



Planning Department
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AGENDA ITEM NO.: Action Item No. 6
PLANNING COMMISSION MEETING DATE: January 24, 2024
SUBJECT: Renewable Energy Permit # 2023-01/SBC

EXECUTIVE SUMMARY

The applicant, SBC Investment LLC, has applied for a Renewable Energy Permit located on two 5-acre parcels (APN's 038-340-20 and 038-340-21) in Trona, California. This permit would allow the applicant to construct a 2.0 megawatt (MW) commercial scale photovoltaic solar facility. The project proposes approximately 4,625 single axis tracker solar panels, encompassing 10-acres of mostly disturbed land. The project is a Mitigated Negative Declaration of Environmental Impact under the California Environmental Quality Act (CEQA).

PROJECT INFORMATION

Supervisory District: 5

Project Applicant: Shawn Barker -SBC Investment, LLC

Site Address: 2500 Bri Mar Lane, Trona, CA 93592

Community: Trona, CA

A.P.N.: 038-340-20 and 038-340-21

General Plan: Residential Estate (RE) and Public Service Facilities (PF)

Zoning: Rural Residential-5.0-acre minimum (RR-5.0) and Public District (P-40)

Size of Parcel: 10 acres.

SURROUNDING LAND USE:

Location:	Use:	Gen. Plan Designation	Zoning
North	MH on foundation	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)
South	Vacant/Trailer connect	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)
East	Vacant	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)
West	Vacant	Public Service Facilities (PF)	Public District (P-40)

Staff Recommended Action: Approve the Renewable Energy Permit 2023-01/SBC

- Alternatives:**
- 1.) Deny the Renewable Energy Permit
 - 2.) Approve the Renewable Energy Permit with additional conditions of approval
 - 3.) Continue the public hearing to a future date and provide specific direction to staff regarding what additional information and analysis is needed.

Project Planner: Cynthia Draper

STAFF ANALYSIS

Background

In March of 2015, the Board of Supervisors adopted an amendment to the General Plan known as the Renewable Energy General Plan Amendment (REGPA)¹. The REGPA regulates the type, siting, and size of renewable energy, solar photovoltaic, development projects in the County. The REGPA defines “utility-scale” facilities generating at least 20 megawatts (MW) and “commercial-scale” or “community-scale” facilities, generating less than 20 megawatts (MW).

The REGPA designated seven different areas of the County, known as Solar Energy Development Areas (SEDAs), where solar photovoltaic facilities would be allowed. The REGPA allows for 600 acres of renewable energy development in Trona .

When the County adopted the REGPA in 2015, it certified a Programmatic Environmental Impact Report (PEIR)², pursuant to Section 16168 of CEQA guidelines. The PEIR analyzed environmental impacts of renewable energy solar development throughout the County. This document distinguishes all SEDAs that are the most environmentally suitable for solar projects.

The Draft PEIR states, “Solar energy projects up to 20MW may be exempt from further CEQA analysis, unless an event specified in *Public Resource Code Section 21166*³ occurs , in which case a Supplemental EIR or other CEQA document may be required”. (ES.7)

Overview

The applicant has applied for a Renewable Energy Permit with the Inyo County Planning Department to construct a 2.0 megawatt (MW) commercial scale photovoltaic solar energy facility on two 5-acre parcels (APN’s 038-340-20 and 038-340-21), owned by SBC Investment, LLC. The project would

¹ <https://www.inyocounty.us/sites/default/files/2020-04/FinalREGPA33015.pdf>

² <https://www.inyocounty.us/sites/default/files/2023-06/Final%20DRAFT%20PEIR.pdf>

³ <https://casetext.com/statute/california-codes/california-public-resources-code/division-13-environmental-quality/chapter-6-limitations/section-21166-subsequent-or-supplemental-report-required>

construct roughly 4,625 single-axis tracker solar panels that will connect to the existing Southern California Edison (SCE) transmission line passing through the area. The project will enable income-qualified residential customers, who may be unable to install solar on their roof, to receive a discount on their electricity bill through SCE's Community Renewable Program (*see vicinity map*).

The project site is mostly disturbed, flat or gently sloped with very little natural vegetation. There is no habitat, water features or structures. The project area is surrounded by a mobile home on foundation to the north and vacant land to the south, east and west. Other land uses within 0.5 mile of the Project Area include storage of equipment, vehicles, scrap yards and storage units.

The proposed application for a Renewable Energy Permit aligns with Inyo County Code Section 21.16-*General Provisions for Renewable Energy Development*⁴, which aims to “support and encourage the responsible development of its solar and wind resources to generate and transmit clean, renewable electric energy while protecting the health, safety and welfare of its citizens and its environment, including its public trust resources”(21.04.030).⁵ The application for this permit has met the requirements of Inyo County Code Section 21.16.060⁶ and must now be approved by Inyo County Planning Commission for issuance of the Renewable Energy Permit.

General Plan Consistency

The goal of this review is to allow the applicant to develop a renewable solar project in compliance with the County's Renewable Energy General Plan Amendment (REGPA), as well as Title 21 of the Inyo County Code (ICC). The proposed project is consistent with the goals and policies of the Inyo County REGPA, as adopted by the Inyo County Board of Supervisors in 2015. The finalized Programmatic Environmental Impact Report (PEIR) of the 2015 REGPA defines commercial scale renewable energy facilities as having a 20-megawatt (MW) capacity or less. This project has a rated capacity of 2.0-megawatts (MW). Since the developer is planning a small-scale project, they have applied for a renewable energy permit, per the requirements of Title 21 of the Inyo County Code⁷. Furthermore, County land use policy requires that commercial scale renewable energy projects be considered within Solar Energy Development Areas (SEDA) overlays. This project is within the County's Southern Solar Energy Group, in Trona, California (*REGPA 2015, figure ESI*).

