



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA

Board of Supervisors Room - County Administrative Center
224 North Edwards, Independence, California

Pursuant to California Government Code 54953(b)(1), an additional videoconference/call-in location has been established for Supervisor Jeff Griffiths who will be attending this meeting via Zoom at 19 Barbour St., Glouster, OH 45732.

NOTICES TO THE PUBLIC: (1) This meeting is accessible to the public both in person and, for convenience, via Zoom webinar. The Zoom webinar is accessible to the public at <https://zoom.us/j/868254781>. The meeting may also be accessed by telephone at the following numbers: (669) 900-6833; (346) 248-7799; (253) 215-8782; (929) 205-6099; (301) 715-8592; (312) 626-6799. Webinar ID: 868 254 781. Anyone unable to attend the Board meeting in person who wishes to make either a general public comment or a comment on a specific agenda item may do so by utilizing the Zoom "hand-raising" feature when appropriate during the meeting (the Chair will call on those who wish to speak). Generally, speakers are limited to three minutes. Remote participation for members of the public is provided for convenience only. In the event that the remote participation connection malfunctions for any reason, the Board of Supervisors reserves the right to conduct the meeting without remote access. Regardless of remote access, written public comments, limited to 250 words or fewer, may be emailed to the Assistant Clerk of the Board at boardclerk@inyocounty.us. (2) In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Clerk of the Board at (760) 878-0373 (28 CFR 35.102-35.104 ADA Title II). Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Clerk of the Board 72 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format. (Government Code Section 54954.2). (3) If a writing, that is a public record relating to an agenda item for an open session of a regular meeting of the Board of Supervisors, is distributed less than 72 hours prior to the meeting, the writing shall be available for public inspection at the Office of the Clerk of the Board of Supervisors, 224 N. Edwards, Independence, California and is available per Government Code § 54957.5(b)(1).

REGULAR MEETING April 9, 2024

(Unless otherwise specified by time, items scheduled for either morning or afternoon sessions will be heard according to available time and presence of interested persons.)

Start Time

- 8:30 P.M.** 1) **Public Comment on Closed Session Item(s)**
Comments may be time-limited

CLOSED SESSION

- 2) **Conference with County's Labor Negotiators – Pursuant to Government Code §54957.6** – Regarding employee organizations: Deputy Sheriff's Association (DSA); Elected Officials Assistant Association (EOAA); Inyo County Correctional Officers Association (ICCOA); Inyo County Employees Association (ICEA); Inyo County Probation Peace Officers Association (ICPPOA); IHSS Workers; Law Enforcement Administrators' Association (LEAA). Unrepresented employees: all. County designated representatives – Administrative Officer Nate Greenberg, Deputy Personnel Director Keri Oney, County Counsel John-Carl Vallejo, Assistant County Counsel Christy Milovich, and Assistant Director of Budgets and General Services Denelle Carrington.
- 3) **Public Employment – Pursuant to Government Code §54957** – Title: Public Defender.

OPEN SESSION (With the exception of timed items, which cannot be heard prior to their scheduled time, all open-session items may be considered at any time and in any order during the meeting in the Board's discretion.)

- 10 A.M.**
- 4) **Pledge of Allegiance**
 - 5) **Report on Closed Session as Required by Law**
 - 6) **Public Comment**
Comments may be time-limited
 - 7) **County Department Reports**

CONSENT AGENDA (Items that are considered routine and are approved in a single motion; approval recommended by the County Administrator)

- 8) **Board of Supervisors Meeting Minutes**
Clerk of the Board | Assistant Clerk of the Board

Recommended Action: Approve the minutes from the regular meeting of March 19, 2024.
- 9) **Authorizing Supervisor Roeser to Remotely Attend Upcoming Board Meeting**
County Counsel | John-Carl Vallejo

Recommended Action: Determine that just cause exists pursuant to Government Code 54953(j)(2)(D) and authorize Supervisor Roeser to remotely attend the April 26, 2024 special Board of Supervisors meeting.
- 10) **Design Path Studio Contract Extension**
County Administrator | Nate Greenberg

Recommended Action: Approve Amendment No. 2 to the contract between the County of Inyo and Design Path Studio of Encinitas, CA, extending the term end date from March 30, 2024 through June 30, 2024, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.
- 11) **Motor Pool Vehicle Surplus Auction**
County Administrator - Motor Pool | Miquela Beall

Recommended Action:
 - A) Declare the vehicles and equipment identified in Exhibit A as surplus;
 - B) Authorize Motor Pool to offer the vehicles and equipment for sale utilizing the Public Surplus auction site; and
 - C) Authorize Motor Pool to utilize either the previously approved consignment auction agreement with Enterprise Fleet Management or another auctioneer for the removal and sale of any vehicles remaining unsold after the Public Surplus process.

12) **Contract between the County of Inyo and Enhanced Care Management Readiness Consultant - Optimas Services, Inc.**

Health & Human Services | Anna Scott

Recommended Action: Ratify and approve the proposed contract between Inyo County Health and Human Services (HHS) and Optimas Services Inc. for the provision of Enhanced Care Management readiness consultation services for the period of April 1, 2024 through April 1, 2025, contingent upon the Board's approval of future budgets, and authorize the HHS Director to sign, contingent upon all appropriate signatures being obtained.

13) **Cal-OAR System Improvement Plan**

Health & Human Services - Social Services | Morningstar Willis-Wagoner

Recommended Action: Approve the Cal-OAR System Improvement Plan.

14) **Hydrodynamics Group, LLC Contract Amendment No. 8**

Planning Department - Yucca Mountain Oversight | Cathreen Richards

Recommended Action: Approve Amendment No. 8 to the contract between the County of Inyo and the Hydrodynamics Group (Hydrodynamics) to amend Section 2 – Term of the agreement to be July 1, 2016 - June 30, 2025, and amend the term to be July 1, 2016 through June 30, 2025 on Attachments A-E as applicable, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign.

15) **Daniel B. Stephens & Associates, Inc. Contract Amendment No. 8**

Planning Department | Cathreen Richards

Recommended Action: Request Board approve Amendment No. 8 to the contract between the County of Inyo and Daniel B. Stephens and Associates, Inc. for the provision of hydrological services to amend all sections relating to the Term of the agreement to be April 25, 2017 to April 25, 2025, contingent upon the adoption of the Fiscal Year 2024-2025 Budget, and authorize the Chairperson to sign, contingent on all appropriate signatures being obtained.

16) **Lone Pine Architectural Design Review Board Appointments**

Planning Department | Cathreen Richards

Recommended Action: Staff is recommending that the Board re-appoint Kathi Hall, Sheyenne Quilter and Matthew Royce to the Lone Pine Architectural Design Review Board. These appointments include one member to serve as the "Qualified licensed architect" (Mathew Royce); one to serve as the "Lone Pine Chamber of Commerce" member (Kathi Hall); and, one to serve as the "public" member (Sheyanne Quilter) pursuant to Section 18.69.020(B) (1), (4) & (5) of the Inyo County Code.

17) **Amendment No. 6 to Agreement Between the County of Inyo and LSC Transportation Planning Consultants, Inc.**

Public Works | Michael Errante

Recommended Action:

- A) Ratify and approve Amendment No. 6 between the County of Inyo and LSC Transportation Planning Consultants, Inc. of Tahoe City, CA for the provision of transportation planning services by \$9,900 to an amount not to exceed \$261,132, and extending the term end date from June 30, 2024 to October 19, 2024, contingent upon the Board's approval of the Fiscal Year 2024-2025 Budget;
- B) Update Consultant's billing rates as of March 19, 2024; and
- C) Authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

REGULAR AGENDA - MORNING

18) **Resolution Directing the County of Inyo's Withdrawal from the California Cannabis Authority (CCA)**

Treasurer-Tax Collector | Alisha McMurtrie
10 minutes (5min. Presentation / 5min. Discussion)

Recommended Action: Approve Resolution No. 2024-09 directing the County of Inyo's withdrawal from the California Cannabis Authority (CCA) and rescission of Resolution 2018-46, and authorize the Chairperson to sign.

19) **Resolution Authorizing the Submittal of the Environmental Health Department Micro Enterprise Home Kitchen Operation (MEHKO) Grant Application**

Environmental Health | Jerry Oser
20 minutes (5min. Presentation / 15min. Discussion)

Recommended Action: Approve Resolution No. 2024-10, titled, "A Resolution of the Board of Supervisors, County of Inyo, State of California Authorizing the Submittal of the Environmental Health Department Micro Enterprise Home Kitchen Operation (MEHKO) Grant Application," and authorize the Chairperson to sign.

20) **Personal Services Contract - Assistant Public Works Director**

Public Works | Keri Oney
5 minutes (2.5min. Presentation / 2.5min. Discussion)

Recommended Action:

- A) Approve the contract between the County of Inyo and Fred Aubrey for the provision of personal services as the Assistant Public Works Director at Range 92, Step D, \$10,511 per month effective April 11, 2024, and authorize the Chairperson to sign;
- B) Approve the Job Description for the Assistant Public Works Director; and
- C) Direct staff to update the publicly available pay schedule accordingly.

- 21) **Quarterly Unified Command Meeting Update**
County Administrator - Emergency Services | Mikaela Torres
15 minutes

Recommended Action: Request Board hear update from the quarterly Unified Command meeting held on March 7, 2023.

- 22) **Update on the State of County Land Mobile Radio Systems**
County Administrator - Emergency Services/Information Services & Sheriff | Tim Bachman, Noam Shendar
15 minutes (5min. Presentation / 10min. Discussion)

Recommended Action: This is an informational item, however, the Board of Supervisors may provide direction to staff as appropriate.

- 23) **2024 Board of Supervisors Calendar Revisions**
Clerk of the Board | Nate Greenberg
10 minutes (5min. Presentation / 5min. Discussion)

Recommended Action: Approve revisions to the Board of Supervisors Calendar for the remainder of 2024 as suggested in the attached calendar document.

LUNCH

- 24) The Board will recess for lunch and reconvene for the afternoon session.

REGULAR AGENDA - AFTERNOON

- 1 P.M.** 25) **Continuance of Appeal No. 2023-02/Barker Solar**
Planning Department | Cynthia Draper
60 min (15min Presentation / 45min Discussion)

Recommended Action: Continue hearing and deny Appeal No. 2023-02 and uphold the Planning Commission's decision to approve Renewable Energy Permit 2022-01/Barker.

- 1 P.M.** 26) **Continuance of Appeal No. 2023-03/Barker Solar**
Planning Department | Cynthia Draper
60 minutes (15min. Presentation / 45min. Discussion)

Recommended Action: Continue hearing and deny Appeal No. 2023-03/Barker Solar and uphold the Planning Commission's decision to approve Renewable Energy Permit 2022-02/Barker.

27) **Resolution Establishing a Public Agencies Post-Employment Benefits Trust Administered by Public Agency Retirement Services (PARS)**

Treasurer-Tax Collector | Alisha McMurtrie
10 minutes (5min. Presentation / 5min. Discussion)

Recommended Action:

- A) Approve Resolution No. 2024-11 establishing a Public Agencies Post-Employment Benefits Trust that includes the Other Post-employee Benefits Trust and the Pension Rate Stabilization Trust, which is administered by PARS;
- B) Designate the County Administrative Officer, his designee and/or successor, as the County Plan Administrator and to take actions necessary in that role to administer the PARS agreement; and
- C) Authorize the County Administrator and Auditor-Controller to initiate those financial transactions to make deposits with PARS (trust administrator).

28) **Contract for Public Defender Services with Gerard Harvey**

County Counsel/County Administrator | Nate Greenberg, John Vallejo
10 minutes (5min. Presentation / 5min. Discussion)

Recommended Action: Approve the agreement between the County of Inyo and Gerard Harvey for the provision of public defender services in an amount not to exceed \$615,000 for the period of April 1, 2024, through June 30, 2027, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

ADDITIONAL PUBLIC COMMENT & REPORTS

29) **Public Comment**

Comments may be time-limited

30) **Board Member and Staff Reports**

Receive updates on recent or upcoming meetings and projects

CORRESPONDENCE - INFORMATIONAL

31) **California Fish & Game Commission** - Agenda for April 17-18, 2024 in San Jose, CA.



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AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-136

Public Employment – Pursuant to Government Code §54957 – Title: Public Defender.

County Administrator

NO ACTION REQUIRED

ITEM SUBMITTED BY

Nate Greenberg, County Administrative Officer

ITEM PRESENTED BY

Nate Greenberg, County Administrative Officer

RECOMMENDED ACTION:

asdf

BACKGROUND / SUMMARY / JUSTIFICATION:

asd

FISCAL IMPACT:

Funding Source	General Fund / Non-General Fund / Grant Funded (list grant funding sources here)	Budget Unit	
Budgeted?	Yes / No	Object Code	
Recurrence	One-Time Expenditure / Ongoing Expenditure		
Current Fiscal Year Impact			
Future Fiscal Year Impacts			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

sadf

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

ATTACHMENTS:

APPROVALS:

Nate Greenberg
Darcy Ellis
Nate Greenberg
Keri Oney
John Vallejo
Amy Shepherd
Nate Greenberg

Created -



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AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-138

Board of Supervisors Meeting Minutes

Clerk of the Board

ACTION REQUIRED

ITEM SUBMITTED BY

Clerk of the Board

ITEM PRESENTED BY

Assistant Clerk of the Board

RECOMMENDED ACTION:

Approve the minutes from the regular meeting of March 19, 2024.

BACKGROUND / SUMMARY / JUSTIFICATION:

The Board is required to keep minutes of its proceedings. Once the Board has approved the minutes as requested, the minutes will be made available to the public via the County's webpage, www.inyocounty.us.

FISCAL IMPACT:

Funding Source	N/A	Budget Unit	
Budgeted?	N/A	Object Code	
Recurrence	N/A		
Current Fiscal Year Impact			
Future Fiscal Year Impacts			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

N/A

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

ATTACHMENTS:

- Draft March 19, 2024 Minutes

APPROVALS:

Hayley Carter
Darcy Ellis

Created/Initiated - 4/4/2024
Final Approval - 4/4/2024

MINUTES



County of Inyo Board of Supervisors

March 19, 2024

The Board of Supervisors of the County of Inyo, State of California, met in regular session at the hour of 8:32 a.m., on March 19, 2024, in the Board of Supervisors Room, County Administrative Center, Independence, with the following Supervisors present: Chairperson Matt Kingsley, presiding, Scott Marcellin, Jennifer Roeser and Trina Orrill. Also present: County Administrator Nate Greenberg, Assistant County Counsel John-Carl Vallejo, and Assistant Clerk of the Board Darcy Ellis. Absent: Jeff Griffiths.

Closed Session The Chairperson asked for public comment related to closed session items and there was no
Public Comment one wishing to speak.

Closed Session Chairperson Kingsley recessed open session at 8:32 a.m. to convene in closed session with
all Board members present except Supervisor Griffiths to discuss the following item(s): No. 2
**Conference with County's Labor Negotiators – Pursuant to Government Code
§54957.6** – Regarding employee organizations: Deputy Sheriff's Association (DSA); Elected
Officials Assistant Association (EOAA); Inyo County Correctional Officers Association
(ICCOA); Inyo County Employees Association (ICEA); Inyo County Probation Peace Officers
Association (ICPPOA); IHSS Workers; Law Enforcement Administrators' Association (LEAA).
Unrepresented employees: all. County designated representatives – Administrative Officer
Nate Greenberg, Assistant County Administrator Sue Dishion, Deputy Personnel Director
Keri Oney, County Counsel John-Carl Vallejo, Assistant County Counsel Christy Milovich,
and Assistant Director of Budgets and General Services Denelle Carrington.

Open Session Chairperson Kingsley recessed closed session and reconvened the meeting in open session
at 10:04 a.m. with all Board members present.

Report on Closed County Counsel Vallejo reported that the Board met under Item No. 2 and that no action was
Session taken during closed session that is required to be reported.

Pledge of Allegiance Supervisor Orrill led the Pledge of Allegiance.

Announcements Chairperson Kingsley informed attendees that Supervisor Griffiths will not be physically in
attendance due to an obligation to testify at a State Senate hearing; that Item No. 13 was
pulled from today's agenda for discussion at a future date; and that there will be a special
item presented at 11:30 a.m. to honor retiring Assistant CAO Sue Dishion. County Counsel
Vallejo reported that parties to the appeal hearings scheduled for 1 p.m. have exercised their
prerogative to have them heard by the full Board, and as such they would be
continued/postponed.

Public Comment The Chairperson asked for public comment related to items not calendared on the agenda
and public comment was received from Lauralyn Hundley, Brian Lamb, Mary Roper, Oscar
Maciel, and Gina Martinez.

The Chairperson acknowledged the Lone Pine High School History Class in attendance and
thanked them for coming to observe today's proceedings.

County Department Public Works Director Mike Errante announced that Cap Aubrey was recently selected to be
Reports the new Assistant Public Works Director and provided road updates for Newman Road and
Whitney Portal Road. Errante said there will be an upcoming meeting with various agencies
to discuss construction plans for Whitney Portal Road.

HHS Director Anna Scott HHS announced that remote video conference capabilities with
Social Security are returning to Inyo on the 3rd Wednesday of every month and provided

information on mental health resources for individuals in crisis and/or needing mental health services such as counseling.

Assistant Clerk-Recorder Caroline Nott provided elections updates and said staff will be coming back to Board on April 2 to certify the March 5 election results.

Emergency Services Manager Mikaela Torres said the department hosted a multi-agency tabletop exercise on the new Genasys emergency notification platform and that she participated in an exercise with the Federal Emergency Management Agency (FEMA) on wildfire scenarios. Torres said staff are actively working on collaborative outreach opportunities with Health and Human Services and that efforts are being made to establish a Drought Resiliency Plan. She shared the first issue of a new Emergency Services newsletter with the Board.

HHS- Behavioral Health – Life Generations Healthcare LLC Amendment No. 2

Moved by Supervisor Marcellin and seconded by Supervisor Orrill to approve Amendment No. 2 to the agreement between the County of Inyo and Life Generations Healthcare LLC of Santa Ana, California removing "Heritage Park Nursing Center" from the Scope of Services in the agreement, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained. Motion carried 4-0 with Supervisor Griffiths absent.

HHS-ESAAA – CA Department of Aging/Area Plan Amendment No. 1

Moved by Supervisor Marcellin and seconded by Supervisor Orrill to ratify and approve Amendment No. 1 to the Standard Agreement for Contract Number AP-2324-16, between the County of Inyo and the California Department of Aging, increasing the overall allocation by \$27,777, for a total contract amount of \$1,588,363, and authorize the Health & Human Services Director to sign the Standard Agreement Amendment. Motion carried 4-0 with Supervisor Griffiths absent.

HHS-Health & Prevention – Change in Authorized Strength

Moved by Supervisor Marcellin and seconded by Supervisor Orrill to:

- A) Change the Authorized Strength in the Health and Human Services Public Health and Prevention Division by reclassifying one (1) Health and Human Services Specialist I-IV at Range 50-60 (\$3,347 - \$5,134) to a Prevention Specialist I-III at Range 60-66 (\$4,227 - \$5,910);
- B) Approve the attached job description; and
- C) Direct staff to update the publicly available pay schedule accordingly.

Motion carried 4-0 with Supervisor Griffiths absent.

HHS-Behavioral Health – Mental Health Plan Contract Amendment No. 22-20105 A1

Moved by Supervisor Marcellin and seconded by Supervisor Orrill to approve Amendment No. 22-20105 A1 to the Mental Health Plan (MHP) contract between the County of Inyo and the State of California's Department of Health Care Services (DHCS), for the provision of county mental health services for term July 1, 2022 to June 30, 2027, and designate the Health and Human Services Director, in her role as the County Mental Health Director, to sign the Standard Agreement and the Contractor Certification Clauses. Motion carried 4-0 with Supervisor Griffiths absent.

CAO-Emergency Services – Tropical Storm Hilary Local Emergency Continuation

Moved by Supervisor Marcellin and seconded by Supervisor Orrill to continue the local emergency proclaimed in response to Tropical Storm Hilary. Motion carried 4-0 with Supervisor Griffiths absent.

Public Works – McLaren Lane Road Closure

Moved by Supervisor Marcellin and seconded by Supervisor Orrill to approve the closure of McLaren Lane in Bishop, between the hours of 8:30 a.m. and 4:00 p.m. on Friday, March 22, 2024, to accommodate utility work performed by Southern California Edison. Motion carried 4-0 with Supervisor Griffiths absent.

HHS-Fiscal – Eastern Sierra CoC, Inyo, and Mono County MOU

The agenda item was moved from the Consent Agenda to the Regular Agenda for further discussion and Health and Human Services Director Anna Scott answered Board member questions.

Moved by Supervisor Roeser and seconded by Supervisor Orrill to approve the Memorandum of Understanding (MOU) between the County of Inyo, County of Mono, and

the Eastern Sierra Continuum of Care to establish the responsibilities of each party as they relate to the Regionally Coordinated Homeless Action Plan incorporated into the application for Homeless Housing, Assistance and Prevention Round 5 (HHAP-5) funding for the period of March 26, 2024 to June 30, 2029, and authorize the Health and Human Services Director to sign, contingent upon all appropriate signatures being obtained. Motion carried 4-0 with Supervisor Griffiths absent.

Item Pulled

Chairperson Kingsley announced the following item was being pulled from the agenda for consideration at a future date:

13) **Revisions to 2024 Board of Supervisors Calendar**

Clerk of the Board | Nate Greenberg

Recommended Action: Approve cancelation of the May 14, May 28, June 11, August 13, August 27, and November 26 Board of Supervisors meetings, and the addition of an April 23 Special Meeting.

*Board of Supervisors –
Fort Independence
Tribe Presentation*

Fort Independence Tribal Chairperson Carl Dahlberg and Vice Chairperson Alisa Lee updated the Board on the recent, successful transfer of the historic Mt. Whitney Fish Hatchery to the Tribe – the first transfer of its kind in the state. Dahlberg and Lee explained that it was important for the Tribe to be able to reclaim its spiritual lands, and also reported on plans to preserve, restore, and reopen the hatchery to the public. Dahlberg also noted the Tribe had entered an agreement with Friends of the Mt. Whitney Hatchery for continued maintenance operations.

Dahlberg also reported on various other projects and activities undertaken by the Tribe, including the Sacred Rock gravel pit, construction of a new travel plaza, and upgrades to the park on the Reservation.

*Treasurer-Tax
Collector –
Proposal of New
Post-Employment
Benefit Trust*

A presentation was given to the Board by the Public Agency Retirement Services (PARS) representatives on the status of the Inyo County OPEB Trust and the benefits of establishing a Pension Rate Stabilization Trust.

Moved by Supervisor Orrill and seconded by Supervisor Marcellin to direct the Treasurer-Tax Collector and Auditor-Controller to:

- A) Coordinate with PARS in amending the PARS Agreement for Administrative Services to reflect the change in Trustees from Union Bank N.A. to US Bank; and
- B) Prepare a Resolution adopting the combined Post-Employment Benefit Trust to be brought back to Board on April 2, 2024 for review and approval.

Motion carried 4-0 with Supervisor Griffiths absent.

Honoring Sue Dishion

Chairperson Kingsley introduced an item to honor Assistant County Administrative Officer Sue Dishion on the eve of her retirement after 32 years of service.

CAO Greenberg thanked the standing-room only crowd for being there to celebrate ACAO Dishion. Greenberg said that when he arrived at the County 18 months ago, one of the things he was deeply grateful for was the opportunity to work side by side with ACAO Dishion. Greenberg said, "Sue has been a mentor, she's been a coach, she's been a guidepost and above all, I think a friend and a confidant. I very much could not have stepped into this role without that support and without her by my side."

Greenberg explained the Administration's decision to establish a new award program, the Pinnacle Achievement Award, of which ACAO Dishion would be the first recipient. He clarified that the award is to be presented to select Inyo County employees who exemplify public service in a way that directly contributes to the success of the organization and furthers its goal of supporting the community.

CAO Dishion accepted the award and thanked her family, current and previous Boards, county administrators, county counsels, and employees, including the team that she worked with in Personnel for 25 years. She said, "We've been through it all. I couldn't have done it without them. They are rock stars. I had a great team but really, the most important, not just them, is all of the employees. They are your main asset in this county. They are what make

you and us, so I just want to say thank you to all the employees.”

Chairperson Kingsley said he “feels honored to have gotten to work with Sue” and invited Board members to comment.

Supervisor Orrill: “Looking at this room is such a testament to the affection that this organization as a whole has for her and because how you make people feel is what they remember and it’s very obvious that she makes the entire staff feel valued. And so, thank you and enjoy your retirement. You will be missed.”

Supervisor Marcellin: “Thank you for sacrificing your time. I know you and Deston have both had this sacrifice and your time and efforts to raise your family, but you committed for your staff and the rest of the employees.”

Supervisor Roeser: “Thank you for your guidance, thank you for always being available, God bless you and thank you so much for all you’ve done.”

Supervisor Griffiths: “Sue is the perfect combination of sweetness and strength that has served this community for so long. I appreciate the honesty and the clarity. I could tell Sue exactly what I thought, and she certainly didn’t hesitate to tell me exactly what she thought, which was greatly appreciated. I will remember you for your competence. Whenever we had a real issue, we knew that we could call on Sue and we could get the job done. It was all underpinned by the love that you have for this county, its employees, and the people here.”

Chairperson Kingsley asked if anyone from the audience wanted to make some brief comments.

Former Inyo County CAO (and one-time Auditor-Controller) Leslie Chapman shared three challenging scenarios in ACAO Dishion’s career where employees and department heads alike experienced ACAO Dishion’s expertise and kind, caring nature. Chapman concluded by saying, “This County has had the benefit of those 32 years; you could pay her millions of dollars and you would still get more than your money’s worth and so Sue: it’s been my great pleasure. I’m happy to be here today.”

Former Inyo County Counsel Paul Bruce praised ACAO Dishion’s loyalty, integrity, and dedication to the County, its citizens, and elected officials and said, “She always strived to bring about doing what was right for all of those entities and people and that’s not an easy job.”

Former Inyo Health & Human Services Director Marilyn Mann said she was proud to serve with ACAO Dishion in various capacities and thanked her for her guidance and for having the County’s best interests at heart. Mann then proceeded to sing “Suzi-Q” before leaving the podium.

Big Pine Fire Chief Damon Carrington thanked ACAO Dishion for being consistently attentive, for her willingness to be a sounding board, and for everything she has done for his family.

Independence Civic Club representatives Nancy Masters and Mary Roper announced the club’s intention to donate two new picnic tables in honor of ACAO Dishion to be placed behind the Courthouse.

In the interest of time, Chairperson Kingsley concluded comments by saying, “I’m going to bring this full circle and tell these high school students in attendance that Sue started at the lowest level in the County 32 years ago and she’s retiring with this kind of retirement. Keep that in mind, she didn’t come in as the County Administrator or the Assistant County Administrator, she started as a clerk and so, be inspired by that.”

Recess/Reconvene

The Chairperson recessed the meeting for a break at 12:03 p.m. and reconvened the meeting at 1:18 p.m. with all Board members present except Supervisor Griffiths.

***Planning Department –
Continuance of Appeal***

At the request of parties to the appeal exercising their option to have the hearings heard by the full Board, Appeal No. 2023-02/Barker Solar was continued to April 9 and Appeal No.

No. 2023-02/Barker
Solar & Postponement
of Appeal No. 2023-
03/Barker Solar

2023-03/Barker Solar was postponed to April 9.

*Auditor-Controller –
CalPERS Side Fund*

Auditor-Controller Amy Shepherd presented a proposal to use one-time funds to pay off almost \$2.5 million in existing pension-related debt and put away another \$1 million to help pre-fund pension cost increases, as well as redirect the annual debt payments to the same fund where the \$1 million seed money will go.

Moved by Supervisor Orrill and seconded by Supervisor Marcellin to:

- A) Direct the Auditor-Controller to pay off and retire the existing debt service, 2013 CalPERS Refunding loan agreement with Umpqua Bank;
- B) Amend the Fiscal Year 2023-2024 AC-CALPERS Refunding SF budget (010404) as follows: increase estimated revenue in (Operating Transfers In-4998) by \$3,500,000 and increase appropriation in (Principal on Notes Payable-5561) by \$2,456,000, (Interest on Notes-5553) by \$44,000, (Other Agency Contribution-5539) by \$1,000,000 and increase appropriation in LATCF budget (640299) (Operating Transfers Out-5801) by \$3,500,000 (*4/5ths vote required*);
- C) Fund an initial contribution of \$1,000,000 to the newly proposed Combined 115 Irrevocable Pension Trust for the purpose of pre-funding existing pension liabilities; and
- D) Direct the current fiscal year's budgeted debt service amount of a minimum of \$409,000 for the 2013 CalPERS Refunding loan to be reallocated on an annual basis to AC-CALPERS Refunding SF budget to be transferred to PARS for pre-funding of pension liabilities on an annual basis.

Motion carried 4-0 with Supervisor Griffiths absent.

*Clerk of the Board –
Bishop Rural Fire
Protection District
Board of
Commissioners
Appointment*

Assistant Clerk of the Board Darcy Ellis briefly explained that the Board had received three (3) letters of interest (from Gloriana Bailey, Tina Chinzi, and Meg Tracy) for a single vacancy on the Bishop Rural Fire Protection District Board of Commissioners. She said all candidates were extended the opportunity to provide additional information about themselves if they wished, and candidate Meg Tracy submitted additional material. Ellis also noted that the Bishop Volunteer Fire Department Association submitted a letter endorsing either Ms. Bailey or Ms. Tracy and Commission Chair Mike Holland sent a letter supporting the same two candidates just yesterday.

Moved by Supervisor Marcellin and seconded by Supervisor Kingsley to appoint Meg Tracy as Commissioner to the Bishop Rural Fire Protection Board for an unexpired four-year term ending July 1, 2027. Motion carried 3-0-1 with Supervisor Griffiths absent and Supervisor Orrill abstaining.

*County Counsel/CAO –
Rory Kalin Public
Defender Contract*

County Counsel John Vallejo explained some of the challenges facing the County in its attempt to fill the current Public Defender vacancies and the reasoning behind some restructuring.

Moved by Supervisor Orrill and seconded by Supervisor Marcellin to approve the agreement between the County of Inyo and Rory Kalin for the provision of public defender services in an amount not to exceed \$650,000 for the period of April 15, 2024, through June 30, 2027, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

Public comment was received from Jeremy Ibrahim.

Motion carried 4-0 with Supervisor Griffiths absent.

*Clerk of the Board –
Inyo County Fish and
Wildlife Commission
Request*

Moved by Supervisor Roeser and seconded by Supervisor Orrill to authorize a \$487.50 expenditure from the Fish and Game Budget to the Eastern Sierra Interpretive Center to cover costs associated with the design and distribution of a one-page Inyo County Fishing Regulations flyer which also includes an Inyo County Fishing map. Motion carried 4-0 with Supervisor Griffiths absent.

Public Comment

Chairperson Kingsley asked for public comment related to items not calendared on the agenda and there was no one wishing to speak.

Board Member & Staff Reports

Assistant Clerk of the Board Ellis said she took responsibility for Supervisor Griffiths being unable to remotely participate in today’s meeting. She said he had every intention of participating from Sacramento, but she failed to list his meeting location on the agenda as required by the Brown Act.

CAO Greenberg reported attending the Board meetings in Death Valley, Shoshone, and Tecopa; meeting with the regional air service group; and continuing to work on labor negotiations. He also announced the next CSAC Institute meeting would be held on March 27.

Chairperson Kingsley reported on the meetings in Southeast Inyo, noting that the well-attended Tecopa meeting is a perfect indicator that communities would need and would respond well to afternoon/evening meetings around the county. He noted not everyone is able to attend Board meetings during the day and would appreciate the outreach.

Supervisor Orrill agreed with Kingsley’s last comment, noting interest in her district for such meetings. She reported attending the Southeast Inyo meetings, a CSAC Board meeting, and a CSAC event in Palm Springs, and then joined Regional Broadband Coordinator Scott Armstrong and Supervisor Griffiths in testifying at a California Public Utilities Commission hearing in Indio regarding AT&T’s proposal to stop land-line service in Death Valley.

Supervisor Marcellin reported visiting Death Valley, attending the Great Basin Unified Air Pollution Control District and Owens Valley Groundwater Authority board meetings, and meeting with constituents.

Supervisor Roeser reported attending the Southeast Inyo meetings and said a second annual trip would be beneficial; said she attended an RCD meeting and safety training hosted by the Aspendell fire department volunteers; and announced an Ag Advisory Board meeting for next week.

Adjournment

The Chairperson adjourned the meeting at 2:41 p.m. to 8:30 a.m. Tuesday, April 2, 2024, in the County Administrative Center in Independence.

Chairperson, Inyo County Board of Supervisors

*Attest: NATE GREENBERG
Clerk of the Board*

by: _____
Darcy Ellis, Assistant



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-114

Authorizing Supervisor Roeser to Remotely Attend Upcoming Board Meeting County Counsel ACTION REQUIRED

ITEM SUBMITTED BY

County Counsel

ITEM PRESENTED BY

John-Carl Vallejo

RECOMMENDED ACTION:

Determine that just cause exists pursuant to Government Code 54953(j)(2)(D) and authorize Supervisor Roeser to remotely attend the April 26, 2024 special Board of Supervisors meeting.

BACKGROUND / SUMMARY / JUSTIFICATION:

The need has arisen to schedule a special meeting for April 26, 2024. However, Supervisor Jennifer Roeser will be attending a California Jobs First strategic planning meeting in Truckee on behalf of the County that day.

As such, this request is brought forward to your Board pursuant to Government Code Section 54953(f) et. seq. to allow for her remote participation at the April 26, 2024 meeting upon a finding of "just cause" by your Board. The Brown Act (via Government Code Section 54953(j)(2)(D)) defines "just cause" as "travel while on official business of the legislative body or another state or local agency." Supervisor Roeser's travel falls squarely within that definition. If this request is granted, this will be one of two possible remote meeting attendances Supervisor Roeser is permitted by the applicable Brown Act provisions.

FISCAL IMPACT:

Funding Source	N/A	Budget Unit	
Budgeted?	N/A	Object Code	
Recurrence	N/A		
Current Fiscal Year Impact			
Future Fiscal Year Impacts			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

Your Board could deny this request. This is not recommended as Supervisor Roeser's remote participation is warranted by her travel on County business, and her participation is important as there will be discussion regarding the County's response to LADWP's Annual Pumping Plan and she is an alternate on the Inyo-L.A. Standing Committee.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

ATTACHMENTS:

APPROVALS:

Darcy Ellis	Created/Initiated - 4/2/2024
John Vallejo	Approved - 4/2/2024
Nate Greenberg	Final Approval - 4/3/2024



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-135

Design Path Studio Contract Extension County Administrator ACTION REQUIRED

ITEM SUBMITTED BY

Rebecca Graves, Operations Analyst

ITEM PRESENTED BY

Nate Greenberg, County Administrative Officer

RECOMMENDED ACTION:

Approve Amendment No. 2 to the contract between the County of Inyo and Design Path Studio of Encinitas, CA, extending the term end date from March 30, 2024 through June 30, 2024, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

BACKGROUND / SUMMARY / JUSTIFICATION:

Design Path Studio (DPS) submitted final draft plan designs for Inyo County's "ADU and Single Family Home Design" program, and during the initial three month extension, Inyo County staff completed a thorough review of and requested adjustments to those plans. Updated plan mock-ups based on that feedback have been submitted by DPS, and Inyo County staff has reviewed and approved finalizing those plans without any further changes being required. For this reason we are requesting a second short, three month contract extension so that DPS may complete and submit the final plan sets, for which no further adjustments are anticipated.

FISCAL IMPACT:

Funding Source	N/A	Budget Unit	N/A
Budgeted?	N/A	Object Code	N/A
Recurrence	N/A		
Current Fiscal Year Impact			
Future Fiscal Year Impacts			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

The Board could decide not to extend the contract. This is not recommended, as a short extension allows adequate time to finalize the requested changes to the ADU plans before final approval.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

ATTACHMENTS:

1. Design Path Studio Contract w/ Amendment No.1
2. Amendment No. 2

APPROVALS:

Rebecca Graves	Created/Initiated - 4/3/2024
Darcy Ellis	Approved - 4/4/2024
Keri Oney	Approved - 4/4/2024
John Vallejo	Approved - 4/4/2024
Amy Shepherd	Approved - 4/4/2024
Nate Greenberg	Final Approval - 4/4/2024

In the Rooms of the Board of Supervisors

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 19th day of December 2023 an order was duly made and entered as follows:

CAO –
*Design Path Studios
Contract
Amendment No. 1*

Moved by Supervisor Marcellin and seconded by Supervisor Griffiths to approve Amendment No. 1 to the contract between the County of Inyo and Design Path Studios of Encinitas, CA, extending the term end date from December 31, 2023, through March 30, 2024, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained. Motion carried 4-0 with Supervisor Orrill absent.

Routing
CC Purchasing Personnel Auditor CAO Other: DATE: December 21, 2023

WITNESS my hand and the seal of said Board this 19th
Day of December, 2023



NATHAN GREENBERG
Clerk of the Board of Supervisors

A handwritten signature in blue ink, appearing to read "Nathan Greenberg".

By: _____



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

December 19, 2023

Reference ID:
2023-4442

Design Path Studios Contract Extension County Administrator

ACTION REQUIRED

ITEM SUBMITTED BY

Meaghan McCamman, Assistant County Administrator

ITEM PRESENTED BY

Meaghan McCamman, Assistant County Administrator

RECOMMENDED ACTION:

Approve Amendment No. 1 to the contract between the County of Inyo and Design Path Studios of Encinitas, CA, extending the term end date from December 31, 2023 through March 30, 2024, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

BACKGROUND / SUMMARY / JUSTIFICATION:

Design Path Studios has submitted final draft plan designs for Inyo County's "ADU and Single Family Home Design" program. Inyo County staff wants the opportunity to do a thorough review and create time for minor adjustments of the final plans, if necessary. For this reason we are requesting a short, 3 month contract extension to finalize the plan sets.

FISCAL IMPACT:

Funding Source	N/A	Budget Unit	N/A
Budgeted?	N/A	Object Code	N/A
Recurrence	N/A		
Current Fiscal Year Impact			
Future Fiscal Year Impacts			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

The Board could decide not to extend the contract. This is not recommended, as a short extension allows Inyo County staff adequate time to review the final draft ADU plans in-depth before final approval.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

ATTACHMENTS:

1. Design Path Studio Draft Contract
2. Amendment No. 1

APPROVALS:

Meaghan McCamman
Darcy Ellis
Nate Greenberg

Created/Initiated - 12/13/2023
Approved - 12/13/2023
Final Approval - 12/13/2023

**AGREEMENT AND FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE
COUNTY OF INYO & DESIGN PATH STUDIO FOR THE PROVISION OF PRE-
APPROVED ADU AND SINGLE-FAMILY HOME PLAN DESIGN SERVICES**

This Agreement and First Amendment is entered into December 19, 2023, by and between the County of Inyo (hereinafter, "County"), a political subdivision of the State of California, and Design Path Studio (hereinafter, "Contractor"), for the purposes of amending that certain Agreement between the County and Contractor, and executed by the same on July 21, 2023 and providing for Pre-Approved ADU and Single-Family Home Plan Design Service (the "Contract"). The County and Contractor are sometimes referred to herein collectively as "the parties."

NOW, THEREFORE, the parties agree as follows:

1. The Term of the Contract set forth in Paragraph 2 and restated throughout the Contract on Attachments A, B, and C is hereby extended through March 30, 2024.
2. All other terms and conditions of the Contract not expressly amended shall remain in full force and effect.

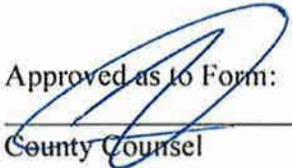
IN WITNESS THEREOF, AS SET FORTH BELOW, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS AS OF THE DATE FIRST ABOVE MENTIONED.

COUNTY OF INYO:



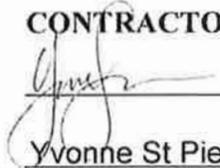
Jennifer Roeser, Board Chair

Approved as to Form:



County Counsel

CONTRACTOR:



Yvonne St Pierre, Owner | Architect
Print Name and Title

AGREEMENT BETWEEN COUNTY OF INYO

AND Design Path Studio
FOR THE PROVISION OF Pre-Approved ADU and Single Family Home Plan Design SERVICES

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the ADU and Single Family Design services of Design Path Studio of Encinitas, California (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK.

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Meaghan McCamman, whose title is: Assistant County Administrator. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

2. TERM.

The term of this Agreement shall be from June 6, 2023 to December 31, 2023 unless sooner terminated as provided below.

3. CONSIDERATION.

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed Eighty Thousand Dollars

(\$80,000) (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ET CETERA.

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

7. COUNTY PROPERTY.

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

8. INSURANCE.

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment C and with the provisions specified in that attachment.

9. STATUS OF CONTRACTOR.

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

10. DEFENSE AND INDEMNIFICATION.

Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damages which was caused by the sole negligence or willful misconduct of the County.

11. RECORDS AND AUDIT.

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

12. NONDISCRIMINATION.

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

13. CANCELLATION.

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

14. ASSIGNMENT.

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

15. DEFAULT.

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

16. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-two (22) below.

17. CONFIDENTIALITY.

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

18. CONFLICTS.

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

19. POST AGREEMENT COVENANT.

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

20. SEVERABILITY.

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

21. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-two (22) (Amendment).

22. AMENDMENT.

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

23. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo	
<u>Inyo County Administration</u>	Department
<u>PO Drawer N</u>	Address
<u>Independence CA 93526</u>	City and State

Contractor:	
<u>Design Path Studio</u>	Name
<u>100 Chesterfield Drive</u>	Address
<u>Encinitas, CA 92007</u>	City and State

24. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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AGREEMENT BETWEEN COUNTY OF INYO
AND Design Path Studio
FOR THE PROVISION OF ADU and Single Family Home Plan Design **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS
THIS 21st DAY OF July, 2023

COUNTY OF INYO

By: _____



Signature

Jennifer Roeser

Print or Type Name

Dated: 07/21/2023

CONTRACTOR

By: _____



Signature

YVONNE ST PIERRE

Print or Type Name

Dated: 6/19/23

APPROVED AS TO FORM AND LEGALITY:

County Counsel

APPROVED AS TO ACCOUNTING FORM:

County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

County Risk Manager

ATTACHMENT A

**AGREEMENT BETWEEN COUNTY OF INYO
AND Design Path Studio
FOR THE PROVISION OF ADU and Single Family Home Plan Designs **SERVICES****

TERM:

FROM: June 6, 2023 **TO:** December 31, 2023

SCOPE OF WORK:

Please see the document titled "Attachment A" for the Scope of Work for this project.

Attachment A
Scope of Work
Agreement between the County of Inyo and Design Path Studio for the Provision of
ADU and Single Family Home Plan Design Services

From June 27, 2023 to December 31, 2023

Contractors proposal is attached hereto and incorporated herein to the extent not in conflict or inconsistent with the express terms of this agreement and the language below.

Design:

- Contractor shall attend a Kick Off meeting with Inyo County staff to refine the scope of services, timeline, and steps for completion of building plans.
- Contractor shall develop at least twelve (12) conceptual floor plans, each with up to three corresponding architectural styles.
- Contractor will provide County staff with at least twelve (12) conceptual floor plans, each with up to three corresponding architectural styles for County staff review and provide direction to Contractor.
- Contractor will virtually (or in person if it so desires) attend a meeting of the Inyo County Board of Supervisors ("Board") to provide a preview of the conceptual designs and gather feedback from the Board.
- Contractor shall provide at least twelve (12) finalized building plan sets, compliant with all applicable federal, state, and local laws and regulations, incorporating the final feedback from County staff within four weeks after receiving direction from County Staff and Board.
- Contractor will prepare an ADU guide that will assist applicants with ADU regulations and how to use the pre-approved design program.

Notwithstanding the language set forth in Section 7 County Property (B), the Architect may use the materials, photograph, or make artistic recordation of the Project for use in promotional or professional materials, without including any confidential information of the Owner. The Owner shall provide professional credit in its promotional materials to recognize the design by and Instruments of Service furnished by the Architect at this Project.

Neither this Agreement nor any exhibit thereto is intended to or shall vest any rights to any third party including, but not limited to, the public at large, any public entity, Owner's Consultants, Contractors, Sub Contractors, Vendors, Sureties, Insurers, Lenders or any other person or entity with an interest in the Project.

The Parties agree to meet, in person, within 7 calendar days written notice, with each other, to resolve any dispute(s). In the event any dispute continues, the parties agree to Mediation before a mutually selected Mediator within 30 days following the in-person meeting and share the costs equally.

This Agreement is made and shall be interpreted under the laws of the State of California.

Neither Party shall be liable for any failure or delay in performing its obligations under this Agreement if and to the extent that such failure or delay is caused by a Force Maejure. For the purpose of this Agreement, a Force Maejure is defined as the following: acts of war, terrorist attacks, epidemics, pandemics, death, supply chain delay or disruption, loss of energy or power, fire, floods, sea level rise, labor strikes, riots, crime or property theft, acts of God, natural disasters, governmental shut-downs or interruptions, and inability of Architect to process plans due to delays at building departments or governmental entities.

ATTACHMENT B

**AGREEMENT BETWEEN COUNTY OF INYO
AND Design Path Studio
FOR THE PROVISION OF ADU and Single Family Home Plan Design **SERVICES****

TERM:

FROM: June 6, 2023 **TO:** December 31, 2023

SCHEDULE OF FEES:

Total contract amount is for \$80,000.

Notwithstanding the language set forth in Section 3. Consideration (E), the payment amount will be invoiced by the Architect and paid by the owner within 30 days of invoice in two lump sum payments:

50% (\$40,000) shall be paid upon invoice after the completion of Design Process 3: Submission of Final Draft Building Plan Set.

The second 50% (\$40,000) shall be paid upon invoice after the completion of Design Process 5: Submission of Publication-Ready Plans, Images, and Materials

ATTACHMENT C

**AGREEMENT BETWEEN COUNTY OF INYO
AND Design Path Studio
FOR THE PROVISION OF ADU and Single Family Home Plan Design **SERVICES****

TERM:

FROM: June 6 2023 **TO:** December 31, 2023

SEE ATTACHED INSURANCE PROVISIONS

Attachment C: 2023 Insurance Requirements for Professional Services – ADU Plan Design

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Professional Liability:** Insurance appropriate to the Contractor's profession, with limit no less than **\$1,000,000** per occurrence or claim, **\$3,000,000** aggregate.
2. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
 1. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage. *Provision may be waived with signed letter on contractor's letterhead certifying that no auto or mobile equipment will be used for/during the execution of the contract.*
 2. **Workers' Compensation** insurance as required by the State of California, with **Statutory Limits**, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. *Provision may be waived if Vendor/Consultant provides written declaration of the following: (a) Vendor/Consultant has no employees and agrees to obtain workers' compensation insurance and notify Inyo County if any employee is hired, (b) Vendor/Consultant agrees to verify proof of coverage for any subVendor/Consultants, and (c) Vendor/Consultant agrees to hold Inyo County harmless and defend Inyo County in the case of claims arising for failure to provide benefits.*

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, Inyo County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Inyo County.

OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status: Inyo County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

Attachment C: 2023 Insurance Requirements for Professional Services – ADU Plan Design

Primary Coverage: For any claims related to this contract, the **Contractor's insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects Inyo County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Inyo County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

Umbrella or Excess Policy: The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

Notice of Cancellation: Each insurance policy required above shall state that coverage shall not be canceled, except with notice to Inyo County.

Waiver of Subrogation: Contractor hereby grants to Inyo County a waiver of any right to subrogation which any insurer of said Contractor may acquire against Inyo County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Inyo County has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions: Self-insured retentions must be declared to and approved by Inyo County. Inyo County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$50,000 unless approved in writing by Inyo County. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. Inyo County may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. Inyo County reserves the right to obtain a copy of any policies and endorsements for verification.

Acceptability of Insurers: Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to Inyo County.

Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

**Attachment C: 2023 Insurance Requirements for
Professional Services – ADU Plan Design**

3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.

Verification of Coverage: Contractor shall furnish Inyo County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause **and a copy of the Declarations and Endorsement Page of the CGL policy and any Excess policies listing all policy endorsements.** All certificates and endorsements and copies of the Declarations and Endorsements pages are to be received and approved by Inyo County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor’s obligation to provide them. Inyo County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Subcontractors: Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Inyo County is an additional insured on insurance required from subcontractors.

Special Risks or Circumstances: Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

-end-

**AGREEMENT AND SECOND AMENDMENT TO THE AGREEMENT BETWEEN THE
COUNTY OF INYO & DESIGN PATH STUDIO FOR THE PROVISION OF PRE-
APPROVED ADU AND SINGLE-FAMILY HOME PLAN DESIGN SERVICES**

This Agreement and Second Amendment is entered into _____, 2024, by and between the County of Inyo (hereinafter, "County"), a political subdivision of the State of California, and Design Path Studio (hereinafter, "Contractor"), for the purposes of amending that certain Agreement between the County and Contractor, and executed by the same on July 21, 2023 and providing for Pre-Approved ADU and Single-Family Home Plan Design Service (the "Contract"). The County and Contractor are sometimes referred to herein collectively as "the parties."

NOW, THEREFORE, the parties agree as follows:

1. The Term of the Contract set forth in Paragraph 2 and restated throughout the Contract on Attachments A, B, and C is hereby extended through June 30, 2024.
2. All other terms and conditions of the Contract not expressly amended shall remain in full force and effect.

IN WITNESS THEREOF, AS SET FORTH BELOW, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS AS OF THE DATE FIRST ABOVE MENTIONED.

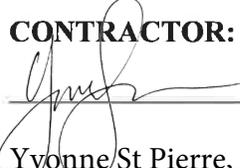
COUNTY OF INYO:

Matt Kingsley, Board Chair

Approved as to Form:

County Counsel

CONTRACTOR:



Yvonne St Pierre, Owner | Architect
Print Name and Title



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-232

Motor Pool Vehicle Surplus Auction County Administrator - Motor Pool ACTION REQUIRED

ITEM SUBMITTED BY

Miquela Beall

ITEM PRESENTED BY

Miquela Beall

RECOMMENDED ACTION:

A) declare the vehicles and equipment identified in Exhibit A as surplus; B) authorize Motor Pool to offer the vehicles and equipment for sale utilizing the Public Surplus auction site; and C) authorize Motor Pool to utilize either the previously approved consignment auction agreement with Enterprise Fleet Management or another auctioneer for the removal and sale of any vehicles remaining unsold after the Public Surplus process.

BACKGROUND / SUMMARY / JUSTIFICATION:

Since 2015, Inyo County has used the online auction site Public Surplus to dispose of surplus vehicles with great success. This system provides the opportunity for local government agencies, special districts, non-profit agencies, county residents, and the general public to purchase surplus County vehicles online. The auction will be conducted over a one-week period, and will be accompanied by local advertising. There will be a reserve price on each vehicle as the minimum bid, and each vehicle that meets or exceeds the reserve price will be sold to the highest bidder. All payments will be processed through Public Surplus. At the end of the auction, unsold vehicles will be sold through a traditional auction agreement (using a competitive process), unless a cost benefit analysis determines that the net proceeds will be greater by selling the vehicles as scrap metal. All proceeds will be deposited into the Motor Pool replacement fund and used for future purchases and/or Motor Pool operations.

FISCAL IMPACT:

Proceeds from the auction of surplus vehicles go into the Motor Pool Replacement Fund, budget 200200. The funds will be used as capitalization reduction payments on new vehicle leases to reduce the monthly cost of the new/ replacement vehicles to the County.

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

Your Board could choose not to declare these vehicles as surplus and not approve them for auction, but that is not recommended. Staff believe that the age and mileage of these vehicles make them too costly to maintain and unreliable for use by County staff to serve the community. Your Board could also choose not to approve the use of Public Surplus and instead require staff to conduct a live auction, but that is also not recommended. Based on past experience, online auction is the best option as it allows for the most access for the community and is the most efficient use of County staff time.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None

ATTACHMENTS:

1. 2024 MP Vehicle Surplus List

APPROVALS:

Miquela Beall	Created/Initiated - 3/21/2024
Darcy Ellis	Approved - 3/21/2024
John Vallejo	Approved - 3/21/2024
Amy Shepherd	Approved - 3/26/2024
Denelle Carrington	Final Approval - 3/26/2024

Asset #	Year, Make, Model, Color	VIN	Mileage
8521	2008 Ford Escape - Cream	1FMCU93118KB03806	158904
8547	2008 Ford Escape - Sage	1FMCU93128KE20011	127057
8693	2008 Ford Escape - Sage	1FMCU93198KE60280	126440
8802	2010 Ford Focus - Silver	1FAHP3FN1AW133017	121697
8801	2010 Ford Focus - Green	1FAHP3FNXAW133016	45794
8487	2008 Ford Escape - Blue	1FMCU931X8KA70966	146843
9423	2013 Toyota Rav4 - Silver	2T3BFREV8DW111896	180638
9274	2013 Ford Focus - Gray	1FADP3F25DL223569	75157
9275	2013 Ford Focus - Red	1FADP3F23DL223568	63516
8936	2011 Ford Fusion - Blue	3FAHP0HG9BR262642	107083
8442	2006 Chevy Colorado	1GCDT196768296134	94586
8835	2010 Ford Focus - White	1FAHP3FN7AW227337	110905
9118	2012 Ford Focus - Gray	1FAHP3H20CL372419	46932



INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-222

Contract between the County of Inyo and Enhanced Care Management Readiness Consultant - Optimas Services, Inc.

Health & Human Services

ACTION REQUIRED

ITEM SUBMITTED BY

Melissa Best-Baker, Deputy Director - Fiscal Oversight and Special Operations

ITEM PRESENTED BY

Anna Scott, Health & Human Services Director

RECOMMENDED ACTION:

Ratify and approve the proposed contract between Inyo County Health and Human Services (HHS) and Optimas Services Inc. for the provision of Enhanced Care Management readiness consultation services for the period of April 1, 2024 through April 1, 2025, contingent upon the Board's approval of future budgets, and authorize the HHS Director to sign, contingent upon all appropriate signatures being obtained.

BACKGROUND / SUMMARY / JUSTIFICATION:

The Health and Human Services Department issued a Request for Proposals that was advertised from February 2 to March 1, 2024, inviting proposals from qualified bidders to implement and offer a comprehensive array of consulting services to equip Inyo County Health and Human Services with the necessary support to efficiently prepare for planning, completing applications, and executing Enhanced Care Management (ECM) services under the CalAIM initiative for Medi-Cal beneficiaries. Optimas Services Inc. submitted a proposal in response to the RFP, and under the proposed contract, will provide HHS with support to successfully apply to become an ECM provider for one or more populations of focus. Enhanced Care Management (ECM) is a statewide Medi-Cal managed care plan (MCP) benefit that provides person-centered, community-based care management to the highest need members. It is the highest care management tier of the Medi-Cal MCP Population Health Management continuum.

Funding for this contract originates from the CA Department of Healthcare Services' PATH Justice Involved Round 2 grant award. Inyo County Health and Human Services proposed the designated funding for the acquisition of Enhanced Care Management Readiness Consultant services during the planning process, which was subsequently approved during the final operating budget review by DHCS. HHS is requesting that your Board approve the contract with Optimas Services so that the Department may receive support to successfully prepare for, and eventually provide ECM services in Inyo County.

FISCAL IMPACT:

Funding Source	Grant Funded (CalAIM Path Justice Involved grant)	Budget Unit	045100
Budgeted?	Yes	Object Code	5265
Recurrence	One-Time Expenditure		
Current Fiscal Year Impact			
Future Fiscal Year Impacts			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

Your Board may deny the request to approve this contract, or may suggest amendments to the contract for Enhanced Care Management Readiness Consultant services by Optimas Services Inc. in order to facilitate its approval. Doing so would delay HHS enrollment as a provider and delay delivery of Enhanced Care Management services.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

ATTACHMENTS:

1. Optimas Services Inc. Agreement

APPROVALS:

Timothy Whitney	Created/Initiated - 3/25/2024
Melissa Best-Baker	Approved - 3/25/2024
Darcy Ellis	Approved - 3/26/2024
Timothy Whitney	Approved - 3/26/2024
Anna Scott	Approved - 3/26/2024
Timothy Whitney	Approved - 3/26/2024
Melissa Best-Baker	Approved - 3/26/2024
Keri Oney	Approved - 3/26/2024
John Vallejo	Approved - 4/1/2024
Christian Milovich	Approved - 4/3/2024
Amy Shepherd	Approved - 4/4/2024
Nate Greenberg	Final Approval - 4/4/2024

AGREEMENT BETWEEN COUNTY OF INYO

AND Optimas Services, Inc.
FOR THE PROVISION OF Enhance Care Management Enrollment Consultant SERVICES

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") may have the need for the consulting services of Optimas Services, Inc. (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK.

The Contractor shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by Melissa Best-Baker, whose title is: HHS Deputy Director. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

2. TERM.

The terms of this Agreement shall be from April 1st, 2024 to April 1st, 2025 unless sooner terminated as provided below.

3. CONSIDERATION.

A. Compensation. County shall pay to Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Contractor at the County's request.

B. Travel and per diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by County under this Agreement.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed One Hundred and Twenty Thousand Dollars (\$120,000), (hereinafter referred to as "contract limit").

County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and payment. Contractor shall submit to the County, once a month, an itemized statement of all services and work described in Attachment **A**, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to ensure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ET CETERA.

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

7. COUNTY PROPERTY.

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

8. INSURANCE.

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment C and with the provisions specified in that attachment.

9. STATUS OF CONTRACTOR.

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

10. DEFENSE AND INDEMNIFICATION.

Contractor shall hold harmless, defend and indemnify County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damages which was caused by the sole negligence or willful misconduct of the County.

11. RECORDS AND AUDIT.

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

12. NONDISCRIMINATION.

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

13. CANCELLATION.

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor thirty (30) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

14. ASSIGNMENT.

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

15. DEFAULT.

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

16. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-two (22) below.

17. CONFIDENTIALITY.

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

18. CONFLICTS.

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

19. POST AGREEMENT COVENANT.

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

20. SEVERABILITY.

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

21. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-two (22) (Amendment).

22. AMENDMENT.

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

23. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo
Health and Human Services Department
1360 North Main Street, Suite 201 Address
Bishop, CA 93514 City and State

Contractor:
Optimas Services, Inc. Name
1151 Harbor Bay Pkwy., #124-B Address
Alameda, CA 94502 City and State

24. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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AGREEMENT BETWEEN COUNTY OF INYO

AND Optimas Services, Inc.

FOR THE PROVISION OF Enhanced Care Management Enrollment Consultant **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS
THIS _____ DAY OF _____.

COUNTY OF INYO

CONTRACTOR

By: _____
Signature

By: Patrick Sutton
Signature

Print or Type Name

Patrick Sutton
Print or Type Name

Dated: _____

Dated: 3/14/2024

APPROVED AS TO FORM AND LEGALITY:

County Counsel

Christian E. Milovich

APPROVED AS TO ACCOUNTING FORM:

Christie Martindale
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

K. Oney
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

Aaron Holmberg
County Insurance Manager

ATTACHMENT A

**AGREEMENT BETWEEN COUNTY OF INYO
AND Optimas Services, Inc.
FOR THE PROVISION OF Enhanced Care Management Enrollment Consultant **SERVICES****

TERM:

FROM: April 1st, 2024 **TO:** April 1st, 2025

SCOPE OF WORK:

The qualified contractor will provide a comprehensive array of consulting services. The objective is to enable Inyo County Health and Human Services to effectively prepare for the planning, application completion, and implementation of Enhanced Care Management service provision.

Under the administrative over-site of the HHS Deputy Director, the Enhanced Care Management Enrollment Consultant offers expert consultations encompassing, but not confined to, the following services: development of policies and procedures, creation of implementation plans, establishment of billing infrastructure, completion of Enhanced Care Management provider enrollment applications, and conducting a comprehensive implementation cost study for longevity and sustainability.

This contract will allow Inyo County HHS to acquire professional expertise and consultation so that the provision Enhanced Care Management services can be initiated. The Enhanced Care Management Enrollment Consultant will be expected to work closely with all Inyo County divisions and participate in multi-disciplinary team meetings

Expectations:

1. The Enhanced Care Management Enrollment Consultant will craft policies and procedures essential for the implementation of ECM services.
2. The Enhanced Care Management Enrollment Consultant will formulate an implementation plan that outlines the systematic delivery of ECM services.
3. The Enhanced Care Management Enrollment Consultant will work with County to identify a software system to capture the required data for the systematic delivery of ECM services.
4. The Enhanced Care Management Enrollment Consultant will lead the effort to finalize the submission of ECM provider applications in collaboration with Inyo County HHS Administrative staff.
5. The Enhanced Care Management Enrollment Consultant will actively engage in the formulation of a strategic plan for the implementation of ECM service billing structure.
6. The Enhanced Care Management Enrollment Consultant will conduct a comprehensive implementation cost study, ensuring the financial sustainability and prolonged effectiveness of ECM services post-implementation.
7. The Enhanced Care Management Enrollment Consultant will showcase a profound understanding of current principles, procedures, and processes pertinent to the CalAIM initiative, as well as the intricate workings of Enhanced Care Management implementation.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO

AND Optimas Services, Inc.

FOR THE PROVISION OF Enhanced Care Management Enrollment Consultant SERVICES

FROM: April 1st, 2024

TO: April 1st, 2025

SCHEDULE OF FEES:

- Craft policies and procedures essential for the implementation of ECM services: \$12,500

- Formulate an implementation plan that outlines the systematic delivery of ECM services: \$17,500

- Identify a software system to capture the required data for the delivery of ECM services: \$20,000

- Lead the effort to finalize the submission of ECM provider application: \$20,000

- Formulation of a strategic plan for the implementation of ECM service billing structure: \$25,000

- Conduct a comprehensive implementation cost study: \$20,000

- Total:
\$115,000

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO

AND Optimas Services, Inc.

FOR THE PROVISION OF Enhanced Care Management Enrollment Consultant SERVICES

TERM:

FROM: April 1st, 2024

TO: April 1st, 2025

SEE ATTACHED INSURANCE PROVISIONS

Attachment C: 2023 Insurance Requirements for Most Professional Services Agreements

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage. *(Coverage requirement may be waived if Contract scope of work specifies that performance shall be remote.)*
3. **Workers’ Compensation** insurance as required by the State of California, with **Statutory Limits**, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. *(Provision may be waived if Contractor provides written declaration of the following: (a) Contractor has no employees and agrees to obtain workers’ compensation insurance and notify Inyo County if any employee is hired, (b) Contractor agrees to verify proof of coverage for any subcontractor, and (c) Contractor agrees to hold Inyo County harmless and defend Inyo County in the case of claims arising for failure to provide benefits.)*
4. **Professional Liability:** Insurance appropriate to the Contractor’s profession, with limit no less than **\$2,000,000** per occurrence or claim, **2,000,000** aggregate.
5. **Abuse/Molestation Liability:** Sexual assault and misconduct (“SAM”) coverage with limits no less than \$1,000,000 per occurrence, \$2,000,000 aggregate. *(Coverage requirement is waived if contract does not include service to minors or other potentially vulnerable populations. Minors are persons under the age of 18.)*
6. **Cyber Liability:** **\$1,000,000** per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations undertaken by Contractor in this agreement as to maintaining the security of client medical information and/or County financial and/or personnel records. Coverage shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expense. *(Coverage requirement is waived if contractor has no access to client medical information and/or County financial and/or personnel records. Coverage requirement is reinstated if access is granted or acquired.)*

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, Inyo County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Inyo County.

Attachment C: 2023 Insurance Requirements for Most Professional Services Agreements

OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status: Inyo County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

Primary Coverage: For any claims related to this contract, the **Contractor's insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects Inyo County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Inyo County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

Umbrella or Excess Policy: The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

Notice of Cancellation: Each insurance policy required above shall state that coverage shall not be canceled, except with notice to Inyo County.

Waiver of Subrogation: Contractor hereby grants to Inyo County a waiver of any right to subrogation which any insurer of said Contractor may acquire against Inyo County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Inyo County has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions: Self-insured retentions must be declared to and approved by Inyo County. Inyo County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$50,000 unless approved in writing by Inyo County. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. Inyo County may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense

Attachment C: 2023 Insurance Requirements for Most Professional Services Agreements

costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. Inyo County reserves the right to obtain a copy of any policies and endorsements for verification.

Acceptability of Insurers: Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to Inyo County.

Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

Verification of Coverage: Contractor shall furnish Inyo County with original certificates and mandatory endorsements or copies of the applicable policy language effecting coverage required by this clause **and a copy of the Declarations and Endorsement Page of the CGL policy and any Excess policies listing all policy endorsements**. All certificates and endorsements and copies of the Declarations and Endorsements pages are to be received and approved by Inyo County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. Inyo County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Subcontractors: Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Inyo County is an additional insured on insurance required from subcontractors.

Duration of Coverage: CGL & Excess liability policies for any construction related work, including, but not limited to, maintenance, service, or repair work, shall continue coverage for a minimum of 5 years for Completed Operations liability coverage. Such Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

Special Risks or Circumstances: Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

-end-



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-175

Cal-OAR System Improvement Plan Health & Human Services - Social Services ACTION REQUIRED

ITEM SUBMITTED BY

Tyler Davis, Administrative Secretary III

ITEM PRESENTED BY

Morningstar Willis-Wagoner, Deputy Director, Public Assistance and Aging

RECOMMENDED ACTION:

Approve the Cal-OAR System Improvement Plan.

BACKGROUND / SUMMARY / JUSTIFICATION:

In compliance with the requirements set forth by the California Department of Social Services (CDSS), Inyo County Health and Human Services (HHS) Public Assistance and Aging division was required to develop a County Self-Assessment (CSA) plan by December 1, 2023, as part of the California CalWORKS Outcomes and Accountability Review (Cal-OAR). The primary aim of Cal-OAR is to establish a community-centered, data-driven program management system, facilitating the continuous improvement of county CalWORKs programs through the collection, analysis, and dissemination of data concerning program outcomes and best practices. In addition to the CSA, the process also entails the development of a System Improvement Plan (SIP) and Progress Reports.

This initial FY 23/24-25/26 Cal-OAR Continuous Quality Improvement (CQI) cycle is a learning process for all California Counties. In Inyo, the Health and Human Services Department contracted with and received technical assistance from Shared Vision Consultants, who assisted the county in writing the initial System Improvement Plan. The Cal-SIP considers information gathered during the CSA to establish goals for programmatic improvement in the CalWORKs program that we want to achieve throughout the remainder of this current CQI cycle. The Public Assistance and Aging division has identified one performance measure, Welfare to Work Engagement Rate, to focus on for the initial SIP. While the goals we have selected will remain in place, our strategies may be revised during the annual progress report if we find that pivoting will yield better results. The Department is respectfully requesting your Board's approval of the Cal-OAR System Improvement Plan.

FISCAL IMPACT:

Funding Source	N/A	Budget Unit	N/A
Budgeted?	N/A	Object Code	N/A
Recurrence	N/A		
Current Fiscal Year Impact			

There is no fiscal component of this plan.

Future Fiscal Year Impacts

Additional Information

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

Your Board could chose to not approve the Cal-OAR SIP. Doing so would delay or prevent Health & Human Services (HHS) from submitting the required plan to the California Department of Social Services and could put CalWORKs funding in jeopardy.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

ATTACHMENTS:

1. County of Inyo CalSIP
2. Appendix A - CalOAR Report Sign Off Sheet

APPROVALS:

Tyler Davis	Created/Initiated - 2/28/2024
Darcy Ellis	Approved - 2/28/2024
Tyler Davis	Approved - 3/19/2024
Anna Scott	Approved - 3/19/2024
Morningstar Willis-Wagoner	Approved - 3/19/2024
Melissa Best-Baker	Approved - 3/20/2024
Gina Ellis	Approved - 3/24/2024
John Vallejo	Approved - 4/3/2024
Amy Shepherd	Approved - 4/3/2024
Nate Greenberg	Final Approval - 4/3/2024

CalWORKs System Improvement Plan (Cal-SIP) Report

County: Inyo

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Executive Summary

1. Please summarize the performance measures selected for improvement.

The Engagement Rate was selected as the Performance Measure for improvement in this Cal-OAR_-System Improvement Plan based on data analysis, case review, staff and supervisor discussions, and the information obtained during the Peer Review. From consideration of all this information, Inyo County determined that improving engagement rate was the performance measure most likely to improve performance in all other measures and the most likely to positively impact participants' capacity to meet their goals. Strengthening the relationship between the case manager and the participant not only requires good communication but also requires that the participant feel that the program has resources to help them achieve their goals. With limited options for activities in employment or education/training, too often participants' interests, life goals or skills cannot be matched with what is available through the program. Being able to offer more options for satisfying WTW requirements, helping participants overcome long standing obstacles to sobriety or mental health problems, and having a network that links the participant with resources in the community overcomes many of the disincentives to engagement. However, failure to engage the potential participant at the early contact and keep them engaged not only results in missed opportunity for the individual but increases costs to the public.

2. Please provide a comprehensive list of improvement strategies identified within the Cal-SIP.

Inyo county seeks to improve their performance by implementing the following strategies:

Strategy 1: Authenticate Data (With 5 Action Steps); Strategy 2: Establish Job Readiness Program Options for Participants (With 5 Action Steps); Strategy 3: Refine Referral Process for Mental Health and Alcohol and Other Drug Services (With 5 Action Steps); Strategy 4: Establish Mechanism for On-Going Communication with Partners in Adult Education (With 4 Action Steps). Essential to securing and maintaining progress toward improving the Engagement Rate is confidence in the data. Strategy one focuses on ensuring that the collection and entry of participant engagement data is done accurately and completely. Data can then be used with confidence to guide in the assessment of other Strategies. Strategy two reimagines a Job Readiness program which was discontinued in prior years and adds emphasis on expanding activities that qualify, e.g., volunteer hours. This strategy includes developing a policy on qualifying volunteer hours as WTW hours. Many of the participants in CalWORKS and the WTW program report mental health or substance abuse problems as barriers to employment, learning, and successful family life. Improving the referral process between WTW case managers and service providers enhances the likelihood that the participants will have access to services that they need and want. An improved referral process anticipates

developing relationships between case managers and provider staff, which will help staff better understand the needs of WTW participants. Adult education and community colleges offer significant resources for WTW participants which are often not recognized or utilized. Formal collaboration between the Department, adult education in the county, and the community college will encourage recruitment and successful referrals as well as ensure that the participants receive the financial and career counseling which they may need to complete their education goals.

Introduction

The CalWORKs Outcomes and Accountability Review (Cal-OAR) is a local, data-driven program management system that facilitates continuous improvement of county CalWORKs programs by collecting, analyzing, and disseminating outcomes and best practices. As required by Welfare and Institutions Code (WIC) 11523, Cal-OAR consists of three core components: performance indicators, a county CalWORKs self-assessment (Cal-CSA), and a CalWORKs system improvement plan (Cal-SIP).

The Cal-OAR continuous quality improvement (Cal-CQI) process (which includes the Cal-CSA and Cal-SIP) takes place over five-year cycles. The first Cal-OAR cycle commenced on July 1, 2021, with the implementation of Cal-OAR. The Cal-SIP is the second component of the Cal-OAR CQI process. The Cal-SIP is based on the information gathered and reported from the Cal-CSA, wherein each CWD will develop a plan for improving their CalWORKs program. The Cal-SIP selects a measure or set of measures for focused improvements and development to improve the selected performance measures while pairing each Cal-SIP goal with an equity goal and/or strategy.

