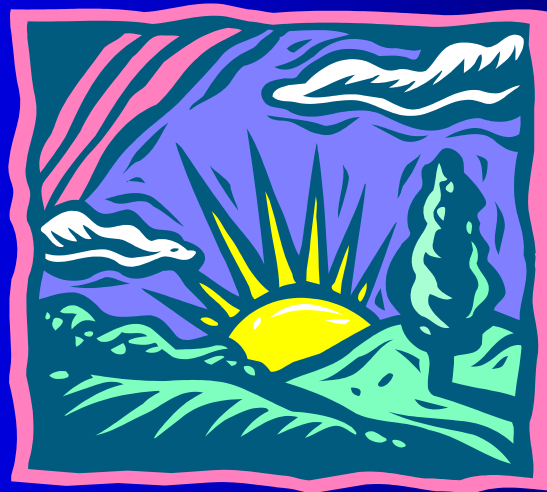


Bureau of Indian Affairs

NEPA Compliance Tribal Solar Working Group

March 24, 2015



Department of the Interior (DOI)

Bureau of Indian Affairs – Central Office

Assistant Secretary-Indian Affairs & BIA Director

- Office of Trust Services
- Office of Management Support Services
 - Division of Environmental and Cultural Resources Management

Western Regional Office – Phoenix, AZ

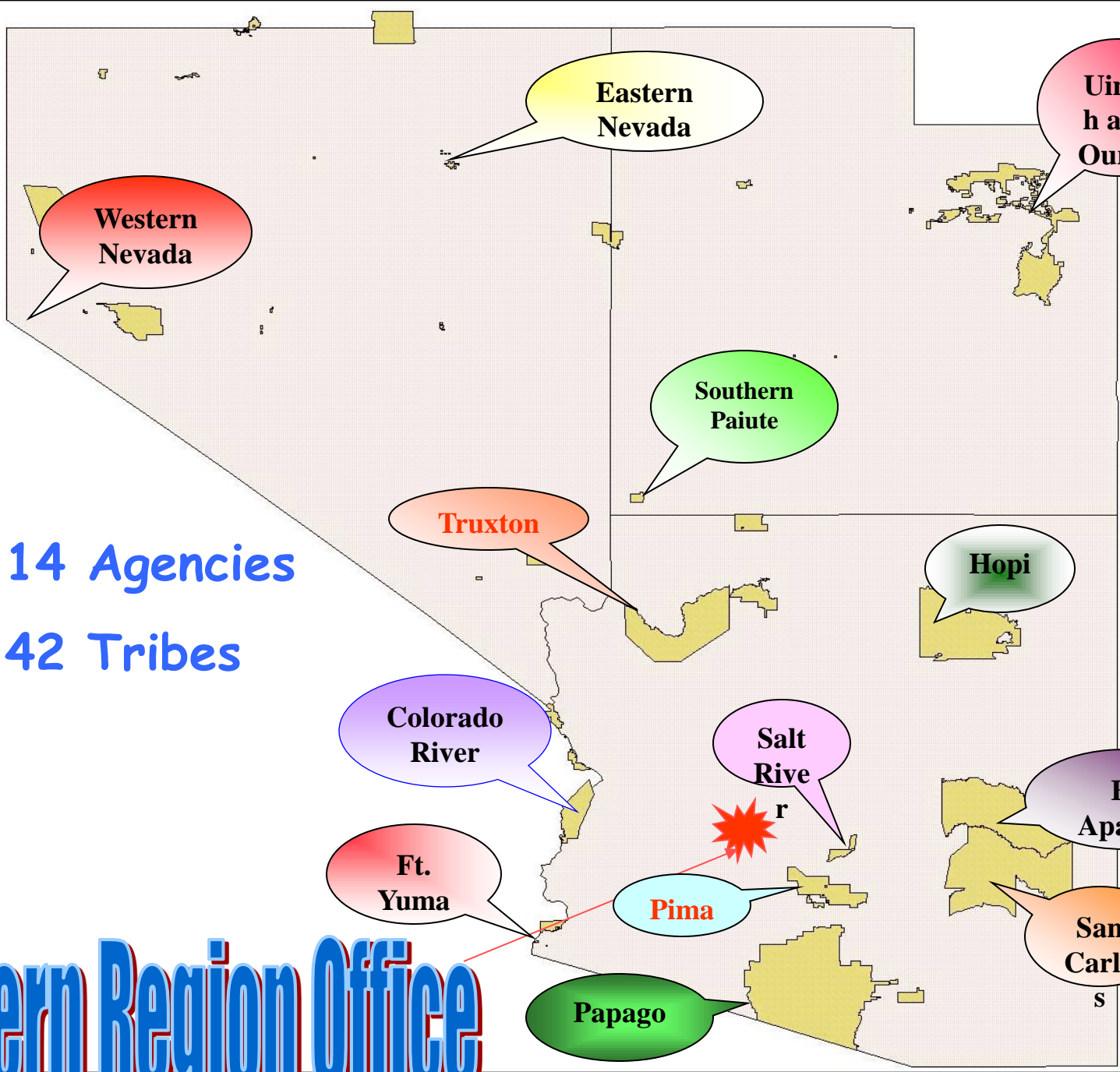
Regional Director

Deputy Director - Trust Services

Division of Environmental & Cultural Resources

Environmental Quality Services

Field Agencies and Tribes



14 Agencies

42 Tribes

Western Region Office

National Environmental Policy Act

- **NEPA-Public Law 91-190**
42 U.S.C. 4321-4347
January 1, 1970
- **CEQ Regulations**
40 CFR 1500-1508
November 29, 1978
- **DOI Implementing Procedures**
516 DM 1-6 (April 23, 1980)
- **DOI Final Rule on Implementation of NEPA 43**
CRF Part 46 (Oct. 15, 2008)
- **BIA NEPA Handbook, as revised August 2012**
(59 IAM 3-H)
- **Federal Register Notice (December 24, 1996) - BIA Categorical Exclusions (CE) 516 DM Appendix 4 (as revised May 27, 2004 – 516 DM 10). * New CE on single family homesite leases (2012)**
- **BIA's Tribal Government-to-Government Consultation Policy (Dec. 13, 2000) and new DOI Tribal Policy (Dec. 2011)**

NEPA Compliance

BIA NEPA Handbook

- 59 IAM 3-H (August 2012)

[http://www.bia.gov/WhatWeDo/Knowledge/
Directives/Handbooks/index.htm](http://www.bia.gov/WhatWeDo/Knowledge/Directives/Handbooks/index.htm)

OTHER KEY FEDERAL LAWS

- *Endangered Species Act
 - *Clean Water Act
- *National Historic Preservation Act
 - *Clean Air Act
 - *Executive Orders
 - *Secretarial Orders

Federal Indian Policies

- Executive Order 13084 - consultation and coordination with Indian Tribal Governments (reissued as EO 13175 on November 6, 2002).
