funded must still be evaluated in the EIS if they are reasonable, because the EIS may serve as the basis for modifying the Congressional approval or funding in light of NEPA's goals and policies. Section 1500.1(a).

3. No-Action Alternative. What does the "no action" alternative include? If an agency is under a court order or legislative command to act, must the EIS address the "no action" alternative?

A. Section 1502.14(d) requires the alternatives analysis in the EIS to "include the alternative of no action." There are two distinct interpretations of "no action" that must be considered, depending on the nature of the proposal being evaluated. The first situation might involve an action such as updating a land management plan where ongoing programs initiated under existing legislation and regulations will continue, even as new plans are developed. In these cases "no action" is "no change" from current management direction or level of management intensity. To construct an alternative that is based on no management at all would be a useless academic exercise. Therefore, the "no action" alternative may be thought of in terms of continuing with the present course of action until that action is changed. Consequently, projected impacts of alternative management schemes would be compared in the EIS to those impacts projected for the existing plan. In this case, alternatives would include management plans of both greater and lesser intensity, especially greater and lesser levels of resource development.

The second interpretation of "no action" is illustrated in instances involving federal decisions on proposals for projects. "No action" in such cases would mean the proposed activity would not take place, and the resulting environmental effects from taking no action would be compared with the effects of permitting the proposed activity or an alternative activity to go forward.

Where a choice of "no action" by the agency would result in predictable actions by others, this consequence of the "no action" alternative should be included in the analysis. For example, if denial of permission to build a railroad to a facility would lead to construction of a road and increased truck traffic, the EIS should analyze this consequence of the "no action" alternative.

In light of the above, it is difficult to think of a situation where it would not be appropriate to address a "no action" alternative. Accordingly, the regulations require the analysis of the no action alternative even if the agency is under a court order or legislative command to act. This analysis provides a benchmark, enabling decisionmakers to compare the magnitude of environmental effects of the action alternatives. It is also an example of a reasonable alternative outside the jurisdiction of the agency which must be analyzed. Section 1502.14(c). See Question 2 above. Inclusion of such an analysis in the EIS is necessary to inform the Congress, the public, and the President as intended by NEPA. Section 1500.1(a).

4a. Agency's Preferred Alternative. What is the "agency's preferred alternative"?

A. The "agency's preferred alternative" is the alternative which the agency believes would fulfill its statutory mission and responsibilities, giving consideration to economic, environmental, technical and other factors. The concept of the "agency's preferred alternative" is different from the "environmentally preferable alternative," although in some cases one alternative may be both. See Question 6 below. It is identified so that agencies and the public can understand the lead agency's orientation.

4b. Does the "preferred alternative" have to be identified in the Draft EIS and the Final EIS or just in the Final EIS?

A. Section 1502.14(e) requires the section of the EIS on alternatives to "identify the agency's preferred alternative if one or more exists, in the draft statement, and identify such alternative in the final statement . . ." This means that if the agency has a preferred alternative at the Draft EIS stage, that alternative must be labeled or identified as such in the Draft EIS. If the responsible federal official in fact has no preferred alternative at the Draft EIS stage, a preferred alternative need not be identified there. By the time the Final EIS is filed, Section 1502.14(e) presumes the existence of a preferred alternative and requires its identification in the Final EIS "unless another law prohibits the expression of such a preference."

4c. Who recommends or determines the "preferred alternative?"

A. The lead agency's official with line responsibility for preparing the EIS and assuring its adequacy is responsible for identifying the agency's preferred alternative(s). The NEPA regulations do not dictate which official in an agency shall be responsible for preparation of EISs, but agencies can identify this official in their implementing procedures, pursuant to Section 1507.3.

Even though the agency's preferred alternative is identified by the EIS preparer in the EIS, the statement must be objectively prepared and not slanted to support the choice of the agency's preferred alternative over the other reasonable and feasible alternatives.

5a. Proposed Action v. Preferred Alternative. Is the "proposed action" the same thing as the "preferred alternative"?

A. The "proposed action" may be, but is not necessarily, the agency's "preferred alternative." The proposed action may be a proposal in its initial form before undergoing analysis in the EIS process. If the proposed action is [46 FR 18028] internally generated, such as preparing a land management plan, the proposed action might end up as the agency's preferred alternative. On the other hand the proposed action may be granting an application to a non-federal entity for a permit. The agency may or may not have a "preferred alternative" at the Draft EIS stage (see Question 4 above). In that case the agency may decide at the Final EIS stage, on the basis of the Draft EIS and the public and agency comments, that an alternative other than the proposed action is the agency's "preferred alternative."

5b. Is the analysis of the "proposed action" in an EIS to be treated differently from the analysis of alternatives?

A. The degree of analysis devoted to each alternative in the EIS is to be substantially similar to that devoted to the "proposed action." Section 1502.14 is titled "Alternatives including the proposed action" to reflect such comparable treatment. Section 1502.14(b) specifically requires "substantial treatment" in the EIS of each alternative including the proposed action. This regulation does not dictate an amount of information to be provided, but rather, prescribes a level of treatment, which may in turn require varying amounts of information, to enable a reviewer to evaluate and compare alternatives.

6a. Environmentally Preferable Alternative. What is the meaning of the term "environmentally preferable alternative" as used in the regulations with reference to Records of Decision? How is the term "environment" used in the phrase?

A. Section 1505.2(b) requires that, in cases where an EIS has been prepared, the Record of Decision (ROD) must identify all alternatives that were considered, ". . . specifying the alternative or alternatives which were considered to be environmentally preferable." The environmentally preferable alternative is the alternative that will promote the national environmental policy as expressed in NEPA's Section 101. Ordinarily, this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources.

The Council recognizes that the identification of the environmentally preferable alternative may involve difficult judgments, particularly when one environmental value must be balanced against another. The public and other agencies reviewing a Draft EIS can assist the lead agency to develop and determine environmentally preferable alternatives by providing their views in comments on the Draft EIS. Through the identification of the environmentally preferable alternative, the decisionmaker is clearly faced with a choice between that alternative and others, and must consider whether the decision accords with the Congressionally declared policies of the Act.