The project aligns with the County's goals and objectives to utilize photovoltaic panels, the only type of solar technology currently supported by the REGPA, for renewable energy development projects. Finally, recent land use implementation measures explicitly state that small scale, community scale, and commercial scale renewable energy projects will be encouraged and prioritized over larger, utility scale projects (*REGPA, final Errata to final EIR, pg. 3*).

Zoning Ordinance Consistency

The applicant's parcel is zoned Rural Residential-5.0-acre min (RR-5.0-MH) and Public District (P-40). The *Final Errata to the Final Program Environmental Report* for the *Inyo County Renewable Energy General Plan Amendment* (REGPA), adopted in March 2015 by the Inyo Board of Supervisors, states: “...the County may consider utility scale and commercial scale renewable energy solar facilities within any zoning district under Title 18 of the Inyo County Code and pursuant to Inyo County Code Title 21” (REGPA, Errata, pg. 2). The REGPA created a new land use policy that allows applicants to apply for solar photovoltaic

⁴ https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_21-chapter_21_16

⁵ https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_21-chapter_21_04-21_04_030

⁶ https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_21-chapter_21_16-21_16_060

⁷ https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_21

renewable energy permits, regardless of zoning designation; however, approval of these projects is still reserved for the Planning Commission.

ENVIRONMENTAL REVIEW

Per Public Resource Code Section 21166, the County is not required to do additional CEQA on this project. However, staff made the decision to do an initial study anyway to cover all bases.

In November 2023, An Initial Study with a Mitigated Negative Declaration (ISMND) was performed by staff to consider possible significant impacts to environmental resources for this project. The applicant provided a biological survey and a cultural report for the project and neither identified special status species or archaeological cultural resource impacts. The State review period for the ISMND ended on December 29, 2023.

The California Department of Fish and Wildlife (CDFW) commented on the ISMND requesting mitigation measures for the avoidance of nesting birds and for Desert Tortoise pre-construction surveys (see attached comment letter). These measures have been added to the Mitigation & Monitoring Program (see attached) and listed under the Conditions of Approval.

A copy of the ISNMD as well as the biological survey and cultural report can be found at:
<https://www.inyocounty.us/services/planning-department/current-projects>.

TRIBAL CONSULTATION

In compliance with AB 52 and Public Resource Code Section 21080.3.1(b), tribes identified as being local to Inyo County, were notified via a certified letter about the project and the opportunity for consultation on this project. The tribes notified were as follows: the Cabazon Band of Mission Indians, the Torres Martinez Desert Cahuilla Indians, the Twenty-Nine Palms Band of Mission Indians, the Big Pine Paiute Tribe, the Bishop Paiute Tribe, the Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

Kern Valley Indian Community, commented on the Project stating that the Tribe had concerns regarding possible impacts to prehistoric cultural resources that could be found throughout the area and recommended that a culturally affiliated Native American consultant monitor accompany archaeologists conducting phase one surveys of the project and during all ground disturbing activities related to facility construction and transmission tie in facilities (see attached). The monitor was present during the phase one survey and the project is being conditioned that the monitor will be on site during any activities causing ground disturbance.

NOTICING & REVIEW

The application for Renewable energy permit 2023-01/SBC has been reviewed by the following County Departments: Environmental Health, Public Works, Road Dept., Building & Safety, and the Inyo County Tax collector. Information regarding the project was also sent to the San Bernardino Fire Department and China Lake Naval Air Weapons Station.

China Lake Naval Air Weapons Station expressed concerns about the possibility of glare caused by the solar panels. They pointed out that the area experiences regular military aircraft traffic, raising concerns about potential midair collisions if glare becomes a problem. The applicant addressed these concerns by providing staff with anti-glare specifications for the project's solar panels and the military is satisfied with this mitigation.

No other comments have been received to date.

Residents within 300 feet of the proposed project were notified that an application for a Renewable Energy Permit was being submitted, and staff noticed these residents regarding the public hearing date. The Notice of Availability of the Initial Study was published in the *Inyo Register* on November 30, 2023. Notification of the public hearing date for this permit was published in the *Inyo Register* on January 13, 2024.

RECOMMENDATION

Planning Department staff recommends the approval of Renewable Energy Permit 2023-01/SBC with the following Findings and Conditions of Approval:

FINDINGS

1. The proposed Renewable Energy Permit has met the provisions of necessary review, pursuant to the California Environmental Quality Act.

[Evidence: The Inyo County 2015 REGPA, the Initial Study for this project (November 2023), and the addition of the mitigation and monitoring program recommended for this permit, have eliminated the potential for adverse environmental impacts that will exceed thresholds of significance, either individually or cumulatively.]

2. The proposed Renewable Energy Permit is consistent with the Inyo County General Plan Land Use Designation of Residential Estate (RE)/ SEDA, as adopted by Inyo County.

[Evidence: In 2015, Inyo County updated its General Plan to include policies for solar energy development within the County. New goals, policies, implementation measures, and actual sites, were identified in locations referred to in the REGPA as SEDAs. The current project falls within Inyo County's southern SEDA; and therefore, has consistency with the General Plan.]

3. The proposed Renewable Energy Permit is consistent with the Inyo County Zoning Ordinance.

[Evidence: Utility scale and commercial scale renewable energy solar facilities are allowed within any zoning district, under Title 18 of the Inyo County Code, and pursuant to Inyo County Code Title 21 if the facilities are proposed within a SEDA. The new land use policy created by the REGPA means that applications will be considered regardless of zoning designation, with approval of the permit decided by the Planning Commission, as long as they are located in a SEDA.]