- Government - to - Government Relations with Native American Tribal Governments - Memorandum for the Heads of Executive Departments and Agencies (April 19, 1994).
- Secretarial Order 3175 - Departmental responsibilities for Indian Trust Resources (changed to Department Manual Release November 8, 1993).
- Executive Order 12898 - Environmental Justice (February 11, 1994)

NEPA Compliance

- Why are NEPA documents required?
 - Because of a Federal nexus such as BIA funding or approval actions.
- Why is NEPA documentation important?
 - To ultimately make better decisions after identifying project concerns or issues and, if necessary, mitigating any impacts to the human environment.

TYPES OF FEDERAL ACTIVITIES & ACTIONS SUBJECT TO NEPA

Policies – Plans - Programs – Projects

Approvals (i.e. Realty leases, ROW's, permits, fee-to-trust acquisitions, forestry activities, housing, roads, irrigation, agricultural projects, etc.)

Funding Actions

Legislative Proposals

NEPA PROCESS

Process would officially begin when Tribe, tribal member, or third-party applicant submits documents to BIA for review/approval (such as a lease agreement).

If approval is deemed necessary, then level of NEPA documentation is determined.

Types of NEPA Documents

- **Categorical Exclusions (CatEx's)**
- **Environmental Assessments (EA's)**
- **Environmental Impact Statements (EIS's)**

Types of NEPA Documents

Environmental Impact Statement:

The following BIA actions normally require preparation of an EIS:

- Proposed large/utility-scale development projects (renewable energy)
- Proposed mining contracts or new mines of 640 acres or more
- Proposed water development projects which inundate more than 1,000 acres or store more than 30,000 acre feet
- Construction of hazardous or solid waste disposal facilities for commercial purposes