6b. Who recommends or determines what is environmentally preferable?

A. The agency EIS staff is encouraged to make recommendations of the environmentally preferable alternative(s) during EIS preparation. In any event the lead agency official responsible for the EIS is encouraged to identify the environmentally preferable alternative(s) in the EIS. In all cases, commentors from other agencies and the public are also encouraged to address this question. The agency must identify the environmentally preferable alternative in the ROD.

7. Difference Between Sections of EIS on Alternatives and Environmental Consequences. What is the difference between the sections in the EIS on "alternatives" and "environmental consequences"? How do you avoid duplicating the discussion of alternatives in preparing these two sections?

A. The "alternatives" section is the heart of the EIS. This section rigorously explores and objectively evaluates all reasonable alternatives including the proposed action. Section 1502.14. It should include relevant comparisons on environmental and other grounds. The "environmental consequences" section of the EIS discusses the specific environmental impacts or effects of each of the alternatives including the proposed action. Section 1502.16. In order to avoid duplication between these two sections, most of the "alternatives" section should be devoted to describing and comparing the alternatives. Discussion of the environmental impacts of these alternatives should be limited to a concise descriptive summary of such impacts in a comparative form, including charts or tables, thus sharply defining the issues and providing a clear basis for choice among options. Section 1502.14. The "environmental consequences" section should be devoted largely to a scientific analysis of the direct and indirect environmental effects of the proposed action and of each of the alternatives. It forms the analytic basis for the concise comparison in the "alternatives" section.

8. Early Application of NEPA. Section 1501.2(d) of the NEPA regulations requires agencies to provide for the early application of NEPA to cases where actions are planned by private applicants or non-Federal entities and are, at some stage, subject to federal approval of permits, loans, loan guarantees, insurance or other actions. What must and can agencies do to apply NEPA early in these cases?

A. Section 1501.2(d) requires federal agencies to take steps toward ensuring that private parties and state and local entities initiate environmental studies as soon as federal involvement in their proposals can be foreseen. This section is intended to ensure that environmental factors are considered at an early stage in the planning process and to avoid the situation where the applicant for a federal permit or approval has completed planning and eliminated all alternatives to the proposed action by the time the EIS process commences or before the EIS process has been completed.

Through early consultation, business applicants and approving agencies may gain better appreciation of each other's needs and foster a decisionmaking process which avoids later unexpected confrontations.

Federal agencies are required by Section 1507.3(b) to develop procedures to carry out Section 1501.2(d). The procedures should include an "outreach program", such as a means for prospective applicants to conduct pre-application consultations with the lead and cooperating agencies. Applicants need to find out, in advance of project planning, what environmental studies or other information will be required, and what mitigation requirements are likely, in connecton with the later federal NEPA process. Agencies should designate staff to advise potential applicants of the agency's NEPA information requirements and should publicize their pre-application procedures and information requirements in newsletters or other media used by potential applicants.

Complementing Section 1501.2(d), Section 1506.5(a) requires agencies to assist applicants by outlining the types of information required in those cases where the agency requires the applicant to submit environmental data for possible use by the agency in preparing an EIS.

Section 1506.5(b) allows agencies to authorize preparation of environmental assessments by applicants. Thus, the procedures should also include a means for anticipating and utilizing applicants' environmental studies or "early corporate environmental assessments" to fulfill some of the federal agency's NEPA obligations. However, in such cases the agency must still evaluate independently the environmental issues [46 FR 18029] and take responsibility for the environmental assessment.

These provisions are intended to encourage and enable private and other non-federal entities to build environmental considerations into their own planning processes in a way that facilitates the application of NEPA and avoids delay.

9. Applicant Who Needs Other Permits. To what extent must an agency inquire into whether an applicant for a federal permit, funding or other approval of a proposal will also need approval from another agency for the same proposal or some other related aspect of it?

A. Agencies must integrate the NEPA process into other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts. Specifically, the agency must "provide for cases where actions are planned by . . . applicants," so that designated staff are available to advise potential applicants of studies or other information that will foreseeably be required for the later federal action; the agency shall consult with the applicant if the agency foresees its own involvement in the proposal; and it shall insure that the NEPA process commences at the earliest possible time. Section 1501.2(d). (See Question 8.)

The regulations emphasize agency cooperation early in the NEPA process. Section 1501.6. Section 1501.7 on "scoping" also provides that all affected Federal agencies are to be invited to participate in scoping the environmental issues and to identify the various environmental review and consultation requirements that may apply to the proposed action. Further, Section 1502.25(b) requires that the draft EIS list all the federal permits, licenses and other entitlements that are needed to implement the proposal.

These provisions create an affirmative obligation on federal agencies to inquire early, and to the maximum degree possible, to ascertain whether an applicant is or will be seeking other federal assistance or approval, or whether the applicant is waiting until a proposal has been substantially developed before requesting federal aid or approval.

Thus, a federal agency receiving a request for approval or assistance should determine whether the applicant has filed separate requests for federal approval or assistance with other federal agencies. Other federal agencies that are likely to become involved should then be contacted, and the NEPA process coordinated, to insure an early and comprehensive analysis of the direct and indirect effects of the proposal and any related actions. The agency should inform the applicant that action on its application may be delayed unless it submits all other federal applications (where feasible to do so), so that all the relevant agencies can work together on the scoping process and preparation of the EIS.

10a. Limitations on Action During 30-Day Review Period for Final EIS. What actions by agencies and/or applicants are allowed during EIS preparation and during the 30-day review period after publication of a final EIS?

A. No federal decision on the proposed action shall be made or recorded until at least 30 days after the publication by EPA of notice that the particular EIS has been filed with EPA. Sections 1505.2 and 1506.10. Section 1505.2 requires this decision to be stated in a public Record of Decision.

