

**MEMORANDUM OF AGREEMENT  
AMONG  
THE BUREAU OF LAND MANAGEMENT, LAS VEGAS FIELD OFFICE  
THE NEVADA STATE HISTORIC PRESERVATION OFFICER  
THE MOAPA BAND OF PAIUTES  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
AND  
SOLAR PARTNERS, XI, LLC  
REGARDING THE GEMINI SOLAR PROJECT, CLARK COUNTY, NEVADA**

WHEREAS, the Bureau of Land Management, Las Vegas Field Office (BLM) may approve the Gemini Solar Project (Undertaking) as outlined in the Final Environmental Impact Statement DOI-BLM-NV-S010-2018-0051-EIS (EIS), as shown on Appendix 1, and pursuant to the regulations and policies that implement Title V of the Federal Land Policy and Management Act of 1976 (Public Law 94-579) as amended (FLPMA); and

WHEREAS, BLM has determined that the approval of the Undertaking is subject to Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) and has consulted with the Nevada State Historic Preservation Officer (SHPO), who is a Signatory to this Memorandum of Agreement (MOA); and

WHEREAS, Solar Partners, XI, LLC (Applicant) has proposed this Undertaking, and are therefore responsible for the costs associated with the preservation activities of the BLM, BLM has invited them to sign this MOA as an Invited Signatory; and

WHEREAS, the Undertaking consists of an approximately 690-megawatt alternating current solar photovoltaic power generating facility on roughly 7,100 acres of BLM-administered land located about 33 miles northeast of Las Vegas and directly south of the Moapa River Paiute Reservation. For more information, see the BLMs ePlanning webpage for the Undertaking found online at <https://go.usa.gov/xntTQ>; and

WHEREAS, BLM defined the Undertaking's direct area of potential effects (APE) as the area contained within the 7,114-acre development area. The APE for visual effects is defined as those areas from which the Undertaking would be visible within a 5-mile radius of the direct APE (see Appendix 2); and

WHEREAS, the Section 106 Process for this Undertaking began prior to being established as a FAST-41 covered project, it was carried out pursuant to the *State Protocol Agreement between the Bureau of Land Management, Nevada and the Nevada State Historic Preservation Officer for Implementing the National Historic Preservation Act* Revised December 22, 2014; and

WHEREAS, BLM has determined, and the SHPO has concurred, that cultural resources 26CK4429/5685, 26CK4369/7793, 26CK4959, 26CK3848 , 26CK10563, and 26CK5019 are either eligible for listing in the National Register of Historic Places or remain unevaluated and will be treated as if they are eligible for this Undertaking, and will be adversely affected by the Undertaking, and thus are the subject of this MOA in order to resolve these adverse effects. See Appendix 3 for descriptions of each Historic Property; and.

WHEREAS, BLM consulted with the Moapa Band of Paiutes, Las Vegas Paiute Tribe, Fort Mojave Indian Tribe, Twenty-Nine Palms Band of Mission Indians, Chemehuevi Indian Tribe, Bishop Paiute Tribe, Timbisha Shoshone Tribe, The Hopi Tribe, and Colorado River Indian Tribes for which resources within the APE may have religious and cultural significance.

WHEREAS, The following tribes, Fort Mojave Indian Tribe, the Hopi Tribe, and Colorado River Indian Tribes, have provided information related to properties of religious and/or cultural significance to their Tribes and therefore have been invited to sign this MOA as Concurring Parties; and

WHEREAS, as there will be visual effects to Historic Property 26CK5019, which is located on the Moapa River Paiute Reservation, BLM has consulted with the Moapa Band of Paiutes regarding these effects and included them as a Signatory to this MOA; and

WHEREAS, BLM notified the Bureau of Indian Affairs (BIA) regarding the proposed Undertaking and invited them to participate in the consultation and development of this MOA. BIA does not have responsibilities under this MOA, but has reviewed the MOA, acknowledges that its views were taken into consideration during the consultation process, agrees to the terms of the MOA for the purposes of historic preservation, and is a Concurring Party to the MOA; and

WHEREAS, BLM has consulted with the National Park Service (NPS) regarding the effects of the Undertaking on 26CK3848. This historic property has been identified as a segment of the Old Spanish National Historic Trail, and as the National Park Service has administrative responsibilities related to the National Trail BLM has invited them to sign this MOA as a Concurring Party; and