1. Describe your approach to the Cal-SIP Report

Inyo County Health and Human Services (HHS) made use of tools provided by the California Department of Social Services (CDSS), specifically the CalWORKs Outcomes and Accountability Review (Cal-OAR) website, in the development of the CalWORKs System Improvement Plan (Cal-SIP) report. These tools were adapted to meet HHS' specific and unique requirements, including internal timelines, organizational structure, partner and collaborator identification, mapping, data analysis, and engagement processes. As there are an average of 30 WTW participants monthly on the program, HHS does not dedicate a single case manager to the program. Morningstar Willis-Wagoner, Deputy Director Public Assistance and Aging, headed the information gathering and compilation of the data and analysis for the CSA and SIP. Various case managers and supervisors participated in the Peer Review process and follow-up internal meetings. In addition, HHS engaged the services of Shared Vision Consultants to assist in research, meeting facilitation, and report writing.

2. Briefly describe past and current system improvement efforts.

HHS has not previously undertaken a focused Continuous Quality Improvement (CQI) initiative to enhance or improve efforts. Cal-OAR marks an inaugural dedicated effort to participate in CQI.

3. Briefly describe the success or failure of those efforts at improving service delivery or programmatic outcomes.

HHS has not experienced success or failure, as there have been no efforts to alter its service delivery model.

4. An overview of the CWD's organizational vision and mission (optional).

Inyo County Department of health and Human Services Mission Statement:
Strengthening Resilience and Well-Being in Our Community

Public Assistance and Aging Division Mission Statement: Empowering Citizens to Build Self-Reliant Productive Communities.

Section 1: Measures for Improvement and Strategies

Part 1: Measure and Goal Narrative

1. Describe the reason for selecting the measure or programmatic grouping of measures.

The Cal-OAR team identified Engagement Rate as the most foundational Performance Measure with the broadest potential impact on self-sufficiency. Strategies aimed at strengthening engagement in approved WTW activities can translate into self-sufficiency through improved skillsets and expanded employment opportunities for post-CalWORKs. Cultivating resources and partnerships to strengthen the Engagement Rate is expected to reduce the Rate of Program Reengagement for clients after their participation in CalWORKs. This in turn allows participants to apply their acquired skills, creating more sustainable opportunities for further skill development, higher education, and stable employment.

2. Do partners and collaborators agree this is a measure or programmatic grouping of measures that should be focused on at this time?

Staff offered direct feedback on the chosen measure for systemic improvement. Taking into consideration the small population of Inyo County and the history of limited qualified activities, the consensus was that if more activities were available to participants, the engagement rate would likely increase, and this increase could be directly measured. This consensus was reinforced by what was described as client 'drop out.' Client 'drop out' was cited as particularly frustrating for case managers who after making positive initial connections with clients, often had been unable to reach them to arrange appointments. Staff agreed that relationship building and focusing on the client's own priorities were essential to engaging the client in the WTW process and that the very early contact with the client was essential to successful engagement. As the action steps are implemented and more connections are made with external partners, we anticipate that feedback will reinforce the importance of relationship building between WTW case managers and partners as essential to resource development for participants. Regarding data metrics guidance, although no specific priority was assigned among the data metrics, various areas for potential enhancement in the Engagement Rate were highlighted and will be monitored.

3. Describe any anticipated interactions with other measures.

All measures are interconnected and to some extent, interdependent. The Engagement Rate measure has the potential to influence and enhance the Employment and Wages programmatic set of measures. By increasing client involvement in approved WTW activities through strategic approaches such as enhancing job readiness programs, standardizing the qualification of volunteer hours as countable WTW hours, improving

access to mental health/AOD services, and streamlining communication with adult education providers, participants are more likely to participate fully in their work plans. This effort can contribute to a rise in the Rate of Exits with Earnings and improvements in Wage Progression measures.

4. Describe how the CWD will track performance measure improvement.

HHS will monitor and analyze the progress of the strategies for improving the Engagement Rate through a systematic approach that is based on acknowledging the differences in client profiles. This approach involves utilizing the Cal-OAR Data Dashboard, Ad Hoc CalSAWS and Exemplar reports indicating the percentage of clients attending their activities each month, and other relevant data, including sanctions. Although it is recognized that an increase in sanctions is inversely related to our goal of boosting engagement, the circumstances associated with sanctions can provide useful information relating to encouraging engagement. The Cal-OAR team will track progress on the engagement rate through the biweekly case manager meetings to review data, share feedback from participants, and information from partners from WTW sites on their experience with participants. Adjusting the timing of implementing SIP Action Steps will also be included in assessing how the engagement rate might be strengthened.

Part 2: Goal-level Descriptions

Goal 1:

Increase Engagement Rate to 40% from 32%. Review using Ad Hoc CalSAWS reports improving by 2.0% every 6 months within 2 years (for a total of an 8.0% improvement).

Strategy 1: Authenticate Data

Strategy 2: Establish Job Readiness Program Options for Participants

Strategy 3: Refine Referral Process for Mental Health and Alcohol and Other Drug Services

Strategy 4: Establish Mechanism for On-Going Communication with Partners in Adult Education

1. Explain the reasoning or methodology which was used to determine this goal.

Determination of the SIP goal was based on a process which included examining years of past experience with WTW, recent data showing significant variation in engagement rate, and discussions with case managers about their current day to day experience in working with WTW clients. The Peer Review with San Benito County was also tremendously helpful in exchanging ideas about effective casework practice and procedure. Our consultants (Shared Vision Consultants) facilitated linking the information gathered through this process with performance goals. WTW case managers described the challenges they face in helping participants create a work plan in an environment with inadequate resources/activities for WTW clients. Inyo County has a population of 18,970 (2021), one community college with its primary campus almost three hours from Bishop, small local businesses, no vocational training, and no industrial base. Case managers agreed that even in cases in which all the steps in the screening process were completed timely and a workplan agreed upon, clients would often fail to keep the contact, not respond to repeated requests for meetings, and overall, not follow through with their work plan. Due to the lack of activities, the OCAT results often led to more frustration for clients and case managers than successes. It was agreed that increased engagement rate reflecting stronger relationships with client would have positive impact on all of the related performance measures, including sanction resolution rate, orientation attendance rate, OCAT/Appraisal rates, first activity attendance rate, education, and skills development access rate.

2. What led the CWD to these improvement strategies?

Strategies were generated from focus groups internally and the Peer Review process with San Benito County. The format of the Peer Review was especially useful in developing strategies by providing extended time to meet with peers in an informal setting that encouraged candid, thoughtful, and trusting conversation. Strategies and

action steps which were selected are concrete, some reflecting past practice or programs and others based on information from other counties. All strategies are designed to generate more exposure for the WTW program within Inyo County, establish new relationships outside of HHS, and improve understanding of the WTW program within HHS agencies, thereby resulting in more activities available to participants and long-term employment opportunities.

3. Discuss any research or literature that supports the strategies chosen. Cite reference(s), if applicable.

Research on how to increase involvement in WTW activities generally supports strategies such as more frequent contact between the client and staff, integrated case management, close monitoring of participation, creating closer linkages between WTW and service providers, and making participation monitoring a program priority. Promoting Participation: How to increase involvement in WTW Activities: A How to Guide. Gayle Hamilton and Susan Scrivener (1999) and Strategies for Engaging Adults in WTW Activities, Catherine M. Vu, Elizabeth K. Anthony, and Michael J. Austin, 2009, a study.

4. Describe the roles of other partners and collaborators in implementing the strategies.

The roles of other partners and potential collaborators are described in the Strategies. Their involvement will include establishing community connections, sharing information about new and changing resources, and helping to assess participants' experience on site. In the case of education partners, staff will regularly meet to discuss how to fully use WTW resources. As the Strategies and Action Steps are implemented, the roles and participation of other partners and collaborators will be described in the SIP Progress Reports.

5. Identify any staff education and training needs, and include any technical assistance needed to implement strategies and achieve this goal.

Inyo County works closely with UC Davis Extension to ensure that the training needs of all HHS staff are met. Recently, WTW case managers received in person training from UC Davis Extension on WTW policy, procedure, and best practice. This included individual case review and coaching, which has proved very helpful. The Needs Assessment will build on current surveys. The referral process will be developed in conjunction with AOD and mental health agency and providers, and SVC consultants. As part of our continuing collaboration with San Benito County, staff will work on developing a volunteer hours policy. As the SIP is implemented, we will also reach out to CDSS for technical assistance as needed. No additional TA is anticipated in the first year, except in the area of data validation.

6. Describe how the CWD plans to mitigate and/or address both known internal and external barriers to achieve the goal.

The Cal-SIP has the full support of HHS leadership and Division management. Staffing, which can be an obstacle to the implementation of a new program, is not an obstacle in the case of the Cal-SIP. Staffing overall in HHS and WTW is stable. Division management is also stable. Staff has recently expanded in WTW. An employment specialist position was authorized earlier this year, recruitment has been completed, and a new employee hired.

The SIP focuses on what has been a recognized barrier to our engagement rate, i.e., the array of activities for participants. All of the strategies target this barrier directly, including adopting a policy on qualifying volunteer activities. Through this policy, we anticipate that case managers will be better able to match the participant's work plan with life goals and WTW requirements. With agency leadership commitment, stable staffing, and robust staff buy in to the SIP Goal and strategies, we have a strong foundation for the SIP and will address any unanticipated barriers as they appear.

7. Describe how your facility will continuously evaluate each action step taken to see if improvement is being achieved (e.g., tracking tools, meetings, monitoring, etc.). Include who will be responsible for follow up and compliance.

The Cal-OAR team will evaluate each action step through using Engagement Rate data and reporting from the case manager(s) and staff assigned to each SIP Strategy and Action Step. A supervisor within the Cal-OAR team will lead monthly SIP meetings with case manager(s) and staff assigned to each Strategy and related action steps. The Cal-OAR team will meet once a quarter to conduct an overall review of implementation of each Strategy and determine what, if any, revisions are needed. Due to the small population receiving WTW benefits, focus on individual circumstances is a viable means of monitoring the action steps. From the Needs Assessment, themes may be identified which may generate increased collaboration with outside partners, adjustments in referral procedures, staffing reorganization etc. The monthly SIP meetings will ensure that each action step is closely monitored.

Section 2: Peer Review

Peer county/ counties selected for collaboration and consultation:

San Benito County

1. Discuss how the Peer Review process impact Cal-SIP development.

The Cal-OAR Peer Review constitutes one of the few regularized opportunities for WTW case managers to share their day-to-day experience of applying state and federal regulations to meet the needs of WTW clients. The Peer Review asks those questions that come from granular experience with the system. Monthly reports, case reviews, comparative data only reach participant/client experience at a superficial level. By integrating the information gathered through multiple peer-to-peer interactions, the SIP strategies can be targeted and through regular review during each 12-month period, real time adjustments can be made to maintain progress towards the identified performance measure(s).

2. Discuss steps taken to conduct peer review.

Our peer county (San Benito) was finally selected in July 2023. San Benito County was selected based on overall demographics, rural economy, and large areas with scattered populations. Shortly after, an introductory meeting between staff from both counties via ZOOM was convened. This meeting laid a foundation for prompt exchange of information about each county, candid conversations, and sharing of barriers. Prior to the Peer Review, logistics were discussed, the agenda drafted, and staff identified. We identified Engagement Rate as the Performance Measure to be reviewed. Teams from each county met internally prior to the Peer Review to discuss the purpose of the Peer Review, the connection between the Peer Review and the SIP, and ongoing efforts to improve each Performance Measure. Team members were asked to consider promising practices in their county which could be shared and be prepared to describe those adjustments which had been made to operations, policy, procedure over past years to improve performance and outcomes for WTW participants. Staff calendars were cleared to ensure that there would be no interruptions during the Peer Review. All designated staff attended and the WTW Division. The Peer Review via ZOOM began with individual introductions by staff from each county including work histories and experience in position. The Peer Review followed the agreed upon agenda beginning with a discussion of Performance Measure chosen and strategies proposed to improve practice. This was followed by presentation by Inyo County staff about the county, why Engagement Rate was chosen as the Performance Measure for this SIP, what had been done to improve engagement rate and challenges. Due to the small number of participants in the Peer Review and the advance preparation for the Peer Review, the review proceeded as a discussion, during which San Benito County peers shared ideas and promising practices which they had used to increase Engagement Rate and Inyo

County staff asked questions directly of San Benito staff. Notes were taken by each county staff and a brief summary was presented at the end of the Peer Review.

3. Briefly summarize observations and action items from Peer Review process.

Attention was primarily on the potential scope of duties for an employment case manager based on a discussion during the Peer Review and with case manager from San Benito County. This was very helpful for Inyo County as we are in the process of training a newly employed case manager for a similar position. In addition, San Benito County provided a copy of their Welfare to Work Handbook, which in 10-12 pages describes the purpose of the program, components, obligations of the participants and benefits. Currently, Inyo WTW does not have a Handbook or reference which is provided to participants during the orientation explaining the total program and which can be used by them. We are considering using a modified version for our program, with a calendar for the participant to record appointments and related information.

Section 3: Target Measure Summary

Goal 1:

Increase Engagement Rate to 40% from 32%. Review using Ad Hoc CalSAWS reports improving by 2.0% every 6 months within 2 years (for a total of an 8.0% improvement).

Performance Measure: Engagement Rate

Baseline Result: 32%

Cal-SIP Start Time: 5/1/2024	Progress Report #1: 5/9/2025	Progress Report #2: 6/12/2026	Cycle End Date: 6/30/2026
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Strategies, Action Steps, and Tracking Improvement:

Strategy 1: Authenticate Data

Action Steps:

1. Obtain CDSS training/coaching on how to enter, review, and correct data inaccuracies on monthly data reports.
2. Assign two persons to receive monthly CDSS data reports.
3. Regularly review feedback on data accuracy.
4. Train staff on making accurate and complete CalSAWS entries to ensure all work performed in each case is captured correctly.
5. Measure effectiveness through regular review of data reports by supervisor, making corrections, and supplemental training as needed.

Strategy 2: Establish Job Readiness Program Options for Participants

Action Steps:

1. Develop and administer a Needs Assessment to new WTW participants.
2. Complete hiring and training of new employment and training caseworker.
3. Contact WTW departments in other counties to gather information about their job readiness programs.
4. Develop a policy qualifying volunteer hours as countable WTW hours.
5. Measure effectiveness by monitoring completion of tasks in each step and numbers completing Job Readiness program.

Strategy 3: Refine Referral Process for Mental Health and Alcohol and Other Drug Services

Action Steps:

1. Locate community providers of mental health and AOD services and confirm their referral processes to ensure that services are open to WTW clients.
2. Develop appropriate Memorandums of Understanding internally and with other county departments to obtain services needed by clients.
3. Institute quarterly information exchange between WTW and Behavioral Health Department on the availability of services, process for obtaining services, and roles in meeting the needs of clients.
4. Review policies on providing access to services for clients in rural areas to ensure equitable access.
5. Measure effectiveness through monitoring at regular case manager meetings, numbers of successful referrals, feedback from providers on participants, and quarterly information exchange.

Strategy 4: Establish Mechanism for On-Going Communication with Partners in Adult Education

Action Steps:

1. Establish partnership with Cerro Coso Community College, Inyo County Office of Education, and Owens Valley Career Development Center to improve on-going communication regarding educational services for WTW clients.
2. Convene Semi-Annual forums among partners and agency to discuss needs and services.
3. Review policies on providing access to services for clients living in rural areas to ensure equity.
4. Measure effectiveness through semi-annual forums with education system partners, with particular focus on participants living in rural areas.

Tracking Improvement:

The Cal-OAR team will evaluate each action step through using Engagement Rate data and reporting from the case manager(s) and staff assigned to each SIP Strategy and Action Step. A supervisor within the Cal-OAR team will lead monthly SIP meetings with case manager(s) and staff assigned to each Strategy and related action steps. The Cal-OAR team will meet once a quarter to conduct an overall review of implementation of each Strategy and determine what if any revisions are needed. Due to the small population receiving WTW benefits, focus on individual circumstances is a viable means of monitoring the action steps. From the Needs Assessment, themes may be identified which may generate increased collaboration with outside partners, adjustments in

referral procedures, staffing reorganization etc. The monthly SIP meetings will ensure that each action step is closely monitored.

CAL-OAR REPORT SIGNATURE

For submittal of: Cal-CSA Cal-SIP Cal-SIP Progress Report

County	
Submission Date	
Cal-CQI Cycle	2021-2026 Cycle
County Welfare Director	
Name	
Signature	
Phone Number	
Board of Supervisors (BOS) Representative Signature – <u>For Cal-SIP Approval Only</u>	
BOS Approval Date	
Name	
Title/Position	
Signature	

Contact Information

County Cal-OAR Contact	Name and Title	
	Phone & E-mail	

Sign, scan, and submit the Signature Sheet along with the Cal-OAR Report to your county's SFT site.



INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-220

Hydrodynamics Group, LLC Contract Amendment No. 8

Planning Department - Yucca Mountain Oversight

ACTION REQUIRED

ITEM SUBMITTED BY

Sally Faircloth

ITEM PRESENTED BY

Cathreen Richards, Planning Director

RECOMMENDED ACTION:

Approve Amendment No. 8 to the contract between the County of Inyo and the Hydrodynamics Group (Hydrodynamics) to amend Section 2 – Term of the agreement to be July 1, 2016 - June 30, 2025, and amend the term to be July 1, 2016 through June 30, 2025 on Attachments A-E as applicable, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign.

BACKGROUND / SUMMARY / JUSTIFICATION:

Inyo County has been involved as an Affected Unit of Local Government (AULG) throughout the Yucca Mountain high-level radioactive waste repository proceedings. The Hydrodynamics Group LLC has provided consistent and high-quality consulting services for the evaluation and monitoring of groundwater regarding the proposed Yucca Mountain repository during this time.

The County had the Hydrodynamics Group LLC under contract from 1997-2013 for professional services regarding groundwater and the proposed Yucca Mountain repository, but let it lapse when the licensing proceedings were halted by the NRC. On June 24, 2014 the County entered into a new sole-source Contract with Hydrodynamics to provide technical expertise in the review and evaluation of the Department of Energy's (DOE) Supplemental Environmental Impact Statement (SEIS) with regard to technical reports, data and information on groundwater impacts of the proposed Yucca Mountain repository and any updates to the 2009 report titled: Analysis of Post Closure Groundwater Impacts for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada. Once this work was completed, this contract also lapsed due to inactivity. The County entered into a new sole-source Contract with Hydrodynamics on July 1, 2016 for further review of the SEIS. The contract was amended on June 27, 2017 extending the time of the contract to end on June 30, 2018; on June 5, 2018 to extend it to June 30, 2019; on June 11, 2019 to extend to June 30, 2020; on June 15, 2021 to extend to June 30, 2022; on June 15, 2022 to extend to June 30, 2023; and on June 6, 2023 to extend to June 30, 2024. The contract with Hydrodynamics is now proposed to be amended to extend the time of the contract to end on June 30, 2025.

Although presently there is not a lot of active interest in storing high-level radioactive waste at Yucca Mountain, there is always the possibility of the licensing proceedings to restart. It would be in the

County’s best interest to keep its consultants under contract in case the licensing proceedings or other activities related to Yucca Mountain are to begin again. Funding for Yucca Mountain oversight by the County is funded through money the County received from the Department of Energy.

FISCAL IMPACT:			
Funding Source	General Funded: US Department of Energy	Budget Unit	620605
Budgeted?	Yes	Object Code	5265
Recurrence	Ongoing Expenditure		
Current Fiscal Year Impact			
Future Fiscal Year Impacts			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

The Board could not approve the amendment. This is not recommended as Hydrodynamics’ history and expertise are valuable assets for the County to utilize in reviewing and commenting on activities related to Yucca Mountain.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

ATTACHMENTS:

1. Hydrodynamics Amendment 8
2. Hydrodynamics Amendment 7

APPROVALS:

Sally Faircloth	Created/Initiated - 3/21/2024
Darcy Ellis	Approved - 3/21/2024
Sally Faircloth	Approved - 3/22/2024
Cathreen Richards	Approved - 3/22/2024
Keri Oney	Approved - 3/25/2024
John Vallejo	Approved - 3/26/2024
Amy Shepherd	Approved - 3/26/2024
Nate Greenberg	Approved - 4/2/2024
Sally Faircloth	Final Approval - 4/2/2024

**AMENDMENT NO. EIGHT TO THE AGREEMENT BETWEEN THE
COUNTY OF INYO AND THE HYDRODYNAMICS GROUP
FOR THE PROVISION OF PROFESSIONAL SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as “County”) and The Hydrodynamics Group (hereinafter referred to as Contractor) have entered into an Agreement for the provision of professional services dated June 14, 2016 on County of Inyo Standard Contract No. 156 for the term from July 1, 2016 to June 30, 2017.

WHEREAS, on June 27, 2017 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2018.

WHEREAS, on June 5, 2018 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2019.

WHEREAS, on June 11, 2019 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2020.

WHEREAS, on May 5, 2020 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2021.

WHEREAS, on June 15, 2021 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2022.

WHEREAS, on June 15, 2021 the County and Contractor consented to amend the Agreement at Section 3 - CONSIDERATION at Subsection D – Limit upon payable under Agreement. Shall not exceed \$30,000.

WHEREAS, on June 07, 2022 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2023.

WHEREAS, on June 7, 2022 the County and Contractor consented to amend the term to be July 1, 2016 to June 30, 2023 on Attachments A-E as applicable.

WHEREAS, on June 06, 2023 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2024.

WHEREAS, on June 6, 2023 the County and Contractor consented to amend the term to be July 1, 2016 to June 30, 2024 on Attachments A-E as applicable.

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Contractor do desire to consent to amend such Agreement as set forth below.

County and Contractor hereby amend such Agreement as follows:

1. Amend Section 2 - TERM to July 1, 2016 to June 30, 2025.
2. Amend the term to July 1, 2016 – June 30, 2025 on Attachments A-E as applicable.

**AMENDMENT NO. EIGHT TO THE AGREEMENT BETWEEN THE
COUNTY OF INYO AND THE HYDRODYNAMICS GROUP
FOR THE PROVISION OF PROFESSIONAL SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS
AND SEALS THIS ____ DAY OF _____, _____.

COUNTY

CONTRACTOR

By: _____

By: *Michael J. King*

Dated: _____

Dated: 3/8/2024

APPROVED AS TO FORM AND LEGALITY:

Christian E. Milovich

County Counsel

APPROVED AS TO ACCOUNTING FORM:

Christie Martindale

County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

K. Oney

Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

Aaron Holmberg

County Risk Manager

In the Rooms of the Board of Supervisors

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 6th day of June 2023 an order was duly made and entered as follows:

Planning Dept. – Moved by Supervisor Griffiths and seconded by Supervisor Orrill to approve Amendment No. 7 to the contract between County of Inyo and the Hydrodynamics Group (Hydrodynamics) to Hydrodynamics Group, LLC A) amend Section 2 – Term of the agreement to be July 1, 2016 - June 30, 2024 and the Contract term to be July 1, 2016 through June 30, 2024 on Attachments A-E as applicable, contingent Amendment No. 7 upon the Board's approval of future budgets; and B) authorize the Chairperson to sign. Motion carried unanimously 4-0, with Supervisor Kingsley absent.

WITNESS my hand and the seal of said Board this 6th
Day of June, 2023



NATHAN GREENBERG
Clerk of the Board of Supervisors

A handwritten signature in blue ink, appearing to read "Nathan Greenberg", written over a horizontal line.

By: _____

Routing
CC Purchasing Personnel Auditor CAO Other: Planning DATE: June 15, 2023



INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

June 6, 2023

Reference ID:
2023-3784

Hydrodynamics Group, LLC Contract Amendment No. 7 Planning Department - Yucca Mountain Oversight ACTION REQUIRED

ITEM SUBMITTED BY

Cathreen Richards, Planning Director

ITEM PRESENTED BY

Cathreen Richards, Planning Director

RECOMMENDED ACTION:

Approve Amendment No. 7 to the contract between County of Inyo and the Hydrodynamics Group (Hydrodynamics) to amend Section 2 – Term of the agreement to be July 1, 2016 - June 30, 2024 and amend the term to be July 1 2016 through June 30 2024 on Attachments A-E as applicable, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign.

BACKGROUND / SUMMARY / JUSTIFICATION:

Inyo County has been involved as an Affected Unit of Local Government (AULG) throughout the Yucca Mountain high-level radioactive waste repository proceedings. The Hydrodynamics Group LLC has provided consistent and high quality consulting services for the evaluation and monitoring of groundwater regarding the proposed Yucca Mountain repository during this time.

The County had the Hydrodynamics Group LLC under contract from 1997-2013 for professional services regarding groundwater and the proposed Yucca Mountain repository, but let it lapse when the licensing proceedings were halted by the NRC. On June 24, 2014 the County entered into a new sole-source Contract with Hydrodynamics to provide technical expertise in the review and evaluation of the Department of Energy's (DOE) Supplemental Environmental Impact Statement (SEIS) with regard to technical reports, data and information on groundwater impacts of the proposed Yucca Mountain repository and any updates to the 2009 report titled: Analysis of Post Closure Groundwater Impacts for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada. Once this work was completed, this contract also lapsed due to inactivity. The County entered into a new sole-source Contract with Hydrodynamics on July 1, 2016 for further review of the SEIS. The contract was amended on June 27, 2017 extending the time of the contract to end on June 30, 2018; on June 5, 2018 to extend it to June 30, 2019; on June 11, 2019 to extend to June 30, 2020; on June 15, 2021 to extend to June 30, 2022; and on June 15, 2022 to extend to June 30, 2023. The contract with Hydrodynamics is now proposed to be amended to extend the time of the contract to end on June 30, 2024 and to add updated insurance provisions at Attachment D.

Although presently there is not a lot of active interest in storing high-level radioactive waste at Yucca Mountain, there is always the possibility of the licensing proceedings to restart. It would be in the County's best interest to keep its consultants under contract in case the licensing proceedings or other activities related to Yucca Mountain are to begin again. Funding for Yucca Mountain oversight by the County is funded through money the County received from the Department of Energy.

FISCAL IMPACT:

Funding Source	Grant Funded: US Department of Energy	Budget Unit	620605
Budgeted?	Yes	Object Code	
Recurrence	Ongoing Expenditure		
Current Fiscal Year Impact			
Future Fiscal Year Impacts			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

The Board could not approve the amendment. This is not recommended as Hydrodynamics' history and expertise are valuable assets for the County to utilize in reviewing and commenting on activities related to Yucca Mountain.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

ATTACHMENTS:

1. Hydrodynamics Group Contract Amendment No. 7
2. Updated Insurance Provisions
3. Hydrodynamics Group Contract Amendment No. 6

APPROVALS:

Cathreen Richards	Created/Initiated - 5/4/2023
Darcy Ellis	Approved - 5/4/2023
John Vallejo	Approved - 5/5/2023
Amy Shepherd	Approved - 5/10/2023
Christian Milovich	Approved - 5/11/2023
Nate Greenberg	Approved - 6/1/2023
Cathreen Richards	Final Approval - 6/1/2023

**AMENDMENT NO. SEVEN TO THE AGREEMENT BETWEEN
THE COUNTY OF INYO AND THE HYDRODYNAMICS GROUP
FOR THE PROVISION OF PROFESSIONAL SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as “County”) and The Hydrodynamics Group (hereinafter referred to as Contractor) have entered into an Agreement for the provision of professional services dated June 14, 2016 on County of Inyo Standard Contract No. 156 for the term from July 1, 2016 to June 30, 2017.

WHEREAS, on June 27, 2017 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2018.

WHEREAS, on June 5, 2018 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2019.

WHEREAS, on June 11, 2019 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2020.

WHEREAS, on May 5, 2020 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2021.

WHEREAS, on June 15, 2021 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2022.

WHEREAS, on June 15, 2021 the County and Contractor consented to amend the Agreement at Section 3 - CONSIDERATION at Subsection D – Limit upon payable under Agreement. Shall not exceed \$30,000.

WHEREAS, on June 7, 2022 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2023.

WHEREAS, on June 7, 2022 the County and Contractor consented to amend the term to be July 1, 2016 to June 30, 2023 on Attachments A-E as applicable.

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Contractor do desire to consent to amend such Agreement as set forth below.

County and Contractor hereby amend such Agreement as follows:

1. Amend Section 2 - TERM to July 1, 2016 to June 30, 2024.
2. Amend the term to July 1, 2016 – June 30, 2024 on Attachments A-E as applicable.

**AMENDMENT NO. SEVEN TO THE AGREEMENT BETWEEN THE COUNTY
OF INYO AND THE HYDRODYNAMICS GROUP
FOR THE PROVISION OF PROFESSIONAL SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS
AND SEALS THIS 6th DAY OF June, 2023.

COUNTY

By: 
Dated: 06/06/2023

CONTRACTOR

Michael J. King
By: Michael J. King, Principal
Dated: April 7, 2023

APPROVED AS TO FORM AND LEGALITY:

Christian E. Milovich
County Counsel

APPROVED AS TO ACCOUNTING FORM:

Christie Martindale
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

K. Oney
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

[Signature]
County Risk Manager

Attachment D: 2023 Insurance Requirements for Professional Services - Hydro

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$3,000,000** per occurrence, \$3,000,000 aggregate.
1. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
2. **Workers' Compensation** insurance as required by the State of California, with **Statutory Limits**, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. (Provision may be waived if consultant provides written declaration of the following: (a) consultant has no employees and agrees to obtain workers' compensation insurance and notify Inyo County if any employee is hired, (b) consultant agrees to verify proof of coverage for any subcontractors, and (c) consultant agrees to hold Inyo County harmless and defend Inyo County in the case of claims arising for failure to provide benefits.)
3. **Professional Liability:** Insurance appropriate to the Contractor's profession, with limit no less than **\$3,000,000** per occurrence or claim, **\$3,000,000** aggregate.
4. **Contractors Pollution Legal Liability:** with limits no less than \$3,000,000 per occurrence or claim, \$3,000,000 aggregate.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, Inyo County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Inyo County.

OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status: Inyo County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

Primary Coverage: For any claims related to this contract, the **Contractor's insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects Inyo County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Inyo

Attachment C: 2023 Insurance Requirements for Professional Services - Hydro

County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

Umbrella or Excess Policy: The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

Notice of Cancellation: Each insurance policy required above shall state that coverage shall not be canceled, except with notice to Inyo County.

Waiver of Subrogation: Contractor hereby grants to Inyo County a waiver of any right to subrogation which any insurer of said Contractor may acquire against Inyo County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Inyo County has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions: Self-insured retentions must be declared to and approved by Inyo County. Inyo County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$50,000 unless approved in writing by Inyo County. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. Inyo County may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. Inyo County reserves the right to obtain a copy of any policies and endorsements for verification.

Acceptability of Insurers: Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to Inyo County.

Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

**Attachment C: 2023 Insurance Requirements for
Professional Services - Hydro**

Verification of Coverage: Contractor shall furnish Inyo County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause and a copy of the Declarations and Endorsement Page of the CGL policy and any Excess policies listing all policy endorsements. All certificates and endorsements and copies of the Declarations and Endorsements pages are to be received and approved by Inyo County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. Inyo County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Subcontractors: Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Inyo County is an additional insured on insurance required from subcontractors.

Special Risks or Circumstances: Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

-end-

In the Rooms of the Board of Supervisors

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 7th day of June 2022 an order was duly made and entered as follows:

*Planning –
Hydrodynamics
Amendment No. 6*

Moved by Supervisor Pucci and seconded by Supervisor Roeser to approve Amendment No. 6 to the contract between County of Inyo and the Hydrodynamics Group (Hydrodynamics) to amend Section 2 – Term of the agreement to be July 1, 2016 through June 30, 2023, contingent upon the Board's adoption of the Fiscal Year 2022-2023 budget; and authorize the Chairperson to sign, contingent upon appropriate signatures being obtained. Motion carried unanimously.

<i>Routing</i>
CC Purchasing Personnel Auditor CAO Other: Planning DATE: June 7, 2022

WITNESS my hand and the seal of said Board this 7th
Day of June, 2022



LESLIE L. CHAPMAN
Clerk of the Board of Supervisors

Leslie L. Chapman

By: _____



County of Inyo



Planning Department

CONSENT - ACTION REQUIRED

MEETING: June 7, 2022

FROM: Cathreen Richards

SUBJECT: Amendment 6 - Hydrodynamics

RECOMMENDED ACTION:

Request the Board approve Amendment No. 6 to the contract between County of Inyo and the Hydrodynamics Group (Hydrodynamics) to amend Section 2 – Term of the agreement to be July 1, 2016 through June 30, 2023, contingent upon the Board's adoption of the Fiscal Year 2022-2023 budget; and authorize the Chairperson to sign, contingent upon appropriate signatures being obtained.

SUMMARY/JUSTIFICATION:

Inyo County has been involved as an Affected Unit of Local Government (AULG) throughout the Yucca Mountain high-level radioactive waste repository proceedings. The Hydrodynamics Group LLC has provided consistent and high quality consulting services for the evaluation and monitoring of groundwater regarding the proposed Yucca Mountain repository during this time.

The County had the Hydrodynamics Group LLC under contract from 1997-2013 for professional services regarding groundwater and the proposed Yucca Mountain repository, but let it lapse when the licensing proceedings were halted by the NRC. On June 24, 2014 the County entered into a new sole-source Contract with Hydrodynamics to provide technical expertise in the review and evaluation of the Department of Energy's (DOE) Supplemental Environmental Impact Statement (SEIS) with regard to technical reports, data and information on groundwater impacts of the proposed Yucca Mountain repository and any updates to the 2009 report titled: Analysis of Post Closure Groundwater Impacts for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada. Once this work was completed, this contract also lapsed due to inactivity. The County entered into a new sole-source Contract with Hydrodynamics on July 1, 2016 for further review of the SEIS. The contract was amended on June 27, 2017 extending the time of the contract to end on June 30, 2018; on June 5, 2018 to extend it to June 30, 2019; and on June 11, 2019 to extend to June 30, 2020; and on June 15, 2021 to extend to June 30, 2022. The contract with Hydrodynamics is now proposed to be amended to extend the time of the contract to end on June 30, 2023.

Although presently there is not a lot of active interest in storing high-level radioactive waste at Yucca Mountain, there is always the possibility of the licensing proceedings to restart. It would be in the County's best interest to keep its consultants under contract in case the licensing proceedings or other activities related to Yucca Mountain are to begin again. Funding for Yucca Mountain oversight by the County is funded through money the County received from the Department of Energy.

BACKGROUND/HISTORY OF BOARD ACTIONS:

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

The Board could not approve the amendment. This is not recommended as Hydrodynamics' history and expertise are valuable assets for the County to utilize in reviewing and commenting on activities related to Yucca Mountain.

OTHER AGENCY INVOLVEMENT:

U.S. Department of Energy

FINANCING:

Projects and oversight of the proposed Yucca Mountain repository are paid with funding through the Department of Energy, and fund balance is available to offset these costs. These amendments do not affect the Yucca Mountain Oversight Budget (620605). If additional funding is required in the future for this work, staff will propose a budget amendment.

ATTACHMENTS:

1. Amendment 6

APPROVALS:

Cathreen Richards
Darcy Ellis
John Vallejo
Amy Shepherd
Cathreen Richards

Created/Initiated - 5/10/2022
Approved - 5/10/2022
Approved - 5/11/2022
Approved - 5/11/2022
Final Approval - 5/11/2022

**AMENDMENT NO. SIX TO THE AGREEMENT BETWEEN
THE COUNTY OF INYO AND
THE HYDRODYNAMICS GROUP
FOR THE PROVISION OF PROFESSIONAL SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and The Hydrodynamics Group (hereinafter referred to as Contractor) have entered into an Agreement for the provision of professional services dated June 14, 2016 on County of Inyo Standard Contract No. 156 for the term from July 1, 2016 to June 30, 2017.

WHEREAS, on June 27, 2017 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2018.

WHEREAS, on June 5, 2018 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2019.

WHEREAS, on June 11, 2019 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2016 to June 30, 2020.

WHEREAS, on May 5, 2020 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2020 to June 30, 2021.

WHEREAS, on June 15, 2021 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2020 to June 30, 2022.

WHEREAS, on June 15, 2021 the County and Contractor consented to amend the Agreement at Section 3 - CONSIDERATION at Subsection D – Limit upon payable under Agreement. Shall not exceed \$30,000

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Contractor do desire to consent to amend such Agreement as set forth below.

County and Contractor hereby amend such Agreement as follows:

1. Amend Section 2 - TERM to July 1, 2016 to June 30, 2023.
2. Amend the term to July 1, 2021 – June 30, 2023 on Attachments A-E as applicable.

AMENDMENT NO. SIX TO THE AGREEMENT BETWEEN THE COUNTY OF
INYO AND
THE HYDRODYNAMICS GROUP
FOR THE PROVISION OF PROFESSIONAL SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS
AND SEALS THIS 14th DAY OF June, 2022.

COUNTY

CONTRACTOR

By: *Dan Tatham*

By: *Michael J. King*

Dated: 06/14/2022

Dated: June 14, 2022

APPROVED AS TO FORM AND LEGALITY:

Christian E. Melovich
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

K. Oney
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

[Signature]
County Risk Manager

**AMENDMENT NO. FIVE TO THE AGREEMENT
BETWEEN THE COUNTY OF INYO AND
THE HYDRODYNAMICS GROUP
FOR THE PROVISION OF PROFESSIONAL SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and The Hydrodynamics Group (hereinafter referred to as Contractor) have entered into an Agreement for the provision of professional services dated June 14, 2016 on County of Inyo Standard Contract No. 156 for the term from July 1, 2016 to June 30, 2017.

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WHEREAS, on May 5, 2020 the County and Contractor consented to amend the Agreement at Section 2 - Term to be July 1, 2020 to June 30, 2021.

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Contractor do desire to consent to amend such Agreement as set forth below.

County and Contractor hereby amend such Agreement as follows:

- Amend Section 2 - TERM to July 1, 2016 to June 30, 2022
- Amend Section 3 - CONSIDERATION at Subsection D - Limit upon payable under Agreement. Shall not exceed \$30,000

**AMENDMENT NO. FIVE TO THE AGREEMENT BETWEEN THE COUNTY
OF INYO AND
THE HYDRODYNAMICS GROUP
FOR THE PROVISION OF PROFESSIONAL SERVICES**

**IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS
AND SEALS THIS 15th DAY OF June, 2021.**

COUNTY

CONTRACTOR

By: *Jeff Bissett*

By: *Michael J. King*

Dated: 06/15/2021

Dated: April 19, 2021

APPROVED AS TO FORM AND LEGALITY:

Grace Church
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

Aaron Holmberg
County Risk Manager

**AGREEMENT BETWEEN COUNTY OF INYO
AND The Hydrodynamics Group, LLC
FOR THE PROVISION OF Hydrological Consulting Services SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") has the need for the Hydrological Consulting Services services of The Hydrodynamics Group, LLC (hereinafter referred to as "Consultant"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK.

The Consultant shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Consultant to perform under this Agreement will be made by the Inyo County Planning Director. Requests to the Consultant for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Consultant by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Consultant the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Consultant at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement and, as applicable, as set forth, in Attachment E, attached hereto and incorporated herein.

2. TERM.

The term of this Agreement shall be from July 1, 2018 to June 30, 2017 unless sooner terminated as provided below.

3. CONSIDERATION.

A. Compensation. County shall pay Consultant in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Consultant at the County's request.

B. Travel and per diem. County shall reimburse Consultant for the travel expenses and per diem which Consultant incurs in providing services and work requested by County under this Agreement. Consultant shall request approval by the County prior to incurring any travel or per diem expenses. Requests by Consultant for approval to incur travel and per diem expenses shall be submitted to the Inyo County Planning Director. Travel and per diem expenses will be reimbursed in accordance with the rates set forth in the Schedule of Travel and Per Diem Payment (Attachment C). County reserves the right to deny reimbursement to Consultant for travel or per diem expenses which are either in excess of the amounts that may be paid under the rates set forth in Attachment C, or which are incurred by the Consultant without the prior approval of the County.

C. No additional consideration. Except as expressly provided in this Agreement, Consultant shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Consultant shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Consultant for services and work performed under this Agreement, including travel and per diem expenses, if any, shall not exceed \$20,000 Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Consultant for services or work performed, including travel or per diem, which is in excess of the contract limit.

E. Billing and payment. Consultant shall submit to the County, once a month, an itemized statement of all hours spent by Consultant in performing services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the hours were worked and describe the nature of the work which was performed on each day. Consultant's statement to the County will also include an itemization of any travel or per diem expenses, which have been approved in advance by County, incurred by Consultant during that period. The itemized statement for travel expenses and per diem will include receipts for lodging, meals, and other incidental expenses in accordance with the County's accounting procedures and rules. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Consultant on the last day of the month.

F. Federal and State taxes.

- (1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Consultant under the terms and conditions of this Agreement.
- (2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent Consultant's when it is anticipated that total annual payments to Consultant under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).
- (3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Consultant under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant. County has no responsibility or liability for payment of Consultant's taxes or assessments.
- (4) The total amounts paid by County to Consultant, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Consultant shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

4. WORK SCHEDULE.

Consultant's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Consultant that the performance of these services and work will require a varied schedule. Consultant will arrange his/her own schedule, but will coordinate with County to insure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Consultant to provide the services and work described in attachment A must be procured by Consultant and be valid at the time Consultant enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Consultant at no expense to the County. Consultant will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Consultant and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Consultant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.gsa.gov>.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Consultant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Consultant to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Consultant, for any expense or cost incurred by Consultant in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Consultant in providing and maintaining such items is the sole responsibility and obligation of Consultant.

7. COUNTY PROPERTY.

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Consultant by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Consultant will use reasonable care to protect, safeguard and maintain such items while they are in Consultant's possession. Consultant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Consultant's negligence.

B. Products of Consultant's Work and Services. Any and all compositions, publications, plans, s, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result,

product, or manifestation of, Consultant's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Consultant will convey possession and title to all such properties to County.

8. INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES.

For the duration of this Agreement Consultant shall procure and maintain insurance of the scope and amount specified in Attachment D and with the provisions specified in that attachment.

9. STATUS OF CONSULTANT.

All acts of Consultant, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent Consultant's, and not as agents, officers, or employees of County. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Consultant has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Consultant is to be considered an employee of County. It is understood by both Consultant and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent Consultant:

A. Consultant shall determine the method, details, and means of performing the work and services to be provided by Consultant under this Agreement.

B. Consultant shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Consultant in fulfillment of this Agreement.

C. Consultant, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent Consultant's, and not as employees of County.

10. DEFENSE AND INDEMNIFICATION.

For professional services rendered under this Contract, Consultant agrees to indemnify, including the cost to defend County and its officers, officials, employees, and volunteers from and against any and all claims, demands, costs, or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant and its employees or agents in the performance of professional services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of the County.

Contractor shall hold harmless, defend, and indemnify County and its officers, officials, employees, and volunteers from and against all claims, damages, losses, and expenses including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of the Consultant, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the County.

Consultant's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Consultant to procure and maintain a policy of insurance. If the Consultant maintains higher limits than the minimum required on the insurance attachment to this Agreement, the County requires and shall be entitled to coverage for the higher limits maintained by the Consultant.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Consultant, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities,

expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

11. RECORDS AND AUDIT.

A. Records. Consultant shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Consultant shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Consultant may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Consultant, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Consultant. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

12. NONDISCRIMINATION.

During the performance of this Agreement, Consultant, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Consultant and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Consultant shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

13. CANCELLATION.

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Consultant thirty (30) days written notice of such intent to cancel. Consultant may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

14. ASSIGNMENT.

This is an agreement for the services of Consultant. County has relied upon the skills, knowledge, experience, and training of Consultant as an inducement to enter into this Agreement. Consultant shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

15. DEFAULT.

If the Consultant abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Consultant in default and terminate this Agreement upon five (5) days written notice to Consultant. Upon such termination by default, County will pay to Consultant all amounts owing to Consultant for services and work satisfactorily performed to the date of termination.

16. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-two (22) below.

17. CONFIDENTIALITY.

Consultant further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Consultant in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Consultant agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Consultant only with the express written consent of the County. Any disclosure of confidential information by Consultant without the County's written consent is solely and exclusively the legal responsibility of Consultant in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.60, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

18. CONFLICTS.

Consultant agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

19. POST AGREEMENT COVENANT.

Consultant agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Consultant agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any County, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Consultant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

20. SEVERABILITY.

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

21. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Consultant of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-two (22) (Amendment).

22. AMENDMENT.

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

23. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Consultant or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo:	
Inyo County Planning Department	Department
PO Drawer C	Address
Independence, CA 93526	City and State

Consultant:	
The Hydrodynamics Group, LLC	Name
18711 76th Avenue West	Address
Edmonds, WA 98026	City and State

24. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

///

///

**AGREEMENT BETWEEN COUNTY OF INYO
AND The Hydrodynamics Group, LLC
FOR THE PROVISION OF Hydrological Consulting Services SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
DAY OF _____

COUNTY OF INYO

By: 
Dated: 6-14-16

CONSULTANT

By: Michael J. King
Signature
Michael J. King
Print or Type Name
Dated: May 11, 2016

APPROVED AS TO FORM AND LEGALITY:


County Counsel

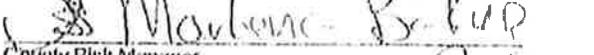
APPROVED AS TO ACCOUNTING FORM:


County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:


Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:


County Risk Manager


ATTACHMENT A

**AGREEMENT BETWEEN COUNTY OF INYO
AND The Hydrodynamics Group, LLC
FOR THE PROVISION OF Hydrological Consulting Services SERVICES**

TERM:

FROM: July 1, 2016

TO: June 30, 2017

SCOPE OF WORK:

1. Contractor shall assist the County in the review and evaluation of the Final Supplemental Environmental Impact Statement (SEIS) that was prepared by the U.S. Nuclear Regulatory Commission (NRC) addressing the post closure impacts of the proposed Yucca Mountain nuclear waste repository on groundwater resources, for the level and quality of the NRC responses to the County's comments on the Draft SEIS. This work shall include, but not be limited to, a review to ensure that the NRC responded to each of the County's comments on the DRAFT SEIS; an evaluation of the responses to ensure the County's concerns have been addressed appropriately; provide a written summary of these findings; and be prepared to assist the County in supporting its existing contentions or crafting new contentions based on the comments and concerns the County has submitted to the NRC. This work may also include evaluating any new models or information introduced by the NRC in the Final SEIS.
2. Contractor shall receive direction as to the scope of the work to be performed from the Inyo County Planning Department and/or the Inyo County County Counsel.
3. Contractor shall provide all secretarial and clerical support reasonably and customarily necessary to perform the services described in this Agreement.
4. Contractor shall maintain and retain files and materials on cases and other matters upon which he/she is working. Once completed, Contractor may deliver the files and materials to the Inyo County Planning Department for storage.

ATTACHMENT B

**AGREEMENT BETWEEN COUNTY OF INYO
AND The Hydrodynamics Group, LLC
FOR THE PROVISION OF Hydrological Consulting Services SERVICES**

TERM:

FROM: July 1, 2016

TO: June 30, 2017

SCHEDULE OF FEES:

1. COMPENSATION:

County shall pay to Contractor for the work and services as described in Attachment A which are performed by the Contractor at County's request, at a rate not to exceed \$20,000.

2. INCIDENTAL EXPENSES:

County shall reimburse Contractor for those incidental expenses which are necessarily incurred by Contractor in providing the services and work under this Agreement. Reimbursement for incidental expenses shall not be paid in excess of the amount of Compensation (\$20,000).

ATTACHMENT C

**AGREEMENT BETWEEN COUNTY OF INYO
AND The Hydrodynamics Group, LLC
FOR THE PROVISION OF Hydrological Consulting Services SERVICES**

TERM:

FROM: July 1, 2018

TO: June 30, 2017

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT:

Contractor will be compensated only for expenses incurred while performing tasks specified in the Scope of Work. Travel and Per Diem expenses will be paid out of the \$20,000 total cost of the contracted work and travel only for tasks included in the Scope of Work will be reimbursed.

ATTACHMENT D

**AGREEMENT BETWEEN COUNTY OF INYO
AND The Hydrodynamics Group, LLC
FOR THE PROVISION OF Hydrological Consulting Services SERVICES**

TERM:

FROM: July 1, 2016 _____ **TO: June 30, 2017** _____

SEE ATTACHED INSURANCE PROVISIONS

ATTACHMENT E

AGREEMENT BETWEEN COUNTY OF INYO
AND The Hydrodynamics Group, LLC
FOR THE PROVISION OF Hydrological Consulting Services SERVICES

TERM:

FROM: July 1, 2016

TO: June 30, 2017

FEDERAL FUNDS ADDENDUM

1. Section 11, Part B, *Inspections and Audits*, of the contract is amended to read:
"Any authorized representative of the County, or of a *federal, or state agency* shall have access to any books, documents, papers, records, including, but not limited to, financial records of the Consultant, which the County or *federal or state agency* determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Consultant. Further, the County or *federal or state agency* has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement. Copies of any of these records shall be furnished, if requested."
2. **Covenant Against Contingent Fees.** The Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the consultant, to solicit or secure this agreement, and that he/she has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this agreement. For breach or violation of this warranty, the local agency shall have the right to annul this agreement without liability, or at its discretion; to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
3. **Delays and Extensions.** The term of the contract may be extended in the case of unavoidable delays, changes in the scope of work or level of effort required to meet the project objectives, and for consideration of corresponding warranted adjustments in payment. An extension of contract time is granted as described in Section 23, *Amendment*, of the contract.
4. **Termination or Abandonment.** The provisions of Section 15, *Default*, will also apply if the contract is terminated because of circumstances beyond the control of the consultant. The provisions of the section entitled "County Property" Section 7.B., shall apply to any partially completed work if the contract is terminated or abandoned.
6. **General Compliance with Laws and Wage Rates.** The consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 177, and all federal, state, and local laws and ordinances applicable to the work.

Any subcontract entered into as a result of this contract if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.

ATTACHMENT E - Continued

AGREEMENT BETWEEN COUNTY OF INYO
AND The Hydrodynamics Group, LLC
FOR THE PROVISION OF Hydrological Consulting Services SERVICES

TERM:

FROM: July 1, 2016

TO: June 30, 2017

FEDERAL FUNDS ADDENDUM

6. **Consultant's Endorsement on PS&E/Other Data.** The consultant's responsible engineer shall sign all plans, specifications, estimates (PS&E) and engineering data furnished by him/her, and where appropriate, indicate his/her California registration number.
7. **Disadvantaged Business Enterprise Considerations.** Consultants must give consideration to DBE firms as specified in 23 CFR 172.5(b), 49 CFR, Part 26. The Consultant shall comply with the applicable provisions of Exhibit 10-I, "Notice to Proposers Disadvantaged Business Enterprise Information," and Exhibit 10-J, "Standard Agreement for Subcontractor/DBE Participation," that were included in the Request for Statements of Qualifications.
8. **Safety.** The consultant shall comply with OSHA regulations applicable to the Consultant regarding necessary safety equipment or procedures. The Consultant shall comply with safety instructions issued by the county's project manager and other county representatives. Consultant personnel shall wear hard hats and safety vests at all time when working on the construction project site.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the county has determined that such areas are within the limits of the project and are open to public traffic. The Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. The consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the travelling public from injury and damage from such vehicles.

Any subcontract entered into as a result of this contract shall contain all of the provisions of the Article.

9. **Certifications.** Exhibits 10-F "Certification of Consultant, Commissions & Fees" and 10-G, "Certification of Agency" are included as attachments to the contract and made a part of.



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-223

Daniel B. Stephens & Associates, Inc. Contract Amendment No. 8 Planning Department ACTION REQUIRED

ITEM SUBMITTED BY

Sally Faircloth

ITEM PRESENTED BY

Cathreen Richards, Planning Director

RECOMMENDED ACTION:

Request Board approve Amendment No. 8 to the contract between the County of Inyo and Daniel B. Stephens and Associates, Inc. for the provision of hydrological services to amend all sections relating to the Term of the agreement to be April 25, 2017 to April 25, 2025, contingent upon the adoption of the Fiscal Year 2024-2025 Budget, and authorize the Chairperson to sign, contingent on all appropriate signatures being obtained.

BACKGROUND / SUMMARY / JUSTIFICATION:

On March 11, 2009, the Planning Commission approved Conditional Use Permit (CUP) No. 2007-03 (Coso Operating Company, LLC) and certified an associated Environmental Impact Report (EIR), which permitted the Coso Operating Company (COSO) to extract groundwater from two existing wells on its Hay Ranch property in the Rose Valley and Transport it via pipeline to Coso's geothermal plant at China Lake Naval Air Weapons Station nine miles east. Conditions of approval include a Hydrologic Monitoring Plan (HMMP), which works to monitor groundwater levels in the Rose Valley and to regulate Coso's groundwater pumping to ensure less than significant impacts.

Inyo County is continuing to monitor Coso's groundwater pumping pursuant to the HMMP. Additional monitoring is necessary based on Coso's modified pumping levels. Daniel B. Stephens & Associates (DBSA) has been providing hydrological consulting services for the project. DBSA's contract term is set to expire On April 25, 2024, but the County still has a need for hydrologic consulting relating to the ongoing pump and the HMMP, necessitating the need to extend the contract. An updated fee schedule is also included in the amendment.

FISCAL IMPACT:

Funding Source	Coso Monitoring & Mitigation Fund Balance, 503823	Budget Unit	023800
Budgeted?	Yes	Object Code	5265
Recurrence	Ongoing Expenditure		
Current Fiscal Year Impact			

Future Fiscal Year Impacts
Additional Information

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

The Board could not approve the amendment. This is not recommended as Daniel B. Stephens Associate, Inc's history and expertise are valuable assets for the County to utilize as hydrological consultants for the ongoing monitoring required by the HMMP.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

Inyo County Water Department.

ATTACHMENTS:

1. DB Stephens Contract Amendment 8
2. Insurance Requirements
3. DB Stephens Contract Amendment 7
4. DB Stephens Contract Amendment 6

APPROVALS:

Sally Faircloth	Created/Initiated - 3/21/2024
Darcy Ellis	Approved - 3/21/2024
Sally Faircloth	Approved - 3/25/2024
Cathreen Richards	Approved - 3/25/2024
Keri Oney	Approved - 3/25/2024
John Vallejo	Approved - 3/26/2024
Amy Shepherd	Approved - 3/26/2024
Nate Greenberg	Approved - 4/2/2024
Sally Faircloth	Final Approval - 4/2/2024

**AMENDMENT NO. EIGHT TO THE AGREEMENT
BETWEEN THE COUNTY OF INYO AND
DANIEL B. STEPHENS & ASSOCIATES, INC. FOR THE
PROVISION OF PROFESSIONAL SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Daniel B. Stephens & Associates, Inc. (hereinafter referred to as Contractor) have entered into an Agreement for the provision of professional services dated May 2, 2017 on County of Inyo Standard Contract No. 156 for the term from April 25, 2017 to April 25, 2018.

WHEREAS, the County and the Contractor agreed to Amendment No. One to the Agreement to Amend Section 2 -TERM to April 25, 2017 to April 25, 2019.

WHEREAS, the County and the Contractor agreed to Amendment No. Two to the Agreement to Amend Section 2 - TERM to April 25, 2017 to April 25, 2020.

WHEREAS, the County and the Contractor agreed to Amendment No. Three to the Agreement to Amend Section 2 -TERM to April 25, 2017 to April 25, 2021.

WHEREAS, the County and the Contractor agreed to Amendment No. Four to the Agreement to Amend Section 2 - TERM to April 25, 2017 to April 25, 2022.

WHEREAS, the County and the Contractor agreed to Amendment No. Four to the Agreement to Amend Section 3 - Consideration, D. Limit upon amount payable under Agreement to \$70,000.

WHEREAS, the County and the Contractor agreed to Amendment No. Five to the Agreement to Amend Section 2 - TERM to April 25, 2017 to April 25, 2022.

WHEREAS, the County and the Contractor agreed to Amend No. Five to the agreement to Attachment B – Schedule of Fees to reflect the attached “California Schedule of Fees (Effective January 1, 2020 through December 31, 2020).

WHEREAS, the County and the Contractor agreed to Amendment No. Six to the Agreement to Amend Section 2 - TERM to April 25, 2017 to April 25, 2023.

WHEREAS, the County and the Contractor agreed to Amend No. Six to the agreement to Attachment B – Schedule of Fees to reflect the attached “California Schedule of Fees (Effective January 1, 2022 through December 31, 2022).

WHEREAS, the County and the Contractor agreed to Amendment No. Seven to the Agreement to Amend Section 2 - TERM to April 25, 2017 to April 25, 2024.

WHEREAS, the County and the Contractor agreed to Amendment No. Seven to the term of April 25, 2017 to April 25, 2024 on Attachments A-E as applicable.

WHEREAS, the County and the Contractor agreed to Amend No. Seven to the agreement to Attachment B – Schedule of Fees to reflect the attached “California Schedule of Fees (Effective January 1, 2023 through December 31, 2023).

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Contractor do desire to consent to amend such Agreement as set forth below.

County and Contractor hereby amend such Agreement as follows:

- Amend Section 2 – TERM to April 25, 2017 to April 25, 2025.
- Amend the term to April 25, 2017 to April 25, 2025 on Attachments A-E as applicable.
- Amend Attachment B – Schedule of Fees to reflect the attached “California Schedule of Fees (Effective January 1, 2024 through December 31, 2024).
- Amend Attachment D – Insurance Requirements

AMENDMENT NO EIGHT TO THE AGREEMENT BETWEEN THE COUNTY OF
INYO AND
DANIEL B STEPHENS & ASSOCIATES, INC.
FOR THE PROVISION OF PROFESSIONAL SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND
SEALS THIS ___ DAY OF, _____

COUNTY

CONTRACTOR

By: _____

By: T. Neil Blandford

Date: _____

Date: March 12, 2024

APPROVED AS TO FORM AND LEGALITY:

Christian E. Milovich

County Counsel

APPROVED AS TO ACCOUNTING FORM:

Christie Martindale

County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS

K. Oney

Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT

Aaron Holmberg

County Risk Manager

California Schedule of Fees
 (Effective January 1, 2024 through December 31, 2024)
Confidential

Professional Services

Principal Professional III	\$335.00/hour
Principal Professional II	\$317.00/hour
Principal Professional I	\$280.00/hour
Senior Professional III	\$265.00/hour
Senior Professional II	\$254.00/hour
Senior Professional I	\$234.00/hour
Project Professional III	\$216.00/hour
Project Professional II	\$199.00/hour
Project Professional I	\$184.00/hour
Staff Professional III	\$168.00/hour
Staff Professional II	\$155.00/hour
Staff Professional I	\$139.00/hour
Technician III	\$130.00/hour
Technician II	\$120.00/hour
Technician I	\$108.00/hour
CADD Designer	\$155.00/hour
CADD/GIS/Database Manager II	\$140.00/hour
CADD/GIS/Database Manager I	\$130.00/hour
Senior Technical Editor	\$152.00/hour
Technical Editor	\$130.00/hour
Biologist II	\$130.00/hour
Biologist I	\$115.00/hour
Project Assistant III	\$130.00/hour
Project Assistant II	\$120.00/hour
Project Assistant I	\$105.00/hour

Expenses

Travel	
Airfare, car rental, cab, bus, parking	Actual cost
Lodging, meals, phone	Actual cost or negotiated per diem rates
Mileage	
Personal vehicle	Prevailing IRS rates
Company vehicle	
Daily rate	\$110/day + actual gas cost
Half day rate	\$55/half day + actual gas cost
Mileage	Prevailing IRS rates
Subcontractors/temporary service personnel	Actual cost plus 10%
Computers, specialized software, and communications	Special services at additional charge
Equipment	
Rentals (e.g., environmental monitors)	Actual cost plus 10%
Fabrication in our shop	Labor plus materials
Misc. field equipment and supplies	Actual cost plus 10%
Meters, gauges, and monitors	Separate schedule available upon request

TERMS

Payment terms for professional services and expenses are net 30 days. Unpaid balance will be assessed a service fee of 1.5% per month.

NOTES

1. All fees are subject to local/state sales or gross receipts tax, as applicable.
2. Delivery of depositions or expert testimony will be billed at 1.5 times Fee Schedule rates.
3. Work requiring Health & Safety Level C or Level B protection will be billed as a surcharge, \$25 or \$50 per hour, respectively, to the Fee Schedule rates.
4. A service fee of 3% will be charged for credit card payments.
5. Hourly rates and expenses will be adjusted annually.

Attachment: 2024 Insurance Requirements for Design Professionals, including Architects, Engineers, and Surveyors

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, their agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering any auto (Code 1), or if Consultant has no owned autos, covering hired (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with **Statutory Limits**, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions):** Insurance appropriate to the Consultant's profession, with limit no less than **\$2,000,000** per occurrence or claim, **\$2,000,000** aggregate.

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, Inyo County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Inyo County.

OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status: Inyo County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

Primary Coverage: For any claims related to this contract, the **Contractor's insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects Inyo County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Inyo County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

Attachment: 2024 Insurance Requirements for Design Professionals, including Architects, Engineers, and Surveyors

Notice of Cancellation: Each insurance policy required above shall state that coverage shall not be canceled, except with notice to Inyo County.

Umbrella or Excess Policy: The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. The Umbrella or Excess policies shall be provided on a true “following form” or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor’s primary and excess liability policies are exhausted.

Waiver of Subrogation: Contractor hereby grants to Inyo County a waiver of any right to subrogation which any insurer of said Contractor may acquire against Inyo County by virtue of the payment of any loss under such insurance. The contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Inyo County has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions: Self-insured retentions must be declared to and approved by Inyo County. Inyo County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County. The CGL and Professional Liability policies must provide that defense costs, including ALAE, will satisfy the SIR or deductible.

Acceptability of Insurers: Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best’s rating of no less than A:VII, unless otherwise acceptable to Inyo County.

Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.

Verification of Coverage: Contractor shall furnish Inyo County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. **All certificates and endorsements and copies of all Declarations and Endorsements pages are to be received and approved by Inyo County before work commences.** However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor’s obligation to provide them. Inyo County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances: Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

In the Rooms of the Board of Supervisors

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 27th day of June 2023 an order was duly made and entered as follows:

*Planning
Department –
Daniel B. Stephens
& Associates, Inc.
Contract
Amendment No. 7*

Moved by Supervisor Griffiths and seconded by Supervisor Orrill to ratify and approve Amendment No. 7 to the contract between the County of Inyo and Daniel B. Stephens & Associates, Inc. for the provision of hydrological services to amend all sections relating to the Term of the agreement to be April 25, 2017 to April 25, 2024, contingent upon the adoption of the Fiscal Year 2023-2024 Budget, and authorize the Chairperson to sign, contingent on all appropriate signatures being obtained. Motion carried unanimously.

WITNESS my hand and the seal of said Board this 27th
Day of June, 2023



NATHAN GREENBERG
Clerk of the Board of Supervisors

A handwritten signature in black ink, appearing to read "Nathan Greenberg", written over a horizontal line.

By: _____

Routing
CC Purchasing Personnel Auditor CAO Other: Planning DATE: July 6, 2023



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

June 27, 2023

Reference ID:
2023-3839

Daniel B. Stephens & Associates, Inc. Contract Amendment No. 7 Planning Department ACTION REQUIRED

ITEM SUBMITTED BY

Cathreen Richards, Planning Director

ITEM PRESENTED BY

Cathreen Richards, Planning Director

RECOMMENDED ACTION:

Ratify and approve Amendment No. 7 to the contract between the County of Inyo and Daniel B. Stephens & Associates, Inc. for the provision of hydrological services to amend all sections relating to the Term of the agreement to be April 25, 2017 to April 25, 2024, contingent upon the adoption of the Fiscal Year 2023-2024 Budget, and authorize the Chairperson to sign, contingent on all appropriate signatures being obtained.

BACKGROUND / SUMMARY / JUSTIFICATION:

On March 11, 2009 the Planning Commission approved Conditional Use Permit (CUP) No. 2007-03 (Coso Operating Company, LLC) and certified an associated Environmental Impact Report (EIR), which permitted the Coso Operating Company (Coso) to extract groundwater from two existing wells on its Hay Ranch property in the Rose Valley and transport it via pipeline to Coso's geothermal plant at China Lake Naval Air Weapons Station nine miles east. Conditions of approval include a Hydrologic Mitigation Monitoring Plan (HMMP), which works to monitor groundwater levels in the Rose Valley and to regulate Coso's groundwater pumping to ensure less than significant impacts.

Inyo County is continuing to monitor Coso's groundwater pumping pursuant to the HMMP, which also requires a continuation of the monitoring. Daniel B Stephens & Associates (DBSA) had been providing hydrological consulting services for the project consistently since the onset. DBSA's contract term expired on April 25, 2020, but the County still has the need for hydrologic consulting relating to the ongoing pumping and the HMMP, necessitating the need to extend the contract. An updated fee schedule is also included in the amendment.

FISCAL IMPACT:

Funding Source	Coso Monitoring & Mitigation Fund Balance, 503823	Budget Unit	023800
Budgeted?	Yes	Object Code	5265
Recurrence	Ongoing Expenditure		
Current Fiscal Year Impact			

Future Fiscal Year Impacts
Additional Information

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

The Board could not approve the amendment. This is not recommended as Daniel B. Stephens Associate, Inc.'s history and expertise are valuable assets for the County to utilize as hydrological consultants for the ongoing monitoring required by the HMMP.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

Inyo County Water Department.

ATTACHMENTS:

1. DB Stevens Contract Amendment 7
2. DB Stevens Contract Amendment 6

APPROVALS:

Cathreen Richards	Created/Initiated - 6/6/2023
Darcy Ellis	Approved - 6/6/2023
Cathreen Richards	Approved - 6/6/2023
Keri Oney	Approved - 6/9/2023
John Vallejo	Approved - 6/16/2023
Amy Shepherd	Approved - 6/16/2023
Nate Greenberg	Final Approval - 6/20/2023

**AMENDMENT NO. SEVEN TO THE AGREEMENT
BETWEEN THE COUNTY OF INYO AND
DANIEL B. STEPHENS & ASSOCIATES, INC. FOR THE
PROVISION OF PROFESSIONAL SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Daniel B. Stephens & Associates, Inc. (hereinafter referred to as Contractor) have entered into an Agreement for the provision of professional services dated May 2, 2017 on County of Inyo Standard Contract No. 156 for the term from April 25, 2017 to April 25, 2018.

WHEREAS, the County and the Contractor agreed to Amendment No. One to the Agreement to Amend Section 2 -TERM to April 25, 2017 to April 25, 2019.

WHEREAS, the County and the Contractor agreed to Amendment No. Two to the Agreement to Amend Section 2 - TERM to April 25, 2017 to April 25, 2020.

WHEREAS, the County and the Contractor agreed to Amendment No. Three to the Agreement to Amend Section 2 -TERM to April 25, 2017 to April 25, 2021.

WHEREAS, the County and the Contractor agreed to Amendment No. Four to the Agreement to Amend Section 2 - TERM to April 25, 2017 to April 25, 2022.

WHEREAS, the County and the Contractor agreed to Amendment No. Four to the Agreement to Amend Section 3 - Consideration, D. Limit upon amount payable under Agreement to \$70,000.

WHEREAS, the County and the Contractor agreed to Amendment No. Five to the Agreement to Amend Section 2 - TERM to April 25, 2017 to April 25, 2022.

WHEREAS, the County and the Contractor agreed to Amend No. Five to the agreement to Attachment B – Schedule of Fees to reflect the attached “California Schedule of Fees (Effective January 1, 2020 through December 31, 2020).

WHEREAS, the County and the Contractor agreed to Amendment No. Six to the Agreement to Amend Section 2 - TERM to April 25, 2017 to April 25, 2023.

WHEREAS, the County and the Contractor agreed to Amend No. Six to the agreement to Attachment B – Schedule of Fees to reflect the attached “California Schedule of Fees (Effective January 1, 2022 through December 31, 2022).

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Contractor do desire to consent to amend such Agreement as set forth below.

County and Contractor hereby amend such Agreement as follows:

- Amend Section 2 – TERM to April 25, 2017 to April 25, 2024
- Amend the term to April 25, 2017 to April 25, 2024 on Attachments A-E as applicable.
- Amend Attachment B – Schedule of Fees to reflect the attached “California Schedule of Fees (Effective January 1, 2023 through December 31, 2023)

AMENDMENT NO. SEVEN TO THE AGREEMENT BETWEEN THE COUNTY OF
INYO AND
DANIEL B. STEPHENS & ASSOCIATES, INC.
FOR THE PROVISION OF PROFESSIONAL SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND
SEALS THIS 27th DAY OF, June 2023.

COUNTY

By: 
Date: 06/27/2023

CONTRACTOR

By: 
James A. Kelsey, President
Date: 5/22/2023

APPROVED AS TO FORM AND LEGALITY:


County Counsel

APPROVED AS TO ACCOUNTING FORM:


County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:


Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:


County Risk Manager

In the Rooms of the Board of Supervisors

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 5th day of April 2022 an order was duly made and entered as follows:

*Planning –
DB Stevens
Contract
Amendment 6*

Moved by Supervisor Griffiths and seconded by Supervisor Pucci to approve Amendment No. 6 to the contract between the County of Inyo and DB Stevens and Associates for the provision of hydrological services in an amount not to exceed \$70,000 for the period of April 25, 2017 to April 25, 2023, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained. Motion carried unanimously.

WITNESS my hand and the seal of said Board this 5th
Day of April, 2022



LESLIE L. CHAPMAN
Clerk of the Board of Supervisors

Leslie L. Chapman

By: _____

<i>Routing</i>
CC Purchasing Personnel Auditor CAO Other: Planning DATE: April 5, 2022



County of Inyo



Planning Department

CONSENT - ACTION REQUIRED

MEETING: April 5, 2022

FROM: Cathreen Richards

SUBJECT: Amendment #6 to DB Stevens and Associates contract for hydrological services

RECOMMENDED ACTION:

Request Board approve Amendment No. 6 to the contract between the County of Inyo and DB Stevens and Associates for the provision of hydrological services in an amount not to exceed \$70,000 for the period of April 25, 2017 to April 25, 2023, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

SUMMARY/JUSTIFICATION:

On March 11, 2009 the Planning Commission approved Conditional Use Permit (CUP) No. 2007-03 (Coso Operating Company, LLC) and certified an associated Environmental Impact Report (EIR), which permitted the Coso Operating Company (Coso) to extract groundwater from two existing wells on its Hay Ranch property in the Rose Valley and transport it via pipeline to Coso's geothermal plant at China Lake Naval Air Weapons Station nine miles east. Conditions of approval include a Hydrologic Mitigation Monitoring Plan (HMMP), which works to monitor groundwater levels in the Rose Valley and to regulate Coso's groundwater pumping to ensure less than significant impacts.

Inyo County is continuing to monitor Coso's groundwater pumping pursuant to the HMMP. Additional monitoring is necessary based on Coso's modified pumping levels. Daniel B Stephens & Associates (DBSA) has been providing hydrological consulting services for the project. DBSA's contract term is set to expire on April 25, 2022, but the County still has need for hydrologic consulting relating to the ongoing pumping and the HMMP, necessitating the need to extend the contract. An updated fee schedule is also included in the amendment.

BACKGROUND/HISTORY OF BOARD ACTIONS:

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

The Board could not approve the amendment. This is not recommended as Daniel B. Stephens Associate, Inc.'s history and expertise are valuable assets for the County to utilize as hydrological consultants for the ongoing monitoring required by the HMMP.

OTHER AGENCY INVOLVEMENT:

FINANCING:

Financing will continue to be provided by deposit from Coso (Coso Monitoring & Mitigation Fund Balance, 503823). Work on tasks in accordance with this contract may carry forward into future budgets and will be evaluated accordingly during the budget process.