Until the agency issues its Record of Decision, no action by an agency or an applicant concerning the proposal shall be taken which would have an adverse environmental impact or limit the choice of reasonable alternatives. Section 1506.1(a). But this does not preclude preliminary planning or design work which is needed to support an application for permits or assistance. Section 1506.1(d).

When the impact statement in question is a program EIS, no major action concerning the program may be taken which may significantly affect the quality of the human environment, unless the particular action is justified independently of the program, is accompanied by its own adequate environmental impact statement and will not prejudice the ultimate decision on the program. Section 1506.1(c).

10b. Do these limitations on action (described in Question 10a) apply to state or local agencies that have statutorily delegated responsibility for preparation of environmental documents required by NEPA, for example, under the HUD Block Grant program?

A. Yes, these limitations do apply, without any variation from their application to federal agencies.

Genesis Exh 707

(c) Mitigation Measures Related to Greenhouse Gas Emissions.

Consistent with section 15126.4(a), lead agencies shall consider feasible means, supported by substantial evidence and subject to monitoring or reporting, of mitigating the significant effects of greenhouse gas emissions. Measures to mitigate the significant effects of greenhouse gas emissions may include, among others:

(1) Measures in an existing plan or mitigation program for the reduction of emissions that are required as part of the lead agency's decision;

(2) Reductions in emissions resulting from a project through implementation of project features, project design, or other measures, such as those described in Appendix F;

(3) Off-site measures, including offsets that are not otherwise required, to mitigate a project's emissions;

(4) Measures that sequester greenhouse gases;

(5) In the case of the adoption of a plan, such as a general plan, long range development plan, or plans for the reduction of greenhouse gas emissions, mitigation may include the identification of specific measures that may be implemented on a project-by-project basis. Mitigation may also include the incorporation of specific measures or policies found in an adopted ordinance or regulation that reduces the cumulative effect of emissions.

Note: Authority cited: Sections 21083, 21083.05, Public Resources Code. Reference: Sections 5020.5, 21002, 21003, 21083.05, 21100 and 21084.1, Public Resources Code; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112; ~~and~~ *Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011; *San Franciscans Upholding the Downtown Plan v. City & Co. of San Francisco* (2002) 102 Cal.App.4th 656; *Ass'n of Irritated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383; *Environmental Council of Sacramento v. City of Sacramento* (2006) 147 Cal.App.4th 1018.

15126.6 CONSIDERATION AND DISCUSSION OF ALTERNATIVES TO THE PROPOSED PROJECT.

(a) Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553 and *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376).

(b) Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

(c) Selection of a range of reasonable alternatives. The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination. Additional information explaining the choice of alternatives may be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are:(i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.

(d) Evaluation of alternatives. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed. (*County of Inyo v. City of Los Angeles* (1981) 124 Cal.App.3d 1).

(e) "No project" alternative.

(1) The specific alternative of "no project" shall also be evaluated along with its impact. The purpose of describing and analyzing a no project alternative is to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. The no project alternative analysis is not the baseline for determining whether the proposed project's environmental impacts may be significant, unless it is identical to the existing environmental setting analysis which does establish that baseline (see Section 15125).

(2) The "no project" analysis shall discuss the existing conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. If the environmentally superior alternative is the "no project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.

(3) A discussion of the "no project" alternative will usually proceed along one of two lines:

(A) When the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the "no project" alternative will be the continuation of the existing plan, policy or operation into the future. Typically this is a situation where other projects initiated under the existing plan will continue while the new plan is developed. Thus, the projected impacts of the proposed plan or alternative plans would be compared to the impacts that would occur under the existing plan.

(B) If the project is other than a land use or regulatory plan, for example a development project on identifiable property, the "no project" alternative is the circumstance under which the project does not proceed. Here the discussion would compare the environmental effects of the property remaining in its existing state against environmental effects which would occur if the project is approved. If disapproval of the project under consideration would result in predictable actions by others, such as the proposal of some other project, this "no project" consequence should be discussed. In certain instances, the no project alternative means "no build" wherein the existing environmental setting is maintained. However, where failure to proceed with the project will not result in preservation of existing environmental conditions, the analysis

should identify the practical result of the project's non-approval and not create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment.

(C) After defining the no project alternative using one of these approaches, the lead agency should proceed to analyze the impacts of the no project alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.

(f) Rule of reason. The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making.

(1) Feasibility. Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent). No one of these factors establishes a fixed limit on the scope of reasonable alternatives. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; see *Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal.App.4th 1745, 1753, fn. 1).

(2) Alternative locations.

(A) Key question. The key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.

(B) None feasible. If the lead agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion, and should include the reasons in the EIR. For example, in some cases there may be no feasible alternative locations for a geothermal plant or mining project which must be in close proximity to natural resources at a given location.

(C) Limited new analysis required. Where a previous document has sufficiently analyzed a range of reasonable alternative locations and environmental impacts for projects with the same basic purpose, the lead agency should review the previous document. The EIR may rely on the previous document to help it assess the feasibility of potential project alternatives to the extent the circumstances remain substantially the same as they relate to the alternative. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 573).

(3) An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative. (*Residents Ad Hoc Stadium Committee v. Board of Trustees* (1979) 89 Cal. App.3d 274).

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21002, 21002.1, 21003, and 21100, Public Resources Code; *Citizens of Goleta Valley v. Board of Supervisors*, (1990) 52 Cal.3d 553; *Laurel Heights Improvement Association v. Regents of the University of California*, (1988) 47 Cal.3d 376; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th

1359; and *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112.

15127. LIMITATIONS ON DISCUSSION OF ENVIRONMENTAL IMPACT

The information required by Section 15126.2(c) concerning irreversible changes, need be included only in EIRs prepared in connection with any of the following activities:

(a) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency;

(b) The adoption by a Local Agency Formation Commission of a resolution making determinations; or

(c) A project which will be subject to the requirement for preparing an environmental impact statement pursuant to the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4347.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21100.1, Public Resources Code.

