



# COLORADO RIVER INDIAN TRIBES

## *Colorado River Indian Reservation*

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PARKER, ARIZONA 85344  
TELEPHONE (928) 669-9211  
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February 1, 2012

Ken Salazar  
Secretary of the Interior  
Department of the Interior  
1849 C Street, N.W.  
Washington, DC 20240

**Re: Third Tribal-Federal Leadership Conference, Renewable Energy and Desert Planning Meeting, February 16, 2012**

Dear Secretary Salazar:

The Colorado River Indian Tribes ("CRIT") requests that you send representatives from the Office of the Secretary to the upcoming Third Tribal-Federal Leadership Conference, Renewable Energy and Desert Planning Meeting ("Meeting") scheduled for February 16, 2012 in Palm Springs, California. CRIT believes ongoing participation by the Office of the Secretary is necessary to maintain continuity and affirm commitments made by the Department of the Interior ("DOI") to provide a meaningful, collaborative process. In addition, CRIT has a number of questions regarding the interplay between the Desert Resources Energy Conservation Plan ("DRECP"), the six-state solar energy development program, and the fast-track approval process that are best answered by the Office of the Secretary. Finally, CRIT requests DOI provide copies of any documents or recordings relating to its participation in the development of the California Desert Conservation Area Plan.

**(1) The Office of the Secretary needs to participate in the upcoming meeting in order to maintain continuity of process and to affirm its commitments.**

On September 21 and 22, 2011, representatives of CRIT attended the Tribal Federal Leadership Conference, Renewable Energy and Desert Planning Meeting in Palm Springs, California. At the conclusion of that meeting, CRIT felt confident the DOI understood both the need to involve Tribes in the DRECP and to facilitate that involvement by providing technical and financial assistance.

However, since that meeting CRIT noted a palpable shift in tone away from the positive, encouraging statements made by representatives of the Office of the Secretary and the Bureau of Land Management, to far less supportive statements conveyed to Tribes at the

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November meeting and through subsequent correspondence from the Bureau of Land Management (“BLM”). It was represented to Tribes in September that the DOI would be offering assistance to the Tribes to collect, organize and map the necessary data requested to complete the DRECP, in light of the short window of opportunity imposed by the DRECP completion deadline. (*See, e.g.*, Letter from Peter Ditton, Acting State Director, California BLM, inviting Tribal Leaders to initial Tribal-Federal Leadership Conference (August 5, 2011), (Regarding purpose of the Meeting, “[W]e hope . . . to begin coordination and collaborative work between Tribal and federal agency staffs in the context of renewable energy planning in the California desert.” (*See also*, Statement of Steven Black, Counselor to the Secretary, *Renewable Energy and Desert Planning Meeting, September 21-22, 2011, Plenary Session Notes*, pg. 11. (October 12, 2011) (Regarding proposed Tribal-Federal DRECP Workgroup, “[T]his group would be made up of tribal and federal individuals working together.” (*See also*, Statement of Tom Pogacnik, California Deputy State Director, BLM, *Id.*, pg. 8. (Describing questions about approach to necessary DRECP tasks, “What are your tribe’s specific needs . . . do you need GIS assistance[?] He asked tribal leaders to identify the necessary tools and resources they need to successfully participate in the planning process.”

However, during the second Tribal-Federal Leadership Conference meeting in November, and by subsequent letters to Tribal leaders from State BLM representatives, such promises of assistance—either financial or technical to assist Tribes to compile or create technical materials—were largely withdrawn.<sup>1</sup> (*See, e.g.*, Letter from James G. Kenna, California State Director, BLM, to Tribal Leaders (January 10, 2012) (“At this time, we are unaware of any statutes that would authorize compensation to Tribes to participate in his planning effort. We will continue to offer the assistance we can . . . including BLM staff resources to visit with tribal staff and assist in mapping tribal input to the process.” To date, CRIT Tribal Council has had one introductory meeting with BLM South Coast Field Office Management regarding the DRECP. Without additional assistance, CRIT fears it will be impossible for most Tribes to contribute meaningfully to the DRECP within the timeframe provided by DRECP Project Management.<sup>2</sup>

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<sup>1</sup> The unwillingness of the DOI to contribute the financial resources and technical resources within the California desert region is especially troubling given that it already performed “ethnographic overviews” for the six Great Basin Tribes as part of the six-state solar energy development program. *See* Supplement to the Draft Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwest States (“PEIS Supplement”) at 2-23.

<sup>2</sup> At the September meeting, Tribes were provided the following timeline: 45-days to consult and 90-120 days to produce GIS-based mapping components. (*See, e.g.*, Statement of Vicki Campbell, BLM Project Director, DRECP, *Plenary Session Notes*, pg. 9. (“[The DRECP Timeline calls for] drafts of the Environmental Impact Statement/Environmental Impact Report alternatives for late November 2011.”); *see also*, *Proposed Process, Schedule, and Key Decision Points for the Desert Renewable Energy Conservation Plan NCCP/HCP and EIR/EIS*. Located February 1, 2012, at:

In addition, CRIT noted a shift in the commitment of the DOI to protect the confidentiality of cultural and historical information provided by Tribes. In September, in response to a question posed by CRIT, representatives of the Office of the Secretary advised Tribes that information submitted for the DRECP would be kept in confidence. Tribes were further advised that if a Tribe asserted that a particular area should be off-limits to development due to its cultural or historic significance, the DOI would take the Tribe at its word and not require a Tribe to provide additional evidence of, or to “justify” the significance of the area. (*See*, Statement of Tom Pogacnik, California Deputy State Director, BLM, *Plenary Session Notes*, pg. 19 (“[T]he lines that are drawn in the map do not have to be defended or justified.”); *see also*, Statement of Vicki Campbell, BLM Project Director, DRECP, *Id.* (“She reminded the group that justifications are not needed”))

However, at the November, 2011 Tribal-Federal Leadership Conference meeting and in subsequent letters to Tribal leaders, these commitments were again largely withdrawn. (*See*, Letter from James G. Kenna, California State Director, BLM, to Tribal Leaders (January 10, 2012) (“Information the BLM receives in the course of land-use planning is public record. . . . Thus, a Tribe must assess . . . all submissions it makes to assist BLM . . . understanding that there is some risk certain documents may, in the end, be publically disclosed.”))

CRIT believes that continued participation by the Office of the Secretary is needed to ensure that commitments made are commitments kept. Continued participation by the Office of the Secretary is, in CRIT’s view, essential to a successful outcome for Tribal participation in the DRECP.

**(2) Questions regarding the interplay between the DRECP, the six-state solar energy development program, and the fast-track approval process are best answered by the Office of the Secretary.**

CRIT understands the DRECP, the six-state solar energy development program and the fast-track approval process are related. However, the DOI has not provided Tribes with an explanation of that interplay. This has made it difficult for Tribes to provide meaningful comment on these programs.

### **DRECP and the Six-State Solar Energy Development Program**

At the September 2011 meeting on the DRECP, little or no information was given to Tribes about the related, six-state solar energy program already being developed by the BLM, which will, CRIT understands, govern the very same federal lands in the California desert area that will be covered by the DRECP. However, since the September 2011

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meeting, it has come to CRIT's attention that this larger, six-state program is well underway: so-called "Solar Energy Zones" or "SEZs" have already been identified and, as of January 27, 2012, the public comment period closed on both the Draft and Supplemental Programmatic Impact Statements ("PEIS") for this program.