ATTACHMENTS:

1. DB Stevens and Associates Contract Amendment No. 6
2. DB Stevens and Associates Contract, Amendments 1-5

APPROVALS:

Cathreen Richards	Created/Initiated - 3/24/2022
Darcy Ellis	Approved - 3/24/2022
Aaron Steinwand	Approved - 3/30/2022
John Vallejo	Approved - 3/31/2022
Amy Shepherd	Approved - 3/31/2022
Cathreen Richards	Final Approval - 3/31/2022

**AMENDMENT NO. SIX TO THE AGREEMENT BETWEEN
THE COUNTY OF INYO AND
DANIEL B. STEPHENS & ASSOCIATES, INC. FOR THE
PROVISION OF PROFESSIONAL SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Daniel B. Stephens & Associates, Inc. (hereinafter referred to as Contractor) have entered into an Agreement for the provision of professional services dated May 2, 2017 on County of Inyo Standard Contract No. 156 for the term from April 25, 2017 to April 25, 2018.

WHEREAS, the County and the Contractor agreed to Amendment No. One to the Agreement to Amend Section 2 -TERM to April 25, 2017 to April 25, 2019.

WHEREAS, the County and the Contractor agreed to Amendment No. Two to the Agreement to Amend Section 2 - TERM to April 25, 2017 to April 25, 2020.

WHEREAS, the County and the Contractor agreed to Amendment No. Three to the Agreement to Amend Section 2 -TERM to April 25, 2017 to April 25, 2021.

WHEREAS, the County and the Contractor agreed to Amendment No. Four to the Agreement to Amend Section 2 - TERM to April 25, 2017 to April 25, 2022.

WHEREAS, the County and the Contractor agreed to Amendment No. Four to the Agreement to Amend Section 3 - Consideration, D. Limit upon amount payable under Agreement to \$70,000.

WHEREAS, the County and the Contractor agreed to Amend No. 5 to the agreement to Attachment B – Schedule of Fees to reflect the attached "California Schedule of Fees (Effective January 1, 2020 through December 31, 2020).

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Contractor do desire to consent to amend such Agreement as set forth below.

County and Contractor hereby amend such Agreement as follows:

- Amend Section 2 – TERM to April 25, 2017 to April 25, 2023
- Amend Attachment B – Schedule of Fees to reflect the attached "California Schedule of Fees (Effective January 1, 2022 through December 31, 2022).

AMENDMENT NO. SIX TO THE AGREEMENT BETWEEN THE COUNTY OF
INYO AND
DANIEL B. STEPHENS & ASSOCIATES, INC.
FOR THE PROVISION OF PROFESSIONAL SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND
SEALS THIS 5th DAY OF, April 2022

COUNTY

CONTRACTOR

By: *Dan Tether* By: *T. Neil Young*
Date: 04/05/2022 Date: 2/27/22

APPROVED AS TO FORM AND LEGALITY:

Christian E. Milovich
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

[Signature]
County Risk Manager



Daniel B. Stephens & Associates, Inc.

California Schedule of Fees
 (Effective January 1, 2022 through December 31, 2022)
Confidential

Professional Services

Principal Professional II.....	\$317.00/hour
Principal Professional I.....	\$276.00/hour
Senior Professional II.....	\$254.00/hour
Senior Professional I.....	\$227.00/hour
Project Professional III.....	\$206.00/hour
Project Professional II.....	\$187.00/hour
Project Professional I.....	\$177.00/hour
Staff Professional III.....	\$154.00/hour
Staff Professional II.....	\$142.00/hour
Staff Professional I.....	\$132.00/hour
Managing Technician.....	\$160.00/hour
Principal Technician.....	\$142.00/hour
Technician IV.....	\$129.00/hour
Technician III.....	\$121.00/hour
Technician II.....	\$112.00/hour
Technician I.....	\$104.00/hour
GIS Specialist.....	\$134.00/hour
CADD Specialist.....	\$134.00/hour
CADD/GIS/Database II.....	\$132.00/hour
CADD/GIS/Database I.....	\$120.00/hour
Senior Technical Editor.....	\$140.00/hour
Technical Editor.....	\$115.00/hour
Project Assistant II.....	\$110.00/hour
Project Assistant I.....	\$99.00/hour
Biologist II.....	\$118.00/hour
Biologist I.....	\$110.00/hour

Expenses

Travel	
Airfare, car rental, cab, bus, parking.....	Actual cost
Lodging, meals, phone.....	Actual cost or negotiated per diem rates
Mileage	
Personal vehicle.....	Prevailing IRS rates
Company vehicle.....	
Daily rate.....	\$102/day + actual gas cost
Half day rate.....	\$52/half day + actual gas cost
Mileage.....	Prevailing IRS rates
Subcontractors/temporary service personnel.....	Actual cost plus 10%
Computers and communications.....	Special services at additional charge
Equipment	
Rentals (e.g., environmental monitors).....	Actual cost plus 10%
Fabrication in our shop.....	Labor plus materials
Misc. field equipment and supplies.....	Actual cost plus 10%
Meters, gauges, and monitors.....	Separate schedule available upon request

TERMS

Payment terms for professional services and expenses are net 30 days. Unpaid balance will be assessed a service fee of 1.5% per month.

NOTES

1. All fees are subject to local/state sales or gross receipts tax, as applicable.
2. Delivery of depositions or expert testimony will be billed at 1.5 times Fee Schedule rates.
3. Work requiring Health & Safety Level C or Level B protection will be billed as a surcharge, \$25 or \$50 per hour, respectively, to the Fee Schedule rates.
4. A service fee of 3% will be charged for credit card payments.
5. Hourly rates and expenses are subject to annual updates.

**AMENDMENT NO. FIVE TO THE AGREEMENT
BETWEEN THE COUNTY OF INYO AND
DANIEL B. STEPHENS & ASSOCIATES, INC. FOR THE
PROVISION OF PROFESSIONAL SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Daniel B. Stephens & Associates, Inc. (hereinafter referred to as Contractor) have entered into an Agreement for the provision of professional services dated May 2, 2017 on County of Inyo Standard Contract No. 156 for the term from April 25, 2017 to April 25, 2018.

WHEREAS, the County and the Contractor agreed to Amendment No. One to the Agreement to Amend Section 2 -TERM to April 25, 2017 to April 25, 2019.

WHEREAS, the County and the Contractor agreed to Amendment No. Two to the Agreement to Amend Section 2 - TERM to April 25, 2017 to April 25, 2020.

WHEREAS, the County and the Contractor agreed to Amendment No. Three to the Agreement to Amend Section 2 -TERM to April 25, 2017 to April 25, 2021.

WHEREAS, the County and the Contractor agreed to Amendment No. Four to the Agreement to Amend Section 2 - TERM to April 25, 2017 to April 25, 2022.

WHEREAS, the County and the Contractor agreed to Amendment No. Four to the Agreement to Amend Section 3 - Consideration, D. Limit upon amount payable under Agreement to \$70,000.

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Contractor do desire to consent to amend such Agreement as set forth below.

County and Contractor hereby amend such Agreement as follows:

- Amend Attachment B – Schedule of Fees to reflect the attached "California Schedule of Fees (Effective January 1, 2020 through December 31, 2020).

AMENDMENT NO. FIVE TO THE AGREEMENT BETWEEN THE COUNTY
OF INYO AND
DANIEL B. STEPHENS & ASSOCIATES, INC.
FOR THE PROVISION OF PROFESSIONAL SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS
AND SEALS THIS 15th DAY OF June, 2021.

COUNTY

CONTRACTOR

By: *Jeff Griffith* By: *James*
Dated: 06/15/2021 Dated: 5/27/2021

APPROVED AS TO FORM AND LEGALITY:

Grace Church
County Counsel

APPROVED AS TO ACCOUNTING FORM:

Christie Mastindale
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

Jim
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

Caron
County Risk Manager



Daniel B. Stephens & Associates, Inc.

California Schedule of Fees

(Effective January 1, 2020 through December 31, 2020)

Confidential

Professional Services

Principal Professional II	\$305.00/hour
Principal Professional I	\$260.00/hour
Senior Professional II	\$240.00/hour
Senior Professional I	\$215.00/hour
Project Professional III	\$195.00/hour
Project Professional II	\$180.00/hour
Project Professional I	\$165.00/hour
Staff Professional III	\$145.00/hour
Staff Professional II	\$135.00/hour
Staff Professional I	\$125.00/hour
Managing Technician	\$155.00/hour
Principal Technician	\$135.00/hour
Technician IV	\$125.00/hour
Technician III	\$115.00/hour
Technician II	\$105.00/hour
Technician I	\$100.00/hour
GIS Specialist	\$130.00/hour
CADD Specialist	\$130.00/hour
CADD/GIS/Database II	\$125.00/hour
CADD/GIS/Database I	\$115.00/hour
Senior Technical Editor	\$130.00/hour
Technical Editor	\$100.00/hour
Project Assistant II	\$98.00/hour
Project Assistant I	\$85.00/hour
Biologist II	\$108.00/hour
Biologist I	\$98.00/hour

Expenses

Travel	
Airfare, car rental, cab, bus, parking	Actual cost
Lodging, meals, phone	Actual cost or negotiated per diem rates
Mileage	
Personal vehicle	Prevailing IRS rates
Company vehicle	
Daily rate	\$90/day + actual gas cost
Half day rate	\$45/half day + actual gas cost
Mileage	Prevailing IRS rates
Subcontractors/temporary service personnel	Actual cost plus 10%
Computers and communications	Special services at additional charge
Equipment	
Rentals (e.g., environmental monitors)	Actual cost plus 10%
Fabrication in our shop	Labor plus materials
Misc. field equipment and supplies	Actual cost plus 10%
Meters, gauges, and monitors	Separate schedule available upon request

TERMS

Payment terms for professional services and expenses are net 30 days. Unpaid balance will be assessed a service fee of 1.5% per month.

NOTES

1. All fees are subject to local/state sales or gross receipts tax, as applicable.
2. Delivery of depositions or expert testimony will be billed at 1.5 times Fee Schedule rates.
3. Work requiring Health & Safety Level C or Level B protection will be billed as a surcharge, \$25 or \$50 per hour, respectively, to the Fee Schedule rates.
4. A service fee of 3% will be charged for credit card payments.

**AMENDMENT NO. FOUR TO THE AGREEMENT
BETWEEN THE COUNTY OF INYO AND
DANIEL B. STEPHENS & ASSOCIATES, INC. FOR THE
PROVISION OF PROFESSIONAL SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Daniel B. Stephens & Associates, Inc. (hereinafter referred to as Contractor) have entered into an Agreement for the provision of professional services dated May 2, 2017 on County of Inyo Standard Contract No. 156 for the term from April 25, 2017 to April 25, 2018.

WHEREAS, the County and the Contractor agreed to Amendment No. One to the Agreement to Amend Section 2 – TERM to April 25, 2017 to April 25, 2019.

WHEREAS, the County and the Contractor agreed to Amendment No. Two to the Agreement to Amend Section 2 – TERM to April 25, 2017 to April 25, 2020.

WHEREAS, the County and the Contractor agreed to Amendment No. Three to the Agreement to Amend Section 2 – TERM to April 25, 2017 to April 25, 2021.

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Contractor do desire to consent to amend such Agreement as set forth below.

County and Contractor hereby amend such Agreement as follows:

- Amend Section 2 - TERM to April 25, 2017 to April 25, 2022
- Amend Section 3 – Consideration, D. Limit upon amount payable under Agreement to \$70,000

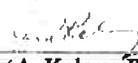
AMENDMENT NO. FOUR TO THE AGREEMENT BETWEEN THE COUNTY
OF INYO AND
DANIEL B. STEPHENS & ASSOCIATES, INC.
FOR THE PROVISION OF PROFESSIONAL SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS
AND SEALS THIS 21st DAY OF April, 2021.

COUNTY

CONTRACTOR

By: 

By: 

Dated: 04/21/2021

Dated: March 8, 2021

James A. Kelsey, President

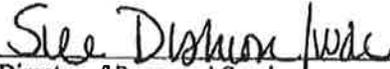
APPROVED AS TO FORM AND LEGALITY:


County Counsel

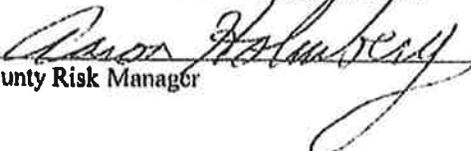
APPROVED AS TO ACCOUNTING FORM:


County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:


Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:


County Risk Manager

**AMENDMENT NO. THREE TO THE AGREEMENT
BETWEEN THE COUNTY OF INYO AND
DANIEL B. STEPIENS & ASSOCIATES, INC. FOR THE
PROVISION OF PROFESSIONAL SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Daniel B. Stephens & Associates, Inc. (hereinafter referred to as Contractor) have entered into an Agreement for the provision of professional services dated May 2, 2017 on County of Inyo Standard Contract No. 156 for the term from April 25, 2017 to April 25, 2018.

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WHEREAS, the County and the Contractor agreed to Amendment No. Two to the Agreement to Amend Section 2 – TERM to April 25, 2017 to April 25, 2020.

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Contractor do desire to consent to amend such Agreement as set forth below.

County and Contractor hereby amend such Agreement as follows:

- Amend Section 2 · TERM to April 25, 2017 to April 25, 2021

**AMENDMENT NO. THREE TO THE AGREEMENT BETWEEN THE COUNTY
OF INYO AND
DANIEL B. STEPHENS & ASSOCIATES, INC.
FOR THE PROVISION OF PROFESSIONAL SERVICES**

**IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS
AND SEALS THIS ___ DAY OF _____, _____.**

COUNTY

CONTRACTOR

By: _____

By: _____

Dated: _____

Dated: _____

Jagros A. Kelsoy, President
Jagros A. Kelsoy, President

March 17, 2020

APPROVED AS TO FORM AND LEGALITY:

Shane Chubb

County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]

County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]

Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

[Signature]

County Risk Manager

**AMENDMENT NO. TWO TO THE AGREEMENT
BETWEEN THE COUNTY OF INYO AND
DANIEL B. STEPHENS & ASSOCIATES, INC. FOR THE
PROVISION OF PROFESSIONAL SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Daniel B. Stephens & Associates, Inc. (hereinafter referred to as Contractor) have entered into an Agreement for the provision of professional services dated May 2, 2017 on County of Inyo Standard Contract No. 156 for the term from April 25, 2017 to April 25, 2018.

WHEREAS, the County and the Contractor agreed to Amendment No. One to the Agreement to Amend Section 2 - TERM to April 25, 2017 to April 25, 2019.

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Contractor do desire to consent to amend such Agreement as set forth below.

County and Contractor hereby amend such Agreement as follows:

- Amend Section 2 - TERM to April 25, 2017 to April 25, 2020

**AMENDMENT NO. TWO TO THE AGREEMENT BETWEEN THE COUNTY
OF INYO AND
DANIEL B. STEPHENS & ASSOCIATES, INC.
FOR THE PROVISION OF PROFESSIONAL SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS
AND SEALS THIS 16th DAY OF April, 2019.

COUNTY

CONTRACTOR

By: [Signature] By: [Signature]
Dated: 4-16-19 Dated: 4/5/2019

APPROVED AS TO FORM AND LEGALITY:

[Signature]
County Counsel

APPROVED AS TO ACCC FORM:

[Signature]
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

[Signature]
County Risk Manager

**AMENDMENT NO. ONE TO THE AGREEMENT
BETWEEN THE COUNTY OF INYO AND
DANIEL B. STEPHENS & ASSOCIATES, INC. FOR THE
PROVISION OF PROFESSIONAL SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Daniel B. Stephens & Associates, Inc. (hereinafter referred to as Contractor) have entered into an Agreement for the provision of professional services dated May 2, 2017 on County of Inyo Standard Contract No. 156 for the term from April 25, 2017 to April 25, 2018.

WHEREAS, County and Contractor do desire to consent to amend such Agreement as set forth below.

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Contractor do desire to consent to amend such Agreement as set forth below.

County and Contractor hereby amend such Agreement as follows:

- Amend Section 2 - TERM to April 25, 2017 to April 25, 2019

**AMENDMENT NO. ONE TO THE AGREEMENT BETWEEN THE COUNTY OF
INYO AND
DANIEL B. STEPHENS & ASSOCIATES, INC.
FOR THE PROVISION OF PROFESSIONAL SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS
AND SEALS THIS 14th DAY OF April, 2018.

COUNTY

CONTRACTOR

By: [Signature]

By: [Signature]

Dated: 4-24-18

Date: 3/29/18

APPROVED AS TO FORM AND LEGALITY:

[Signature]
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

[Signature]
County Risk Manager

AGREEMENT BETWEEN COUNTY OF INYO
AND Daniel B. Stephens & Associates, Inc.
FOR THE PROVISION OF Hydrologic Analysis SERVICES

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") has the need for the hydrological analysis services of Daniel B. Stephens & Associates, Inc. (hereinafter referred to as "Consultant"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK.

The Consultant shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Consultant to perform under this Agreement will be made by the Water Department Director. Requests to the Consultant for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Consultant by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Consultant the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Consultant at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement and, as applicable, as set forth, in Attachment E, attached hereto and incorporated herein.

2. TERM.

The term of this Agreement shall be from April 25, 2017 to April 25, 2018 unless sooner terminated as provided below. In addition, County shall have two options to extend the Agreement for additional one-year periods as follows:

- A. From _____ through _____
- B. From _____ through _____

County shall exercise such options by giving written notice to Contractor at least thirty (30) days before the expiration of the Agreement, or an extension thereof.

The notice shall specify the period of the options being exercised. The option to extend shall be upon the same terms and conditions stated in this Agreement.

3. CONSIDERATION.

A. Compensation. County shall pay Consultant in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Consultant at the County's request.

B. Travel and per diem. County shall reimburse Consultant for the travel expenses and per diem which Consultant incurs in providing services and work requested by County under this Agreement. Consultant shall request approval by the County prior to incurring any travel or per diem expenses. Requests by Consultant for approval to incur travel and per diem expenses shall be submitted to the Water Department Director. Travel and per diem expenses will be reimbursed in accordance with the rates set forth in the Schedule of Travel and Per Diem Payment (Attachment C). County reserves the right to deny reimbursement to Consultant for travel or per diem expenses which are either in excess of the amounts that may be paid under the rates set forth in Attachment C, or which are incurred by the Consultant without the prior approval of the County.

C. No additional consideration. Except as expressly provided in this Agreement, Consultant shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Consultant shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed \$40,000 (initial term) \$0 (option 1) and \$0 (option 2) for a total of \$40,000 Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and payment. Consultant shall submit to the County, once a month, an itemized statement of all hours spent by Consultant in performing services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the first (1st) day of the preceding month through and including the last day of the preceding month. This statement will identify the date on which the hours were worked and describe the nature of the work which was performed on each day. Consultant's statement to the County will also include an itemization of any travel or per diem expenses, which have been approved in advance by County, incurred by Consultant during that period. The itemized statement for travel expenses and per diem will include receipts for lodging, meals, and other incidental expenses in accordance with the County's accounting procedures and rules. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Consultant on the last day of the month.

F. Federal and State taxes.

- (1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Consultant under the terms and conditions of this Agreement.
- (2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent Consultant's when it is anticipated that total annual payments to Consultant under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).
- (3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Consultant under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant. County has no responsibility or liability for payment of Consultant's taxes or assessments.

- (4) The total amounts paid by County to Consultant, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Consultant shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

4. WORK SCHEDULE.

Consultant's obligation is to perform, in a timely manner, those services and work identified in Attachment A which are requested by the County. It is understood by Consultant that the performance of these services and work will require a varied schedule. Consultant will arrange his/her own schedule, but will coordinate with County to insure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Consultant to provide the services and work described in attachment A must be procured by Consultant and be valid at the time Consultant enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Consultant at no expense to the County. Consultant will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Consultant and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Consultant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Consultant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Consultant to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Consultant, for any expense or cost incurred by Consultant in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Consultant in providing and maintaining such items is the sole responsibility and obligation of Consultant.

7. COUNTY PROPERTY.

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Consultant by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Consultant will use reasonable care to protect, safeguard and maintain such items while they are in Consultant's possession. Consultant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Consultant's negligence.

B. Products of Consultant's Work and Services. Any and all compositions, publications, plans, s, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer

programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Consultant's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Consultant will convey possession and title to all such properties to County.

8. INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES.

For the duration of this Agreement Consultant shall procure and maintain insurance of the scope and amount specified in Attachment D and with the provisions specified in that attachment.

9. STATUS OF CONSULTANT.

All acts of Consultant, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent Consultant's, and not as agents, officers, or employees of County. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Consultant has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Consultant is to be considered an employee of County. It is understood by both Consultant and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent Consultant:

A. Consultant shall determine the method, details, and means of performing the work and services to be provided by Consultant under this Agreement.

B. Consultant shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Consultant in fulfillment of this Agreement.

C. Consultant, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent Consultant's, and not as employees of County.

10. DEFENSE AND INDEMNIFICATION.

For professional services rendered under this Contract, Consultant agrees to indemnify, including the cost to defend County and its officers, officials, employees, and volunteers from and against any and all claims, demands, costs, or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant and its employees or agents in the performance of professional services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of the County.

Contractor shall hold harmless, defend, and indemnify County and its officers, officials, employees, and volunteers from and against all claims, damages, losses, and expenses including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of the Consultant, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the County.

Consultant's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Consultant to procure and maintain a policy of insurance. If the Consultant maintains higher limits than the minimum required on the Insurance attachment to this Agreement, the County requires and shall be entitled to coverage for the higher limits maintained by the Consultant.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Consultant, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

11. RECORDS AND AUDIT.

A. Records. Consultant shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Consultant shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Consultant may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Consultant, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Consultant. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

12. NONDISCRIMINATION.

During the performance of this Agreement, Consultant, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Consultant and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Consultant shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

13. CANCELLATION.

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Consultant thirty (30) days written notice of such Intent to cancel. Consultant may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

14. ASSIGNMENT.

This is an agreement for the services of Consultant. County has relied upon the skills, knowledge, experience, and training of Consultant as an inducement to enter into this Agreement. Consultant shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

15. DEFAULT.

If the Consultant abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Consultant in default and terminate this Agreement upon five (5) days written notice to Consultant. Upon such termination by default, County will pay to Consultant all amounts owing to Consultant for services and work satisfactorily performed to the date of termination.

16. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-two (22) below.

17. CONFIDENTIALITY.

Consultant further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Consultant in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Consultant agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Consultant only with the express written consent of the County. Any disclosure of confidential information by Consultant without the County's written consent is solely and exclusively the legal responsibility of Consultant in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

18. CONFLICTS.

Consultant agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

19. POST AGREEMENT COVENANT.

Consultant agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Consultant agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any County, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Consultant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

20. SEVERABILITY.

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

21. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Consultant of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-two (22) (Amendment).

22. AMENDMENT.

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

23. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Consultant or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo:	
Water Department, Attn.: Bob Harrington	Department
PO Box 337	Address
Independence, CA 93526	City and State

Consultant:	
Daniel B. Stephens & Associates, Inc.	Name
6020 Academy Road NE, Ste. 100	Address
Albuquerque, NM 87109	City and State

24. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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ATTACHMENT A

**AGREEMENT BETWEEN COUNTY OF INYO
AND Daniel B. Stephens & Associates, Inc.
FOR THE PROVISION OF Hydrological Analysis SERVICES**

TERM:

FROM: April 25, 2017 **TO:** April 25, 2018

SCOPE OF WORK:

I. Background

Coso Operating Company (COC) has continued to extract water from the Rose Valley Basin in accordance with the provisions of Conditional Use Permit 2007-003. Pumping operations began in December, 2009 and were extended several times based on observed groundwater levels and groundwater model predictions. COC has requested an evaluation of whether pumping could be extended based on the existing standards of Significant Impact in the HMMP. The proposed two pumping scenarios are (1) an annual pumping season of four months from June through September, at a rate of 1000 gpm, and (2) a similar pumping season a rate that is sustainable indefinitely.

II. Scope of Work

Task 1. Contractor shall update and recalibrate the Rose Valley groundwater flow model based on actual pumping rates, groundwater level observations, updated recharge estimates, and a reevaluation of groundwater discharge at Little Lake. Should any discrepancies be noted, contractor shall make recommendations for changes in model parameters and/or boundary conditions, as appropriate.

Task 2. The updated and recalibrated model shall be used to evaluate the two scenarios described above, subject to the limitation that groundwater discharge at Little Lake does not decline by more than 10% of its estimated 2009 value. Maximum drawdown and drawdown at the time when pumping ceases shall be estimated at monitoring wells.

Task 3. The updated and recalibrated model shall be used to produce a duration of pumping for scenario (1) and a pumping rate for scenario (2).

Task 4. Results of Tasks 1 through 3 shall be reported to the Water Department in the form of a letter report and updated model files.

ATTACHMENT B

**AGREEMENT BETWEEN COUNTY OF INYO
AND Daniel B. Stephens & Associates, Inc.
FOR THE PROVISION OF Hydrological Analysis SERVICES**

TERM:

FROM: April 25, 2017 **TO:** April 25, 2018

SCHEDULE OF FEES:

See attached.



Daniel B. Stephens & Associates, Inc.

Standard Schedule of Fees
 (Effective January 1, 2017 through December 31, 2017)
Confidential

Professional Services

Principal Professional II	\$250.00/hour
Principal Professional I	\$205.00/hour
Senior Professional II	\$185.00/hour
Senior Professional I	\$168.00/hour
Project Professional III	\$155.00/hour
Project Professional II	\$145.00/hour
Project Professional I	\$125.00/hour
Staff Professional III	\$115.00/hour
Staff Professional II	\$105.00/hour
Staff Professional I	\$98.00/hour
Managing Technician	\$140.00/hour
Principal Technician	\$120.00/hour
Technician IV	\$105.00/hour
Technician III	\$90.00/hour
Technician II	\$84.00/hour
Technician I	\$78.00/hour
GIS Specialist	\$120.00/hour
CADD Specialist	\$120.00/hour
CADD/GIS/Data Base II	\$110.00/hour
CADD/GIS/Data Base I	\$95.00/hour
Senior Technical Editor	\$120.00/hour
Technical Editor	\$95.00/hour
Project Assistant II	\$85.00/hour
Project Assistant I	\$75.00/hour
Biologist II	\$95.00/hour
Biologist I	\$79.00/hour

Expenses

Travel	
Airfare, car rental, cab, bus, parking	Actual cost
Lodging, meals, phone	Actual cost or negotiated per diem rates
Mileage	
Personal vehicle	Prevailing IRS rates
Company vehicle	Prevailing IRS rates
Daily rate	\$90/day + actual gas cost
Half day rate	\$45/half day + actual gas cost
Mileage	Prevailing IRS rates
Subcontractors/temporary service personnel	Actual cost plus 10%
Computers and communications	Special services at additional charge
Equipment	
Rentals (e.g., environmental monitors)	Actual cost plus 10%
Fabrication in our shop	Labor plus materials
Misc. field equipment and supplies	Actual cost plus 10%
Meters, gauges, and monitors	Separate schedule available upon request

TERMS

Payment terms for professional services and expenses are net 30 days. Unpaid balance will be assessed a service fee of 1.5% per month.

NOTES

1. All fees are subject to local/state sales or gross receipts tax, as applicable.
2. Delivery of depositions or expert testimony will be billed at 1.5 times Fee Schedule rates.
3. Work requiring Health & Safety Level C or Level B protection will be billed as a surcharge, \$25 or \$50 per hour, respectively, to the Fee Schedule rates.

ATTACHMENT C

**AGREEMENT BETWEEN COUNTY OF INYO
AND Daniel B. Stephens & Associates, Inc.
FOR THE PROVISION OF Hydrological Analysis SERVICES**

TERM:

FROM: April 25, 2017

TO: April 25, 2018

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT:

Refer to Attachment B.

ATTACHMENT D

**AGREEMENT BETWEEN COUNTY OF INYO
AND Daniel B. Stephens & Associates, Inc.
FOR THE PROVISION OF Hydrological Analysis SERVICES**

TERM:

FROM: April 25, 2017

TO: April 26, 2018

SEE ATTACHED INSURANCE PROVISIONS

Specifications 2
Insurance Requirements for Professional Services

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

(Not required if consultant provides written verification it has no employees)

1. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Consultant's profession, with limit no less than **\$1,000,000** per occurrence.

If the Consultant maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

1. **The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Primary Coverage

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the Entity.**

Waiver of Subrogation

Consultant hereby grants to Entity a waiver of any right to subrogation which any insurer of said Consultant may acquire against the Entity by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The **Retroactive Date** must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**
3. If coverage is canceled or non-renewed, and not **replaced with another claims-made policy form with a Retroactive Date** prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of contract work.

Verification of Coverage

Consultant shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The Entity reserves the right to require complete,

certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

ATTACHMENT E

AGREEMENT BETWEEN COUNTY OF INYO
AND Daniel B. Stephens & Associates, Inc.
FOR THE PROVISION OF Hydrological Analysis SERVICES

TERM:

FROM: April 25, 2017

TO: April 25, 2018

FEDERAL FUNDS ADDENDUM

1. Section 12, Part B, *Inspections and Audits*, of the contract is amended to read;

"Any authorized representative of the County, or of a *federal, or state agency* shall have access to any books, documents, papers, records, including, but not limited to, financial records of the Consultant, which the County or *federal or state agency* determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Consultant. Further, the County or *federal or state agency* has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement. Copies of any of these records shall be furnished, if requested."
2. **Covenant Against Contingent Fees.** The Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the consultant, to solicit or secure this agreement, and that he/she has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this agreement. For breach or violation of this warranty, the local agency shall have the right to annul this agreement without liability, or at its discretion; to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
3. **Delays and Extensions.** The term of the contract may be extended in the case of unavoidable delays, changes in the scope of work or level of effort required to meet the project objectives, and for consideration of corresponding warranted adjustments in payment. An extension of contract time is granted as described in Section 23, *Amendment*, of the contract.
4. **Termination or Abandonment.** The provisions of Section 15, *Default*, will also apply if the contract is terminated because of circumstances beyond the control of the consultant. The provisions of the section entitled "**County Property**" Section 7.B., shall apply to any partially completed work if the contract is terminated or abandoned.
5. **General Compliance with Laws and Wage Rates.** The consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 177, and all federal, state, and local laws and ordinances applicable to the work.

Any subcontract entered into as a result of this contract if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.

ATTACHMENT E - Continued

AGREEMENT BETWEEN COUNTY OF INYO
AND Daniel B. Stephens & Associates, Inc.
FOR THE PROVISION OF Hydrological Analysis SERVICES

TERM:

FROM: April 25, 2017

TO: April 25, 2018

FEDERAL FUNDS ADDENDUM

6. **Consultant's Endorsement on PS&E/Other Data.** The consultant's responsible engineer shall sign all plans, specifications, estimates (PS&E) and engineering data furnished by him/her, and where appropriate, indicate his/her California registration number.
7. **Disadvantaged Business Enterprise Considerations.** Consultants must give consideration to DBE firms as specified in 23 CFR 172.5(b), 49 CFR, Part 26. The Consultant shall comply with the applicable provisions of Exhibit 10-I, "Notice to Proposers Disadvantaged Business Enterprise Information," and Exhibit 10-J, "Standard Agreement for Subcontractor/DBE Participation," that were included in the Request for Statements of Qualifications.
8. **Safety.** The consultant shall comply with OSHA regulations applicable to the Consultant regarding necessary safety equipment or procedures. The Consultant shall comply with safety instructions issued by the county's project manager and other county representatives. Consultant personnel shall wear hard hats and safety vests at all time when working on the construction project site.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the county has determined that such areas are within the limits of the project and are open to public traffic. The Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. The consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

Any subcontract entered into as a result of this contract shall contain all of the provisions of the Article.
9. **Disclosure of Lobbying Activities.** Exhibit 10-Q "Disclosure of Lobbying Activities".
10. **Consultant Management Position Conflict of Interest Confidentiality Statement.** Exhibit 10-U "Consultant in Management Position Conflict of Interest Statement."



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-230

Lone Pine Architectural Design Review Board Appointments Planning Department ACTION REQUIRED

ITEM SUBMITTED BY

Cathreen Richards, Planning Director

ITEM PRESENTED BY

Cathreen Richards, Planning Director

RECOMMENDED ACTION:

Staff is recommending that the Board re-appointment Kathi Hall, Sheyanne Quilter and Matthew Royce to the Lone Pine Architectural Design Review Board. These appointments include one member to serve as the “Qualified licensed architect” (Mathew Royce); one to serve as the “Lone Pine Chamber of Commerce” member (Kathi Hall); and, one to serve as the “public” member (Sheyanne Quilter) pursuant to Section 18.69.020(B) (1), (4) & (5) of the Inyo County Code.

BACKGROUND / SUMMARY / JUSTIFICATION:

Inyo County Code Section 18.69.020 describes these appointments to the Lone Pine Architectural Design Review Board:

- “A qualified licensed architect”
- Chamber of Commerce Member: “A member of the Chamber of Commerce representing the town or locale in which the D District (i.e., Design District) has been designated, recommended jointly to the Board of Supervisors by that Chamber of Commerce and the Planning Commissioner representing the Supervisorial district in which the D District has been designated.”
- Public Member: “A member of the public residing in the town or locale in which the D District has been designated, recommended jointly to the Board of Supervisors by the Chamber of Commerce representing that town or locale and the Planning Commissioner representing the Supervisorial district in which the D District has been designated.”

These appointments will be for a term of two years, to expire April 2026.

Mr. Matthew Royce qualifies as a licensed architect for this seat on the LPADRB and has agreed to another 2-year term. Ms. Sheyanne Quilter volunteered in 2022 for the community member representative seat and has agreed to another 2-year term. Ms. Kathi Hall the “Chamber of Commerce” Board member has been serving in the Lone Pine Chamber of Commerce position for many terms and has expressed interest in continuing her service as a Board Member. As required, Ms. Hall and Ms. Quilter have been recommended by the Lone Pine Chamber of Commerce, as well as by Planning

Commissioner Scott Kemp, representing the Fifth District, to serve the two-year term ending in 2026 (letters attached).

FISCAL IMPACT:

Funding Source	General Fund	Budget Unit	23800
Budgeted?	Yes	Object Code	
Recurrence	Ongoing Expenditure		
Current Fiscal Year Impact			
Future Fiscal Year Impacts			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

Your Board could choose not to reappoint the three candidates to serve on the Lone Pine Architectural Design Review Board. This is not recommended as these three people are interested in serving as board members and care greatly for the integrity of design in Lone Pine.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

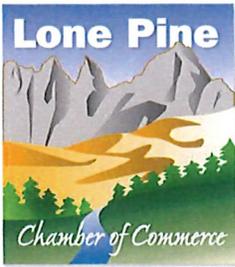
None.

ATTACHMENTS:

1. LP Chamber of Commerce Letter
2. Planning Commissioner Scott Kemp Letter

APPROVALS:

Cathreen Richards	Created/Initiated - 3/27/2024
Darcy Ellis	Approved - 4/1/2024
John Vallejo	Approved - 4/1/2024
Nate Greenberg	Approved - 4/2/2024
Cathreen Richards	Final Approval - 4/2/2024



LONE PINE CHAMBER OF COMMERCE

120 South Main Street ~ P.O. Box 749 ~ Lone Pine, CA 93545
(760) 876-4444 ~ Fax (760) 264-9675

County of Inyo Planning Department
PO Box L
Independence CA 93549

March 20, 2024

Attn: Cathreen Richards

Dear Cathreen,

This is to inform you the Lone Pine Chamber supports the reappointment of Kathi Hall, and Sheyanne Quilter both of Lone Pine, to serve on the Design Review Board for a two-year term. Both have lived in Lone Pine for many years and are dedicated to the community and to serving on the Design Review Board.

Sincerely,

Angelica L Mora Rodriguez

Angelica Mora Rodriguez
President/CEO
Lone Pine Chamber of Commerce

March 20, 2024

Scott Kemp
PO Box 1205
Lone Pine, CA 93545

Inyo County Board of Supervisors:

I am writing in support of the reappointment of Ms. Kathi Hall and Sheyanne Quilter to the Lone Pine Architectural Design Review Board. Both have lived in Lone Pine for many years and are dedicated to the community and serving on the Board.

Thank you for your consideration,

Scott Kemp,
Inyo County Fifth District Planning Commissioner



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-226

Amendment No. 6 to Agreement Between the County of Inyo and LSC Transportation Planning Consultants, Inc.

Public Works

ACTION REQUIRED

ITEM SUBMITTED BY

Justine Kokx, Transportation Planner

ITEM PRESENTED BY

Michael Errante, Public Works Director

RECOMMENDED ACTION:

- A) Ratify and approve Amendment No. 6 between the County of Inyo and LSC Transportation Planning Consultants, Inc. of Tahoe City, CA for the provision of transportation planning services by \$9,900 to an amount not to exceed \$261,132, and extending the term end date from June 30, 2024 to October 19, 2024, contingent upon the Board's approval of the Fiscal Year 2024-2025 Budget;
- B) update Consultant's billing rates as of March 19, 2024; and
- C) Authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

BACKGROUND / SUMMARY / JUSTIFICATION:

LSC Transportation Consultants, Inc. (LSC) has worked extensively with Inyo County since 2018. On April 10, 2018, your Board approved a five-year contract with LSC to complete the 2019 Regional transportation Plan (RTP). The contract was amended on June 26, 2018 to assist with the preparation of the 2019 Active Transportation Program grant proposal for the Lone Pine sidewalk ADA project, which was successful.

On December 14, 2021, Amendment No. 2 was approved to develop a Local Road Safety Plan, a requirement to be eligible to submit for Highway Safety Improvement Program (HSIP) grants.

Amendment No. 3 was approved on August 9, 2022 to assist with the preparation of three grant proposals, for the HSIP program, the Sustainable Transportation Planning Grant program (STPG) and the Active Transportation Program (ATP). The HSIP grant for Old Spanish Trail Hwy over Emigrant Pass was successful. The STPG grant proposal was successful and will result in the development of an Inyo County Electric Vehicle Charging Infrastructure and Network plan (ICEVICNP).

Amendment No. 4 was completed on December 1, 2022, to prepare an update to the 2015 Active Transportation Plan. Amendment No. 5 was completed on February 10, 2023 to add minor scope (County fleet conversion) to the ICEVICNP proposal. LSC is currently working with the Inyo County Local Transportation Commission (ICLTC) staff to develop an ATP grant proposal in Tecopa.

The ICLTC is requesting approval to amend the existing contract with LSC to assist ICLTC staff in preparing an Active Transportation Program (ATP) grant, and provide transportation planning services on an "on-call" or as needed basis.

FISCAL IMPACT:

Funding Source	Non-General Fund - LTC Planning Funds; RPA and PPM	Budget Unit	504605
Budgeted?	Yes	Object Code	5265
Recurrence	Ongoing Expenditure		
Current Fiscal Year Impact			
Approximately \$6,900			
Future Fiscal Year Impacts			
Remaining \$3,000			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

Not approving this amendment would limit staff's ability to access LSC Transportation Consultants' transportation planning and grant writing expertise.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

Inyo County Counsel; Inyo County Auditor; Inyo County Risk Management

ATTACHMENTS:

1. LSC Contract Amendment No. 6 with attachments
2. LSC Contract Amendments 1-5

APPROVALS:

Justine Kokx	Created/Initiated - 3/27/2024
Darcy Ellis	Approved - 3/28/2024
Breanne Nelums	Approved - 3/28/2024
Michael Errante	Approved - 3/28/2024
Darcy Ellis	Approved - 3/28/2024
John Vallejo	Approved - 4/1/2024
Grace Chuchla	Approved - 4/1/2024
Amy Shepherd	Approved - 4/1/2024
Nate Greenberg	Final Approval - 4/2/2024

**AMENDMENT NUMBER _____ TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND

FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and _____, of _____ (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Independent Contractor Services dated _____, on County of Inyo Standard Contract No. _____, for the term from _____ to _____.

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

The effective date of this Amendment to the Agreement is _____.

All the other terms and conditions of the Agreement are unchanged and remain the same.

AMENDMENT NUMBER 6 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC Transportation Planning Consultants, Inc.
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: 

Signature

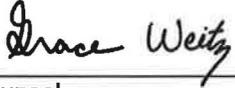
Genevieve Evans

Type or Print

3/27/24

Dated: _____

APPROVED AS TO FORM AND LEGALITY:



County Counsel

APPROVED AS TO ACCOUNTING FORM:



County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

Personnel Services

APPROVED AS TO RISK ASSESSMENT:



County Risk Manager



LSC Transportation Consultants, Inc.

2690 Lake Forest Road, Suite C

P.O. Box 5875

Tahoe City, CA 96145

530-583-4053 ▲ FAX: 530-583-5966

info@lstrans.com ▲ www.lstrans.com

March 19, 2024

Michael Errante
 Inyo County Local Transportation Commission
 P.O. Drawer Q
 Independence, CA 93526

SUBJECT: Inyo County Transportation Planning Assistance Cost Estimate

Dear Mr. Errante:

Below is a proposed Cost Estimate for additional transportation planning assistance that would require an amendment to the existing April 2018 contract with Inyo County. LSC is in the process of assisting Inyo County with the preparation of an Active Transportation Program (ATP) grant application as per the current contract. Inyo County is also interested in retaining LSC staff for “on-call” transportation planning assistance. The cost estimate below assumes six months of on-call services, from March 19, 2024 to October 19, 2024.

LSC estimates that, in total, 60 hours of staff time will be spent on on-call services over the six-month period. It is expected that the Principal will spend 18 hours, the Project Planner will spend 38 hours, and the Graphics Technician will spend 4 hours in total. That includes time allocated to Project Meetings, Stakeholder Outreach, and any Additional On-Call Services that are requested. The total proposed cost for these services is estimated to be \$9,900. We propose to bill on a time and materials basis.

Table 1: Proposed Cost for Inyo County On-Call Staff Assistance and Services

		Project Manager (Evans)	Planner (Davis)	Graphics Technician (Silverman)	Hours	Costs
		Billing Rate:	\$265.00	\$125.00	\$95.00	
LSC Hours by Task						
TASK 1	Project Meetings	12	30	0	42	\$6,930
TASK 2	Stakeholder Outreach	2	4	4	10	\$1,410
TASK 3	Additional On-Call Services	4	4	0	8	\$1,560
		LSC Project Staff Hours	18	38	4	60
		LSC Labor Cost	\$4,770	\$4,750	\$380	\$9,900
Total						\$9,900

LSC is happy to work with Inyo County and the Inyo County Local Transportation Commission to revise this cost estimate and the associated scope of work to meet the needs of the commission.



Respectfully submitted,
LSC TRANSPORTATION CONSULTANTS, INC.

A handwritten signature in black ink, appearing to read "Genevieve Evans".

Genevieve Evans, AICP
LSC Transportation Consultants, Inc.

Attachment D: 2024 Insurance Requirements for Design Professionals, including Architects, Engineers, and Surveyors

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, their agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering any auto (Code 1), or if Consultant has no owned autos, covering hired (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers’ Compensation** insurance as required by the State of California, with **Statutory Limits**, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions):** Insurance appropriate to the Consultant’s profession, with limit no less than **\$2,000,000** per occurrence or claim, **\$2,000,000** aggregate.

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, Inyo County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Inyo County.

OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status: Inyo County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor’s insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

Primary Coverage: For any claims related to this contract, the **Contractor’s insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects Inyo County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Inyo County, its officers, officials, employees, or volunteers shall be excess of the Contractor’s insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

Attachment: 2024 Insurance Requirements for Design Professionals, including Architects, Engineers, and Surveyors

Notice of Cancellation: Each insurance policy required above shall state that coverage shall not be canceled, except with notice to Inyo County.

Umbrella or Excess Policy: The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. The Umbrella or Excess policies shall be provided on a true “following form” or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor’s primary and excess liability policies are exhausted.

Waiver of Subrogation: Contractor hereby grants to Inyo County a waiver of any right to subrogation which any insurer of said Contractor may acquire against Inyo County by virtue of the payment of any loss under such insurance. The contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not Inyo County has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions: Self-insured retentions must be declared to and approved by Inyo County. Inyo County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County. The CGL and Professional Liability policies must provide that defense costs, including ALAE, will satisfy the SIR or deductible.

Acceptability of Insurers: Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best’s rating of no less than A:VII, unless otherwise acceptable to Inyo County.

Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.

Verification of Coverage: Contractor shall furnish Inyo County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. **All certificates and endorsements and copies of all Declarations and Endorsements pages are to be received and approved by Inyo County before work commences.** However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor’s obligation to provide them. Inyo County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances: Inyo County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.



County of Inyo Purchasing Authorization

Amendment No. 5
+ \$2,940

Vendor: LSC, Transportation Cons'l

Date: 02/10/2023

STBG
EV

2940

251732

Amount	Required Action	Approval Authority
Less than or equal to \$5,000	Compliance with the competitive process is not required, but price shopping is encouraged.	No signature required
\$5,001 to \$10,000	Three informal bids (e.g. printouts from websites showing prices or quotes solicited from vendors) must be obtained.	
	<input type="checkbox"/> Informal bids received, available upon request	Department Head Signature
\$10,001 to \$25,000	Three informal bids (e.g. printouts from websites showing prices or quotes solicited from vendors) must be obtained.	Department Head Signature
	<input type="checkbox"/> Informal bids received, available upon request	Purchasing Agent Signature
\$25,001 to \$75,000	A formal RFP or RFQ must be prepared and publicized, with sealed submissions opened on a predetermined date.	Department Head Signature
	<input type="checkbox"/> RFP/RFQ received by Board Clerk on	Purchasing Agent Signature
Over \$75,000.00	A formal RFP or RFQ must be prepared and publicized, with sealed submissions opened on a predetermined date.	Board Approval required

Exception Approval Authority	
County Counsel Signature	Auditor-Controller Signature
	Purchasing Agent Signature

To obtain exception approval authority, attach a page that indicates which exception you are invoking and a short explanation of why the exception is required. Exceptions are found in section II(D) on pages 6-8 of the Purchasing Policy.

AMENDMENT NUMBER 5 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC Transportation Planning Consultants, Inc.
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and LSC Transportation Planning Consultants, Inc. _____, of Tahoe City, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Independent Contractor Services dated April 10, 2018, on County of Inyo Standard Contract No. 156, for the term from April 10, 2018 to June 30, 2024.

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

2. Section 3, D, Limit upon amount payable under Agreement.

The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed \$251,232.00 (initial term) SN/A (option 1) and SN/A (option 2) for a total of Two Hundred Fifty One Thousand, Two Hundred Thirty Two Dollars (hereinafter referred to as "contract limit").

3. Attachment A to the Contract shall be revised to include additional tasks required for the completion of the Grant Proposals, as described in Attachment A-4 to the Contract.

The effective date of this Amendment to the Agreement is February 10, 2023.

All the other terms and conditions of the Agreement are unchanged and remain the same.

AMENDMENT NUMBER 4 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC Transportation Planning Consultants, Inc.
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
DAY OF _____

COUNTY OF INYO

By: [Signature]

Dated: 2/10/23

CONTRACTOR

By: [Signature]

Signature

GORDON R. SHAW
Type or Print

Dated: 2/17/23

APPROVED AS TO FORM AND LEGALITY:

[Signature]
County Counsel

APPROVED AS TO ACCOUNTING FORM:

County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

N/A
Personnel Services

APPROVED AS TO RISK ASSESSMENT:

County Risk Manager

AMENDMENT NUMBER 4 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC Transportation Planning Consultants, Inc.
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
DAY OF _____

COUNTY OF INYO
By: [Signature]
Dated: 2/10/23

CONTRACTOR
By: _____
Signature

Type or Print
Dated: _____

APPROVED AS TO FORM AND LEGALITY:

County Counsel

APPROVED AS TO ACCOUNTING FORM:

County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

N/A

Personnel Services

APPROVED AS TO RISK ASSESSMENT:

[Signature]

County Risk Manager

AMENDMENT NUMBER 4 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC Transportation Planning Consultants, Inc.
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: 2/10/23

CONTRACTOR

By: _____

Signature

Type or Print

Dated: _____

APPROVED AS TO FORM AND LEGALITY:

County Counsel

APPROVED AS TO ACCOUNTING FORM:

Christie Martindale

County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

N/A

Personnel Services

APPROVED AS TO RISK ASSESSMENT:

County Risk Manager

Attachment A-5



Amendment No. 5

LSC Transportation Consultants, Inc.

2690 Lake Forest Road, Suite C

P.O. Box 5875

Tahoe City, CA 96145

530-583-4053 ▲ FAX: 530-583-5966

info@lscstrans.com ▲ www.lscstrans.com

February 10, 2023

Justine Kokx
Inyo County Local Transportation Commission
P.O. Drawer Q
Independence, CA 93526

SUBJECT: Sustainable Transportation Planning Grant Addendum Work Scope and Cost Estimate

Dear Ms. Kokx:

Below is a proposed Work Scope and Cost Estimate for amending and expanding the scope of the 2023 Sustainable Transportation Planning Grant application, as it was originally defined per the August 2022 agreement with Inyo County. Inyo County is interested in expanding the scope of the Sustainable Transportation Planning Grant application that is currently being prepared by LSC to include the needs of the Inyo County vehicle fleet in an electric vehicle (EV) charging infrastructure network plan. LSC has put together a work scope and cost estimate to expand the scope of the grant application in a timely and cost-effective manner. LSC will be happy to work with you to ensure that the work scope reflects the goals of Inyo County. At this time, we are assuming that only one grant application will be prepared for both the regional EV charging infrastructure and County EV transition elements of the study.

SUSTAINABLE TRANSPORTATION PLANNING GRANT APPLICATION AMENDMENT

The Sustainable Transportation Planning Grant Program was created to support the California Department of Transportation's (Caltrans) Mission: Provide a safe and reliable transportation network that serves all people and respects the environment. Successful grant applications include: electric vehicle charging network plans, zero-emission vehicle feasibility studies, and transit fleet charging plans.

TASK 1: Main Application

First, LSC will hold a zoom meeting with Inyo County staff to discuss the transportation planning project for which grant funding will be requested. Next, LSC will review the 2023 Grant Guidelines to confirm that the expanded scope of the planning project is appropriate and how to best incorporate the new elements into the application. LSC will complete the cover page and revise answers to the narrative questions section of the application to reflect the expanded scope.

TASK 2: Scope of Work and Cost Estimate

LSC will work closely with Inyo County staff to develop a work scope and cost estimate for the transportation planning project. The study of transitioning Inyo County vehicles to a zero-emission or near zero fleet will be included as a separate

LSC is happy to work with Inyo County and the Inyo County Local Transportation Commission to revise this work scope and cost estimate to meet the needs of the commission.

▲ ▲ ▲

Respectfully submitted,
LSC TRANSPORTATION CONSULTANTS, INC.



Genevieve Evans, AICP
LSC Transportation Consultants, Inc.



County of Inyo Purchasing Authorization

LSC Amendment No. 4 ATP Update

Vendor: LSC Transportation Conslts

Date: 10/25/2022

Amount	Required Action	Approval Authority
Less than or equal to \$5,000	Compliance with the competitive process is not required, but price shopping is encouraged.	No signature required
\$5,001 to \$10,000	Three informal bids (e.g. printouts from websites showing prices or quotes solicited from vendors) must be obtained. <input type="checkbox"/> Informal bids received, available upon request	Department Head Signature
\$10,001 to \$25,000	Three informal bids (e.g. printouts from websites showing prices or quotes solicited from vendors) must be obtained. <input type="checkbox"/> Informal bids received, available upon request	Department Head Signature
\$25,001 to \$75,000	A formal RFP or RFQ must be prepared and publicized, with sealed submissions opened on a predetermined date. <input type="checkbox"/> RFP/RFQ received by Board Clerk on _____	Purchasing Agent Signature <i>[Signature]</i> Department Head Signature D. Carrington
Over \$75,000.00	A formal RFP or RFQ must be prepared and publicized, with sealed submissions opened on a predetermined date. <input type="checkbox"/> RFP/RFQ received by Board Clerk on _____	Purchasing Agent Signature Board Approval required

Exception Approval Authority	
<i>Trace Churchla</i>	<i>D. Carrington</i>
County Counsel Signature	Purchasing Agent Signature

To obtain exception approval authority, attach a page that indicates which exception you are invoking and a short explanation of why the exception is required. Exceptions are found in section II(D) on pages 6-8 of the Purchasing Policy.

\$47,615
Σ 248,292

AMENDMENT NUMBER 4 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC Transportation Planning Consultants, Inc.
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and LSC Transportation Planning Consultants, Inc., of Tahoe City, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Independent Contractor Services dated April 10, 2018, on County of Inyo Standard Contract No. 156, for the term from April 10, 2018 to June 30, 2024.

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

2. Section 3, D, Limit upon amount payable under Agreement.

The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed \$248,292.00 (initial term) SN/A (option 1) and SN/A(option 2) for a total of Two Hundred Forty Eight Thousand, Two Hundred Ninety Two Dollars (hereinafter referred to as "contract limit").

3. Attachment A to the Contract shall be revised to include additional tasks required for the completion of the Active Transportation Plan, as described in Attachment A-3 to the Contract.

The effective date of this Amendment to the Agreement is December 1, 2022.

All the other terms and conditions of the Agreement are unchanged and remain the same.

AMENDMENT NUMBER 4 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC Transportation Planning Consultants, Inc.
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

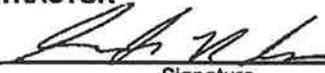
IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: _____

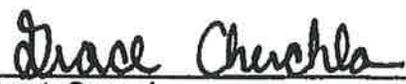
CONTRACTOR

By: 
Signature

GORDON R. SHAW
Type or Print

Dated: 2/2/03

APPROVED AS TO FORM AND LEGALITY:


County Counsel

APPROVED AS TO ACCOUNTING FORM:


County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

N/A

Personnel Services

APPROVED AS TO RISK ASSESSMENT:


County Risk Manager



LSC Transportation Consultants, Inc.

2690 Lake Forest Road, Suite C

P.O. Box 5875

Tahoe City, CA 96145

530-583-4053 ▲ FAX: 530-583-5966

info@lsctahoe.com ▲ www.lscstrans.com

October 22, 2022

John Pickney
Inyo County Local Transportation Commission
P.O. Drawer Q
Independence, CA 93526

SUBJECT: Inyo 2023 Active Transportation Plan Update Work Scope and Cost Estimate

Dear Mr. Pickney:

Below is a proposed Work Scope and Cost Estimate for the 2023 Update of the Inyo County Active Transportation Plan (ATP). The Work Scope is similar to the one followed in 2015 and assumes a simple update of the ATP. Much of the existing conditions/background information will have been prepared as part of the concurrent Regional Transportation Plan update. LSC will be happy to work with you to ensure that the ATP update work scope reflects the goals of Inyo County.

WORK SCOPE

It is becoming increasingly important for public health, environmental and financial reasons to build transportation infrastructure that encourages residents to use alternative transportation to the automobile. This includes bicycling or walking to work, school, errands, social engagements etc. Overall public health and childhood obesity could be improved if residents made smarter transportation choices. A reduction in automobile trips is also in line with statewide goals to reduce greenhouse gas emissions. In today's auto dominated society, walking and biking can be unsafe and is often perceived as the least attractive option. Mobility for members of disadvantaged communities, with no vehicle or only one vehicle available in their household, could also be improved if biking/walking were an easier choice. The Active Transportation Program is a competitive statewide program created to encourage increased use of active modes of transportation, such as biking and walking. Eligible projects for ATP funds include:

- Infrastructure Projects – Capital improvements that will increase the proportion of trips accomplished by biking and walking; increase safety and mobility of non-motorized users; achieve greenhouse gas reduction goals; enhance public health (including Safe Routes to Schools projects); ensure that disadvantaged communities benefit; provide a broad spectrum of projects to benefit many types of active transportation users. Examples include separated bicycle paths, bicycle lanes, sidewalks and crosswalks.
- Non-Infrastructure Projects – Education, encouragement, enforcement and planning activities that further the above mentioned goals.

An Active Transportation Plan (ATP) outlines the needs, issues and concerns associated with walking, biking and rolling in the region and includes prioritized lists of capital improvement projects to meet those needs. Through existing conditions analysis and public/stakeholder input and the ATP provides decisionmakers with the information to best prioritize active transportation funding revenues. Inyo County adopted an Active Transportation Plan in 2016. As part of this Work Scope, LSC will update the Inyo County Active Transportation Plan. The plan will incorporate elements identified in the Active Transportation Program Guidelines.

TASK 1: Kick-off Meeting

Kick-off Meeting

As part of Task 1, the LSC Team will hold a “kick-off” meeting via Zoom with ICLTC staff, to refine the work scope and schedule.

TASK 2: Existing Conditions

Existing Conditions

The first step in the ATP process will be to review existing conditions for bicycle and pedestrian facilities in Inyo County. As this is an update to previous ATP and as Inyo County has not grown significantly in population, it is anticipated that changes to existing conditions will be minimal and will include updating population figures and commute patterns. Much of the data collection and analysis will have been completed as part of the concurrent RTP effort and can be used for the ATP update. As recommended in Appendix A of the California Transportation Commission (CTC) 2023 Active Transportation Program Guidelines, this section of the ATP will include:

- A map and description of existing and proposed land use and settlement patterns
- Identification of census tracts that are considered disadvantaged or low-income and identify bicycle and pedestrian needs of those disadvantaged or low-income residents, including lack connectivity to key destinations, mobility challenges, public health concerns, and safety issues.

TASK 3: Public Participation/Stakeholder Consultation Process

As part of this task, the Study Team will conduct outreach to the general public, particularly those living in disadvantaged communities or communities underserved by transportation. In an attempt to avoid overwhelming the community with public meetings and hearings, the Study Team proposes to coordinate public workshops and community input for the ATP with the RTP.

On-line Questionnaire

The Study Team proposes to develop a combined on-line Questionnaire with the ATP and RTP. In rural counties such as Inyo County, public workshops often garner minimal input. It is likely that more input can be attained by directly contacting agencies and groups with interest in active transportation. The Study Team will develop a short questionnaire which can be made available on-line and in hard copy format. The questionnaire will ask respondents about their opinion on what types of improvements would encourage them to bike or walk more often. Availability of the questionnaire will

be noticed in Inyo Register. The following groups will be directly contacted and provided a link to the on-line questionnaire as well as a PDF file to be distributed in hard copy format:

- Tribal Governments (Bishop Paiute Tribe, Big Pine Paiute, Fort Independence, Lone Pine Paiute, Timbisha Shoshone)
- County and City Health and Human Services Departments
- Inyo County Office of Education
- Bicycle advocacy groups
- ESTA
- Eastern Sierra Area Agency for the Aging
- Inyo Mono Association for the Handicapped
- ICLTC Social Services Transportation Advisory Council (SSTAC)
- Chamber of Commerce

If it is deemed by the Study Team and ICLTC that insufficient input was received, LSC will work with county staff to advertise the questionnaire to a larger audience and extend the availability of the questionnaire.

Stakeholder Outreach

The Study Team will work with ICLTC staff to develop a list of stakeholders such as representatives of public, LA Department of Water and Power, neighboring jurisdictions and natural resource agencies that should provide input on the plan. At a minimum the stakeholders will include those listed in Task 1. The Study Team will contact the stakeholders directly to discuss active transportation needs and ensure that the ATP is consistent with adopted agency documents.

The Study Team will maintain a log of all public comment. A summary of public and stakeholder input will be included as an appendix to the ATP.

Public Workshop/Pop-up Workshop

Once a list of active transportation projects has been developed, the Study Team proposes to hold a public workshop in Bishop. At the workshop, the Study Team will provide an overview of the ATP process and ask participants to discuss concerns or issues with respect to bicycling and walking in Inyo County. At the end of the workshop, participants will be asked to choose their top 3 priority improvements from the Draft List of Active Transportation Projects. Ideally, this workshop will be held in conjunction with a related meeting or event. Another option would be to hold a pop-up workshop at a community location such as Vons in Bishop or the Bishop City Park. As part of this format, the Study Team would set up poster boards describing the plan effort and the Draft List of Active Transportation projects and engage with passers-by.

Notification

Draft documents and public notices for input will be made available for posting on the ICLTC website.

Public Hearing

After completion of the Draft ATP, LSC will present the ATP at a regularly scheduled ICLTC meeting during a public hearing process. We will directly notify all stakeholders and persons who have expressed interest in the project of the public hearing.

All public participation/stakeholder input will be summarized in the ATP, and copies of correspondence will be included as an appendix.

TASK 4: Bicycle Element

The Study Team will update the Bicycle Element chapter of the 2015 Inyo ATP. Specifically:

- A map and description of existing and proposed bicycle transportation facilities
- A map and description of existing and proposed end-of-trip bicycle parking facilities.
- A description of existing and proposed signage providing wayfinding along bicycle networks to designated destinations.
- A description of existing and proposed bicycle education and encouragement programs.
- The number and location of collisions, serious injuries, and fatalities suffered by bicyclists in the plan area.
- The estimated number of existing bicycle trips in the plan area, both in absolute numbers and as a percentage of all trips.
- The estimated increase in the number of bicycle trips resulting from implementation of the plan.

Task 5: Pedestrian Element

The Study Team will update the Pedestrian Element chapter of the 2015 Inyo ATP. Specifically:

- A map and description of existing and proposed pedestrian transportation facilities
- A description of existing and proposed signage providing wayfinding along pedestrian networks to designated destinations.
- The number and location of collisions, serious injuries, and fatalities suffered by pedestrians in the plan area.
- The estimated number of existing pedestrian trips in the plan area, both in absolute numbers and as a percentage of all trips.
- The estimated increase in the number of pedestrian trips resulting from implementation of the plan.

TASK 6: Safe Route to Schools Element

Funding from the Active Transportation Program can be used for projects that provide safe routes to schools. As part of this task, the Study Team will update the Safe Routes to Schools maps for all areas of Inyo County. Specifically, this will include contacting all public schools in Inyo County and on tribal land to discuss streets and bikeways most commonly used by students to access school. The discussion will focus on which routes are considered the least safe and why. Accident data will be reviewed and considered, as well as traffic volumes on major roadways (as available). After review of all the data, maps will be prepared in Geographic Information Systems (GIS) and PDF format displaying routes to each school and prioritizing each route by needed improvements to increase safety. A brief discussion of each map will be included in text format, outlining the needed improvements, such as crosswalks, bicycle lanes, etc. Proposed projects

needed to increase the safety along these routes will be included in the Draft Project List and identified as a Safe Route to School project.

TASK 7: Recreational Trails Element

The region's dramatic landscape and public lands attract a large number of recreational motorized vehicle enthusiasts as well as bicyclists, hikers and other non-motorized trail users. These types of projects are not considered utilitarian and therefore not as likely to receive Active Transportation Program funding; however, there are other funding sources available for building and improving recreational trails such as the Recreation Trails Program through California State Parks. As part of this task, the Study Team will identify potential recreational trails projects in Inyo County, City of Bishop and on Tribal Lands that would improve recreational facilities. This could include rehabilitation of trails/trailhead facilities for hiking, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles as well as easement acquisition and educational programs.

The Study Team will update this chapter from the 2015 plan by consulting all the land management agencies in Inyo County. Discussions will include non-motorized trails, motorized Off-Highway Vehicle (OHV) trails as well as equestrian needs. Needed improvements to recreational trails will be included as a separate project list in the Draft ATP.

TASK 8: Prepare and Present Draft ATP

The Study Team will update the project lists from the 2015 ATP. Completed and no longer relevant projects will be deleted and new projects stemming from the existing conditions analysis and outreach will be added. The Study Team will review the project prioritization criteria from the 2015 ATP with ICLTC staff. These criteria will then be used to reprioritize active transportation projects. The resulting Draft List of Active Transportation Projects will be presented to stakeholders and the public as part of the on-site public workshop.

Input from public and stakeholders will be incorporated, and all the elements discussed above will be compiled into an Administrative Draft Plan for review and comment by ICLTC staff. Electronic files in both Microsoft Word and Adobe PDF format will be delivered. Hard copies will be available upon request.

- **Deliverable: Administrative Draft ATP**

Next, LSC will incorporate all comments to prepare the Public Draft ATP. This version will include an implementation plan. Electronic files in both Microsoft Word and Adobe PDF format will be provided to ICLTC staff for review and distribution. Hard copies will be available upon request. The Public Draft ATP will be made available for posting on ICLTC's website. As indicated in Task 3, the Public Draft RTP will be presented at a regularly scheduled ICLTC meeting as a public hearing.

- **Deliverable: Public Draft ATP**

TASK 9: Prepare Final ATP

A Final ATP will be prepared incorporating public and Caltrans comments, along with all electronic files on USB key in both native formats and Adobe PDF. We expect that this document can be adopted by the ICLTC without the need for a presentation by LSC.

- **Deliverable: Final ATP**

SCHEDULE

A proposed schedule for the ATP update is displayed in Table 1.

COST ESTIMATE

Estimated costs for the ATP update are displayed in Table 2. LSC proposes a total project cost of \$47,615. This includes one on-site workshop and one presentation (on-site or remote) of the Draft Plan at an ICLTC meeting.

LSC is happy to work with ICLTC to revise the work scope and cost estimate to meet the needs of the commission.

▲ ▲ ▲

Respectfully submitted,
LSC TRANSPORTATION CONSULTANTS, INC.



Genevieve Evans, AICP
LSC Transportation Consultants, Inc.

Enclosure: Tables 1 and 2

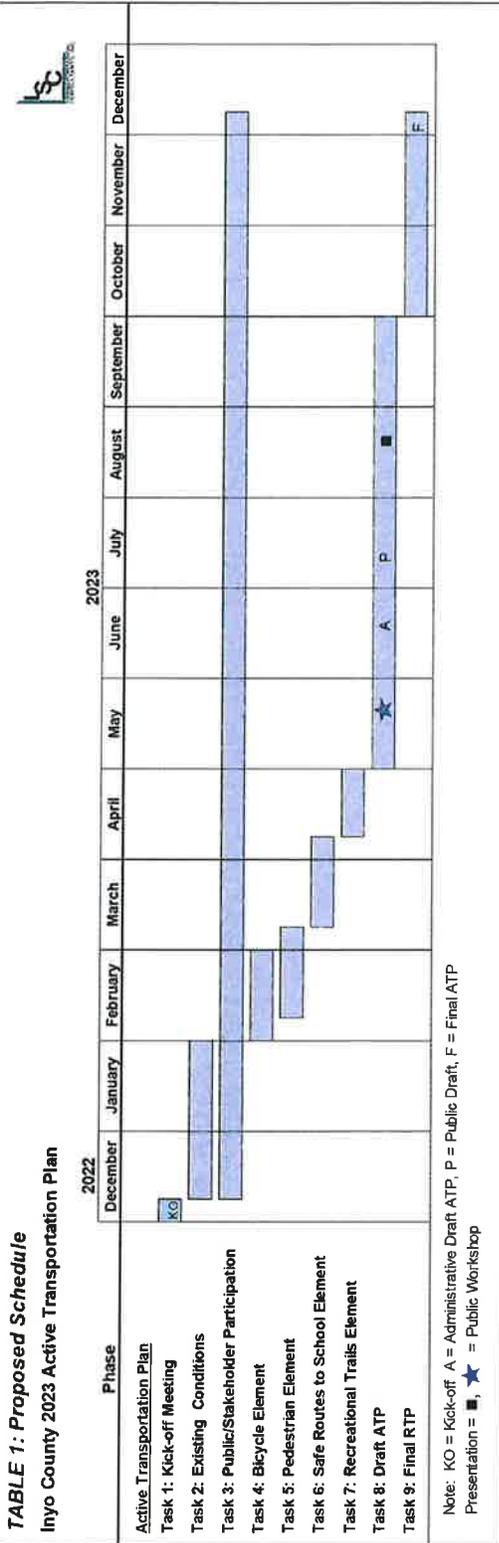


TABLE 1: Cost Analysis

Inyo County 2023 Active Transportation Plan Update

	Personnel and Hourly Rates					Hours	Cost
	Principal-In Charge <i>Shaw</i>	Project Manager <i>Evans</i>	Planner <i>Marmesh</i>	Graphics Support	Clerical Support		
Total Cost Per Hour	\$230.00	\$165.00	\$110.00	\$85.00	\$75.00		
<u>Active Transportation Plan</u>							
Task 1: Kick-off Meeting	0	4	2	0	0	6	\$880
Task 2: Existing Conditions	0	10	20	20	10	60	\$6,300
Task 3: Public/Stakeholder Participation	0	20	30	10	10	70	\$8,200
Task 4: Bicycle Element	0	10	15	15	0	40	\$4,575
Task 5: Pedestrian Element	0	10	15	15	0	40	\$4,575
Task 6: Safe Routes to School Element	0	10	25	20	0	55	\$6,100
Task 7: Recreational Trails Element	0	15	10	0	0	25	\$3,575
Task 8: Draft ATP	2	25	10	10	10	57	\$7,285
Task 9: Final RTP	2	20	5	5	10	42	\$5,485
Subtotal Hours	4	124	132	95	40	395	
Subtotal Personnel Cost	\$920	\$20,460	\$14,520	\$8,075	\$3,000		\$46,975
<u>LSC Additional Expenses</u>							
							Travel \$490
							Printing/Copying \$50
							Phone/Postage/Delivery → \$100
							Subtotal: Other Expenses \$640
							Total Study Costs \$47,615



In the Rooms of the Board of Supervisors

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 9th day of August 2022 an order was duly made and entered as follows:

*Public Works – LSC
Transportation
Amendment 3*

Moved by Supervisor Kingsley and seconded by Supervisor Roeser to approve Amendment No. 3 to the contract between the County of Inyo and LSC Transportation Consultants, Inc., of Tahoe City, CA, increasing the contract by \$21,790 to an amount not to exceed \$200,677, and extending the term end date from December 31, 2023 to June 30, 2024, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained. Motion carried unanimously.

*Amendment No. 3 + \$21,790
Assistance with 3 Grant proposals*

<i>Routing</i>
CC Purchasing Personnel Auditor CAO Other: <i>Public Works</i> DATE: <i>August 10, 2022</i>

WITNESS my hand and the seal of said Board this 9th
Day of August, 2022



LESLIE L. CHAPMAN
Clerk of the Board of Supervisors

Leslie L. Chapman

By: _____



County of Inyo



Public Works

CONSENT - ACTION REQUIRED

MEETING: August 9, 2022

FROM: Justine Kokx

SUBJECT: LSC Transportation Consultants, Inc. Contract Amendment No. 3

RECOMMENDED ACTION:

Request Board approve Amendment No. 3 to the contract between the County of Inyo and LSC Transportation Consultants, Inc., of Tahoe City, CA, increasing the contract by \$21,790 to an amount not to exceed \$200,677, and extending the term end date from December 31, 2023 to June 30, 2024, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

SUMMARY/JUSTIFICATION:

The Inyo County Local Transportation Commission (ICLTC) is requesting approval to amend the existing contract with LSC Transportation Consultants, Inc. (LSC) to assist ICLTC in preparing several transportation related grants. These include 1) Sustainable Transportation Planning Grant, 2) Highway Safety Improvement Program, and 3) Active Transportation Program. LSC expertise is well regarded and has proven successful in assisting Inyo County staff to complete required plans and obtain grant funding for Inyo County.

BACKGROUND/HISTORY OF BOARD ACTIONS:

LSC Transportation Consultants, Inc. has worked extensively with Inyo County. On April 10th, 2018, your Board approved a five-year contract with LSC to complete the 2019 Regional Transportation Plan (RTP). Your Board amended this contract on June 26th, 2018 to assist with the preparation of the 2019 Active Transportation Program grant proposal for the Lone Pine sidewalk ADA project, which was successful. On December 14th, 2021, your Board approved amendment No. 2 to this contract to develop a Local Road Safety Plan (LRSP), a requirement to be eligible to submit for Cycle 11 Highway Safety Improvement Program (HSIP) grants, and the 2023 update to the RTP.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Your Board could choose not to approve the amendment to the contract with LSC. This is not recommended, as LSC has worked extensively with ICLTC and Public Works over the years on multiple state and federally required planning documents, including a successful Active Transportation Planning grant proposal.

OTHER AGENCY INVOLVEMENT:

County Counsel
County Auditor

Caltrans District 9
City of Bishop
Five Tribal Governments of Inyo County
Local and State law enforcement agencies
Federal land agencies

FINANCING:

The funding for this contract will be provided through the Transportation and Planning Trust Budget 504605, Professional Services object code 5265. The funds are included in the FY 2022-2023 budget.