15128. EFFECTS NOT FOUND TO BE SIGNIFICANT

An EIR shall contain a statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and were therefore not discussed in detail in the EIR. Such a statement may be contained in an attached copy of an Initial Study.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21100, Public Resources Code.

15129. ORGANIZATIONS AND PERSONS CONSULTED

The EIR shall identify all federal, state, or local agencies, other organizations, and private individuals consulted in preparing the draft EIR, and the persons, firm, or agency preparing the draft EIR, by contract or other authorization.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21104 and 21153, Public Resources Code.

15130. DISCUSSION OF CUMULATIVE IMPACTS

(a) An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in section 15065 ~~(c)~~(a)(3). Where a lead agency is examining a project with an incremental effect that is not "cumulatively considerable," a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

(1) As defined in Section 15355, a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR should not discuss impacts which do not result in part from the project evaluated in the EIR.

(2) When the combined cumulative impact associated with the project's incremental effect and the effects of other projects is not significant, the EIR shall briefly indicate why the cumulative impact is not significant and is not discussed in further detail in the EIR. A lead agency shall identify facts and analysis supporting the lead agency's conclusion that the cumulative impact is less than significant.

(3) An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the

Genesis Exh 708

California Paves Way for Genesis Solar Energy Project in Riverside County

Thursday, November 12, 2009 at 10:45:07 AM - by Jeanne Roberts

It's only the first step in a long and arduous process, but the Californian Energy Commission's has okayed the application for certification for the Genesis Solar Energy Project based on facility data.

The project, under the auspices of Tucson, Arizona-based, privately held Genesis Solar LLC, will consist of two independent solar electric generating facilities with a combined total output of 250 megawatts, sited on 1,800 acres of BLM- (Bureau of Land Management -) managed land.

Genesis Solar is a wholly owned subsidiary of Juno Beach, Florida-based NextEra Energy Resources LLC, itself a consortium of FPL Group, Inc. (including the FPL's capital investment arm) and Florida Power & Light, who jointly provide energy services and project management.

The Genesis Project, once it has met California Energy Commission approval, must also seek federal approval before the construction process can begin. The original AFC (application for certification) was submitted on Aug. 31.

The concentrating solar thermal project comprises two groups of parabolic mirrors which concentrate solar energy and use it to create steam to power generators. The project will use wet cooling techniques, but only from non-potable water wells located on the project site 25 miles from Blythe adjacent to Interstate 10, and the residual water from the cooling tower will be fed into lined, on-site evaporation ponds.

This is reportedly an undeveloped area of the Sonoran Desert, with the McCoy Mountains to the East, the Palen Mountain/McCoy Wilderness area to the north, and Ford Dry Lake to the south, on the other side of I-10. The proposed site sits within 40 miles of Joshua Tree National Park, and has been used for grazing and off-road vehicle sports but has since been closed.

Reports say the Genesis Project will use 536 million gallons of water per year, and with southern California utility Pacific Gas & Electric (PG&E) committed to buying the entire output it seems like a profitable venture from both a solar electricity production and revenue model. The water issue may, however, impact final approvals.
Solar thermal trough developers use wet cooling because dry- (or air-) cooling reduces electricity output by up to five percent, and with budgets structured to wring every penny out of capital outlays, five percent is significant loss. Dry-cooling technology is also more expensive, adding to up-front costs that are not always recaptured via electricity sales.

Energy Commission Facility Certification Process

The California Energy Commission is the lead agency (for licensing thermal power plants 50 megawatts and larger) under the California Environmental Quality Act (CEQA) and has a certified regulatory program under CEQA. Under its certified program, the Energy Commission is exempt from having to prepare an environmental impact report. Its certified program, however, does require environmental analysis of the project, including an analysis of alternatives and mitigation measures to minimize any significant adverse effect the project may have on the environment.

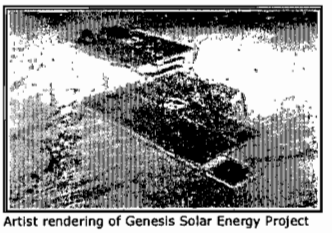
California

Genesis Solar Energy Project (CACA 48880)

Fast Facts

- The Genesis Solar Energy Project (GSEP), proposed by NextEra Energy Resources, would be located north of I-10, near Ford Dry Lake, 25 miles west of Blythe, in Riverside County.
- The proposed project is a parabolic trough solar thermal power generating facility designed to produce 250 megawatts of power.
- The project's total footprint is 4,640 acres, with project operations occurring on 1,800-acres of BLM-managed public land.
- The GSEP will consist of two independent concentrated solar electric generating facilities.
- The proposed project will deliver power via a generator that will tie-in to the Blythe Energy 500-kilovolt line; with interconnect to the Colorado River Substation.
- The project is expected to take 39 months to complete and will average 646 workers including laborers, craftsmen, supervisory support, and management personnel.
- The Genesis Solar Energy Project is expected to employ 40-50 full-time employees once the project is fully operational.

Genesis CACA-48880
- Status of Federal Process
- State of California Process
- Executive Summary and Maps
- Environmental Document
- Policy, Guidance, and Documents
- Fast Track Projects



Artist rendering of Genesis Solar Energy Project

For information about this project contact:

Bureau of Land Management
Palm Springs South Coast Field Office
1201 Bird Center Drive
Palm Springs, California 92262
Phone: (760) 833-7100
Fax: (760) 833-7199
Office Hours: 8:00 a.m. - 4:30 p.m., M-F
Contact us by Email

Genesis Exhibit 709, Genesis Solar Energy Project.

Exhibit 709 is the Revised Staff Assessment released by CEC Staff June 11, 2010.

It is available at:

http://www.energy.ca.gov/sitingcases/genesis_solar/documents/index.html#commission

Genesis 09-AFC-8
Exhibit 710 6pages

the Survivor

The Quarterly Journal of Desert Survivors | Experience • Share • Protect | Spring 2010 | 29.1

with the people. That's what they do best.