4. The proposed Renewable Energy Permit is necessary or desirable.

[Evidence: In 2015, the Inyo County Board of Supervisors decided it was necessary to adopt new land use policies that were consistent with and met the broader goals and visions for the County as expressed in the General Plan. These amended land use policies regulate and direct the type, siting, and size of potential future renewable energy development within the County. Given that the proposed project is within the southern SEDA, the project is consistent with what the County has deemed necessary and desirable (REGPA, ES-2, 2015).]

5. The proposed Renewable Energy Permit is properly related to other uses and transportation and service facilities in the vicinity.

[Evidence: The proposed Renewable Energy Permit is properly related to transportation and service facilities and will not adversely affect these facilities. The project is located in an area where it can connect to Southern California Edison's electrical transmission lines. This project is secluded enough to avoid burdens to Inyo County maintained roads, in this case Trona Wildrose Road. Additionally, it is over a mile away from the Trona airport.]

6. The proposed Renewable Energy Permit would not under all the circumstances of this case, adversely affect the health or safety of persons living or working in the vicinity or be materially detrimental to public welfare.

[Evidence: *The proposed Renewable Energy Permit does not adversely affect public health or safety of persons living in the vicinity. The Inyo County Environmental Health Department evaluated the application for sewer, septic, and water issues and found no problems with the application. The proposed solar facility will not generate noise, traffic, or hazards in the very rural sparsely populated area surrounding it.]*

7. Operating requirements necessitate the proposed Renewable Energy Permit for the site.

[Evidence: *Use of the applicant's property for a photovoltaic power plant or solar energy system requires a Renewable Energy Permit, as per Chapter 21.08 of the Inyo County Code.*]

CONDITIONS OF APPROVAL

1. Hold Harmless

The owner/developer shall defend, indemnify, and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Renewable Energy Permit No. 2023-01/ SBC. The County reserves the right to prepare its own defense.

2. Compliance with County Code

The owner/developer shall conform to all applicable provisions of the Inyo County General Plan, Zoning Code and County and State regulations, including the California Building and Health and Safety Codes. Failure to comply may result in the revocation of REP 2023-01/SBC. If the use provided by this REP is not established within one year of approval date it will become void.

3. Decommissioning Plan and Financial Assurance

-As per section 21.20.030 of ICC, the owner/developer shall submit a staff approved decommissioning plan prior to the issuance of grading or building permits.

-As per section 21.20.040 of ICC, the owner/developer shall have secured financial assurance/surety bond prior to the issuance of grading or building permits.

-The owner/developer shall submit an updated decommissioning plan and updated financial assurance/surety bond to the Inyo County Planning Department every 5 years

4. Native American consultant monitor

The owner/developer shall have a culturally affiliated Native American consultant, from Kern Valley Indian Community, be present during all ground disturbing activities related to facility construction and transmission tie in facilities. Failure to do so may result in the revocation of the Renewable Energy Permit.

5. Air Quality

The owner/developer shall implement and follow the Mitigation and Monitoring Program regarding fugitive dust from the project site. (see attached) Failure to do so may result in the revocation of the Renewable Energy Permit.

6. Noise

The owner/developer shall implement and follow the Mitigation and Monitoring Program regarding construction noise (see attached). Failure to do so may result in the revocation of the Renewable Energy Permit.

7. Avoidance of Nesting Birds

The owner/developer shall implement and follow the Mitigation and Monitoring Program regarding avoidance of nesting birds (see attached). Failure to do so may result in the revocation of the Renewable Energy Permit

8. Desert Tortoise Surveys

The owner/developer shall implement and follow the Mitigation and Monitoring Program regarding Desert Tortoise Surveys (see attached). Failure to do so may result in the revocation of the Renewable Energy Permit.

9. Sensitive Plants

The owner/developer shall obtain permits from the sheriff's office or the Agricultural Commissioner for the removal of desert holly and beavertail cactus from the site prior to the issuance of grading or building permits.

10. Fish and Game Code section 1602

The owner/developer shall contact CDFW regarding compliance with Fish and Game Code section 1602 prior to grading/construction.

ATTACHMENTS:

Vicinity map

Site Plan

Site pictures

Mitigation and Monitoring Program

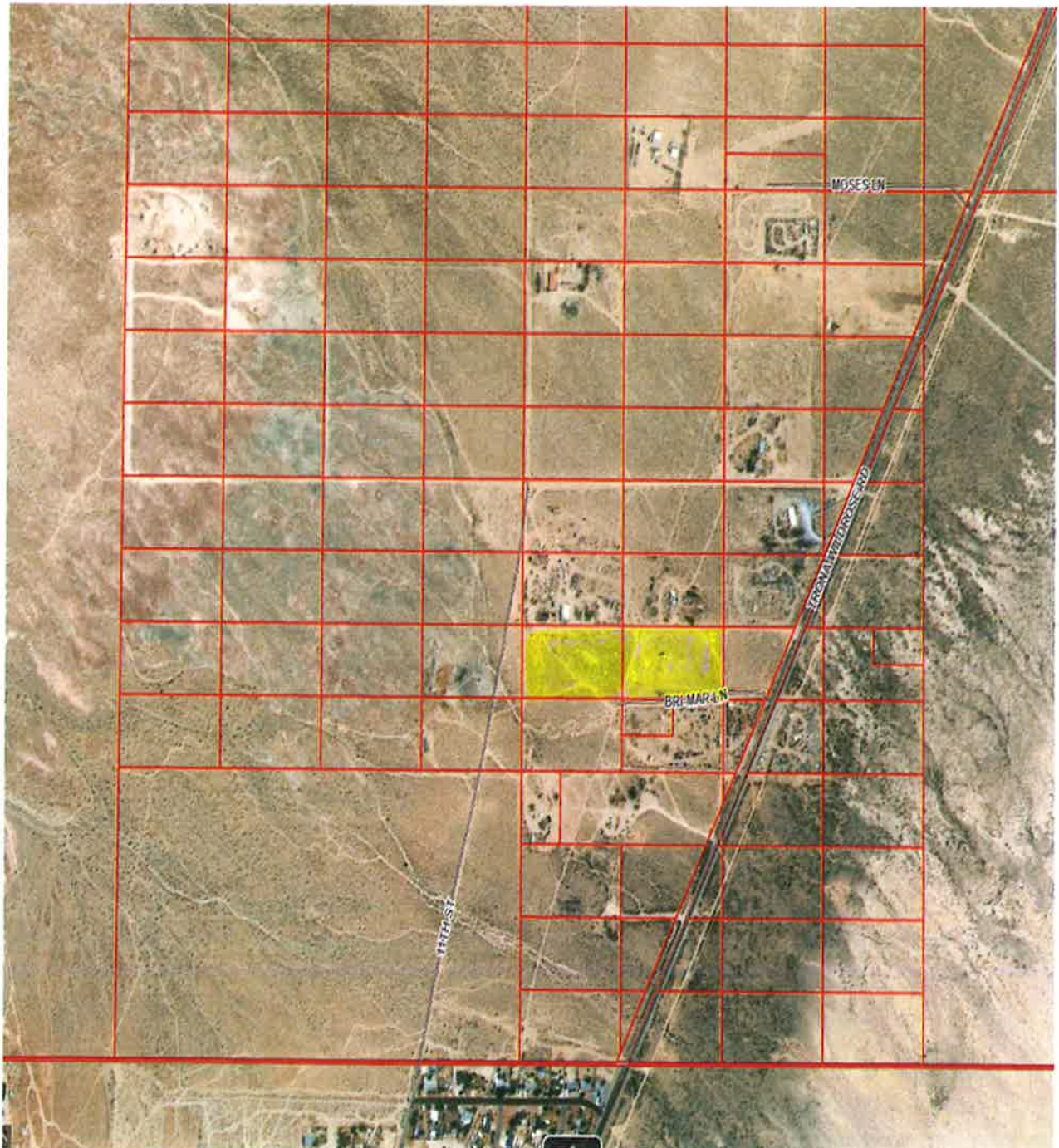
Kern Valley Indian Community project comment letter

CDFW ISMND comment letter

VICINITY MAP

REP 2023-01/SBC

Assessor Parcel Numbers 038-340-20 & 038-340-21



CONTRACTOR
SHAWN BARKER
8533 W 107 STREET
TOLSON, CA 94587
TEL: 925.352.1171
ELECTRICAL ENGINEER



CUSTOMER NAME
SHAWN BARKER
PROJECT NAME
**GFID 8808
SEC SOLAR**

PROJECT ADDRESS
**2500 BRU-MAR ROAD
TOLSON, CA 94582
35 000875' - 117 26571'
APN: 038-340-09 & 038-340-41**

NO.	REVISION	DATE
1	ISSUE FOR PERMIT	08/11/2022
2	ISSUE FOR PERMIT	08/11/2022
3	ISSUE FOR PERMIT	08/11/2022
4	ISSUE FOR PERMIT	08/11/2022
5	ISSUE FOR PERMIT	08/11/2022
6	ISSUE FOR PERMIT	08/11/2022
7	ISSUE FOR PERMIT	08/11/2022
8	ISSUE FOR PERMIT	08/11/2022
9	ISSUE FOR PERMIT	08/11/2022
10	ISSUE FOR PERMIT	08/11/2022
11	ISSUE FOR PERMIT	08/11/2022
12	ISSUE FOR PERMIT	08/11/2022
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27	ISSUE FOR PERMIT	08/11/2022
28	ISSUE FOR PERMIT	08/11/2022
29	ISSUE FOR PERMIT	08/11/2022
30	ISSUE FOR PERMIT	08/11/2022

SHEET TITLE
**DEFINITIVE
SITE PLAN**
SHEET NO
E-3.1

EQUIPMENT TAGGING SYSTEM

INV # 1-4
 NAME OF STRING
 STRING NUMBER
 EQUIPMENT TYPE
 SERIAL NO. OF EQUIPMENT TYPE
 INVERTER
 MP-COMBIBOX
 CT-DISCONNECT TRANSFORMER
 DBL-DISCONNECT TRANSFORMER
 PV-FUSE
 PV-TERMINAL BLOCK
 PV-METER
 PV-METER AND METERBOX
 PV-TERMINAL BLOCK
 PV-UTILITY POLE
 PV-MOUNT TRANSFORMER

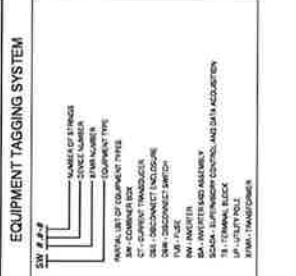
RACKING
MFG: ARRAY TECHNOLOGIES
TYPE: DURATRACK HZ V2 BAT
RACK HEIGHT: 100, 200 & 44.8K
TILT: 10 DEGREE
AZIMUTH: ANGLE 0
EXPOSURE: C
1:10 MPH ASCE 7-15 RISK CAT. 1
SEISMIC ZONE D

PROJECT SIZE
SYSTEM SIZE (KW DC): 2.511
SYSTEM SIZE @ 750 (KW AC): 2.000
MAXIMUM CURRENT (A): 2.000
DZAC RATIO: 1:1

INVERTER
MFG: CHINT
MODEL: CFS-SICH275KT-00LUS-800
POWER (KW AC): 775
QTY: 5

MODULE
MFG: JA SOLAR
MODEL: JA172D30-S60M1550V
WATTS / MODULE: 540
MODULE / STRING: 25
MODULE QTY: 4,680
STRING QTY: 189
STONY (P4 S): (2) 1

