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(1.08.09.13)

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

**RECIPIENT:** Bad River Band of Lake Superior Tribe of Chippewa Indians**STATE:** WI**PROJECT TITLE:** Ishkonige Nawadide – Solar Project

<b>Funding Opportunity Announcement Number</b>	<b>Procurement Instrument Number</b>	<b>NEPA Control Number</b>	<b>CID Number</b>
DE-FOA-0002032	DE-IE0000115	GFO-0000115-002	GO115

**Based on my review of the information concerning the proposed action, as NEPA Compliance Officer (authorized under DOE Policy 451.1), 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 the Bad River Band of Lake Superior Tribe of Chippewa Indians (Tribe) for the installation of approximately 520 kW of solar photovoltaic (PV) systems and associated Battery Energy Storage Systems (BESS). Tasks within the approved Statement of Project Objectives that helped to inform the design and details of the PV and BESS installations (Tasks 1-5 excluding Subtask 3.2) were previously reviewed by GFO-0000115-001 (A9) on 08/20/19. This NEPA review is for all remaining tasks of the project.

## Project Description

The proposed project involves the installation of three solar facilities and associated utilities on Tribally-controlled trust lands in northern Wisconsin.

Wastewater Treatment Plant (WWTP; 200 kW ground-mounted)  
 Health & Wellness Clinic (H&WC; 300 kW ground-mounted)  
 Chief Blackbird Administration Building (Administration Building; 20 kW roof-mounted)

Associated project activities include economic and technical analysis; interconnection agreements; requests for proposals for the PV systems and investor funding; permitting; and PV system installations, educational outreach, monitoring, analysis, and reporting. Ground-mounted systems would require site preparation and surface disturbing activities. The project involves the normal potential hazards associated with construction activities. Applicable permits, regulations, safety codes, and other requirements would be followed throughout the project period.

## Resources of Concern

Project details for all PV installations and associated work were submitted to the Tribal Historic Preservation Officer (THPO) for review. Based on that information and the area of potential effects (APE) for each installation previously having been surveyed with no significant findings, the THPO determined that the applicant was in compliance with

Section 106 and the project could proceed as planned. If any post-review changes to the project were to occur that are subject to Section 106 of the NHPA, those changes would need further review. The THPO requested that site monitoring be done by the Project Lead, Dan Wiggins Jr. during excavations, unless resources are available for Tribal Monitoring by THPO Monitors. DOE is in agreement with the THPO, and although no historic resources are known to occur at any of the project sites, DOE will require the following as part of best management practices for the project: The recipient must provide site monitoring and if during project activities the recipient or their staff encounters any archaeological remains, all activities must cease in the vicinity of the discovery immediately. The recipient must inform the THPO and the DOE Project Officer of the discovery so that an evaluation of the discovery can be completed prior to continuing work.

Based on USGS flood-peak inundation maps from the 2016 flood event in the area, the WWTP project area has flooded in the past. The Tribe is planning to install PV racking at this location that would raise the PV panels above the highest level of flooding that occurs at this location. Further, no changes to the landscape itself are planned so project activities at the WWTP would not have the potential to impact the floodplain itself. Therefore, DOE has determined that providing funding in support of this project is not a floodplain action requiring a floodplain assessment under 10 CFR 1022.

The project area for the H&WC installation would require land clearing and installation activities that would include discharge of dredged material over 2.02 acres of wetlands. The Tribe received authorization from the Army Corps of Engineers (ACOE) for this work with Regulatory File No. 2020-00250-WMS. The ACOE determined that the activities were authorized by a Nationwide Permit (NWP) or a Regional General Permit (RGP), specifically, the Utility RGP. Land clearing activities at the H&WC location also included timber harvesting over 4.73 acres of land that required a Trust Land Harvest Permit from the Bureau of Indian Affairs (BIA). Both the land clearing and timber harvesting activities have already occurred prior to this NEPA review. No project funds were expended to complete these activities. While these activities are connected to the DOE funded project, this NEPA review will not assess impacts associated with these activities since they have already been completed and are considered the baseline environmental conditions for this review. Both the ACOE and BIA completed NEPA reviews for these activities and found that they fit within each federal agency's NWP/RGPs and CXs, respectively.

The U.S. Fish and Wildlife Service lists five threatened or endangered species and one migratory bird species that could occur in the area. Project information for all locations was submitted to the Tribe's Natural Resources Department (NRD) for review in accordance with the Tribe's applicable policies, procedures, ordinances and regulations. Based on the details submitted, the NRD completed a project review which included a wildlife and invasive species review. As part of this review, the recipient was provided recommended avoidance guidelines for wildlife species of concern on Bad River Reservation and guidance for contractors concerning vehicle and equipment inspections to slow the spread and reduce the possibility of the introduction of invasive species in new areas. The Bad River Wildlife Program within the NRD has nesting and den location information for protected species occurring on their Tribal lands to help ensure that impacts to these species would be avoided. Both of the ground-mounted PV systems would be installed in disturbed areas and require no further land or tree clearing beyond the completed work discussed above. Based on the types of project activities proposed and the guidelines and guidance provided by the NRD, DOE has determined that there would be no effects on special status species resulting from DOE funded project activities.

DOE also conducted a review of potential issues relating to other resources of concern and found that no effects would be expected to result from the project.

## **NEPA PROVISION**

DOE has made a final NEPA determination.

Include the following condition in the financial assistance agreement:

The Recipient must provide site monitoring for cultural resources during ground disturbing activities. If during project activities the Recipient or their staff encounters any archaeological remains, all activities must cease in the vicinity of the discovery immediately. The Recipient must inform the THPO and the DOE Project Officer of the discovery so that an evaluation of the discovery can be completed prior to continuing work.

The Recipient must follow all applicable guidelines and guidance regarding protected and invasive species provided

by the Tribe's Natural Resources Department.

Notes:

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

#### FOR CATEGORICAL EXCLUSION DETERMINATIONS


The proposed action (or the part of the proposal defined in the Rationale above) fits within a class of actions that is listed in Appendix A or B to 10 CFR Part 1021, Subpart D. To fit within the classes of actions listed in 10 CFR Part 1021, Subpart D, Appendix B, a proposal must be one that would not: (1) threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of DOE or Executive Orders; (2) require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities; (3) disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases; (4) have the potential to cause significant impacts on environmentally sensitive resources, including, but not limited to, those listed in paragraph B(4) of 10 CFR Part 1021, Subpart D, Appendix B; (5) involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those listed in paragraph B(5) of 10 CFR Part 1021, Subpart D, Appendix B.

There are no extraordinary circumstances related to the proposed action that may affect the significance of the environmental effects of the proposal.

The proposed action has not been segmented to meet the definition of a categorical exclusion. This proposal is not connected to other actions with potentially significant impacts (40 CFR 1508.25(a)(1)), is not related to other actions with individually insignificant but cumulatively significant impacts (40 CFR 1508.27(b)(7)), and is not precluded by 40 CFR 1506.1 or 10 CFR 1021.211 concerning limitations on actions during preparation of an environmental impact statement.

The proposed action is categorically excluded from further NEPA review.

#### SIGNATURE OF THIS MEMORANDUM CONSTITUTES A RECORD OF THIS DECISION.

NEPA Compliance Officer Signature:  Casey Strickland  
NEPA Compliance Officer

Date: 4/14/2020

#### FIELD OFFICE MANAGER DETERMINATION

- Field Office Manager review not required  
 Field Office Manager review required

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

Field Office Manager's Signature: \_\_\_\_\_  
Field Office Manager

Date: \_\_\_\_\_