If you want a bill that favors "renewable energy", then write a bill that does that, publicize it, debate it, then amend it or vote it down. If you want to honor the legacy of Route 66 (and the TV program by the same name), write a bill that does that. If you want to protect Wilderness, do that. Promoting industrial development that favors your campaign contributors does not belong in a bill about history, tourism or desert protection.

The role of process in this is also significant. This passel of contradictory efforts would never have gotten off the ground if it hadn't been for activists' eagerness to protect Wilderness. As the thing evolved, it went underground into Congressional offices. When it came out, it was hardly recognizable, and subject to a poison pill, the solar and wind mandate. Now the California Wilderness Coalition, lead group for the protection efforts, does not describe the huge weight of the solar and wind promotion that is the main purpose of the bill for the Senator and her party allies. The CWC refers all questions about solar and wind provisions to the Senator's office, as if that issues sits detached from the bill. But it does not.

And finally, the whole process and its history point out a fatal flaw in the environmental movement's efforts toward Wilderness protection. By 1997 the CWC had been reorganized from an actual coalition into a typical large enviro organization funded by foundations. In that year, a major meeting was called to promote an omnibus Wilderness protection act for the whole state that would do for the mountains and forests what the CDPA had done for the desert. Three of us from the Survivors drove up to Davis to participate with another 75 individuals. On the way we were saying to each other, "Why do they want to do this? We just got a major bill (the CDPA) and we can't get the executive branch to enforce it. We should concentrate on that."

Years late, we still face that same problem. Wilderness bills make the press and provide a focus, but as we have seen in the desert, the real dirty work is enforcement of existing law. The BLM has on average one enforcement ranger for every six valleys and five mountain ranges. Instead of another Wilderness bill we need a $5 billion per year Wilderness enforcement act for the BLM that will fund an enforcement ranger for each Wilderness and a squad of 25 employees in each BLM Field Office to work on restoration and education for the surrounding communities, including tours with non-motorized recreation in each WA. That would be a hard thing to get, but THAT is what is necessary. I'd like to see the CWC lead an effort like that. Such a bill would do more for Wilderness and wildlife than Feinstein's "California Desert Protection of 2010".

Desert lovers should not be fooled by the title of this bill, or by what the CWC says on its website. Go to the Senator's website and get a copy of the bill and read it. If you want to protect the desert from the mess that solar, wind and their attendant powerlines create on our public land, you won't want to see this bill passed in its present form. The loss of Wilderness is bad enough, since WSAs like the Cadys and the Sodas would continue to be protected if left alone by Congress, that is, not "released". But the solar and wind provisions are bad, and must be opposed.

MANDATES WE WON'T BE ABLE TO FIGHT

One fact about this bill should be made very clear. At present environmental laws like the National Environmental Policy Act (NEPA) and the Federal Lands Policy Management Act (FLPMA) have specific requirements for how public land is treated when it comes to industrial use or anything else. Putting solar, wind and their required powerlines into a special act passed by Congress will supercede these legal requirements. All along environmentalists have been trying to get the courts to force the executive branch to follow the will of Congress (NEPA, FLPMA, other laws) when it comes to protection. With this bill the tables will be turned. The courts can't be used to corral Congress if it writes bad laws. Provisions in this law will not be actionable by activists.

It's one thing to watch and criticize Obama when he makes up his own rules as he goes along. It's quite another to attempt to defy Congress when it mandates development. The Congress could put these types of mandates in an energy bill, where they properly belong, but Congress cannot pass an energy bill now; those efforts have been stalled for years. This bill is an end-around that impasse, and the cynical carrot that is being used is Wilderness protection. We should not allow that to happen. The energy provisions should be taken out of the bill, otherwise it's not worth passing.

PALEN-MC COY BACKPACK

December 29, 2009-January 3, 2010

by Steve Tabor

In recent years I've had more requests for backpack trips longer than the typical three days. Maybe it's the "troubled economy" that has given members more time. It's partly the fact that we have more retirees now than ever before. Whatever the reason, there's an appeal to crossing the desert for an extended period, to see the continuity of the land as you move, to engage the land in a challenge, to immerse yourself in nature more deeply. And of course to forget all the responsibilities and the myriad woes that those less endearing of the natural world will foist upon us, however well-meaning they consider themselves to be.

The desert gives itself over naturally to this immersion. Many of our desert Wilderness Areas are twenty, thirty, forty miles long. We did thirty-eight miles each time we hiked the length of the Sheephole Valley Wilderness, in 1998 and again in 2001. The Palen-McCoy Wilderness at 270,629 acres is one of the largest in the Desert District. This was my seventh trip here; the route of each was different. In five days

Ascending the long ridge to Peak 1991—photo by Steve Tabor

Spencer Berma, Ron Cohen, Lynne Buckner, Ron Reitz- photo Tabor

of hiking, 35.5 miles in all, we saw a lot. This story must of necessity only skim the surface.

We met at the burnt-out ghost town of Rice on State Highway 62, then set up a car shuttle at the Wilderness' northeast corner. Then we drove south through Blythe and west to our trailhead at Ford Dry Lake. Eight of us set off just before noon on a northward route. Skies were bright and clear but the mid-winter sun was low in the sky. It was a beautiful day. Rain was predicted for New Year's Eve but that was still three days off. Our packs were light with two gallons of water for the first three days. The day before I'd laid a water cache of three gallons per person at the midway point on a cherrystem road. A 750-ml bottle of New Years libation had been left with the stash. The crowd knew about those, but not about the sweets I'd included for a surprise.

Our route took us over the lake bed, which was mercifully dry, then across a patch of desert coveted by Chevron Corporation for a solar collector site. The Chevron site is up for approval this year; if it's approved by the end of 2010, it will qualify for stimulus funds that Congress has set aside for industrial development. This particular site, though several square miles in extent, would be hard to see from the freeway except for one thing: like the state prison on the other side of the valley, it will be lit up at night like a football stadium, making it ungodly obtrusive in our dark and silent desert. In fact the lights of the prison are so bright that they would absorb most of the power put out by the solar facility, if that facility were capable of making electricity at night, which it is not. Both the solar site and the prison will have to be illuminated by electricity generated somewhere else, probably one of the dams on the Colorado River.