BATTERY
MFG: CHINT
MODEL: CFS-EG390DCLUS-400
QTY: 10

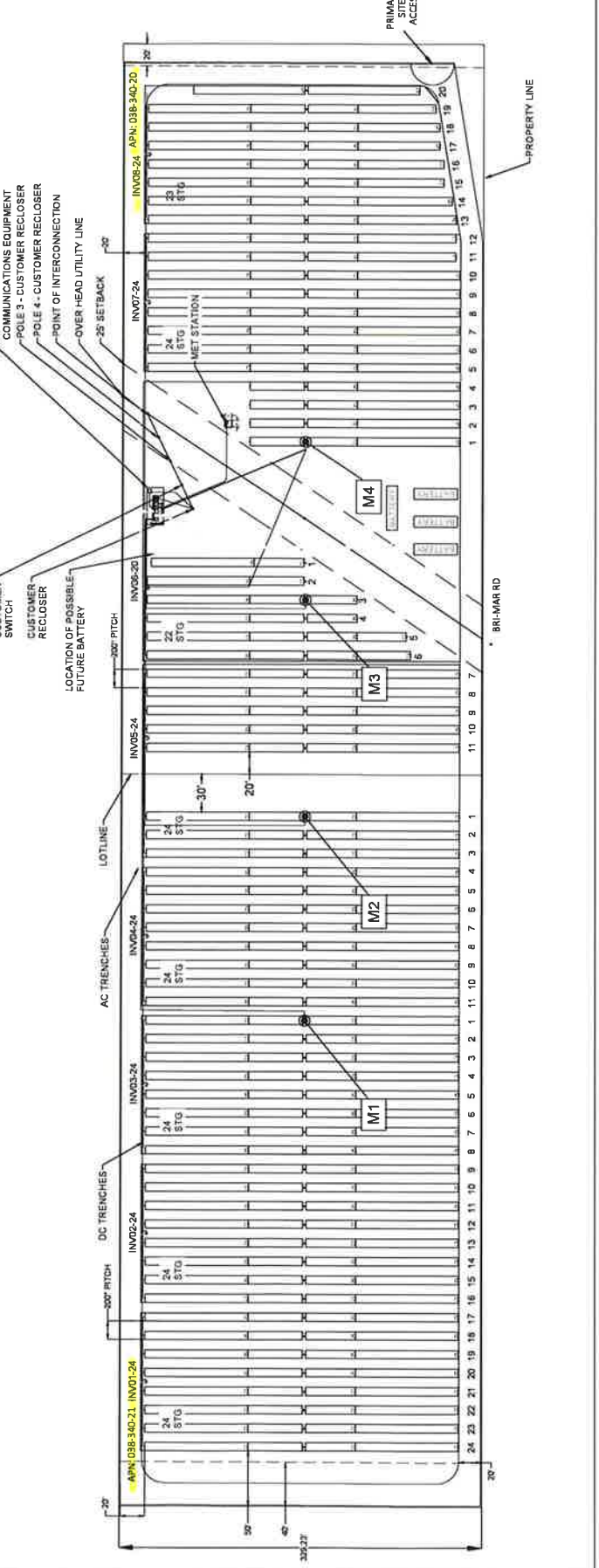


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BATTERY
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MODEL: CFS-EG390DCLUS-400
QTY: 10



1 ELECTRICAL SITE PLAN
1"=40'-0"



SE CORNER PARCEL 038-340-20 LOOKING WEST



NE CORNER PARCEL 038-340-21 LOOKING WEST

MITIGATION & MONITORING PROGRAM

Renewable Energy Permit 2023-01/ SBC

INTRODUCTION

This Mitigation and Monitoring Program (MMP) has been developed for Renewable Energy Permit/2023-01/SBC, pursuant to Inyo County Code ICC 15.44. The MMP describes changes to the project or conditions of approval that mitigate or avoid the project’s potential significant effects on the environment. Based on the Initial Study and Mitigated Negative Declaration of Environmental Impact, and the administrative record, as a whole, there is no substantial evidence that the Project may have a significant impact on the environment. The IS/MND identifies potential significant environmental impacts of the Project, in accordance with CEQA, and incorporates mitigation measures to reduce impacts to a level below significant.

Mitigation Measure	Monitoring Responsibility	Schedule
<p>AIR QUALITY</p> <p>IIIa) During construction the following measures to control fugitive dust and emissions of particles shall be employed:</p> <p>1) Provision of equipment and staffing for watering of all exposed or disturbed soil surfaces or use of an appropriate dust palliative or suppressant.</p> <p>2) Watering or treating of all disturbed but inactive portions of the site with appropriate dust suppressant</p> <p>3) Covering of materials transported by truck to control dust.</p>	<p>-On-site contractor(s)</p> <p>-Great Basin Unified Air Pollution Control District (GBUAPCD)</p> <p>-Public Works (Building and Safety)</p>	<p>-On-site contractors will be responsible for dust control implementation during construction.</p> <p>-Applicant will be responsible for dust control implementation during the life of the project.</p> <p>-The GBUAPCD will be responsible for air quality monitoring.</p> <p>-Inyo County Public Works (Building and Safety) will be responsible for construction inspections.</p> <p>-Inyo County Planning Department staff will be responsible for yearly inspections.</p>

4) Daily clean-up of mud and dirt carried onto paved streets from the site.