ATTACHMENTS:

1. Amendment No. 3-Original Contract and Amendments 1 & 2 Included

APPROVALS:

Justine Kokx	Created/Initiated - 7/25/2022
John Pinckney	Approved - 7/25/2022
Justine Kokx	Approved - 7/25/2022
Breanne Nelums	Approved - 7/26/2022
Michael Errante	Approved - 7/26/2022
Darcy Ellis	Approved - 7/27/2022
John Vallejo	Approved - 7/27/2022
Amy Shepherd	Final Approval - 7/27/2022

AMENDMENT NUMBER 3 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC Transportation Planning Consultants, Inc.

FOR THE PROVISION OF PERSONAL SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and LSC Transportation Planning Consultants, Inc. of Tahoe City, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Personal Services dated April 10, 2018 on County of Inyo Standard Contract No. 156 for the term from April 10, 2018 to April 30, 2023

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

1. Section 2, TERM, the first sentence is revised as follows:

The term of this Agreement shall be from April 10, 2018 to June 30, 2024 unless sooner terminated as provided below.

2. Section 3, D, Limit upon amount payable under Agreement.

The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed \$200,677.00 (initial term) \$N/A (option 1) and \$N/A (option 2) for a total of Two Hundred Thousand, Six Hundred Seventy Seven Dollars (hereinafter referred to as "contract limit").

3. Attachment A to the Contract shall be revised to include additional tasks required for the completion of the 1) Sustainable Transportation Planning Grant, 2) Highway Safety Improvement Program Grant, and 3) Active Transportation Program Grant, as described in Attachment A-2 to the Contract.

The effective date of this Amendment to the Agreement is August 9 2022

All the other terms and conditions of the Agreement are unchanged and remain the same.

**AMENDMENT NUMBER 3 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC Transportation Planning Consultants, Inc.
FOR THE PROVISION OF PERSONAL SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
11th DAY OF August, 2022.

COUNTY OF INYO

By: *Don Tether*

Dated: 08/11/2022

APPROVED AS TO FORM AND LEGALITY:

[Signature]
County Counsel

APPROVED AS TO ACCOUNTING FORM

Christie Martindale
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

N/A
Personnel Services

APPROVED AS TO RISK ASSESSMENT:

Caron Holmberg
County Risk Manager

CONTRACTOR

By: *[Signature]*
GORDON R. SHAW
Signature
Print or Type Name

Dated: 8/10/22

ATTACHMENT A-2

**AGREEMENT BETWEEN THE COUNTY OF INYO
AND LSC TRANSPORTATION CONSULTANTS, INC.**

FOR THE PROVISION OF TRANSPORTATION PLANNING SERVICES

TERM:

FROM: April 10, 2018 **TO:** June 30, 2024

SCOPE OF WORK:

The scope of work described in the original Contract, dated April 10, 2018, is revised to include additional tasks to develop transportation related grants, 1) Sustainable Transportation Planning Grant, 2) Highway Safety Improvement Program (HSIP) and 3) Active Transportation Program. See work proposals and cost estimate from LSC Transportation Consultants, Inc.

**LSC Transportation Consultants, Inc.**

2690 Lake Forest Road, Suite C

P.O. Box 5875

Tahoe City, CA 96145

530-583-4053 ▲ FAX: 530-583-5966

info@lsctrans.com ▲ www.lsctrans.com

July 15, 2022

John Pinckney
Inyo County Local Transportation Commission
P.O. Drawer Q
Independence, CA 93526

SUBJECT: Inyo County Transportation Planning Assistance Work Scope and Cost Estimate

Dear Mr. Pinckney:

Below is a proposed Work Scope and Cost Estimate for additional transportation planning assistance as per the April 2018 agreement with Inyo County. Inyo County is interested in preparing several transportation related grants in an effort to advance needed transportation improvement projects and plans for the region. These include the 1) Sustainable Transportation Planning Grant, 2) Highway Safety Improvement Program (HSIP) and 3) Active Transportation Program. LSC has put together a work scope and cost estimate to prepare one of each of these three grants. LSC will be happy to work with you to ensure that the work scope reflects the goals of Inyo County.

SUSTAINABLE TRANSPORTATION PLANNING GRANT APPLICATION

The Sustainable Transportation Planning Grant Program was created to support the California Department of Transportation's (Caltrans) Mission: Provide a safe and reliable transportation network that serves all people and respects the environment. Example eligible planning projects include: Climate Change related plans, Corridor and Freight Plans, Multi-Modal Plans and Safety Plans.

TASK 1: Main Application

First, LSC will hold a zoom meeting with Inyo County staff to discuss the transportation planning project for which grant funding will be requested. Next, LSC will review the 2022 Grant Guidelines. LSC will complete the cover page and answer the narrative questions section of the application.

TASK 2: Scope of Work and Cost Estimate

LSC will work closely with Inyo County staff to develop a work scope and cost estimate for the transportation planning project.

TASK 3: Supplemental Documentation and Application Submittal

As applicable, LSC will reach out to stakeholders to gather Letters of Support for the project. An LSC graphics technician will be available to create a map of the project area.

Lastly, LSC will compile all application parts and send to Inyo County staff and Caltrans District 9 staff liaison for review and comment. After approval, LSC will submit the application to Caltrans, if requested.

It is estimated that preparing a Sustainable Transportation Planning Grant Application will take:

- 2 hours of Principal time
- 40 hours of Associate time
- 4 hours of Graphics Technician time

Total cost estimate of \$7,400. Sustainable Transportation Planning Grant Applications will be due in October 2022.

<i>Inyo County Sustainable Community Transportation Planning Grant Application</i>						
Cost Estimate		Personnel and Hourly Rates				
Task	Total Rate	Project	Graphics		Total Hours	Costs
		Principal	Associate	Technician		
		\$230.00	\$165.00	\$85.00		
1 Main Application		0	18	0	18	\$2,970
2 Scope of Work and Cost Estimate		1	18	0	19	\$3,200
3 Supplemental Documentation and Application Submittal		1	4	4	9	\$1,230
Total Hours		2	40	4	46	\$7,400
TOTAL COSTS						\$7,400

HIGHWAY SAFETY IMPROVEMENT PROGRAM

The Highway Safety Improvement Program (HSIP) is a Federal-aid grant program with the purpose to achieve a significant reduction in traffic fatalities and serious injuries on all public roads. Inyo County is in the process of completing a Local Roadway Safety Plan (LRSP) which will identify unsafe roadway locations in the county and recommend countermeasures to increase safety. An agency must have a finalized LRSP completed by the application deadline of September 12th.

Task 1: Basic Project Information and Narrative Questions

There are two funding categories for the HSIP application: 1) Benefit Cost Ratio (BCR) and 2) Funding Set-Aside. Funding Set-Aside projects include: guardrail upgrades, pedestrian crossing enhancements, installing edge lines, bike safety improvements and tribes). BCR applications involve more detailed analysis. This work scope assumes the grant application will be a BCR application.

First, LSC will hold a zoom meeting with Inyo County staff to discuss the safety project for which grant funding will be applied. Next, LSC will review the 2022 Grant Guidelines and application. LSC will complete the basic project information section and answer the narrative questions.

Task 2: Application Attachments

Local Roadway Safety Plan Certification – LSC will work with Inyo County staff to complete and attach the Local Roadway Safety Plan Certification form.

Engineers Checklist – LSC will coordinate with Inyo County staff to complete the Engineers Checklist. According to the guidelines, the checklist must be stamped and signed by Inyo County's Transportation/Traffic Engineering Manager.

Vicinity and Location Map – LSC will prepare a vicinity and location map which will allow the reviewer to quickly pinpoint the project's location in the local agency.

Project maps/plans Showing Existing and Proposed Conditions – LSC will prepare maps which show the limits of the proposed improvements, right-of-way boundaries and that the proposed improvements are technically feasible and design standard are expected to be met including: lane widths, turning movements, lane transitions/off-sets sight distance, etc.

Pictures of Existing Conditions – This work scope assumes that Inyo County staff will be able to take pictures of existing conditions and that a site visit will not be necessary.

HSIP Analyzer – LSC will download from the Caltrans website and complete the HSIP Analyzer tool for the project.

Collision Diagram – LSC will prepare collision diagrams showing the details outlined in the Engineer's Estimate.

Collision List - LSC will prepare a collision list showing the details outlined in the Engineer's Estimate.

Task 3: Application Review and Submittal

LSC will send Inyo County the Draft application to review. Comments will be incorporated into the Final Application which will be submit electronically by LSC by September 12th, 2022.

It is estimated that preparing a HSIP Grant Application will take:

- 4 hours of Principal time
- 40 hours of Engineer time
- 16 hours of Graphics Technician time

Total cost estimate of \$6,880 for one application.

Inyo County Highway Safety Improvement Program Grant Application						
Cost Estimate		Personnel and Hourly Rates			Total Hours	Costs
Task	Total Rate	Project	Engineer	Graphics		
		Principal		Technician		
		\$230.00	\$115.00	\$85.00		
1	Basic Project Information and Narrative Questions	1	9	0	10	\$1,265
2	Application Attachments	2	30	16	48	\$5,270
3	Application Review and Submittal	1	1	0	2	\$345
	Total Hours	4	40	16	60	\$6,880
	TOTAL COSTS					\$6,880

ACTIVE TRANSPORTATION PROGRAM

The purpose of the Active Transportation Program (ATP) is to fund projects which encourage increased use of active modes of transportation and advance the state’s greenhouse gas reduction goals. In recent years, funding cycles have occurred every other year. The last grant application cycle was due June 2022.

Task 1: ATP Application Part A – General Application Questions

The Consultant Team will work with Inyo County to complete the following sections of Part A of the application:

- Applicant information
- General project information
- Project type
- Project details
- Project location map

County staff will be primarily responsible for the following sections of Part A. LSC will be available to answer questions regarding how these sections should be completed:

- Project schedule
- Engineers Estimate
- Project Layout/Plans

Task 2: ATP Application Part B - Narrative Questions

Part B includes the narrative section of the applications. With data supplied by Inyo County, LSC will draft the narrative text and assist with the provision of documentation materials. As such, LSC assumes that Inyo County will provide the following:

- Updated project descriptions
- Available traffic counts, bicycle and pedestrian on affected roadways

LSC will be responsible for the remainder of Part B including:

- Answering the narrative questions in Part B
- Contacting the California Conservation Corp
- Acquiring letters of support

This work scope does not assume a site visit. Therefore, LSC will rely on Inyo County staff to provide detailed descriptions of the project, as well as photos.

Task 3: Compiling Application Material

LSC will be responsible for gathering all application materials and attachments and submitting the electronic application to Caltrans prior to the deadline.

It is estimated that preparing an ATP Grant Application will take:

- 1 hour of Principal time
- 40 hours of Associate time
- 8 hours of Graphics Technician time

Total cost estimate of \$7,510 for one application.

<i>Inyo County Active Transportation Program Grant Application</i>						
Cost Estimate		Personnel and Hourly Rates				
Task	Total Rate	Project	Graphics		Total Hours	Costs
		Principal \$230.00	Associate \$165.00	Technician \$85.00		
1	Part A - General Application Questions	0	15	4	19	\$2,815
2	Part B - Narrative Questions	0	20	4	24	\$3,640
3	Compiling Application Material and Submittal	1	5		6	\$1,055
	Total Hours	1	40	8	49	\$7,510
	TOTAL COSTS					\$7,510

LSC is happy to work with Inyo County and the Inyo County Local Transportation Commission to revise this work scope and cost estimate to meet the needs of the commission.

▲ ▲ ▲

Respectfully submitted,
LSC TRANSPORTATION CONSULTANTS, INC.



Genevieve Evans, AICP
LSC Transportation Consultants, Inc.

In the Rooms of the Board of Supervisors

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 14th day of December 2021 an order was duly made and entered as follows:

*Public Works –
Corrected LSC
Amendment 2*

Moved by Supervisor Pucci and seconded by Supervisor Roeser to authorize a correction to Amendment No. 2 to the contract with LSC Transportation Consultants, Inc., of Tahoe City, CA, increasing the contract's not-to-exceed amount from \$159,742 to \$178,887, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign. Motion carried unanimously.

+ 45,097 2023 RTP
+ 69,510 LRSP

WITNESS my hand and the seal of said Board this 14th
Day of December, 2021

Routing
CC Purchasing Personnel Auditor CAO Other: Public Works DATE: December 17, 2021



LESLIE L. CHAPMAN
Clerk of the Board of Supervisors

Leslie L. Chapman

By: _____



County of Inyo



#14

Public Works

CONSENT - ACTION REQUIRED

MEETING: December 14, 2021

FROM: Justine Kokx

SUBJECT: Correction to Amendment No. 2 of the contract with LSC Transportation Consultants, Inc.

RECOMMENDED ACTION:

Request Board authorize a correction to Amendment No. 2 to the contract with LSC Transportation Consultants, Inc., of Tahoe City, CA, increasing the contract's not-to-exceed amount from \$159,742 to \$178,887, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign.

SUMMARY/JUSTIFICATION:

This is being brought to your Board to correct the not to exceed amount from \$159,742 to \$178,887. On November 16th 2021, Amendment No. 2 to the contract with LSC was approved by your Board to complete the 2nd (2023) Regional Transportation Plan (RTP) for \$45,097, and to develop a Local Road Safety Plan (LRSP) for \$69,510. The not-to-exceed amount of the contract was incorrectly calculated at \$159,742, which did not take into account the amount of \$19,145 from Amendment No. 1 for the Active Transportation Plan (ATP) grant proposal. There are no other changes.

BACKGROUND/HISTORY OF BOARD ACTIONS:

This change simply corrects the not-to-exceed amount of the LSC contract via subsequent amendments from \$159,742 to \$178,887. On April 10, 2018, your Board approved a five-year contract with LSC to complete the 2019 RTP and the 2023 update to the RTP with a not-to-exceed amount of \$45,135. Your Board next approved Amendment No. 1 in the amount of \$19,145 on June 26th, 2018 to prepare the 2019 ATP grant proposal. On November 16, 2021, your Board authorized Amendment No. 2 to update the 2023 RTP, and to develop a LRSP in the amount of \$114,607.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Your Board could choose not to approve the correction to the clerical error in Amendment No. 2 of the contract with LSC. This is not recommended, as LSC has worked extensively with Inyo County Public Works over the years, and has successfully produced state and federally required documents, as well as a grant proposal.

OTHER AGENCY INVOLVEMENT:

RTP and LRSP will require coordination with Caltrans District 9, City of Bishop, 5 Tribal Governments in Inyo County, Los Angeles Dept. of Water and Power, Local and State law enforcement agencies, and Federal land agencies.

Inyo County Counsel
Inyo County Auditor
Inyo County Risk Manager

FINANCING:

The funding for this contract will be provided through the Transportation and Planning Trust Budget 504605, Professional Services object code 5265. The funds are included in the FY 2021-2022 Board Approved budget.

ATTACHMENTS:

1. LSC Transportation Consultants Contract Amendment 2 (Corrected)
2. LSC Transportation Consultants Contract
3. LSC Transportation Consultants Contract Amendment 1

APPROVALS:

Justine Kokx	Created/Initiated - 11/22/2021
John Pinckney	Approved - 11/23/2021
Michael Errante	Approved - 11/23/2021
Justine Kokx	Approved - 11/23/2021
Darcy Ellis	Approved - 11/23/2021
John Vallejo	Approved - 11/23/2021
Amy Shepherd	Approved - 12/3/2021
Aaron Holmberg	Final Approval - 12/3/2021

**AMENDMENT NUMBER 2 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC TRANSPORTATION CONSULTANTS, INC.
FOR THE PROVISION OF TRANSPORTATION PLANNING SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and LSC Transportation Consultants, Inc. of Tahoe City, CA (hereinafter referred to as "Consultant"), have entered into an Agreement for the provision of engineering services dated April 10, 2018, on County of Inyo Standard Contract No. 156, for the term from April 10, 2018 to April 30, 2023.

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Consultant do desire and consent to amend such Agreement as set forth below.

1. Section 2, **TERM**, the first sentence is revised as follows:

The term of this Agreement shall be from April 10, 2018 to December 31, 2023 unless sooner terminated as provided below.

2. Section 3, D, **Limit upon amount payable under Agreement**. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed \$178,887.00 (initial term) \$ N/A (option 1) and \$ N/A (option 2) for a total of \$ N/A Dollars (hereinafter referred to as "contract limit").
3. Attachment A to the Contract shall be revised to include additional tasks required for the completion of the 2023 Regional Transportation Plan and the development of the Local Road Safety Plan, as described in Attachment A-1 to the Contract.

The effective date of this amendment to the Agreement is November 16, 2021.

All other terms and conditions of the Agreement are unchanged and shall remain the same.

**AMENDMENT NUMBER 2 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC TRANSPORTATION CONSULTANTS, INC.
FOR THE PROVISION OF TRANSPORTATION PLANNING SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
16th DAY OF May, 2022.

COUNTY OF INYO

CONSULTANT

By: *Dan Tatro*

By: *[Signature]*

Dated: 05/16/2022

Dated: 11/27/21

APPROVED AS TO FORM AND
LEGALITY:

County Counsel

APPROVED AS TO ACCOUNTING
FORM:

Christie Martindale
County Auditor

APPROVED AS TO PERSONNEL
REQUIREMENTS:

N/A
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

County Risk Manager

**AMENDMENT NUMBER 2 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC TRANSPORTATION CONSULTANTS, INC.
FOR THE PROVISION OF TRANSPORTATION PLANNING SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
DAY OF _____, 2021.

COUNTY OF INYO

CONSULTANT

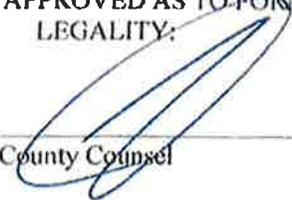
By: _____

By: _____

Dated: _____

Dated: _____

APPROVED AS TO FORM AND
LEGALITY:



County Counsel

APPROVED AS TO ACCOUNTING
FORM:

County Auditor

APPROVED AS TO PERSONNEL
REQUIREMENTS:

N/A

Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

County Risk Manager

**AMENDMENT NUMBER 2 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC TRANSPORTATION CONSULTANTS, INC.
FOR THE PROVISION OF TRANSPORTATION PLANNING SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
____ DAY OF _____, 2021.

COUNTY OF INYO

CONSULTANT

By: _____

By:  _____

Dated: _____

Dated: 11/23/21 _____

APPROVED AS TO FORM AND
LEGALITY:

County Counsel

APPROVED AS TO ACCOUNTING
FORM:

County Auditor

APPROVED AS TO PERSONNEL
REQUIREMENTS:

N/A

Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:



County Risk Manager

**AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC TRANSPORTATION CONSULTANTS, INC.
FOR THE PROVISION OF TRANSPORTATION PLANNING SERVICES**

TERM:

FROM: April 10, 2018 **TO:** December 31, 2023

SCOPE OF WORK:

The scope of work described in the original Contract, dated April 10, 2018, is revised to include additional tasks required for the completion of the 2023 Regional Transportation Plan and the development of a Local Road Safety Plan.

See Regional Transportation Plan and Local Road Safety Plan Work proposals from LSC Transportation Consultants, Inc.



October 27, 2021

John Pickney
Inyo County Local Transportation Commission
P.O. Drawer Q
Independence, CA 93526

SUBJECT: Inyo 2023 Regional Transportation Plan Update Work Scope and Cost Estimate

Dear Mr. Pickney:

Below is a proposed Work Scope and Cost Estimate for the 2023 Update of the Inyo County Regional Transportation Plan (RTP) as per the April 2018 agreement with Inyo County. The Work Scope is similar to the one followed in 2018 and assumes a simple update of the RTP with no significant changes to the Policy Element and Action Element. The Work Scope also assumes that a Negative Declaration will be required as the environmental document. LSC will be happy to work with you to ensure that the RTP update work scope reflects the goals of Inyo County.

WORK SCOPE

As the Regional Transportation Planning Agency (RTPA) for the region, California law requires the Inyo County Local Transportation Commission (ICLTC) to adopt and submit an updated RTP to the California Transportation Commission (CTC) and to the California Department of Transportation (Caltrans) every four years. The main objective of a Regional Transportation Plan update is to develop a long-term plan for transportation facilities in Inyo County that is fiscally constrained, sustainable, and consistent with the goals and assumptions set forth in adopted and in-progress plans in the region. LSC will work closely with ICLTC, the public, and other stakeholders to address these issues by determining Inyo County's regional transportation needs and updating capital improvement project lists to address those needs. The RTP update will be conducted in conformance with the latest federal and state guidance.

TASK 1: Kick-off Meeting

Kick-off Meeting

As part of Task 1, the LSC Team will hold a "kick-off" meeting via Zoom with ICLTC staff, county representatives, City of Bishop staff, tribal representatives, and the Caltrans District 9 representative to refine the focus and schedule of the project, gather data, discuss relevant changes in existing conditions, review regional goals and policies, and discuss data forecasts and plan assumptions.

TASK 2: Existing and Future Conditions Analysis

Existing Conditions

The first step in the RTP process will be to conduct an analysis of existing conditions. As this is an update to previous RTPs and as Inyo County has not grown significantly in population, it is anticipated that changes to existing conditions will be minimal. Data such as population and traffic volumes will be updated with the most current information available. This section will also include a list of transportation capital improvement projects completed since the last RTP adoption. Recent plans and studies which have been updated since 2019, such as the Short Range Transit Plan for the Eastern Sierra Transit Authority (ESTA), will also be reviewed. Lastly, the Study Team will review applicable planning documents identified in the 2017 guidelines with which the RTP should be consistent such as Local Public Health Plans.

Future Conditions Analysis

As part of this task, the Study Team will project demographic and economic conditions over the 20-year planning period as a basis for the transportation needs assessment. This will include a review of local and state demographic forecasts. LSC will also prepare forecasts of traffic volumes and level of service, based on the following:

- Traffic trends over the last 10 and 20 years per Caltrans and Inyo County data
- Transportation Concept Reports

The existing and future conditions analysis will be combined with input from the public/stakeholder outreach (Task 3) effort to update the regional transportation needs and issues assessment for each transportation mode.

TASK 3: Public Participation/Stakeholder Consultation Process

Per the 2017 RTP Guidelines, a strong consultation and coordination process is a key element in the development of an effective RTP. The public participation process will comply with previously adopted ICLTC Public Involvement Procedures. We will make documented outreach efforts to the following:

On-line Questionnaire

In rural counties such as Inyo County, public workshops often garner minimal input. It is likely that more input can be attained by directly contacting agencies and groups with interest in regional transportation. For this reason, the RTP consultation and coordination process will be an important part of public input. The Study Team will develop a short questionnaire which can be made available on-line and in hard copy format. The questionnaire will ask respondents about their opinion on how to prioritize transportation needs in general categories (maintenance, new roadways, public transit, bicycle facilities, etc.), as well as ask for specific input. Respondents will also be asked to rank performance measures used to prioritize transportation capital improvement projects (safety, mobility, productivity, etc.).

Availability of the questionnaire will be noticed in Inyo Register. The following groups will be directly contacted and provided a link to the on-line questionnaire as well as a PDF file to be distributed in hard copy format:

- Tribal Governments (Bishop Paiute Tribe, Big Pine Paiute, Fort Independence, Lone Pine Paiute, Timbisha Shoshone)

- County and City Health and Human Services Departments

- Inyo County Office of Education
- Bicycle advocacy groups
- ESTA
- Private Shuttle Services
- Eastern Sierra Area Agency for the Aging
- Inyo Mono Association for the Handicapped
- Adventure Trails of the Eastern Sierra
- Private companies generating truck traffic (freight shippers)
- ICLTC Social Services Transportation Advisory Council (SSTAC)
- Chamber of Commerce
- Los Angeles Department of Water and Power

If it is deemed by the Study Team and ICLTC that insufficient input was received, LSC will work with county staff to advertise the questionnaire to a larger audience and extend the availability of the questionnaire.

Consultation

Per the 2017 RTP Guidelines, the Study Team will consult with the following agencies in the development of the RTP.

- After consulting the Caltrans Native American Liaison Branch, we will contact Tribal Governments that have sacred lands in Inyo County to request input on the RTP process. The Study Team will request and review any transportation related tribal plans and projects. LSC will continue to keep the tribal governments informed about various meetings and document availability throughout the RTP process.
- We will contact all adjacent county RTPAs to make them aware of the RTP update and request their input.
- We will consult with environmental resource agencies such as the US Forest Service, Bureau of Land Management, Los Angeles Department of Water and Power, Death Valley National Park, Lahonton Water Quality Control Board and California Department of Fish and Game. Regional Transportation Plans and projects will be compared with adopted resource agency plans, maps and other data. The Great Basin Unified Air Pollution Control District will also be included in the planning process and the RTP will be consistent with transportation conformity measures set forth in applicable State Implementation Plans.

Notification

Draft documents and public notices for input will be made available for posting on the ICLTC website.

Public Hearing

After completion of the Draft RTP and Negative Declaration, LSC will present the RTP at a regularly scheduled ICLTC meeting during a public hearing process. We will directly notify all stakeholders and persons who have expressed interest in the project of the public hearing.

All public participation/stakeholder input will be summarized in the RTP, and copies of correspondence will be included as an appendix.

The Policy Element describes the transportation issues in the region, identifies and quantifies regional needs expressed within both a short- and long-range framework, and maintains internal consistency with the financial element fund estimates. As this document is an update to the 2019 RTP and there has not been significant changes in the county over the intervening years, it is not anticipated that the policy element will not change significantly.

TASK 5: Action Element

The Action Element identifies plans to address the needs and issues for each transportation mode (roadways, goods movement, transit and non-motorized transportation), in accordance with the goals, objectives, and policies set forth in the policy element. The future conditions analysis and public/stakeholder input will be considered to develop prioritized short-term and long-term projects and programs consistent with the identified needs and policies. Top priority projects along with cost estimates, implementing agency, and performance measures will be displayed in tables in Microsoft Excel for easy reference and use by decision-makers. The action element also includes a discussion of the following required RTP elements:

- Transportation safety & security
- Preservation of existing and future infrastructure
- Compatibility with transportation and land use
- Potential environmental mitigation areas and activities
- Performance measures and evaluation criteria for prioritizing improvement projects based on the latest federal guidance
- Coordination with other planning processes such as the Interregional Transportation Strategic Plan (ITSP) and Transportation Concept Reports (TCRs).

Although as a rural county Inyo County is not required to develop Sustainable Community Strategies, a qualitative analysis of the potential impacts of RTP projects on greenhouse gas emissions will be conducted, a discussion as to how RTP projects and policies can help attain statewide GHG goals will be included and potential strategies to address climate change issues will be outlined. This analysis will enhance the quality of information available to decision makers and assist with future policymaking.

TASK 6: Financial Element

The Financial Element identifies the current and anticipated revenue sources and financing techniques available to fund the planned transportation investments described in the action element. The intent is to define realistic inflation adjusted financing constraints and opportunities. The focus of the financial element will be to work closely with ICLTC to develop conservative and realistic estimates of all transportation funding sources to formulate a 10-year fiscally constrained project list. A 20 year financially unconstrained projects will also be listed.

TASK 7: Draft RTP and Environmental Documentation

All elements described above will be compiled into an Administrative Draft Plan for review and comment by ICLTC staff. Electronic files in both Microsoft Word and Adobe PDF format will be delivered. Hard copies will be available upon request.

- Deliverable: Administrative Draft RTP

Next, LSC will incorporate all comments to prepare the Public Draft RTP. This document will include and Executive Summary and the California Transportation Commission (CTC) RTP checklist. Electronic files in both Microsoft Word and Adobe PDF format will be provided to ICLTC staff for review and distribution. Hard copies will be available upon request. The Public Draft RTP will be made available for posting on ICLTC's website. As indicated in Task 3, the Public Draft RTP will be presented at a regularly scheduled ICLTC meeting as a public hearing.

- Deliverable: Public Draft RTP CEQA Documentation

It is the understanding of LSC that, given the very limited scope of new capacity increasing projects to be included in the RTP as well as the programmatic nature of the document, adoption of the 2023 RTP will not require an Environmental Impact Report (EIR). As part of this task, LSC will complete the CEQA Initial Study checklist to confirm that the RTP will not result in any significant environmental impacts. LSC will then prepare a Negative Declaration, while the ICLTC will be responsible for publicly noticing the Negative Declaration. If it were determined after the initial study process that an EIR is necessary, preparation of this document would be outside the scope of this proposal. The Negative Declaration report will include the following:

- Project description
- Project location
- Identification of project proponent
- Proposed finding of less than significant impact
- Attached copy of the California Environmental Quality Act (CEQA) Initial Study Checklist justifying the finding.

A minimum public review period of 30 days is required for a Negative Declaration unless the State Clearinghouse grants a "shortened review period" of 20 days and approved by Caltrans staff. LSC will mail 15 copies of the Negative Declaration directly to the State Clearinghouse for environmental review, while another five copies and an electronic file will be sent to ICLTC. Additionally, we will make the Initial Study/Proposed Negative Declaration available for posting on ICLTC's website the duration of the public review period.

- Deliverable: Negative Declaration

LSC will present the Draft RTP and the Draft Negative Declaration to the ICLTC at a regularly scheduled meeting as part of a public hearing.

TASK 8: Prepare Final RTP and Negative Declaration

A Final RTP and Negative Declaration will be prepared incorporating public and Caltrans comments. Thirteen copies of each document will be provided, along with all electronic files on USB key in both native formats and Adobe PDF. We expect that this document can be adopted by the ICLTC without the need for a presentation by LSC. Within five days of adoption of the RTP, LSC will assist the ICLTC with filing a Notice of Determination for approval with the State Clearinghouse and arrange for posting by the County Clerk.

- Deliverable: Final RTP

SCHEDULE

A proposed schedule for the RTP update is displayed in Table 1.

COST ESTIMATE

Estimated costs for the RTP update are displayed in Table 2. LSC proposes a total project cost of \$45,097. This includes one-site visit, presumably for the presentation of the Draft Plan at an ICLTC meeting.

LSC is happy to work with ICLTC to revise the work scope and cost estimate to meet the needs of the commission.

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Respectfully submitted,
LSC TRANSPORTATION CONSULTANTS, INC.



Genevieve Evans, AICP
LSC Transportation Consultants, Inc.

Enclosure: Tables 1 and 2

TABLE 1: Proposed Schedule

Inyo County 2023 Regional Transportation Plan



Phase	2022						2023												
	July	August	September	October	November	December	January	February	March	April	May	June	July	August	September	October	November	December	
Regional Transportation Plan																			
Task 1: Kick-off Meeting	KO																		
Task 2: Existing and Future Conditions																			
Task 3: Public/Stakeholder Participation																			
Task 4: Policy Element																			
Task 5: Action Element																			
Task 6: Financial Element																			
Task 7: Draft RTP and Environmental																			
Task 8: Final RTP																			

Note: KO = Kick-off, A = Administrative Draft RTP, P = Public Draft and Environmental Document, F = Final RTP and Environmental Document
 Presentation = ■

Work Scope

Inyo County Local Roadway Safety Plan Study

Work Tasks

Task 1 – Study Management and Stakeholder Group

As part of this task LSC will manage the progress of the LRSP and provide billing and coordination documents to the Inyo County Local Transportation Commission (ICLTC).

We will develop a stakeholder group comprised of representatives of key groups concerned with highway/roadway safety in Inyo County. Invitations will be made to each of the following:

- Caltrans District 9
- Inyo County Public Works
- Inyo County Sheriff's Department
- California Highway Patrol
- City of Bishop Public Works
- City of Bishop Fire Department
- US Forest Service
- US Bureau of Land Management
- Death Valley National Park
- Bishop Paiute Tribe
- Los Angeles Department of Water and Power

This stakeholder group will help to provide input and data resources, will review interim and final study products, and will provide input with regards to safety strategies. It will meet a minimum of three times over the course of the study (either in person or virtually, as conditions permit). LSC will prepare agendas, conduct the meetings and provide minutes of the meetings.

Task 2 – Data Collection

LSC will collect available crash data for the last 10 available years, including SWITRS and TIMS data (at the collision level). In addition, we will contact the Inyo County Sheriff's Department, Bishop Police Department and California Highway Patrol to identify any available documented crash information not included in the statewide databases. This available data will be reviewed and, if found to be of sufficient quality, included in the analysis.

LSC will collect available daily traffic volume data for public roads throughout Inyo County, including data from Caltrans, Inyo County, City of Bishop, US Forest Service, National Park Service, US Bureau of Land Management and the Bishop Rancheria.

LSC will contact law enforcement agencies (City, County, CHP, USFS, BIA and the Bishop Indian Rancheria) to discuss traffic safety issues and the availability of data.

Task 3 – Data Analysis

Once the crash database has been developed and reviewed, LSC will conduct the following data analysis tasks:

- Locations of crashes will be mapped for the most recent 10-year period. This will include separate maps for fatalities, for crashes involving bicyclists and for crashes involving pedestrians. In addition to countywide maps, maps focusing on the City of Bishop will be prepared. Other focus-area maps will be prepared as necessary to define specific issues.
- Traffic count data will be summarized and analyzed to identify the average daily traffic and 10-year total vehicle-movements (for intersections) or vehicle-miles of travel (for roadway segments). This will be used to analyze
- The crash data inventory will be analyzed to summarize crashes by severity, by type, and by contributing factor.
- Crash rates will be calculated by roadway segment and intersection (as traffic count data allows), for those intersections and roadway segments with two or more recorded crashes over a 10-year period.
- The type of crash and injury severity will be assessed to identify those that are correctable through changes in the roadway design, as well as those that are related to excess speed or other factors.

We will identify crash patterns, crash trends, and primary contributing factors that most commonly recur in the crash data. These findings will be summarized using charts and graphs. In addition, as a basis for future Highway Safety Improvement Program (HSIP) funding, LSC will use the database established in Task 2 to identify trends, location characteristics, and contributing factors for the pertinent California Strategic Highway Safety Plan (SHSP) Challenge Areas. This work will be multimodal, documenting collisions and trends by mode as well as for the incorporated and unincorporated areas. We will conduct this work by considering descriptive statistics of the crash data as well as analyzing the crash data spatially. While LRSP guidelines require only a minimum of a 5-year data analysis, we will use the 10-years of crash data to identify the broader trends in crashes and roadway safety.

We will identify high priority locations to provide clarity on what locations have the greatest opportunity for safety improvements, based upon the costs associated with the crash history. These locations will be

identified by mode (vehicle, pedestrian, bicyclist). A series of maps will identify these high priority locations.

We will document the work conducted in Tasks 2 and 3 in a memorandum. The memorandum will present the data analysis findings from the descriptive analysis, comparative analysis, and the spatial analysis. We will use visuals and graphics to support the text regarding the data analysis findings. The memorandum will also present the high-priority locations and risk factors associated with crashes. The content of the memorandum will serve as the basis from which the team will generate workshop materials for discussion with the Stakeholder Group in Task 4.

Task 4: Public Input and Workshops -- Establish Goals, Priorities and Potential Countermeasures

We propose to conduct a series of two workshops with the Stakeholder Group. We expect that these can be conducted virtually. Materials will be distributed in advance, and we will conduct the workshop so that all participants have a chance to fully engage. Each workshop would be up to two hours in duration.

The two workshops would be organized as follows:

Workshop #1 – Goals, Priorities and Data Review

The first workshop will review in greater detail the data analysis findings from Task 3 and will spur the Stakeholders Group's input regarding safety concerns. LSC will facilitate a discussion of goals and priorities for the LRSP. We will develop the proposed goals and priorities for discussion with the Stakeholder Group (based on the data analysis) and then update those based on the input received. We will also lead a discussion of the priorities regarding the locations of focus and the emphasis areas of types of crashes and conditions to address.

Workshop #2 – Countermeasures Workshop

This workshop will focus on discussing the draft engineering countermeasures to address the priority locations, as well as comprehensive programmatic countermeasures. The pros and cons of various approaches will be discussed, and the input received from the Stakeholder Group will be used to refine the individual countermeasures as well as their prioritization.

As an outcome of each of the workshops, we will prepare a summary memorandum regarding input received on the following:

- Goals and Priorities
- Prioritized Engineering Countermeasures
- Input on Comprehensive Countermeasures
 - Identify promising education, enforcement, emergency services strategies

- Document likely partners for promising comprehensive measures

- Document next steps in follow-on effort to further develop and implement the comprehensive measures with its agency partners

The content of the summary memorandum would be integrated into the LRSP in Task 8.

Public Input Survey

We propose to conduct an online survey (in both English and Spanish) asking residents for their input on specific safety problems. This survey will provide a map which respondents can use to drop a pin at a specific location provide a comment about their issue and suggested improvement. It will also ask questions regarding residential location, perception of safety conditions and issues, experience with near misses that are of concern but which may not have shown up in crash data, and demographic information (age, ethnicity, gender). LSC will advertise the availability of this survey through ads in the Inyo Register, announcements through local service organizations, as well as local Facebook ads.

Task 5: Develop Safety Projects

LSC will work with the County and City staffs to finalize the prioritized countermeasures, based on the input received in Task 4 from the Stakeholder Group. In finalizing the list and priorities, we will consider the local jurisdiction's ability to deploy and implement the countermeasures to arrive at a final set of countermeasures that are implementable and effective at improving roadway safety.

We will identify locations where the countermeasures are appropriate and effective. We will work with the City and County staffs to identify up to three competitive HSIP grant applications that include high priority locations for safety improvements and also potentially include systemic countermeasures that would benefit multiple locations.

In finalizing the work under this task, we will prepare a final project listing capturing the locations and projects in the HSIP applications and/or others the local jurisdictions are confident in advancing. Other projects will be noted in the final LRSP but not included in the final project list.

Based on the crash analysis and professional standards, LSC will identify risk factors that are correlated to the most frequent occurrences of injury/fatal collisions. We will also identify safety areas and locations on which to focus for the greatest potential safety benefits. We will consider the following comprehensive strategies:

- **Emerging technologies** that have the potential to enhance roadway safety, such as automated enforcement, dynamic engineering treatments (e.g., operational under specific weather conditions), and ways to leverage social media for education programs.
- **Education strategies** that include programs and strategies that can be used to address road user behavior across multiple age groups forums. For example, these can include messaging that can be incorporated into Safe Routes to School Programs, community-based programs, and

community campaigns (e.g., messaging on social media, posted on buses, and distributed through other channels such as existing newsletters).

- **Enforcement strategies** will focus on best practices for improving roadway and community safety. As research has found that most enforcement strategies have limited long-term impacts for changing road user behavior, the most effective enforcement strategies tend to be those that can be done transparently and consistently. An example is education or outreach campaigns as part of enforcement in school zones during school hours.
- The **emergency services strategies** will focus on strategies and partnerships that could help reduce response times and sharing of real-time information to improve overall coordination.
- **Engineering strategies** will be organized in a toolbox type of form that describes the treatment, shows an image or photo of each treatment, the context in which it is applicable, the mode or road users that the treatment would benefit and/or impact, the specific type of crashes and/or priority areas it helps to address, a planning-level cost estimate, the expected degree of crash reduction (if known), and if it has typically been eligible for HSIP funding.

We will document the work in Task 5 in a memorandum. The memorandum will present the safety areas, high-priority locations or high-injury network, risk factors associated with crashes, and the draft multidisciplinary strategies and countermeasures. The content of the memorandum will serve as the basis from which the team will generate workshop materials for discussion with the Stakeholder Group in Task 6.

Task 6: Final Local Road Safety Plan

We will prepare the final LRSP and supporting materials using the findings and information from the work in Tasks 2 through 7. The final set of deliverables will consist of the following:

- **Local Road Safety Plan** – Meeting the ICLTC’s needs and requirements for Caltrans’ grant funding.
- **Executive Summary** – Stand-alone document that can be used share key elements of LRSP with local decision-makers and/or broader community.
- **PowerPoint Presentation** – Targeted towards sharing LRSP key elements with local decision-makers and/or broader community. This could potentially be hosted on the ICLTC website.

The LRSP will include a discussion of the crash characteristics, data gathering, data analysis, countermeasures prioritization, and proposed projects. The report will also document the individuals who participated in the development of the LRSP.

We will tailor the LRSP to a format that is most useful for the ICLTC, City and County to monitor and implement the recommendations. For each of the final deliverables, we will provide a draft version for the ICLTC’s review and comment and a final version incorporating edits to respond to the ICLTC’s comments. LSC will be available to make a presentation of the final report in Bishop, if desired.

ATTACHMENT B1

**AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC TRANSPORTATION CONSULTANTS, INC.
FOR THE PROVISION OF TRANSPORTATION PLANNING SERVICES**

TERM:

FROM: April 10, 2018 **TO:** December 31, 2023

SCHEDULE OF FEES:

Regional Transportation Plan Update: See Table 2: Cost Analysis

Local Road Safety Plan Development: See Cost Estimate

TABLE 2: Cost Analysis

Inyo County 2023 Regional Transportation Plan Update

Personnel and Hourly Rates

	Principal-In Charge <i>Shaw</i>	Project Manager <i>Evans</i>	Planner <i>Mamlesh</i>	Graphics Support	Clerical Support		
Rate	\$78.43	\$57.04	\$37.43	\$28.52	\$24.96		
Administrative Overhead	\$121.57	\$88.41	\$58.02	\$44.21	\$38.68		
Profit	\$20.00	\$14.55	\$9.55	\$7.27	\$6.36	Total	Total
Total Cost Per Hour	\$220.00	\$160.00	\$105.00	\$80.00	\$70.00	Hours	Cost

Regional Transportation Plan

Task 1: Kick-off Meeting	1	8	2	0	0	11	\$1,710
Task 2: Existing and Future Conditions	0	5	35	20	10	70	\$6,775
Task 3: Public/Stakeholder Participation	1	20	30	0	15	66	\$7,620
Task 4: Policy Element	2	5	0	0	0	7	\$1,240
Task 5: Action Element	2	50	10	8	0	70	\$10,130
Task 6: Financial Element	0	20	0	0	0	20	\$3,200
Task 7: Draft RTP and Environmental	4	40	0	8	12	64	\$8,760
Task 8: Final RTP	4	20	0	8	8	40	\$5,280
Subtotal Hours	14	168	77	44	45	348	
Subtotal Personnel Cost	\$3,080	\$26,880	\$8,085	\$3,520	\$3,150		\$44,715

LSC Additional Expenses

Travel	\$232
Printing/Copying	\$50
Phone/Postage/Delivery	\$100
Subtotal: Other Expenses	\$382
Total Study Costs	\$45,097



Cost Estimate

LSC's cost estimate for the full scope of work listed above is \$69,510 as shown in the table below. LSC is happy to work with ICLTC staff to divide the work tasks in an effort to reduce Consultant costs.

<i>Inyo County Local Road Safety Plan Study</i>							
Cost Estimate	Personnel and Hourly Rates					Total Hours	Costs
	Total Rate	Project Principal	Engineer	Planner	Graphics Technician		
1 Study Management and Stakeholder Group		12	16	8	0	0	\$5,200
2 Data Collection		8	32	8	0	0	\$6,200
3 Data Analysis		24	120	4	60	12	\$24,840
4 Public Input and Workshops		20	24	16	0	0	\$8,640
5 Develop Safety Projects		24	40	8	24	12	\$13,180
6 Final Local Road Safety Plan		20	2	16	16	24	\$8,950
Total Hours		108	234	60	100	48	\$67,010
TOTAL COSTS							\$69,510

Other Costs -- Travel, Printing, Translation, Advertising \$2,900

In the Rooms of the Board of Supervisors

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 16th day of November 2021 an order was duly made and entered as follows:

*Public Works –
LSC Contract
Amendment 2*

Moved by Supervisor Pucci and seconded by Supervisor Kingsley to approve Amendment 2 to the contract with LSC Transportation Consultants, Inc., of Tahoe City, CA, in the amount of \$45,097 to update the 2023 Regional Transportation Plan, and \$69,510 to develop a Local Road Safety Plan, thereby increasing the amount of the contract to an amount not to exceed \$159,742, and to extend the end date of the contract to December 31, 2023, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign. Motion carried unanimously.

*This Amendment No 2 was not
Executed due to incorrect amount.*

WITNESS my hand and the seal of said Board this 16th
Day of November, 2021

Routing
CC Purchasing Personnel Auditor CAO Other: PW DATE: November 23, 2021



LESLIE L. CHAPMAN
Clerk of the Board of Supervisors

Leslie L. Chapman

By: _____



County of Inyo



#20

Public Works

CONSENT - ACTION REQUIRED

MEETING: November 16, 2021

FROM: Justine Kokx

SUBJECT: LSC Transportation Consultants, Inc. Contract Amendment 2

RECOMMENDED ACTION:

Request Board approve Amendment 2 to the contract with LSC Transportation Consultants, Inc., of Tahoe City, CA, in the amount of \$45,097 to update the 2023 Regional Transportation Plan, and \$69,510 to develop a Local Road Safety Plan, thereby increasing the amount of the contract to an amount not to exceed \$159,742, and to extend the end date of the contract to December 31, 2023, contingent upon the Board's approval of future budgets, and authorize the Chairperson to sign.

SUMMARY/JUSTIFICATION:

The Inyo County Local Transportation Commission (ICLTC) is requesting approval to amend the existing contract with LSC Transportation Consultants, Inc. (LSC) to 1) complete the 2nd (2023) Regional Transportation Plan (RTP), and 2) to develop a Local Road Safety Plan (LRSP).

RTP Update

RTP updates are intended to serve as a comprehensive planning tool directing the ICLTC's policies and actions, and to provide a framework for the development of a coordinated and balanced regional transportation system. The RTP uses, as a basis, those policies set forth in the Inyo County General Plan Circulation Element. The ICLTC is required to adopt and submit an updated RTP to the California Department of Transportation (Caltrans) every four years. In exchange for the LTC updating the RTP every four years, the County and City of Bishop are required to update their Housing Elements every eight years (instead of every five years).

LRSP Development

An LRSP provides a framework for organizing stakeholders to identify, analyze, and prioritize roadway safety improvements on local and rural roads. Preparing and LRSP facilitates the development of a local stakeholder group comprised of representatives of key partners concerned with highway and roadway safety in Inyo County, that will include at a minimum (but not limited to) Caltrans District 9, Inyo County Public Works, Inyo County Sheriff's Dept., California Highway Patrol, Los Angeles Dept. of Water and Power, City of Bishop Public Works, Tribal Governments, local fire depts., US Forest Service, Bureau of Land Management, and Death Valley National Park. In order to be eligible for Cycle 11 Highway Safety Improvement Program (HSIP) grants, an LRSP must be in place.

BACKGROUND/HISTORY OF BOARD ACTIONS:

LSC Transportation Consultants, Inc. has had prior experience in Inyo County. On April 10th, 2018, your Board approved a five-year contract with LSC Transportation Consultants, Inc. to complete the 2019 RTP and the 2023 update to the RTP. Your Board previously amended this contract on June 26th, 2018 to include preparation of the 2019 Active Transportation Plan (ATP) grant proposal that was subsequently won for the Lone Pine sidewalk ADA project.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Your Board could choose not to approve the amendment to the contract with LSC Transportation Consultants, Inc. This is not recommended, as LSC has worked extensively with Inyo County Public Works over the years, and has successfully produced state and federally required documents, as well as a grant proposal.

OTHER AGENCY INVOLVEMENT:

In addition to obtaining approval of the proposed contract by County Counsel, Risk Manager, Personnel, and Auditor, the RTP and LRSP will require coordination with Caltrans District 9, City of Bishop, 5 Tribal Governments in Inyo County, Los Angeles Dept. of Water and Power, Local and State law enforcement agencies, and Federal land agencies.

FINANCING:

The funding for this contract will be provided through the Transportation and Planning Trust Budget 504605, Professional Services object code 5265. The funds are included in the FY 2021-2022 Board Approved budget.

ATTACHMENTS:

1. LSC Transportation Consultants Amendment No. 2
2. LSC Transportation Consultants Contract
3. LSC Transportation Consultants Contract Amendment No. 1

APPROVALS:

Justine Kokx	Created/Initiated - 10/28/2021
John Pinckney	Approved - 10/28/2021
Breanne Nelums	Approved - 10/28/2021
Michael Errante	Approved - 10/28/2021
Darcy Ellis	Approved - 10/28/2021
Marshall Rudolph	Approved - 11/2/2021
John Vallejo	Approved - 11/2/2021
Aaron Holmberg	Approved - 11/2/2021
Amy Shepherd	Approved - 11/3/2021
Michael Errante	Final Approval - 11/3/2021

**AMENDMENT NUMBER 2 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC TRANSPORTATION CONSULTANTS, INC.
FOR THE PROVISION OF TRANSPORTATION PLANNING SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and LSC Transportation Consultants, Inc. of Tahoe City, CA (hereinafter referred to as "Consultant"), have entered into an Agreement for the provision of engineering services dated April 10, 2018, on County of Inyo Standard Contract No. 156, for the term from April 10, 2018 to April 30, 2023.

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Consultant do desire and consent to amend such Agreement as set forth below.

1. Section 2, **TERM**, the first sentence is revised as follows:

The term of this Agreement shall be from April 10, 2018 to December 31, 2023 unless sooner terminated as provided below.

2. Section 3, D, **Limit upon amount payable under Agreement**. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed \$159,742.00 (initial term) \$ N/A (option 1) and \$ N/A (option 2) for a total of \$ N/A Dollars (hereinafter referred to as "contract limit").
3. Attachment A to the Contract shall be revised to include additional tasks required for the completion of the 2023 Regional Transportation Plan and the development of the Local Road Safety Plan, as described in Attachment A-1 to the Contract.

The effective date of this amendment to the Agreement is November 16, 2021.

All other terms and conditions of the Agreement are unchanged and shall remain the same.

**AMENDMENT NUMBER 2 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC TRANSPORTATION CONSULTANTS, INC.
FOR THE PROVISION OF TRANSPORTATION PLANNING SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
____ DAY OF _____, 2021.

COUNTY OF INYO

CONSULTANT

By: _____

By: _____

Dated: _____

Dated: _____

APPROVED AS TO FORM AND
LEGALITY:

County Counsel

APPROVED AS TO ACCOUNTING
FORM:

County Auditor

APPROVED AS TO PERSONNEL
REQUIREMENTS:

Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

County Risk Manager

ATTACHMENT A1

**AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC TRANSPORTATION CONSULTANTS, INC.
FOR THE PROVISION OF TRANSPORTATION PLANNING SERVICES**

TERM:

FROM: April 10, 2018 **TO:** December 31, 2023

SCOPE OF WORK:

The scope of work described in the original Contract, dated April 10, 2018, is revised to include additional tasks required for the completion of the 2023 Regional Transportation Plan and the development of a Local Road Safety Plan.

See Regional Transportation Plan and Local Road Safety Plan Work proposals from LSC Transportation Consultants, Inc.

In the Rooms of the Board of Supervisors

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisors of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 26th day of June 2018 an order was duly made and entered as follows:

*Public Works –
ATP Projects/LSC
Transportation
Amendment 1*

Transportation Planner Courtney Smith presented a list of road projects from which to identify two that might best qualify for two highly competitive State grants. Supervisor Tillemans asked whether any of the potential projects are located in the Fourth District and Smith said none are proposed at this time because the application scoring metrics favor projects that reduce carbon emissions, so staff identified roads that receive more pedestrian and bicycle traffic. Supervisor Tillemans said District 4 roads will not see that kind of traffic if the infrastructure is not built. Moved by Supervisor Pucci and seconded by Supervisor Griffiths to: A) direct staff to submit two grant applications on the top two ranked Active Transportation Program projects; B) approve Contract Amendment No. 1 between the County of Inyo and LSC Transportation Consultants for the provision of transportation planning services, by increasing the contract amount by \$19,145 for a total contract amount not to exceed \$64,280 to complete two grant applications on behalf of the County of Inyo and one grant application on behalf of the City of Bishop; C) authorize the Chairperson to sign the amendment; and D) authorize the Public Works Director to implement the two proposed County grant projects. Motion carried 4-1 with Supervisor Tillemans opposed.

WITNESS my hand and the seal of said Board this 26th
Day of June, 2018



KEVIN D. CARUNCIO
Clerk of the Board of Supervisor

By:

<i>Routing</i>
CC Purchasing Personnel Auditor CAO Other: <i>Public Works</i> DATE: July 6, 2018



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER 27

- Consent
 Departmental
 Correspondence Action
 Public Hearing
 Schedule time for _____
 Closed Session
 Informational

FROM: Public Works Department

FOR THE BOARD MEETING OF: June 26, 2018

SUBJECT: Request Board 1) select projects to submit for competitive Active Transportation Program grants in response to a Call for Projects and 2) approve Contract Amendment #1 between the County of Inyo and LSC Transportation Consultants, for the provisions of transportation planning services by increasing the contract amount by \$19,145 in a total contract amount not to exceed \$64,280; and authorize the Chairperson to sign.

DEPARTMENTAL RECOMMENDATIONS:

1. Prioritize Active Transportation Program (ATP) projects and direct staff to submit two grant application(s) on the top two ranked projects;
2. Approve Contract Amendment #1 between the County of Inyo and LSC Transportation Consultants, for the provisions of transportation planning services by increasing the contract amount by \$19,145 in a total contract amount not to exceed \$64,280 to complete two grant applications on behalf of the County of Inyo and one grant application on behalf of the City of Bishop;
3. Authorize the Chair to sign;
4. Authorize the Public Works Director to implement the two proposed County grant projects.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

Staff recommends that the County submit 1) a project that combines the Barlow Lane sidewalk & bicycle lanes project with the reconstruction of the S. Barlow Lane bicycle lane and 2) a Lone Pine downtown sidewalk reconstruction project.

The California Transportation Commission released a call for ATP projects May 16, 2018. The applications are required to be postmarked by July 31, 2018. The projects will compete statewide for funds under the Active Transportation Program.

The Cycle 4 Call for Projects is expected to include about \$440 million in ATP funding made up of Federal funding and State SB1 and SHA funding. The funding/programming years are expected to include 2019/2020, 2020/2021, 2021/2022 and 2022/2023 funding years.

Program Purpose and Goals

Pursuant to statute, the purpose of the program is to encourage increased use of active modes of transportation, such as biking and walking. The goals of the Active Transportation Program are to:

- Increase the proportion of trips accomplished by biking and walking.
- Increase the safety and mobility of active transportation users.

- Advance the active transportation efforts of regional agencies to achieve greenhouse gas reduction goals as established pursuant to Senate Bill 375 (Chapter 728, Statutes of 2008) and Senate Bill 391 (Chapter 585, Statutes of 2009).
- Enhance public health, including reduction of childhood obesity through the use of programs including, but not limited to, projects eligible for Safe Routes to School Program funding.
- Ensure that disadvantaged communities fully share in the benefits of the program.
- Provide a broad spectrum of projects to benefit many types of active transportation users.

Scoring Evaluation by Project Type

The scoring rubrics are established for three different types of infrastructure projects based on total cost. These are: 1) small (\$0.25 million to 1.5 million), 2) medium (1.5 million to \$7 million), and 3) large (over \$7 million) scale projects. There are accompanying small, medium, and large applications for each type of project. These three types of applications will be scored as shown in the table below.

Infrastructure Project Topic	Small	Medium	Large
Disadvantaged Communities (DAC) Benefit. Scores scaled in relation to severity of and the benefits provided to the DAC by the project	10	10	10
Need. Potential for increased walking & bicycling routes to and from schools, transit facilities, employment & community centers; and including increasing and improving connectivity of active transportation users.	40	35	30
Safety. Potential for reducing the number and/or rate or the risk of active transport fatalities & injuries; including identity of safety hazards.	25	25	20
Public Participation. Project applicants must clearly articulate how the local participation process result in the identification & prioritization of the project.	10	10	10
Scope / Implementation. Evidence that the application, scope, and plans are consistent with one another.	15	10	10
Context Sensitive & Innovative		5	5
Transformative Projects			5
Cost Effectiveness. A project's cost effectiveness is considered to be the relative costs of the project in comparison to the project's benefits.			5
Leveraging of non-ATP funds on the proposed ATP project scope (excluding in-kind contributions)	2	5	5
Corps (0 or -5)	0	0	0
Past Performance (0 to -10)	0	0	0
Total	100	100	100

The table on the next page shows a priority order for ATP projects that are included in Table 11 of the 2015 Inyo County Active Transportation Plan. An agency that is submitting multiple applications is supposed to rank the applications. The suggested priority for the two proposed applications is 1) Barlow Lane Combined Improvements and 2) Lone Pine sidewalk project. This would presumably be to break a tie since this is not included in the scoring criteria.

Proposed Inyo County ATP Project Priority List		
Rank	Project Name, Location, & Cost	Discussion
1A	Barlow Lane sidewalk and bicycle lanes, between West Line Street and North Sierra Highway, preliminary estimated cost of \$2,395,000.	The proposed project is on a County road right of way across the Bishop Reservation. Bishop Tribe staff has indicated that the Tribal Council supports this project. A letter of support for the project is essential. The bicycle lane would link bike lanes North and South of the Reservation on Barlow Lane with bicycling facilities on W. Line Street and North Sierra Highway. The Bishop Reservation is considered a Disadvantaged community.

1B	Reconstruction of S. Barlow Lane bicycle lane, preliminary estimated cost of \$390,000.	Currently, bicyclists avoid using this stand-alone Class I bicycle facility due to large transverse cracks.
2	Lone Pine downtown sidewalk reconstruction, see map of proposed project in downtown Lone Pine, preliminary estimated cost of \$2,785,000.	Project combines construction of sidewalks in downtown Lone Pine on County roads within a certain distance of US 395 with bringing up existing sidewalks to ADA standards. Lone Pine is considered a Disadvantaged community.
3	Horseshoe Meadows Road	Construct bicycle lanes on Horseshoe Meadows Road between Whitney Portal Road and Sunset Drive. This would provide a continuous bicycle lane between Lone Pine and the Alabama Hills subdivision. Both areas are considered a Disadvantaged community based on zip code.
4	Schober Lane Bicycle Lanes (1.1 miles between Barlow Lane and Sunland Lane)	Links future bicycle facility on Sunland with bicycle facility on South Barlow. This would be a good project and would be a helpful link between bicycle facilities. However, the project is not in a Disadvantaged community and matching funds would need to be identified.
5	Old Spanish Trail Highway (0.72 miles from Tecopa Hot Springs Road to Downey Road)	The Tecopa area is considered a Disadvantaged Community. The project links an existing bicycle lane at Tecopa Hot Springs on Tecopa Hot Springs Road with Tecopa and Tecopa Heights.
6	SR 190 between Furnace Creek and Cow Creek Residential area	Requires approval by Caltrans District 9 and Death Valley National Park (DVNP). DVNP staff supports project but was unable to enlist Caltrans support.
7	Red Hill Road	Links bicycle facility on Ed Powers Road with bicycle facility on State Route 168. This would be a key project to help bicyclists west of Bishop, however the commute link is not strong. Potentially expensive earthwork required. County has tried twice to gain funding for this project and failed both times.
Other?		

LSC Transportation Consultants Contract Amendment No. 1

On April 10th of this year, your Board approved a five-year contract with LSC Transportation Consultants to: 1) complete two updates to the Regional Transportation Plan (RTP), and 2) for other transportation planning services, such as completing Active Transportation Program grant applications on behalf of both the County and the City of Bishop. The initial fund amount was only for the 2019 Update of the RTP. Contract amendments will be brought back to the Board for approval for other tasks.

LSC Transportation Consultants has provided a scope of work to complete three Active Transportation Program grant applications on behalf of the Inyo County Local transportation Commission (two projects for the County and one for the City of Bishop).

ALTERNATIVES:

- 1) Your Board could alter the list of projects and/or identify new projects to be submitted. Public Works Department staff has developed the Preliminary Engineer's Estimate of Probable Cost for the proposed two projects. Selecting additional projects would require further staff time.
- 2) Your Board could continue the discussion to a future meeting and give staff specific direction to provide additional information.

OTHER AGENCY INVOLVEMENT:

1. California Transportation Commission has the discretion to select and to fund ATP projects.
2. Bishop Tribe – the Barlow Lane project crosses the Bishop Reservation.

FINANCING:

The Inyo County Local Transportation Commission Overall Work Program funds the time to complete this staff report and the grant applications. Funds for a contractor to complete the ATP grant applications are included in the FY 2017-2018 County budget, under Budget Unit 504605 (Transportation Trust) and Object Code 5265 (Professional Services). No other budget related actions are required. If funding is programmed for a new project(s), the funding for it will be incorporated in the FY 2018-2019 budget.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) <i>erry Walker</i> Approved: <u>yes</u> Date <u>6/13/18</u>
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.) <i>[Signature]</i> Approved: <u>yes</u> Date <u>6/13/2018</u>
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE: *[Signature]* Date: 6/13/18
(Not to be signed until all approvals are received)

**AMENDMENT NUMBER 1 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC Transportation Consultants, Inc.
FOR THE PROVISION OF TRANSPORTATION PLANNING SERVICES**

WHEREAS, the County of Inyo (hereinafter referred to as "County") and LSC Transportation Consultants, Inc. of Tahoe City, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the provision of transportation planning services dated April 10, 2018, on County of Inyo Standard Contract No. 156, for the term from April 10, 2018 to April 30, 2023.

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below.

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

1. Section 3D, Limit upon amount payable under Agreement. The first sentence is revised as follows:

"The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed Sixty-four thousand two hundred and eighty dollars and no cents (\$64,280.00) (hereinafter referred to as "contract limit").

2. Attachment A to the contract, *Scope of Work*, shall be revised to include the additional tasks (See Attachment A to Amendment No. 1) required to assist in the development of three Active Transportation Program Plan grant applications (two for the County of Inyo and one for the City of Bishop).

The effective date of this amendment to the Agreement is June 26, 2018.

All other terms and conditions of the Agreement are unchanged and shall remain the same.

**AMENDMENT NUMBER 1 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC Transportation Consultants, Inc.
FOR THE PROVISION OF TRANSPORTATION PLANNING SERVICES**

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
17 DAY OF June, 2018.

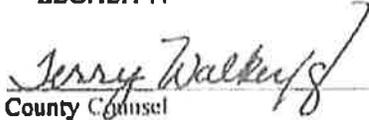
COUNTY OF INYO

By: 
Dated: 6-26-18

CONTRACTOR

By: 
Dated: 6/14/18

APPROVED AS TO FORM AND
LEGALITY:


County Counsel

APPROVED AS TO ACCOUNTING
FORM:


County Auditor

APPROVED AS TO PERSONNEL
REQUIREMENTS:

Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

County Risk Manager

**AMENDMENT NUMBER 1 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
LSC Transportation Consultants, Inc.
FOR THE PROVISION OF TRANSPORTATION PLANNING SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
DAY OF _____, 2018.

COUNTY OF INYO

CONTRACTOR

By: _____

By: _____

Dated: _____

Dated: _____

APPROVED AS TO FORM AND
LEGALITY:


County Counsel

APPROVED AS TO ACCOUNTING
FORM:


County Auditor

APPROVED AS TO PERSONNEL
REQUIREMENTS:


Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:


County Risk Manager

**ATTACHMENT A TO AMENDMENT No. 1
SCOPE OF WORK**



**TRANSPORTATION PLANNING AND
TRAFFIC ENGINEERING CONSULTANTS**

2690 Lake Forest Road, Suite C
Post Office Box 5875
Tahoe City, California 96145
(530) 583-4053 FAX: (530) 583-5966
info@lsctahoe.com • www.lscstrans.com

Courtney Smith
Transportation Planner
Inyo County Local Transportation Commission
P.O. Drawer Q
Independence, CA 93526

Dear Mr. Smith

LSC Transportation Consultants Inc. proposes to assist the Inyo County Local Transportation Commission with the preparation of three Cycle 4 Active Transportation Program (ATP) grant applications for the County of Inyo and the City of Bishop. The grant application process will be a collaborative effort between the Consultant Team, ICLTC, Inyo County and the City of Bishop. The following sets forth a potential division of duties between all entities, work scope for LSC, and estimated costs for LSC's tasks. We would be happy to work with the ICLTC to adjust the work scope as necessary.

ATP Application Part A

The Consultant Team will work with ICLTC, City of Bishop and Inyo County to complete the following sections of Part A of the applications:

- Applicant information
- General project information
- Project type
- Project details

City and County staff will be primarily responsible for the following sections of Part A. LSC will be available to answer questions regarding how these sections should be completed:

- Project schedule
- Project funding
- Screening criteria

It is estimated that this will take roughly 10 hours of Planner time or \$1,250 to complete all three applications.

ATP Application Part B

Narrative Questions

Part B includes the narrative section of the applications. With data supplied by the ICLTC and the City of Bishop, the Consultant Team will draft the narrative text and assist with the provision of documentation materials. As such, LSC assumes that ICLTC and the City of Bishop will provide the following:

- ◆ Updated project descriptions
- ◆ Engineers cost estimates
- ◆ Project programming requests
- ◆ Engineers checklists
- ◆ Available traffic counts on affected roadways
- ◆ Any additional accident and safety data (fatalities and injuries) which is not available through SWITRS
- ◆ Create accident location maps for each project site
- ◆ Any speed surveys on affected roadways which may be beneficial to the application

The Study Team will be responsible for the remainder of Part B including:

- ◆ Answering the narrative questions in Part B
- ◆ Contacting the California Conservation Corp
- ◆ Acquiring letters of support

It is estimated that LSC's portion of Part B for three grant applications will take roughly 6 hours of Principal time and 100 hours of Planner time for a total cost of **\$12,900**.

Site Visit

In an effort to more completely understand the need for the project, the Consultant Team will conduct an on-site visit of each of the three project locations. As part of these on-site visits, LSC will:

- Tour each project site
- Take photos
- Discuss project details in person with City/County staff

It is estimated that the site visit will take one full day of Planner time plus 4 hours for preparation or **\$2,000** and **\$320** in travel costs.

Bicycle and Pedestrian Counts

Part B Question 2 of the ATP application requires that the number of users be determined for the entire project limits. It is the understanding of the Consultant that bicycle and pedestrian counts have not been conducted for the three project areas. ATP guidelines do not specify the manner in which counts should be conducted but the applicant must clearly explain the methodology used in determining the number of users for the project area. It is assumed that ICLTC will conduct counts for each project application.

Maps

This work scope assumes that the City/County/ICLTC will be responsible for any mapping activities associated with preparation of the applications. This includes a project location map, accident location map and project plans.

Compiling Application Material

The Consultant Team will be responsible for gathering all application materials from the City/County and submitting electronic and hard copies of the applications to Caltrans. The compilation and submittal process will take 15 hours of Planner time for a cost of \$1,875.

Schedule

The Consultant Team will prepare Part A and the narrative text portion of Part B in Microsoft Word format with supporting attachments in Adobe Acrobat format to ICLTC and the City of Bishop for review by July 27th. If requested, the Consultant will make any necessary changes to the narrative text resulting from the review of the Draft ATP applications. Final ATP applications will be submit to Caltrans by July 31st.

Total Cost Estimate

Total cost estimates for preparing three grant applications is \$19,145. LSC is willing to adjust the work scope as necessary to fit the needs of ICLTC. LSC Tahoe Standard Billing Rates for 2018 are attached for reference.



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

14

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Public Works Department

FOR THE BOARD MEETING OF: April 10, 2018

SUBJECT: Consideration of a contract with LSC Transportation Consultants, Inc. to 1) complete two updates of the Regional Transportation Plan and 2) for other transportation planning services as needed over a five year period.

DEPARTMENTAL RECOMMENDATION:

Request your Board approve the Contract between the County of Inyo and LSC Transportation Consultants, Inc., for the provisions of transportation planning services, in an amount not to exceed \$45,135, for the period of March 27, 2018 through April 30, 2023 and authorize the Chairperson to sign.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

Inyo County Local Transportation Commission (ICLTC) is requesting that Inyo County enter into a contract with LSC Transportation Consultants to 1) complete two update the Regional Transportation Plan (RTP) that are four years apart and 2) for other transportation planning services such as completing Active Transportation Program grant applications on behalf of both the County and the City of Bishop. The initial fund amount is only for the 2019 Update of the RTP. Contract amendments will be brought back to the Board for approval for other tasks.

A Request for Proposals for the two updates of the RTP and other transportation planning tasks was mailed out to interested parties, posted on the County website, and published in the Inyo Register. There were only two proposals submitted to complete this project. A project selection committee consisting of County, City of Bishop, and Caltrans District 9 staff reviewed, rated, and ranked the two proposals. The committee unanimously recommended LSC. LSC has had prior experience in Inyo County and completed the 2015 update to the RTP. In addition, LSC had completed a successful Active Transportation Program grant application for the City of Bishop Spruce Yaney Hanby Sidewalk project.

RTP Update(s)

RTP Updates are intended to serve as a comprehensive planning tool directing the ICLTC's policies and actions, and providing a framework for the development of a coordinated and balanced regional transportation system. The RTP uses, as a base, those policies set forth in the Inyo County General Plan Circulation Element. The ICLTC is required to adopt and submit an updated RTP to the California Department of Transportation (Caltrans) every four years. In exchange for the LTC updating the RTP every four years, the County and City of Bishop are required to update their Housing Elements every eight years (instead of every five years). The consultant will be tasked with completing two updates to the RTP. The first update will be completed by April 2019 and the second update will be completed by 2023.

General Transportation Planning Services

This task is not included in the initial contract. As requested, the consultant may provide transportation planning services to assist with general administration and operation of the ICLTC. Possible future tasks could include the completion of grant applications on behalf of the County / City for programs such as the Active Transportation Program and the Highway Safety Improvement Program.

ALTERNATIVES:

The Board could choose not to approve the contract with LSC Transportation Consultants, in which case, the Public Works Department would have to re-advertise a Request for Proposals for qualified consultants to perform the transportation planning services. This is not advised because the preparation of the RTP and Active Transportation Program grant applications would be delayed and additional work would be required for both County staff and consulting firms.

OTHER AGENCY INVOLVEMENT:

County Counsel, Auditor, and Risk Manager have reviewed and approved the proposed contract. The RTP is geared to comply with requirements set forth by Caltrans. The RTP will require coordination with the City of Bishop and the five Tribal Governments in Inyo County.

FINANCING:

The funding for this contract will be provided through the non-general fund Transportation and Planning Trust Budget 504605 and funding for the RTP Update is proved for in the Board approved FY 2017-2018 budget.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.) Approved: <u>yes</u> Date <u>3/20/18</u>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.) Approved: <u>yes</u> Date <u>3/20/2018</u>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)



Date: 3/29/18

AGREEMENT BETWEEN COUNTY OF INYO
AND LSC Transportation Consultants, Inc.
FOR THE PROVISION OF transportation planning **SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") has the need for the transportation planning services of LSC Transportation Consultants, Inc. (hereinafter referred to as "Consultant"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK.

The Consultant shall furnish to the County, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Consultant to perform under this Agreement will be made by the Director of Public Works. Requests to the Consultant for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Consultant by the County under this Agreement. County by this Agreement incurs no obligation or requirement to request from Consultant the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by the Consultant at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement and, as applicable, as set forth, in Attachment E, attached hereto and incorporated herein.

2. TERM.

The term of this Agreement shall be from April 10, 2018 to April 30, 2023 unless sooner terminated as provided below. In addition, County shall have two options to extend the Agreement for additional one-year periods as follows:

- A. From N/A through N/A
- B. From N/A through N/A

County shall exercise such options by giving written notice to Contractor at least thirty (30) days before the expiration of the Agreement, or an extension thereof.

The notice shall specify the period of the options being exercised. The option to extend shall be upon the same terms and conditions stated in this Agreement.

3. CONSIDERATION.

A. Compensation. County shall pay Consultant in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Consultant at the County's request.

B. Travel and per diem. County shall reimburse Consultant for the travel expenses and per diem which Consultant incurs in providing services and work requested by County under this Agreement.

