

## **Attachment 22A**

### **Explanatory Note for the National Science Foundation (NSF) Report February 1, 2011**

Attached please find NSF's completed report pursuant to Section 1609(c) of the ARRA for awards made and obligated through December 31, 2010. Please note that, as of December 31, 2010, NSF has made or obligated a total of 5,148 awards funded with ARRA funds.

The attached report lists all of the three major programs that were set forth in the ARRA legislation relevant to NSF. These programs are: 1) Research & Related Activities; 2) Major Research Equipment & Facilities Construction (MREFC); and 3) Education & Human Resources. On page two of the report, activities with completed NEPA reviews are listed for all activities that were either obligated or funded with ARRA funds. (Please note that one EA was completed for 10 ARRA funded awards under the Research & Related Activities account. That EA was completed and noted in NSF's September 30, 2010 Section 1609(c) report.) Page two also lists two pending EAs for site-specific activities funded with MREFC funds. This information is reflected in the accompanying Section 1609(c) report.

The two pending EAs are being prepared for activities which, if approved, would be funded through awards already made through the MREFC account. One of the pending EAs is a site-specific EA being prepared for the Oceans Observatory Initiative (OOI) (a programmatic EA for the OOI was completed on February 4, 2009). A draft of this site-specific EA was released to the public in mid-August, 2010, and public hearings were held. The public comment period closed on September 30, 2010, and a Final EA is currently being prepared; it should be completed in late January of 2011.

The other pending EA will address conservation measures related to the Advanced Technology Solar Telescope (ATST). As stated in our report for the period ending December 31, 2009, a Record of Decision was issued for the ATST on December 3, 2009, following a FEIS that was completed on July 31, 2009. Since the issuance of the ROD, however, slight changes to the project have occurred as a result of NSF's commitment to undertake additional conservation measures designed to address potential impacts on threatened and endangered species, including a mitigation fencing project to protect the Hawaiian Petrel, and a fencing pen project to protect the Hawaiian Goose. Accordingly, a draft EA was released to the public in mid August, 2010, a public hearing was held August 30, 2010, and the public comment period closed on September 22, 2010. The Final EA is currently being prepared and should be completed in February of 2011.

The attached report also lists the remaining award that has been made with ARRA funds through the Education & Human Resources account. This award is a general research award that supports individual scientific research and, as such, is considered a categorically excluded activity pursuant to NSF's regulations implementing NEPA. *See*

45 C.F.R. § 640.3. All monies provided to NSF with ARRA funds have now been awarded or obligated.

Benefits:

The NEPA process for the ATST (see page 2, row 3 of the NSF spreadsheet) was very beneficial. As a result of the NEPA process, during which NSF prepared a Draft Environmental Impact Statement, Supplemental Draft Environmental Impact Statement, and Final Environmental Impact Statement, and completed NSF's compliance with Section 106 of the NHPA, NSF became aware of concerns about the ATST's potential impacts on cultural resources (among other resources). In response to those concerns, NSF agreed to implement many forms of mitigation, including the formation of the ATST Native Hawaiian Working Group, a novel approach designed to help ensure continued consultation throughout the construction and operation phases of the ATST. This mitigation measure became part of both the NEPA and Section 106 mitigation measures. In addition, the NEPA process led to a \$20 million mitigation measure designed to address the intersection between Native Hawaiian traditional cultural practices and science through an educational initiative with the University of Hawaii's Maui College. Moreover, after the issuance of the FEIS, NSF has taken another look at the impacts of the ATST on threatened and endangered species and has now committed to put in place additional conservation measures, including a mitigation fencing project designed to protect the Hawaiian Petrel and a holding pen to protect the Hawaiian Goose. These conservation measures are the topic of the pending EA.

In sum, adding the two pending EAs to the other 5,137 NEPA activities that have already been concluded, results in a total of 5,139 NEPA activities subject to ARRA funds. Please also note that NSF's September 30, 2010 report reflected an error in the number of categorically excluded activities under the Research & Related Activities account; the number inaccurately included two activities for which EA's were completed.