5) Suspension of dust-producing activities during periods of sustained high winds (gusts exceeding 25 mph) when dust control measures are unable to avoid visible dust plumes

BIOLOGICAL RESOURCES

IV a) Avoidance of nesting birds:

Regardless of the time of year, a nesting bird survey shall be conducted by a qualified avian biologist no more than three days prior to vegetation clearing or ground disturbing activities and shall include any potential habitat (including shrubs, the ground or nearby structures)).

Preconstruction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. Should nesting birds be found, an exclusionary buffer (depending on the species) shall be established by the qualified biologist.

The buffer shall be clearly marked in the field by construction personnel under the guidance of a qualified biologist. A qualified biologist will continue to monitor active nests adjacent to active work areas to

Project Proponent

Prior to commencing vegetation clearing or ground-disturbing activities

determine whether exclusionary buffers are sufficient to prevent stress or other negative behavioral changes to nesting bird behavior. If the qualified biologist determines that construction activities pose a disturbance to nesting, construction shall be stopped in the area of the nest and no disturbance buffer shall be expanded. No construction activities shall be allowed within the exclusionary buffer until the qualified biologist determines that the young have fledged, or the nest is no longer active.

Desert Tortoise:

Prior to ground disturbance or vegetation clearing within the Project site, a qualified biologist shall conduct a protocol level presence or absence of survey within the Project area and a 500-foot buffer of suitable habitat, no more than 48 hours prior to ground disturbing activities, in accordance with the most recent Fish and Wildlife (USFWS) desert tortoise survey methodology. If surveys confirm presence of desert tortoise and complete avoidance cannot be achieved, the Applicant shall not undertake Project activities and Project activities shall be postponed until the appropriate authorization is obtained.

NOISE		
<p>XIII a) Noise generated by onsite construction activities: Contractor(s) shall implement The MM NOI-2 incorporated best management practices (BMPs) from REAT's Best Management Practices within 500 feet of a residence or other sensitive receptor.</p> <p>See the following:</p> <ol style="list-style-type: none"> 1) Whenever feasible, electrical power will be used to run air compressors and similar power tools. 2) Equipment staging areas will be located as far as feasible from occupied residences and schools. 3) All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers. 4) Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors. 5) Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings. 	<p>-Inyo County Public Works Building and Safety)</p> <p>-Sheriff's Department</p>	<p>-The Inyo County Public Works (Building and Safety) Department will verify that noise related contract specifications are in place before issuing demolition, grading, or building permits.</p> <p>-The Public Works (Building and Safety) and Sheriff's Departments will respond to any noise complaints received and adjust measures as appropriate</p>

<p>Incorporate REAT's Best Management Practices for desert renewable energy projects. See the following list of 10 BMPs:</p> <p>1) Ensure noisy construction activities (including truck and rail deliveries, pile driving and blasting) are limited to the least noise-sensitive times of day (i.e., weekdays only 45 between 7 a.m. and 7 p.m.) for projects near residential or recreational areas.</p> <p>2) Consider use of noise barriers such as berms and vegetation to limit ambient noise at plant property lines, especially where sensitive noise receptors may be present.</p> <p>3) Ensure all project equipment has sound-control devices no less effective than those provided on the original equipment. All construction equipment used should be adequately muffled and maintained. Consider use of battery powered forklifts and other facility vehicles</p> <p>4) Ensure all stationary construction equipment (i.e., compressors and generators) is located as far as practicable from nearby residences.</p>		
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<p>5) If blasting or other noisy activities are required during the construction period, notify nearby residents and the permitting agencies 24 hours in advance.</p> <p>6) Properly maintain mufflers, brakes and all loose items on construction and operation related vehicles to minimize noise and ensure safe operations. Keep truck operations to the quietest operating speeds. Advise about downshifting and vehicle operations in residential communities to keep truck noise to a minimum.</p> <p>7) Use noise controls on standard construction equipment, shield impact tools. Consider use of flashing lights instead of audible back-up alarms on mobile equipment.</p> <p>8) Install mufflers on air coolers and exhaust stacks on all diesel and gas-driven engines. Equip all emergency pressure relief valves and steam blow-down lines with silencers to limit noise levels.</p> <p>9) Contain facilities within buildings or other types of effective noise enclosures.</p> <p>10) Employ engineering controls, including sound-insulated equipment and control rooms, to reduce noise.</p>		
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P.O. Box 1010, Lake Isabella, CA 93240

Historic Preservation Office
P.O. Box 401, Weldon, CA 93283

May 21, 2023

RE: Proposed Solar Project, Parcel Number 038-340-20;21

Cathleen Richards, Planning Director
P.O. Drawer L
Independence, CA 93526

Ms. Richards,

This is the letter you requested regarding the proposed 5 acre Solar Facility north of Trona CA. The tribe has concerns regarding possible impacts to prehistoric cultural resources that are to be found throughout the area. The tribe recommends culturally affiliated Native American consultants, monitors accompany archaeologists conducting Phase one surveys of the project and during all ground disturbing activities related to facility construction and transmission tie in facilities.

Sincerely,

Robert Robinson

Robert Robinson
Kern Valley Indian Community
Chairman and Tribal Historic Preservation Officer



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



December 20, 2023
Sent via email

Cynthia Draper
Assistant Planner
Inyo County Planning Department
P.O. Drawer L
Independence, CA 93526
cdraper@inyocounty.us

Subject: Mitigated Negative Declaration
Renewable Energy Permit 2023-01/SBC
State Clearinghouse No. 2023110666

Dear Ms. Draper

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the Inyo County Planning Department for the Renewable Energy Permit 2023-01/SBC (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the state. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Cynthia Draper, Assistant Planner
Inyo County Planning Department
December 20, 2023
Page 2

example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: Larry Trowsdale

Objective: The applicant is applying for a Renewable Energy Permit to construct a 2.0 megawatt (MW) photovoltaic (PV) solar facility using approximately 4,625 single-axis tracker solar panels.