WHEREAS, BLM has consulted with the Old Spanish Trail Association (OSTA) regarding the effects of the Undertaking on 26CK3848. This historic property has been identified as a segment of the Old Spanish National Historic Trail, and as the OSTA has specialized knowledge and expertise related to the National Trail BLM has invited them to sign this MOA as a Concurring Party; and

WHEREAS, BLM has notified the Advisory Council on Historic Preservation (ACHP) of this determination of adverse effect pursuant to 36 CFR § 800.6(a)(1) and the ACHP has notified BLM by letter dated January 17, 2020 that it has decided to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii) and will sign this MOA as a Signatory; and

WHEREAS, BLM has prepared an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA) for the Undertaking and has used the public notification process embodied in NEPA to seek public input and notify the public of the potential effects of the Undertaking on historic properties as required in 36 CFR Part 800. The public was notified in the Notice of Intent to Prepare an Environmental Impact Statement published on July 13, 2018 that BLM had identified cultural resources as a preliminary issue that would need to be addressed in the EIS. As part of the public scoping efforts for the Environmental Impact Statement for this Undertaking BLM notified the public of the potential impacts to cultural resources and invited them to provide comments related to provide any input on these impacts. During the scoping effort BLM received 4 letters that addressed concerns related to Cultural Resources, these concerns are outlined in the Gemini Solar Project's Scoping Report Summary. The NOI, Public Scoping Materials, and the Public Scoping Report are available in the documents section of the BLM's eplanning website for this project at [https://go.usa.gov/xntTQ](https://go.usa.gov/xntTQ;).; and

WHEREAS, the Signatories, Invited Signatory, and Concurring Parties who sign this MOA will hereinafter be referred to as the Consulting Parties; and

WHEREAS, the Signatories have agreed to accept Electronic Signatures (e-signature) as an indication of execution of this MOA, if feasible. The MOA may be signed in counterparts and the executed MOA, and each signature, will be effective and binding as if all the Signatories had signed the same document; and

NOW, THEREFORE, BLM, the SHPO, and ACHP agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on historic properties.



STIPULATIONS

BLM shall ensure that the following measures are conducted:

I. PREPARATION OF A HISTORIC PROPERTIES TREATMENT PLAN

- a. Prior to the BLM issuing any Notice to Proceed to authorize any construction or ground disturbing activities for the Project, the Applicant will contract with an archaeological firm meeting the Secretary of Interior's professional qualifications standards for archaeology and that is permitted, or is qualified to obtain a permit, to work on BLM Managed Lands in the State of Nevada. This firm will prepare a Historic Properties Treatment Plan (HPTP) to address adverse effects to the historic properties described above.
- b. The Applicant shall ensure that its contractor obtains, or shows proof of having, a permit to work on BLM managed lands in Nevada and submits a Fieldwork Authorization for approval by the Las Vegas Field Office Manager prior to beginning work on the HPTP.
- c. The Applicant's Contractor will develop this HPTP consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716-37), and the ACHP guidance for Reaching Agreement on Appropriate Treatment in *Section 106 Archaeology Guidance* available online at [https://www.achp.gov/protecting-historic-properties/Section\\_106\\_Archaeology\\_Guidance](https://www.achp.gov/protecting-historic-properties/Section_106_Archaeology_Guidance).
- d. The HPTP will include, but is not limited to:
  - i. A description of the historic properties, or portions of historic properties, that are being adversely affected by this Undertaking; and
  - ii. The results of previous research relevant to the Undertaking and any previous efforts associated with other Undertakings to resolve adverse effects to the same Historic Property(ies); and
  - iii. The method(s) to resolve physical direct, visual, indirect, and cumulative adverse effects identified; and
  - iv. An explanation of how the method(s) chosen will resolve the identified adverse effects; and
  - v. An outline for the Report of Activities that will be required to document the actions taken to resolve adverse effects. This outline should be consistent with contemporary professional standards related to the activities being done. The portion of the report reporting any data recovery efforts should be consistent with the Department of Interior's Formal Standards for Final Reports of Data Recovery Programs (48 FR 44716-44740); and



- vi. The methods to be used in data management and dissemination of appropriate data to the professional community and the public; and
  - vii. A proposed schedule for all identified tasks, and a schedule for the submission of draft and final reports to the consulting parties; and
  - viii. The proposed disposition and curation of any recovered materials and records in accordance with 25 CFR 262; and
  - ix. A plan for the conclusion of mitigation if the Undertaking is suspended or terminated that stipulates the procedures to be followed.
- e. The Applicant shall ensure that the contractor is funded to draft, finalize and carry out the HPTP and to provide BLM with a draft and final report of all treatments, which shall discuss how the HPTP was carried out, and the results of any treatments conducted.