It was sobering experience, hiking through the sacrifice zone. Soon we were cruising up the alluvial fan, headed for a low pass that bisects the Palen Mountains' main east-west ridge. I'd been looking at this pass for years from the freeway, trying to figure out how to get there, knowing that it would have to be a multi-day trip, the distances were so long. First silt, then pebbles, then stones made the substrate, then larger rocks that began to stub our toes. It was a long gradual uphill with only creosote bush and burroweed as company. It was too cold for lizards. All around was desert pavement, with vegetation growing only in the rills. The pass didn't look much closer than when we'd started.

After 5.9 miles we'd risen 300 feet in elevation. We camped on the last pebbly ground suitable for tents. Ahead were rocks. The ridge ahead was hard black metamorphic rock, which makes for shattered boulders and little soft stuff. I didn't want to go any farther, or I'd have some angry would-be tenters on my hands. Tenters don't like rocks under their pads. A great red sunset to the southwest softened our beds for the long night.

In the morning we hiked north up the fan and into a major wash. As I suspected, the wash was full of rocks with only occasional sand patches. Two of the hikers were completely new to the desert, so they were all eyes and ears. They were quickly becoming familiar with rocky metamorphic washes. The day before we had averaged 1.5 miles an hour but the rocks now slowed us down. We rested about every mile. I needed to get off my feet each time. The vegetation was becoming more complex. Palo verde trees grew in the wash, joined by brittlebush, desert lavender and cheesebush, but not much else. The wash was filled with very hard metaconglomerate; its pebbles did not erode out but were cut right across the grain, so complete was the recrystallization.

We ate lunch a mile from the pass, about 525 feet below it. Afterward it took serious map work to find the easiest way up. After some consultation we chose to hike directly up a steep slope on the right. It was loose and unforgiving, but the climb led to an easy traverse that took us to the saddle. I was worried about our newcomers, Sierran hikers not used to cross-country backpacking, but everyone did OK. We topped out at 2:05 pm.

In the canyon and going up we'd been under clouds. Now we were blessed with sun and shadow, which allowed great views of nearby peaks and down to the valley ahead. All along the east side was a wall of metamorphic ledges, dark and black on the way up, now freshly lit showing good detail. Shadows now accentuated the ledges and attendant sloping spurs. We rested after our heavy pack-work, enjoying the view. It was a half-hour to savor, and to catch our breath.

The way down was difficult at first. We dropped left through a vertical slot in one of the ledges, careful not to dislodge rocks onto those below, then got on a steep ramp that led to the rocky gulch bottom. This turned out to be a lot easier that I'd expected. Some 475 down we stopped by a blue quartzite ledge to rest our knees and ankles. We took our boots and socks off to relax our weary swollen feet before continuing on.

Cumulus again came over and we had a cool hike downstream in the rocky canyon. It soon opened up into a pebble wash with fewer rocks and we enjoyed views of the valley ahead. Large ironwood trees appeared. I had expected them on the south side but only palo verdes grew there. Now the ironwoods were dominant. A hint of color in the wash gave us a surprise. It was a heavy scarlet red balloon five feet in diameter. Emblazoned on one side was the advertising slogan, "New Homes". The balloon had gotten away from its RE agent and blown many miles off course, eventually taking on a puncture and falling down. There was not a "new home"in sight, except for our next camp downstream. One of the hikers could not leave it there, so he tied it to his pack and carried it out. I would not have done so; the thing weighed more than a gallon of water.

We followed the twisting canyon as it dropped lower. This part was underlain by beautiful cemented gravels six feet thick, now exposed above surface, indicating ancient bed seepage. We camped in a slot below a low fall in the gravels. All afternoon we'd been watching clouds develop, beautiful cumulus blown on a sharp west wind. Ordinarily this would not be the best camp under such clouds, but no storm was forecast and the west wind showed us that a front had just passed over. Under a south wind we would have changed our camp.

The next morning we got up early to begin our hike north across Chuckwalla Valley. We were now deep inside the Wilderness. Our task was now to move northwest toward a patch of large ironwoods that showed on the map, then north and northeast to the water stash on a cherrystem road near Palen Pass. Shadows were long as we emerged from the canyon out into the valley. It was completely clear and sunny and warm. I led us quickly out of the pebble wash, navigating by GPS toward an arbitrary point I'd chosen in the middle of the ironwoods, trying to keep to sand patches and to avoid the largest rocks to protect our feet.

The hike this morning was graced by views across the valley, west toward the Coxcomb Mountains and north to Granite Mountain. Palen's black metamorphic north-south ridge lay all along the eastern side. Ironwoods grew larger and larger as we weaved our way in and out of anastomosing channels; rocky washes converged and separated as we went. After a couple of hours it was clear that we were *already* in the large ironwoods, a main feature of the Wilderness that I wanted everyone to see. We stopped under one of the largest, marveling at its size and the shade it gave in this normally (the rest of the year) very hot desert, then headed north to intersect a wide wash that would lead us directly to the cache.

We hiked three miles north across the lowest part of the alluvial fan. We were now far enough out in the valley to avoid crossing deep wash cuts, always a hassle if you keep too close to the mountain front; we were now miles away. We crossed one jeep trail, an old road to the Palen Mine which could be clearly seen in the black rock to the east, just below the reddish felsite of Palen Peak. There were wheel tracks on this road, the first we saw in the Wilderness since we'd started. At noon we got to the wash we wanted, then ate lunch in its sandy bottom. Washes here drain granite instead of metamorphics. Black stones and the red felsite pebbles of Palen Peak were now replaced by beige sand and white granite.