Location: The Project is located on two five-acre parcels (Assessor's Parcel Numbers 038-340-20 and 038-340-21) in Inyo County, north of the unincorporated town of Trona, California.

Timeframe: The MND does not provide a proposed timeframe for construction and/or operational life of the Project.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Inyo County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

Project Description and Related Impact Shortcoming

Comment #1: Request for more detailed Project Description

Issue: The MND provides very little information regarding the Project description.

Evidence impact would be significant: Compliance with CEQA is predicated on a complete and accurate description of the Project, including reasonably foreseeable future phases of the proposed Project. Without a complete and accurate Project description, the MND likely provides an incomplete assessment of Project-related environmental impacts and CDFW is unable to provide a meaningful analysis of potential Project impacts to biological resources.

CDFW Recommendations: CDFW recommends that a revised MND provide additional details, such as a list of Project components (in addition to the solar array, access/internal roads, fencing, lighting, etc.); timeframe for construction, operations and maintenance, and

Cynthia Draper, Assistant Planner
Inyo County Planning Department
December 20, 2023
Page 3

decommissioning; and how the Project construction will occur. It should also include a map with current imagery of the Project area.

Environmental Setting and Related Impact Shortcoming

Comment #2: Assessment of Biological Resources

Issue: CDFW is concerned that the MND does not adequately identify the Project's significant or potentially significant impacts to biological resources.

Specific Impact: The MND states that according to the Biological Evaluation (BE), the Project will not adversely impact sensitive or special status native species, and no CDFW designated special status species were found in the Project area. CDFW appreciates that qualified biologists conducted protocol surveys in 2023 for special status species with the potential to occur within the Project area. However, although results of surveys did not detect the presence of any special status species and the Project area has been heavily impacted by human disturbance, that doesn't entirely preclude the possibility that special status species could use the site. The BE notes that "beyond the corridor of impacted properties along Trona Wildrose Road is extensive open space that extends to nearby protected lands throughout the Searles Valley and surrounding mountain ranges. These protected lands represent good to excellent habitat for native species" (BE page 3).

CDFW Recommendations: Please note that CDFW generally considers surveys for wildlife to be valid for one year and would recommend that surveys be repeated if the Project is delayed beyond that timeframe. Please also note that the BE available on the Inyo County website is missing Attachment 1-Mohave Ground Squirrel Report for the SBC Solar Project and CDFW requests that this report is made publicly available prior to adopting the MND. Further recommendations for resource-specific mitigation measures are detailed in the sections below.

Mitigation Measure and Related Impact Shortcomings

Comment #3: Impacts to Nesting Birds

Issue: The MND states that the Project will not result in impacts to nesting birds.

Specific impact: While the BE indicates that no nesting birds were located during biological surveys conducted during peak breeding season, it doesn't rule out the possibility that conditions could change such that Project activities could result in the disturbance of nesting birds.

Evidence impact would be significant: It is the Applicant's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Migratory non-game bird species are protected by international treaty under the federal Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 et. seq.). In addition, sections 3503, 3503.5, and 3513 of the Fish and Game Code also afford protective measures as follows: Section

Cynthia Draper, Assistant Planner
Inyo County Planning Department
December 20, 2023
Page 4

3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto; Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto; and Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the MBTA or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA.

Recommended Potentially Feasible Mitigation Measure:

CDFW recommends that a qualified biologist survey the Project area, not only for nesting birds, but also all bird activity to observe behavior that could be related to nest building, incubation, feeding of young and/or possible behavior that could indicate agitation and/or nest abandonment caused by Project activities. CDFW recommends the following mitigation measure to avoid take of nesting birds:

MM BIO-1 Avoidance of Nesting Birds Regardless of the time of year, a nesting bird survey shall be conducted by a qualified avian biologist no more than three days prior to vegetation clearing or ground disturbing activities and shall include any potential habitat (including shrubs, the ground or nearby structures).

Preconstruction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. Should nesting birds be found, an exclusionary buffer (depending upon the species) shall be established by the qualified biologist. The buffer shall be clearly marked in the field by construction personnel under guidance of the qualified biologist. A qualified biologist will continue to monitor active nests adjacent to active work areas to determine whether exclusionary buffers are sufficient to prevent stress or other negative behavioral changes to nesting birds. Exclusionary buffers may be adjusted at any time by a qualified biologist based on project activities and nesting bird behavior. If the qualified biologist determines that construction activities pose a disturbance to nesting, construction work shall be stopped in the area of the nest and the no disturbance buffer shall be expanded. No construction activities shall be allowed within the exclusionary buffer until the qualified biologist determines that the young have fledged, or the nest is no longer active.

Comment #4: California Endangered Species Act

Issue: CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to CESA. A CESA incidental take permit (ITP) is issued to conserve, protect, enhance, and restore State-listed CESA species and their habitats. CDFW recommends that a CESA ITP be obtained if the Project has the potential to result in "take" (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of CESA-listed species. Take of any

Cynthia Draper, Assistant Planner
Inyo County Planning Department
December 20, 2023
Page 5

CESA-listed species is prohibited except as authorized by state law (Fish and G. Code, §§ 2080 and 2085).