Moreover, the PEIS states that the DRECP will be used to identify *additional* areas for solar energy projects (i.e., new SEZs), but nowhere mentions that the DRECP process would further identify off-limit areas. PEIS Supplement at 2-30 to 2-32. Given that the PEIS already identifies SEZs, it is unclear how the PEIS and the DRECP will interact if Tribes identify "off-limit" areas within an already identified SEZ. CRIT contends that the identification of "off-limit" areas should happen as early as possible in the planning process, rather than be subsumed into the later-approved DRECP. CRIT requests the Office of the Secretary explain how the final PEIS can incorporate the DRECP's identification of cultural resources.

### **Fast-Tracking**

The solar energy development program analyzed in the PEIS proposes significant incentives for projects constructed within the SEZs, including financial resources and an expedited processing timeline. PEIS Supplement at 2-23 to 2-26. However, the PEIS also acknowledges that BLM still lacks significant information regarding cultural and historic resources contained in the SEZs. *E.g. id.* at 2-18, C-76 to C-78. By identifying SEZs prior to completion of these cultural resource studies, BLM runs the risk of incentivizing projects that impact significant cultural resources. The recent discoveries at the Genesis Solar Energy Project highlight this risk. The project was fast-tracked, despite the known potential for impacts to cultural resources, and as predicted, significant discoveries were made on the project site only after project approval had been granted and development begun. CRIT requests the Office of the Secretary explain how the incentives provided in the PEIS—which likewise defers many future studies until after identification of the SEZs—can prevent this kind of late discovery and impact from happening in the future.

**(3) Copies of documents and testimony previously provided to the DOI as part of the development of the California Desert Conservation Plan should be provided to Tribes participating in the DRECP.**

In the 1970s and 1980s, CRIT participated in the development of the California Desert Conservation Area Plan ("CDCA Plan"). As a part of that process CRIT provided comments and testimony to the DOI regarding cultural resources within the DRECP planning area. The DOI should review its files and provide copies of these comments and testimony to CRIT. These files would be invaluable both to CRIT and the DRECP process, as they were created in consultation with a previous generation of our Elders, many of whom are no longer with us, and surely contain a wealth of cultural and historic information that would better inform the DRECP process.

CRIT wants the DRECP process envisioned during the September 2011 meeting to

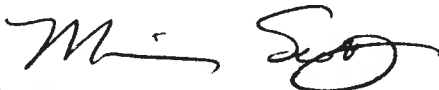
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succeed. CRIT believes that process is the best way to ensure the protection of its cultural heritage. However, CRIT is concerned that the process has gone off-track and believes that increased participation by the Office of the Secretary is essential to its success.

Very truly yours,

COLORADO RIVER INDIAN TRIBES

  
for Eldred Enas  
Tribal Council Chairman

Enclosures: (3)

cc: Bob Abbey, Director, Bureau of Land Management  
Larry Echo Hawk, Assistant Secretary for Indian Affairs  
Stephen Black, Counselor to the Secretary  
Joel Clement, Director, Office of Policy Analysis  
Bob Laidlaw, Senior Policy Analyst  
Mike Smith, Deputy Director, Tribal Operations  
Roger Knight, Office of Indian Energy and Economic Development  
James G. Kenna, California State Director, Bureau of Land Management  
Thomas Pogacnik, Deputy California State Director, BLM  
Vicki Campbell, Project Director, Desert Renewable Energy Conservation Plan  
John Kalish, Field Office Manager, Bureau of Land Management  
Janice Staudte, Superintendent, Bureau of Indian Affairs  
Ron Escobar, Tribal Council Secretary/Treasurer, Chemehuevi Tribe  
Linda Otero, Tribal Council, Fort Mojave Indian Tribe  
John Bathke, Historic Preservation Officer, Quechan Indian Nation  
H. Jill McCormick, Cultural Resources Manager, Cocopah Indian Tribe  
Eric Shepard, Attorney General  
Lisa Swick, Acting Museum Director



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

California State Office  
2800 Cottage Way, W1623  
Sacramento, CA 95825  
[www.blm.gov/ca](http://www.blm.gov/ca)

August 5, 2011

Dear Tribal Chairman and Tribal Council:

The Bureau of Land Management (BLM), in cooperation with other agencies of the Department of the Interior (DOI) and the State of California, is undertaking a comprehensive planning effort to guide future renewable energy development in the California Desert. This effort is intended to assure the highest level of compatibility with adjacent land use, minimize impact to sensitive resource values and develop a collaborative land and resource management partnership with adjacent land managers, including Tribal governments.

The goal of this planning effort is not to review or approve any particular renewable energy project but rather to produce a tool to guide future planning in the desert. A key component of this effort is the identification of resources on public lands of specific concern and value to tribal governments, as well as, to gain an understanding of the specific issues, concerns, economic and development goals of the Tribes within the desert region on their own lands. We want to work with you to identify those issues of priority to your Tribe which should be addressed as we look forward to plan the management of this region.

We would like to invite you to an initial meeting of tribes and federal agencies scheduled for September 21 and 22, 2011, hosted by the Agua Caliente Band of Cahuilla Indians in Palm Springs, California. The initial meeting will provide an opportunity to discuss this comprehensive planning and coordination initiative with the Tribal leaders of the region. We hope to collectively explore the concerns of the region's tribal leaders, discuss and develop a plan for the exchange of information as we undertake this planning effort over the next year and a half. Additionally, we hope with your assistance, to identify specific issues and a program to begin coordination and collaborative work between Tribal and federal agency staffs in the context of renewable energy planning in the California desert.

As this dialog represents a major priority for DOI and its agencies, we propose a direct discussion with tribal Chairpersons and the Regional Directors of DOI, including the BLM, Bureau of Indian Affairs, US Fish and Wildlife Service, Bureau of Reclamation, Office of the Solicitor as well as key personnel from the Office of the Secretary of Interior.

Attached is a copy of correspondence from the Agua Caliente Tribe who have offered to host this initial coordination meeting with desert region tribes.

We feel this cooperative effort represents a unique opportunity to guide future development and resource protection in collaboration with the tribal governments of the California Desert. We look forward to speaking with you and incorporating your contributions to our discussions and planning in September. BLM Senior Policy Analyst, Stephanie Damadio will be contacting you to provide additional information and to confirm your attendance.

Please feel free to contact Mr. Tom Pogacnik, BLM Deputy State Director (916) 978-4636, for more information regarding this effort or to address any questions you may have.

Sincerely,

Peter Ditton  
Acting State Director

Attachment: Letter from Agua Caliente to BLM, August 2, 2011



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

California State Office  
2800 Cottage Way, W1623  
Sacramento, CA 95825  
[www.blm.gov/ca](http://www.blm.gov/ca)

January 10, 2012

***In Reply Refer To:***  
8160 (CA930) P

Chairman Richard Milanovich  
5401 Dinah Shore Dr.  
Palm Springs, CA 92264

Dear Chairman Richard Milanovich:

The Bureau of Land Management (BLM) initiated communication with southern California federally-recognized tribal governments to identify issues, concerns, information and data regarding any and all natural and cultural resources in the California Desert area in order to support landscape level planning activity generated as a result of renewable energy development. The BLM intends to process a land-use plan (LUP) amendment to accommodate the objectives of that landscape planning effort. To support a LUP amendment, the BLM is required to conduct a National Environmental Policy Act (NEPA) review.