Consultant shall request approval by the County prior to incurring any travel or per diem expenses. Requests by Consultant for approval to incur travel and per diem expenses shall be submitted to the Director of Public Works. Travel and per diem expenses will be reimbursed in accordance with the rates set forth in the Schedule of Travel and Per Diem Payment (Attachment C). County reserves the right to deny reimbursement to Consultant for travel or per diem expenses which are either in excess of the amounts that may be paid under the rates set forth in Attachment C, or which are incurred by the Consultant without the prior approval of the County.

C. No additional consideration. Except as expressly provided in this Agreement, Consultant shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Consultant shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit upon amount payable under Agreement. The total sum of all payments made by the County to Contractor for services and work performed under this Agreement shall not exceed \$ 45,135 (initial term) \$ N/A (option 1) and \$ N/A (option 2) for a total of \$ N/A Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and payment. Consultant shall submit to the County, once a month, an itemized statement of all hours spent by Consultant in performing services and work described in Attachment A, which were done at the County's request. This statement will be submitted to the County not later than the fifth (5th) day of the month. The statement to be submitted will cover the period from the Monday of the week including the first day of the month to the last Sunday of the month. This statement will identify the date on which the hours were worked and describe the nature of the work which was performed on each day. Consultant's statement to the County will also include an itemization of any travel or per diem expenses, which have been approved in advance by County, incurred by Consultant during that period. The itemized statement for travel expenses and per diem will include receipts for lodging, meals, and other incidental expenses in accordance with the County's accounting procedures and rules. Upon timely receipt of the statement by the fifth (5th) day of the month, County shall make payment to Consultant on the last day of the month.

F. Federal and State taxes.

- (1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Consultant under the terms and conditions of this Agreement.
- (2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent Consultant's when it is anticipated that total annual payments to Consultant under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).
- (3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Consultant under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant. County has no responsibility or liability for payment of Consultant's taxes or assessments.
- (4) The total amounts paid by County to Consultant, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To

facilitate this reporting, Consultant shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

4. WORK SCHEDULE.

Consultant's obligation is to perform, in a timely manner, those services and work identified in Attachment A, which are requested by the County. It is understood by Consultant that the performance of these services and work will require a varied schedule. Consultant will arrange his/her own schedule, but will coordinate with County to insure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Consultant to provide the services and work described in Attachment A must be procured by Consultant and be valid at the time Consultant enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Consultant at no expense to the County. Consultant will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Consultant and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Consultant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Consultant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Consultant to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Consultant, for any expense or cost incurred by Consultant in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Consultant in providing and maintaining such items is the sole responsibility and obligation of Consultant.

7. COUNTY PROPERTY.

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Consultant by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Consultant will use reasonable care to protect, safeguard and maintain such items while they are in Consultant's possession. Consultant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Consultant's negligence.

B. Products of Consultant's Work and Services. Any and all compositions, publications, plans, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Consultant's services or work under this Agreement are, and at the termination

of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Consultant will convey possession and title to all such properties to County.

8. INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES.

For the duration of this Agreement Consultant shall procure and maintain insurance of the scope and amount specified in Attachment D and with the provisions specified in that attachment.

9. STATUS OF CONSULTANT.

All acts of Consultant, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent Consultant's, and not as agents, officers, or employees of County. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Consultant has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Consultant is to be considered an employee of County. It is understood by both Consultant and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent Consultant:

A. Consultant shall determine the method, details, and means of performing the work and services to be provided by Consultant under this Agreement.

B. Consultant shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Consultant in fulfillment of this Agreement.

C. Consultant, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent Consultant's, and not as employees of County.

10. DEFENSE AND INDEMNIFICATION.

For professional services rendered under this Contract, Consultant agrees to indemnify, including the cost to defend County and its officers, officials, employees, and volunteers from and against any and all claims, demands, costs, or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant and its employees or agents in the performance of professional services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of the County.

Consultant shall hold harmless, defend, and indemnify County and its officers, officials, employees, and volunteers from and against all claims, damages, losses, and expenses including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of the Consultant, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the **active negligence**, sole negligence, or willful misconduct of the County.

Consultant's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Consultant to procure and maintain a policy of insurance. If the Consultant maintains higher limits than the minimum required on the Insurance attachment to this Agreement, the County requires and shall be entitled to coverage for the higher limits maintained by the Consultant.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Consultant, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

11. RECORDS AND AUDIT.

A. Records. Consultant shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Consultant shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Consultant may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Consultant, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Consultant. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

12. NONDISCRIMINATION.

During the performance of this Agreement, Consultant, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Consultant and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Consultant shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

13. CANCELLATION.

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Consultant thirty (30) days written notice of such intent to cancel. Consultant may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

14. ASSIGNMENT.

This is an agreement for the services of Consultant. County has relied upon the skills, knowledge, experience, and training of Consultant as an inducement to enter into this Agreement. Consultant shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

15. DEFAULT.

If the Consultant abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Consultant in default and terminate this Agreement upon five (5) days written notice to Consultant. Upon such termination by default, County will pay to Consultant all amounts owing to Consultant for services and work satisfactorily performed to the date of termination.

16. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-two (22) below.

17. CONFIDENTIALITY.

Consultant further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Consultant in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Consultant agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Consultant only with the express written consent of the County. Any disclosure of confidential information by Consultant without the County's written consent is solely and exclusively the legal responsibility of Consultant in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

18. CONFLICTS.

Consultant agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

19. POST AGREEMENT COVENANT.

Consultant agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Consultant agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any County, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Consultant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

20. SEVERABILITY.

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

21. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Consultant of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-two (22) (Amendment).

22. AMENDMENT.

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

23. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Consultant or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo:	
<u>Public Works</u>	Department
<u>168 N. Edwards St., PO Drawer Q</u>	Address
<u>Independence, CA 93526</u>	City and State

Consultant:	
<u>LSC Transportation Consultants, Inc.</u>	Name
<u>2690 Lake Forest Road, Suite C</u>	Address
<u>Tahoe City, CA 96145</u>	City and State

24. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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AGREEMENT BETWEEN COUNTY OF INYO
AND LSC Transportation Consultants, Inc.
FOR THE PROVISION OF Transportation Planning **SERVICES**

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
10th DAY OF April, 2018.

COUNTY OF INYO

CONSULTANT

By: 
Signature
DAN TOTHERSON
Print or Type Name

By: _____
Signature

Print or Type Name

Dated: 4-10-18

Dated: _____

APPROVED AS TO FORM AND LEGALITY:


County Counsel

APPROVED AS TO ACCOUNTING FORM:


County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:


Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:


County Risk Manager

**AGREEMENT BETWEEN COUNTY OF INYO
AND I,SC Transportation Consultants, Inc.**
FOR THE PROVISION OF Transportation Planning SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
DAY OF _____

COUNTY OF INYO

By _____
Signature

Print or Type Name

Dated _____

CONSULTANT

By: _____
Signature
GORDON R SHAW
Print or Type Name

Dated: 3/30/18

APPROVED AS TO FORM AND LEGALITY:

[Signature]
County Counsel

APPROVED AS TO ACCOUNTING FORM:

[Signature]
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

[Signature]
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS

[Signature]
County Risk Manager

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO

AND LSC Transportation Consultants, Inc.

FOR THE PROVISION OF Transportation Planning **SERVICES**

TERM:

FROM: April 10, 2018 **TO:** April 30, 2023

SCOPE OF WORK:

See the attached Section 6 - Work Scope and Section 7 - Work Schedule

Section 6

Work Scope

The LSC Team will work closely with Inyo County staff and will conduct all study efforts efficiently, in a timely manner and with careful consideration of federal, state and local requirements. Final products will be consistent with adopted City and County planning documents. Each invoice will be accompanied by a monthly progress report. We have found through experience in previous transit and transportation planning studies that this manner of approaching the proposed Work Program provides for a cost-effective use of resources as well as allowing the client staff to keep well apprised of our progress. The next section presents a detailed outline of our proposed Work Program.

WORK SCOPE

Under this proposal, the Study Team will work closely with local staff to complete the tasks necessary to complete the RTP to the satisfaction of the ICLTC. Our work scope will consist of the following tasks.

Regional Transportation Plan Update

Project Understanding

As the Regional Transportation Planning Agency (RTPA) for the region, California law requires the Inyo County Local Transportation Commission (ICLTC) to adopt and submit an updated RTP to the California Transportation Commission (CTC) and to the California Department of Transportation (Caltrans) every five years. The main objective of a Regional Transportation Plan update is to develop a long-term plan for transportation facilities in Inyo County that is fiscally constrained, sustainable, and consistent with the goals and assumptions set forth in adopted and in-progress plans in the region. LSC has found that the study process is also a good opportunity to create a comprehensive transportation strategy for a region, based on discussions with community leaders and the public.

As illustrated in this proposal, LSC will work closely with ICLTC, the public, and other stakeholders to address these issues by determining Inyo County's regional transportation needs and updating capital improvement project lists to address those needs. The RTP update will be conducted in conformance with the latest edition of the RTP guidelines and will be in compliance with Fixing Americas Surface Transportation (FAST) Act, Environmental Justice and Title VI considerations.

TASK 1: Kick-off Meeting

Kick-Off Meeting

As part of Task 1, the LSC Team will travel to Bishop to hold a “kick-off” meeting with ICLTC staff, county representatives, City of Bishop staff, tribal representatives, and the Caltrans District 9 representative to refine the focus and schedule of the project, gather data, discuss relevant changes in existing conditions, review regional goals and policies, and discuss data forecasts and plan assumptions. The Study Team will use this trip to Inyo County as an opportunity to do a site visit of potential Active Transportation Program project locations.

TASK 2: Existing and Future Conditions Analysis

Existing Conditions

The first step in the RTP process will be to conduct an analysis of existing conditions. As this is an update to previous RTPs and as Inyo County has not grown significantly in population, it is anticipated that changes to existing conditions will be minimal. Data such as population and traffic volumes will be updated with the most current information available. This section will also include a list of transportation capital improvement projects completed since the last RTP adoption. Recent plans and studies which have been updated since 2015, such as the recent Short Range Transit Plan for the Eastern Sierra Transit Authority (ESTA), will also be reviewed. Lastly, the Study Team will review applicable planning documents identified in the 2017 guidelines with which the RTP should be consistent such as Local Public Health Plans.

Future Conditions Analysis

As part of this task, the Study Team will project demographic and economic conditions over the 20-year planning period as a basis for the transportation needs assessment. This will include a review of local and state demographic forecasts. LSC will also prepare forecasts of traffic volumes and level of service, based on the following:

- Traffic trends over the last 10 and 20 years per Caltrans and Inyo County data
- Transportation Concept Reports

The existing and future conditions analysis will be combined with input from the public/stakeholder outreach (Task 3) effort to update the regional transportation needs and issues assessment for each transportation mode.

TASK 3: Public Participation/Stakeholder Consultation Process

Per the 2017 RTP Guidelines, a strong consultation and coordination process is a key element in the development of an effective RTP. The public participation process will comply with

previously adopted ICLTC Public Involvement Procedures. We will make documented outreach efforts to the following:

On-line Questionnaire

In rural counties such as Inyo County, public workshops often garner minimal input. It is likely that more input can be attained by directly contacting agencies and groups with interest in regional transportation. For this reason the RTP consultation and coordination process will be an important part of public input. The Study Team will develop a short questionnaire which can be made available on-line and in hard copy format. The questionnaire will ask respondents about their opinion on how to prioritize transportation needs in general categories (maintenance, new roadways, public transit, bicycle facilities, etc.), as well as ask for specific input. Respondents will also be asked to rank performance measures used to prioritize transportation capital improvement projects (safety, mobility, productivity, etc.). The questionnaire could also be used to solicit input on potential Active Transportation Program (ATP) projects for the City of Bishop and County of Inyo. The Study Team will work closely with City and County staff to develop a list of potential ATP projects and ask respondents to rank the list in order of priority.

Availability of the questionnaire will be noticed in Inyo Register. The following groups will be directly contacted and provided a link to the on-line questionnaire as well as a PDF file to be distributed in hard copy format:

- Tribal Governments (Bishop Paiute Tribe, Big Pine Paiute, Fort Independence, Lone Pine Paiute, Timbisha Shoshone)
- County and City Health and Human Services Departments
- Inyo County Office of Education
- Bicycle advocacy groups
- ESTA
- Private Shuttle Services
- Eastern Sierra Area Agency for the Aging
- Inyo Mono Association for the Handicapped
- Adventure Trails of the Eastern Sierra
- Private companies generating truck traffic (freight shippers)
- ICLTC Social Services Transportation Advisory Council (SSTAC)
- Chamber of Commerce

If it is deemed by the Study Team and ICLTC that insufficient input was received, LSC will work with county staff to advertise the questionnaire to a larger audience and extend the availability of the questionnaire.

Consultation

Per the 2017 RTP Guidelines, the Study Team will consult with the following agencies in the development of the RTP.

- After consulting the Caltrans Native American Liaison Branch, we will contact Tribal Governments that have sacred lands in Inyo County to request input on the RTP process. The Study Team will request and review any transportation related tribal plans and projects. LSC will continue to keep the tribal governments informed about various meetings and document availability throughout the RTP process.
- We will contact all adjacent county RTPAs to make them aware of the RTP update and request their input.
- We will consult with environmental resource agencies such as the US Forest Service, Bureau of Land Management, Los Angeles Department of Water and Power, Death Valley National Park, Lahonton Water Quality Control Board and California Department of Fish and Game. Regional Transportation Plans and projects will be compared with adopted resource agency plans, maps and other data. The Great Basin Unified Air Pollution Control District will also be included in the planning process and the RTP will be consistent with transportation conformity measures set forth in applicable State Implementation Plans.

Notification

- Draft documents and public notices for input will be made available for posting on the ICLTC website.

Public Hearing

After completion of the Draft RTP and Negative Declaration, LSC will present the RTP at a regularly scheduled ICLTC meeting during a public hearing process. We will directly notify all stakeholders and persons who have expressed interest in the project of the public hearing.

All public participation/stakeholder input will be summarized in the RTP and copies of correspondence will be included as an appendix.

TASK 4: Policy Element

The Policy Element describes the transportation issues in the region, identifies and quantifies regional needs expressed within both a short- and long-range framework, and maintains internal consistency with the financial element fund estimates. As this document is an update to the 2015 RTP and there has not been significant changes in the county over the intervening years, it is not anticipated that the policy element will not change significantly.

TASK 5: Action Element

The Action Element identifies plans to address the needs and issues for each transportation mode (roadways, goods movement, transit and non-motorized transportation), in accordance with the goals, objectives, and policies set forth in the policy element. The future conditions analysis and public/stakeholder input will be considered to develop prioritized short-term and long-term projects and programs consistent with the identified needs and policies. Top priority projects along with cost estimates, implementing agency, and performance measures will be displayed in tables in Microsoft Excel for easy reference and use by decision-makers. The action element also includes a discussion of the following required RTP elements:

- Transportation safety & security
- Preservation of existing and future infrastructure
- Compatibility with transportation and land use
- Potential environmental mitigation areas and activities
- Performance measures and evaluation criteria for prioritizing improvement projects based on the latest federal guidance
- Coordination with other planning processes such as the Interregional Transportation Strategic Plan (ITSP) and Transportation Concept Reports (TCRs).

Although as a rural county Inyo County is not required to develop Sustainable Community Strategies, a qualitative analysis of the potential impacts of RTP projects on greenhouse gas emissions will be conducted, a discussion as to how RTP projects and policies can help attain statewide GHG goals will be included and potential strategies to address climate change issues will be outlined. This analysis will enhance the quality of information available to decision makers and assist with future policymaking.

TASK 6: Financial Element

The Financial Element identifies the current and anticipated revenue sources and financing techniques available to fund the planned transportation investments described in the action element. The intent is to define realistic inflation adjusted financing constraints and opportunities. The focus of the financial element will be to work closely with ICLTC to develop conservative and realistic estimates of all transportation funding sources to formulate a 10-year fiscally constrained project list. A 20 year financially unconstrained projects will also be listed.

TASK 7: Draft RTP and Environmental Documentation

All elements described above will be compiled into an Administrative Draft Plan for review and comment by ICLTC staff. Two hard copies and electronic files in both Microsoft Word and Adobe PDF format will be delivered.

Deliverable

Administrative Draft RTP

Next, LSC will incorporate all comments to prepare the Public Draft RTP. This document will include an Executive Summary and the California Transportation Commission (CTC) RTP checklist. Thirteen hard copies and electronic files in both Microsoft Word and Adobe PDF format will be provided to ICLTC staff for review and distribution. The Public Draft RTP will be made available for posting on ICLTC's website. As indicated in Task 3, the Public Draft RTP will be presented at a regularly scheduled ICLTC meeting as a public hearing.

Deliverable

Public Draft RTP

CEQA Documentation

It is the understanding of LSC that, given the very limited scope of new capacity increasing projects to be included in the RTP as well as the programmatic nature of the document, adoption of the 2019 RTP will not require an Environmental Impact Report (EIR). As part of this task, LSC will complete the CEQA Initial Study checklist to confirm that the RTP will not result in any significant environmental impacts. LSC will then prepare a Negative Declaration, while the ICLTC will be responsible for publicly noticing the Negative Declaration. If it were determined after the initial study process that an EIR is necessary, preparation of this document would be outside the scope of this proposal. The Negative Declaration report will include the following:

- Project description
- Project location
- Identification of project proponent
- Proposed finding of less than significant impact
- Attached copy of the California Environmental Quality Act (CEQA) Initial Study Checklist justifying the finding. The checklist will include the consideration of the environmental impact on Greenhouse Gas Emissions as suggested in the RTP Guidelines.

A minimum public review period of 30 days is required for a Negative Declaration unless the State Clearinghouse grants a "shortened review period" of 20 days and approved by Caltrans staff. LSC will mail 15 copies of the Negative Declaration directly to the State Clearinghouse for environmental review, while another five copies and an electronic file will be sent to ICLTC. Additionally, we will make the Initial Study/Proposed Negative Declaration available for posting on ICLTC's website the duration of the public review period.

Deliverable	Negative Declaration
-------------	-----------------------------

LSC will present the Draft RTP and the Draft Negative Declaration to the ICLTC at a regularly scheduled meeting as part of a public hearing.

TASK 8: Prepare Final RTP and Negative Declaration

A Final RTP and Negative Declaration will be prepared incorporating public and Caltrans comments. Thirteen copies of each document will be provided, along with all electronic files on USB key in both native formats and Adobe PDF. We expect that this document can be adopted by the ICLTC without the need for a presentation by LSC. Within five days of adoption of the RTP, LSC will assist the ICLTC with filing a Notice of Determination for approval with the State Clearinghouse and arrange for posting by the County Clerk.

Deliverable	Final RTP
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2019 Active Transportation Program Grant Applications

LSC will assist the County of Inyo and City of Bishop with two to three Active Transportation Program Grant applications for the 2019 grant cycle. At the RTP kick-off meeting, the Study Team will discuss potential ATP projects with County and City staff. As part of the kick-off meeting trip to Inyo County, LSC will conduct a brief site visit of potential ATP project locations. After the call for projects has been released in the Spring of 2018, the Study Team will hold a conference call with City and County staff to discuss details of the projects and data required. Next, the Study Team will estimate staff hours required for completion of the applications for approval by ICLTC. Costs will be based on the standard billing rates identified below. It is assumed for this work scope, that City and County staff will be primarily responsible for construction cost estimates and any survey or data collection required. LSC will be primarily responsible for answering the narrative questions and organization and compilation of the application. Applications will be submit by the deadline identified in the Final ATP Guidelines or by June 8, 2018 (if requested by ICLTC).

General Transportation Planning Services

As part of this task, the Project Team will be available to assist ICLTC with general transportation planning services, upon request. Representative projects could be Project Initiation Documents, Project Study Reports and various grant applications including but not limited to Active Transportation Program, Safe Routes to Schools and Highway Safety Improvement Program. If approved by the County, the contract would also include a second

update of the RTP. Work Scope of the 2022-2023 RTP update would be similar to the work scope described in this proposal.

The total cost of each transportation planning service request will be dependent upon the number of hours required. Standard billing rates are listed in the Price Proposal Section.

PROJECT SCHEDULE

We are prepared to begin this study immediately upon approval and the signing of a contract. A draft schedule is presented in Table 2, which accounts for 30-day environmental review periods for the Negative Declarations. Public input is scheduled for early in the process so that input can be gathered for both the ATP grant and RTP processes. Depending on when the Final ATP applications are released, this schedule could be shifted to slightly later in the year.

- Kick-off meeting – Mid March 2018
- Completion of ATP Grant Applications – June 8, 2018 or by deadline identified in Final ATP guidelines
- On line Questionnaire Available– Late April/Early May
- Completion Administrative Draft RTP – Late October
- Completion of Draft RTP and Initial Study/Proposed Negative Declaration – Mid November
- Presentation of Draft RTP and Environmental Document– Mid December 2018
- Completion of Final RTP and Environmental Document– Mid January 2019

While this schedule requires that several tasks be conducted simultaneously, we believe that it provides adequate time to conduct all tasks, and environmental and public input processes. This schedule assumes that County and ICLTC staff can provide data and review interim draft documents in a timely manner. LSC is able to adjust this schedule as necessary to better meet the needs of the ICLTC.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO

AND LSC Transportation Consultants, Inc.

FOR THE PROVISION OF Transportation Planning **SERVICES**

TERM:

FROM: April 10, 2018 **TO:** April 30, 2023

SCHEDULE OF FEES:

See the attached Section 3 - Project Costs

Section 3 Project Costs

Labor requirements and detailed cost estimates have been developed for the study Work Plan. We have estimated the total cost of the scope of work for the Inyo County Regional Transportation Plan to be \$45,135, as shown in Table 1. Of this total \$44,185 will be required for staff hours while \$950 will be required for travel and other Indirect expenses.

TABLE 1: Cost Analysis							
Inyo County 2019 Regional Transportation Plan Update							
Personnel and Hourly Rates							
	Principal-In Charge <i>Shaw</i>	Project Manager <i>Evans</i>	Planner <i>Fink</i>	Graphics Support	Clerical Support		
Rate	\$71.30	\$44.56	\$37.43	\$24.98	\$23.17		
Administrative Overhead	\$110.52	\$69.07	\$58.02	\$38.88	\$35.82		
Profit	\$18.18	\$11.36	\$9.55	\$6.38	\$5.91	Total	Total
Total Cost Per Hour	\$200.00	\$125.00	\$105.00	\$70.00	\$65.00	Hours	Cost
Regional Transportation Plan							
Task 1: Kick-off Meeting	8	15	8	0	0	31	\$4,315
Task 2: Existing and Future Conditions	5	20	20	20	10	75	\$7,650
Task 3: Public/Stakeholder Participation	4	30	15	0	15	64	\$7,100
Task 4: Policy Element	2	4	0	0	0	6	\$900
Task 5: Action Element	10	40	18	8	0	76	\$9,450
Task 6: Financial Element	4	20	0	0	0	24	\$3,300
Task 7: Draft RTP and Environmental	10	30	0	8	12	60	\$7,080
Task 8: Final RTP	4	20	0	8	8	40	\$4,380
Subtotal Hours	47	179	61	44	45	376	
Subtotal Personnel Cost	\$9,400	\$22,375	\$6,405	\$3,080	\$2,925		\$44,185
				LSC Additional Expenses			
							\$800
							\$50
							\$100
							\$950
							\$45,135



LSC Transportation Consultants, Inc.

2690 Lake Forest Road, Suite C
 Post Office Box 5875
 Tahoe City, California 96145
 Phone: (530) 583-4053 • Fax 583-5966
 Website: www.LSCtrans.com
 Email: info@lsc Tahoe.com

TAHOE STANDARD BILLING RATES

LABOR	RATE
Principals	\$200/hour
Associates	\$150/hour
Senior Engineers	\$125/hour
Senior Planners	\$125/hour
Engineers	\$105/hour
Planners	\$105/hour
Senior CAD Operators	\$70/hour
Graphic Technicians	\$70/hour
Administrative Assistants	\$65/hour
Traffic Count Technicians	\$40/hour

SPECIALIZED EQUIPMENT

Computer and Specialized Software	\$15/hour
Turning-Movement Traffic Keyboard	\$3/hour
Automatic Traffic Counter	\$25/day
Auto	\$0.57/mile
Photocopies	\$0.10/copy
Color Copies	\$0.15/copy
Plots	\$5.00/D-size plot

OUTSIDE CONSULTANTS, SUB-CONTRACTORS AND CONTRACT LABOR

Billed at our cost + 10 percent.

OTHER DIRECT PROJECT EXPENSES such as Airfare, Lodging, Meals, Car Rental, Telephone, Postage, Parking Fees, Printing, Graphics, Delivery Charges, etc., are billed at our cost.

Effective January 1, 2018

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO

AND LSC Transportation Consultants, Inc.

FOR THE PROVISION OF Transportation Planning **SERVICES**

TERM:

FROM: April 10, 2018 **TO:** April 30, 2023

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT:

Not Applicable

ATTACHMENT D

AGREEMENT BETWEEN COUNTY OF INYO
AND LSC Transportation Consultants, Inc.
FOR THE PROVISION OF Transportation Planning **SERVICES**

TERM:

FROM: April 10, 2018 **TO:** April 30, 2023

SEE ATTACHED INSURANCE PROVISIONS



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-229

Resolution Directing the County of Inyo’s Withdrawal from the California Cannabis Authority (CCA)

Treasurer-Tax Collector

ACTION REQUIRED

ITEM SUBMITTED BY

Alisha McMurtrie, Treasurer

ITEM PRESENTED BY

Alisha McMurtrie, Treasurer

RECOMMENDED ACTION:

Approve Resolution No. 2024-09 directing the County of Inyo’s withdrawal from the California Cannabis Authority (CCA) and rescission of Resolution 2018-46, and authorize the Chairperson to sign.

BACKGROUND / SUMMARY / JUSTIFICATION:

In 2018, Inyo County entered into a Joint Powers Authority (JPA) with the California Cannabis Authority (CCA). The intent of this partnership was to improve the flow of information between the County the State, and the cannabis operators at the point of sale. This would happen using the CCA’s approved software application that compiles point of sale data from the operators and compares it to the data from the State “MTRC” system. This assists with internal audit processes and transparency. The CCA also advocates for the cannabis industry in their efforts to access the federal banking system and all that it offers. CCA staff engages with State and Federal legislators in pursuit of this goal.

The primary service the County would benefit from is access to the software platform at CCA. Cannabis sales data is required to populate the platform. To date, the County’s cannabis program has not achieved its desired results. The retail sector is thriving. The cultivation sector is not. There have been obstacles to accessing the MTRC data from the State, without which, there are limited opportunities for comparison. Our cultivation sector has failed to connect to the CCA platform, and we have no data from those operators. Only a few retail operators have submitted data to CCA. As a result, we are not utilizing the services of the CCA platform to its fullest extent.

In spite of a majority of states approving cannabis at various use levels, the Federal Government has not chosen to lower the classification of cannabis from a Schedule One (1) drug and allow access to the federal banking system. The CCA continues its efforts on behalf of their clients.

The cost of our membership in the CCA is directly related to the sales generated in the County. This places Inyo County in the lowest tier, and we are currently remitting \$7,000.00 per quarter to the CCA.

It is the recommendation of staff that Inyo County withdraw from the CCA. Due to the lackluster performance of the cultivation sector of the cannabis program, we will never receive the full benefit of services from the CCA. Your action today does not prohibit the County from participating in the CCA at a future date should the cannabis program revitalize.

FISCAL IMPACT:

Funding Source	Cannabis Tax Trust	Budget Unit	500204/010500
Budgeted?	Yes	Object Code	5801/4998
Recurrence	Ongoing Quarterly Expenditure		
Current Fiscal Year Impact			
\$0.00			
Future Fiscal Year Impacts			
\$28,000.00 annual savings			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

Your Board can choose to remain a member of the California Cannabis Authority (CCA). This is not recommended at this time and may be reviewed in the future should the cannabis cultivation sector increase production.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

California Cannabis Authority

ATTACHMENTS:

1. Resolution No. 2024-09 - Withdrawal from CCA

APPROVALS:

Alisha McMurtrie	Created/Initiated - 3/20/2024
Darcy Ellis	Approved - 3/20/2024
John Vallejo	Approved - 4/1/2024
Amy Shepherd	Approved - 4/1/2024
Nate Greenberg	Final Approval - 4/2/2024

RESOLUTION NO. 2024-XX

A RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY OF INYO, STATE OF CALIFORNIA, APPROVING WITHDRAWAL FROM THE CALIFORNIA CANNABIS AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT, AND RESCINDING RESOLUTION 2018-46.

WHEREAS, in 2018 the Inyo County Board of Supervisors approved Resolution #2018-46, authorizing the County to enter into a Joint Exercise of Powers Agreement (JPA) with the California Cannabis Authority (CCA); and

WHEREAS, the purposes for which the County entered into the JPA have not come to fruition; and

WHEREAS, based on the above, County staff recommends the County withdraw from the CCA.

NOW, THEREFORE, BE IT RESOLVED that the Inyo County Board of Supervisors does hereby:

1. Express its intention to withdraw Inyo County from the CCA JPA.
2. Authorize and direct the Inyo County Treasurer-Tax Collector and all other proper officers and officials of the County as needed to execute any and all documents necessary to withdraw Inyo County from the CCA.
3. Direct the Clerk of the Board to forward a certified copy of this Resolution to:

Greg Turner
Executive Director/Counsel
California Cannabis Authority
1100 K Street
Sacramento, CA 95814

Or as otherwise may be required by the CCA.

PASSED AND ADOPTED on this ____ day of _____ 2024, by the Inyo County Board of Supervisors, County of Inyo, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Matt Kingsley, Chairperson
Inyo County Board of Supervisors

ATTEST:

NATE GREENBERG
Clerk of the Board

By: _____
Darcy Ellis, Assistant



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-225

Resolution Authorizing the Submittal of the Environmental Health Department Micro Enterprise Home Kitchen Operation (MEHKO) Grant Application Environmental Health ACTION REQUIRED

ITEM SUBMITTED BY

Jerry Oser, Environmental Health Director

ITEM PRESENTED BY

Jerry Oser, Environmental Health Director

RECOMMENDED ACTION:

Approve Resolution No. 2024-10, titled, "A Resolution of the Board of Supervisors, County of Inyo, State of California Authorizing the Submittal of the Environmental Health Department Micro Enterprise Home Kitchen Operation (MEHKO) Grant Application," and authorize the Chairperson to sign.

BACKGROUND / SUMMARY / JUSTIFICATION:

Microenterprise Home Kitchen Operations (MEHKOs) cannot operate until the governing body of the local enforcement agency grants authorization to issue permits. The County of Inyo (County) Board of Supervisors (Board), as the governing body of the Environmental Health Department (EH), has the authority to authorize a local MEHKO program for the entire Inyo County region, including the City of Bishop.

Since the State established the supporting legislation, over 100 MEHKOs have been authorized by the following jurisdictions: Riverside County, Alameda County, San Mateo County, Santa Barbara County, San Diego County, Solano County, Imperial County, Lake County, Sierra County, San Benito County, Monterey County, Santa Clara County, and City jurisdiction(s) who have their own Department of Environmental Health Authority and can thus opt-in separately from their County.

The jurisdictions that took formal action to decline authorizing MEHKOs are Siskiyou County (January 2019) and San Joaquin County (March 2020).

All other governing bodies (including Mono) took no formal action to authorize or decline to authorize MEHKOs, and as a result, MEHKOs are not allowed to operate in those jurisdictions. Inyo falls into this category. On August 2, 2022, EH presented the Board with a MEHKO workshop. Given the lack of constituent interest, the workshop remained informational and wait-and-see.

Now, there is an opportunity to gather information formally. Through AB 178, the state legislature awarded all Counties part of a \$2.6 million block grant for costs incurred in MEHKO program development and feasibility exploration. Inyo's part of the grant amounts to \$34,089.14. If accepted, we must encumber these funds by June 30, 2024, and expend them by May 31, 2025. There is no

expectation to have a MEHKO program after the grant expires.

Our EH Professional Organization (CCDEH) has developed a FAQ document to help jurisdictions understand how the MEHKO Grant funds can be utilized. Below are some examples:

- Public Outreach to unincorporated areas and incorporated cities within our jurisdiction regarding home-prepared foods and MEHKO
- Meetings with stakeholder groups
- Public Workshops/Community engagement regarding home-prepared foods
- Program Development / Preparation of MEHKO Ordinance
- Direct support in implementing the MEHKO program.
- Implementation of permitting processes
- Offsetting permit fees
- Staff Training
- Initial site inspections
- Responding to complaints regarding home-prepared foods from non-permitted MEHKO's

I propose we accept the funding and try to reach out to stakeholders throughout the County over the next 6 months. Once we have gathered data on the program's pros and cons, we will return to your Board for a workshop and vote. Should your board want to pursue a MEHKO program, we will have until May 31, 2025, to expend the remainder of the grant funds as we develop an ordinance and program. If your board decided in 6 months not to pursue the program, we would have at least gathered the information needed to come to this decision.

FISCAL IMPACT:			
Funding Source	AB 178 MEHKO Grant	Budget Unit	045400
Budgeted?	No	Object Code	
Recurrence	One-Time Expenditure		
Current Fiscal Year Impact			
Depending on how the \$34,089.14 is encumbered, some of this could be spent this fiscal year.			
Future Fiscal Year Impacts			
The EHD would spend the bulk of the grant in FY 24/25.			
Additional Information			

Inyo's part of the grant amounts to \$34,089.14. If accepted, we must encumber these funds by June 30, 2024, and expend them by May 31, 2025. There is no expectation to have a MEHKO program after the grant expires. There will be a mechanism to remit unused funds.

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

Your Board could vote now not to have a MEHKO program in Inyo County. We would not accept the grant funding. Brick-and-mortar restaurants, caterers, and cottage food operations would continue to make up the bulk of the County's food offerings.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

ATTACHMENTS:

1. Resolution No. 2024-10 - MEHKO Grant 2024

APPROVALS:

Jerry Oser	Created/Initiated - 3/19/2024
Darcy Ellis	Approved - 3/20/2024
Jerry Oser	Approved - 3/20/2024
Keri Oney	Approved - 3/20/2024
John Vallejo	Approved - 3/20/2024
Amy Shepherd	Approved - 3/20/2024
Nate Greenberg	Final Approval - 4/2/2024

Resolution No. _____

**A RESOLUTION OF THE
BOARD OF SUPERVISORS, COUNTY OF INYO, STATE OF CALIFORNIA
AUTHORIZING THE SUBMITTAL OF THE ENVIRONMENTAL HEALTH DEPARTMENT
MICRO ENTERPRISE HOME KITCHEN OPERATION (MEHKO) GRANT APPLICATION**

Whereas, the Inyo County Board of Supervisors, acting according to its authority under the Health and Safety Code section 114367, has the power to implement a MEHKO program throughout the County of Inyo; and

Whereas, the State legislature, via AB 178 has made a block grant available to local agencies in the process of or considering approving a MEHKO ordinance; and

Whereas, funds totaling 2.612 million dollars have been established under AB178 and are available from the Workforce Development Board (WDB) and California Conference of the Directors of Environmental Health (CCDEH) for grants to Local Agencies to support MEHKO activities; and

Whereas, it would be beneficial to the County to receive grant funds from the State of California under AB 178 to partially defray the costs incurred by the County as we consider a MEHKO program in Inyo;

Now, therefore, let it be resolved that the Inyo County Board of Supervisors authorizes the signing of the MEHKO Block Grant Acceptance Agreement for a Local Agency Grant for \$34,089.14 to be encumbered by June 30, 2024, and expended by May 31, 2025;

Be it further resolved that the Director of the Inyo County Department of Environmental Health, or his designee, is hereby authorized and empowered to execute in the name of the County of Inyo all necessary applications, contracts, agreements, payment requests, and amendments to secure MEHKO grant funds and to implement and carry out the purposes specified in the grant application.

Passed and Adopted by the Inyo County Board of Supervisors this XXth day of XXXX, 20XX, by the following vote of the Board of Supervisors:

AYES:

NOES:

ABSENT:

ABSTAIN:

Attest: Nate Greenberg

Clerk of the Board

Chairperson, Inyo County Board of Supervisors

By: _____

Darcy Ellis, Assistant



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-214

Personal Services Contract - Assistant Public Works Director Public Works ACTION REQUIRED

ITEM SUBMITTED BY

Keri Oney, Assistant Personnel Director, Michael Errante, Public Works Director

ITEM PRESENTED BY

Keri Oney, Assistant Personnel Director

RECOMMENDED ACTION:

- A) Approve the contract between the County of Inyo and Fred Aubrey for the provision of personal services as the Assistant Public Works Director at Range 92, Step D, \$10,511 per month effective April 11, 2024, and authorize the Chairperson to sign;
- B) Approve the Job Description for the Assistant Public Works Director; and
- C) Direct staff to update the publicly available pay schedule accordingly.

BACKGROUND / SUMMARY / JUSTIFICATION:

The Assistant Public Works Director position became vacant as a result of the retirement of the prior employee. With the resulting vacancy, the Department reviewed and made minor updates to the job description to meet the needs of the department.

After an extensive recruitment and interview process, Fred Aubrey emerged as the top candidate, with whom we are requesting to enter into contract.

FISCAL IMPACT:

Funding Source	General Fund & Non-General Fund	Budget Unit	Multiple
Budgeted?	Yes	Object Code	Salaries and Benefits object codes
Recurrence	Ongoing Expenditure		
Current Fiscal Year Impact			
There is no additional fiscal impact as this position is budgeted and included in our authorized strength.			
Future Fiscal Year Impacts			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

Your Board could choose not to approve this contract and re-negotiate the terms and conditions, or the Department would continue to recruit to fill the vacancy.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

ATTACHMENTS:

1. Assistant Public Works Director Contract - F. Aubrey
2. Public Works Assistant Director - Class Specification Bulletin

APPROVALS:

Keri Oney	Created/Initiated - 3/12/2024
Breanne Nelums	Approved - 3/12/2024
Keri Oney	Approved - 3/25/2024
Darcy Ellis	Approved - 3/26/2024
John Vallejo	Approved - 3/26/2024
Amy Shepherd	Approved - 3/26/2024
Nate Greenberg	Final Approval - 4/2/2024

**AGREEMENT BETWEEN COUNTY OF INYO
AND FRED AUBREY
FOR THE PROVISION OF PERSONAL SERVICES
AS PUBLIC WORKS ASSISTANT DIRECTOR**

INTRODUCTION

WHEREAS, FRED AUBREY (hereinafter referred to as "Public Works Assistant Director") has been or will be duly appointed as a Public Works Assistant Director for Inyo County; and

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Public Works Assistant Director desire to set forth the manner and means by which Public Works Assistant Director will be compensated for performance of duties.

NOW THEREFORE, in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, County and Public Works Assistant Director hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK.

Public Works Assistant Director shall furnish to the County those services and work set forth in Attachment A, attached hereto and by reference incorporated herein.

Services and work provided by Public Works Assistant Director under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, resolutions, and directions.

2. ADMINISTRATION OF CONTRACT.

Public Works Assistant Director will report directly to and shall work under the direction of the Public Works Director. As the County's Personnel Director, the County Administrative Officer will administer this contract and exercise its provisions in consultation with the Public Works Director.

3. TERM.

The term of this Agreement shall be from April 11, 2024, until terminated as provided below.

4. CONSIDERATION.

A. Compensation. County shall pay Public Works Assistant Director in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Public Works Assistant Director.

B. Travel and Per Diem. County shall reimburse Public Works Assistant Director for the travel expenses and per diem which Public Works Assistant Director incurs in providing services and work under this Agreement. Travel and per diem expenses will be reimbursed in accordance with the rates set forth in the Schedule of Travel and Per Diem Payment (Attachment C). County reserves the right to deny reimbursement to Public Works Assistant Director for travel or per diem expenses which are either in excess of the amounts that may be paid under the rates set forth in Attachment C, or which are incurred by the Public Works Assistant Director without the proper approval of the County.

C. No Additional Consideration. Except as expressly provided in this Agreement, Public Works Assistant Director shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement.

D. Manner of Payment. Public Works Assistant Director will be paid in the same manner and on the same schedule of frequency as other County officers and employees.

E. Federal and State Taxes. From all payments made to Public Works Assistant Director by County under the terms and provisions of this Agreement, County shall withhold all appropriate federal and state income taxes (resident and non-resident).

5. WORK SCHEDULE.

Public Works Assistant Director's obligation is to perform the services and work identified in Attachment A which are needed within the County. It is understood by Public Works Assistant Director that the performance of these services and work will require a varied schedule. Public Works Assistant Director, in arranging their schedule, will coordinate and make arrangements to fulfill the requirements of the services and work which is necessary.

6. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Public Works Assistant Director to provide the services and work described in Attachment A must be procured by Public Works Assistant Director and be valid at the time Public Works Assistant Director enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Public Works Assistant Director must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, and professional licenses or certificates. Public Works Assistant Director will provide County, at County's request, evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Public Works Assistant Director and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

7. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

County shall provide Public Works Assistant Director with such supplies, reference materials, telephone service, and staff as is deemed necessary by the County for Public Works Assistant Director to provide the services identified in Attachment A to this Agreement.

8. COUNTY PROPERTY.

A. Supplies, Equipment, etc. All supplies, equipment, tools, protective or safety devices, badges, identification cards, keys, uniforms, vehicles, reference materials, furniture, appliances, etc. provided to Public Works Assistant Director by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Public Works Assistant Director will use reasonable care to protect, safeguard and maintain such items while they are in Public Works Assistant Director's possession.

B. Products of Public Works Assistant Director's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are

the result or product of, Public Works Assistant Director's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Public Works Assistant Director will convey possession and title to all such properties to County.

9. WORKERS' COMPENSATION.

County shall provide workers' compensation coverage to Public Works Assistant Director for all acts performed in the course and scope of providing the services described in Attachment A to this Agreement. In the event a claim is made by Public Works Assistant Director for injuries received in the course and scope of providing such services, County's liability shall be limited to workers' compensation benefits payable under the California Labor Code.

10. DEFENSE AND INDEMNIFICATION.

In the event the Public Works Assistant Director is sued for acts performed within the course and scope of providing services and work described in Attachment A of this Agreement, County shall defend, indemnify, and hold the Public Works Assistant Director harmless from any and all liability arising from such acts as required by law.

11. TERMINATION AND DISCIPLINE.

Public Works Assistant Director's services under this Agreement may be terminated by County without cause, and at will, for any reason by giving to Public Works Assistant Director one hundred eighty (180) days written notice of such intent to terminate. Public Works Assistant Director may terminate this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to terminate to County.

12. ASSIGNMENT.

This is an agreement for the personal services of Public Works Assistant Director. County has relied upon the skills, knowledge, experience, and training of Public Works Assistant Director as an inducement to enter into this Agreement. Public Works Assistant Director shall not assign or subcontract this Agreement, or any part of it, without the express written consent of the County.

13. NONDISCRIMINATION.

Public Works Assistant Director agrees to comply with various provisions of the federal, state, and county statutes, laws, and ordinances applicable to the County prohibiting discrimination against any person on specified grounds.

14. CONFIDENTIALITY.

Public Works Assistant Director agrees to comply with various provisions of the federal, state, and county laws and ordinances providing that information and records kept, maintained, or accessible by the County, shall be privileged, restricted, or confidential. Disclosure of such confidential, privileged, or protected information shall be made by Public Works Assistant Director only as allowed by law.

15. CONFLICTS.

Public Works Assistant Director agrees that Public Works Assistant Director has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance

of the work and services under this Agreement. Public Works Assistant Director agrees to complete and file appropriate conflict of interest statements.

16. POST AGREEMENT COVENANT.

Public Works Assistant Director agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Public Works Assistant Director agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Public Works Assistant Director by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

17. AMENDMENT.

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form, and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

18. NOTICE.

Any notice, amendments, or additions to this Agreement, including change of address of either party during the term of this Agreement, which Public Works Assistant Director or County shall be required, or may desire, to make shall be in writing and shall be sent by prepaid first-class mail to the respective parties as follows:

County of Inyo

<u>County Administrator</u>	Department
<u>P.O. Drawer N</u>	Mailing Address
<u>Independence, CA 93526</u>	City and State

Public Works Assistant Director

<u>Fred Aubrey</u>	Name
<u>1804 Saniger Lane</u>	Mailing Address
<u>Bishop, CA 93514</u>	City and State

29. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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**AGREEMENT BETWEEN COUNTY OF INYO
AND FRED AUBREY
FOR THE PROVISION OF PERSONAL SERVICES
AS PUBLIC WORKS ASSISTANT DIRECTOR**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
9th DAY April, 2024.

COUNTY OF INYO

AS PUBLIC WORKS ASSISTANT DIRECTOR

By: _____

By: Fred Aubrey
Print or Type Name

Dated: _____

Fred Aubrey
Fred Aubrey (Mar 21, 2024 12:23 PDT)
Signature

Dated: Mar 21, 2024

APPROVED AS TO FORM AND
LEGALITY:

John-Carl Vallejo
John-Carl Vallejo (Mar 19, 2024 13:36 PDT)
County Counsel

APPROVED AS TO ACCOUNTING
FORM:

Amy Shepherd
County Auditor

APPROVED AS TO PERSONNEL
REQUIREMENTS:

K. Oney
Personnel Services

ATTACHMENT A

**AGREEMENT BETWEEN COUNTY OF INYO
AND FRED AUBREY
FOR THE PROVISION OF PERSONAL SERVICES
AS PUBLIC WORKS ASSISTANT DIRECTOR**

TERM:

FROM: APRIL 11, 2024

TO: TERMINATION

SCOPE OF WORK:

Upon commencing employment, Public Works Assistant Director shall perform the duties and responsibilities as identified in the job description for Public Works Assistant Director incorporated herein by this reference.

ATTACHMENT B

**AGREEMENT BETWEEN COUNTY OF INYO
AND FRED AUBREY
FOR THE PROVISION OF PERSONAL SERVICES
AS PUBLIC WORKS ASSISTANT DIRECTOR**

TERM:

FROM: APRIL 11, 2024

TO: TERMINATION

SCHEDULE OF FEES:

1. After commencing employment, Public Works Assistant Director shall be compensated at Range 92, Step D and be paid \$10,511 per month and shall be paid every two weeks on County paydays and be eligible for Merit Advancement as outlined in the Personnel Rules and Regulations.
2. The Public Works Director will review Public Works Assistant Director performance annually.
3. Except as otherwise provided in this contract, Public Works Assistant Director shall be compensated and receive benefits according to Inyo County Resolution Number 2024-05 or a successor resolution applicable to Management Employees.
4. Public Works Assistant Director is entitled to eighty (80) paid administrative hours off every fiscal year. The administrative leave hours shall not accumulate and will be lost if not utilized during the fiscal year. The administrative leave shall have no cash value. For the first fiscal year of this Agreement, Public Works Assistant Director shall have his current balance of administrative hours, if any, roll over from his current position into this Public Works Assistant Director position. Any other expiring leave shall be similarly rolled over.
5. County will provide and maintain a motor vehicle for Public Works Assistant Director's use travelling between work locations and in conducting other County business. Said vehicle will be garaged overnight at a County facility unless prior permission is granted by the County Administrator or his designee.
6. The provisions of this Attachment B shall prevail over any contrary provision in any applicable County personnel policy or rule.

ATTACHMENT C

**AGREEMENT BETWEEN COUNTY OF INYO
AND FRED AUBREY
FOR THE PROVISION OF PERSONAL SERVICES
AS PUBLIC WORKS ASSISTANT DIRECTOR**

TERM:

FROM: APRIL 11, 2024

TO: TERMINATION

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT:

1. Subject to Paragraph 2 below, County will reimburse Public Works Assistant Director for travel and per diem expenses in the same amount and to the same extent as County reimburses its permanent status merit system employees.
2. Public Works Assistant Director will not be reimbursed for intra-county travel by private automobile to destinations less than seventy-five (75) miles from Independence, California.

\\\\ NOTHING FOLLOWS\\\\



Public Works Assistant Director

Class Code:
PUBWASST-92

INYO, COUNTY OF (CA)
Established Date: Jan 8, 2024
Revision Date: Jan 8, 2024

SALARY RANGE

\$52.38 - \$63.67 Hourly
\$9,079.00 - \$11,036.00 Monthly
\$108,948.00 - \$132,432.00 Annually

DEFINITION:

DEFINITION: Under direction of the Director of Public Works manages, and directs the administrative and operational activities of the Senior Engineer, Senior Management Analyst and Deputy Directors within the Public Works Department; to direct, manage, and review the work of staff; to establish and implement divisions' objectives and performance standards; to serve as a member of the department management team which is responsible for fulfilling the mission and carrying out the policies of the department; to promote and participate in collaborative activities, programs, and projects that cross functional areas; and to function as a positive and cooperative team member and a proactive team leader.

DISTINGUISHING CHARACTERISTICS: The Assistant Director of Public Works classification recognizes positions that provide full first -line and second-line, direct supervision to employees within all ten divisions in the Public Works Department and assumes substantive and significant administrative and operational responsibility for both divisions and over-all departmental strategic planning and implementation. The Assistant Director position also performs general administrative tasks for the Public Works Director and acts as a representative of the department to the County, its departments and outside agencies/organizations as assigned.

LEVEL OF RESPONSIBILITY AND SCOPE: Receives general direction from the Public Works Director.
Exercises direct supervision over supervisory, professional, technical, and clerical personnel.

EXAMPLE OF DUTIES:

EXAMPLES OF ESSENTIAL DUTIES:

Duties may include, but are not limited to, the following:

- Plans, organizes directs, and manages all administrative and operational activities.
- Monitors and evaluates work in progress on an on-going basis to ensure compliance with departmental mission, goals, and policies.

- Identifies, develops, and implements goals, objectives, and activities to be accomplished.
- Directs, coordinates, and evaluates the implementation of operational strategies and plans.
- Serves as a departmental management team member participating in the strategic planning, development and implementation of departmental policies, procedures, and operations.
- Participates in the identification and allocation of resources (fiscal, staffing, and materials); and contributes to the problem-solving, decision making, and planning activities of the Department.
- Provides professional and managerial resources to the Public Works Director, departmental management team, other County departments, outside agencies, and the general public in a responsible, positive, and supportive manner.
- Represents the Public Works Department within the County organization as well as to outside agencies, local communities, special interest groups, businesses, and the general public utilizing principles of effective customer service.
- Establishes and maintains open communications with other County departments, collaborative teams, and other governmental organizations.
- Coordinates data, resources, and work products in support of a productive and positive working relationship.
- Directs, supervises, and participates in the development and on-going administration of divisions' and projects' budgets.
- Coordinates and directs the forecasting of funds and resources needed.
- Researches and analyzes funding resources and availability and provides justifications for requested resources.
- Acts as a professional and technical resource related to divisions, to staff, the Public Works Department, the County organization, outside agencies, and the general public.
- Provides advice, expertise, and resources in designated areas of responsibility to multi-disciplinary projects and collaborative efforts.
- Participates in the development and administration of the departmental budgets as assigned.
- Provides advice and support in the on-going monitoring and adherence to departmental budget administration; may participate in County-wide taskforces, committees, and project teams to ensure responsible administration of resources, budgets in accordance with County's needs and priorities.
- Participates in the selection of staff; reviews and approves/disapproves staff training; conducts performance evaluations; recommends disciplinary procedures as necessary and implements discipline procedures as directed.
- Researches, negotiates, prepares and administers contracts, including leases, with consultants, contractors, property owners, leases, service providers, and/or vendors of various services.
- Research potential funding sources, develops grant applications/proposals, negotiates agreements, and administers grant programs and budgets.
- Acts as primary resource regarding divisions and related programs/projects' activities, operations, and processes.
- Answers questions and provides information in response to requests and inquiries.
- Investigates complaints and recommends/implements corrective action as necessary to resolve complaints.
- In the absence of the Public Works Director, assumes the responsibility of the Public Works Director as necessary and as assigned.
- Performs related duties as assigned.

EMPLOYMENT STANDARDS:

MINIMUM QUALIFICATIONS: A combination of experience, education, and/or training which substantially demonstrates the following knowledge, skills and abilities.

License or Certificate:

- Must possess a valid driver's license. Proof of adequate vehicle insurance may also be required. The successful candidate must complete a pre-employment background investigation.
- While desirable, registration as a Civil Engineer is not required.

Experience and Training: Any combination of experience and training that would provide the required knowledge and skills is qualifying. A typical way to obtain the required knowledge and skills would be:

PATH 1:

Experience:

At least five (5) years of progressively responsible professional administrative experience in major public works projects, building services, engineering, commercial construction, or road construction, preferably with a governmental entity, and including at least three (3) years of progressively responsible management responsibility.

Training:

Equivalent to a bachelor's degree from an accredited college or university with major coursework in business, public administration, engineering, construction management, or a closely related field.

PATH2:

Experience & Training:

At least five (5) years of applicable supervisory experience in Inyo County employment.

Knowledge of:

- Advanced principles and practices of divisions with specific knowledge and experience in the same area.
- Current Divisions as follows:
 1. Fiscal
 2. Engineering
 3. Local Transportation Commission / Transportation Planning
 4. Building and Safety
 5. Building and Maintenance
 6. Airports
 7. Parks and Recreation
 8. Solid Waste
 9. Water Systems
 10. Road
- Advanced principles and practices of management, leadership, motivation, team building and conflict resolution.
- Standard and accepted organizational and management practices as applied to development, analysis, and evaluation of programs, policies and operational needs.
- Standard and accepted principles and practices of budget preparation and administration.
- Pertinent local, state and federal rules, regulations and laws.
- Standard and accepted office procedures, methods and computer equipment.
- Standard and accepted principles and practices of research, analysis and management.
- Advanced principles of supervision, training and performance evaluations.
- Standard and accepted principles and practices of work safety.

Skill to:

- Provide positive and effective administrative and policy guidance to County department heads and departmental staff.
- Recognize issues of a sensitive or political nature; exercise independent judgment and initiative in facilitating discussions to resolve disputes, negotiate mutually satisfactory

resolutions.

- On a continuous basis, analyze fiscal, operational and technical reports; develop, interpret and evaluate staff reports; know laws, regulations and codes; observe performance and evaluate staff; problem solve issues of County-wide application; remember various personnel rules; and explain and interpret policy.
- Organize, implement and direct activities of professional, technical, field, office and clerical staff involved in divisions, operations/activities.
- Prepare, interpret and evaluate, RFP's/RFQ's, contracts and leases.
- Administer contracts, including preparation, and evaluation of contract change orders, and preparing or approving progress pay estimates.
- On a continuous basis, know and understand all aspects of assigned job; intermittently analyze work papers, reports and special projects; identify and interpret technical and numerical information; observe and problem solve operational and technical policy and procedures.
- Analyze budgets, working papers and technical reports; prepare and deliver staff reports; know laws, regulations and codes; problem solve department related issues; and interpret County-wide and Departmental policies and procedures. and procedures.
- Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals and objectives.
- Interpret and apply County and departmental policies, procedures, rules and regulations in an effective and timely manner.
- Successfully develop, manage and monitor multiple budgets, programs and expenditures.
- Negotiate with and persuade individuals and groups with diverse needs and priorities in an effective and positive manner.
- Develop and recommend policies and procedures related to assigned operations and for multi-disciplinary assignments.
- Make presentations to governing boards and community groups. Gain cooperation through discussion and persuasion.
- Work with various cultural and ethnic groups in a tactful and effective manner.
- Communicate clearly and concisely, both orally and in writing.
- Manage, supervise, train and evaluate assigned staff.
- Plan, organize and schedule priorities for self and others in an effective and timely manner.
- Meet the physical requirements necessary to perform required duties in a safe and effective manner for self and others.
- Establish and maintain effective working relationships with those contacted in the performance of assigned duties.

Typical Physical Requirements:

On a continuous basis, sit at desk or in meetings for long periods of time; intermittently, walk, stand and bend while going to/from other offices and taking files to/from meetings; twist to reach equipment surrounding desk; perform simple grasping and fine manipulation; use telephone and write or use a keyboard to communicate through written means; hear sufficiently to communicate with staff and to understand actions in public meetings, hearings, or administrative proceedings; and lift light weight. Stand to conduct field visits; hearing and speech to communicate in person and by telephone; minor climbing/hiking.

Typical Working Conditions:

Most assigned work is normally performed in an office/public meeting environment.

Incumbents will be, at times, exposed to a wide variety of climate and weather conditions while conducting field work and driving. Continuous contact with County staff, management, local, state and federal agency representatives, general public, and outside organizations/agencies.

Special requirements: You may be required to drive a motor vehicle in the course of employment and must possess a valid operator's license issued by the State Department of Motor Vehicles. Must successfully complete a pre-employment background investigation and physical examination. Your position may be required to serve as a Disaster Service Worker during a County emergency.

SUPPLEMENTAL INFORMATION:

SELECTION: Selection procedures will be determined by the number and qualifications of applicants and may include a qualification screening and oral examination.

APPLICATION: **This recruitment will remain open until position has been filled.** Must apply on Inyo County application form. A cover letter and/or resume will be accepted in addition to the application form but will not serve as a substitute for a completed application.

It is not acceptable to complete the application with statements like “See/Refer to Resume” or “See Attached.” Incomplete applications will not be processed.

The County of Inyo has work sites located throughout the Owens Valley (Independence, Bishop, Lone Pine, Big Pine, and Olancho) and the Death Valley area (Death Valley, Tecopa, and Shoshone). Positions are assigned to a work site based upon the needs of the County. Positions may be temporarily or permanently reassigned to another work site as deemed necessary by the Department Head and/or County Administration.

REASONABLE ACCOMMODATION FOR INDIVIDUALS WITH QUALIFYING

DISABILITIES: Inyo County will make reasonable efforts in the examination process on a case-by-case basis to accommodate persons with disabilities. If you have special needs, please contact (760) 878-0377 prior to the examination process.

CITIZENSHIP/IMMIGRATION STATUS: Inyo County employs only U.S. citizens and lawfully authorized non-citizens in accordance with the Immigration Reform and Control Act of 1986.



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-211

Quarterly Unified Command Meeting Update County Administrator - Emergency Services NO ACTION REQUIRED

ITEM SUBMITTED BY

Mikaela Torres, Emergency Services Manager

ITEM PRESENTED BY

Mikaela Torres, Emergency Services Manager

RECOMMENDED ACTION:

Request Board hear update from the quarterly Unified Command meeting held on March 7, 2023.

BACKGROUND / SUMMARY / JUSTIFICATION:

Each quarter, the Inyo County Office of Emergency Services, hosts Unified Command Meetings. These meetings serve as a pivotal forum for county partners and stakeholders, facilitating discussions on emergency management, sharing best practices, and reviewing ongoing preparedness efforts. Participants include County departments, external entities, and various stakeholders, including partners from local, state, and federal government agencies.

The most recent Unified Command Meeting was held on Thursday, March 7 at the Board of Supervisor Chambers in Independence. Presentations included an update of the County's Genasys project, including a brief tutorial on the public-facing platform, Zonehaven; a K9 demonstration from the Inyo County Sheriff's; a presentation from Stuart Wilkinson with the U.S. Geological Survey; as well as a roundtable discussion from attendees. The Emergency Services Manager will brief your board on key updates and takeaways from the quarterly meeting.

FISCAL IMPACT:

Funding Source	N/A	Budget Unit	N/A
Budgeted?	N/A	Object Code	N/A
Recurrence	N/A		
Current Fiscal Year Impact			
N/A			
Future Fiscal Year Impacts			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

This is an informational item only.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

ATTACHMENTS:

APPROVALS:

Mikaela Torres	Created/Initiated - 3/11/2024
Mikaela Torres	Approved - 3/11/2024
Darcy Ellis	Approved - 3/11/2024
Nate Greenberg	Final Approval - 4/2/2024



INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-218

Update on the State of County Land Mobile Radio Systems

County Administrator - Emergency Services/Information Services & Sheriff

NO ACTION REQUIRED

ITEM SUBMITTED BY

Noam Shendar, Chief Information Officer

ITEM PRESENTED BY

Tim Bachman, Assistant Sheriff, Noam Shendar, Chief Information Officer

RECOMMENDED ACTION:

This is an informational item, however, the Board of Supervisors may provide direction to staff as appropriate.

BACKGROUND / SUMMARY / JUSTIFICATION:

Last year (2023) the Inyo County Sheriff's Office and Inyo County Information Services began an organized effort to shore up the County's land mobile radio system by first inspecting, servicing and upgrading the County's analog VHF repeaters.

This agenda item is intended to provide a progress update regarding this effort.

FISCAL IMPACT:

Funding Source	N/A	Budget Unit	N/A
Budgeted?	N/A	Object Code	N/A
Recurrence	N/A		
Current Fiscal Year Impact			
None at this time.			
Future Fiscal Year Impacts			
None at this time.			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

This is an informational item which will outline the current status of the County's Land Mobile Radio Systems.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

ATTACHMENTS:

APPROVALS:

Noam Shendar	Created/Initiated - 3/14/2024
Darcy Ellis	Approved - 3/18/2024
Nate Greenberg	Approved - 4/2/2024
John Vallejo	Approved - 4/2/2024
Amy Shepherd	Final Approval - 4/2/2024



INYO COUNTY BOARD OF SUPERVISORS

TRINA ORRILL • JEFF GRIFFITHS • SCOTT MARCELLIN • JENNIFER ROESER • MATT KINGSLEY

NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-139

2024 Board of Supervisors Calendar Revisions

Clerk of the Board

ACTION REQUIRED

ITEM SUBMITTED BY

Clerk of the Board

ITEM PRESENTED BY

Nate Greenberg, County Administrative Officer

RECOMMENDED ACTION:

Approve revisions to the Board of Supervisors Calendar for the remainder of 2024 as suggested in the attached calendar document.

BACKGROUND / SUMMARY / JUSTIFICATION:

On November 28, 2023, staff presented a recommendation to the Board of Supervisors which would move the Board calendar to an every-other-week cadence. Following a great deal of conversation during that item, it was decided to not move forward with the proposed calendar change at that time. Rather, your Board directed staff prepare a 2024 calendar in accordance with current County Code, then return with requests to cancel meetings as a means of gradually easing into a schedule that allows for more topic-specific workshops and community-focused meetings without compromising limited staffing resources. This request comes to your Board consistent with that direction.

FISCAL IMPACT:

Funding Source	N/A	Budget Unit	
Budgeted?	N/A	Object Code	
Recurrence	N/A		
Current Fiscal Year Impact			
Future Fiscal Year Impacts			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

Your Board may approve or deny any of the requested cancellations and additions.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

Administration; County Counsel

ATTACHMENTS:

1. Board Meeting Calendar 2024
2. Board Meeting Calendar 2024 - Proposed Revisions (April-Dec.)

APPROVALS:

Nate Greenberg

Created/Initiated - 4/4/2024

Nate Greenberg

Final Approval - 4/4/2024

23-24 Board Meeting Calendar

Meeting: Tuesday	Cutoff to Get on Agenda (5 p.m.)	Agenda Publication
December 5, 2023	11/20/23	11/30/23
December 12, 2023	11/27/23	12/07/23
December 19, 2023	12/04/23	12/14/23
January 2, 2024	Canceled	
January 9, 2024	12/22/23*	01/04/24
Special - January 10, 2024 Strategic Planning Meeting	N/A	01/04/24
January 16, 2024	12/29/23*	01/11/24
January 23, 2024	DARK (5-Tuesday Month)	
January 30, 2024	DARK (5-Tuesday Month)	
February 6, 2024	01/22/24	02/01/24
Special - February 7, 2023 Strategic Planning Meeting	CANCELED	
February 13, 2024	DARK (NACo Legislative Conference Feb. 10-13)	
February 20, 2024	02/05/24	02/15/24
Special - February 22 Strategic Planning Meeting	N/A	02/15/24
February 27, 2024	Canceled	
March 5, 2023	02/19/24	02/29/24
March 12, 2024 Annual Meeting in Tecopa	02/26/24	03/07/24
Special - March 12, 2024 Joint Meeting w/ ICOE in Shoshone	N/A	03/07/24
Special - March 13, 2024 Workshop in Furnace Creek	N/A	03/07/24
March 19, 2024	03/04/24	03/14/24
March 26, 2024	Canceled	
April 2, 2024	03/18/24	03/28/24
April 9, 2024	03/25/24	04/04/24
April 16, 2024	DARK (CSAC Legislative Conference April 17-19 - Sacramento)	
April 23, 2024	DARK (5-Tuesday Month)	
April 30, 2024	DARK (5-Tuesday Month)	
May 7, 2024	04/22/24	05/02/24
May 14, 2024	04/29/24	05/09/24
May 21, 2024	05/06/24	05/16/24
May 28, 2024	05/13/24	05/23/24
June 4, 2024	05/20/24	05/30/24
June 11, 2024	05/27/24	06/06/24
June 18, 2024	06/03/24	06/13/24
June 25, 2024	06/10/24	06/20/24
July 2, 2024	06/17/24	06/27/24
July 9, 2024	06/24/24	07/03/24*
July 16, 2024	DARK (NACo Annual Conference July 12-15 – Tampa, FL)	
July 23, 2024	DARK (5-Tuesday Month)	
July 30, 2024	DARK (5-Tuesday Month)	
August 6, 2024	07/22/24	08/01/24
August 13, 2024	07/29/24	08/08/24
August 20, 2024		08/15/24
Special - August 21, 2024 Budget Workshop	N/A	08/15/24
August 27, 2024	08/12/24	08/22/24
September 3, 2024	08/19/24	08/29/24
September 10, 2024	08/26/24	09/05/24
September 17, 2024	DARK (RCRC Annual Conference Sept. 18-20 – Sonoma County)	
September 24, 2024	09/09/24	09/19/24
October 1, 2024	09/16/24	09/26/24
October 8, 2024	09/23/24	10/03/24
October 15, 2024	09/30/24	10/10/24
October 22, 2024	DARK (5-Month Tuesday)	
October 29, 2024	DARK (5-Month Tuesday)	
November 5, 2024	10/21/24	10/31/24
November 12, 2024	10/28/24	11/07/24
November 19, 2024	DARK (CSAC Annual Conference Nov. 18-22 – Los Angeles County)	
November 26, 2024	11/08/24*	11/21/24
December 3, 2024	11/18/24	11/27/24*
December 10, 2024	11/25/24	12/04/24
December 17, 2024	12/02/24	12/12/24
December 24, 2024	DARK (Holiday/5-Tuesday Month)	
December 31, 2024	DARK (Holiday/5-Tuesday Month)	
January 7, 2025	12/23/24	01/02/25
January 21, 2025	01/06/25	01/16/25

***Earlier deadline due to holiday
Calendar subject to change**

23-24 Board Meeting Calendar – w/ PROPOSED REVISIONS (starting in April)

Meeting	Cutoff to Get on Agenda	Agenda Publication
White = Regular Meeting Yellow = Special Meeting added by Board Order	Black = Dark Per County Code or Out-of-Town Board Conference	Purple = Canceled by Board Order
December 5, 2023	11/20/23	11/30/23
December 12, 2023	11/27/23	12/07/23
December 19, 2023	12/04/23	12/14/23
January 2, 2024 Canceled		
January 9, 2024	12/22/23*	01/04/24
Special – January 10, 2024 Strategic Planning Meeting	N/A	01/04/24
January 16, 2024	12/29/23*	01/11/24
January 23, 2024	DARK (5-Tuesday Month)	
January 30, 2024	DARK (5-Tuesday Month)	
February 6, 2024	01/22/24	02/01/24
February 13, 2024	DARK (NACo Legislative Conference Feb. 10-13)	
February 20, 2024	02/05/24	02/15/24
Special – February 22 Strategic Planning Meeting	N/A	02/15/24
February 27, 2024 Canceled		
March 5, 2023	02/19/24	02/29/24
March 12, 2024 Annual Meeting in Tecopa	02/26/24	03/07/24
Special – March 12, 2024 Joint Meeting w/ ICOE in Shoshone	N/A	03/07/24
Special – March 13, 2024 Workshop in Furnace Creek	N/A	03/07/24
March 19, 2024	03/04/24	03/14/24
March 26, 2024 Canceled		
April 2, 2024	03/18/24	03/26/24*
April 9, 2024	03/25/24	04/04/24
April 16, 2024	DARK (CSAC Legislative Conference April 17-19 – Sacramento)	
Special – April 26, 2024	04/08/24	04/22/24*
April 30, 2024	DARK (5-Tuesday Month)	
May 7, 2024	04/22/24	04/30/24*
May 14, 2024 (Limited to 3 rd Quarter/Strat. Plan)	04/39/24	05/09/24
May 21, 2024	05/06/24	05/16/24
Special – May 23, 2024 Joint Evening Meeting w/ Bishop City Council	N/A	05/16/24*
May 28, 2024 Canceled		
June 4, 2024	05/20/24	05/28/24*
June 11, 2024 Canceled		
June 18, 2024	06/03/24	06/11/24*
June 25, 2024	06/10/24	06/20/24
July 2, 2024 Canceled (Fourth of July)		
July 9, 2024	06/24/24	07/02/24*
July 16, 2024	DARK (NACo Annual Conference July 12-15 – Tampa, FL)	
Special – July 23, 2024 Evening Meeting	07/08/24	07/16/24*
July 30, 2024	DARK (5-Tuesday Month)	
Special – August 5, 2024 Budget Workshop	N/A	07/30/24*
August 6, 2024	07/22/24	07/30/24*
August 13, 2024 Canceled		
August 20, 2024	08/05/24	08/13/24*
August 27, 2024 Canceled		
September 3, 2024	08/19/24	08/27/24*
September 10, 2024 (Budget Hearings)	08/26/24	09/05/24
September 17, 2024	DARK (RCRC Annual Conference Sept. 18-20 – Sonoma County)	
September 24, 2024 (Budget Approval)	09/09/24	09/17/24*
Special – October 1-2, 2024 Southeast Inyo Tour/Workshops	09/16/24	09/25/24*
October 8, 2024	09/23/24	10/03/24
October 15, 2024	09/30/24	10/10/24
October 22, 2024	DARK (5-Tuesday Month)	
October 29, 2024	DARK (5-Tuesday Month)	
November 5, 2024	10/21/24	10/28/24*
November 12, 2024	10/28/24	11/07/24
November 19, 2024	DARK (CSAC Annual Conference Nov. 18-22 – Los Angeles County)	
November 26, 2024 Canceled (Thanksgiving)		
December 3, 2024	11/18/24	11/26/24*
December 10, 2024	11/25/24	12/04/24
December 17, 2024	12/02/24	12/12/24
December 24, 2024	DARK (Holiday/5-Tuesday Month)	
December 31, 2024	DARK (Holiday/5-Tuesday Month)	
January 7, 2025	12/23/24	01/02/25
January 21, 2025	01/06/25	01/16/25

*Earlier publication

Calendar subject to change



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

- Consent
 Departmental
 Correspondence Action
 Public Hearing
 Scheduled Time for 1:00 p.m.
 Closed Session
 Informational

FROM: Inyo County Planning Commission and Planning Department

FOR THE BOARD MEETING OF: March 19, 2024/ continuation from February 6, 2024 meeting.

SUBJECT: Appeal No. 2023-02 (John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller) of Renewable Energy Permit (REP) 2022-01/Barker

DEPARTMENTAL RECOMMENDATION: Request the Board of Supervisors:

Conduct a Public Hearing regarding: Appeal No. 2023-02 (John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller) of Renewable Energy Permit (REP) 2022-01/Barker and deny the appeal (Attachment A - Appeal Letter).

