

PMC-ND
(1.08.09.13)

**U.S. DEPARTMENT OF ENERGY
OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY
NEPA DETERMINATION**



RECIPIENT: Eastern Band of Cherokee Indians

STATE: NC

PROJECT TITLE : Deployment of Energy Efficiency and Clean Energy on Indian Lands - A Community Solar Project

Funding Opportunity Announcement Number	Procurement Instrument Number	NEPA Control Number	CID Number
DE-FOA-0001660	DE-IE0000086	GFO-0000086-002	GO86

Based on my review of the information concerning the proposed action, as NEPA Compliance Officer (authorized under DOE Order 451.1A), I have made the following determination:

CX, EA, EIS APPENDIX AND NUMBER:

Description:

A9 Information gathering, analysis, and dissemination	Information gathering (including, but not limited to, literature surveys, inventories, site visits, and audits), data analysis (including, but not limited to, computer modeling), document preparation (including, but not limited to, conceptual design, feasibility studies, and analytical energy supply and demand studies), and information dissemination (including, but not limited to, document publication and distribution, and classroom training and informational programs), but not including site characterization or environmental monitoring. (See also B3.1 of appendix B to this subpart.)
B5.16 Solar photovoltaic systems	The installation, modification, operation, and removal of commercially available solar photovoltaic systems located on a building or other structure (such as rooftop, parking lot or facility, and mounted to signage, lighting, gates, or fences), or if located on land, generally comprising less than 10 acres within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

Rationale for determination:

The U.S. Department of Energy (DOE) is proposing to provide funding to Eastern Band of Cherokee Indians (EBCI) for the installation of an approximately 700 kilowatt (kW) sized solar photovoltaic (PV) system for generating renewable energy that would be consumed on site. The proposed site for the PV system is on EBCI reservation land adjacent to the water tower and parking lot of the Harrah's Cherokee River Casino and Hotel located in Murphy, NC. The power produced would offset the energy demand of the casino and hotel as well as two administration buildings. A previous NEPA Determination (GFO-0000086-001; A9; 08/21/17) was completed for Task 5 activities. This NEPA Determination is for all remaining tasks of the project.

Installation of the PV system would require approximately 3 acres of previously undisturbed land to be cleared of timber and leveled to accommodate the solar arrays. There would be large central concrete pads poured and used for equipment and rows of footings and racks that would house the solar panels that make up the arrays. Electrical connection of the new solar array would require approximately 1500 - 1800 feet of either direct burial or directional boring of cabling and would tie-in to existing electrical infrastructure at the casino/hotel. Direct burial of cabling would be in conduit following existing site utilities within areas of existing disturbance. Directional boring would require very little if any new surface disturbance. An erosion control plan would be implemented during site construction. The site would periodically be inspected by the EBCI Natural Resource Department to ensure that erosion control measures are maintained during the project. EBCI adheres to OSHA regulations and requires all employees to use personal protection equipment while on the job. EBCI would obtain a timber clearing permit from the Bureau of Indian Affairs (BIA) prior to the clearing of timber at the proposed installation site.

The U.S. Fish and Wildlife Service (USFWS) lists six special status species (Gray bat, Indiana bat, northern long-eared bat, Cumberland bean, littlewing pearlymussel, and small whorled pagonia) and 9 migratory bird species as possibly occurring within the proposed project area. Based on the lack of suitable habitat for all but two of the special status species, it was determined that only Indiana bat and northern long-eared bat would potentially be affected by the approximately 3 acres of tree removal for the ground-mounted solar systems at the proposed site. Tree cutting would follow established BIA permitting procedures and adhere to all bat conservation measures outlined in the EBCI Forest Management Plan. Forest clearing would be planned to take place outside of the April 15th to October 14th bat roosting moratorium and if this isn't possible, approved bat presence-absence surveys would be conducted prior to beginning work at the proposed site. With the above requirements, a finding of may affect but not likely to adversely affect was determined for both the Indiana bat and the northern long-eared bat. USFWS concurred with these findings in a letter received October 11, 2017. The planned project schedule would also protect migratory birds during their

various breeding seasons.

There are no National Register of Historic Places (NRHP) listed properties located within two miles of the proposed solar installation site. EBCI has been working directly with their Tribal Historic Preservation Officer (THPO) to ensure protection of cultural resources. The EBCI THPO reviewed the proposed project activities, site location, and previous archaeological surveys and predicted that the project would not have an adverse effect to any unidentified cultural resources. Although no historic resources are expected or known to occur at the project site, DOE will require the following as part of best management practices for the project: If during project activities the recipient or their staff encounters any cultural material (i.e. historic or prehistoric), all activities must cease in the vicinity of the discovery immediately. The recipient must inform the EBCI THPO and the DOE Project Officer of the discovery so that an evaluation of the discovery can be completed prior to continuing work. There were no other resources of concern found during review of the proposed project.

Based on the review of the proposal, DOE has determined that all remaining tasks of the proposal fit within the class of action(s) and the integral elements of Appendix B to Subpart D of 10 CFR 1021 outlined in the DOE categorical exclusion(s) selected above. DOE has also determined that: (1) there are no extraordinary circumstances (as defined by 10 CFR 1021.410(2)) related to the proposal that may affect the significance of the environmental effects of the proposal; (2) the proposal has not been segmented to meet the definition of a categorical exclusion; and (3) the proposal is not connected to other actions with potentially significant impacts, related to other proposals with cumulatively significant actions, or an improper interim action. All remaining tasks of the proposal are categorically excluded from further NEPA review.

NEPA PROVISION

DOE has made a final NEPA determination for this award

Insert the following language in the award:

If the Recipient intends to make changes to the scope or objective of this project, the Recipient is required to contact the Project Officer, identified in Block 15 of the Assistance Agreement before proceeding. The Recipient must receive notification of approval from the DOE Contracting Officer prior to commencing with work beyond that currently approved. If the Recipient moves forward with activities that are not authorized for Federal funding by the DOE Contracting Officer in advance of a final NEPA decision, the Recipient is doing so at risk of not receiving Federal funding and such costs may not be recognized as allowable cost share.

Insert the following language in the award:

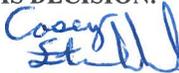
You are required to:

If during project activities the recipient or their staff encounters any cultural material (i.e. historic or prehistoric), all activities must cease in the vicinity of the discovery immediately. The recipient must inform the EBCI THPO and the DOE Project Officer of the discovery so that an evaluation of the discovery can be completed prior to continuing work.

Note to Specialist :

Office of Indian Energy Policy and Programs
This NEPA determination requires a tailored NEPA provision.

SIGNATURE OF THIS MEMORANDUM CONSTITUTES A RECORD OF THIS DECISION.

NEPA Compliance Officer Signature:  Casey Strickland  Date: 10/26/2017
NEPA Compliance Officer

FIELD OFFICE MANAGER DETERMINATION

Field Office Manager review required

NCO REQUESTS THE FIELD OFFICE MANAGER REVIEW FOR THE FOLLOWING REASON:

- Proposed action fits within a categorical exclusion but involves a high profile or controversial issue that warrants Field Office Manager's attention.
- Proposed action falls within an EA or EIS category and therefore requires Field Office Manager's review and determination.

BASED ON MY REVIEW I CONCUR WITH THE DETERMINATION OF THE NCO :

Field Office Manager's Signature: _____
Field Office Manager

Date: _____