During the *Tribal-Federal Leadership Conference, Renewable Energy and Desert Planning Meeting* held on November 16, 2011, in Palm Springs, California, a number of tribal concerns and interests were discussed. At the conclusion of the meeting, I committed to investigate, with Solicitor assistance, the appropriate threshold of information necessary to support planning decisions based upon NEPA documents and the degree to which the confidentiality of tribal-federal communications could be protected.

At the heart of adequate NEPA review is the process of gathering and analyzing data in a manner designed to fully inform the public and to enable the decision maker to make a reasoned choice among project alternatives. While the amount of information necessary to support NEPA analysis is not precise, an environmental document that does not provide sufficient information for informed comparison among alternatives will be found inadequate for NEPA purposes. The agency must have enough information to explain its rationale and provide the connection between the facts it finds and the conclusions it reaches. When the BLM does not have sufficient information, it is required to explain why that information is not necessary to support its decision. If the agency does not have sufficient information to support its decision, the agency action will be found to violate the Administrative Procedure Act (APA) standard of review, resulting in an arbitrary and capricious action, or an action that is not in conformance with the law.



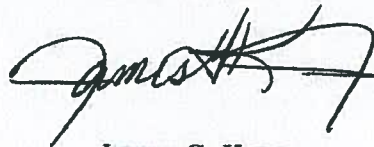
Information the BLM receives in the course of land-use planning is public record. Some public record information may be irrelevant to the planning issues at hand, while other information may be relevant, but may be afforded protection from disclosure under specific statutes, including the Freedom of Information Act, National Historic Preservation Act and Archaeological Resources Protection Act. To the extent permitted by law, if a Tribe submits information under a claim of protection, the BLM can assert an applicable privilege for, and seek to protect, that information from public disclosure. While privileges are initially asserted by the BLM, a challenge to an assertion of privilege is ultimately resolved by the Federal judiciary when a decision is challenged in court. In this circumstance, a privileged document may be subject to review or possible release by a court notwithstanding the BLM's good faith assertion of an applicable privilege. Thus, a Tribe must assess and be comfortable with any and all submissions it makes to assist BLM in its land-use planning process, understanding that there is some risk certain documents may, in the end, be publically disclosed.

Additionally, there was question involving the extent of funding that the BLM could provide for tribal participation in this planning process. At this time, we are unaware of any statutes that would authorize compensation to Tribes to participate in this planning effort. We will continue to offer the assistance we can to facilitate tribal participation in the planning process, including BLM staff resources to visit with tribal staff and assist in mapping tribal input to the process.

I hope this information provides guidelines to assist you in deciding what information you are comfortable sharing with the BLM in this land-use planning initiative. Enclosed is an invitation detailing the Department of the Interior/Bureau of Land Management's **THIRD Tribal-Federal Leadership Conference** meeting which will be held Thursday, February 16, 2012, at the Spa Hotel, Palm Springs, California, 9:00 a.m. – 5:00 p.m., in the Cahuilla Room. I look forward to seeing you in February.

Thank you, as always, for your time and consideration. If you have any questions, please contact me at (916) 978-4600, Deputy State Director Tom Pogacnik at (916) 978-4637, or *Tribal-Federal Leadership Conference Initiative* Coordinator, Stephanie Damadio at (760) 416-2133, extension 264.

Sincerely,

A handwritten signature in black ink, appearing to read "James G. Kenna", written over a horizontal line.

James G. Kenna  
State Director

Enclosure  
Letter of Invitation

# Renewable Energy & Desert Planning Meeting

Spa Hotel and Conference Center

Palm Springs, California

September 21-22, 2011

## PLENARY SESSION NOTES

Prepared

By

Dr. Stephanie Damadio, Senior Program Analyst

Tribal Federal Leadership Conference Coordinator

Bureau of Land Management

October 12, 2011

## Introduction

California desert area tribal leaders expressed a desire to meet with senior management of Department of the Interior (DOI) agencies to discuss their concerns and interests in the California Desert Conservation Area Plan (CDCAP), currently being amended, and the Desert Renewable Energy Conservation Plan (DRECP), currently being developed. Tribal leaders asked to be provided an opportunity to have input into these and other efforts to guide land management priorities for the coming years. In response to these requests, DOI invited 40 desert area federally recognized tribes to an initial meeting, the *Tribal-Federal Leadership Conference, Renewable Energy and Desert Planning Meeting (Meeting)*, September 21-22, 2011 in Palm Springs, California. This meeting was the first step in establishing a more effective and efficient process for tribes to participate and inform land use planning, resource protection and future renewable energy development.

The *Meeting* was not a “Listening Session” or “Consultation” on a federal project or program but rather, provided an initial forum for tribal representatives to have discussions with federal executives regarding a comprehensive planning effort by DOI in the California Desert. Tribal participation at this and subsequent meetings over the next year and a half will inform land and natural resource management, protection and the development of renewable energy in cooperation and coordination with the region’s tribal governments. The goal of this planning effort is NOT to review/approve specific renewable energy projects but to produce a tool to guide the planning of resource management in the desert.

The *Meeting* consisted of a description of proposed planning efforts by senior federal executives from the Bureau of Land Management, Fish and Wildlife Service, Pacific Regional Solicitor’s Office, Department of the Interior’s Office of Policy Analysis, Department of Interior’s Office of Indian Affairs and the Counselor to the Secretary of the Interior. The federal executives presented a discussion of opportunities for tribal participation which were followed by tribal presentations addressing top tribal priorities and issues such as reservation development, resource concerns and priorities for federal/tribal coordination. A breakout session was conducted on the morning of September 22, 2011, providing an opportunity for more focused discussion by federal and tribal participants of the issues raised in the previous day’s meeting.

At the conclusion of the *Meeting*, numerous commitments were made to California Desert Tribes by DOI leadership. Those commitments included:

1. A letter to California desert region's federally recognized tribes outlining commitments (Sent September 27, 2011);
2. Copies of the proceedings from the September 21, 2011 Plenary Session;
3. Bureau of Land Management (BLM) will schedule a November follow-up meeting with tribal leaders to discuss progress and a path forward;
4. BLM management, not consultants, to meet with individual tribes in the next 30-45 days; and,
5. BLM DRECP Project Manager Vicki Campbell meeting with tribal technical staff and planners.

This document, *Tribal-Federal Leadership Conference, Renewable Energy and Desert Planning Meeting, Plenary Session Notes*, fulfills commitment 2 and is being distributed to the concerned federally recognized California Desert area tribes.

## **Tribal-Federal Leadership Conference**

### **Plenary Session Notes**

#### **Renewable Energy & Desert Planning Meeting at the Spa Hotel and Conference Center Palm Springs, CA**

**Wednesday, September 21, 2011**

#### **9:00 - 9:30 A.M. Sign In and Continental Breakfast**

#### **9:30 A.M. Plenary Session Convened**

Welcoming statements and a prayer were made by meeting Facilitator **Joseph Myers, Director, National Indian Justice Center**. Mr. Myers reminded all in attendance this was not a Listening Conference but an effort to seek advice from tribes collectively to create a participatory planning process. He reiterated that consulting with tribal governments should be done on an individual basis.