SUMMARY DISCUSSION:

On September 19, 2022, the applicant, Robbie Barker, submitted two Renewable Energy Permit (REP) applications for two separate photovoltaic (PV) solar facilities on contiguous land. The applicant submitted two separate applications because each facility would connect separately to the existing Southern California Edison (SCE) 33-kv transmission line passing through the area, have different interconnection agreements, and therefore require two separate County permits to operate. The first application (No. 2022-01) is known to the applicant as “Trona 7” and is the subject of this agenda item (the proposed project). The second application (No. 2022-02) is known to the applicant as “Trona 4”

The Trona 7 project proposes a commercial scale PV solar facility within one 5-acre parcel that is contiguous (i.e., has a common corner) with the Trona 4 site. The facility would generate 1.2-Megawatts (MW) of electricity using approximately 2,300 single axis tracker solar panels. The Trona 7 project area is graded flat, or gently sloped and is highly disturbed with no natural vegetation, habitat, water features or structures. The project area is surrounded by private vacant land to the north and south. The land to the east consists of a developed commercial solar field, owned by the applicant, and the land to the west consists of a single-family residence. Approximately five residential structures are within 0.5 miles of the project area and are located mostly to the south and west.. Two of these structures are approximately 400 feet from the edge of the project area. Other land uses within 0.5 mile of the Project Area include storage of equipment, vehicles, scrap yards, and storage units (see Attachment B - Vicinity and Project Site maps).

REPs are subject to Inyo County Code (ICC) Title 21 as well as the Inyo County Renewable Energy General Plan Amendment (REGPA¹) and all requirements thereof. The REGPA was adopted by the County in March 2015 as a plan to help guide and regulate renewable energy development throughout Inyo County. As part of the REGPA process, a Programmatic Environmental Impact Report (PEIR²) was prepared pursuant

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

² <https://www.inyocounty.us/services/planning-department/environmental-reviews>

to section 15168 of the California Environmental Quality Act (CEQA) Guidelines to address state-mandated renewable energy demands and potential future utility-scale renewable energy projects within the County's footprint. The PEIR was certified by the County in 2015 alongside the REGPA and the proposed project is also subject to its terms. The proposed project is located within the Southern Solar Energy Development Area (SEDA) as approved and identified in the REGPA. The Southern SEDA allows for up to 600-acres of solar photo voltaic development.

Pursuant to section ES.7 of the PEIR, proposed solar energy projects *greater* than 20 MW are examined in light of the PEIR to determine whether any additional environmental document must be prepared while solar energy projects *up to* 20 MW may be exempt from further CEQA analysis, unless an event specified in Public Resources Code (PRC) section 21166 has occurred. Whether such an event has occurred is a determination to be made by a qualified County planner and if such a determination is made, a Supplemental EIR or other CEQA document *may* be required.

PRC section 21166 states:

When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

- (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.*
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.*
- (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.*

Mr. Barker's project proposes to install only a 1.2 MW commercial scale photovoltaic solar facility and is therefore exempt from further environmental review pursuant to the express terms of the PEIR unless one of the triggering events in section 21166 exists. Staff determined that none of the triggering events listed in subsections (a), (b) or (c) of section 21166 existed such that a subsequent or supplemental environmental impact report was required. In other words, the PEIR prepared for the REGPA is legally sufficient and no further environmental review is required for this project.

Nevertheless, out of an abundance of caution, staff recommended a Negative Declaration be prepared to ensure a greater extent of analysis and, in particular, to review air quality as the Trona area is prone to dust events. Accordingly, in December 2022, an Initial Study with a Mitigated Negative Declaration (ISMND)³ was prepared by staff to consider possible significant impacts to environmental resources for the project. The project site was devoid of natural habitat/vegetation at the time the application was submitted so it was determined that neither a biological survey nor a cultural resources report were required. The State review period for the ISMND ended on December 27, 2022. The County received numerous public comments, but no comments were received from any local or state agencies, including the California Department of Fish and Wildlife or the Great Basin Unified Air Pollution Control District.

Based on the public comments received in response to the ISMND, the applicant decided to have a biological survey and air quality report prepared even though they were not required. The applicant

³ <https://www.inyocounty.us/services/planning-department/current-projects>

requested staff revise and recirculate the ISMNDs⁴ through the CEQA State Clearinghouse with the new information. Since the biological survey and air quality report were prepared for both projects as one, staff prepared the recirculated ISMNDs as a combined project, but submitted them to the CEQA Clearinghouse with two ISMNDs – one for each project – to ensure each separate permit application was processed correctly. The State review period for the recirculated ISMND ended on August 17, 2023. Like the first circulation, no comments were received from any local or state agencies though, again, numerous public comments were submitted by community members opposed to the project, including comments from attorneys retained by these community members.⁵

The additional surveys found no special status species on the project site; however, the bio-survey identified potential habitat for nesting birds and a possible wildlife corridor for the Desert Kit Fox. This led staff to add conditions of approval to the project to mitigate any potential impacts related to the nesting birds and wildlife corridor. The air quality study likewise did not identify any issues, but staff added conditions of approval to mitigate air quality during construction to minimize fugitive dust. Conditions of approval were also added for noise during construction. These conditions were put into a Mitigation, Monitoring Report table format to help make them more understandable to the public. (See Attachment D – Planning Commission Staff Report).

On October 25, 2023, the proposed project was presented to the Planning Commission and a duly noticed public hearing was held. During the public hearing the Commission heard from staff, the applicant, and several members of the public on various aspects of the project, including easements, fire risk, noise, dust in the area, and visual resources. The neighbors raised objections and opposed the project but did not request or accept any additional or modified conditions of approval, including, for example, the suggestion of a privacy fence to help mitigate visual impacts. After considering all evidence presented to it during the hearing, the Planning Commission approved REP 2022-01/Barker with Findings and Conditions of Approval. A Notice of Decision and Notice of Determination were filed for the project soon after (Attachment E – Notice of Decision and Determination) (Attachment F – Planning Commission Minutes).

The Planning Commission’s decision was timely appealed by John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller (Appeal 2023-02). In their November 8, 2023, Appeal Letter, Appellants assert the following nine grounds as the basis for their appeal. Note that essentially all the appeal points are repeated from the CEQA comments submitted by the Appellants earlier in the process and the majority of staff responses below are taken directly from staff and applicant responses provided to the Planning Commission (see Attachment D)

- 1. Failure to approve a reclamation plan and financial assurances for the REPs. (County Code, §§ 21.20.030, -040, -070; REGPA Implementation Policy 10; General Plan Policy MER-2.8; REGPA mitigation measure Bio-3).**

Response:

ICC Chapter 21.20.030 states in pertinent part:

⁴ <https://www.inyocounty.us/services/planning-department/current-projects>

⁵ Most of the comments raised perceived CEQA issues, which issues were promptly responded to by staff and the applicant’s attorney. These comments and all responses were included in the materials provided to the Planning Commission (Attachment C - Comments and Responses regarding the CEQA documents).

Any person who submits an application for a renewable energy impact determination or a renewable energy permit shall, at the time of the submission of the application, submit a plan for reclamation/revegetation of the site of the facility once the facility is decommissioned or otherwise ceases to be operational. The reclamation plan shall be based upon the character of the surrounding area and such characteristics of the property as type of native vegetation, soil type, habitat, climate, water resources, and the existence of public trust resources...

...the county planning commission ... in the case of a renewable energy permit, shall impose as a condition of approval, a plan for the reclamation/revegetation of the site of the facility at the time that the facility is decommissioned, or otherwise ceases to be operational, and shall establish site-specific criteria for evaluating and monitoring compliance with the approved reclamation plan.

In compliance with the above, Mr. Barker submitted a draft reclamation⁶ plan with his initial application packet in February 2023. However, due to the continuing changes to the project – primarily the recirculation of the ISMND – the applicant was given additional time to finalize this plan, and on October 25, 2023, the Planning Commission approved the Trona 7 project with the following conditions of approval:

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 assurances/surety bond prior to the issuance of grading or building permits.*
- *The owner/developer shall submit an updated reclamation plan and updated financial assurance/surety bond to the Inyo County Planning Department every 5 years.*

Chapter 21.20.030 does not require the reclamation plan to be in its final form at the time it is submitted or at the time the Planning Commission considers the REP application for approval. It also does not require the Planning Commission to review the draft plan. Instead, it simply directs the Planning Commission to condition approval of the REP on the existence of said plan. Here, by imposing, as a condition of approval, the requirement that Mr. Barker submit a staff-approved decommissioning plan prior to the issuance of grading or building permits, the Planning Commission did what the code required.

Pursuant to ICC Chapter 21.20.040, as a condition to the approval of a renewable energy permit, and in order to ensure reclamation will be effectuated, the Planning Commission must also require financial assurances from the applicant that meet the criteria listed in subsections A-F of the same. The Planning Commission included this condition as required by the ICC.

ICC Chapter 21.20.070 states as follows:

⁶ Reclamation and decommissioning are used interchangeably throughout.

Prior to the issuance of a renewable energy impact determination or the granting of a renewable energy permit, the county planning commission must find that, through the imposition of mitigation measures, the approval of a reclamation plan, the receipt of adequate financial assurances, and by other conditions incorporated into the determination or imposed upon the permit, the health, safety and welfare of the county's citizens, the county's environment, including its public trust resources, and the county's financial well-being, have been adequately safeguarded.

The Planning Commission adopted REP 2022-01 with conditions of approval directly addressing mitigation measures, approval of a reclamation plan, and receipt of adequate financial assurances. By considering these conditions as presented by staff during public the hearing, and adopting them, the Planning Commission determined that the conditions of approval addressing all elements listed in Chapter 21.20.070 adequately safeguarded the public health welfare and safety⁷.

General Plan Policy MER-2.8. mandates staff to work with applicants to develop their reclamation plans and ensure those plans contain certain elements and meet certain criteria. These are the guidelines staff follow when approving the final reclamation plan (which in this case will occur before Mr. Barker qualifies for building or grading permits). The REGPA Implementation Policy #10 requires staff to “*Review and approve reclamation plans and financial assurances at the onset of renewable energy solar facility development projects and oversee the full implementation of reclamation plans at the decommissioning and termination of renewable energy solar facilities.*” The Condition of Approval that requires a reclamation plan and financial assurances prior to the issuance of grading or building permits meets this requirement since it is with those permits that development will begin. Nothing in MER-2.8 or Policy #10 suggests the County acted inappropriately or in violation of its own codes and regulations in the processing of Mr. Barker's application.

With regard to Mitigation Measure BIO-3, it does not apply to the Trona 7 project because it, like all the mitigation measures in the PEIR, applies to solar photovoltaic projects located in designated SEDAs that produce *more than 20MW* of electricity. An exception to this rule exists if a specified event in section 21166 has occurred. Staff determined no such event had occurred.

The Final PEIR Volume II, page 4.4-122 states:

*“Biological resources mitigation measures have been developed for solar energy development projects **producing more than 20 MW** of electricity for off-site use (**utility scale**) and would be implemented to mitigate adverse impacts to biological resources. As previously mentioned, small scale solar energy projects are considered to result in no impacts under CEQA; however, all individual solar energy facility project applications (including small scale, community scale, and distributed generation commercial scale) **shall be reviewed by the County, and the need for implementation of the following mitigation measures shall be determined based on the professional judgment of a qualified county planner, pursuant to ICC Title 21 and State CEQA Guidelines.** For example, community scale solar developments (i.e., roof- or ground-mounted PV panels for a specific*

⁷ See also Attachment E - Notice of Decision and Determination, Finding #6 wherein the Planning Commission made a health, welfare and safety finding supported by Environmental Health. This finding, along with the conditions of approval, adequately address 21.20.070.

community's use) may be determined by a qualified county planner to have no potential impact on biological resources and would not require a biological resource evaluation or implementation of the biological resources mitigation measures listed in this section. In such cases, the County shall document that no impacts to biological resources would occur and no mitigation measures are necessary in lieu of the biological resources evaluations required in Mitigation Measures BIO-1 through BIO-3". (emphasis added)

Based on this language, the Trona 7 project (producing less than 20 MW) is exempt from Mitigation Measure BIO-3. Nevertheless, a qualified biologist conducted a plant and wildlife (biological) survey of the proposed project site and found no special status plant or animal species. Potential habitat and a wildlife corridor were identified, and a mitigation and monitoring program was prepared for the project based on the biologist's findings. No further obligation to the mitigation and monitoring program set forth in the PEIR was required due to the county's actions regarding the project's CEQA evaluation with the ISMND.

2. Piecemealed CEQA review by splitting the overall renewable energy project (comprised of both REP 22-01 and 22-02) into two separate MNDs.

Response: The Appellants assert the County analyzed the two separate applications (REP 22-01 and 22-02) in a "piecemeal" manner that is prohibited by CEQA. Section 15378 of the CEQA Guidelines broadly defines a project under CEQA as "the whole of the action" that may result either directly or indirectly in physical changes to the environment. Impermissible piecemeal review occurs when a large project is broken up into one or more smaller ones – each with minimal potential impact on the environment – which cumulatively may have significant consequences (*Planning & Conservation League v. Castaic Lake Water Agency* (2009) 180 Cal.App.4th 210, 235).

In this case, two ISMNDs were circulated for the two projects. The first set resulted in public comments regarding possible biological and air-quality impacts. This caused the applicant to have a bio-survey and air quality report conducted for the projects, which were prepared as if this was one project. The applicant then requested that staff recirculate the ISMNDs. This does not qualify as piecemealing for two distinct reasons:

1. Mr. Barker filed two separate REP applications for two separate solar facilities on contiguous land (Trona 7 and Trona 4). Each facility connects separately to the SCE utility grid and has its own energy contract, therefore each needs to have its own permit to operate.
2. Because the two proposed facilities have a common applicant, are in proximity to each other, and would have similar impacts, the second Initial Study evaluated the environmental impacts of both applications as one Project, but again 2 ISMNDs were resubmitted to the State Clearinghouse one for each project, meaning Trona 7 was evaluated along with Trona 4 and Trona 4 was evaluated along with Trona 7. Throughout the recirculated Initial Study process and all supporting documents, the two separate projects are treated and referred to as one single project. Piecemealing occurs when one large project is cut into smaller portions in order to analyze smaller segments. In this case, the County took two individual projects and analyzed them as one, single project.

Furthermore, the County's decision to prepare two separate approvals was based on its administrative need to render a decision on two separate applications. While Appellants incorrectly label this as piecemealing, they also fail to acknowledge that the ISMNDs are identical in the subject matter and conclusions. Further, they fail to provide any legal authority prohibiting a lead agency from preparing multiple approvals, each supported by a separate ISMND, for multiple applications supported by a single, combined environmental review.

3. Failure to include draft mitigation monitoring and reporting plans ("MMRP") in the MNDs for public review and comment as required by the ICC.

Response:

ICC 15.44.020 states as follows:

Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment. The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR.

This language requires the County to ensure the MMRP is available to the public for review and comment and that the plan is included in the proposed MND and adopted at the time the MND is adopted. This language does not require the County to circulate the MMRP with a MND and the Appellants incorrectly suggest it does. Further, nowhere in the CEQA Guidelines does it require an agency to include the reporting/monitoring plan in the draft MND. (See CEQA Guidelines, §§ 15073, 15073.5, and 15097.)

In this case, the County complied with all applicable laws and regulations in its treatment of the MMRP. Specifically, the MMRP, along with the ISMND, was made available to the public via the County's website on October 14, 2023, through the notice of hearing published for the Planning Commission meeting that took place on October 25, 2023 (this is more than the ten days required by law for notice). The notice included a direct link to the Planning Commission materials which included the MMRP and ISMND. These materials were also made available to the public at the Planning Department office. Following the public hearing on October 25, 2023, the Planning Commission approved the project along with the MMRP and the MND.

4. Failure to properly incorporate the REGPA Programmatic EIR and its MMRP into the County's CEQA review for the Project.

Response: This was not necessary per the Final PEIR Volume II prepared pursuant to section 15168 of the CEQA Guidelines for the REGPA. Specifically, page ES.7 of the PEIR states:

"This document has been prepared as a program-level EIR pursuant to Section 15168 of the State CEQA Guidelines to document the environmental impacts of solar energy development within the County. The contents of this PEIR represent the independent judgment of the County (State CEQA Guidelines Section 15050). Subsequent, proposed solar energy projects greater than 20 MW would be examined in the light of this PEIR to determine whether any additional environmental document must be prepared (State CEQA Guidelines Section 15168(c)). Solar energy projects up to 20 MW may be exempt from further CEQA

analysis, unless an event specified in Public Resources Code Section 21166 occurs as determined by a qualified County planner, in which case a Supplemental EIR or other CEQA document may be required.”

The County determined the PEIR to sufficiently address certain potential impacts of the project and those that were thought to require site-specific analysis were properly assessed with an ISMND that integrates enforceable mitigation measures based on the recirculated initial study. This falls directly under the direction of ES-7 as a qualified planner made the decision to require an “*other CEQA document.*”

5. Violating CEQA by conflating analysis of Project impacts and mitigation measures.

Response: Appellants raise this same issue in their comment letter to the Planning Commission and based on that letter it would appear they are incorrectly applying EIR-level standards to the initial study prepared for this project. In other words, they seem to imply that an IS needs to contain the same level of detail and analysis required for an EIR and on that basis claim the County erred in its preparation of the MND.

Pursuant to CEQA Guidelines section 15063(a)(3), an initial study is “*neither intended nor required to include the level of detail included in an EIR*”. Further, in this case the IS prepared for this project indicated “No Impact” or “Less than Significant Impact” for nearly all applicable categories. The checklist made a finding of “Less Than Significant with Mitigation Incorporated” for only three categories and appropriate mitigation measures were put into place for all three – biological resources (nesting birds and Kit Fox travel through the site), air quality (dust), and noise during construction. This was done by conditioning the project with pre-construction bio-surveys, dust management and suppression during construction and operation, and noise suppression during construction. Failure of the applicant to meet any of the conditions of approval, including the mitigation measures, may result in revocation of the REP.

The IS did not make any findings of “Potentially Significant Impact” and therefore an EIR was not required. The use and preparation of the MND was appropriate and done in compliance with the PEIR and CEQA Guidelines.

6. Failure to prepare EIRs despite the existence of a fair argument of significant environmental impacts.

Response: Again, the Trona 7 project is exempt from further CEQA analysis pursuant to the express terms of the PEIR. Staff elected to conduct further environmental review anyway and prepared a MND. A MND is appropriate when the environmental effects of the project can be avoided or mitigated to the point where clearly no substantial evidence, in light of the whole record, is presented that the project may have a significant effect (CEQA Guidelines § 15064(f)(2)). In this case, no impacts were identified in the IS that met the threshold to trigger an EIR. The use and preparation of the MND was appropriate and done in compliance with the PEIR and CEQA Guidelines.

Ignoring this, the Appellants claim a “fair argument” exists such that an EIR must be prepared. Pursuant to CEQA Guidelines section 15064(f)(1), the fair argument standard means that if a “fair argument” can be made that a project may have a significant effect on the environment, an

EIR must be prepared. Pursuant to CEQA Guidelines section 15384, to support the existence of a fair argument of significant environmental impacts, the Appellants must provide substantial evidence that includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. The Appellants incorrectly rely on argument, speculation, and unsubstantiated opinion and narrative and fail to provide any evidence, let alone substantial evidence, to support their claim that the Trona 7 project may have significant effects on the environment to necessitate the preparation of an EIR.

7. Reliance on mitigation measures that are inadequately defined, unenforceable, and of unknown effectiveness to conclude that environmental impacts are less than significant.

Response: The mitigation measures set forth for the project, and included as conditions of approval, were derived from the biological survey and air quality study conducted. The biological survey suggested mitigation measures which were prepared by a qualified biologist and the air quality study suggested mitigation measures prepared by a consulting firm that specializes in air quality and greenhouse gas impacts. Based on these experts' opinions, the mitigation measures created for the project would result in environmental impacts that are less than significant. Like all the conditions of approvals, these mitigation measures are fully enforceable⁸. If the applicant fails to follow or properly implement any of the conditions, the REP may be revoked.

Appellants fail to specify which mitigation measures they take issue with. They also fail to provide any facts, substantial evidence, or compelling argument and rely on vague, conclusory statements to support their contention that one or all of the mitigation measures are deficient. (See CEQA Guidelines § 15384.).

8. Inadequate identification of cumulative projects and analysis of cumulative impacts.

Response: Appellants raise this same issue in their comment letter to the Planning Commission and based on the language in that letter it would appear that they fail to recognize the difference between a cumulative analysis required for an EIR and that which is required for an initial study supporting a negative declaration. To argue their point, Appellants rely on CEQA Guidelines sections 15130 and 15355, which govern the cumulative impacts analysis in an EIR. An EIR was not prepared for this project because it was not required to be prepared therefore requirements for an EIR do not apply.

In response to the comment letter, on this discrete point, the applicant's attorney explained:

The correct method for assessing – in an initial study – whether impacts are cumulatively considerable is described in Section 15065(a)(3) of the CEQA Guidelines, as interpreted and applied by San Joaquin Raptor/Wildlife Rescue Center and related cases. The question is whether the “incremental effects” of a project are “considerable” when evaluated against the backdrop of environmental effects of other projects. (San Joaquin Raptor, 42 Cal.App.4th at pp. 623-624.) Where the initial study concludes that these effects are absent, a challenger must point to some substantial evidence that a cumulatively considerable

⁸ The mitigation and monitoring program provides direction for what particular agency or county department is responsible for particular aspects of the project monitoring and when it should occur.

incremental effect exists. (See response letter from Harrison, Temblador, Hungerford & Guernsey at Attachment C).

The IS is supported by substantial evidence showing that the Projects will have no considerable incremental effects requiring the preparation of an EIR and Appellants have failed to show otherwise.

9. Inadequate analysis and disclosure of environmental impacts.

Response: Pursuant to the REGPA, staff reviewed the project first under the lens of the PEIR and although not necessary, decided to produce an ISMND for the project, primarily to address possible dust in the area. Based on public comment, and at the applicant's request, a recirculated ISMND was subsequently created to further evaluate possible environmental impacts. A biological survey and an air quality analysis were also conducted for the ISMND. All possible impacts were evaluated, disclosed, and where appropriate, mitigated through the ISMND process. These documents were also circulated pursuant to CEQA Guidelines and sent to the State Clearinghouse for State Agency review and the County Recorder for public comment. As already stated, public comment was addressed.

This project is expressly allowed by virtue of its location within an adopted SEDA as set forth in the Inyo County REGPA. The County determined no further environmental review was required pursuant to the PEIR but still prepared an ISMND, which was circulated and then recirculated again with a biological and air quality study. Based on the ISMND, and the administrative record as a whole, substantial evidence that the project has a significant impact on the environment does not exist.

Further, as evidenced in the record, the applicant has gone above and beyond that which is legally required to appease the appellants throughout this process, including supporting additional (un-mandated) environmental reviews, supporting a second circulation of the ISMND with a biological survey and air quality report, and remaining open to additional conditions of approval as were discussed during the Planning Commission's public hearing.

The County's preparation and use of the ISMND was proper and complied with all applicable laws and regulations and the Appellants have failed to show otherwise.

Recommended Actions:

Staff recommends the Board deny the appeal and uphold the Planning Commission's decision to approve REP 2022-01/Barker

ALTERNATIVES: The Board may consider the following alternatives.

1. Do NOT approve the requested actions. (Denial of the Appeal and upholding the Planning Commission decision to approve is recommended.)
2. Return to staff with direction.

OTHER AGENCY INVOLVEMENT: N/A

FINANCING: Costs to process the application and appeal are paid for by the applicant and the \$300 appeal fee was paid for by the appellants.

<u>APPROVALS</u>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (<i>Must be reviewed and approved by county counsel prior to submission to the board clerk.</i>)
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (<i>Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.</i>)
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)

_____ Date: _____

Attachments:

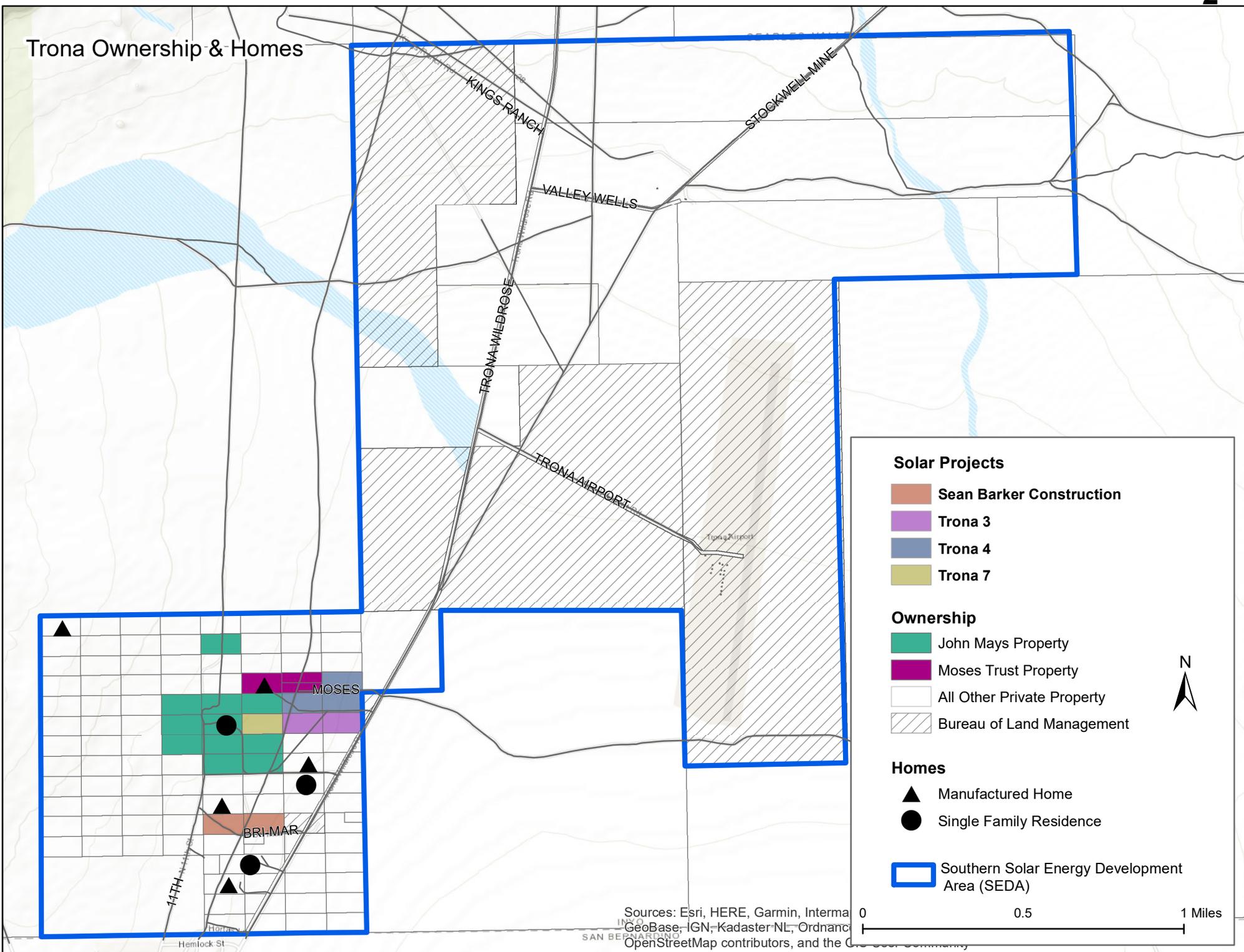
Appeal # 2023-02

REP 2022/01- Barker

Trona 7

5 acres

Trona Ownership & Homes



Solar Projects

- Sean Barker Construction
- Trona 3
- Trona 4
- Trona 7

Ownership

- John Mays Property
- Moses Trust Property
- All Other Private Property
- Bureau of Land Management

Homes

- Manufactured Home
- Single Family Residence

Southern Solar Energy Development Area (SEDA)



Sources: Esri, HERE, Garmin, Intermap, Swx, GeoBasis, IGN, Kadaster NL, Ordnance Survey, Esri, DeLorme, NAVTEQ, Swx, Samba, OpenStreetMap contributors, and the GIS User Community

0 0.5 1 Miles

Trona Ownership & Homes

Solar Projects

- Sean Barker Construction
- Trona 3
- Trona 4
- Trona 7

Ownership

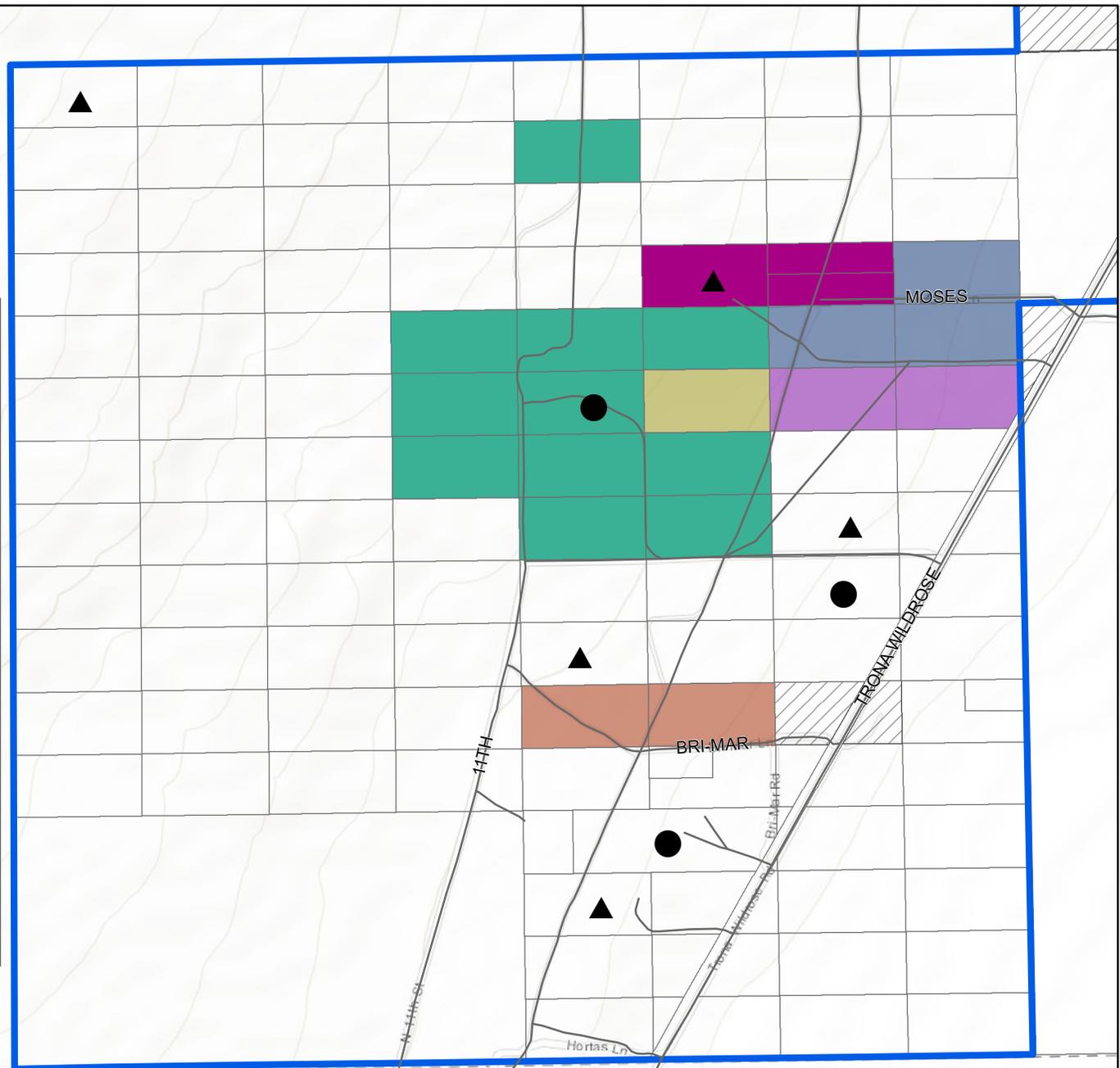
- John Mays Property
- Moses Trust Property
- All Other Private Property
- Bureau of Land Management

Homes

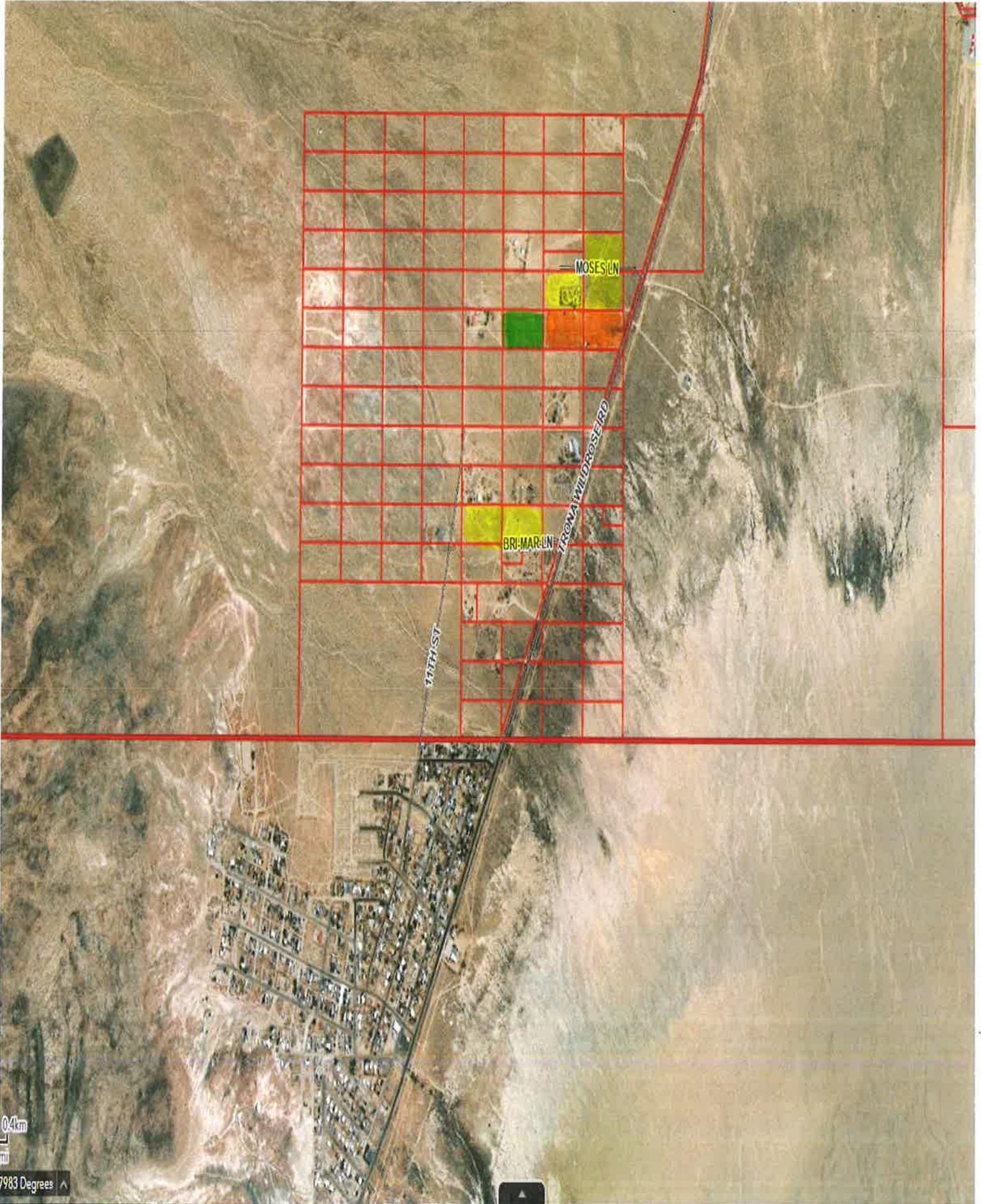
- Manufactured Home
- Single Family Residence

 Southern Solar Energy Development Area (SEDA)

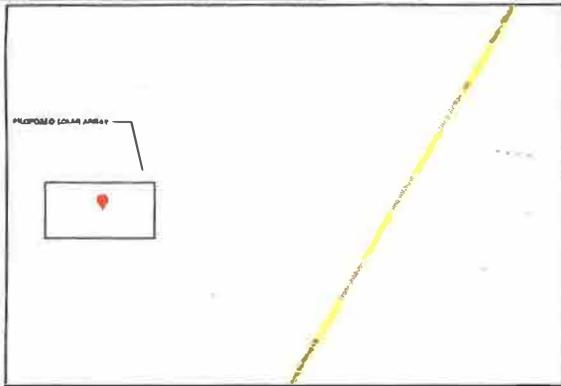
0 0.2 0.4 Miles



TRONA VICINITY MAP



REP 2022-01/BARKER SITE PLAN TRONA 7



1A VICINITY MAP
NTS



1B AREA MAP
NTS

ROBBIE BARKER
25740 TRONA RD., TRONA, CA 95962
(709) 384-1111

ELECTRICAL CONTRACTOR



PVAMPS
3115 POLYCOM DR. #100
SACRAMENTO, CA 95818
SUNNY VALLEY PHOTovoltaic
LICENSURE # CA F 19865

BLK#:

CUSTOMER NAME:
TRONA SOLAR 7, LLC

PROJECT NAME:
TRONA SOLAR 7

SPID: XXXX

PROJECT ADDRESS:
S 1/2 NW 1/4 SE 1/4 NE 1/4 SEC
32 TP 24S R4SE
INYO COUNTY

2584 TRONA WILDCROSE RD
TRONA, CA 95962
35 855274', -117.398133'

PRELIMINARY
DESIGN

PROJECT SUMMARY:
SYSTEM SIZE (KW DC): 4,221.12
SYSTEM SIZE @ 1000W AC: 1,990
SYSTEM SIZE (MW): 0.06
DC/AC RATIO: 1.21

INVERTER:
SUNNIBOX
MODEL: CPS 50115KTL-00A0-400
POWER (KW AC): 105
CTY: 8

MODULE:
SUNGOR
SUNGOR MONO PERC
BP AGAL MONO PERC
WATT: 400
MODULE LAYOUT: 24
MODULE CTY: 234
STRING CTY: 36
STRING INVERTER: 1121

RACKING:
MFC ARRAY TECHNOLOGIES
TYPE: DURATRACK HL V3 SAT
PITCH & SLOPE: 4.99% W/ 0.58' & 42.4%
TILT / ROTATION: 0 / 0°
AZIMUTH ANGLE: 0°
EXPOSURE: C
1.18 SURFACE F. 18 BLK GET +
SHOWN LOAD: 20 PSF
SECURE: CONC D

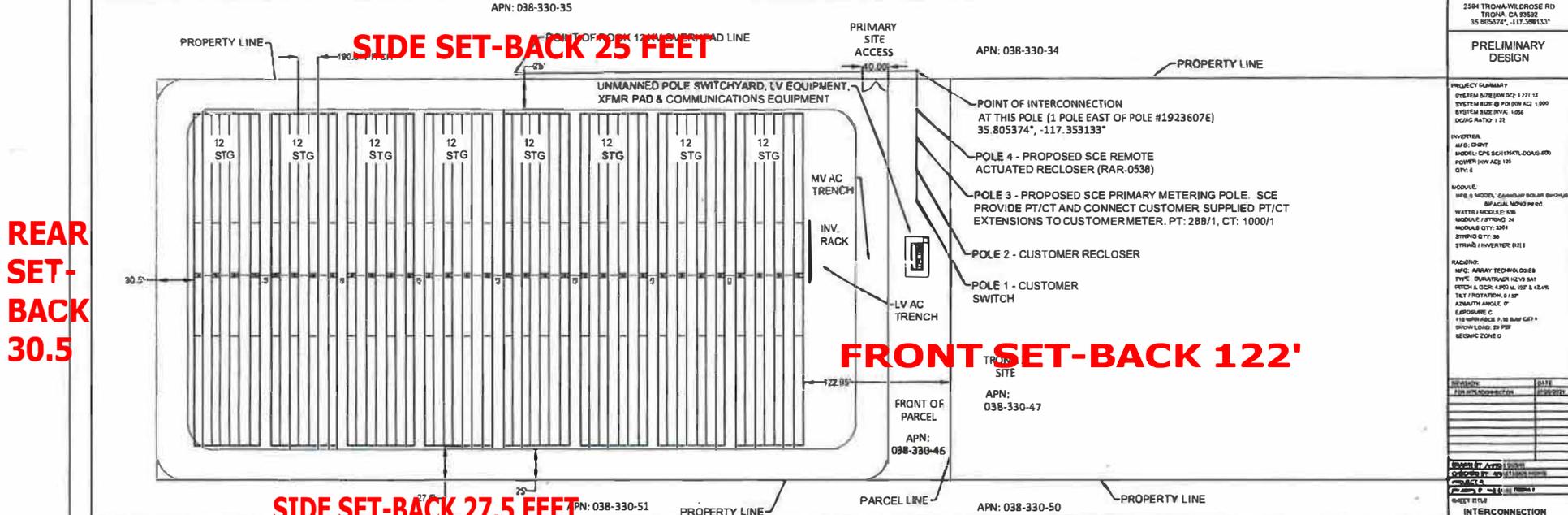
REVISION	DATE
FILE WITH SUBMITTAL	11/20/2021

DESIGN BY	DATE

DESIGNED BY: [Signature]
CHECKED BY: [Signature]

PROJECT NO.: 2021-01
SHEET TITLE:
INTERCONNECTION
SITE PLAN

SHEET NO.:
E-3.0



REAR
SET-
BACK
30.5

SIDE SET-BACK 27.5 FEET

FRONT SET-BACK 122'

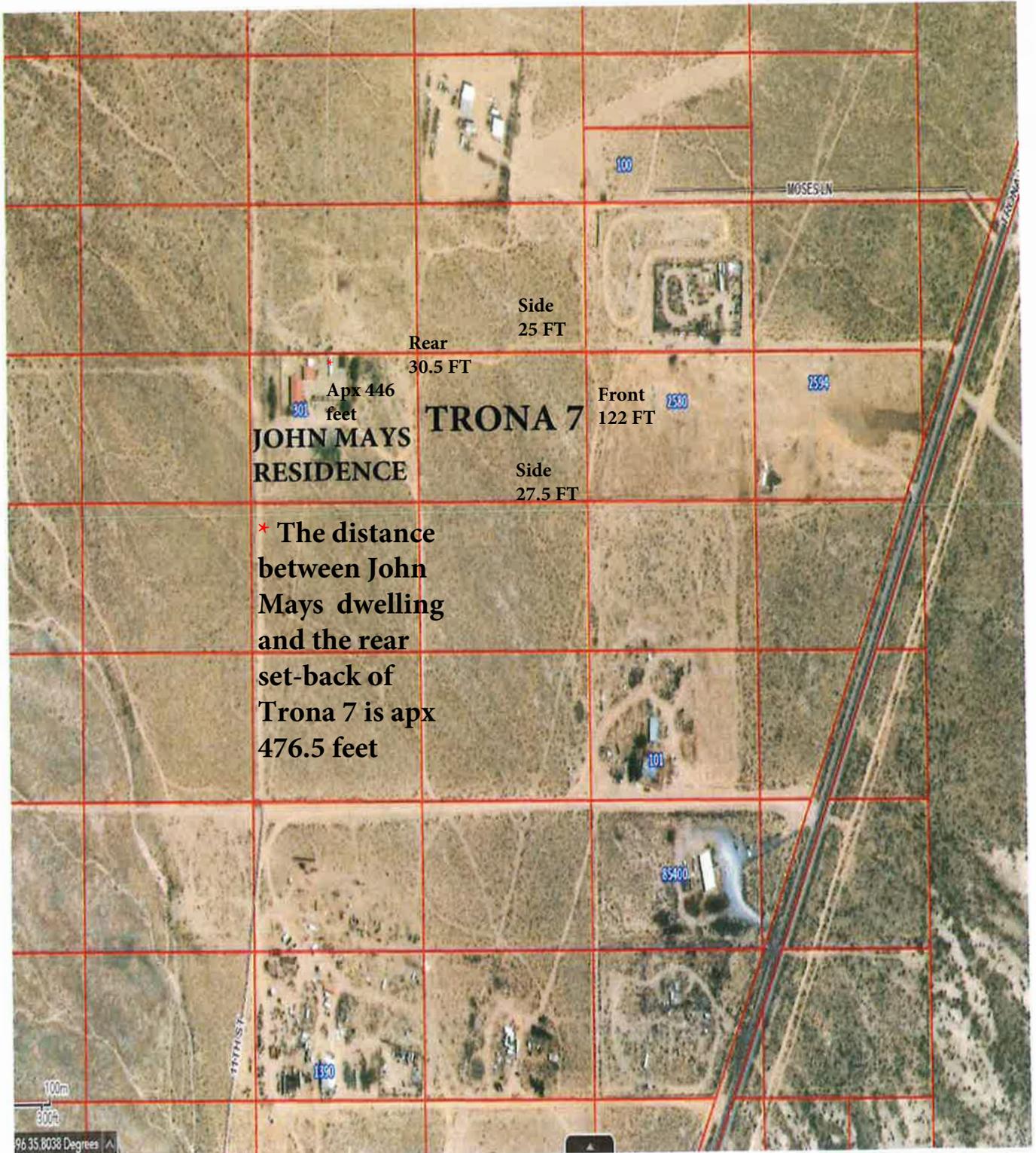
SIDE SET-BACK 25 FEET

1 INTERCONNECTION SITE PLAN
1"=35'-0"

Minimum set-back requirements in the Rural Residential Zone
Front yard- 50ft. Rear Yard- 30ft. Side Yard- 5ft.

VICINITY MAP

TRONA 7



Solar Energy Development Area

- Total acres= 5,100
- Total Megawatts= 850

Southern (Trona) SEDA CAP

- Total acres= 600
- Total Megawatts= 100

Trona 3	10 acres	2.0 megawatts
Trona 4	15 acres	3.0 megawatts
Trona 7	5 acres	1.2 megawatts
SBC Solar	10 acres	2.0 megawatts

***Total Combined**

40 Acres

***Total Combined**

8.2 (MW)

*.7% = <1% of allowable use

*.8% = <1% of allowable use













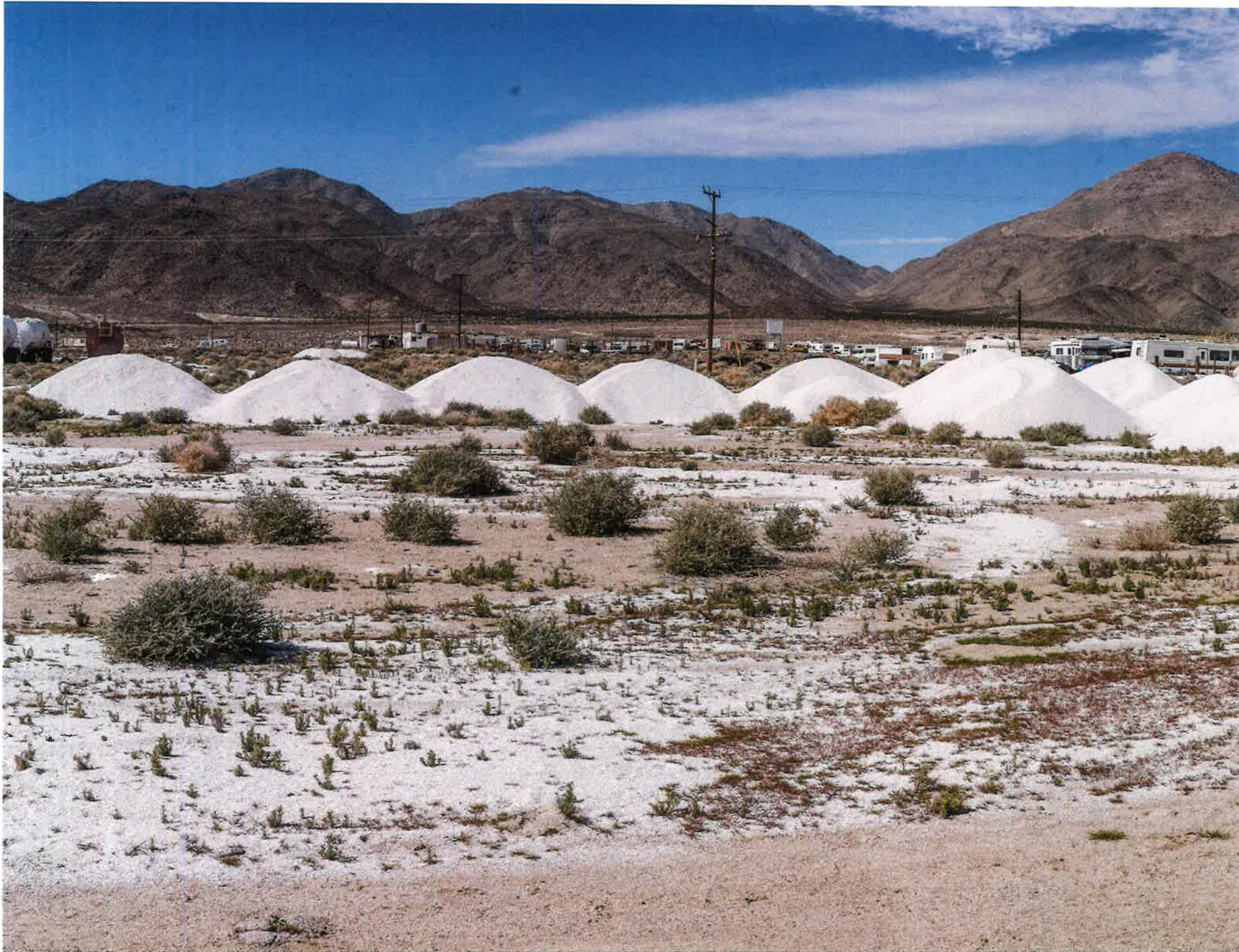












Appeal 2023-03

REP 2022-02/ Barker

Trona 4

15acres

Renewable Energy Permit 2022-02 Trona 4 SITE PLAN

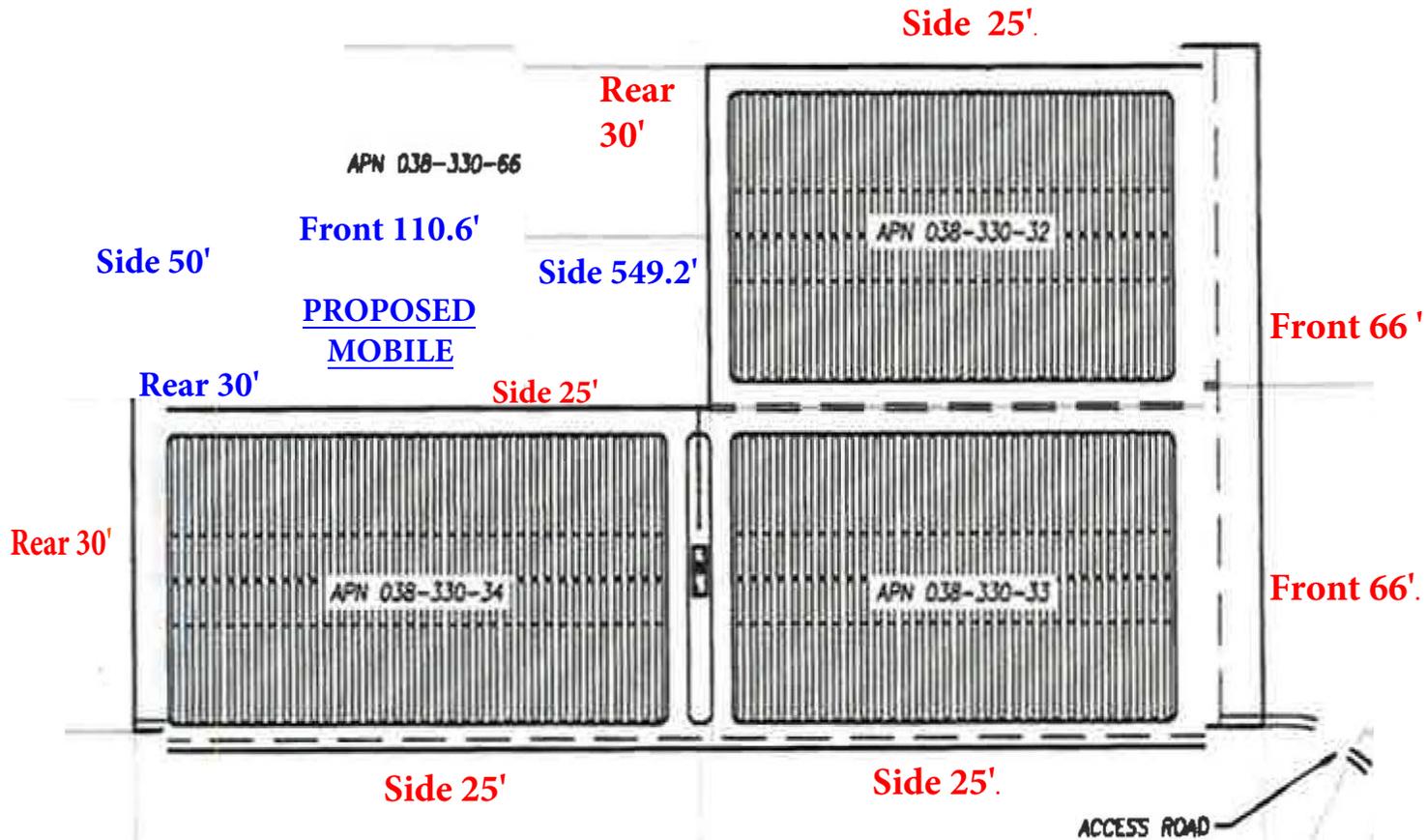
Minimum set-back requirements in the Rural Residential Zone (RR)

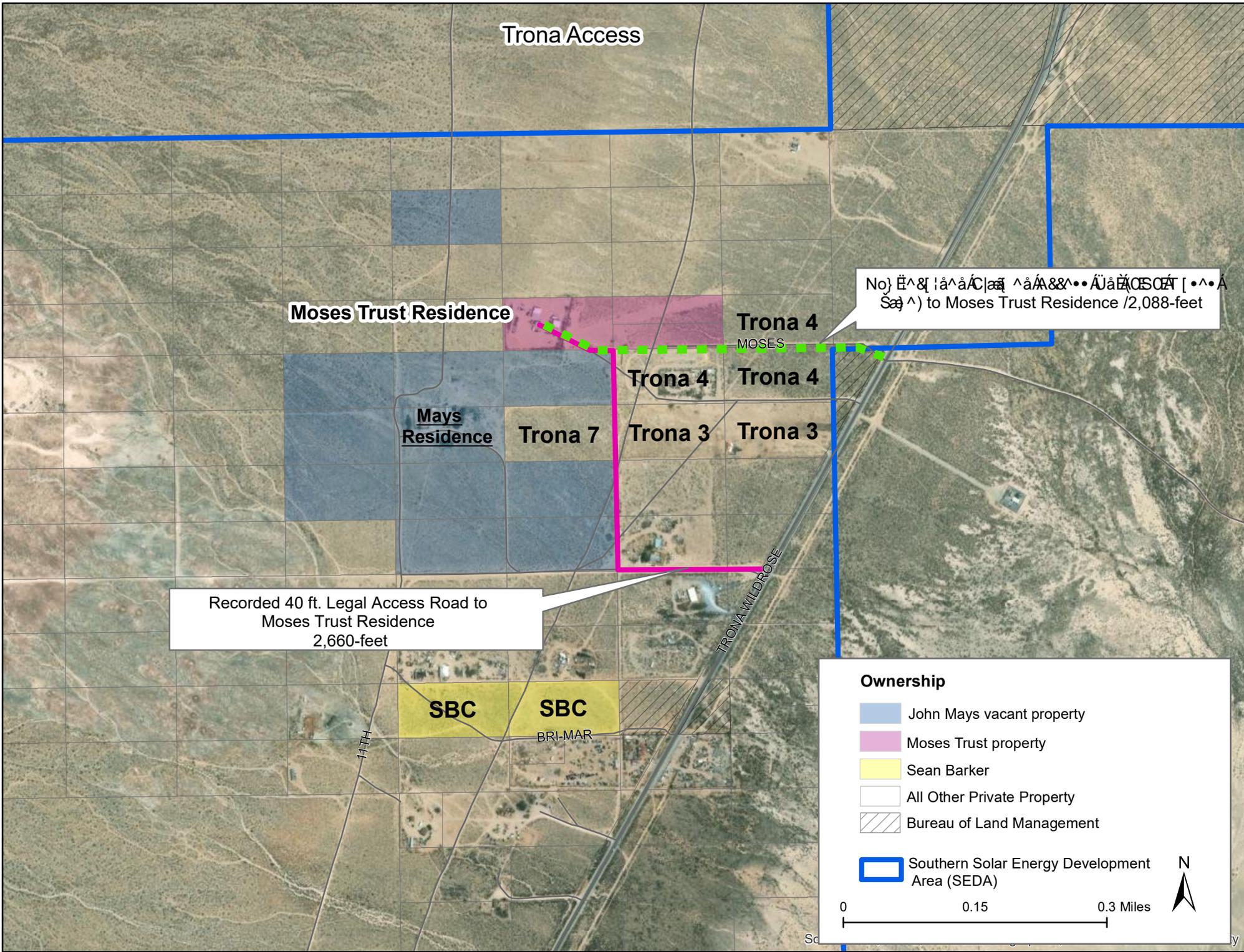
Front yard: 50 ft

Rear yard: 30 ft.

Side yard: 5 ft.

*Moses Trust (Tom Kidder)
The building permit for the proposed mobile home was submitted the same day the Planning Commission approved the solar project on October 25, 2023





Trona Access

Moses Trust Residence

Mays Residence

Trona 7

Trona 4

Trona 3

Trona 4
MOSES

Trona 4

Trona 3

SBC

SBC

BRI-MAR

TRONA WILDROSE

11TH

No. E&I la^a^C la^ a^A&&••Aja^CSOAT [••A Sa^ ^) to Moses Trust Residence /2,088-feet

Recorded 40 ft. Legal Access Road to Moses Trust Residence 2,660-feet

Ownership

- John Mays vacant property
- Moses Trust property
- Sean Barker
- All Other Private Property
- Bureau of Land Management

Southern Solar Energy Development Area (SEDA)

0 0.15 0.3 Miles



ATTACHMENT- A

APPEAL LETTER

November 8, 2023

SENT VIA EMAIL AND OVERNIGHT MAIL

(boardclerk@inyocounty.us)

Inyo County Board of Supervisors
Attention: Clerk of the Board
P.O. Drawer N
Independence, California 93526

**Re: Appeal of Planning Commission's October 25, 2023
Actions on Action Items 5 and 6:
Renewable Energy Permit 2022-01/Barker,
and Renewable Energy Permit 2022-02/Barker**

Dear Inyo County Board of Supervisors:

On behalf of John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller ("Appellants"), this letter appeals the Planning Commission's actions regarding Action Items 5 and 6 on the October 25, 2023 agenda, which include approvals of the Renewable Energy Permit ("REP") 2022-01/Barker and REP 2022-02/Barker (collectively, the "Project") and adoption of two separate mitigated negative declarations ("MND") for the Project ("Appeal"). The Appeal is submitted pursuant to Inyo County Code ("ICC") Chapters 15 and 18.

Appellants are "interested person[s]" and "adversely affected" by the Planning Commission's actions. As explained in earlier communications, Appellants own property and reside in close proximity to the Project site and would be negatively impacted by the County's failure to adequately analyze and mitigate the Project's various environmental impacts in violation of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq. ["CEQA"]), the County's General Plan, Renewable Energy General Plan Amendment ("REGPA"), and County Code as set forth herein and in earlier comment letters. Further, Appellants previously provided comments regarding the adequacy of the MNDs as required by ICC section 15.52.010.

Applicants appeal the Planning Commission's actions¹ on the following grounds:

1. Failure to approve a reclamation plan and financial assurances for the REPs.(County Code, §§ 21.20.030, -040, -070; REGPA Implementation Policy 10; General Plan Policy MER-2.8; REGPA mitigation measure Bio-3);
2. Piecemealed CEQA review by splitting the overall renewable energy project (comprised of both REP 22-01 and 22-02) into two separate MNDs;
3. Failure to include draft mitigation monitoring and reporting plans ("MMRP") in the MNDs for public review and comment as required by the ICC;
4. Failure to properly incorporate the REGPA Programmatic EIR and its MMRP into the County's CEQA review for the Project;
5. Violating CEQA by conflating analysis of Project impacts and mitigation measures;
6. Failure to prepare EIRs despite the existence of a fair argument of significant environmental impacts;
7. Reliance on mitigation measures that are inadequately defined, unenforceable, and of unknown effectiveness to conclude that environmental impacts are less than significant;
8. Inadequate identification of cumulative projects and analysis of cumulative impacts;
9. Inadequate analysis and disclosure of environmental impacts.

The above grounds for appeal are supported by numerous public comments previously submitted by this firm and directly by Appellants. That said, Appellants will also submit additional briefing and supporting evidence in accordance with Inyo County's *Board Governance and Rules of Procedure*, Rule 22. Such additional briefing

Since the County has prepared substantively identical staff reports and CEQA documents for the REP 22-01 and 22-02, these grounds for appeal apply to both approvals. Further, in an abundance of caution, Appellants have tendered two \$300 checks for appeal fees.

County of Inyo
Board of Supervisors
November 8, 2023
Page 3 of 3

will include detailed responses to the applicant's recent letter purporting to address public comments on the Project and MND.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

cc via email:

Darcy Ellis, Assistant Clerk of the Board, dellis@inyocounty.us
Cynthia Draper, Assistant Planner, cdraper@inyocounty.us
Inyo County Planning Department, inyoplan ni ng@inyocou nty.us

Attachments via overnight delivery:

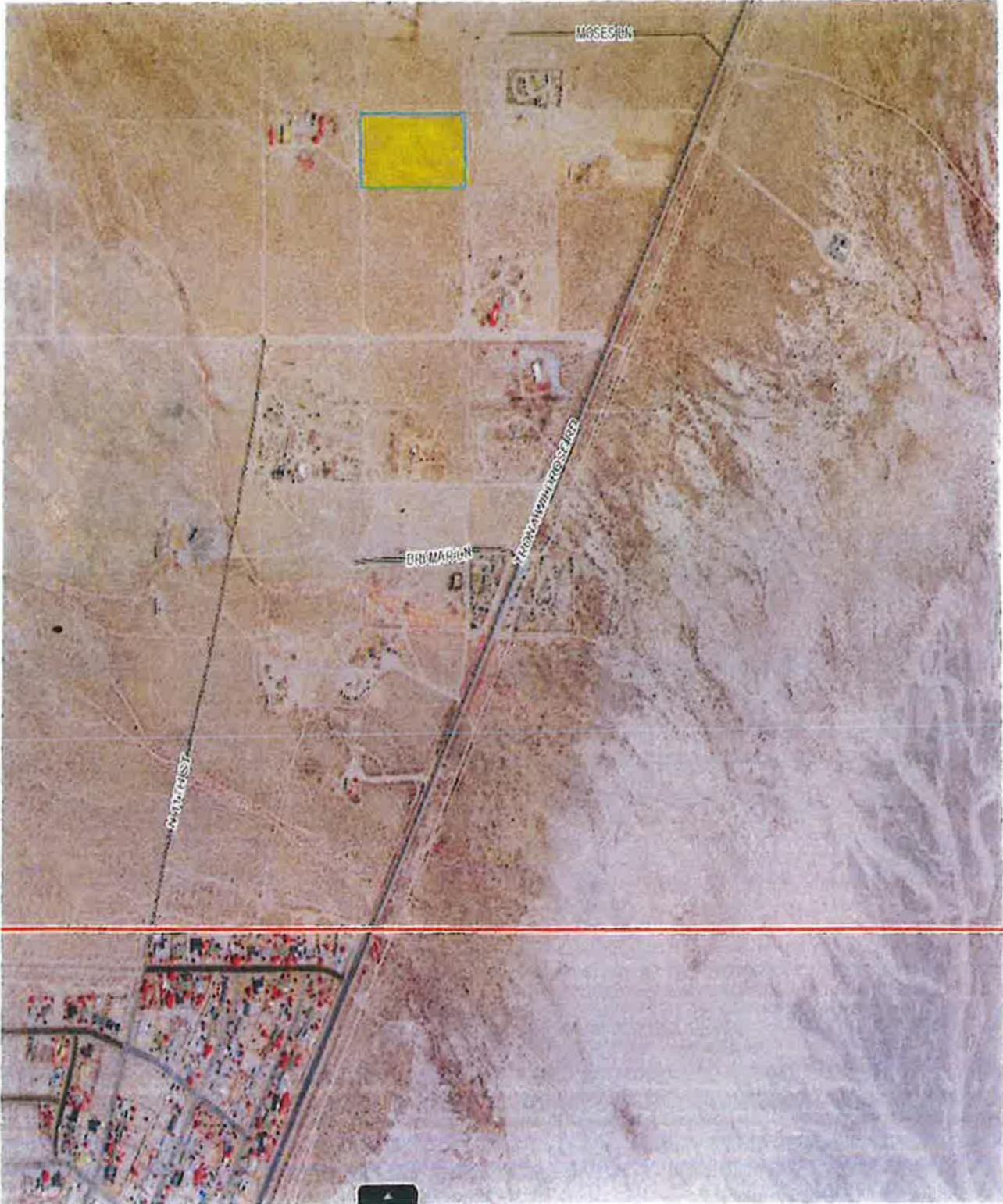
Check numbers 4391, 4392 in the amount of \$300 each

ATTACHMENT- B

VICINITY MAP
AND SITE PLAN

VICINITY MAP

REP 2022-01/ BARKER
APN 038-330-46



ATTACHMENT- C

CEQA COMMENTS



California Program Office

P.O. Box 401, Folsom, California 95763 | 916-313-5800

www.defenders.org

August 25, 2023

Cynthia M. Draper, Assistant Planner
Inyo County Planning Department
168 N. Edwards Street
Independence, CA 93526
Delivered via email to: cdraper@inyocounty.us

RE: Renewable Energy Permit – Barker-Trona 4 (SCH 2022110323) and
Renewable Energy Permit – Barker-Trona 7 (SCH 2022110344)

Dear Ms. Draper:

Thank you for the opportunity to provide comments in response to the Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Studies (DMND) for the proposed Barker-Trona 4 Solar and Barker-Trona 7 Solar Farms (collectively, the “Projects”). Defenders of Wildlife (Defenders) is dedicated to protecting all wild animals and plants in their natural communities and has nearly 2.1 million members and supporters in the United States, with more than 316,000 residing in California. We strongly support renewable energy development that will help meet California’s emission reduction goals and avoids destruction of important wildlife habitat and the loss of at-risk species. Achieving a low-carbon energy future is critical for protecting California’s internationally treasured wildlife, landscapes and diverse habitats.

The proposed Projects are solar photovoltaic PV electricity generating facilities and associated infrastructure: Barker-Trona 4 would generate 3.0 MW of renewable energy on a 15-acre parcel and Barker-Trona 7 would generate 1.2 MW on an adjacent 5-acre parcel, located in Inyo County west of Trona Wildrose Road, between the Trona Airport and the border of San Bernardino County. The Projects were submitted under separate applications due to their separate interconnections to the existing Southern California Edison 33kV transmission line that passes through the area. The Project site is zoned as rural residential, and the area of both Projects is described as graded and “highly disturbed,” with “no natural vegetation, habitat, water features, or structures.” Portions of the Barker-Trona 4 site were previously used as “a private dirt track and a junk yard.” Additionally, the Projects are located within a designated Inyo County Solar Energy Development Area,¹ and are not located within Natural Landscape Blocks,²

¹ See <https://databasin.org/maps/new/#datasets=d035971f69f84ba9b3fdb2ed551a442>

² See <https://databasin.org/maps/new/#datasets=e1bb8c9a9631413f97b28cc72a5efe93>

Essential Connectivity Areas,³ mapped critical habitat,⁴ or state or global Important Bird Areas.⁵ While the site lies partially in areas designated as modeled predicted occupied habitat for the desert tortoise,⁶ Defenders concurs with the Projects' Biological Resource Evaluation, which concluded that neither tortoises nor suitable habitat are present on the site.

As we transition toward a clean energy future, it is imperative that we consider the near-term impact of solar development on our biodiversity, fish and wildlife habitat, and natural landscapes while addressing the long-term impacts of climate change. Therefore, renewable energy projects must be planned, sited, developed and operated to avoid, minimize and mitigate adverse impacts on wildlife and lands with known high-resource values. Defenders finds the Projects are fully consistent with these criteria through being sited on previously distributed lands and applying appropriate mitigation measures to reduce the impact on special-status species in the region, including desert kit fox and birds protected by the Migratory Bird Treaty Act, as outlined on page 6-18 of the Biological Resource Evaluation. These measures include conducting pre-activity surveys and equipment inspections, avoidance buffers, worker training, speed limits, covering of holes and trenches, and proper waste management processes. We encourage the County to continue siting renewable energy projects in low-conflict areas in order to avoid or minimize impacts on sensitive species.

Thank you once again for the opportunity to provide comments on the DMND for the Barker-Trona 4 and 7 projects and for considering our comments. We look forward to reviewing the Final Environmental Documents for the Projects and request to be notified when they are available. Please feel free to contact us with any questions.

Respectfully submitted,



Aimee Delach
Senior Policy Analyst, Climate Adaptation
202-682-9400 x271
ADelach@defenders.org



Sophia Markowska
Senior California Representative
408-603-4694
SMarkowska@defenders.org

³ See <https://databasin.org/maps/new/#datasets=c57212b3aa1243d28216a1b7db18a1ca>

⁴ Per Figure 4-1, Trona 4 and 7 Solar Project Biological Resource Evaluation, at <https://ceqanet.opr.ca.gov/2022110323/2>

⁵ See <https://databasin.org/maps/new/#datasets=1180b50bafec4871a019245da1c8b6b2>

⁶ See <https://databasin.org/maps/new/#datasets=a1f5e25b9b944f9fa6aa3be8f54f8a2e>

August 25, 2023

FROM: John Mays

85517 12th St. (P.O. Box 583)

Trona, CA 93592

TO: Inyo County Planning Department via email inyoplanning@inyocounty.us

Attn: Cynthia Draper cdraper@inyocounty.us

CC: Patrick Soluri patrick@semlawyers.com, Tom Kidder tkidder85@gmail.com, Amanda Mcnamara-Ball akmcmamara80@gmail.com, Brian McNamara b.mcnamara1951@gmail.com

RE: Comments on Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Study (Initial Study) dated July 19, 2023, for REP 2022-01 and REP 2022-02

1.) The new documents fail to sufficiently address any comments previously submitted on REP 2022-01 and REP 2022-02 by myself, the others included on this email, or by my legal representation. All of these comments are resubmitted here by reference including those by Tom Kidder, Amanda, McNamara-Ball, and Brian McNamara. The additional comments herein are also being submitted on their behalf. Also, we wish to incorporate all our complaints sent to Inyo County regarding these projects since 2021 by reference.

2.) The Initial Study shows Inyo County Planning Departments repeated reluctance to perform the necessary CEQA analysis as guided by the Renewable Energy General Plan Amendment Final Programmatic Environmental Impact Report dated March 2015 (PEIR). Inyo County has failed to comply with CEQA requirements and effectively bypassed CEQA requirements by not performing the necessary environmental analyses that are enumerated by the PEIR. Compounded by the lack of enforcement and the repeated disregard for permitting procedures, destruction of environmental resources and endangerment of human health has occurred. The Inyo County Planning Department should not be allowed to conduct any such approval for solar permits until it can demonstrate proper compliance with CEQA requirements and its own regulations.

3.) The new biological evaluation as provided with the new Initial Study is a grossly insufficient analysis designed only to advance the project. It represents a token glance done in only 58 minutes at the project site. The necessary biological evaluation that is needed to accurately assess biological impacts is described in detail by the PEIR and has been mentioned at length in previous comments. A representative evaluation would require multiple visits over the full year to account for seasonal variations of wildlife and plant species and multiple observations to substantiate the presence of or lack of any species. The authors' own comments confirm that the study is insufficient, stating it is "limited by the scope of work performed" and "limited by conditions present at the time of the study." The US FWS

letter appears to be a form letter automatically generated on the same day of the study and represents no actual consultation with US FWS. All of this is typical of the methods of cursory review repeatedly applied by the Inyo County Planning Department. This has nothing to do with accurately assessing impacts but purely designed to avoid substantial review by understating the impacts on the ecology of the project.