## II. REVIEW AND EXECUTION OF THE HISTORIC PROPERTIES TREATMENT PLAN

- a. Within 120-days of the BLM signing the Record of Decision to authorize this Undertaking, the applicant, through its contractor, shall provide a draft HPTP to BLM prepared according to the requirements outlined in Stipulation I.
- b. Within 15 days of receipt of the draft HPTP, BLM shall provide the draft to the Consulting Parties for a 30-day review and comment period from their receipt in both electronic and hard copy. Consulting Parties may request that BLM hold a consultation meeting at any point either prior to or during the review and comment period.
- c. BLM shall provide the Consulting Parties with all comments received from the other Consulting Parties on the draft HPTP within ten (10) days of receipt.
- d. If BLM does not receive comments from a Consulting Party within the 30-day review and comment period, then BLM shall assume the party had no comments. BLM will proceed with finalizing the plan by addressing the remainder of the comments.
- e. BLM shall provide all comments received to the Applicant's Contractor. The Applicant's Contractor shall incorporate all comments into a single document and provide this document to BLM.
- f. BLM shall provide the final draft document containing all of the comments to each of the Consulting Parties, with the exception of sensitive or confidential information obtained from tribal consultation for a thirty (30) day review period from their receipt.

- g. BLM shall provide all comments to the Applicant's Contractor to address and prepare a Final HPTP.
- h. BLM shall provide the Final HPTP to all Consulting Parties via Certified U.S. Mail

### III. REPORT OF ACTIVITIES

- a. The Applicant, through its contractor, shall submit a draft report of all activities associated with the HPTP to BLM within three (3) months after the completion of the all tasks identified in the HPTP.
- b. BLM shall have thirty (30) days to review and comment on the draft report. BLM shall provide comments on the draft fieldwork report to the Applicant's Contractor.
- c. The Applicant, through its contractor, shall revise the draft fieldwork report to address the BLM comments, edits, and requested revisions.
- d. Upon BLM approval of the draft report, the BLM shall submit the draft report to the Consulting Parties to review and provide comments. The Consulting Parties shall have thirty (30) days from receipt to provide comments to the BLM on the draft report.
- e. BLM shall provide the Consulting Parties with all comments received from the other Consulting Parties on the draft fieldwork report within ten (10) days of receipt.
- f. BLM shall collaborate with Applicant's Contractor to address the comments received and prepare a Final Report within sixty (60) days of the review and comment period ending.
- g. The Applicant, through its contractor, shall ensure that enough copies of the Final Report are provided to BLM for distribution to the Consulting Parties.
- h. BLM shall provide the Final Report to all Consulting Parties, within fifteen (15) days of receipt along with a response to comments document. This response to comments will explain how each comment received was addressed.
- i. Upon Receipt of the Final Report any Consulting Party may request a conference call to discuss BLM's response to comments.

- j. The Applicant shall ensure that all records and materials resulting from identification and treatment efforts are curated in accordance with 36 CFR 79 in a BLM-approved facility in Nevada. The Applicant or their contractor will maintain all materials collected in accordance with 36 CFR 79, until the final report is complete, and collections are curated. The applicant, or their contractor, shall provide proof of curation to BLM from the curatorial facility within two (2) weeks of BLM acceptance of the final report.

#### IV. RELATIONSHIP WITH NATIVE AMERICAN TRIBES

BLM shall afford the Federally Recognized Native American Tribes who have been invited as Concurring Parties, and who participated in the drafting of this MOA, with the same opportunities as the Consulting Parties regardless of whether they choose to sign this MOA.

#### V. NOTICES TO PROCEED (NTP)

BLM will not issue a Notice to Proceed (NTP) for construction activities that would alter the landscape through vegetation removal or earthwork, until the applicant, through its contractor, has completed the fieldwork portion of the HPTP, and the BLM has determined that the terms of the HPTP have adequately met.

BLM may issue a limited NTP, if the actions authorized would not permanently alter the landscape within viewshed of a Historic Property for which visual impacts are being resolved.

#### VI. POST-REVIEW DISCOVERIES

If properties are discovered that may be historically significant or unanticipated effects on historic properties found during the implementation of the undertaking, the BLM shall follow the process outlined in 36 CFR 800.13 to resolve any adverse effects.