**Chairman Richard Milanovich, Agua Caliente Band of Cahuilla Indians** welcomed everyone to this two day conference. He reminded the participants to speak up to the federal agencies present. **Bob Laidlaw, Senior Policy Analyst, Office of the Secretary of the Interior** was thanked for facilitating this opportunity for federal agency leaders to listen to tribes and their priorities for resource management. Mr. Milanovich urged all parties to give this cooperative process time to work, since the federal participants were showing a strong willingness to listen to tribes and their positions. He asked everyone to think outside the box and to prioritize tribal needs. He recalled the numerous historic times that Federal, State and the Agua Caliente Tribal government partnered to create laws such as the one that created the Santa Rosa and San Jacinto Mountains National Monument in Palm Springs. Mr. Milanovich voiced his concern regarding the federal tax policy (Tax Code 26 USC 168) which negatively affects tribes.

Facilitator Myers asked **Counselor to the Secretary of the Interior, Steven Black**, and Mr. Laidlaw to introduce the attendees from the various federal agencies.

**Mr. Laidlaw** noted that there has never before been a landscape level planning effort with tribes that has included as many federal agencies. The federal participants present included:

#### **Department of the Interior (DOI)**

Steven Black, Councilor to the Secretary

Joel Clement, Director, Office of Policy Analysis

Bob Laidlaw, Senior Policy Analyst

Anthony Walters, External Affairs Director, Assistant Secretary for Indian Affairs

**Office of the Solicitor, (SOL) Pacific Southwest Region**

Daniel Shillito, Regional Solicitor

Clementine Josephson, Deputy Regional Solicitor

Erica Niebauer, Attorney

**Bureau of Land Management-California (BLM)**

James Kenna, State Director,

Thomas Pogacnik, Deputy State Director

Vicki Campbell, Project Director, Desert Renewable Energy Conservation Plan (DRECP)

Stephanie Damadio, Senior Program Analyst

Teri Raml, California Desert District (CDD) Manager

Mark Purdy, CDD Tribal Coordinator

**Fish and Wildlife Service (FWS)**

Alexandra Pitts, Regional Deputy Director, Sacramento

Michael Fris, Assistant Regional Director

Ken Corey,

**Bureau of Indian Affairs (BIA)**

Mike Smith, Deputy Director, Tribal Operations

Roger Knight, Office of Indian Energy and Economic Development

Kevin Bearquiver, Deputy Pacific Regional Director

**Mr. Black** pointed out the senior level of leadership that was present from BLM, FWS and BIA, that they are committed to this effort, and thanked them for starting this dialogue on economic development opportunities, the protection of endangered species and other natural and cultural resources. He noted the Desert Renewal Energy Conservation Plan (DRECP) is a comprehensive desert plan that will affect the entire California desert region over the next century. He remarked that it is important to participate now, given that the land use and conservation area plans were last substantially amended in the 1980s. Mr. Black urged those present to voice their concerns related to water, cultural resources or other issues they want federal agencies to be aware of in renewable energy planning. Mr. Black spoke on behalf of the Secretary of Interior, Ken Salazar, who he said is a champion of tribal concerns and who takes his obligation to tribes seriously. Given that Secretary Salazar comes from a rural community in the San Luis Valley, he understands most tribal situations and tries to fulfill his obligations with appropriate staff appointments. Mr. Black reminded all that the agencies present want to meet on a government-to-government basis and are committed to a dialogue. He added that, even though renewable energy was a catalyst for this dialog with tribes, the current site planning maps do not depict renewable energy development on tribal lands.

**Mr. James Kenna, State Director, BLM** voiced his honor to be present at this meeting and added that the relationships in this initiative would be both on the leadership level in addition to working individually tribe by tribe.

**Mr. Laidlaw** added that the input received would guide renewable energy planning, land use and protection in the desert for the next 20 years and would include the issues and priorities of the different tribes and their reservations. Mr. Laidlaw emphasized that this large regional planning effort was a significant departure from traditional project-by-project coordination and consultation with Tribes. Mr. Laidlaw further emphasized that participation in this planning effort could help agencies to direct project development to areas with a minimum of cultural and natural resource conflicts and provide the tribes an opportunity to shape future energy and desert land management planning. Comparing the current effort to the original California Desert Plan, Mr. Laidlaw pointed out that the guidelines of the current 1980 Land Use Plan (Plan) anticipate, and provide for, revisions and amendments if priorities or management conditions change: renewable energy development represents such a change. This conference is to introduce the agencies and the process by which planning outreach to the Tribes is being undertaken. Tribal consultation in this planning effort represents a far more affirmative and comprehensive paradigm for government-to-government collaboration than the project-by-project approach, and introduces a mechanism for working with tribes on a broad landscape (regional) level. This cooperative approach to regional planning can reduce the coordination and consultation burden on tribes associated with project-by-project consultation and provide a means for tribes to help identify areas for future development which avoid sensitive resources. Tribal input in this process also offers a means to identify tribal interest in development of renewable energy on their lands.

**Facilitator Myers** asked the tribal representatives that were present to introduce themselves. Tribal representatives present included:

**Agua Caliente Band of Cahuilla Indians**

Savana Saubel, Council Member

Tom Davis, Chief Planning and Development Officer

Todd Hooks, Economic Development Director

Margaret Park, Director of Planning and Natural Resources

Mark Dansby, Economic Development Project Manager

**Cahuilla Band of Mission Indians of the Cahuilla Reservation**

Brian Bahorie, Environmental Director

**Colorado River Indian Tribes of the Colorado River Indian Reservation**

Eric Shepard, Attorney General

Mervig Scott, Tribal Council Secretary

Doug Bonamici, Legal Counsel

**Cocopah Tribe**

Alan Hatcher, Tribal Member

**Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation**

Jeremiah Joseph, Water Quality Manager

**Fort Mojave Indian Tribe**

Linda Otero, Council Member

Colleen Garcia, Council Member

**Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation**

Jeff Riolo, Representative

**Quechan Tribe of the Fort Yuma Indian Reservation**

Lorey Cachora, Consultant

**San Manuel Band of Serrano Mission Indians of the San Manuel Reservation**

Anthony Madrigal, Cultural Resources

**Torres-Martinez Desert Cahuilla Indians**

Raymond Torres, Vice Chairman

Ben Scoville, Planning/GIS

**Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation**

Kimberly Metter, General Counsel

**Mr. Pogacnik, Deputy State Director, BLM**, introduced the DRECP which involves the creation of a landscape level conservation plan to protect resources in the California Desert and facilitate the development of renewable energy projects. He explained he had both an opportunity and a challenge in conserving desert resources for the long term while advancing renewable energy resources on a project-by-project basis. Mr. Pogacnik added that the main question was how to illustrate the juxtaposition of resource values, opportunities and sensitivity on one map.

He said that five years ago the energy industry was asked for input and applications where they thought the best locations were for renewable energy projects. The federal government received over 100 responses. Now, with this new beginning of direct dialogue with tribes, the intent is for tribal leaders to provide information to the federal agencies regarding the best areas to place projects as well as what areas should be avoided. Mr. Pogacnik added that there was the potential of a large commitment of land in Southern California for renewable energy development. These lands could include areas that are sacred to tribal peoples, therefore, tribal input was extremely important if this process was to be able to identify and protect such values. For these reasons, federal/tribal planning partnerships needed to be created. With this goal in



mind, government-to-government consultations for planning and resource identification will be scheduled in the next 45 days or so to assure the DRECP is informed by tribal participation.