It was a short jaunt northeast up the wash to our camp. A couple of the guys were fascinated by a rusty old military mine left over from the General Patton days. After cautioning them I quickly hiked on. The mine had a hole in the bottom and was clearly empty, probably just used for practice during 1942 tank training. Farther up we came upon basalt boulders and then a basalt flow, right at current level. The lava rested right on cemented gravel. It was now warm enough for lizards to be active. We reached camp at 4:10 pm.

All of us still had water, but I was surprised at how eagerly hikers went up to the cache. It was less than a quarter-mile north on a high terrace. Though I was following the GPS arrow, some hikers got there quicker than I did. There were two boxes of water, a large bottle of whiskey and some cookies. Most hikers grabbed three gallons of water each. I grabbed the whiskey and Lynne Buckner took the cookies. Some hikers had dropped out while I'd been in the desert the week before so there was water left over.

It was New Year's Eve. Back at camp we watched golden sunset light drench a nearby peak, then partied down with the cookies. Much to my surprise, there was not much interest in the whiskey, a superior brand, Black Velvet (there's even a popular song about it). I feared that I might have to drink it all myself. After dinner we drank a little more, then it was early to bed. We didn't even do a "New York New Year's" (9:00 pm). It was more like a "Newfoundland Banks New Year's" (7:00 pm).

On New Year's Day, Spencer Berman and Ron Reitz did an all-day hike to the mines at Packard Well. The rest of us lounged around and enjoyed the sunny day. The storm forecast for the previous night never materialized. Four of the hikers played cards. Another read a magazine. I studied the map and hiked around nearby terraces, looking for plants. It was an unusual day for a Desert Survivors trip. Usually it's rush down, go-go-go, then rush back home. There is some luxury to carrying extra food and taking extra time to relax.

On the fourth day we hiked upstream, then caught an old jeep trail that took us south then east across desert pavement. We were now moving toward a crossing of the main north ridge and over to the Little Maria Mountains. The original

plan was to stay in gulches then do another low pass to the head of McCoy Valley, but looking at the map I saw that we could cut a couple of miles off the route by going over the top of a small peak that blocked the way. This became the new plan. The peak we would climb was clearly visible. All approved of the plan.

The pavement here was among the starkest I have ever seen, almost all black stones. Hardly any plants except dead yellow grasses and a few leafless brittlebush in the rills. It must be brutally hot in summer. We crossed the pavement then dropped into a wash with vertical cutbanks. We then ascended a long gradual ridgelet that gave us most of the elevation. Picking our way up the incline we were treated to long views, first of the shadowed cutbanked wash, then out across the wide expanse of pavement extending to the western valley. We rested partway, then went right up the spine of the ridge, partly on an old miner's trail before it veered off. We achieved the summit after a climb of 840 feet, just in time for lunch.

This was a good long rest, and we needed it. We enjoyed a 360-degree view, from Granite Mountain to the northwest, clockwise around to the Turtle Mountains, Rice Valley, the Little Marias, the Kofa Range, McCoy Valley, the McCoy Mountains, the Palens, the Chuckwallas, Chuckwalla Valley and the Coxcombs. In the circle I counted at least twenty Desert Survivors trips plus several solos I'd done. We were indeed "in the middle of everywhere". Ahead and below was the barranca country surrounding the through-road from McCoy Valley, a series of steep-sided gulches that we had to cross. An hour later we started down the rough east ridge.

We followed the ridge down and around to the north, finally dropping off it to a rocky gulch. I only fell once on the loose final descent. We rested in the gulch, then climbed out and headed northeast. By 2:30 we were at Palen Pass Road, a wide graded dirt expanse. All around, and indeed on all terraces, were the wide tracks of Sherman tanks, the legacy of World War II training exercises, still visible after sixty-six years of desert erosion. The heavy tanks had compacted the soil to such a degree that plants won't sprout. The tracks are a case study in desert geomorphology, and a warning for all wanna-be developers of desert land, including solar and wind junkies who persist in their fairyland tales of "clean industrial development". No wonder this part of the valley had been left outside Wilderness.

From the road we continued northeast across the barrancas. Our detour over the peak had saved us from most of the nastiness but we still had to cross about six. Most were easy down and up. We were going against the grain of the drainage, not the best route to use but sometimes necessary. The last two had cutbanks, a nerve-wracking clamber down and up and down and up. By 3:15 pm we encountered the main wash near the base of the Little Marias.

Shadows were now long and we still had far to go to a camp. I led us east on an easy terrace around the north end of the range. This showed little elevation on the map so I knew it would be good, but there were some washes cuts to cross. At the topo map scale I had no idea whether they were two feet deep or twenty feet deep. Luckily they were the latter. We made good time on the gentle ground, some of which was bedrock pediment with small granite outcrops. An interesting mix of vegetation grew in the bare rock. We did a rapid mile and a half in waning light.

Our goal was a curiously-shaped isolated hill about 250 feet high. It was pockmarked with tafoni, eroded solution holes five or ten feet in diameter. We named this "Skull Rock". It did indeed look like a skull. It was spooky in the late afternoon light. Who knew what living (or half-alive) creatures might be lurking in those nooks and crannies? We got there just at sunset, a magical time in the desert. Flat ground for camps was all around, including soft sand washes that would be good for a sleeping bag, but I couldn't get anyone to agree to camp there. The group voted to move on. I'm not sure I blame them.

We continued east, now on an old jeep trail flanked on either side by tank tracks. We camped more than a mile from Skull Rock on desert pavement. The Rock was still visible from our camp. I kept my eye on it until the light faded out. We'd hiked 7.8 miles this day and were now 5.8 miles from the cars. We were still on schedule.

At this camp we had more great conversation, with Rich carrying a lot of it himself. Naturally Skull Rock was still on my mind, and some of the talk gravitated to that. I watched it for blinking lights. We also got out the black light to search for fluorescent minerals, which we'd seen on the other nights. This camp was an especially good place. We found yellow, orange, green and red stones. The red was a blood red. (I wished I'd had the courage to go back to Skull to see what color it displayed under the light.) We stayed up late enough to see the Full Moon rise. We had an unobstructed view to the east.