#### VII. DURATION

This MOA will expire if its terms are not conducted within five (5) years from the date of its execution. Prior to such time, BLM may consult with the other Signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation X below.

#### VIII. MONITORING AND REPORTING

Each year following the execution of this MOA until it expires or is terminated, BLM shall provide all Consulting Parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in BLM's efforts to conduct the terms of



this MOA.

IX. DISPUTE RESOLUTION

- a. Should any Consulting Party to this MOA object at any time to the manner in which the terms of this MOA are implemented, the disputing party shall provide BLM with the nature of their objection in writing along with a proposed resolution. BLM shall consult with the disputing party to resolve the objection.
- b. If the disputing party and BLM cannot resolve the objection, BLM will:
  - i. Forward all documentation relevant to the dispute, including BLM's proposed resolution, to the Consulting Parties. The ACHP shall provide with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, BLM shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and other Consulting Parties, and provide them with a copy of this written response. BLM will then proceed according to its final decision.
  - ii. If the ACHP does not provide its advice regarding the dispute within thirty (30) days, BLM may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, BLM shall prepare a written response that takes into account any timely comments regarding the dispute from the Consulting Parties to the MOA, and provide them and the ACHP with a copy of such written response.

X. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all Signatories and Invited Signatories. The amendment will be effective on the date a copy signed by all the signatories. All signed amendments will be filed with the ACHP upon being executed.

XI. TERMINATION

If any Signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per the Stipulations outlined in this MOA. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the Undertaking, BLM must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. BLM shall notify the Consulting Parties as to

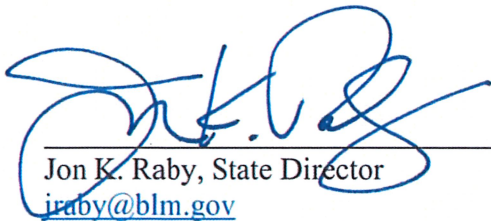
the course of action it will pursue.

EXECUTION of this MOA by BLM, the SHPO, and the ACHP evidence that BLM has considered the effects of this Undertaking on historic properties and afforded the ACHP a reasonable opportunity to comment.

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AND  
SOLAR PARTNERS, XI, LLC  
REGARDING THE GEMINI SOLAR PROJECT, CLARK COUNTY, NEVADA**

SIGNATORY:

BUREAU OF LAND MANAGEMENT, NEVADA



Jon K. Raby, State Director  
[jraby@blm.gov](mailto:jraby@blm.gov)

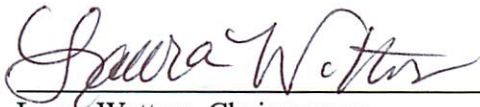
Date May 6, 2020



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SIGNATORY:

MOAPA BAND OF PAIUTES



Date

5-15-20

Laura Watters, Chairwoman

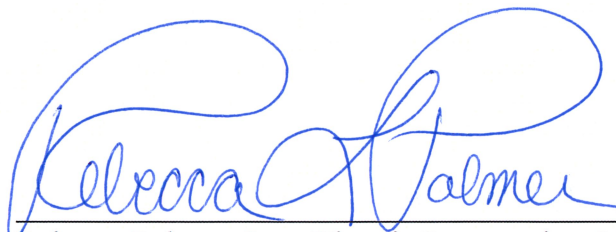
[chair.mbop@moapabandofpaiutes.org](mailto:chair.mbop@moapabandofpaiutes.org)

[council.asst@moapabandofpaiutes.org](mailto:council.asst@moapabandofpaiutes.org)

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AND  
SOLAR PARTNERS, XI,  
REGARDING THE GEMINI SOLAR PROJECT, CLARK COUNTY, NEVADA**

SIGNATORY:

NEVADA STATE HISTORIC PRESERVATION OFFICE

 Date 05/06/20  
Rebecca Palmer, State Historic Preservation Officer  
[rlpalmer@shpo.nv.gov](mailto:rlpalmer@shpo.nv.gov)

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SOLAR PARTNERS, XI, LLC  
REGARDING THE GEMINI SOLAR PROJECT, CLARK COUNTY, NEVADA**

SIGNATORY:

ADVISORY COUNCIL ON HISTORIC PRESERVATION



5/18/2020

Date

John M. Fowler, Executive Director

[jfowler@achp.gov](mailto:jfowler@achp.gov)


[bmarzella@achp.gov](mailto:bmarzella@achp.gov)



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SOLAR PARTNERS, XI, LLC  
REGARDING THE GEMINI SOLAR PROJECT, CLARK COUNTY, NEVADA**