**Mr. Pogacnik** mentioned the challenges that renewable energy projects have had on a project-by-project basis and added that the desire through this planning process was to avoid future conflicts wherever possible. He listed a number of questions that the different agencies had for tribes such as; what is the right approach, what are your tribe's specific needs, do you need Geographic Information System (GIS) assistance, etc. He asked tribal leaders to identify the necessary tools and resources they need to successfully participate in the planning process. Mr. Pogacnik added that the purpose of the DRECP was to provide for the renewable energy development in the California Desert in a manner which conserves wildlife habitat and tribal cultural sites.

**Facilitator Myers** asked the panel and Mr. Pogacnik their opinion of the Bill (proposed legislation) introduced by Senator Dianne Feinstein calling for a monument that affects Southern California tribes.

**Mr. Pogacnik** said the Bill was in its initial procedural stages and deals with resource conservation. He noted, as we move forward in dealing with issues it will be important to obtain input from tribes to advance the conversation. He reminded the audience of the Agency's commitment to government-to-government meetings that will be scheduled in approximately 45 days. He added that Tribal Administration offices would be contacted to coordinate scheduling of these meetings in a formal and confidential forum with each individual Tribe.

**Vicki Campbell, BLM Project Director, DRECP** presented a power point on DRECP. She explained that this planning effort is unprecedented in its scale and commitment to outreach and collaboration. The Plan includes six counties or an approximately 22.5 million acre study area of which about 10 million acres are managed by BLM. This cooperative effort is mainly being conducted by the BLM, FWS, California Energy Commission and the California Department of Fish and Game. The DRECP's purpose is to advance state and federal natural resource protection goals in the Southern California desert regions while also facilitating the timely and streamlined permitting of renewable energy projects under applicable State and Federal laws.

The following handouts were made available: Map of the DRECP Planning Area, Map of Federal Lands Overview in the DRECP Planning Area, List of Key Timelines, and Contact and Internet Information Sources.

Maps were provided depicting the currently-proposed area of the DRECP. Ms. Campbell explained that some areas, such as the Coachella Valley located in Riverside County, were removed at the request of specific local authorities in this case, the Coachella Valley Association of Governments, to avoid conflicts and duplication in areas with existing local planning efforts. Among the important potential effects and consequences of the DRECP are amendments to agency policies and management practices such as the BLM California Desert Conservation

Area Plan (CDCA), the BLM Caliente/Bakersfield, Bishop, and Eastern San Diego County Resource Management Plans, Endangered Species Act, Natural Communities Conservation Planning Act Compliance, National Environmental Protection Act (NEPA) and California Environmental Quality Act (CEQA), to name a few. The DRECP will also help streamline more effective permitting for renewable energy projects by the federal and state government.

The DRECP area will address proposed energy activities which include solar (photovoltaic and thermal), wind, geothermal, and transmission. The proposed area is habitat to plants and animals and could potentially affect 650 species. Ms. Campbell added that biological reserves can be enhanced by adding information on tribal-cultural values in the desert. As a planning effort, NEPA and CEQA will also be addressed and satisfied as a component of the process.

It was pointed out that in developing the preliminary conservation strategy of the DRECP the focus has been on important biological areas and federal and non-federal land ownership. The different areas of resource sensitivity in the preliminary map were pointed out. Animal/plant and resource use/protection characteristics, such as the desert tortoise, desert bighorn sheep, condor policy and off road vehicle/recreational areas, were discussed. It was explained that emphasis was given to these areas but these areas may change or expand with input from tribes on other cultural and biological areas and tribal cultural concerns. This information from tribes, once it is received, can be employed to create a “biological, ecosystem, and cultural reserve system map.”

A proposed timeline was presented. It called for drafts of the Environmental Impact Statement/Environmental Impact Report alternatives for late November 2011, with a Record of Decision and permit decisions by January 2013.

Those present were reminded of the importance tribal input would have on the DRECP. The various websites available for information such as [www.drecp.org](http://www.drecp.org) were presented.

**Mr. Todd Hooks, Economic Development Director, Agua Caliente Band of Cahuilla Indians** asked if there were a preliminary number of acres of land needed for renewable energy projects.

**Mr. Pogacnik's** response was, yes, approximately 500,000 acres, but given that this figure is an estimate from the latest information available, additional analysis needs to be completed.

**Mr. Tom Davis, Chief of Planning, Agua Caliente Band of Cahuilla Indians** asked if wildlife compliance would be affected. Mr. Pogacnik responded that most likely there would be various land use plan amendments.

**Mr. Anthony Madrigal, San Manuel Band of Serrano Mission Indians of the San Manuel Reservation** voiced his concerns about providing information on specific traditional and sacred sites. Mr. Madrigal felt the timeline presented was very aggressive and the deadlines were shortly approaching. His concern was that some tribes do not have the resources (budget, people, time) for an initiative like this and a special workgroup could be useful. In addition, it is

important to note that the gathering and sharing of the information will take time. Unfortunately, the information is required rapidly because of the deadlines imposed. The areas the agencies would like to know about for the DRECP are the special areas tribal people value because these are part of tribal culture. He suggested the first priority should be to set up a process to have a real dialogue with tribes, even if that means federal agency leaders need to sit down with each Tribe.

**Mr. Pogacnik** assured Mr. Madrigal that one of the first follow-ups from this meeting will be the scheduling of government-to-government meetings with individual tribes and agency managers.

**Ms. Campbell** clarified that the information provided to the DRECP group should be very broad and general - just enough to point out the areas to be able to consolidate the information into a document that can be shared with the public. Additionally, if tribes request, agencies will work with them to provide GIS and planning assistance.

**Mr. Riolo, Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation** asked what culturally sensitive areas were included in the DRECP map presented.

**Ms. Campbell** said it was only minimal since Mr. Madrigal, who had some input as a public member of the DRECP group, could only speak to his, the San Manuel Tribe's, culturally sensitive areas. Ms. Campbell added that most of the information mapped is biological, but the purpose of this meeting was to request tribal input to integrate the ecosystems already in data systems with general information from tribes on tribal culturally sensitive areas. The goal of this outreach effort was to significantly increase the opportunity for tribes to participate in this regional planning effort.

**Mr. Kenna** asked for thoughts on the work group that was suggested by Mr. Madrigal.

**Mr. Madrigal** answered that it should be a group committed to the project in addition to government-to-government consultations. He added that each Tribe has to be asked how they wish to be involved in this process, since each Tribe might want to have/be capable of different levels of participation. He also noted tribes do not all have resources and for the most part, do not have large tribal cultural resources departments. Overall, it should be an assembled working-group to help tribes participate in the DRECP so they can bring information to the table. It should be a working group that continues throughout the process.

**Mr. Scott, Tribal Council Secretary, Colorado River Indian Tribes of the Colorado River Indian Reservation** asked if there was a plan covering when a company goes out of business or leaves the project halfway. Is there a clean-up plan, for example?

**Mr. Pogacnik** described the performance bonding process, clarifying that under this requirement the taxpayers do not have to pay for the clean-up.