Types of NEPA Documents

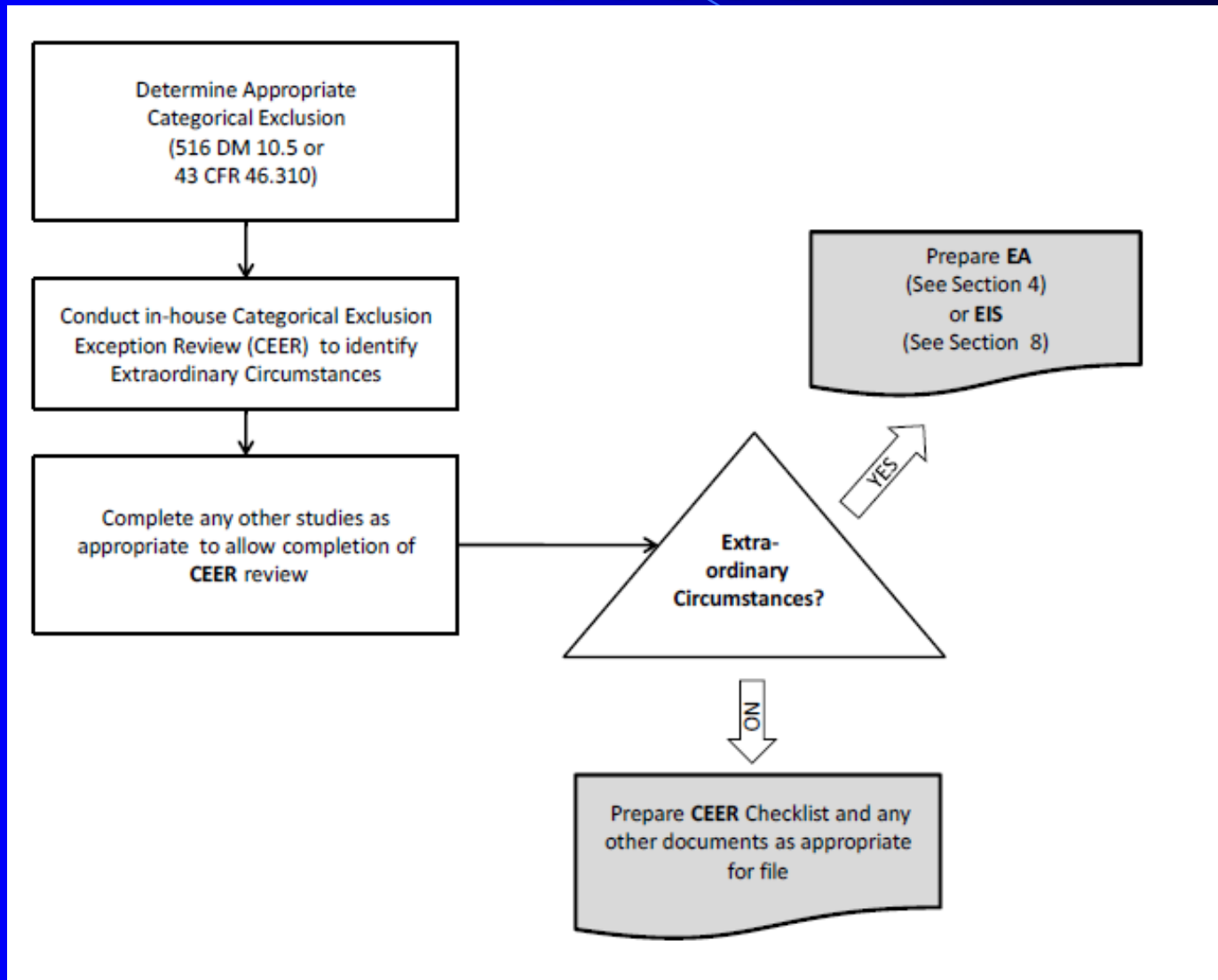
Environmental Assessment:

Not on the EIS list

Not an exclusion category

Extent of the impacts are unknown

Categorical Exclusion Process



Solar Related Categorical Exclusions

- F. Rights-of-Way
- (2) Service Line Agreements to an individual residence, building, or well from an existing facility where installation will involve no clearance of vegetation from the ROW other than for placement of poles, signs, or buried power/cable lines.

Solar Related Categorical Exclusions

- Renewals of ROWs
- Utility encroachment permits
- Administrative Actions

Procedures and Processes

- **Project Management – Lead Agency**
- **Coordination and Consultation**
- **Meetings**
- **Conference calls**
- **Site Visits**
- **MOU's**

Who is Involved in the NEPA Compliance Process?

- *Lead Federal Agency
- Cooperating Agencies
- *Tribes and Allottees
- Third Party Consultants
- Private Project Applicants
- Other Federal Agencies
- State and Local Agencies
- General Public

Role of Cooperating Agencies

- **Participate in Scoping & Public Meetings**
- **Review and provide comments on Administrative Draft/Final NEPA documents**
- **Prepare certain sections of the NEPA documents (environmental analyses)**
- **Prepare & Issue Decision Documents for their Agency**

Partnerships with Others

- Federal
- State
- Local
- Tribes
- NGO's
- General Public
- Contractors/Consultants

NEPA Compliance

Environmental Issues

- **Biological Resources**
- **Cultural Resources**
- **Water Resources (surface & groundwater)**
- **Air Resources/Climate Change**
- **Environmental Justice**
- **Indian Trust Assets (ITA's)**
- **Socio-economic conditions**
- **Human Health and Public Safety**

NEPA Compliance

- Possible Mitigation Measures

- Biological Resources

- Fences, buffer zones, relocation of species, monitoring of construction activities, establishment of tribal escrow accounts (mitigation fees)

- Cultural Resources

- Monitoring of construction activities, data recovery including testing and excavations

- Water Resources

- Monitoring wells for water quality or quantity

TYPES OF FEDERAL ACTIVITIES & ACTIONS SUBJECT TO NEPA

Policies – Plans - Programs – Projects

Approvals (i.e. Realty leases, ROW's, permits, fee-to-trust acquisitions, forestry activities, housing, roads, irrigation, agricultural projects, etc.)

Funding Actions

Legislative Proposals

Can We Avoid NEPA Compliance?

- Yes, if a federal nexus is eliminated
 - Corporate Charter
 - Leasing Regulations (Hearth Act)
- No federal funding
- No federal approval (i.e. lease)
- No federal permits
- No federal loan guarantees

Avoid NEPA Compliance?

It Depends!!!





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NEPA Compliance

Questions?

Bureau of Indian Affairs Western Region

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