INVITED SIGNATORY:

SOLAR PARTNERS XI, LLC (APPLICANT)

 Date 5/12/20

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Ricardo Graf, Managing Partner, CDO  
Solar Partners XI, LLC  
[ricardo@areviapower.com](mailto:ricardo@areviapower.com)

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SOLAR PARTNERS, XI, LLC  
REGARDING THE GEMINI SOLAR PROJECT, CLARK COUNTY, NEVADA**

CONCURRING PARTY:

BUREAU OF INDIAN AFFAIRS WESTERN REGION

**BRYAN BOWKER** Digitally signed by BRYAN  
BOWKER  
Date: 2020.05.05 15:28:02 -07'00' Date \_\_\_\_\_  
Bryan Bowker, Regional Director  
[bryan.bowker@bia.gov](mailto:bryan.bowker@bia.gov)

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CONCURRING PARTY:

FORT MOJAVE INDIAN TRIBE

\_\_\_\_\_ Date \_\_\_\_\_  
Tim Williams, Chairman  
[christopherharper@fortmojave.com](mailto:christopherharper@fortmojave.com)  
[lindaotero@fortmojave.com](mailto:lindaotero@fortmojave.com)



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CONCURRING PARTY:

THE HOPI TRIBE

\_\_\_\_\_ Date \_\_\_\_\_  
Stewart Koyiyumptewa, Tribal Historic Preservation Officer  
[skoyiyumptewa@hopi.nsn.us](mailto:skoyiyumptewa@hopi.nsn.us)

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SOLAR PARTNERS, XI, LLC  
REGARDING THE GEMINI SOLAR PROJECT, CLARK COUNTY, NEVADA**

CONCURRING PARTY:

COLORADO RIVER INDIAN TRIBES

\_\_\_\_\_ Date \_\_\_\_\_  
Brian Etsitty, Tribal Historic Preservation Officer  
[betsitty@crit-nsn.gov](mailto:betsitty@crit-nsn.gov)

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CONCURRING PARTY:

NATIONAL PARK SERVICE

\_\_\_\_\_  
Date \_\_\_\_\_  
Aaron Mahr Yáñez, Superintendent National Trails  
[aaron\\_mahr@nps.gov](mailto:aaron_mahr@nps.gov)

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CONCURRING PARTY:

OLD SPANISH TRAIL ASSOCIATION

\_\_\_\_\_ Date \_\_\_\_\_  
Paul Ostapuk, President  
[postapuk@gmail.com](mailto:postapuk@gmail.com)  
[ostamgr@gmail.com](mailto:ostamgr@gmail.com)