**Ms. Campbell** added that in public lands there is also a bonding process that requires the company to clean up and restore a site and added that this concept could be added to any project.

**Mr. Black** emphasized that the natural and cultural resource information for California Desert planning ultimately needs to be in GIS format so it can be mapped and considered. He asked if Mr. Madrigal would like to help create the suggested workgroup. Mr. Black's understanding was this group would be made up of tribal and federal individuals working together to a common goal.

There was a general discussion by the group at large in which it was emphasized that this dialog between agencies and tribes in the desert was expected to cover a wide range of issues and potential resource impacts. Some of the issues intersect and articulate with habitat, traditional values, reservation renewable energy development opportunities and groundwater issues. The DRECP was emphasized as offering a unique opportunity for coordinating these discussions as tribal input to the DRECP could serve as a starting point for subsequent discussions between BLM and individual tribes.

**Meeting Break for Lunch 12:30 – 1:30 P.M.**

**Reconvened: 1:32 P.M.**

**Mr. Daniel Shillito, Regional Solicitor**, as follow up to Chairman Milanovich's concerns regarding Tax Code 26 USC 168, that will end this year will negatively affect tribes if it is not extended in Congress. There are current provisions where in one can have property with 30 or 60 year accelerated depreciation. Tribes can ask for parity by requesting the same treatment under law as utilities with regards to tax credits.

**Mr. Anthony Walters, External Affairs Director for Assistant Secretary for Indian Affairs** returned the conversation to the DRECP, noting the advantage of tribes being involved early before the Plan is completed as DRECP project members do not have to react to the input once the document is published. It is important for tribes to get involved early in this process to have more input.

**Mr. Laidlaw** reiterated that the federal representatives needed to hear from tribes as to how best to engage them in DRECP and related planning discussions over the next year and a half to assure tribal concerns are identified and addressed. He pointed out the federal representatives present provided the opportunity for open communication with the different agencies of the government. He noted that breakout rooms were reserved to continue specific discussion as needed.

**Ms. Linda Otero, Council Member, Fort Mojave Indian Tribe** thanked Chairman Milanovich and the Agua Caliente Tribe for hosting this meeting. She added that she is the Director of the Ahamakav Cultural Society in Arizona and it is a driving force of what she does. She wants to have in the record that:

- Tribal input is important in the DRECP and should be strongly considered in the decision making process.
- Tribes have worked many hours and weeks on the topic of solar energy because they too believe it is important.
- Tribal concerns should be taken to the highest levels and should be heard in Washington, DC.
- Her “River People” Tribe presented an official letter to President Obama stating their concerns of the fast-track projects. The Tribe is making a proactive effort; it does not want to be reactive.
- The area included in the map shows the ancestral lands of tribal people. Many of the people of the lower Colorado River are included in this area. She noted that the River People thrived throughout time and future generations will move into the future integrated with the environment.
- The land has layers of sites of people who have been here centuries. What today looks like a stream used to be a river that flourishes; this is a connection to the Tribal River People.
- Tribal people teach the young ones so they will carry on the ways of their culture.
- Every act of Congress affects tribes. Historically, tribal input has been missing but times are changing. She added that she has stood in the record on Washington, DC and her Tribe will take every opportunity to be heard. The intent today is to move forward.
- Tribes are working with the Western Regional Partnership to take back the management responsibility; heritage resources are limited so it is managed to the best of the Tribe’s abilities.
- Information has to move up the Agency’s chain of command to make resources necessary available to those staff members at bottom.
- The government needs to acknowledge that the environment needs to recover from the damage. Policy will affect tribes into the years beyond. Efforts should be stepped up so wilderness zones are reviewed and protected.
- The Fort Mojave Indian Tribe at one point in time was a Nation; the Tribe is both water and land. Actions by the US Government and the Tribe should be done with respect.
- There are layers of actions that need to be reviewed to be able to show on a map. Some of the wilderness zones are mountainous regions.
- There have been meetings before and information has been shared; therefore, the federal agencies do not need to start at “square one.” They can draw information from what was said before.
- She keeps hearing of the renewable energy projects moving fast but, “thriving is moving in balance with nature.” Her people are for renewable energy and they understand that this is moving fast because of the economics and the funding behind it. She asked that those present be open minded to see that not just a large land base is being disrupted. She presented a picture of one project showing disruption. She asked how the historical

damage will be addressed, it is not just about monitoring it is about safeguarding the environment.

- Of critical interest is to have the protection of places that are non-renewable.
- Water is another important aspect. It needs to be understood that during construction water is needed. Water is being siphoned out by projects with water wells. Water is a heavy topic for Southern Tribes and it needs to be acknowledged. There is water that is being siphoned out from the springs that feed into the Colorado River.
- Projects that involve both state and federal agencies do not always work smoothly, but hopefully, tribes have more input so what is important to them gets included in the implementation.

**Ms. Otero** ended her statements by voicing her disappointment that Secretary Salazar toured her tribal area by air, but she did not receive answers to her letters. It seemed, to her, that her tribal concerns were not taken seriously.

**Mr. Laidlaw** acknowledged the difficulty of communicating with the federal, state, and local agencies and suggested that this effort led by BLM could help tribes be included in broader conversations involving desert resources.

**Mr. Pogacnik**, emphasized that in this process, the next step would be to have government-to-government consultations and asked those present for their partnership and help in getting guidance from their tribes as how to best accomplish these and subsequent meetings.

**Erika Niebauer, Associate Attorney, Regional Solicitor's Office**, pointed out that there are tools that could be used by the Bureau and there are areas that could be identified by the sharing of information process.

**Ms. Otero** reminded the group that, historically, information shared with government agencies has been used against tribes and tribal resources continue to be erased.

**Ms. Campbell** added that the agencies want to hear from tribes. Now, knowing the tribal interest of restoring damaged areas, it could lead to work to have money focused on a reserve system.

**Ms. Otero** added that some areas have elements that simply cannot be restored because some things are gone.

**Mr. Madrigal** voiced his concerns of long-term issues that should be addressed with long-term planning and asked for the agencies' commitment to this. Tribes can provide information on trails, etc., but tribes need to be taught the planning procedures in order to be of better assistance. He reiterated that a strong commitment with resources will be necessary for a long lasting relationship to be created.

**Mr. Lorey Cachora, Consultant and Government Member, Quechan Tribe of the Fort Yuma Indian Reservation** made a statement that included the following main points:

- His Tribe practices its own culture, administration, elections, etc., but wants to have a dialogue. The local area tribes have been separated by differences such as fishing, planting and harvesting, but all the people produced horticulture because they grow from the sand.
- Spirit Mountain in Laughlin, NV is a sacred place. How do tribes comply with the request for information?
- He is concerned with the sudden urge with renewable energy and the fact that rules and regulations that have been around and asked be obeyed for years are now being overruled.
- He was saddened by the fast pace of “going green” (renewable resource projects) because it was “disturbing to see.” Given his personal and historical experience, there is some guidance that should be followed.
- The concern is that when rules are changed, he expects the federal and state agencies to follow these rules just as the tribal people follow them.
- The fast approaching deadline of the DRECP is of great concern, given that there is so much about the River Corridor that needs to be explained from rock alignments, cliffs, pictographs, etc. All are of great importance. The ancestors went all the way to South America and back.
- Elders keep hidden what they know so it will take time to gather the information, especially with an area that goes North, South, East, and West of the River Corridor. Science and scientists have been a danger with their desire to collect artifacts; they have cleared the desert.
- It will be hard to map sacred places because artifacts are no longer there.