4.) The biological evaluation does, however, strongly document the destruction of wildlife habitat and plant life caused by the illegal and repeated pre-permit construction efforts. Despite numerous reports and documentation provided, Inyo County has continued to allow this site destruction repeatedly throughout the permit process. This directly subverts the environmental laws of the State of California and requirements of CEQA. Clearly, the lack of concern for wildlife being present at the project and minimal impacts on wildlife and plants within the biological evaluation resides primarily on the fact that the project “has been disked and exhibits little vegetation regrowth” and is thus devoid of habitat. In fact, the site has been graded with vegetation removed so extensively that it represents an intentional farming practice that completely turns the soil. Such disking destroys any animal burrows which would be evidence of food sources or homes for species. It also destroys the vegetation on which such Endangered or Special Status Species live upon or within.

5.) The eye-blink biological evaluation is essentially certain to have overlooked species which may have been just simply missed, transient, or seasonal to the site including Mojave Ground Squirrel, Burrowing Owl, Desert Tortoise, and other Endangered and Special Status Species as listed by US FWS as potentially occurring in the area. These are all typical in the region, have been reported by the observations of residents, and not addressed by the Initial study or mitigation provided.

6.) The new biological evaluation states that more detailed additional studies be done before construction. However, realistic, comprehensive biological studies need to be done before permit approval to ensure proper mitigation has been put in place before the permit can be issued.

As proposed by the approach in the biological evaluation, a vast number of species with potential to be present but that were not observed in this single 58-minute survey would not be protected. The biological evaluation recommends only surveying and mitigation for the desert kit fox and migratory birds but does not detail surveys or mitigation for numerous other wildlife and vegetation species which US FWS say could be present. This grossly avoids substantial mitigations required to protect wildlife and vegetation and thus increases the potential for a take. For this reason, complete biological studies must be completed in advance of a permit approval so that proper mitigation is in place.

7.) A report with analysis on dust generated provided by the new Initial Study is insufficient. It does not account for:

- dust generated from bare grounds during high winds
- actual conditions where dust control is not implemented
- a realistic construction period which is much greater than the assumed overall period of 2 months and 2 weeks of “minor” grading. This is especially overly optimistic as no grading or drainage plan has been envisioned. There is no provision for removal of large boulders which are prevalent through the subsurface and cause major difficulties in drilling the panel supports.

- dust generated from accumulated sand dune deposits at project fencing as evidenced in examples of California City solar plants as provided with previous comments. Does not account for fence construction and maintenance for windblown sand accumulations.
- does not account for heavy truck traffic on local roads to deliver project construction materials and operating supplies. Does not provide location of roads to be traveled as no access or road plan is provided. If using local dirt roads, this could be within a few feet of residences.
- does not assess the long-term and short-term effects on several nearby receptors which are residences within less than 500 ft, especially during wind events
- incorrectly steps the facility footprint substantial back from parcel boundaries although this is not the design, and no permit conditions require this. (fig.1). This improper mechanism to avoid dust and pollutants traveling across the project boundary.
- does not include the existing operating facility in its assessment of long-term and short-term impacts, REP 2021-01

The current solar facility, REP 2021-01, which is less than half the size of these proposed permits, has taken at least a couple of years to be constructed. Even now apparently, construction is still not finished. The project currently has stockpiled earthen materials and construction equipment on site. There has been grading of the site and placement of gravel during recent months.

As documented to Inyo County Planning Department, as reported January 13, 2022, all the surface of REP 2022-01 and REP 2022-02 was graded without dust control methods being applied and has been left that way since that date. Additional construction work with no dust control has been documented and reported in the last few months. Video was provided to Inyo County officials documenting extreme dust generation during high wind events.

An evaluation of impacts from dust generation and resulting health and equity impacts have not been sufficiently addressed by the new Initial Study and are grossly understated by the new analysis.

7.) The Initial Study does not address the fact that Inyo County is unable and unwilling to enforce dust control at the current operating solar facility and the proposed sites. It has been demonstrated by numerous reports that dust control procedures are not being followed and other unlawful construction practices are being allowed by the Inyo County without recourse. This negates any mitigation provided in the Initial Study proclaiming that dust control measures will be implemented and negates the determinations made by Inyo County in the Initial Study on impacts from dust.

8.) Attached is evidence of other complaints on Facebook regarding another solar site in Inyokern. This site is owned and being developed by the same owner/developer as REP 2022-01 and REP 2022-02 on July 22, 2023. This was during the same time when complaints were made regarding the Trona facility. The developer's repeated lack of compliance must be enforced otherwise there is no substance to mitigation that the Initial study is based upon. Inyo County cannot proceed with these permits until it can demonstrate proper management of its solar facilities, it has set a precedent to the contrary. Otherwise, substantial impacts to public health can occur.



WTF IS HAPPENING IN RIDGECREST · ...

Follow

Russ Lester · Jun 22 at 17:45 · 🌐

To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that...

See more 🗨️

To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that everyone has to drive thru. Just sayin

👍👎🗨️ 41

25 comments

👍 Like

🗨️ Comment

➤ Send

👍👎🗨️ 23

15 comments

👍 Like

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👍 23 >

Top comments

Kady Buckholz
I was just talking about this.
1h Like Reply

Jamie Weston
😂😂😂 I saw that the other day when I was doing a delivery.
1h Like Reply

Maria Jordan
Lamooo that's dumb lol like we can control when the wind blows
49m Like Reply

Donald Hitt
Solar field going in
39m Like Reply

Sharon Boyer
Drove through it!!
1h Like Reply

Mindy Spivey

1h Like Reply

Ginger Brown

40m Like Reply

Amanda McNamara
Call Kern County Planning Commission and complain. It's an air permit violation. They are supposed to keep a water truck on it all the time.
2m Like Reply

Tina Flanigan
Solar power.
1h Like Reply

Tamy Rice
Agreed
1h Like Reply

Ginger Brown
Call the county...valley fever because of clearing land like this ...o the county forgot to tell us ... U have to request the test if u have symptoms....and they need to water truck this to keep the dust down...they also must have a permit....people need to call...here is your info...

40m Like Reply

Anthony Levesque
No
10m Like Reply

Robbie Harper
Or at least plow the north 40 at less than 60!
1h Like Reply

Write a comment...

9:02 [status icons]

Login

LLC (202130910556)		
M&S INYOKERN CORP. (4661667)	> 11/05/2020	Active
RB INYOKERN SOLAR LLC (201615410405)	> 05/25/2016	Suspended - FTB
RB INYOKERN SOLAR WDAT 1203 LLC (202206311083)	> 03/02/2022	Active
RB INYOKERN SOLAR WDAT 1281 LLC (202206311152)	> 03/02/2022	Active
RIDGECREST INYOKERN RD, LLC (201623510120)	> 08/15/2016	Active
SIERRA PACIFIC INDUSTRIES, INYOKERN DIVISION (375961)	> 05/25/1959	Suspended - FTB
TA - INYOKERN, LLC (200932310149)	> 11/13/2009	Terminated

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9.) A full EIR is prescribed by CEQA for these projects and is required for these projects to advance. This was required by Kern County Planning for the owner/developer's solar facility in Inyokern. That study may be found here and serves as an example of the more extensive impact evaluation and coordination on biological evaluation necessary. This permitting action required incidental take permits for the Desert

Tortoise and Mojave ground squirrel. Since Inyo County allowed pre-permit construction this take may have already occurred.

<https://kernplanning.com/environmental-doc/rb-inyokern-solar-project/>



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510 8th Street · Sacramento, CA 95814

August 25, 2023

SENT VIA EMAIL

(inyoplanning@inyocounty.us;
Cynthia Draper, Assistant Planner, cdraper@inyocounty.us)

County of Inyo
Planning Commission
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

**Re: Recirculated MNDs for Renewable Energy Permit 2022-01/Barker and
Renewable Energy Permit 2022-02/Barker**

Dear Ms. Draper:

On behalf of our client, John Mays, this letter provides comments regarding the two recirculated mitigated negative declarations (“RMND”) for Renewable Energy Permit (“REP”) 2022-01/Barker and REP 2022-02/Barker (collectively, the “Project”).

We previously submitted comments identifying numerous procedural and substantive violations of the California Environmental Quality Act (“CEQA”) associated with the two mitigated negative declarations (“MND”) previously prepared and circulated for the Project. We understand that the County has prepared the RMNDs that purport to correct some of the previously-identified deficiencies in the MNDs. For example, the RMND includes an appendix containing some “representative photographs” of existing conditions, a biological resources assessment and an air quality (“AQ”)/greenhouse gas emission report. Even with this new information, serious informational deficiencies persist. As described below, the RMNDs violate CEQA and cannot provide adequate environmental review for the Project.

A. The RMNDs Fail to Include Mitigation Monitoring and Reporting Plans

Although clearly identifying each document as an “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeatedly checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County fails to prepare Mitigation Monitoring and Reporting Program(s) (“MMRP”(s)). This violates

CEQA (CEQA Guidelines, § 15097) and also the Inyo County Code. (County Code, Ch. 15.44.) To wit:

15.44.005 General.

The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)

15.44.010 Application.

A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)

15.44.020 Timing.

Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment. The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)

15.44.030 Contents.

The monitoring plan shall contain, at a minimum, the following:

- A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;
- B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);
- C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;
- D. Identification of the person or entity responsible for monitoring and verification;
- E. The method of reporting monitoring results to the county. (Ord. 957 § 1 (part), 1995.)

15.44.040 Enforcement.

Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)

Setting aside the RMND's practice of not identifying mitigation measures required to reduce Project impacts, the RMND's expressly identify mitigation measures in Sections IV(a), XIII(a) and XXI(a). Thus, the RMND's require a draft MMRP that is circulated for public comment. The RMND's are therefore procedurally invalid. A new RMND or EIR must be recirculated for public review along with the required MMRP.

B. Project Piecemealing

CEQA's conception of the term "project" is broad to maximize protection of the environment. (*Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist.* (2007) 147 Cal.App.4th 643, 653; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730. "This big picture approach to the definition of a project (i.e., including "the whole of an action") prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project into smaller components which, when considered separately, may not have a significant environmental effect." (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 270-271.)

The County is dividing a project into smaller components. The Project consists of two REPs for photovoltaic solar power generation on adjacent parcels owned by the same person, Robbie Barker. The RMNDs explain, "This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts." (RMND, p. 3.) Notwithstanding this, the County has prepared two separate RMNDs for the Project. These RMNDs include:

- "RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-01/Barker- Trona 7" (See Exhibit 1.)
- "RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-02/Barker- Trona 4" (See Exhibit 2.)

Dividing a single project into two CEQA documents violates CEQA. The relevant test is whether the activities have “substantial independent utility.” (*Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal.App.4th 712, 736.) It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by preparing two separate RMNDs for what it concedes is a single project under CEQA. A reviewing court would exercise its independent judgment on this issue with no deference to the agency. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)

We previously commented on this issue, and the RMNDs provided make the case for piecemealed review even stronger. Both RMND’s technical reports analyze the two REPs as a single project. The air quality report explains, “Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site (collectively referred to herein as the ‘Project’).” Similarly, the biological resources report states, “Biological Resource Evaluation – Trona 4 and 7 Solar Project.” The RMNDs themselves explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)

It appears that the County now recognizes the two REPs constitute a single CEQA project. If so, the County must prepare a single CEQA document for that single project. The County’s continued reliance on two separate CEQA documents for a single CEQA project violates CEQA.

C. Failure to Adequately Analyze Cumulative Impacts

A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an environmental impact report (“EIR”). (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear

insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.)

Despite this mandate, the two RMNDs’ cumulative impacts analyses continue to be impermissibly cursory. Each RMND’s cumulative impact analysis provide in full:

No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note ***in the vicinity are PV solar projects within the Trona SEDA***, but the overall number and size of these projects are ***likely to be less than analyzed in the PEIR***. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.

(RMND, § XXI(b), emphasis added.)

This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) Here, the RMNDs appear to limit the scope of cumulative projects to those “within the Trona SEDA.” The RMNDs fail to explain this limitation, which violates CEQA. (CEQA Guidelines, § 15130, subd. (b)(3) [“Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used”].) The EIR for the Inyo County Renewable General Plan Amendment (“REGPA”) provided a reasonably expansive list of cumulative projects. (REGPA EIR, Table 5-1.) The County could have relied on that list of projects so long as it complied with CEQA’s requirements for tiering/incorporation by reference as well as updating a cumulative project list, but the County did not follow that procedure. (CEQA Guidelines, § 15130, subd. (b)(1); § 15150, subd. (c); § 15152.)

Similarly, the RMNDs appear to limit the scope of cumulative projects by stating that PV solar projects are the only projects “of note.” The RMNDs fails to explain what is meant by limiting cumulative projects to only those “of note.” CEQA includes no such limitation, and instead requires a CEQA document to set forth “[a] list of past, present, and probably future projects producing related or cumulative impacts.” (CEQA Guidelines, § 15130, subd. (b)(1)(A).) For example, the Project will unquestionably

result in dust generation. Projects other than PV solar projects may also generate dust and therefore must be identified as cumulative projects.

D. The RMNDs Failed to Adequately Analyze and Mitigate Project Impacts

The RMNDs failed to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 74 (*No Oil I*.) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (*Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (*No Oil I, supra*, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (*Id.* at p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.

In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This is assured by incorporation into an MMRP. (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation of Hillside & Canyon v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 (*Federation*).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See *San Bernardino Valley Audubon Society v. Metropolitan Water District* (1999) 71 Cal.App.4th 382, 392.)

Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (*Sundstrom v. County of Mendocino* (1988) 202

Cal.App.3d 296, 311 (*Sundstrom*.) For example, in *Sundstrom* the court held that the absence of information explaining why no alternative sludge disposal site is available “permits the reasonable inference that sludge disposal presents a material environmental impact.” (*Ibid.*) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.

1. *The RMNDs impermissibly conflate analysis of impacts and mitigation.*

For every resource area, the RMNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 658 (*Lotus*) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.

For example, with respect to whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the RMNDs assert, “No . . . The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) CEQA requires the RMNDs to disclose the significance of the impact without regard for mitigation, separately identify all feasible mitigation measures and assess their effectiveness at reducing the impact. (*Lotus, supra*, 223 Cal.App.4th at 655-656 [“Caltrans compounds this omission by incorporating the proposed mitigation measures into its description of the project and then concluding that any potential impacts from the project will be less than significant. . . . By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA”].) The RMNDs follow this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural

resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.

2. *Mitigation Measures are not adequately defined, effective or enforceable.*

CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (*Federation, supra*, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound in the RMNDs. Just a few representative examples are provided.

The RMNDs claim that construction air quality will be less than significant because “[t]he applicant will control dust during construction by *standard techniques* that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) The RMNDs fail to adequately define these “standard techniques.” Are the “standard techniques” limited to the three identified techniques? If so, why are the RMNDs excluding other techniques disclosed in mitigation measure AQ-2 of the REGPA EIR? Further, the RMNDs fail to adequately describe the mere three techniques mentioned that would allow an assessment of their effectiveness. For example, how frequently will water trucks be used? Is there a standard for when water trucks will be required during construction? How is limestone used effectively to reduce dust? How are dust suppressants used? Are there other possible dust suppressants other than EarthGlue? If so, are any of these other dust suppressants more effective than EarthGlue? What are the tests or triggers for application of limestone or dust suppressants?

Addressing some or all of these questions is necessary for the RMNDs to adequately inform the public and decision-makers that mitigation is effective to reduce the impact to less than significant on sensitive receptors such as the adjacent residential properties. An MND cannot rely on a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (*King & Gardiner Farms, supra*, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 511.) The RMNDs have failed to provide evidence that its vague mitigation will be effective. Further, the RMNDs also failed to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant’s REP 2018-01 that was issued in 2018.

The RMNDs also improperly assume, without adequate project-specific analysis, that regulatory compliance will mitigate impacts. Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the RMNDs assert, “No . . . The applicant will be conditioned to obtain any required permits, and follow best management practices required by the GBUAPCD.” (RMND, § III(a).) This is inadequate under CEQA because a determination that regulatory compliance is adequate must be based on project-specific analysis. (*Californians for Alternatives to Toxics v. Dept. of Food and Agriculture* (2005) 136 Cal.App.4th 1.) Here, the RMNDs do not even identify what is required by the Great Basin Unified Air Pollution Control District (“GBUAPCD”), much less provide a project-specific analysis of how those requirements would be effective here. While the County may be inclined to point to an Air Quality Memorandum as supplying that missing analysis, this effort fails for two reasons. First, the analysis does not provide the missing information, explaining only, “Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollution emissions, including those required under their new source review requirements.” (AQ Memorandum, p. 7.) Thus discussion fails to describe applicable requirements, much less how those requirements applied here would effectively mitigate impacts. Second, even if the Air Quality Memorandum did provide some additional information, CEQA caselaw explains that such information cannot be buried in an appendix. (*Vineyard Area Citizens, supra*, 40 Cal.4th at 442. [information “buried in an appendix is not a substitute for good faith reasoned analysis”].)

The RMNDs then attempts to cite to the REGPA programmatic EIR (“PEIR”) and its MMRP in an attempt to dismiss significance of these impacts. (RMND, §III(a).) The plain language of the PEIR refutes this effort:

The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. However, since the air basin is within the Owens Valley PM10 Planning Area, ***fugitive dust emissions from construction must be mitigated.***

(PEIR, p. 4.3-10, emphasis added.) Here, however, there is no such mitigation. For example, the AQ-2 includes such measures as “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph.” The RMNDs conspicuously fail to mention these additional mitigation measures, much less identify them as such in an enforceable MMRP for the Project.

Finally, the RMNDs claim that PEIR mitigation measures AQ-1 through -3 “applied to utility-scale projects of greater than 20 MW and did not apply to smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner.” This is inexcusably false. The plain language of AQ-1 though -3 as revised and approved does not include such limitations. (Exhibit 3, March 2015 MMRP.)

PEIR AQ-1 states, “AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report.” The RMNDs violate this mandate because the Air Quality report does not incorporate the specific requirements of AQ-2 and AQ-3. It merely states, “[T]he Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.” PEIR mitigation measures AQ-1, -2 and -3 are not “goals and policies” of the REGPA; they are mitigation measures under CEQA. The Air Quality report does not even identify these mitigation measures, much less “incorporate” them into its “site-specific technical report.” At best, the Air Quality Memo states:

[F]ugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment trackout onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout

the life of the Project, which will in turn ensure impacts remain less than significant.

(Air Quality Memo, p. 12.0.)

While this provides a general discussion of some mitigation measures that could be used to address dust emissions, this discussion fails to comply with CEQA. This discussion fails to correlate the identified measures to the requirements of the GBUAPCD or the PEIR. Are these measures the only ones that will be used to satisfy the requirements of the PEIR and GBUAPCD? If so, why does this discussion omit any reference to “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph” as set forth in AQ-2. Further, this discussion in the Air Quality Memo does not explain how this discussion is enforceable against the project. This is precisely the function of mitigation measures and an MMRP.

Finally, regulatory compliance is only permissible when it is reasonable to assume that they will actually be complied with. “[C]ompliance with regulations is a common and reasonable mitigation measure, and may be proper *where it is reasonable to expect compliance.*” (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906.) Here, the project applicant has repeatedly violated County and air district rules and permits with respect to this Project and earlier projects. These repeated violations have been documented by County staff and establish that it is not reasonable to simply assume that the project applicant will comply with such permit terms in the future.

In short, the RMNDs improperly rely on mitigation to avoid analysis of project impacts and fail to provide adequate information in order to determine whether mitigation is effective and enforceable. Without this necessary information, the RMND’s significance determinations are not supported by substantial evidence.

3. *The RMNDs inconsistently apply the PEIR’s mitigation measures.*

Our prior comment letter explains that the original MNDs appeared to have ignored literally dozens of mitigation measures adopted pursuant to the PEIR. The RMNDs now appear to incorporate the PEIR’s mitigation measures but have done so inconsistently and in violation of CEQA. For example, sections IV(a) (Biological Resources) and XIII(a) (Noise) appear to incorporate mitigation measures set forth in the PEIR in order to address the Project’s potentially significant impacts in those resource areas. Setting aside the procedural deficiency of not circulating an MMRP including these mitigation measures, the RMNDs fail to explain why the same procedure was not

followed in other resource areas¹ where the PEIR requires mitigation in order to support a less-than-significant determination. The leading CEQA treatise explains, “As activities within the program are approved, the agency must incorporate, if feasible, the mitigation measures and alternatives developed in the program EIR in its action approving the activity.” (1 Kostka and Zischke, Practice Under the Cal. Environmental Quality Act (2nd ed. 2023) § 10.16, p. 10-20.)

E. The County Does not Explain Why Visual Simulations Have Not Been Prepared

The RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR. AES-1 requires “site-specific visual studies . . . to assess potential visual impacts.” “Visual simulations shall be prepared to conceptually depict-post development views from the identified key observation points.” No such studies were prepared. Instead, Appendix A consists solely of low-quality “representative photographs” of apparently existing conditions.

The RMND states, “Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a qualified planner to not have a potential to impact visual resources, including a scenic vista.” The RMNDs conspicuously fails to provide any substantial evidence supporting this conclusion. The RMNDs fail to set forth any analysis, much less written report, supporting this conclusion. The RMNDs fail to identify the County planner purportedly making this determination, the date of the determination, the criteria followed by the County planner or any specific facts supporting this determination. There is no evidence, much less substantial evidence, supporting the MND’s conclusory assertion that an unspecified “qualified County planner” determined that the Project would not have the potential to impact visual resources.

F. The RMNDs Fail to Include a Traffic Control Plan

PEIR mitigation measure TRA-1 provides:

Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall,

¹ Examples include air quality, agricultural impacts, transportation, water quality and visual resources.

at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.

The RMNDs do not include the required traffic control plan, nor even mention mitigation measure TRA-1. While the RMNDs state that the Project “will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase,” there is no attempt to explain why these “few” construction vehicles do not require a traffic control plan to avoid conflicts with adjacent and nearby residents.

G. The MNDs Fail to Address Impacts Associated with Noxious Weeds

Mitigation measure AG-3 provides, “To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed.” In violation of this mitigation measure, no weed-abatement plan appears to have been prepared, and the RMNDs make no reference to such a plan.

* * *

The RMNDs continue to suffer from procedural and substantive violations of the County Code and CEQA that require recirculation. We thank you for the opportunity to comment.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Patrick M. Soluri

cc: John Mays (johnmmays1@gmail.com)

Attachments:

Exhibit 1 Recirculated Initial Study with Mitigated Negative Declaration /
Environmental Checklist Form / Renewable Energy Permit 2022-
01/Barker- Trona 7

County of Inyo
Planning Commission
August 25, 2023
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- Exhibit 2 Recirculated Initial Study with Mitigated Negative Declaration /
Environmental Checklist Form / Renewable Energy Permit 2022-
02/Barker- Trona 4
- Exhibit 3 Mitigation Monitoring and Reporting Program for the Inyo County
Renewable Energy General Plan Amendment Program Environmental
Impact Report (March 2015)

EXHIBIT 1



Planning Department
168 North Edwards Street
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Independence, California 93526

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RECIRCULATED

DRAFT MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT
AND INITIAL STUDY

PROJECT TITLE: Renewable Energy Permit 2022-01/Barker- Trona 7

PROJECT LOCATION: The Project is located approximately 3 miles north of the unincorporated community of Trona, California. The Trona Airport sits roughly 1.3 miles to the northeast. The property is on private land owned by Robbie Barker, with an Assessor's Parcel Number of 038-330-46

PROJECT DESCRIPTION: The applicant is applying for a Renewable Energy Permit to construct a 1.2 Megawatt (MW) photovoltaic solar facility using approximately 2,300 single-axis tracker solar panels that will connect to the existing Southern California Edison (SCE) 33-kV transmission line passing through the area. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.

FINDINGS:

- A. The proposed project is consistent with goals and objectives of the Inyo County General Plan.
- B. The proposed project is consistent with the provisions of the Inyo County Zoning Ordinance.
- C. Potential adverse environmental impacts will not exceed thresholds of significance, either individually or cumulatively.
- D. Based upon the environmental evaluation of the proposed project, the Planning Department finds that the project does not have the potential to create a significant adverse impact on flora or fauna; natural, scenic, and historic resources; the local economy; public health, safety, and welfare. This constitutes a Mitigated Negative Finding for the Mandatory Findings required by Section 15065 of the CEQA Guidelines.

The 30-day public review period for this Draft Mitigated Negative Declaration will expire on August 25, 2023. Inyo County is not required to respond to any comments received after this date.

Additional information is available from the Inyo County Planning Department. Please contact Project Planner Cynthia Draper (760-878-0265) if you have any questions regarding this project.


Cathreen Richards
Director, Inyo County Planning Department

7/19/2023
Date



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INYO COUNTY PLANNING DEPARTMENT

APPENDIX G: CEQA INITIAL STUDY & ENVIRONMENTAL CHECKLIST FORM

1. Project title: Renewable Energy Permit 2022-01/Barker-Trona 7
2. Lead agency name and address: Inyo County Planning Department, PO Drawer L, Independence, CA 93526
3. Contact person and phone number: Cynthia Draper: (760) 878-0265
4. Project location: The property is on private land owned by Robbie Barker, Assessor parcel number 038-330-46, in Trona California.
5. Project sponsor's name and address: Robbie Barker 82740 Trona Rd., Trona, CA 93562
6. General Plan designation: Residential Estate (RE), SEDA overlay
7. Zoning: Rural Residential (RR-5.0)
8. Description of project: The applicant proposes a photovoltaic (PV) solar facility on a five-acre parcel, consisting of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.
9. Surrounding land uses and setting: The property is surrounded by undeveloped land, sparse residential dwellings, and commercial uses (such as equipment storage). Developed areas include the Trona Airport, scattered residences, and scrap yards. The surrounding parcels are highly disturbed, devoid of plants or native habitat. Weed abatement has been performed throughout the area.

Location:	Use:	Gen. Plan Designation	Zoning
North	Vacant	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
South	Vacant	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
East	Vacant	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
West	Single family residence	Residential Estate (RE)	Rural Residential (RR-5.0-MH)

10. Other public agencies whose approval is required: Inyo County Building and Safety, Inyo County Environmental Health, Inyo County Public Works

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun?

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 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 Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidentialhttps://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_18-chapter_18_12?view=alliality.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics Resources | <input type="checkbox"/> Agriculture & Forestry | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Energy |
| <input type="checkbox"/> Geology /Soils | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials |
| <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation | <input type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Wildfire | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Cynthia Draper
Cynthia Draper, Assistant Planner
Inyo County Planning Department

July 19-2023
Date.

RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION ENVIRONMENTAL CHECKLIST FORM

Renewable Energy Permit 2022-01/Barker- Trona 7

REGULATORY BACKGROUND

The Inyo County General Plan provides a vision for Inyo County’s long-range physical and economic development, including resource development and conservation. The General Plan contains implementing strategies, policies and programs enabling this vision to be accomplished. On March 24, 2015, the Board of Supervisors adopted an amendment to the General Plan known as the Renewable Energy General Plan Amendment (“REGPA”). The REGPA regulates the type, siting, and size of renewable energy solar development projects in the County through adoption of land use policies consistent with the broader goals in the General Plan.

The REGPA differentiates renewable energy solar facilities based on their size and output. It defines “utility-scale” facilities as those generating at least 20 megawatts (MW) for off-site use, consumption or sale. Facilities that generate less than 20 MW may include “commercial-scale” or “community-scale” facilities, depending on whether electricity is produced for off-site use or for use by a specific community. The REGPA states that the County “shall encourage the development of” commercial and community-scale facilities.

The REGPA also designated seven different areas of the County, known as Solar Energy Development Areas (SEDAs), where renewable energy solar facilities would be allowed. Policy LU-1.17 permits utility-scale and commercial-scale facilities to be considered in SEDAs, subject to any necessary environmental review. Renewable energy solar development within a SEDA is allowed in any zoning classification. The Trona SEDA covers an approximately 7.1-mile area in the Searles Valley, north of the unincorporated community of Trona. The REGPA allows 600 acres of renewable energy development in the Trona SEDA.

When the County adopted the REGPA in 2015, it certified a Programmatic Environmental Impact Report (PEIR). The PEIR analyzed the impacts of renewable energy solar development throughout the County. It identified less-than-significant environmental impacts to agriculture and forestry resources, air quality, geology, and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, socioeconomics, transportation and circulation, and utilities and service systems. The PEIR identified potentially significant and unavoidable impacts to aesthetics, biological resources, and cultural resources, and included mitigation measures to reduce these impacts to the extent feasible.

ENVIRONMENTAL SETTING

Inyo County covers approximately 10,200 square miles and is located on the east side of the Sierra Nevada Mountain range, within the east-central part of California. The County is primarily rural and undeveloped, characterized by open expanses, wide valleys and mountains ranging from low hills to jagged peaks. Elevations are from 282 feet below sea level within Death Valley National Park to 14,505 feet above sea level (amsl) in the Sierra Nevada

is arid to semi-arid, marked by low precipitation, abundant sunshine, frequent winds, moderate to low humidity, and high evapotranspiration.

The Project is located in the Searles Valley, at the southern edge of the County, north of the unincorporated Trona community, and in the Trona SEDA. As noted above, the SEDA covers approximately 7.1 square miles (4,550 acres). Most of the SEDA is undeveloped. Roughly 60 percent is managed by BLM, with the remainder under private ownership. Developed features include Trona Airport, scattered rural residences, and scrap yards. North of the airport lies Valley Wells, a state historical landmark, consisting of small buildings, abandoned recreational facilities, a desert golf course and well field. The Trona area is sparsely populated, containing less than 2,000 people.

Elevations within the Trona SEDA range from 2,100 feet to 1,650 feet amsl. The average January temperatures range from 32-58 degrees Fahrenheit, and in July from 73-105 degrees. Annual precipitation is low, averaging 3.98 inches. The habitat consists mainly of alkali desert scrub flats with ephemeral washes, with an open composition and canopy cover less than 50 percent.

Topography in the Trona SEDA, within the center of the northern Searles Valley, is generally level or gently sloped. Steeper terrain occurs to the west (the Argus Range), east, and north (the Slate Range). Surface exposures consist predominantly of late Quaternary alluvial/lake deposits, sandy to loamy topsoil with Mesozoic granitic intrusive rocks to the west, and areas to the east and north exhibiting an assemblage of Precambrian/Paleozoic metasediments, Mesozoic granitic intrusives, Mesozoic and Tertiary volcanics, and older Quaternary alluvial/sedimentary deposits. No mapped faults exist in the Searles Valley. The nearest mapped fault is the Panamint Fault, approximately 10 miles east.

The Trona SEDA is within the South Lahontan Basin, as designated in the 1995 (as amended) Lahontan RWQCB Water Quality Control Plan for the Lahontan Region (Basin Plan). The Trona SEDA is within the areal extent of the Searles Valley Groundwater Basin (Searles Basin), which includes an area of approximately 197,000 acres, and a water-bearing strata consisting of a thick (at least 750 feet) sequence of younger unconsolidated alluvial deposits and underlying (locally semi-consolidated) older alluvium.

Average reported municipal/irrigation well depths in the Searles Basin are approximately 300 feet (DWR 2003). Estimated groundwater storage capacity is 2.1 million acre-feet. Groundwater is characterized mainly as calcium-sodium-bicarbonate or sodium-calcium bicarbonate in nature, with groundwater near Searles Lake described as sodium-chloride in nature. The northwestern and southwestern portions of the Searles Basin exhibit generally good water quality (with locally elevated fluoride and nitrate levels), while areas near Searles Lake have poor water quality with TDS levels of between 12,000 and 420,000 mg/l (DWR 2003).

The Trona SEDA is within the Great Basin Valleys Air Basin (Air Basin). The Air Basin is named for its geological formation of valleys surrounded by mountains. Air rises and sinks due to the heat in the valleys and height of the mountains, which causes the air to settle in the valleys and low-lying areas. Areas in the Air Basin are under the jurisdiction of the Great Basin Unified Air Pollution Control District (GBUAPCD), which regulates air pollutant emissions for all stationary sources within the Air Basin.

In 1987, the Trona area was designated as a PM-10 nonattainment area by the United States EPA. The main source of PM-10 emissions in the region is the dry Owens Lake lakebed, which is located approximately 50 miles northwest of the Project. At the time, the Trona area was part of the Coso Junction Planning Area. In 2002, the US EPA redesignated the Searles Valley into three separate areas, and made a finding of attainment for Trona. (Federal Register, 2002a, 2002b.)

PROJECT DESCRIPTION

The applicant has applied for two renewable energy permits for two separate photovoltaic (PV) solar facilities on contiguous land (“Project”). The applicant submitted two separate applications because each facility would separately connect to the existing Southern California Edison (SCE) 33-kV transmission line passing through the area. This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.

The first application (No. 2022-01), known to the applicant as “Trona 7,” proposes a PV solar facility on a five-acre parcel, consisting of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.

The second application (No. 2022-02), also known as Trona 4, proposes a PV solar facility within a 15-acre parcel that is contiguous (i.e., has a common corner) with the Trona 7 site. The facility would generate 3.0 MW of electricity utilizing approximately 6,000 single-axis tracker solar panels. The site also is previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.

Both proposed facilities (collectively, the 20-acre “Project Area”) are located approximately three miles north of the Trona community and one mile west of the Trona Airport. The elevation of the Project Area is approximately 1,700 feet amsl. It has no history of agricultural use and is not federally managed. According to FEMA, the Project Area is within an Area of Minimal Flood Hazard.

Zoning in the Project Area is rural residential. Approximately five residential structures are within 0.5 miles of the Project Area, located mostly south and west. Two of these structures are approximately 400 feet from the edge of the Project Area (most of the Project Area is farther to the east and extends up to approximately 2,300 feet distant from these structures). Other land use in 0.5 miles of the Project Area include storage of equipment and vehicles, scrap yards and storage units. Representative photographs are included in Appendix A. Agricultural use of surrounding land is minimal. Agriculture and farming are not significant land uses in the area.

Construction will consist of limited grading in some areas, as the Project Area is already predominantly level and graded. Appendix B (Biological Resources Evaluation) documents the onsite conditions. Shallow trenching will be required for underground conduits, and one 20x20-foot concrete pad will be placed on each site to support the transformers. Following grading and

trenching, metal poles or masts will be installed into the ground to support the solar panels. Grading and trenching will require approximately two days. Pole and panel installation will take an estimated two months. Appendix C contains an equipment list, operating hours and projected air emissions.

Dust control measures will be used at all times during construction, and during Project operations (the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity). Dust controls during construction will consist of a watering truck, the application of crushed limestone to the ground, and application of a non-toxic clay polymer known as EarthGlue (specifications in Appendix D). Stabilized construction entrance and exits will be used to reduce sediment trackout onto the adjacent public roadway. During operations, limestone and EarthGlue will control dust.

Once installed, the solar panels will reach a maximum height of 12 feet above the ground (or less, as the panels change slightly in height as they rotate slowly throughout the day to track the sun). Panels will feature anti-reflective coatings to reduce daytime glare and reflectivity. Each facility will be fenced to prevent unauthorized access. Representative photographs of the panels and tracker supports are in Appendix E, showing a recently constructed solar project located on adjacent land (described in more detail below) that uses the same equipment design and components to be used by the Project.

The Project is the second renewable energy solar project proposed for the Trona SEDA. The prior project, on 10 acres adjacent to the Project Area, was approved and has been constructed by the applicant (Nos. 2018-01 and 2021-01). Another 10-acre project is reportedly in development to the south. Combined, the existing, proposed and potential future renewable solar projects are 40 acres, and account for a small part of the 600 acres allocated by the REGPA to solar projects in the Trona SEDA. Future solar projects in the Trona SEDA may not be possible, however, according to the applicant, until SCE improves its transmission infrastructure to increase its transmission capacity.

AGENCY COORDINATION AND PUBLIC INVOLVEMENT

Public notifications concerning the Project began approximately seven months ago. On November 14, 2022, the County gave public notice of the availability of a Draft Initial Study and Negative Declaration for each of the two applications. The 30-day review period ended on December 17, 2022. No comments were received.

A public hearing was set before the Planning Commission on March 23, 2023 to approve both applications. Two days before the hearing, the County received public comments from a nearby landowner, and as a result, the County postponed the hearing to May 3, 2023. Prior to the May hearing, the County received additional public comments. As a result, the County postponed the hearing again, revised the Initial Study and Mitigated Negative Declaration, and has recirculated the Initial Study and Mitigated Negative Declaration pursuant to Section 15073.5 of the CEQA Guidelines.

TRIBAL OUTREACH

In accordance with AB 52 and Public Resource Code Section 21081.3.1(b) tribes identified as being local to Inyo County were notified via certified letter about the project and the opportunity for consultation on this project. The tribes were notified 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 Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

TIERED DOCUMENT

A program EIR evaluates the environmental consequences of a series of actions that together constitute a large project and share common geographic, regulatory and environmental attributes. (Cal. Code of Regs., tit. 14, § 15168(a).) If the program EIR facilitates the approval of activities within a program, the agency must scrutinize those activities, as they arise for approval, to determine if additional environmental review is needed.

An agency's assessment of the adequacy of a prior program EIR for the approval of specific activities involves an analysis of whether the activity falls within the scope of the prior EIR and whether the activity will give rise to environmental impacts that were not previously analyzed in the program EIR. (Cal. Code of Regs., tit. 14, § 15168(c).) If impacts were adequately assessed, the agency can avoid further environmental documentation. (Id., tit. 14, § 15168(c).) If further review is needed, the "tiered" document should analyze only those effects that may be significant but were not analyzed in the program EIR, or that were considered significant but can be mitigated or avoided through further analysis. (Id., tit. 14, § 15152(d); see also Pub. Resources Code, §§ 21081(a)(1), 21094(c).)

The PEIR was a program EIR pursuant to section 15168 of the CEQA Guidelines. The County has determined that certain of the Project's potential impacts are adequately addressed in the PEIR. Others require site-specific analysis and are properly assessed in a Mitigated Negative Declaration that will integrate enforceable mitigation measures from the PEIR to ensure that they are enforced at the Project level. The County is treating the Mitigated Negative Declaration as a tiered document under the PEIR. The PEIR can be found at the following website link, or by typing or pasting the following text into an internet browser:

<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volme%2011.pdf>

CHECKLIST

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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I. AESTHETICS – Would the project:

a) Have a substantial adverse effect on a scenic vista?

No. The Project is not located near a scenic vista. The Project is near the valley floor within an area that is visually characterized by junk yards, and outdoor storage of vehicles and equipment in a high desert environment. The Project is within the Trona SEDA, which has its location and boundaries in an area that lacks an abundance of scenic resources. (PEIR, 4.1-15.)

The Project is consistent with the PEIR analysis and mitigation measures. The potentially-applicable mitigation measures (AES-1 through 6, and 9) require that site-specific visual studies be prepared for utility-scale projects (i.e., generating greater than 20 MW) and for smaller-scale projects determined by a qualified county planner to have a potential to impact visual resources in individual SEDAs. Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a qualified planner to not have a potential to impact visual resources, including a scenic vista.

<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volme%20II.pdf>

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

No. The Project Area has previously been disturbed with roads, storage units, and weed abatement. It has previously been graded and is devoid of natural resources such as rock outcroppings and trees. No removal of vegetative life, rock outcroppings, or historic buildings within a scenic state highway will occur. It is not located within or adjacent to any designated scenic highways mapped by the California Department of Transportation. The Project involves the placement of PV solar panels that reach a maximum height of 12 feet.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly-accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

No. The Project will not affect the overall scenic integrity of the area. The Project Area is barren of natural resources that provide scenic value. The Project is in a rural, non-urbanized area and surrounded by property owners that frequently use the area for storage and scrap yards. Public views are mainly from Trona-Wildrose Road, and the Project will not substantially

degrade the existing visual character of the area from the perspective of passing motorists as the area is characterized by scrap yards and outdoor storage of materials. (Appendix A.) The low height of the panels (12 foot maximum, comparable to a single-story house) would not obstruct views of the Argus range to the west or the Slate range to the east.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

No. Due to the small size of the facilities, and their location and design, the Project will not significantly impact daytime or nighttime views. Construction will take place during the daytime hours only. Operation will not involve new light sources that affect nighttime views. The Project will use solar panels that integrate anti-reflective technology to minimize daytime glare, which is consistent with PEIR Mitigation Measure AES-6 (requiring that certain projects treat solar panels with anti-reflective coating). The boundaries and locations of SEDAs, including the Trona SEDA, were sited in areas without an abundance of scenic resources. (PEIR, 4.1-15.)

* * *

II. AGRICULTURAL AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program (FMMP) of the California Resources Agency, to nonagricultural use?

No, the Project is not located on land designated as farmland.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

No, the Project is not located on land zoned exclusively for agriculture. Inyo County has no Williamson Act contracts.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

No, the Project Area does not include forest land or timberland, or land zoned for forest land, timberland, or Timberland Production.

d) Result in the loss of forest land or conversion of forest land to non-forest use?

No, the Project is not located on forest land.

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

No, the Project is not located on farmland and is not conducive to future use as farmland. The Project Area has no history of agricultural production. To the extent that agricultural activities may exist on surrounding properties, the Project would have no impact on or interference with those activities.

* * *

III. AIR QUALITY: Where available, the significant criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?

No. There is no applicable air quality plan for the area in which the Project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards. The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. (See Appendix C, Air Quality and Greenhouse Gas Memorandum). The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.

Additionally, the Project is consistent with the PEIR analysis and mitigation measures. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. (See PEIR, p. 4.3-10.) The potentially-applicable air quality mitigation measures (AQS-1 through 3) applied to utility-scale projects of greater than 20 MW and did not apply to

smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner. Here, the Project involves a small commercial-scale facility that does not present significant air quality impacts. (See Appendix C.) Due to the size, location, low emissions well below all applicable thresholds (Appendix C) and design that incorporates dust controls and suppressants, AQS-1 through 3 are unnecessary to apply.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

No. The Project is located in an area in attainment for PM-10. The Project will be in compliance with air quality standards, as the applicant is conditioned to obtain any required permits and to follow best management practices as set forth by GBUAPCD. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) Project construction and operations will generate emissions that are well below all applicable air quality thresholds and standards. (See Appendix C.)

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

The Project is not in an area that is in non-attainment under any applicable standard. The operation of the solar project is not anticipated to result in a substantial increase in vehicular or stationary emissions once installed. As a result, long-term emissions resulting from Project operation are anticipated to be well below all applicable thresholds. (See Appendix C.) The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) The Project would not contribute to a cumulatively considerable net increase in non-attainment pollutants during operation, and impacts would be less than significant.

d) Expose sensitive receptors to substantial pollutant concentrations?

No, the proposed Project will not expose sensitive receptors to any new substantial pollutant concentrations. The construction process is low impact, involving minor leveling and digging of shallow trenches for placing underground conduits, and installation of a single 20'x20' concrete pad for a transformer. There are no nearby schools or hospitals. Few houses are in proximity to the Project Area. During construction, windblown dust will be controlled by watering, the application of limestone, and the application of a dust suppressant. Vehicle emissions will be well below applicable thresholds of significance during construction and operations. (See Appendix C.) During Project operation, the solar facility will not produce pollutants.

e) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

The proposed Project will not produce objectionable odors during the life of the operation. The Project will use typical construction techniques and the odors would be typical of most construction sites and temporary in nature.

* * *

IV. BIOLOGICAL RESOURCES:

Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

No. The Project Area has been inspected by County planning staff and by a qualified biologist. No CDFW or USFWS designated special status species were found in Project Area. The Project Area is graded, cleared of any significant vegetation, and contains no native habitat. No impacts through habitat modification are anticipated.

*A Biological Resource Evaluation (BRE) was performed by qualified biologists. (Appendix B.) The BRE surveyed the Project Area and a 250-foot buffer. No significant biological resources (plant or wildlife) were found present in the Project Area or buffer. In particular, the BRE found no evidence of desert tortoise (*Gopherus agassizii*) or suitable foraging habitat or other habitat for desert tortoise. The BRE also found no evidence of Mohave ground squirrel (*Xerospermophilus mohavensis*) or associated burrows and noted that the nearest population of Mohave ground squirrel is 8.2 miles southwest, and the nearest core population is 25 miles northwest.*

*The BRE concluded that the desert kit fox (*Vulpes macrotis arsipus*) could potentially visit the Project Area as a transient forager, but the Project Area and surroundings lack optimal denning habitat due to existing ground disturbance. The BRE also found a potential for nesting birds or raptors to forage and/or nest in the Project Area or buffer, using utility poles, although no active or inactive nests were observed. Nesting migratory birds and other raptors species, protected by the Migratory Bird Treaty Species Act, were not observed but have a potential to occur in or near the Project Area and surrounding areas. (Appendix B.)*

To mitigate the potential for impacts to desert kit fox and protected bird species, the BRE recommended Best Management Practices and avoidance measures including: a pre-activity survey, a vehicle speed limit of 20mph, covering of trenches, and proper disposal of food items, as set forth more specifically in the BRE. With these measures, the Project is not expected to significantly impact candidate, sensitive, or special status species.

The Project is consistent with the PEIR. The biological resource mitigation measures identified in the PEIR apply to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under CEQA" and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.4-122-123.) If the planner determines, after review, that a proposed commercial-scale project has a potential to impact biological resources, the PEIR mitigation measures shall be implemented "as determined necessary" by the planner. (PEIR, p. 4.4-123.) Here, the Project has no potential to impact biological resources other than potential impacts to desert kit fox and bird species. The mitigation measures in the BRE will ensure that the potential impacts to desert kit fox and bird species are less than significant, and it is unnecessary to implement any additional mitigation measures from the PEIR.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

No, there is no identified riparian habitat or other sensitive natural community in the Project Area or in close proximity that would be affected by the Project. The USFWS National Wetlands Inventory (USFWS 2014b) shows no freshwater wetlands near the Project Area. No protected natural areas are located within the Trona SEDA.

c) Have a substantial adverse effect on state or federal protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No, there are no federally protected wetlands in or near the Project Area, nor would the nature of the Project cause fill material or Project contaminants to enter flowing water.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

No, although the Project Area could potentially have occurrences of wildlife species, the Project will not interfere with migratory fish or wildlife species. As stated in the BRE, there are no known wildlife movement corridors or habitat linkages that intersect the Project Area. The Project Area is within a highly disturbed area and provides minimal linkage between suitable natural habitats for most wildlife species. The BRE anticipates no substantial movement of wildlife onto or from the Project Area.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

No, there are no local policies or ordinances in place protecting biological resources that pertain to the Project Area.

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

No, there are no adopted habitat or conservation plans that affect the Project Area. The proposed Project is within an area specifically designated for solar energy development pursuant to the REGPA.

Mitigation Measures: *The applicant shall implement all Best Management Practices recommended in Section 6 of the BRE (i.e., pre-activity surveys; avoidance buffers for desert kit fox; Worker Environmental Awareness Training Program; speed limit of 20-mph; covering of trenches deeper than two feet at the close of work day; inspection of pipes and culverts greater than four inches before burial; trash and food items onsite must be discarded into closed containers; no pets should be permitted onsite).*

* * *

V. CULTURAL RESOURCES: Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?

No, the Project will not cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5. The Project Area is vacant and undeveloped. It does not contain resources listed in, or determined to be eligible by, the State Historical Resources Commission for listing in, the California Register of Historical Resources, or any local register of historical resources. The Project Area also does not contain any known structures, features or sites that may be historically significant.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?

No, the Project does not contain any known archaeological resources, and will not cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5. Project construction requires limited ground-disturbance on land that is already flat, making the disturbance or discovery of unanticipated cultural, archaeological, or historical resources unlikely.

If any archaeological or cultural resources are inadvertently discovered in the Project Area, work shall immediately desist and County staff shall be immediately notified per Chapter 9.52, Disturbance of Archaeological, Paleontological and Historical Features of the Inyo County Code. The County will then work with the operator and local tribal members, including tribal THPOs, to develop a plan for preservation, protection, or relocation of the resource. With this mitigation measure, the Project will not cause an adverse change in the significance of an archaeological resource pursuant to Section 15064.5

c) Disturb any human remains, including those interred outside of dedicated cemeteries?

No, there are no known human remains or burial sites in the Project Area. Additionally, it is unlikely that such remains would be discovered due to the minimal nature of earth-disturbance on the Project site. However, if human remains are uncovered, the discovery would be treated in the same manner as an archeological resource described in (V b) above (i.e., work would cease immediately and remain stopped until a plan was developed for preservation, protection, or removal).

* * *

VI. ENERGY: Would the project:

a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

No, the Project is to construct a PV solar facility, totaling approximately 1.2 MW of generating capacity, that uses only a small amount of energy, and is required to meet California building standards including green and title 24 standards.

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

No, the Project is to construct a PV solar facility, totaling approximately 1.2 MW of generating capacity, located in one of the counties solar energy development areas (SEDAs), as identified by the General Plan. The project will generally advance state and local plans for renewable energy, rather than conflict with or obstruct such plans.

* * *

VII. GEOLOGY AND SOILS: Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

- i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

No, the Project is not in an Alquist-Priolo zone. The Project operates with little human intervention and would not expose people to significant risk of injury. In addition, the nature of the solar panels, and their low height, does not make them readily susceptible to adverse effects during seismic activity. Also, subsequent to the approval of the permit, the applicant shall work with the Inyo County Department of Building and Safety to ensure any building activities meet State and County Codes.

- ii) Strong seismic ground shaking?

No, the State Geologist has not mapped any faults in the Searles Valley in the vicinity of the Project. In addition, seismic activity and ground shaking can occur anywhere in the region, but compared to much of the rest of California, this is a less than average seismically active area. The California Building Code ensures that structures be constructed to required seismic standards in order to withstand such shaking.

- iii) Seismic-related ground failure, including liquefaction?

No, the Project is not within an area of soils known to be subject to liquefaction.

- iv) Landslides?

No, the Project Area is flat or gently sloping, and is not in an area prone to landslides.

- b) Result in substantial soil erosion or the loss of topsoil?

No, Project construction is limited to trenching for conduits, and minor grading to level the ground surface as needed. The limited scale of ground disturbance is not expected to result in a risk of substantial soil erosion or loss of topsoil, and in addition, the placement of limestone will stabilize the surface to protect against the low risk of erosion.

- c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or offsite landslide, lateral spreading, subsidence, liquefaction or collapse?

No, the proposed Project is not located in an area with a geologic unit or soil that is known to be unstable. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

No, the proposed Project is not located in an area with a known expansive soil type. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

No, the soils are compatible with septic tanks and other wastewater disposal systems, although the Project is not designed to have either septic tanks or wastewater disposal systems.

f) Directly or indirectly destroy a unique paleontological resource or site unique geologic feature?

No, the Project Area does not include any unique paleontological or geologic features.

* * *

VIII. GREENHOUSE GAS EMISSIONS: Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

No. GHGs generated during the construction phase would be minimal and below all applicable thresholds. (See Appendix C.) GHGs during Project operation would be virtually non-existent, and not present a significant impact, because the solar facilities do not generate any GHGs except for occasionally visits (estimated weekly) by the applicant in a light vehicle to monitor the facilities.

The Project is consistent with the PEIR. The PEIR identified mitigation measures applicable mainly to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under

CEQA” and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.7-12.) If the planner determines, after review, that a proposed commercial-scale project has a potential to generate a significant GHG impact, the PEIR mitigation measures shall be implemented “as determined necessary” by the planner. (PEIR, p. 4.7-12.) Here, the Project has no potentially significant GHG impacts, in light of the small scale of the Project and limited GHG emissions that would occur during construction. (Appendix C.)

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

No, the proposed Project will not conflict with any plan, policy or regulation adopted for the purpose of reducing GHG emissions. (Appendix C.)

* * *

IX. HAZARDS AND HAZARDOUS MATERIALS: Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

No. The proposed Project will produce a small amount of waste associated with operational maintenance activities. PV wastes include broken and rusted metal, defective or malfunctioning modules, electrical materials, empty containers, and other miscellaneous solid materials. These wastes will be generated infrequently. Most of this material will be collected and delivered back to the manufacturer for recycling or disposed of according to legal requirements. The presence of such wastes onsite would not pose a risk to surrounding properties and transporting it off site poses no threat or risk due to the inert nature of the waste materials.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

No. The proposed Project will not involve the use of a significant hazardous material. The operation of a PV solar facility does not involve the presence of any liquid wastes or hazardous materials readily capable of migrating to off-site properties. No battery storage will occur on site, or associated hazardous materials, as the solar facilities will connect directly to existing power lines operated by SCE. No significant hazard to the public or environment through a reasonably foreseeable upset or accident that could result in the release of hazardous materials is anticipated.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials,

substances, or waste within one-quarter mile of an existing or proposed school?

No. The proposed Project is not within one-quarter mile of an existing or proposed school, nor will it emit hazardous emissions, nor involve the handling of acutely hazardous materials, substances, or waste.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

No, the proposed Project is not located on a site included on a list of hazardous material sites compiled pursuant to Government Code section 65962.5.

e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the project area?

No. The Project operates passively and with little human intervention, and there will be no people typically working in the Project Area that could be affected by airport operations. The Project also does not pose a danger to Trona Airport maintenance workers because the airport is not a public use airport. Additionally, the airport is not used with enough frequency to pose a danger to anyone working in the Project Area.

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

No, the project will not physically interfere with an adopted emergency plan or emergency evacuation plan.

g) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

No, risk of loss, injury, and death involving wildland fires are not significant from this Project. Fire risks are identified as moderate at the Project Area, and no areas in proximity to it can be considered urbanized. Land surrounding the Project Area are not heavily vegetated and there are only a few residences in the proximity; therefore, the risk of loss, injury, or death involving

wildland fires is less than significant, and any potential risk is further mitigated by compliance with California Building Standards.

* * *

X. HYDROLOGY AND WATER QUALITY: Would the project:

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

No. The Project will not violate any water quality standards or waste discharge requirements. The Project Area is pre-disturbed. The Project Area is in a region characterized by a low level of precipitation. Project construction will involve some trenching and minor grading to level the land, which does not present a significant risk of violating any water quality standards or substantially degrading surface or groundwater quality. The applicant intends to use stabilized construction entrance and exits would be installed at driveways to reduce tracking of sediment onto adjacent public roadways. The Project is subject to regulation by the Lahontan Regional Water Quality Control Board and the Inyo County Environmental Health Department and will meet all applicable requirements.

b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

No. The Project will not have any effect on local groundwater. The project will not use local groundwater for its water needs, which are limited to dust control. All groundwater needs will be supplied by mobile trucks supplying water to the job site. Water demands are estimated at 40,000 gallons/week for dust control and site preparation and water will be trucked in from the Searles Domestic Water Company, located in Trona. The Project will not introduce any significant new areas of impervious surfaces that will prevent groundwater recharge.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

i) Result in substantial erosion or siltation on or off-site?

No. The Project proposes extremely minimal grading and no new impermeable or impervious surfaces. Other than installing a small concrete pad, no paving or other activities will increase the number of impermeable surfaces that could cause erosion or siltation. No drainage patterns

will be altered. Other than rare storm related overland run-off situations, no water passes over or through the Project Area.

- ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off-site?

No. The Project will not significantly change the landscape or existing runoff patterns or redirect or block flood flows. No drainage patterns or rates of runoff will be altered by the Project.

- iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

No. The Project is proposed in an area that is already disturbed and will have no substantial changes to runoff patterns. No increase in stormwater runoff will occur as a result of the Project.

- iv) impede or redirect flood flows?

No, the Project is in an area that is already disturbed and is not located in a flood hazard area.

- d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

No, the Project is in an area that is already disturbed, and is not located in a flood hazard, seiche or tsunami zone. Note that the BRE identified a potential surface water drainage based on prior mapping but no evidence of any such feature exists onsite and the mapping is therefore considered to be in error or outdated.

- e) Conflict with or obstruct implementation of a water quality control plan or sustainable ground water management plan?

No, the Project will not affect compliance with or implementation of the Lahontan Region water quality control plan and is not in an area included in a sustainable groundwater management plan.

* * *

XI. LAND USE AND PLANNING: Would the project:

- a) Physically divide an established community?

No, there is no established community in the vicinity of the Project, and the Project would not physically divide such a community.

- b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

No, the Project is consistent with the current zoning and advances the goals for renewable energy generation for the southern portion of the county, as described in the REGPA. This part of the Trona area also is explicitly called out and designated for solar energy generation as part of the southern Trona SEDA.

* * *

XII. MINERAL RESOURCES: Would the project:

- a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

No. The Project Area has no known mineral resources of value to the region or state. The Project Area is not in a mapped area of regional or statewide significance by the State Mining and Geology Board. Development of the surface for solar generation would not in any event result in the permanent loss of mineral resources unexpectedly in this location.

- b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

No, there are no known locally important mineral resources delineated in any land use plan that would be affected by the Project.

* * *

XIII. NOISE: Would the project:

- a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan

or noise ordinance, or other applicable standards of other agencies?

All potential noise impacts are within the scope of the PEIR analysis and will be subject to the PEIR mitigation measures. The PEIR evaluated the impacts of construction noise, including the use of construction equipment for grading, trenching, mast installation, installation of concrete footings, movement of heavy equipment and transportation of materials by truck. The PEIR also listed the individual equipment types that would be used to install a solar panel array, and the estimated noise levels associated with each item of equipment. (See PEIR, pp. 4.12-16 – 4.12-18.) The Project would use construction equipment of the types listed in the PEIR, and follow a construction process consistent with, or less impactful than, that anticipated in the PEIR. In this regard, the PEIR focused on utility-scale solar projects. The Project is a smaller, commercial-scale Project that will utilize a construction process that is comparatively light and short term in comparison to utility-scale projects. Trenching and grading will take two days using one grader, one backhoe and a water truck. Panel installation will occur over an estimated two months. No nighttime construction will occur. The Project does not present noise impacts that substantially differ from, or that are more impactful than, those analyzed in the PEIR. As such, the Project is within the scope of the PEIR pursuant to CEQA Guidelines section 15168(c)(2).

The PEIR adopted Mitigation Measure MM NOI-2 (“Implement construction noise reduction measures”) to ensure that construction noise impacts are avoided or reduced below a level of significance and would have no significant unavoidable adverse impacts. (PEIR, pp. 4.12-18.) The PEIR listed the following five mitigation measures:

If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT’s Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:

- Whenever feasible, electrical power will be used to run air compressors and similar power tools.*
- Equipment staging areas will be located as far as feasible from occupied residences or schools.*
- All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.*
- Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.*
- Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings.*

NOI-2 incorporated certain best management practices (BMPs) from REAT’s Best Management Practices and Guidance Manual (REAT 2010) for desert renewable energy projects. In regard to potential noise impacts, the manual lists 10 BMPs:

- 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.*
- 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.*
- 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.*
- 4) *Ensure all stationary construction equipment (i.e., compressors and generators) is located as far as practicable from nearby residences.*
- 5) *If blasting or other noisy activities are required during the construction period, notify nearby residents and the permitting agencies 24 hours in advance.*
- 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.*
- 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.*
- 8) *Install mufflers on air coolers and exhaust stacks of all diesel and gas-driven engines. Equip all emergency pressure relief valves and steam blow-down lines with silencers to limit noise levels.*
- 9) *Contain facilities within buildings or other types of effective noise enclosures.*
- 10) *Employ engineering controls, including sound-insulated equipment and control rooms, to reduce the average noise level in normal work areas.*

The western and northwestern edge of the Project Area is approximately 400 feet from two residential structures located westerly of the Project Area. Under CEQA Guidelines section 15168(c)(3), the Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of the residential structures.

Once the Project is constructed, operational noise sources will be limited to pad-mounted transformers and tracker array motors. Transformers will be located farther than 500 feet from a residence or other noise-sensitive land use and would not require further analysis under MM NOI-1 in the PEIR. Tracker motors generate low noise levels (see PEIR Table 4.12-4) and are sufficiently far from noise-sensitive land uses to have no potential noise-related impacts and to not require further noise study or mitigation. (See PEIR, p. 4.12-19.) As such, the operational impacts are expected to be less than significant.

b) Generation of excessive groundborne vibration or groundborne noise levels?

No, the Project involves relatively light ground disturbance with few vehicles. No excessive groundborne vibration or groundborne noise is expected. Considering the types of equipment that will be used, impacts associated with groundborne noise or vibration would be within the scope of the PEIR and less than significant. (See PEIR p. 4.12-15.)

c) For a project located within the vicinity of a private airstrip or, an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

No. Trona Airport is not public, nor is it used with frequency, and it is typically used by light aircraft only. The proposed Project will have minimal noise levels due to its nature and will not create excessive noise levels for personnel working near the Project Area. The Project Area is not immediately below any established flight path and persons working at the Project Area would not be exposed to any significant level of aircraft noise.

Mitigation Measures: *All potential impacts are within the scope of the PEIR analysis. The Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures.*

* * *

XIV. POPULATION AND HOUSING: Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

No. The Project is not likely to induce any population growth. The Project Area requires few maintenance personnel and will be monitored mostly remotely from offsite locations. No new residents are expected to result from the Project.

b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

No, the proposed Project will not displace existing housing or create a situation where replacement housing will be necessary. No housing currently exists in the Project Area. No existing housing will be removed to construct or operate the Project. The Project will have no effect on the level of housing in the Project Area or on surrounding properties.

* * *

XV. PUBLIC SERVICES: Would the project:

a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?

No. The Project is not considered to be located in a high-risk area for fire protection. The Project Area has no trees or established vegetation. The San Bernardino Fire Department (which provides fire protection services in the Trona community) was consulted on the Project. No concerns related to the Project Area were given.

Police protection?

No. No new police service will be required because of the Project. Offsite private security measures will mostly be used to monitor the Project Area.

Schools?

No, no new students or residents, or associated school services, will be required because of this Project.

Parks?

No, no new parks will be required because of the Project.

Other public facilities?

No, the proposed Project will not create substantial adverse physical impacts associated with a need for any other foreseeable public services.

* * *

XVI. RECREATION: Would the project:

a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

No, the proposed Project will not increase the use of existing recreational facilities. It is not anticipated that any portion of this Project will result in a change in the level of service required to provide parks or other recreational facilities.

b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

No, the proposed Project does not include recreational facilities, nor will it cause a need for an increase in parks or other recreational facilities that might have an adverse physical effect on the environment.

* * *

XVII. TRANSPORTATION:

a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?

No. The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.

b) Conflict or be inconsistent with CEQA Guidelines § 15064.3(b)?

No. The project will not result in an adverse change with respect to vehicle miles traveled (VMT). The Project will not significantly increase passenger vehicle traffic or commuter traffic in the region. Construction related traffic generally will be light. When construction is complete, the Project will be remotely monitored and have maintenance personnel on-site as needed during daytime hours. The Project is not within one-half mile of either an existing major transit stop or high-quality transit corridor. The Project will result in less than significant impacts to this resource.

c) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

No. The proposed Project will not result in any design features that increase transportation hazards. No changes will occur to public roads, including the Trona Wildrose Road. No curves or dangerous intersections will be added to the existing unpaved access road leading to the Project Area. Automobiles and trucks will be accommodated in the Project Area.

d) Result in inadequate emergency access?

No, the Project is proposed on properties that are directly adjacent to, and accessible from, Trona Wildrose Road and emergency access is and will continue to be available.

* * *

XVIII. TRIBAL CULTURAL RESOURCES: Would the project:

a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

No. The Project Area undeveloped and cleared of vegetation with no known tribal cultural resources. The proposed Project does not contain a resource eligible for listing in the California Register of Historical Resources, or in a local register for historical resources as defined in Public Resource Code section 5020.1(k). If any archeological or cultural resources are discovered on the site, work shall immediately stop, and Inyo County staff shall be immediately notified per Chapter 9.52 of the Inyo County Code.

- ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

The Project Area is vacant and undeveloped. It does not contain any resource determined by the County to be significant pursuant to criteria set forth in subdivision (c) of the Public Resource Code section 5024.1 (i.e., is associated with events that made a significant contribution to the state's cultural patterns, is associated with the lives of persons important in our past, embodies the distinctive characteristics of a type or period, or has yielded or may yield information important in prehistory or history).

* * *

XIX. UTILITIES AND SERVICE SYSTEMS: Would the project:

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

No. The proposed Project is for the approval of a PV solar facility that will primarily be remotely monitored and involve no continuous human presence. The Project will not result in the construction or relocation of new or expanded utility, wastewater, or other utility service systems. The goal of the Project is to create a sustainable supply of electric power, and it will not increase demand for utilities whatsoever.

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

No impact. During operation, water needs will be no more than 1.0-acre feet per year and will be utilized primarily for panel washing 2-4 times annually. During active construction, light water consumption (relative to other construction uses) will be required for dust suppression. All water needs will be covered via trucking it in from Searles Domestic Water Company, located in Trona. No landscaping water will be required.

c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

No. The Project would not generate wastewater requiring disposal or contribute to demand for wastewater treatment.

d) Generate solid waste in excess of state or local standards, or in excess of the capacity of soil infrastructure, or otherwise impair the attainment of solid waste reduction goals?

No. The Project will not require changes to the current solid waste capacity to accommodate them. Solid waste needs for the project will be minimal. Most of the volume of solid waste (scrap metals, electrical equipment, and proprietary solar array features) will be collected and recycled.

- e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

No impact. The Project and any future development will comply with Inyo County's solid waste standards, as required by the Inyo County Department of Environmental Health.

* * *

XX. WILDFIRE:

- a) Substantially impact an adopted emergency response plan or emergency evacuation plan?

No. There is not an adopted emergency response or evacuation plan for the area in which the Project is proposed.

- b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

No. The Project Area is on flat or gently-sloped land. It lacks vegetation and vegetation is sparse in the area, characterized mainly by desert scrub, making wildfire risks moderate to low. There will be no project occupants, and the project area is physically separated from surrounding structures. The proposed Project does little to add to the wildfire risk in the area. The risk of loss, injury or death involving wildland fires is less than significant at this site, and any potential risk is further mitigated by compliance with California Building Standards.

- c) Require the installation or maintenance of associated infrastructure (such as roads, fuel break, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

No. The Project will not cause the need for additional wildfire associated infrastructure.

- d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

No. The Project is on already graded and disturbed land. The addition of solar facilities will not create downslope or downstream flooding or landslides.

* * *

XXI. MANDATORY FINDINGS OF SIGNIFICANCE:

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number, or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

No, the Project will not impact or degrade the quality of the environment. The limited impact to resources in the Project Area can be mitigated to less than significant levels. Minimization measures have been written into the Mitigation Monitoring and Reporting Program for the permits and include: pre-activity surveys; avoidance buffers for desert kit fox; noise control measures subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures, dust mitigation measures to control air quality issues, and the monitoring efforts of a representative from local native American tribes in case native artifacts or human remains are uncovered.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a Project are considerable when viewed in connection with the effects of past Projects, the effects of other current Projects, and the effects of probable future Projects)?

No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note in the vicinity are PV solar projects within the Trona SEDA, but the overall number and size of these projects are likely to be less than analyzed in the PEIR. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

No, the Project has no known environmental effects that will cause substantial adverse effects on human beings either directly or indirectly.

EXHIBIT 2



Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

Phone: (760) 878-0263
FAX : (760) 872-2712
E-Mail : inyoplanning@inyocounty.us

RECIRCULATED
DRAFT MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT AND
INITIAL STUDY

PROJECT TITLE: Renewable Energy Permit 2022-02/Barker-Trona 4

PROJECT LOCATION: The Project site is located approximately 3 miles north of the unincorporated community of Trona, California. The property is on private land owned by Robbie Barker, Assessor parcel numbers 038-330-32, 038-330-33 and 038-330-34.

PROJECT DESCRIPTION: The applicant is applying for a Renewable Energy Permit to construct a 3.0 Megawatt (MW) photovoltaic solar facility using approximately 6,000 fixed single-axis tracker solar panels. The project site is located on 15-acres that are previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.

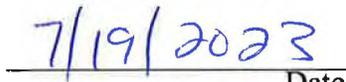
FINDINGS:

- A. The proposed project is consistent with goals and objectives of the Inyo County General Plan.
- B. The proposed project is consistent with the provisions of the Inyo County Zoning Ordinance.
- C. Potential adverse environmental impacts will not exceed thresholds of significance, either individually or cumulatively.
- D. Based upon the environmental evaluation of the proposed project, the Planning Department finds that the project does not have the potential to create a significant adverse impact on flora or fauna; natural, scenic, and historic resources; the local economy; public health, safety, and welfare. This constitutes a Mitigated Negative Finding for the Mandatory Findings required by Section 15065 of the CEQA Guidelines.

The 30-day public review period for this Draft Mitigated Negative Declaration will expire on August 25, 2023. Inyo County is not required to respond to any comments received after this date.

Additional information is available from the Inyo County Planning Department. Please contact Project Planner Cynthia Draper (760-878-0265) if you have any questions regarding this project.


Cathreen Richards
Director, Inyo County Planning Department


Date



Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

Phone: (760) 878-0263
FAX: (760) 872-2712
E-Mail: inyoplanning@inyocounty.us

INYO COUNTY PLANNING DEPARTMENT

APPENDIX G: CEQA INITIAL STUDY & ENVIRONMENTAL CHECKLIST FORM

1. Project title: Renewable Energy Permit 2022-02/Barker- Trona 4
2. Lead agency name and address: Inyo County Planning Department, PO Drawer L, Independence, CA 93526
3. Contact person and phone number: Cynthia Draper: (760) 878-0265
4. Project location: The property is on private land owned by Robbie Barker, Assessor parcel numbers 038-330-32,038-330-33,038-330-34.
5. Project sponsor's name and address: Robbie Barker 82740 Trona Rd., Trona, CA 93562
6. General Plan designation: Residential Estate (RE), SEDA overlay
7. Zoning: Rural Residential (RR-5.0)
8. Description of project: The applicant is applying for a Renewable Energy Permit to construct a 3.0 Megawatt (MW) photovoltaic solar facility using approximately 6,000 fixed single-axis tracker solar panels. The project site is located on 15-acres that are previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.
9. Surrounding land uses and setting: The property is surrounded by undeveloped land, sparse residential dwellings, and commercial uses (such as equipment storage). Developed areas include the Trona Airport, scattered residences, and scrap yards. The surrounding parcels are highly disturbed, devoid of plants or native habitat. Weed abatement has been performed throughout the area.

Location:	Use:	Gen. Plan Designation	Zoning
North	Vacant	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
South	Developed/Solar	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
East	Vacant/ BLM	State and Federal lands (SFL)/Open space rec (OSR)	Open Space (OS-40)
West	Vacant/ (MS) Misc structure	Residential Estate (RE)	Rural Residential (RR-5.0-MH)

10. Other public agencies whose approval is required: Inyo County Building and Safety, Inyo County Environmental Health, Inyo County Public Works

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun?

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 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 Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidentiality.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics Resources | <input type="checkbox"/> Agriculture & Forestry | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Energy |
| <input type="checkbox"/> Geology /Soils | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials |
| <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation | <input type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Wildfire | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION

On the basis of this initial evaluation:

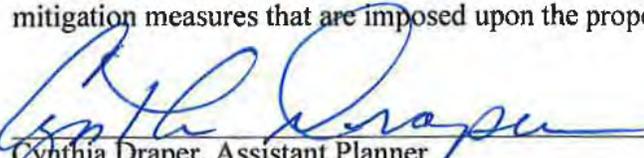
I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.


Cynthia Draper, Assistant Planner
Inyo County Planning Department

Date 7/19/23

**RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION
ENVIRONMENTAL CHECKLIST FORM**

Renewable Energy Permit 2022-02/Barker- Trona 4

REGULATORY BACKGROUND

The Inyo County General Plan provides a vision for Inyo County’s long-range physical and economic development, including resource development and conservation. The General Plan contains implementing strategies, policies and programs enabling this vision to be accomplished. On March 24, 2015, the Board of Supervisors adopted an amendment to the General Plan known as the Renewable Energy General Plan Amendment (“REGPA”). The REGPA regulates the type, siting, and size of renewable energy solar development projects in the County through adoption of land use policies consistent with the broader goals in the General Plan.

