



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 06 2014

To: Bryan L. Bowker
BIA Western Regional Director

From: Kevin K. Washburn
Assistant Secretary – Indian Affairs

Subject: Waiver of Regulations – Moapa Solar Lease Project

This refers to your May 1, 2014, memorandum requesting a waiver of certain Federal leasing regulations, in connection with a negotiated solar energy lease (Lease) between the Moapa Band of Paiute Indians (Tribe), as Lessor, and Moapa Solar LLC, as Lessee. The Lease was executed by both parties on April 28, 2014, with the necessary tribal authorization being found in Resolution No. 14-5-24 (Resolution), as adopted by the Tribe on that same day.

As noted in your memorandum, in adopting the Resolution the Tribe formally requested waivers to: (1) provide third-party assurances which are essential to the successful development and operation of the project; and (2) specify certain remedies that will be available to the Tribe if the Lessee fails to perform certain obligations following the expiration or termination of the Lease. Specifically, the Tribe requested as follows:

BE IT FURTHER RESOLVED, that the Tribe hereby requests a waiver from the BIA of such provisions in 25 C.F.R Subpart E (including, but not limited to, 25 C.F.R. § 162.574) as are needed to allow the transfer, assignment, sublease or encumbrance of the leasehold interest of Moapa Solar in accordance with the provisions of the Lease without further consent of the Tribe or BIA approval, based on the Tribe's determination that such a waiver would facilitate the development and operation of the Project (as defined in the Lease) and thereby serve the Tribe's best interest; and

BE IT FURTHER RESOLVED, that the Tribe hereby confirms its desire to adopt the negotiated "default and remedies" provisions in the Lease, and requests a waiver from the BIA of such provisions in 25 C.F.R §§ 162.540 and 162.596 as are needed to support BIA deference to the Tribe in the event of holdover upon the expiration or early termination of the Lease (with such holdover to be treated only as a month-to-month tenancy and rent increased to 150 percent of the previous rate), the Tribe having determined that such deference and the negotiated terms will both serve and protect the Tribe's best interest.

For the reasons set forth in the Resolution and in your May 1, 2014, memorandum, I hereby determine that the requested waiver would be in the best interest of the Tribe, and would not be contrary to law. Accordingly, I do hereby grant the requested waiver pursuant to 25 CFR § 1.2 and the authority granted to me by the Secretary.

cc: Superintendent, Southern Paiute Agency
Western Regional Director