**Mr. Frank Brown, Tribal Member of Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation** thanked all for letting him speak. He made a statement that included the following main points:

- In San Diego County the Tribe is experiencing miscommunication with the local BLM and it seems they are not cooperative.
- Mr. Brown is the Chairman of the *Inter-Tribal Cultural Council*, of the 13 Kumeyaay Nations. He represents the majority with respect to culture. The Kumeyaay have been around for 10,000 years. It is impossible to present a report in this short notice.

**Mr. Brown** asked if the report with the information requested is presented, will the lands be protected.

**Ms. Campbell** informed that the stakeholder’s group started a meeting one and half years ago and added that this is an ongoing plan of the overview of DRECP. The cultural aspects of the area are unknown; therefore, the general information is being requested.

**Mr. Brown** continued his remarks, including the following main points:

- At a project in his area, the BLM representative was concerned about dinosaur bones and biology more than tribal ancestors. Mr. Brown is a monitor for the Ocotillo Express Wind Project but archeologists working on the site never listened to him nor were his words in the official record. It is disrespectful for workers on the site to mainly talk about dinosaurs and birds, but not care about culture. In one particular project there were six sites with pictographs and hieroglyphs, but the focus was on animals.

He asked if the information given for the DRECP would be implemented and if it would affect current/on-going projects.

**Mr. Black** explained that everyone is trying to take advantage of the near-term opportunities and also move the President's agenda forward. With respect to specific projects' application and compliance under Section 106, all of the federal agencies are committed to doing better under each specific circumstance. The desire is to have a foundation as soon as possible to direct industry to correct locations that preserve the integrated system.

**Mr. Pogacnik** explained that for the most part everyone has been on this project-by-project application-driven world and now the agencies are trying to create some capacity for individual communication with tribes that will stay open over time.

**Mr. Brown** asked if the timeline could be pushed back given the tribal concerns of disturbance of cultural sites.

**Ms. Campbell**, replied that the DRECP timeline was what she had presented but the commitment of agencies to work with Tribes was on-going.

**Mr. Laidlaw** talked about the opportunity of working as cooperating governments and asked tribes to consider this a starting point which has the opportunity to change the relationship with these agencies. He added that agencies need to talk more broadly with tribes about their programs so tribes can share their concerns as well as identify opportunities. He and others hope the outcome is a change in the way business is done. The agencies wish to find out what works best for each individual Tribe.

A question was again raised about the Monument Bill that Senator Feinstein is working on.

**Mr. Black** responded that the Department has worked with the Senator as related to boundaries, but it is important to focus on the purposes of the Bill which is to identify areas of conservation.

**Mr. Brown** asked those federal agencies present to contact the local tribes to identify the cultural landscapes and territory which is the most important to them.

**Ben Scoville, Planning/GIS for the Torres-Martinez Desert Cahuilla Indians** made a statement that included the following main points:

- The Tribes' cultural resources are very important as well as renewable energy.



- The Tribe is lacking information and resources to do surveys with cultural monitors to identify the land. It is best to identify sites early so projects work smoothly.
- The Tribe has tremendous potential for solar and geothermal projects; but the resources are the difficult issue.

**Mr. Scoville** asked if there was a way for tribes to obtain resources for strategic development. Is there a possibility to have preference on developing projects in a culturally sensitive and correct way and can tribes be participants in the renewable action team as a stakeholder? Mr. Scoville also asked if there is any way to ensure that renewable energy projects will not negatively affect the opportunities on tribal lands.

On a separate issue, Mr. Scoville pointed out that Torres-Martinez has not been able to benefit from their Settlement Act. One third of the reservation is underwater in the Salton Sea and fee-to-trust and land exchanges are something the Tribe would like to look into and have the broader planning process consider.

**Mr. Walters** directed Mr. Scoville to the Office of Indian Energy and Economic Development with the BIA which works with tribes on issues of competitive grants and does studies on possible projects. He urged tribes to also provide input as to where they would like to have future possible renewable energy projects in their area.

**Mr. Black** emphasized the need for all of the agencies to follow up with those present and added that meetings are held monthly with a large group of interested parties called Renewable Energy Action Teams. An invitation was extended for tribal representatives to attend those meetings. Additional information was provided indicating some meetings are posted online and others have conference lines for participants to call in.

**Facilitator Myers**, spoke of a Bill that defines tribes to be as public entities and inquired how that might affect tribal outreach and coordination. .

**Ms. Campbell** indicated she would discuss that issue and also noted there are various meetings, some weekly, some monthly, and asked that those who wanted to participate contact her for information. She added that DRECP's title has a focus on conservation, but it is equally important to hear where tribes would like to see development occur.

**Mr. Shillito** voiced an idea to get money for tribes that need resources by earmarking money for particular areas so the funds could be made available to assist tribes in more effective planning participation.

**Mr. Cachora** made a statement that included the following main points:

- If agencies have DRECP meetings "all the time," why is it that the tribes are just now learning about them even though three or four months ago there was an energy project moving forward without tribal input or tribal consultation? The Tribe was told that survey was completed, but without tribal input. How much can be known of the Tribe.

Mr. Cachora presented the example of one solar project in which culturally significant vegetation was cut down without tribal input; even though “artifacts grow within it”. The land of this project was also “arbitrarily fenced”. All this was done just to move the project forward at the California Energy Commission’s request. This is just an example of government-to-government misunderstanding.

- The words “government-to-government,” communication are not always understood the same way by the government and the tribes. Working with consultants or sending letters that ask for a signature at the bottom is not tribal consultation.
- There is mistrust for federal agency requests for communication.
- Looking at some maps, it seems like a renewable energy land-grab. How many of the projects will serve California’s interest and how many are just for money to sell electricity elsewhere?
- This fast-paced stimulus program is not a way to deal with employment issues.

**Mr. Kenna** answered that the map (of existing projects) is random or may look like a “land-grab” because industry told us where they wanted to go. Now, with the DRECP, the government will tell them where they can go. The information gathered will help decision making in the application process. There were over 100 applications, most were from speculators who were rejected; this too frustrated the federal government.

**Ms. Campbell** spoke of the difficulty in knowing how many projects were needed because of the many aspects and the speculations of energy needs for the next 50 years. Some educated guesses are that 65% of the need of electricity production will come from the desert or about 1.5 million acres.

**Mr. Black** directed those present to the BIA with regards to the eligibility for loans and reminded the group that there might also be tax credits or other opportunities for tribes. It is also important for those tribes interested in participating in renewable energy development share that interest with the planning team. For this reason, as well as sensitive resource identification, tribal input was essential to moving the DRECP forward.

**Mr. Cachora** asked if there was some tool to know what was included in the tentative map. Mr. Kenna responded that information could be posted on the project’s webpage.

**Mr. Merving Scott, Tribal Council Secretary, Colorado River Indian Tribes (CRIT)** made a statement that included the following main points:

- Tribes need to know how the information provided by tribes will be protected since these are sacred locations.
- He is concerned with the government’s lack of ability in protecting sites. He added that some people steal, deface, and break artifacts.
- The timeline is also of concern since elders are afraid of sharing the information. It is not as simple as saying “give me your history.”

