



Community Solar: Steps to obtain a favorable analysis

The Community Solar Act (SB84) was signed into law April 2021 and the New Mexico Public Regulation Commission (Title 17, Chapter 9, Part 573 New Mexico Administrative Code) requires a project to have a favorable analysis from the Department of Cultural Affairs (DCA) or a qualified professional. To obtain a favorable analysis from DCA, please provide the following information:

- 1. Description of the solar project(s).** Describe in detail the scope of work including related activities (for example, staging areas, equipment parks, access roads, etc.). Include preliminary drawings or plans of the solar array. If submitting multiple projects, please provide a table listing the project name, location, and landownership.
- 2. Project location map.** Provide a Google Earth or other aerial map with the project area clearly marked and provide UTM's, latitude/longitude, Township, Range, and Section, or street address.
- 3. Land ownership.** Identify the owner(s) of the land (private, state agency, federal agency).
- 4. Funding, permitting, or licensing.** Identify if state or federal funding will be used, the type of funding (grant, bonds, etc.) and the agency providing the funding. Identify any permits or rights-of-way easements that may be required from state or federal agencies.
- 5. Cultural Resources Records Search or Survey Report.** If cultural resource consultant has prepared a records search (also called a literature review or Class I report), or a cultural resource survey has been completed, please forward the report and all attachments for review. Attachments for a survey will include but are not limited to, a NMCRIS Investigation Abstract Form (NIAF), Laboratory of Anthropology (LA) forms for archaeological sites, or Historic Cultural Property Inventory (HCPI) forms for historic buildings or structures.

Submit the above information at nm.shpo@dca.nm.gov. Upon receipt of the information, the project will be assigned to a staff archaeologist. Please allow up to 30 days to receive a response; however, the response time is usually much shorter.

The archaeologist will review the cultural resources report, or conduct a records review to determine the following:

- if the solar project could affect properties listed in the State Register of Cultural Properties,
- if a cultural resources survey has been conducted of the project area and archaeological sites, historic buildings or structures are present,
- the potential for unknown archaeological sites or historic buildings/structures to exist within the project area.

The Historic Preservation Division (HPD) will provide a letter with the information from the records review or report. The letter may provide a favorable analysis and recommendations in accordance with applicable state and federal laws and regulations.

**** Providing the results of a records search (Class I report) from a cultural resource consultant will help expedite our review, especially if submitting multiple projects. You may also submit a letter that requests concurrence with a “favorable analysis” and a signature line.**

Please direct any questions or concerns to Michelle Ensey, Deputy State Historic Preservation Officer & State Archaeologist at (505) 827-4064 or michelle.ensey@dca.nm.gov.

AN OVERVIEW OF APPLICABLE STATE LAW AND REGULATIONS

The information provided below is an overview of state and federal laws and regulations that may be applicable to the proposed project.

- **Section 106 of the National Historic Preservation Act** requires federal agencies to consider the effects of their undertakings on historic properties. Federal agencies are required to consult with the State Historic Preservation Office/Historic Preservation Division, Indian Tribes, and state and local officials.
- **Cultural Properties Act (Section 18-6-8.0 NMSA 1978)**. The head of any state agency or department having direct or indirect jurisdiction over any land or structure modification which may affect a registered cultural property shall afford the state historic preservation officer a reasonable and timely opportunity to participate in planning such undertaking as to preserve and protect and to avoid or minimize adverse effects on registered properties. A **registered cultural property** is a cultural property that has been placed on the official register on either a permanent or temporary basis by the committee. Rule 4.10.7 NMAC, *Review of Proposed State Undertakings that May Affect Registered Cultural Properties*, establishes the procedure under which heads of state agencies or departments coordinate with the state historic preservation officer.
- **Prehistoric and Historic Sites Preservation Act, NMSA 1989 Section 18-8-7** of the states that "No public funds of the state or any of its agencies or political subdivisions shall be spent on any program or project that requires the use of any portion of or any land from a significant prehistoric or historic site unless there is no feasible or prudent alternative to such use, and unless the program or project includes all possible planning to preserve and protect and to minimize harm to the significant prehistoric or historic site resulting from such use.". **Significant prehistoric or historic** sites are properties listed in the state register of cultural properties or national register of historic places. 4.10.12 NMAC, *Implementation of the Prehistoric and Historic Sites Preservation Act*, establishes the procedures and guidelines for this section of the Act.
- **Unmarked human burials**. Section 18-6-11.2 of the Cultural Properties Act, NMSA 1978 provides for the protection and appropriate and respectful treatment and disposition of each human burial in the state interred in any unmarked burial ground. Any person who uncovers a human burial shall cease any activity that may disturb that burial, or any object or artifact associated with that burial and shall notify the local law enforcement agency having jurisdiction in the area. The local law enforcement agency shall notify the state medical investigator and the state historic preservation officer. Rule 4.10.11 NMAC, *Issuance of Permits to Excavate Unmarked Human Burials in the State of New Mexico*, establishes procedures for reporting unmarked human burials and procedures for obtaining a permit to excavate unmarked human burials.
- **Cultural Properties Protection Act, NMSA 1978 Section 18-6A-5** of the states, "The officer shall, in cooperation with the heads of state agencies, establish a system of professional surveys of cultural properties on state lands. State agencies shall cooperate with the officer and exercise due caution to ensure that cultural properties are not inadvertently damaged or destroyed.