In the morning we rose early again. Ron Reitz treated us to some World War II coffee. At Palen Pass Road he'd found a small metal cannister the width of a half-dollar and a half-inch thick. It was rusted shut, but he'd managed to pry it open with a knife. Inside was a black kernel about the size of a motel bar of soap. We couldn't tell if it was soap, chewing tobacco, snuff, or whatever. In the morning Ron threw it into a cup of boiling water and it was — instant coffee! I once worked in a coffee plant and I remember what happened to the instant when it was left too long in a package that wasn't air-tight; it got hard as a rock. The coffee was delicious and we all tried some. It had probably hardened before the end of the 1940s, but had been laying in the desert all that time, still usable. I pondered the possibility that it may have been manufactured before I was born in the plant where I'd worked in the 1980s.

The last day we hiked east on the jeep trail and across to Tank Spring, which shows on the topo map. A high fall

drops over cemented gravels into a barranca with a plunge pool below. Above the lip, on one side we found a small pool of water in a bedrock hole. We dropped into Tank Wash and hiked downstream, now back in Wilderness. The wash had plenty of large ironwood trees and a well-drilled illegal jeep trail, a fact that will be communicated to the BLM in my monitoring report. Two miles downstream we emerged from the wash onto the terrace on the north and ate lunch. Only three miles to go, but we savored the feeling of being this close. We had a view of Rice Valley ahead and of the Arica Mountains, a limestone ridge to the north.

We were now on sand. Sand had been swept southeast from Cadiz Valley around the Aricas and across the desert pavement, burying it. The sand now engulfed the ridge and the wash behind us. After lunch we continued northeast across the sand, sinking down into one kangaroo rat tunnel after another as we went. The sand had been blown into rolling ridges from the west-northwest, a gentle up and down as we went.

A short way from the lunch stop we found a small grove of crucifixion thorn (Holacantha emoryi - italics). This was quite a surprise, growing out all alone in the sand dunes. The grove was about twenty-five feet long, ten feet wide and five feet high. Plants were not flowering but the dry seed cases remaining on the plant were diagnostic. I took a GPS reading so I could find it again and see the flowers. This plant is described as "rare in California" in the latest edition of the *Jepson Desert Manual*.

The other thing notable about this three-mile dune crossing was the extent of the invasive weed, Sahara mustard (*Brassica*). This plant came on strong in the California Desert in the late 1990s, probably from farmlands around Yuma, Arizona. It was well-established in the Little Picacho Wilderness when we visited in 2004 and has continued to push north, now to all areas. It loves sand. It's an annual and showed only dead stalks on this trek, but the dry stalks were all across the dunes. Many of the native shrubs, burroweed (*Ambrosia dumosa*) and creosote bush (*Larrea tridentata*), showed signs of die-back: dead twigs and branches, even entire dead plants. They may have been harmed by the ability of Brassica to grab water in this well-drained soil. Though I've been aware of the problem for many years, this is the first place I've seen that seems to be suffering big-time. Outside of loosing a herd of goats before the plants flower, I can't think of anything that can curb the spread of Brassica.

We got back to the cars at 12:55 pm, then drove back to the trailhead to pick up the rest of the cars. We had to tie some packs on the roof of Ron Cohen's Subaru. By 3:30 everyone else was on their way home. I drove back to the cache site on Palen Pass Road to pick up the remaining water, the whiskey (couldn't leave that behind), and everybody's busted-up water jugs. The big red "New Homes" balloon was there too. Nobody wanted to carry it any farther. It will now become the major element of a serial art installation. I'll keep it in my car and every time I pass an old broken-down shack, if the light is right I'll hang it up and take a picture. "New Homes" indeed. I'm going to start with some good old trailers outside Lucerne Valley, then shift over to Wonder Valley near 29 Palms. Should be enough abandoned shacks and trailers in the desert for many years of artistic texture.

I was happy with how this trip turned out. We did 35.5 miles in four and one-half days of backpacking, with a full day of rest for most of us. Everything worked. We'd seen a long stretch of country and many environments within it. And the hikers were all happy with it too. This was the kind of trip that can blow minds. The sense of adventure has left many of our members (or THEY have left IT). This kind of trip can rekindle that sense. If nothing else it will make for an interesting story for members who only want to read the *Survivor*.

So enthusiastic was the response to this long trip that I've planned three more for April, May and June. All will be run as fund-raising trips for Desert Survivors. They are listed on a yellow flyer, separate from the Spring Trip Schedule. Hardy hikers are welcome to participate. Pack well and bring plenty of food. And extra socks and underwear. And open ears and eyes. You'll need that too to wrap your mind around a week of desert.

BROADWELL LAKE CARCAMP

January 16-18, 2010

By Steve Tabor

For the past several years, PG&E and BrightSource Electric have touted highly their proposed eight-square mile solar power facility in Sleeping Beauty Valley near Broadwell Dry Lake. BrightSource recently withdrew their application, citing Senator Dianne Feinstein's proposed National Monument honoring Route 66. "The Mother Road", but it's likely the corporation is so far behind in funding their Ivanpah plant near the Nevada border that they now know they can't do two $1 billion projects (though they'd never admit it publicly). (The company has just recently been recommended for a $1,370,000,000 loan guaranteed for the Ivanpah plant after putting up $160,000,000 of its own money, a 10.5% investment for an 89.5% subsidy — good work if you can get it!)

However that may be, we gathered on this weekend at the site to celebrate the Broadwell plant's demise. At least for now, this eight square miles will be saved for the creosote bush, the burroweed, the turpentine broom, the indigo bush, and the desert tortoise. It's not often we can celebrate a victory over solar, so we savored it while we could.

We met at Ludlow Café, then drove north to Broadwell Dry Lake on a dirt road that runs alongside the old Tonopah-Tidewater Railroad grade. This road had been kept open in the early '90s by a firm that wanted Broadwell for a toxic waste dump. Test drilling was performed on the lake bed; the