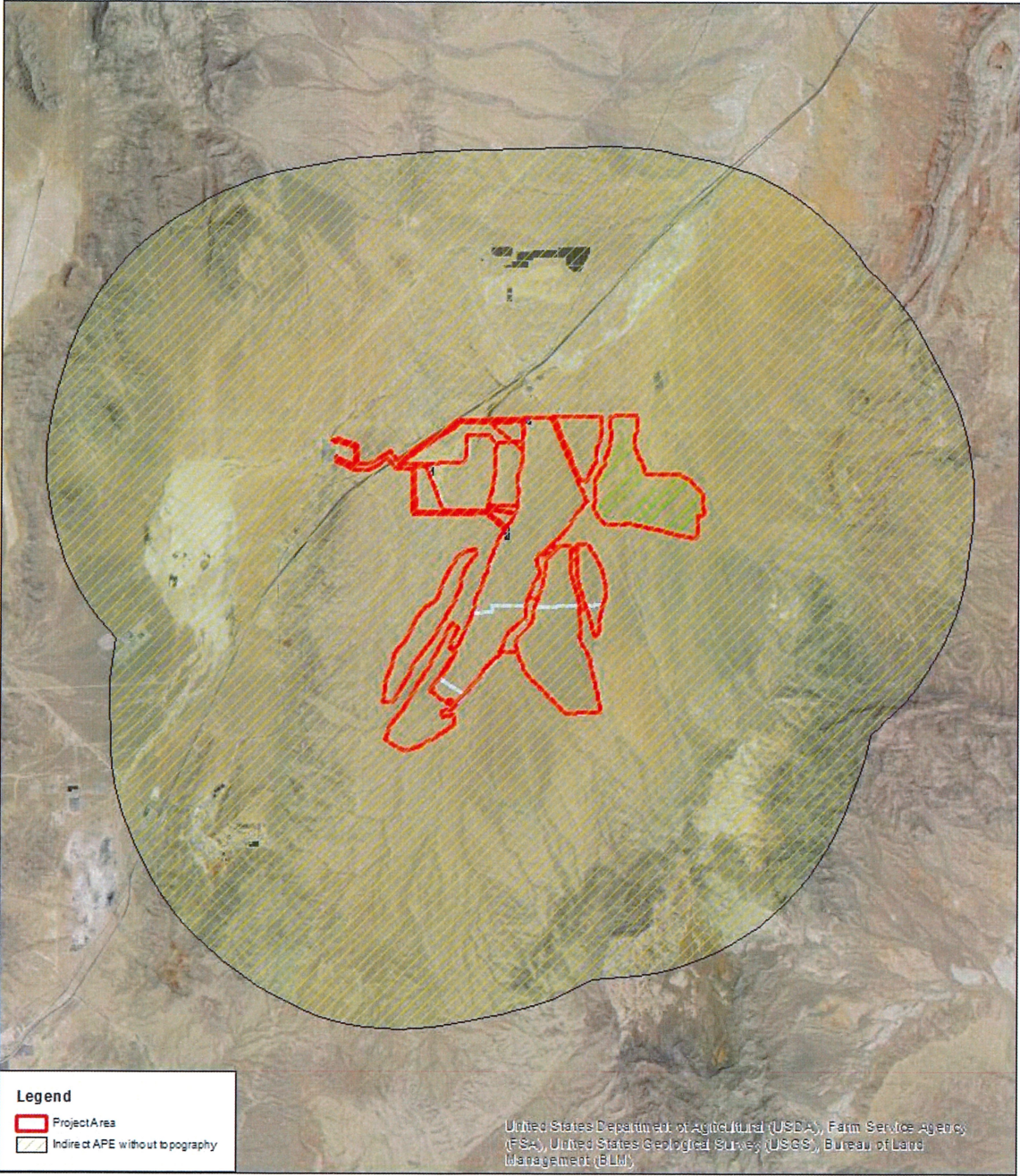
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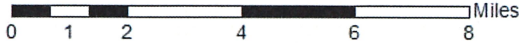
OLD SPANISH TRAIL ASSOCIATION, NEVADA CHAPTER

\_\_\_\_\_  
Nicole Marie Dominguez, President  
[nicolemdominguez@gmail.com](mailto:nicolemdominguez@gmail.com)      Date \_\_\_\_\_

**Map of Direct and Visual Areas of Potential Effect**  
the Direct (red) and Visual (green-hashed) APEs of the Gemini Solar Project.



1:163,000



**Historic Property Descriptions and Summary of Effects**

26CK4429/5685 (Union Pacific Railroad). The resource in its entirety has been determined Eligible for inclusion to the National Register of Historic Places (NRHP) under criterion A. The segment within the APE for this project is being treated as Unevaluated to the overall eligibility of the Historic Property, and thus treated as Eligible. Effects to this Historic Property will be Visual in nature. There would be no Direct effects to this Historic Property. Note: the railroad is in active use by the Union Pacific Railroad.

26CK4369/7793 (Arrowhead Trail) The Historic Property in its entirety has been determined Eligible for inclusion to the NRHP under criteria A and D. The segment within the APE for this project has a determination of Unevaluated to the overall eligibility of the Historic Property, and thus treated as Eligible. Effects to this Historic Property will be Visual in nature.

26CK4959 (Arrowhead Highway) The Historic Property in its entirety has been determined Eligible for inclusion to the NRHP under criteria A and D. The segment within the APE for this project has a determination of Unevaluated to the overall eligibility of the Historic Property, and thus treated as Eligible. Effects to this Historic Property will be Visual in nature.

26CK3848 (Old Spanish National Historic Trail/Mormon Road segment) The Historic Property in its entirety is currently listed on the NRHP under criteria A and D. The segment within the APE for this project has been determined as a contributing segment to the eligibility criteria for which it is listed. If approved, the Undertaking would directly affect this Historic Property.

26CK10563 (Prehistoric Lithic Scatter) The Historic Property has been determined Eligible for inclusion to the NRHP under criterion D. The proposed project will directly impact this Historic Property.

26CK5019 (Railroad Camp) The Historic Property has been determined Eligible for inclusion to the NRHP under criteria A and D. This property is located on the Moapa River Paiute Reservation. Effects to this Historic Property will be Visual in nature.