**Mr. Laidlaw** mentioned that while oral-form copyright agreements have been executed in the past to protect specific conversations, the information being requested for the DRECP is at a very general “landscape” level and should be able to avoid many confidentiality issues. The initial goal of this planning dialog is to assure information that tribes are comfortable sharing is included in the planning and GIS effort. This should also be viewed as an opportunity to establish deeper cooperative efforts between agencies and each Tribe. At the planning level, tribes can tell us the value of desert regions without sharing specifics.

**Mr. Kenna** added that the maps shared today by Ms. Campbell were tools to show a starting point so tribes could judge what the need is. He recommended creating a mechanism so federal and tribal folks can communicate on a regular basis and be part of the working group.

**Ms. Campbell** noted the draft DRECP report would be coming out soon, but the best time to obtain input was now.

**Mr. Jeremiah Joseph, Water Quality Manager, Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation,** asked if tribes would benefit from renewable projects being close to them.

**Mr. Walters** answered that there will be some benefits, especially if tribal preferences can be worked into the projects with the BIA.

**Mr. Joseph** voiced his concerns regarding companies walking away from projects and structures. “If anything negative were to happen, would natural resources be available for the Tribe to be able to survive?”

**Alan Hatcher, Tribal Member, Cocopah Tribe, AZ,** made a statement that included the following main points:

- There are communication inconsistencies with tribes that are in place. These are “process-focused” in nature and a failure.
- The timeline presented is almost irreparable; it seems reactive going back to legislation.
- What is GIS and what is required for the DRECP.
- It seems like the government wants tribes to support this historical process, but the anomalies push tribes to oppose the project, such as a project public hearing without public comment allowed.
- Is a recent lawsuit the catalyst for this dialogue?
- Meaningful consultation cannot take place while the reports are being completed. The dialogue should be simple communication so tribes are empowered and the communication is meaningful.
- The burden is being put on tribes given that the deadline is just a few weeks away.
- The renewable energy projects are here and the way things are done have changed.

**Mr. Black** thanked Mr. Hatcher for his feedback and encouraged all tribal representatives to also share their views for improving this dialog as the federal agencies need tribal guidance and participation.

**Break 3:20- 3:30 P.M.**

**Reconvened 3:33 P.M.**

**Facilitator Myers** voiced his support for effective communication and remarked that form letters do not always do a good job.

**Mr. Pogacnik** reiterated there was agency interest in arranging multiple meetings with those present, noting this was the beginning of the process. Mr. Pogacnik also emphasized that it is understood that tribal information is very sensitive, **but the lines that are drawn in the map do not have to be defended or justified.** Tribes are, themselves being asked to identify areas of cultural concern, resource conflict, development interest and natural resource issues. **For this reason, ethnological studies are not needed.**

**Mr. Joel Clement, Director, Office of Policy Analysis** noted that a landscape-level process such as the DRECP is meant to even the playing field so all of the competing interests have some input on planning and development, rather than favoring whoever puts in an application for development.

**Ms. Campbell** added that from a wildlife biologist perspective, she wants lines on a map, but she reminded the group that **justifications are not needed.**

**Mr. Doug Bonamici, Legal Counsel, Colorado River Indian Tribes of the Colorado River Indian Reservation** asked if the federal government was going to take the Tribe's word.

**Ms. Campbell** responded "yes we are."

**Ms. Otero** said that her people had trusted tribal leaders with the responsibility of taking care of the land. She was glad to hear the Government's new approach. She noted it was difficult to work with agencies or project applicants who hire contractors to talk to the tribes and that this approach goes against most laws. Even though BIA is starved for money and resources, there are a few people out there that she and tribal leaders would be comfortable with. She asked if there was a way to know when a corporation was moving a project forward so that true government-to-government meetings can take place with sufficient time and opportunity for tribal input.

**Mr. Pogacnik** stated that everyone will trust the data that is going to be provided by tribes in the planning process. Asking tribes to identify their issues and concerns is consistent with the way biologists are being treated when asked to identify habitat concerns. With the use of the

information in the DRECP, if an application for renewable energy development is submitted seeking to work in a protected area, the answer would be no.

**Mr. Kenna** added that the application-driven world is different than the planning-based approach to future project siting which will result from the DRECP. While there are difficult issues, it is necessary to move forward to create a map. The idea is to have a dialogue before an alternative analysis process is created.

**Ms. Campbell** stated that the DRECP was California Desert focused, but if lands in close proximity were of interest, the information should be shared in this process so that it may be possible to move the boundaries.

**Facilitator Myers** excused himself due to a prior commitment and reminded all that consultation should be done with the Tribal Leaders and Government Leaders. He wished the group good luck for the second day of meetings.

It was announced that there were breakout rooms reserved for more in-depth conversations should anyone wish them. The majority of those present said they would attend for the second day of meetings.

A general discussion occurred focusing on the different aspects of laws that could be used in informing the planning process such as NEPA and CEQA. It was noted that FWS was rewriting guidelines that could affect some areas due to the presence of eagles.

**Mr. Black** urged all to stay when the plenary session ended and reach out to the 15 senior government employees that were present. He then reminded everyone data was needed to populate the DRECP map.

Questions were raised over individual renewable energy projects and it was decided that roundtables would be conducted on day two of the meeting.

**Ms. Otero** asked who would be meeting with each Tribe.

**Mr. Laidlaw** and others answered that Field Managers or District Managers or GIS mapping specialists of the BLM would be the main points of contact. The tribal representatives present voiced their concerns that meetings be with agency representatives who have the authority to make decisions.

**Mr. Black** stated Field Managers do have limited authority and added that the projects that get to the federal government do so because the Field Managers are involved. He noted level of activity in the federal agencies had increased significantly in response to many new project applications.

A discussion was held that focused on the difference in power structure of the federal government, where there is distributed authority and balance between agencies with many

different missions. This was contrasted with tribal governments where a single body or person makes decisions. The difficulties of representative tribal input were discussed.

Questions over commitment issues were raised. It was stated that Tribes could count on the commitment from the current department and agency leadership. These federal agencies want a process including specific strategies which work for each individual Tribe and create true communication.

**Ms. Otero** remarked how her tribe's government-to-government protocol was redlined by the Solicitor's Office when her Tribe tried to create it.

**Mr. Black** asked Ms. Otero who would she like to see consult with her Tribe.

**Ms. Otero** replied, the Secretary of the Interior in a face-to-face meeting.

**Mr. Black** said he would take the information back to Washington, DC and said that the BLM was in the best position to have the first meetings with tribes due to the way the federal government is organized and since this would be the most efficient way.

**Mr. Kenna** added that as the new State Director, he would like to visit field offices and check in with tribes that would like to meet with him.

Comments were made by several tribal representatives that consultation regarding an area of Tribal concern or tribal development programs could be complicated by the lack of communication among BLM and other agencies across agency and jurisdictional boundaries (e.g. California and Arizona).

Mr. Laidlaw summed up the federal commitment and next steps to be taken.

Mr. Pogacnik emphasized the commitment of BLM to bring tribes into the planning process and asked that each Tribe make their specific issues, concerns and interests known

**Meeting Adjourned 5:00 P.M.**