Specific impact: CESA-listed species that have potential to occur in the Project's vicinity include desert tortoise (*Gopherus agassizii*; threatened, candidate for endangered) and Mohave ground squirrel (*Xerospermophilus mohavensis*; threatened). Although no presence or sign of these species was detected during the surveys conducted, the BE notes that the Project area is within the known range of both, appropriate habitat occurs in the Project area, and observations have recently been recorded in the greater Searles Valley. In addition, the BE states that while the Project properties themselves do not present quality habitat for desert tortoise, it is possible that tortoises could travel onto the Project site from the surrounding landscape during routine travel and dispersal movements. To avoid unauthorized take of desert tortoise, CDFW recommends that the MND include the following mitigation measure:

Recommended potentially feasible mitigation measure:

Mitigation Measure BIO-2 Desert Tortoise Surveys Prior to ground disturbance or vegetation clearing within the Project site, a CDFW-approved biologist shall conduct a protocol level presence or absence survey within the Project area and a 500-foot buffer of suitable habitat, no more than 48 hours prior to Project activities and after any pause in Project activities lasting 30 days or more, in accordance with the most recent U.S. Fish and Wildlife (USFWS) desert tortoise survey methodology. The survey shall use perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign. Preconstruction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Results of the survey shall be submitted to CDFW prior to the start of Project activities. If surveys confirm presence or desert tortoise is observed during Operation and Maintenance and complete avoidance cannot be achieved, the Applicant shall not undertake Project activities and Project activities shall be postponed until the appropriate authorization (i.e., a California Endangered Species Act incidental take permit under the Fish and Game Code section 2081) is obtained. If an ITP is obtained, the impact to desert tortoise shall be mitigated at a minimum of 1:1 ratio.

Comment #5: Lake and Streambed Alteration Program

Issue: The MND does not address and evaluate Project impacts to Fish and Game Code section 1600 resources in the form of dry desert washes within the Project area.

Specific impact: The BE briefly mentions that there are no USGS drainages present on site and no above-ground water resources (seeps, springs, ponds, or streams) present. It does appear that the eastern parcel is denuded, but it is difficult for CDFW to discern, based on the limited information provided, whether any of what appears from aerial imagery of the western parcel to be potential dry desert wash features would be impacted by the Project.

Cynthia Draper, Assistant Planner
Inyo County Planning Department
December 20, 2023
Page 6

Evidence impact would be significant: Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your Project that would eliminate or reduce harmful impacts to fish and wildlife resources.

CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code § 21065). To facilitate issuance of an LSA Agreement, if necessary, the MND should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.

CDFW Recommendation: Prior to Project activities and issuance of any grading permit, the Applicant should submit a notification under section 1602 of the Fish and Game Code. If it is determined that a notification is not required for the Project, the Applicant shall receive a refund of fees. If notification is required CDFW will determine if an executed Streambed Alteration Agreement is needed to authorize impacts to Fish and Game Code section 1602 resources associated with the Project.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

Cynthia Draper, Assistant Planner
Inyo County Planning Department
December 20, 2023
Page 7

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)


CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist Inyo County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Rose Banks, Senior Environmental Scientist (Specialist) at (760) 218-0022 or Rose.Banks@wildlife.ca.gov.

Sincerely,

DocuSigned by:


Alisa Ellsworth

Environmental Program Manager

cc: Office of Planning and Research, State Clearinghouse, Sacramento
State.Clearinghouse@opr.ca.gov

Attachment 1: Mitigation Monitoring and Reporting Program (MMRP) for CDFW-Proposed Mitigation Measures

Cynthia Draper, Assistant Planner
 Inyo County Planning Department
 December 20, 2023
 Page 8

Attachment 1: Draft Mitigation Monitoring and Reporting Program (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Party
<p>MM BIO-1 Avoidance of Nesting Birds: Regardless of the time of year, a nesting bird survey shall be conducted by a qualified avian biologist no more than three days prior to vegetation clearing or ground disturbing activities and shall include any potential habitat (including shrubs, the ground or nearby structures). Preconstruction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. Should nesting birds be found, an exclusionary buffer (depending upon the species) shall be established by the qualified biologist. The buffer shall be clearly marked in the field by construction personnel under guidance of the qualified biologist. A qualified biologist will continue to monitor active nests adjacent to active work areas to determine whether exclusionary buffers are sufficient to prevent stress or other negative behavioral changes to nesting birds. Exclusionary buffers may be adjusted at any time by a qualified biologist based on project activities and nesting bird behavior. If the qualified biologist determines that construction activities pose a disturbance to nesting, construction work shall be stopped in the area of the nest and the no disturbance buffer shall be expanded. No construction activities shall be allowed within the exclusionary buffer until the qualified biologist determines that the young have fledged, or the nest is no longer active.</p>	<p>Prior to commencing vegetation clearing or ground-disturbing activities</p>	<p>Project Proponent</p>
<p>Mitigation Measure BIO-2 Desert Tortoise Surveys Prior to ground disturbance or vegetation clearing within the Project site, a CDFW-approved biologist shall conduct a protocol level presence or absence survey within the Project area and a 500-foot buffer of suitable habitat, no more than 48 hours prior to Project activities and after any pause in Project activities lasting 30 days or more, in accordance with the most recent U.S. Fish and Wildlife (USFWS) desert tortoise survey methodology. The survey shall use perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign. Preconstruction surveys cannot be combined with other surveys conducted for</p>	<p>Prior to commencing vegetation clearing or ground-disturbing activities</p>	<p>Project Proponent</p>

Cynthia Draper, Assistant Planner
Inyo County Planning Department
December 20, 2023
Page 9

<p>other species while using the same personnel. Results of the survey shall be submitted to CDFW prior to the start of Project activities. If surveys confirm presence or desert tortoise is observed during Operation and Maintenance and complete avoidance cannot be achieved, the Applicant shall not undertake Project activities and Project activities shall be postponed until the appropriate authorization (i.e., a California Endangered Species Act incidental take permit under the Fish and Game Code section 2081) is obtained. If an ITP is obtained, the impact to desert tortoise shall be mitigated at a minimum of 1:1 ratio.</p>		
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