The REGPA differentiates renewable energy solar facilities based on their size and output. It defines “utility-scale” facilities as those generating at least 20 megawatts (MW) for off-site use, consumption or sale. Facilities that generate less than 20 MW may include “commercial-scale” or “community-scale” facilities, depending on whether electricity is produced for off-site use or for use by a specific community. The REGPA states that the County “shall encourage the development of” commercial and community-scale facilities.

The REGPA also designated seven different areas of the County, known as Solar Energy Development Areas (SEDAs), where renewable energy solar facilities would be allowed. Policy LU-1.17 permits utility-scale and commercial-scale facilities to be considered in SEDAs, subject to any necessary environmental review. Renewable energy solar development within a SEDA is allowed in any zoning classification. The Trona SEDA covers an approximately 7.1-mile area in the Searles Valley, north of the unincorporated community of Trona. The REGPA allows 600 acres of renewable energy development in the Trona SEDA.

When the County adopted the REGPA in 2015, it certified a Programmatic Environmental Impact Report (PEIR). The PEIR analyzed the impacts of renewable energy solar development throughout the County. It identified less-than-significant environmental impacts to agriculture and forestry resources, air quality, geology, and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, socioeconomics, transportation and circulation, and utilities and service systems. The PEIR identified potentially significant and unavoidable impacts to aesthetics, biological resources, and cultural resources, and included mitigation measures to reduce these impacts to the extent feasible.

ENVIRONMENTAL SETTING

Inyo County covers approximately 10,200 square miles and is located on the east side of the Sierra Nevada Mountain range, within the east-central part of California. The County is primarily rural and undeveloped, characterized by open expanses, wide valleys and mountains ranging from low hills to jagged peaks. Elevations are from 282 feet below sea level within Death Valley National Park to 14,505 feet above sea level (amsl) in the Sierra Nevada

mountains. The climate typically is arid to semi-arid, marked by low precipitation, abundant sunshine, frequent winds, moderate to low humidity, and high evapotranspiration.

The Project is located in the Searles Valley, at the southern edge of the County, north of the unincorporated Trona community, and in the Trona SEDA. As noted above, the SEDA covers approximately 7.1 square miles (4,550 acres). Most of the SEDA is undeveloped. Roughly 60 percent is managed by BLM, with the remainder under private ownership. Developed features include Trona Airport, scattered rural residences, and scrap yards. North of the airport lies Valley Wells, a state historical landmark, consisting of small buildings, abandoned recreational facilities, a desert golf course and well field. The Trona area is sparsely populated, containing less than 2,000 people.

Elevations within the Trona SEDA range from 2,100 feet to 1,650 feet amsl. The average January temperatures range from 32-58 degrees Fahrenheit, and in July from 73-105 degrees. Annual precipitation is low, averaging 3.98 inches. The habitat consists mainly of alkali desert scrub flats with ephemeral washes, with an open composition and canopy cover less than 50 percent.

Topography in the Trona SEDA, within the center of the northern Searles Valley, is generally level or gently sloped. Steeper terrain occurs to the west (the Argus Range), east, and north (the Slate Range). Surface exposures consist predominantly of late Quaternary alluvial/lake deposits, sandy to loamy topsoil with Mesozoic granitic intrusive rocks to the west, and areas to the east and north exhibiting an assemblage of Precambrian/Paleozoic metasediments, Mesozoic granitic intrusives, Mesozoic and Tertiary volcanics, and older Quaternary alluvial/sedimentary deposits. No mapped faults exist in the Searles Valley. The nearest mapped fault is the Panamint Fault, approximately 10 miles east.

The Trona SEDA is within the South Lahontan Basin, as designated in the 1995 (as amended) Lahontan RWQCB Water Quality Control Plan for the Lahontan Region (Basin Plan). The Trona SEDA is within the areal extent of the Searles Valley Groundwater Basin (Searles Basin), which includes an area of approximately 197,000 acres, and a water-bearing strata consisting of a thick (at least 750 feet) sequence of younger unconsolidated alluvial deposits and underlying (locally semi-consolidated) older alluvium.

Average reported municipal/irrigation well depths in the Searles Basin are approximately 300 feet (DWR 2003). Estimated groundwater storage capacity is 2.1 million acre-feet. Groundwater is characterized mainly as calcium-sodium-bicarbonate or sodium-calcium bicarbonate in nature, with groundwater near Searles Lake described as sodium-chloride in nature. The northwestern and southwestern portions of the Searles Basin exhibit generally good water quality (with locally elevated fluoride and nitrate levels), while areas near Searles Lake have poor water quality with TDS levels of between 12,000 and 420,000 mg/l (DWR 2003).

The Trona SEDA is within the Great Basin Valleys Air Basin (Air Basin). The Air Basin is named for its geological formation of valleys surrounded by mountains. Air rises and sinks due to the heat in the valleys and height of the mountains, which causes the air to settle in the valleys and low-lying areas. Areas in the Air Basin are under the jurisdiction of the Great Basin Unified Air Pollution Control District (GBUAPCD), which regulates air pollutant emissions for all stationary sources within the Air Basin.

In 1987, the Trona area was designated as a PM-10 nonattainment area by the United States EPA. The main source of PM-10 emissions in the region is the dry Owens Lake lakebed, which is located approximately 50 miles northwest of the Project. At the time, the Trona area was part of the Coso Junction Planning Area. In 2002, the US EPA redesignated the Searles Valley into three separate areas, and made a finding of attainment for Trona. (Federal Register, 2002a, 2002b.)

PROJECT DESCRIPTION

The applicant has applied for two renewable energy permits for two separate photovoltaic (PV) solar facilities on contiguous land ("Project"). The applicant submitted two separate applications because each facility would separately connect to the existing Southern California Edison (SCE) 33-kV transmission line passing through the area. This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.

The first application (No. 2022-01), known to the applicant as "Trona 7," proposes a PV solar facility on a five-acre parcel, consisting of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.

The second application (No. 2022-02), also known as Trona 4, proposes a PV solar facility within a 15-acre parcel that is contiguous (i.e., has a common corner) with the Trona 7 site. The facility would generate 3.0 MW of electricity utilizing approximately 6,000 single-axis tracker solar panels. The site also is previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.

Both proposed facilities (collectively, the 20-acre "Project Area") are located approximately three miles north of the Trona community and one mile west of the Trona Airport. The elevation of the Project Area is approximately 1,700 feet amsl. It has no history of agricultural use and is not federally managed. According to FEMA, the Project Area is within an Area of Minimal Flood Hazard.

Zoning in the Project Area is rural residential. Approximately five residential structures are within 0.5 miles of the Project Area, located mostly south and west. Two of these structures are approximately 400 feet from the edge of the Project Area (most of the Project Area is farther to the east and extends up to approximately 2,300 feet distant from these structures). Other land use in 0.5 miles of the Project Area include storage of equipment and vehicles, scrap yards and storage units. Representative photographs are included in Appendix A. Agricultural use of surrounding land is minimal. Agriculture and farming are not significant land uses in the area.

Construction will consist of limited grading in some areas, as the Project Area is already predominantly level and graded. Appendix B (Biological Resources Evaluation) documents the onsite conditions. Shallow trenching will be required for underground conduits, and one 20x20-foot concrete pad will be placed on each site to support the transformers. Following grading and

trenching, metal poles or masts will be installed into the ground to support the solar panels. Grading and trenching will require approximately two days. Pole and panel installation will take an estimated two months. Appendix C contains an equipment list, operating hours and projected air emissions.

Dust control measures will be used at all times during construction, and during Project operations (the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity). Dust controls during construction will consist of a watering truck, the application of crushed limestone to the ground, and application of a non-toxic clay polymer known as EarthGlue (specifications in Appendix D). Stabilized construction entrance and exits will be used to reduce sediment trackout onto the adjacent public roadway. During operations, limestone and EarthGlue will control dust.

Once installed, the solar panels will reach a maximum height of 12 feet above the ground (or less, as the panels change slightly in height as they rotate slowly throughout the day to track the sun). Panels will feature anti-reflective coatings to reduce daytime glare and reflectivity. Each facility will be fenced to prevent unauthorized access. Representative photographs of the panels and tracker supports are in Appendix E, showing a recently constructed solar project located on adjacent land (described in more detail below) that uses the same equipment design and components to be used by the Project.

The Project is the second renewable energy solar project proposed for the Trona SEDA. The prior project, on 10 acres adjacent to the Project Area, was approved and has been constructed by the applicant (Nos. 2018-01 and 2021-01). Another 10-acre project is reportedly in development to the south. Combined, the existing, proposed and potential future renewable solar projects are 40 acres, and account for a small part of the 600 acres allocated by the REGPA to solar projects in the Trona SEDA. Future solar projects in the Trona SEDA may not be possible, however, according to the applicant, until SCE improves its transmission infrastructure to increase its transmission capacity.

AGENCY COORDINATION AND PUBLIC INVOLVEMENT

Public notifications concerning the Project began approximately seven months ago. On November 14, 2022, the County gave public notice of the availability of a Draft Initial Study and Negative Declaration for each of the two applications. The 30-day review period ended on December 17, 2022. No comments were received.

A public hearing was set before the Planning Commission on March 23, 2023 to approve both applications. Two days before the hearing, the County received public comments from a nearby landowner, and as a result, the County postponed the hearing to May 3, 2023. Prior to the May hearing, the County received additional public comments. As a result, the County postponed the hearing again, revised the Initial Study and Mitigated Negative Declaration, and has recirculated the Initial Study and Mitigated Negative Declaration pursuant to Section 15073.5 of the CEQA Guidelines.

TRIBAL OUTREACH

In accordance with AB 52 and Public Resource Code Section 21081.3.1(b) tribes identified as being local to Inyo County were notified via certified letter about the project and the opportunity for consultation on this project. The tribes were notified 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 Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

TIERED DOCUMENT

A program EIR evaluates the environmental consequences of a series of actions that together constitute a large project and share common geographic, regulatory and environmental attributes. (Cal. Code of Regs., tit. 14, § 15168(a).) If the program EIR facilitates the approval of activities within a program, the agency must scrutinize those activities, as they arise for approval, to determine if additional environmental review is needed.

An agency's assessment of the adequacy of a prior program EIR for the approval of specific activities involves an analysis of whether the activity falls within the scope of the prior EIR and whether the activity will give rise to environmental impacts that were not previously analyzed in the program EIR. (Cal. Code of Regs., tit. 14, § 15168(c).) If impacts were adequately assessed, the agency can avoid further environmental documentation. (Id., tit. 14, § 15168(c).) If further review is needed, the "tiered" document should analyze only those effects that may be significant but were not analyzed in the program EIR, or that were considered significant but can be mitigated or avoided through further analysis. (Id., tit. 14, § 15152(d); see also Pub. Resources Code, §§ 21081(a)(1), 21094(c).)

The PEIR was a program EIR pursuant to section 15168 of the CEQA Guidelines. The County has determined that certain of the Project's potential impacts are adequately addressed in the PEIR. Others require site-specific analysis and are properly assessed in a Mitigated Negative Declaration that will integrate enforceable mitigation measures from the PEIR to ensure that they are enforced at the Project level. The County is treating the Mitigated Negative Declaration as a tiered document under the PEIR. The PEIR can be found at the following website link, or by typing or pasting the following text into an internet browser:

<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volme%20II.pdf>

CHECKLIST

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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I. AESTHETICS – Would the project:

- a) Have a substantial adverse effect on a scenic vista?

No. The Project is not located near a scenic vista. The Project is near the valley floor within an area that is visually characterized by junk yards, and outdoor storage of vehicles and equipment in a high desert environment. The Project is within the Trona SEDA, which has its location and boundaries in an area that lacks an abundance of scenic resources. (PEIR, 4.1-15.)

The Project is consistent with the PEIR analysis and mitigation measures. The potentially-applicable mitigation measures (AES-1 through 6, and 9) require that site-specific visual studies be prepared for utility-scale projects (i.e., generating greater than 20 MW) and for smaller-scale projects determined by a qualified county planner to have a potential to impact visual resources in individual SEDAs. Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a qualified planner to not have a potential to impact visual resources, including a scenic vista.
<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volme%20II.pdf>

- b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

No. The Project Area has previously been disturbed with roads, storage units, and weed abatement. It has previously been graded and is devoid of natural resources such as rock outcroppings and trees. No removal of vegetative life, rock outcroppings, or historic buildings within a scenic state highway will occur. It is not located within or adjacent to any designated scenic highways mapped by the California Department of Transportation. The Project involves the placement of PV solar panels that reach a maximum height of 12 feet.

- c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly-accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

No. The Project will not affect the overall scenic integrity of the area. The Project Area is barren of natural resources that provide scenic value. The Project is in a rural, non-urbanized area and surrounded by property owners that frequently use the area for storage and scrap yards. Public views are mainly from Trona-Wildrose Road, and the Project will not substantially

degrade the existing visual character of the area from the perspective of passing motorists as the area is characterized by scrap yards and outdoor storage of materials. (Appendix A.) The low height of the panels (12 foot maximum, comparable to a single-story house) would not obstruct views of the Argus range to the west or the Slate range to the east.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

No. Due to the small size of the facilities, and their location and design, the Project will not significantly impact daytime or nighttime views. Construction will take place during the daytime hours only. Operation will not involve new light sources that affect nighttime views. The Project will use solar panels that integrate anti-reflective technology to minimize daytime glare, which is consistent with PEIR Mitigation Measure AES-6 (requiring that certain projects treat solar panels with anti-reflective coating). The boundaries and locations of SEDAs, including the Trona SEDA, were sited in areas without an abundance of scenic resources. (PEIR, 4.1-15.)

* * *

II. AGRICULTURAL AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program (FMMP) of the California Resources Agency, to nonagricultural use?

No, the Project is not located on land designated as farmland.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

No, the Project is not located on land zoned exclusively for agriculture. Inyo County has no Williamson Act contracts.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

No, the Project Area does not include forest land or timberland, or land zoned for forest land, timberland, or Timberland Production.

d) Result in the loss of forest land or conversion of forest land to non-forest use?

No, the Project is not located on forest land.

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

No, the Project is not located on farmland and is not conducive to future use as farmland. The Project Area has no history of agricultural production. To the extent that agricultural activities may exist on surrounding properties, the Project would have no impact on or interference with those activities.

* * *

III. AIR QUALITY: Where available, the significant criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?

No. There is no applicable air quality plan for the area in which the Project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards. The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. (See Appendix C, Air Quality and Greenhouse Gas Memorandum). The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.

Additionally, the Project is consistent with the PEIR analysis and mitigation measures. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. (See PEIR, p. 4.3-10.) The potentially-applicable air quality mitigation measures (AQS-1 through 3) applied to utility-scale projects of greater than 20 MW and did not apply to

smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner. Here, the Project involves a small commercial-scale facility that does not present significant air quality impacts. (See Appendix C.) Due to the size, location, low emissions well below all applicable thresholds (Appendix C) and design that incorporates dust controls and suppressants, AQS-1 through 3 are unnecessary to apply.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

No. The Project is located in an area in attainment for PM-10. The Project will be in compliance with air quality standards, as the applicant is conditioned to obtain any required permits and to follow best management practices as set forth by GBUAPCD. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) Project construction and operations will generate emissions that are well below all applicable air quality thresholds and standards. (See Appendix C.)

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

The Project is not in an area that is in non-attainment under any applicable standard. The operation of the solar project is not anticipated to result in a substantial increase in vehicular or stationary emissions once installed. As a result, long-term emissions resulting from Project operation are anticipated to be well below all applicable thresholds. (See Appendix C.) The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) The Project would not contribute to a cumulatively considerable net increase in non-attainment pollutants during operation, and impacts would be less than significant.

d) Expose sensitive receptors to substantial pollutant concentrations?

No, the proposed Project will not expose sensitive receptors to any new substantial pollutant concentrations. The construction process is low impact, involving minor leveling and digging of shallow trenches for placing underground conduits, and installation of a single 20'x20' concrete pad for a transformer. There are no nearby schools or hospitals. Few houses are in proximity to the Project Area. During construction, windblown dust will be controlled by watering, the application of limestone, and the application of a dust suppressant. Vehicle emissions will be well below applicable thresholds of significance during construction and operations. (See Appendix C.) During Project operation, the solar facility will not produce pollutants.

e) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

The proposed Project will not produce objectionable odors during the life of the operation. The Project will use typical construction techniques and the odors would be typical of most construction sites and temporary in nature.

* * *

IV. BIOLOGICAL RESOURCES:

Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

No. The Project Area has been inspected by County planning staff and by a qualified biologist. No CDFW or USFWS designated special status species were found in Project Area. The Project Area is graded, cleared of any significant vegetation, and contains no native habitat. No impacts through habitat modification are anticipated.

*A Biological Resource Evaluation (BRE) was performed by qualified biologists. (Appendix B.) The BRE surveyed the Project Area and a 250-foot buffer. No significant biological resources (plant or wildlife) were found present in the Project Area or buffer. In particular, the BRE found no evidence of desert tortoise (*Gopherus agassizii*) or suitable foraging habitat or other habitat for desert tortoise. The BRE also found no evidence of Mohave ground squirrel (*Xerospermophilus mohavensis*) or associated burrows and noted that the nearest population of Mohave ground squirrel is 8.2 miles southwest, and the nearest core population is 25 miles northwest.*

*The BRE concluded that the desert kit fox (*Vulpes macrotis arsipus*) could potentially visit the Project Area as a transient forager, but the Project Area and surroundings lack optimal denning habitat due to existing ground disturbance. The BRE also found a potential for nesting birds or raptors to forage and/or nest in the Project Area or buffer, using utility poles, although no active or inactive nests were observed. Nesting migratory birds and other raptors species, protected by the Migratory Bird Treaty Species Act, were not observed but have a potential to occur in or near the Project Area and surrounding areas. (Appendix B.)*

To mitigate the potential for impacts to desert kit fox and protected bird species, the BRE recommended Best Management Practices and avoidance measures including: a pre-activity survey, a vehicle speed limit of 20mph, covering of trenches, and proper disposal of food items, as set forth more specifically in the BRE. With these measures, the Project is not expected to significantly impact candidate, sensitive, or special status species.

The Project is consistent with the PEIR. The biological resource mitigation measures identified in the PEIR apply to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under CEQA" and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.4-122-123.) If the planner determines, after review, that a proposed commercial-scale project has a potential to impact biological resources, the PEIR mitigation measures shall be implemented "as determined necessary" by the planner. (PEIR, p. 4.4-123.) Here, the Project has no potential to impact biological resources other than potential impacts to desert kit fox and bird species. The mitigation measures in the BRE will ensure that the potential impacts to desert kit fox and bird species are less than significant, and it is unnecessary to implement any additional mitigation measures from the PEIR.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

No, there is no identified riparian habitat or other sensitive natural community in the Project Area or in close proximity that would be affected by the Project. The USFWS National Wetlands Inventory (USFWS 2014b) shows no freshwater wetlands near the Project Area. No protected natural areas are located within the Trona SEDA.

c) Have a substantial adverse effect on state or federal protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No, there are no federally protected wetlands in or near the Project Area, nor would the nature of the Project cause fill material or Project contaminants to enter flowing water.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

No, although the Project Area could potentially have occurrences of wildlife species, the Project will not interfere with migratory fish or wildlife species. As stated in the BRE, there are no known wildlife movement corridors or habitat linkages that intersect the Project Area. The Project Area is within a highly disturbed area and provides minimal linkage between suitable natural habitats for most wildlife species. The BRE anticipates no substantial movement of wildlife onto or from the Project Area.

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

No, there are no local policies or ordinances in place protecting biological resources that pertain to the Project Area.

- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

No, there are no adopted habitat or conservation plans that affect the Project Area. The proposed Project is within an area specifically designated for solar energy development pursuant to the REGPA.

Mitigation Measures: *The applicant shall implement all Best Management Practices recommended in Section 6 of the BRE (i.e., pre-activity surveys; avoidance buffers for desert kit fox; Worker Environmental Awareness Training Program; speed limit of 20-mph; covering of trenches deeper than two feet at the close of work day; inspection of pipes and culverts greater than four inches before burial; trash and food items onsite must be discarded into closed containers; no pets should be permitted onsite).*

* * *

V. CULTURAL RESOURCES: Would the project:

- a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?

No, the Project will not cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5. The Project Area is vacant and undeveloped. It does not contain resources listed in, or determined to be eligible by, the State Historical Resources Commission for listing in, the California Register of Historical Resources, or any local register of historical resources. The Project Area also does not contain any known structures, features or sites that may be historically significant.

- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?

No, the Project does not contain any known archaeological resources, and will not cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5. Project construction requires limited ground-disturbance on land that is already flat, making the disturbance or discovery of unanticipated cultural, archaeological, or historical resources unlikely.

If any archaeological or cultural resources are inadvertently discovered in the Project Area, work shall immediately desist and County staff shall be immediately notified per Chapter 9.52, Disturbance of Archaeological, Paleontological and Historical Features of the Inyo County Code. The County will then work with the operator and local tribal members, including tribal THPOs, to develop a plan for preservation, protection, or relocation of the resource. With this mitigation measure, the Project will not cause an adverse change in the significance of an archaeological resource pursuant to Section 15064.5

c) Disturb any human remains, including those interred outside of dedicated cemeteries?

No, there are no known human remains or burial sites in the Project Area. Additionally, it is unlikely that such remains would be discovered due to the minimal nature of earth-disturbance on the Project site. However, if human remains are uncovered, the discovery would be treated in the same manner as an archeological resource described in (V b) above (i.e., work would cease immediately and remain stopped until a plan was developed for preservation, protection, or removal).

* * *

VI. ENERGY: Would the project:

a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

No, the Project is to construct a PV solar facility, totaling approximately 3.0 MW of generating capacity, that uses only a small amount of energy, and is required to meet California building standards including green and title 24 standards.

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

No, the Project is to construct a PV solar facility, totaling approximately 3 MW of generating capacity, located in one of the counties solar energy development areas (SEDAs), as identified by the General Plan. The project will generally advance state and local plans for renewable energy, rather than conflict with or obstruct such plans.

* * *

VII. GEOLOGY AND SOILS: Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

- i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

No, the Project is not in an Alquist-Priolo zone. The Project operates with little human intervention and would not expose people to significant risk of injury. In addition, the nature of the solar panels, and their low height, does not make them readily susceptible to adverse effects during seismic activity. Also, subsequent to the approval of the permit, the applicant shall work with the Inyo County Department of Building and Safety to ensure any building activities meet State and County Codes.

- ii) Strong seismic ground shaking?

No, the State Geologist has not mapped any faults in the Searles Valley in the vicinity of the Project. In addition, seismic activity and ground shaking can occur anywhere in the region, but compared to much of the rest of California, this is a less than average seismically active area. The California Building Code ensures that structures be constructed to required seismic standards in order to withstand such shaking.

- iii) Seismic-related ground failure, including liquefaction?

No, the Project is not within an area of soils known to be subject to liquefaction.

- iv) Landslides?

No, the Project Area is flat or gently sloping, and is not in an area prone to landslides.

- b) Result in substantial soil erosion or the loss of topsoil?

No, Project construction is limited to trenching for conduits, and minor grading to level the ground surface as needed. The limited scale of ground disturbance is not expected to result in a risk of substantial soil erosion or loss of topsoil, and in addition, the placement of limestone will stabilize the surface to protect against the low risk of erosion.

- c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or offsite landslide, lateral spreading, subsidence, liquefaction or collapse?

No, the proposed Project is not located in an area with a geologic unit or soil that is known to be unstable. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

No, the proposed Project is not located in an area with a known expansive soil type. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

No, the soils are compatible with septic tanks and other wastewater disposal systems, although the Project is not designed to have either septic tanks or wastewater disposal systems.

f) Directly or indirectly destroy a unique paleontological resource or site unique geologic feature?

No, the Project Area does not include any unique paleontological or geologic features.

* * *

VIII. GREENHOUSE GAS EMISSIONS: Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

No. GHGs generated during the construction phase would be minimal and below all applicable thresholds. (See Appendix C.) GHGs during Project operation would be virtually non-existent, and not present a significant impact, because the solar facilities do not generate any GHGs except for occasionally visits (estimated weekly) by the applicant in a light vehicle to monitor the facilities.

The Project is consistent with the PEIR. The PEIR identified mitigation measures applicable mainly to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under

CEQA” and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.7-12.) If the planner determines, after review, that a proposed commercial-scale project has a potential to generate a significant GHG impact, the PEIR mitigation measures shall be implemented “as determined necessary” by the planner. (PEIR, p. 4.7-12.) Here, the Project has no potentially significant GHG impacts, in light of the small scale of the Project and limited GHG emissions that would occur during construction. (Appendix C.)

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

No, the proposed Project will not conflict with any plan, policy or regulation adopted for the purpose of reducing GHG emissions. (Appendix C.)

* * *

IX. HAZARDS AND HAZARDOUS MATERIALS: Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

No. The proposed Project will produce a small amount of waste associated with operational maintenance activities. PV wastes include broken and rusted metal, defective or malfunctioning modules, electrical materials, empty containers, and other miscellaneous solid materials. These wastes will be generated infrequently. Most of this material will be collected and delivered back to the manufacturer for recycling or disposed of according to legal requirements. The presence of such wastes onsite would not pose a risk to surrounding properties and transporting it off site poses no threat or risk due to the inert nature of the waste materials.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

No. The proposed Project will not involve the use of a significant hazardous material. The operation of a PV solar facility does not involve the presence of any liquid wastes or hazardous materials readily capable of migrating to off-site properties. No battery storage will occur on site, or associated hazardous materials, as the solar facilities will connect directly to existing power lines operated by SCE. No significant hazard to the public or environment through a reasonably foreseeable upset or accident that could result in the release of hazardous materials is anticipated.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials,

substances, or waste within one-quarter mile of an existing or proposed school?

No. The proposed Project is not within one-quarter mile of an existing or proposed school, nor will it emit hazardous emissions, nor involve the handling of acutely hazardous materials, substances, or waste.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

No, the proposed Project is not located on a site included on a list of hazardous material sites compiled pursuant to Government Code section 65962.5.

e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the project area?

No. The Project operates passively and with little human intervention, and there will be no people typically working in the Project Area that could be affected by airport operations. The Project also does not pose a danger to Trona Airport maintenance workers because the airport is not a public use airport. Additionally, the airport is not used with enough frequency to pose a danger to anyone working in the Project Area.

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

No, the project will not physically interfere with an adopted emergency plan or emergency evacuation plan.

g) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

No, risk of loss, injury, and death involving wildland fires are not significant from this Project. Fire risks are identified as moderate at the Project Area, and no areas in proximity to it can be considered urbanized. Land surrounding the Project Area are not heavily vegetated and there are only a few residences in the proximity; therefore, the risk of loss, injury, or death involving

wildland fires is less than significant, and any potential risk is further mitigated by compliance with California Building Standards.

* * *

X. HYDROLOGY AND WATER QUALITY: Would the project:

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

No. The Project will not violate any water quality standards or waste discharge requirements. The Project Area is pre-disturbed. The Project Area is in a region characterized by a low level of precipitation. Project construction will involve some trenching and minor grading to level the land, which does not present a significant risk of violating any water quality standards or substantially degrading surface or groundwater quality. The applicant intends to use stabilized construction entrance and exits would be installed at driveways to reduce tracking of sediment onto adjacent public roadways. The Project is subject to regulation by the Lahontan Regional Water Quality Control Board and the Inyo County Environmental Health Department and will meet all applicable requirements.

b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

No. The Project will not have any effect on local groundwater. The project will not use local groundwater for its water needs, which are limited to dust control. All groundwater needs will be supplied by mobile trucks supplying water to the job site. Water demands are estimated at 40,000 gallons/week for dust control and site preparation and water will be trucked in from the Searles Domestic Water Company, located in Trona. The Project will not introduce any significant new areas of impervious surfaces that will prevent groundwater recharge.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

i) Result in substantial erosion or siltation on or off-site?

No. The Project proposes extremely minimal grading and no new impermeable or impervious surfaces. Other than installing a small concrete pad, no paving or other activities will increase the number of impermeable surfaces that could cause erosion or siltation. No drainage patterns

will be altered. Other than rare storm related overland run-off situations, no water passes over or through the Project Area.

- ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off-site?

No. The Project will not significantly change the landscape or existing runoff patterns or redirect or block flood flows. No drainage patterns or rates of runoff will be altered by the Project.

- iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

No. The Project is proposed in an area that is already disturbed and will have no substantial changes to runoff patterns. No increase in stormwater runoff will occur as a result of the Project.

- iv) impede or redirect flood flows?

No, the Project is in an area that is already disturbed and is not located in a flood hazard area.

- d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

No, the Project is in an area that is already disturbed, and is not located in a flood hazard, seiche or tsunami zone. Note that the BRE identified a potential surface water drainage based on prior mapping but no evidence of any such feature exists onsite and the mapping is therefore considered to be in error or outdated.

- e) Conflict with or obstruct implementation of a water quality control plan or sustainable ground water management plan?

No, the Project will not affect compliance with or implementation of the Lahontan Region water quality control plan and is not in an area included in a sustainable groundwater management plan.

* * *

XI. LAND USE AND PLANNING: Would the project:

a) Physically divide an established community?

No, there is no established community in the vicinity of the Project, and the Project would not physically divide such a community.

b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

No, the Project is consistent with the current zoning and advances the goals for renewable energy generation for the southern portion of the county, as described in the REGPA. This part of the Trona area also is explicitly called out and designated for solar energy generation as part of the southern Trona SEDA.

* * *

XII. MINERAL RESOURCES: Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

No. The Project Area has no known mineral resources of value to the region or state. The Project Area is not in a mapped area of regional or statewide significance by the State Mining and Geology Board. Development of the surface for solar generation would not in any event result in the permanent loss of mineral resources unexpectedly in this location.

b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

No, there are no known locally important mineral resources delineated in any land use plan that would be affected by the Project.

* * *

XIII. NOISE: Would the project:

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan

or noise ordinance, or other applicable standards of other agencies?

All potential noise impacts are within the scope of the PEIR analysis and will be subject to the PEIR mitigation measures. The PEIR evaluated the impacts of construction noise, including the use of construction equipment for grading, trenching, mast installation, installation of concrete footings, movement of heavy equipment and transportation of materials by truck. The PEIR also listed the individual equipment types that would be used to install a solar panel array, and the estimated noise levels associated with each item of equipment. (See PEIR, pp. 4.12-16 – 4.12-18.) The Project would use construction equipment of the types listed in the PEIR, and follow a construction process consistent with, or less impactful than, that anticipated in the PEIR. In this regard, the PEIR focused on utility-scale solar projects. The Project is a smaller, commercial-scale Project that will utilize a construction process that is comparatively light and short term in comparison to utility-scale projects. Trenching and grading will take two days using one grader, one backhoe and a water truck. Panel installation will occur over an estimated two months. No nighttime construction will occur. The Project does not present noise impacts that substantially differ from, or that are more impactful than, those analyzed in the PEIR. As such, the Project is within the scope of the PEIR pursuant to CEQA Guidelines section 15168(c)(2).

The PEIR adopted Mitigation Measure MM NOI-2 (“Implement construction noise reduction measures”) to ensure that construction noise impacts are avoided or reduced below a level of significance and would have no significant unavoidable adverse impacts. (PEIR, pp. 4.12-18.) The PEIR listed the following five mitigation measures:

If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT's Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:

- Whenever feasible, electrical power will be used to run air compressors and similar power tools.*
- Equipment staging areas will be located as far as feasible from occupied residences or schools.*
- All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.*
- Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.*
- Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings.*

NOI-2 incorporated certain best management practices (BMPs) from REAT's Best Management Practices and Guidance Manual (REAT 2010) for desert renewable energy projects. In regard to potential noise impacts, the manual lists 10 BMPs:

- 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.*
- 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.*
- 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.*
- 4) *Ensure all stationary construction equipment (i.e., compressors and generators) is located as far as practicable from nearby residences.*
- 5) *If blasting or other noisy activities are required during the construction period, notify nearby residents and the permitting agencies 24 hours in advance.*
- 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.*
- 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.*
- 8) *Install mufflers on air coolers and exhaust stacks of all diesel and gas-driven engines. Equip all emergency pressure relief valves and steam blow-down lines with silencers to limit noise levels.*
- 9) *Contain facilities within buildings or other types of effective noise enclosures.*
- 10) *Employ engineering controls, including sound-insulated equipment and control rooms, to reduce the average noise level in normal work areas.*

The western and northwestern edge of the Project Area is approximately 400 feet from two residential structures located westerly of the Project Area. Under CEQA Guidelines section 15168(c)(3), the Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of the residential structures.

Once the Project is constructed, operational noise sources will be limited to pad-mounted transformers and tracker array motors. Transformers will be located farther than 500 feet from a residence or other noise-sensitive land use and would not require further analysis under MM NOI-1 in the PEIR. Tracker motors generate low noise levels (see PEIR Table 4.12-4) and are sufficiently far from noise-sensitive land uses to have no potential noise-related impacts and to not require further noise study or mitigation. (See PEIR, p. 4.12-19.) As such, the operational impacts are expected to be less than significant.

b) Generation of excessive groundborne vibration or groundborne noise levels?

No, the Project involves relatively light ground disturbance with few vehicles. No excessive groundborne vibration or groundborne noise is expected. Considering the types of equipment that will be used, impacts associated with groundborne noise or vibration would be within the scope of the PEIR and less than significant. (See PEIR p. 4.12-15.)

c) For a project located within the vicinity of a private airstrip or, an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

No. Trona Airport is not public, nor is it used with frequency, and it is typically used by light aircraft only. The proposed Project will have minimal noise levels due to its nature and will not create excessive noise levels for personnel working near the Project Area. The Project Area is not immediately below any established flight path and persons working at the Project Area would not be exposed to any significant level of aircraft noise.

Mitigation Measures: *All potential impacts are within the scope of the PEIR analysis. The Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures.*

* * *

XIV. POPULATION AND HOUSING: Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

No. The Project is not likely to induce any population growth. The Project Area requires few maintenance personnel and will be monitored mostly remotely from offsite locations. No new residents are expected to result from the Project.

b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

No, the proposed Project will not displace existing housing or create a situation where replacement housing will be necessary. No housing currently exists in the Project Area. No existing housing will be removed to construct or operate the Project. The Project will have no effect on the level of housing in the Project Area or on surrounding properties.

* * *

XV. PUBLIC SERVICES: Would the project:

a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?

No. The Project is not considered to be located in a high-risk area for fire protection. The Project Area has no trees or established vegetation. The San Bernardino Fire Department (which provides fire protection services in the Trona community) was consulted on the Project. No concerns related to the Project Area were given.

Police protection?

No. No new police service will be required because of the Project. Offsite private security measures will mostly be used to monitor the Project Area.

Schools?

No, no new students or residents, or associated school services, will be required because of this Project.

Parks?

No, no new parks will be required because of the Project.

Other public facilities?

No, the proposed Project will not create substantial adverse physical impacts associated with a need for any other foreseeable public services.

* * *

XVI. RECREATION: Would the project:

a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

No, the proposed Project will not increase the use of existing recreational facilities. It is not anticipated that any portion of this Project will result in a change in the level of service required to provide parks or other recreational facilities.

b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

No, the proposed Project does not include recreational facilities, nor will it cause a need for an increase in parks or other recreational facilities that might have an adverse physical effect on the environment.

* * *

XVII. TRANSPORTATION:

a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?

No. The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.

b) Conflict or be inconsistent with CEQA Guidelines § 15064.3(b)?

No. The project will not result in an adverse change with respect to vehicle miles traveled (VMT). The Project will not significantly increase passenger vehicle traffic or commuter traffic in the region. Construction related traffic generally will be light. When construction is complete, the Project will be remotely monitored and have maintenance personnel on-site as needed during daytime hours. The Project is not within one-half mile of either an existing major transit stop or high-quality transit corridor. The Project will result in less than significant impacts to this resource.

c) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

No. The proposed Project will not result in any design features that increase transportation hazards. No changes will occur to public roads, including the Trona Wildrose Road. No curves or dangerous intersections will be added to the existing unpaved access road leading to the Project Area. Automobiles and trucks will be accommodated in the Project Area.

d) Result in inadequate emergency access?

No, the Project is proposed on properties that are directly adjacent to, and accessible from, Trona Wildrose Road and emergency access is and will continue to be available.

* * *

XVIII. TRIBAL CULTURAL RESOURCES: Would the project:

a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
-

No. The Project Area undeveloped and cleared of vegetation with no known tribal cultural resources. The proposed Project does not contain a resource eligible for listing in the California Register of Historical Resources, or in a local register for historical resources as defined in Public Resource Code section 5020.1(k). If any archeological or cultural resources are discovered on the site, work shall immediately stop, and Inyo County staff shall be immediately notified per Chapter 9.52 of the Inyo County Code.

- ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.
-

The Project Area is vacant and undeveloped. It does not contain any resource determined by the County to be significant pursuant to criteria set forth in subdivision (c) of the Public Resource Code section 5024.1 (i.e., is associated with events that made a significant contribution to the state's cultural patterns, is associated with the lives of persons important in our past, embodies the distinctive characteristics of a type or period, or has yielded or may yield information important in prehistory or history).

* * *

XIX. UTILITIES AND SERVICE SYSTEMS: Would the project:

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

No. The proposed Project is for the approval of a PV solar facility that will primarily be remotely monitored and involve no continuous human presence. The Project will not result in the construction or relocation of new or expanded utility, wastewater, or other utility service systems. The goal of the Project is to create a sustainable supply of electric power, and it will not increase demand for utilities whatsoever.

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

No impact. During operation, water needs will be no more than 1.0-acre feet per year and will be utilized primarily for panel washing 2-4 times annually. During active construction, light water consumption (relative to other construction uses) will be required for dust suppression. All water needs will be covered via trucking it in from Searles Domestic Water Company, located in Trona. No landscaping water will be required.

c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

No. The Project would not generate wastewater requiring disposal or contribute to demand for wastewater treatment.

d) Generate solid waste in excess of state or local standards, or in excess of the capacity of soil infrastructure, or otherwise impair the attainment of solid waste reduction goals?

No. The Project will not require changes to the current solid waste capacity to accommodate them. Solid waste needs for the project will be minimal. Most of the volume of solid waste (scrap metals, electrical equipment, and proprietary solar array features) will be collected and recycled.

e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

No impact. The Project and any future development will comply with Inyo County's solid waste standards, as required by the Inyo County Department of Environmental Health.

* * *

XX. WILDFIRE:

a) Substantially impact an adopted emergency response plan or emergency evacuation plan?

No. There is not an adopted emergency response or evacuation plan for the area in which the Project is proposed.

b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

No. The Project Area is on flat or gently-sloped land. It lacks vegetation and vegetation is sparse in the area, characterized mainly by desert scrub, making wildfire risks moderate to low. There will be no project occupants, and the project area is physically separated from surrounding structures. The proposed Project does little to add to the wildfire risk in the area. The risk of loss, injury or death involving wildland fires is less than significant at this site, and any potential risk is further mitigated by compliance with California Building Standards.

c) Require the installation or maintenance of associated infrastructure (such as roads, fuel break, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

No. The Project will not cause the need for additional wildfire associated infrastructure.

d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

No. The Project is on already graded and disturbed land. The addition of solar facilities will not create downslope or downstream flooding or landslides.

* * *

XXI. MANDATORY FINDINGS OF SIGNIFICANCE:

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number, or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

No, the Project will not impact or degrade the quality of the environment. The limited impact to resources in the Project Area can be mitigated to less than significant levels. Minimization measures have been written into the Mitigation Monitoring and Reporting Program for the permits and include: pre-activity surveys; avoidance buffers for desert kit fox; noise control measures subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures, dust mitigation measures to control air quality issues, and the monitoring efforts of a representative from local native American tribes in case native artifacts or human remains are uncovered.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a Project are considerable when viewed in connection with the effects of past Projects, the effects of other current Projects, and the effects of probable future Projects)?

No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note in the vicinity are PV solar projects within the Trona SEDA, but the overall number and size of these projects are likely to be less than analyzed in the PEIR. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

No, the Project has no known environmental effects that will cause substantial adverse effects on human beings either directly or indirectly.

APPENDIX A



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APPENDIX B

BIOLOGICAL RESOURCE EVALUATION

VALLEY WIDE CONSTRUCTION SERVICES TRONA 4 AND 7 SOLAR PROJECT



MAY 2023



BIOLOGICAL RESOURCE EVALUATION

TRONA 4 AND 7 SOLAR PROJECT

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May 2023

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EXECUTIVE SUMMARY

This Biological Resource Evaluation (BRE) report provides the results of a biological survey conducted by QK for the Trona 4 and 7 Solar Projects (collectively, the Project) proposed by Valley Wide Construction Services. In order to comply with the California Environmental Quality Act (CEQA) a biological evaluation was conducted to identify the potential for sensitive biological resources to occur on or near the Project site.

The Project is located north of the unincorporated town of Trona, California (Figure 1-1). It consists of two separate applications for renewable energy permits, one covering approximately 15 acres (Trona 4) and the other covering approximately 5 acres (Trona 7) of contiguous land, all situated on Assessor Parcel Numbers (APNs) 038-330-32, 038-330-33, 038-330-34, and 038-330-46. The Project site, which for the purposes of this BRE consists of both the Trona 4 and Trona 7 project sites, is highly disturbed, has been disked and exhibits little native vegetation re-growth. The Project site is bordered by an existing solar facility to the south, scattered residential homes, abandoned vehicles, local trash and debris.

A review of available literature and agency databases was conducted to obtain information of the occurrences of natural communities, special-status plant and wildlife species known or have the potential to occur in the vicinity of the Project site. QK conducted a biological reconnaissance survey on May 8, 2023, to determine the locations and extent of current land use, natural vegetation communities, determine the potential for occurrences of special-status plant and wildlife species, and verify the presence or absence of wetlands and State and or federal jurisdictional waters.

No special-status plant species or special-status wildlife species, or diagnostic sign thereof, were observed during the survey, and one water feature, that intersects the Project site, was identified by the National Hydrology Database and National Wetlands Inventory databases.

Based on the literature and database search and the results current conditions of the survey, it was deemed that there is a potential for two special-status wildlife species to occur on the Project site: the desert kit fox (*Vulpes macrotis arsipus*), and foraging and nesting birds and raptors. Desert kit fox were not observed to be inhabitants on the Project site but may pass through as transients. There is a potential for nesting migratory birds and other raptors species, protected by the Migratory Bird Treaty Species Act, to occur on or near the Project site and surrounding areas. With the implementation of Best Management Practices and recommended avoidance measures, impacts during the construction of the Project are not expected or will be limited to special-status wildlife species and migratory birds and raptors. There is expected to be no impact to special-status plant species, sensitive natural communities, wetlands or water features, or any other sensitive biological resources. No operational impacts would occur because operations are passive and involve no ongoing land disturbance.

SECTION 1 - INTRODUCTION

Valley Wide Construction Services proposes to construct and operate two solar facilities; Trona 4 is a 3 megawatt (MW) photovoltaic (PV) solar facility on approximately 15 acres; and Trona 7 is a 1 MW PV solar facility on approximately 5 acres located in Trona, Inyo County, California. For the analysis presented herein, the two contiguous sites have been combined into a single, 20-acre site for ease of discussion (Figures 1-1 and 1-2). The proposed solar project (Project) will include the vegetation removal, grading, trenching, and associated infrastructure to build the solar project. The Project would connect to the existing Southern California Edison (SCE) 33-kV transmission line that bisects the Project. To comply with the California Environmental Quality Act (CEQA), a biological evaluation was conducted to identify the potential for sensitive biological resources to occur on or near the Project site. This Biological Resource Evaluation (BRE) provides the basic biological information needed for the County of Inyo CEQA permitting process.

1.1 - Project Location

The Project is located north of the town of Trona, California (Figure 1-1). It covers approximately 20 acres and is situated on Assessor Parcel Numbers (APNs) 038-330-32, 038-330-33, 038-330-34 (Trona 4), and 038-330-46 (Trona 7). The unincorporated town of Trona is located on the east side of the Searles Valley and is between the Panamint Range and Southern Sierra Mountain Range, and approximately 28-miles northeast of the City of Ridgecrest. The Project site is west of Trona Wildrose Road and south of Moses Lane (Figure 1-2). It is in the northeast $\frac{1}{4}$ of Section 32, Township 24 South, Range 43 East, Mount Diablo Base and Meridian, and is within the *Trona East*, California U.S. Geological Survey (USGS) 7.5-minute quadrangle.

1.2 - Project Description

The proposed Trona 4 Project will construct and operate a 3 MW PV solar facility on approximately 15 acres. The Project would install approximately 4,835 single-axis tracker solar panels on the site. The layout of the single axis tracker solar panels will be in an east-west direction. The maximum height of the would be up to 12 feet above grade at the beginning and end of each day. Each solar panel would be attached to embedded piers using a support structure. Module layout and spacing is typically optimized to balance energy production versus peak capacity and depends on the sun angles and shading due to the surrounding horizon of the site.

The proposed Trona 7 Project will construct and operate a 1 MW PV solar facility on approximately 5 acres. The Project would install approximately 2,300 single-axis tracker solar panels on the site.

1.3 - Purpose, Goals, and Objectives for this Report

The BRE report includes the results of a biological reconnaissance survey and available biological and natural resource database search conducted by QK biologists at the Project

site. This report is consistent with the requirements for an analysis of impacts to biological resources.

The primary focus of this report is to provide information about the presence of sensitive biological resources on the Project and develop measures to avoid and minimize any potential impacts of the Project on those resources. To accomplish that goal, this BRE provides information on the condition and sensitivity of the sensitive biological resources potentially present on and adjacent to the Project site and evaluates Project impacts to those resources. This BRE focuses on providing information and sensitive natural communities, special-status species, wildlife movement corridors, and wetlands and waters by conducting a desktop analysis of site conditions and verifying those findings with an on-site biological survey.



Figure 1-1
Regional
Trona 4 and 7 Solar Project,
Inyo County, California

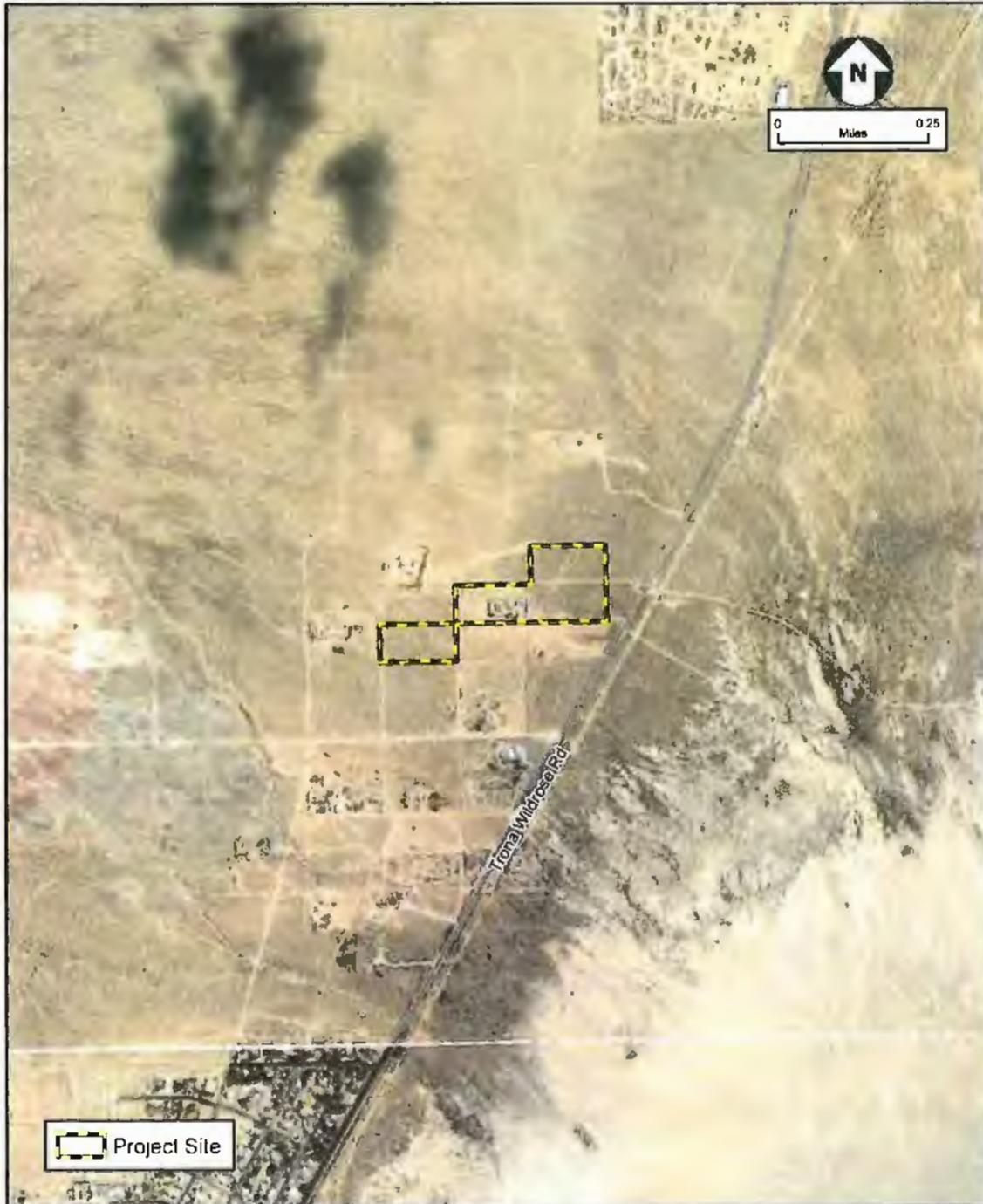


Figure 1-2
Project Location
Trona 4 and 7 Solar Project,
Inyo County, California

SECTION 2 - METHODS

2.1 - Definition of Biological Study Area

The Biological Study Area (BSA) includes the Project site and a 250-foot survey buffer surrounding the Project disturbance footprint (Figure 2-1).

2.2 - Literature Review and Database Analysis

The following sources were reviewed for information on special-status biological resources in the Project vicinity:

- California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB; CDFW 2023a).
- CDFW's Biogeographic Information and Observation System (BIOS; CDFW 2023b).
- CDFW's Special Animals List (CDFW 2023c).
- CDFW's California Wildlife Habitat Relationships (CWHR) System (Mayer and Laudenslayer 1988).
- California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants of California (CNPS 2023).
- United States Fish and Wildlife Service (USFWS) Information for Planning and Consultation System (IPaC; USFWS 2023a).
- USFWS Critical Habitat Mapper (USFWS 2023b).
- USFWS National Wetlands Inventory (NWI; USFWS 2023c).
- USGS National Hydrography Dataset (NHD; USGS 2023).
- Federal Emergency Management Agency (FEMA) flood zone maps (FEMA 2023).
- United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Web Soil Survey (NRCS 2023a)
- Current and historical aerial imagery (Google LLC 2023; Netroline 2023).

The CNDDDB and CNPS queries focused on the *Trona East* USGS 7.5-minute quadrangle in which the Project is located, plus the surrounding eight quadrangles: *Copper Queen Canyon*, *Homewood Canyon*, *Manly Fall*, *Slate Range Crossing*, *Westend*, *Layton Spring*, *Seales Lake*, and *Trona West*. To satisfy other standard search criteria, CNDDDB records within a 10-mile radius of the project site were queried separately from the broader database search.

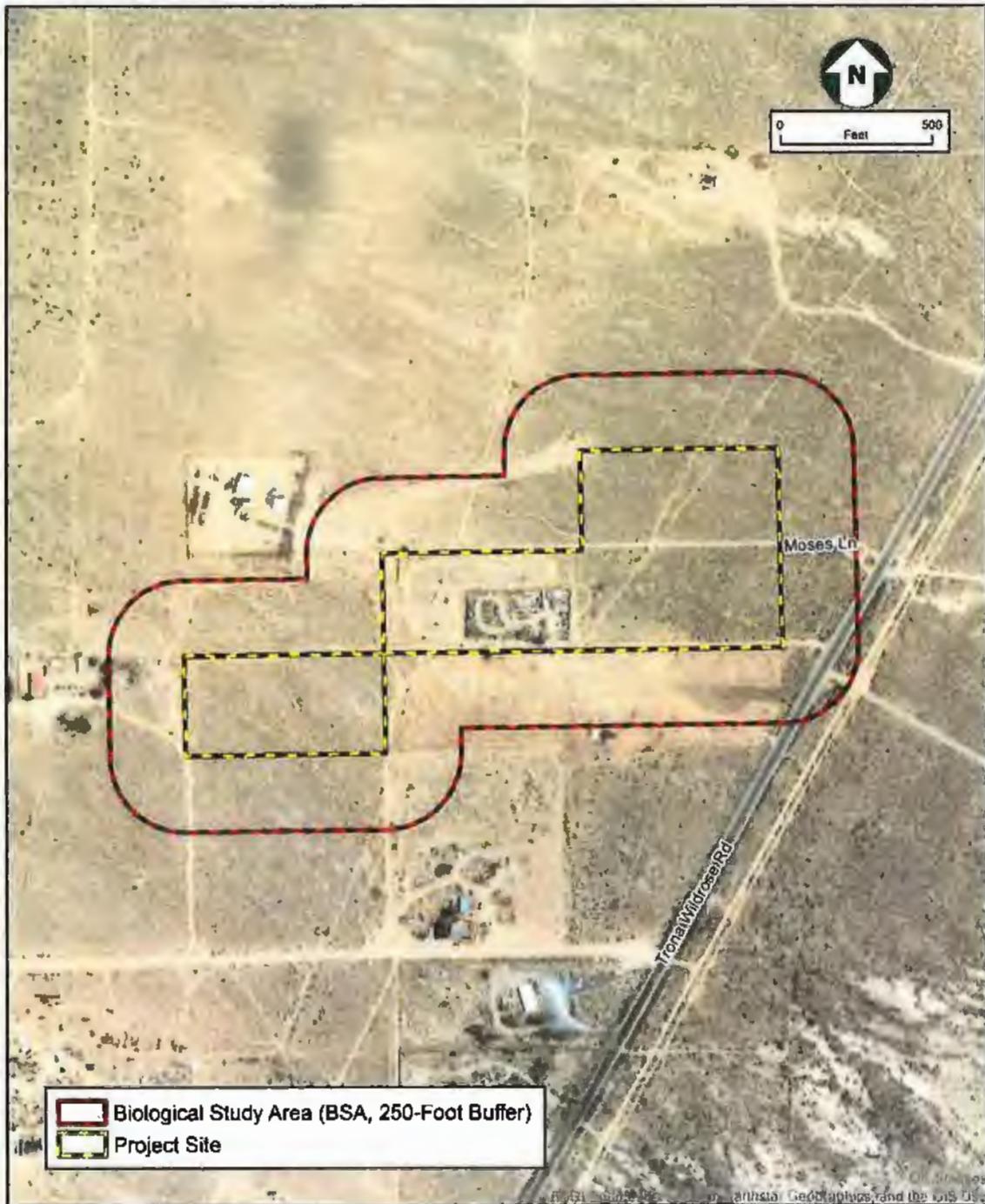


Figure 2-1
Biological Study Area
Trona 4 and 7 Solar Project,
Inyo County, California



The CNDDDB provides element-specific spatial information on individual documented occurrences of special-status species and sensitive natural vegetation communities. The CNPS database provides similar information, but at a much lower spatial resolution, for additional sensitive plant species tracked by the CNPS. The CDFW Special Animals List and USFWS IPaC provide no spatial data on wildlife occurrences and provide only lists of species potentially present. Wildlife species designated as “Fully Protected” by California Fish and Game Code Sections 5050 (Fully Protected reptiles and amphibians), 3511 (Fully Protected birds), and 4700 (Fully Protected mammals) are also included on the final list of evaluated species. The database search results can be found in Appendix A.

A review of the NWI was completed to identify whether wetlands have previously been documented on or adjacent to the Project site. The NWI, which is operated by the USFWS, is a collection of wetland and riparian maps that depicts graphic representations of the type, size, and location of wetland, deep water, and riparian habitats in the United States. In addition to the NWI, regional hydrologic information from the NHD was obtained from the USGS to evaluate the potential occurrence of blue-line streams within or near the Project site.

Soils data were obtained from the USDA NRCS Web Soil Survey, climate information was obtained from the Western Regional Climate Center, and land use information was obtained from available aerial imagery (NRCS 2023a; WRCC 2023; Google LLC 2023). Information about flood zones was obtained from the Federal Emergency Management Agency, Department of Homeland Security (FEMA 2023).

The results of the database inquiries were reviewed to extract pertinent information on site conditions and evaluate the potential for sensitive biological resources to occur within or near the proposed Project site. Only those resources with the potential to be present and affected by the Project were included and considered in this document. The potential presence of natural communities and special-status species was based on distributional ranges overlapping the Project site and the presence of habitat and/or primary constituent habitat elements.

2.3 - Reconnaissance-Level Field Surveys

A biological reconnaissance survey of the BSA was conducted by QK Environmental Scientists Jeff Erway and Eric Madueno on May 8, 2023. The survey consisted of walking meandering pedestrian transects spaced 50 to 100 feet apart throughout the BSA, where accessible. Areas with suitable habitat that could not be accessed were surveyed by use of high-power binoculars.

Tasks completed during the survey included determining and documenting current land use, developing an inventory of plant species, wildlife species, and wildlife sign (e.g., scat, burrows, nests, feathers, tracks, etc.), characterizing vegetation associations and habitat conditions within the BSA, assessing the potential for federally, State-listed and other special-status plant and wildlife species that may occur on and near the Project site based on existing conditions, and assessing the potential for migratory birds and raptors to nest on and near the Project site. In addition, all historical wetland and water features documented

by NWI and NHD were field verified. All spatial data were recorded using Environmental Systems Research Institute (ESRI) Collector for ArcGIS software installed on an iPad. Site conditions were documented with representative photographs (Appendix B).

SECTION 3 - ENVIRONMENTAL SETTING

This section identifies the regional and local environmental setting of the Project and describes existing baseline conditions. The environmental setting of the BSA was obtained from various sources of literature, databases, and aerial photographs. Site conditions were verified and updated during the site reconnaissance survey conducted by QK Environmental Scientists (Table 3-1).

**Table 3-1
Field Survey Personnel and Timing**

Date	Personnel	Time	Weather Conditions	Temperature
05/08/2023	Jeff Erway, and Eric Madueno	0947 - 1045	Sunny, Clear	61 - 67°F

3.1 - Topography

The BSA is in the southwestern portion of Inyo County. The BSA is relatively flat with little variation in topography and an elevation of about 1,690 feet above mean sea level.

3.2 - Climate

The BSA is within an area that has a Mediterranean climate of hot summers and mild, wet winters. Average high temperatures range from 58.2°F in January to 105.5°F in July, with daily temperatures often exceeding 100°F several days in the summer (WRCC 2023). Average low temperatures range from 33.2°F in December to 73.3°F in July. Precipitation occurs primarily as rain, most of which falls from November to April, with an average of 3.94 inches of rainfall per year. Rain rarely falls during the summer months.

3.3 - Land Use

The Project site is located approximately 0.8-miles north of the unincorporated town of Trona, California and adjacent to the major public road known as Trona Wildrose Road. Currently, the Project site is highly disturbed from urbanization, previous disking, illegal trash and debris dumping, and by abandoned vehicles. The Project site is situated among scattered residential properties to the north and west, an existing solar facility to the south, Trona Wildrose Road to the east, and an unpaved road identified as Moses Lane to the north.

3.4 - Soils

The United States Department of Agriculture, Natural Resources Conservation Service (NRCS) Web Soil Survey database contains no digital data for the region the BSA is located.

3.5 - Hydrology

There is one record of a jurisdictional wetland feature within the BSA, as defined by the NWI (USFWS 2023c) (Figure 3-1). The jurisdictional wetland bisects a portion of the BSA, known as Trona 4, starting in the middle of the northwest area flowing southeast towards Trona Wildrose Road. The feature is described as an intermittent riverine. Features under the Riverine system include all wetlands and deepwater habitats contained within a channel, with two exceptions: 1) wetlands dominated by trees, shrubs, persistent emergent, emergent mosses, or lichens, and 2) habitats with water containing ocean-derived salts of 0.5 ppt or greater.

According to FEMA, the BSA is within an Area of Minimal Flood Hazard (Figure 3-2).

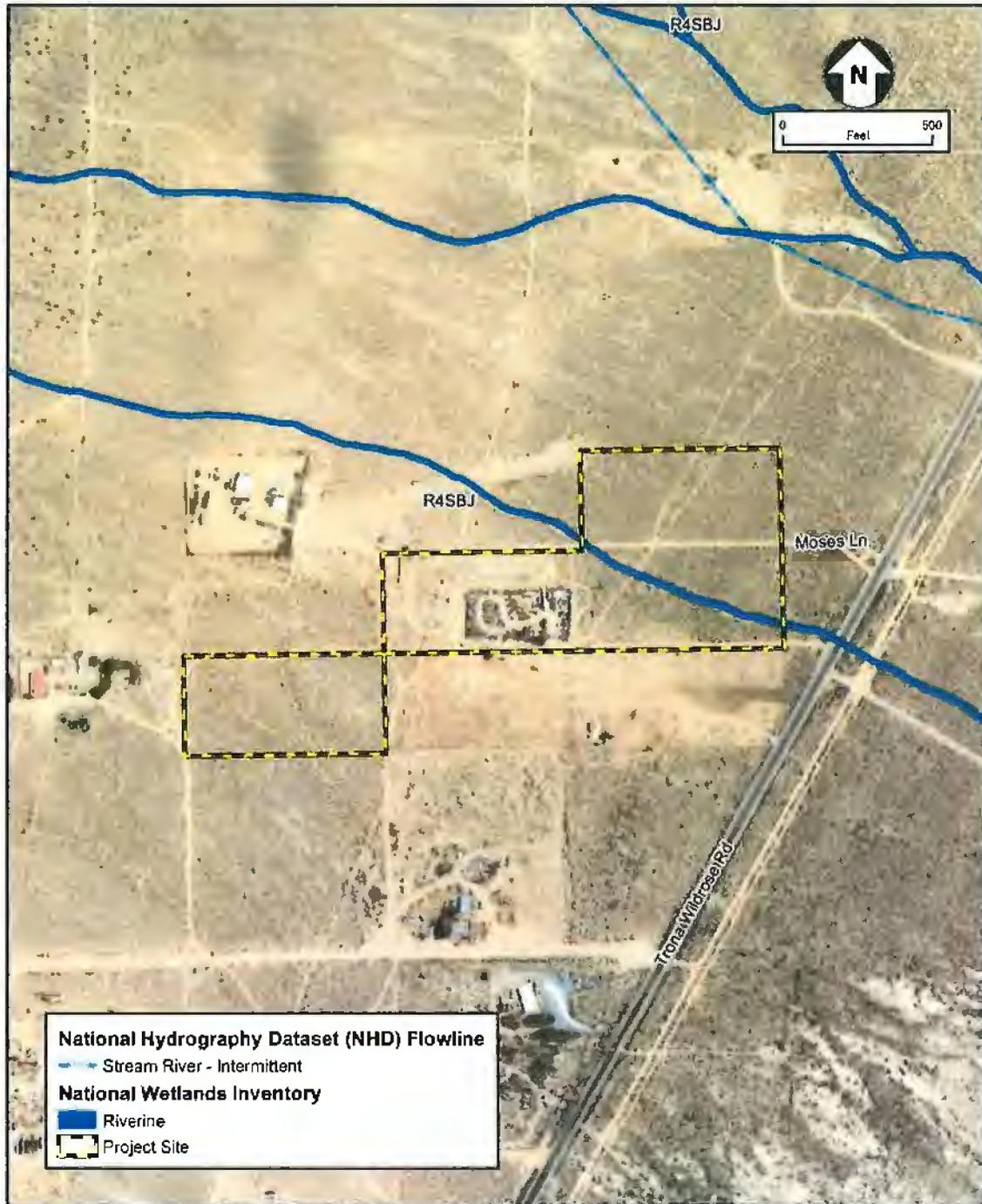


Figure 3-1
NWI and NHD Records of Aquatic Resources
Trona 4 and 7 Solar Project,
Inyo County, California

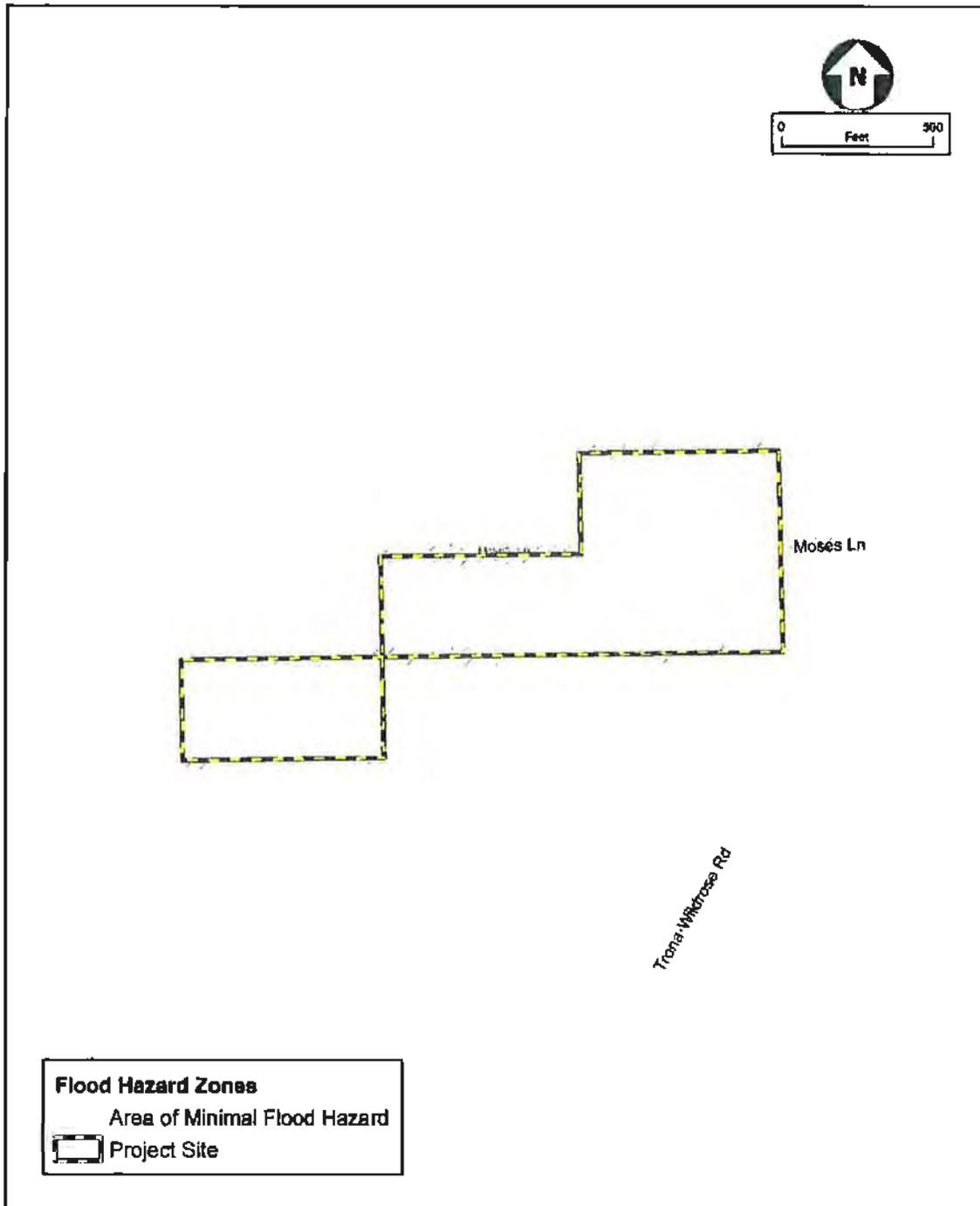


Figure 3-2
FEMA Flood Zone Map
Trona 4 and 7 Solar Project,
Inyo County, California



3.6 - General Biological Conditions

The entirety of the Project site consists of an open, previously disked desert and alkali desert scrub habitat that has been disturbed by urbanization and residential development. The Project site is bordered by scattered residential properties and Moses Lane to the north, and existing solar facility of the south, Trona Wildrose Road to the east, and scattered residential properties and open desert and alkali desert scrub habitat to the west.

No sensitive natural plant communities occur within the BSA. Vegetation observed included saltbush (*Atriplex polycarpa*), white bursage (*Ambrosia dumosa*), desert calico (*Loeseliastrum matthewsii*), desert five spot (*Eremalche rotundifolia*), and creosote (*Larrea tridentata*).

No avian nests were observed within the Project site, but the existing transmission and utility poles near the BSA could support nesting birds and/or raptors. A migratory bird species observed included common raven (*Corvus corax*).

No small mammal burrows, dens, or larger mammal dens that could be utilized by desert kit fox, Mohave ground squirrel (*Xerospermophilus mohavensis*) or desert tortoise (*Gopherus agassizii*) were observed within the BSA. A complete list of plant and wildlife species observed within the BSA during the biological reconnaissance survey is included in Appendix C.

SECTION 4 - FINDINGS

4.1 - Sensitive Natural Communities

4.1.1 - RESULTS OF LITERATURE REVIEW AND DATABASE SEARCHES

Literature results from the nine-quadrangle queries for the Project site were conducted and provide information for the potential of occurrence and verified during the field survey.

4.1.2 - PRESENCE OF SENSITIVE NATURAL COMMUNITIES

No sensitive natural vegetation communities were identified within the BSA. In addition, the BSA does not provide habitat that would support these communities.

4.2 - Special-Status Plants

4.2.1 - RESULTS OF LITERATURE REVIEW AND DATABASE SEARCHES

There were 7 special-status plant species identified in the literature and database review that are known or have the potential to occur within the nine-quadrangle queries centered on the Project site (Table 4-1). There are no CNDDDB records of special-status plant species that overlap the BSA.

**Table 4-1
Special-Status Plant Species Occurring in the Region of the BSA**

(Source: CNDDB 2023, CNPS 2023,	Common Name	Status
<i>Aliciella ripleyi</i>	Ripley's Aliciella	2B.3
<i>Astragalus atratus var. mensanus</i>	Darwin Mesa milk-vetch	1B.1
<i>Castela emoryi</i>	Emory's crucifixion-thorn	2B.2
<i>Cryptantha clokeyi</i>	Clokey's cryptantha	1B.2
<i>Eremothera boothii ssp. boothii</i>	Booth's evening-primrose	2B.3
<i>Penstemon fruticiformis var. amargosae</i>	Amargosa beardtongue	1B.3
<i>Yucca hrevifolia</i>	Joshua tree	SC

1A Presumed Extinct in California.

1B Rare, Threatened, or Endangered in California and elsewhere.

2A Plants presumed extirpated in California, but more common elsewhere.

2B Plants Rare, Threatened, or Endangered in California, but more common elsewhere.

CRPR Threat Code Extension:

.1 Seriously endangered in California (over 80% of occurrences threatened / high degree and immediacy of threat)

.2 Fairly endangered in California (20-80% occurrences threatened)

.3 Not very endangered in California (<20% of occurrences threatened) Abbreviations:

Abbreviations:

FC Federal Candidate

FE Federal Endangered Species

FT Federal Threatened Species

SFP Fully Protected Animal, CDFW

SE California Endangered Species

ST California Threatened Species

SC California Candidate Species

SSC California Department of Fish and Game Species of Special Concern

4.2.2 - PRESENCE OF SPECIAL-STATUS PLANTS

No special-status plant species were observed within the BSA. The surveys coincided with some, but not all of the plant species' optimal blooming periods; however, none of the species identified in the database queries are expected to occur on-site due to the lack of suitable habitat conditions (disturbed site conditions, plant associations and soil types) and/or because the BSA is located outside of the species' known range. The Project site has been highly disturbed with urbanization and disking; however, a few native plant species have revegetated on site.

A complete list of plant species observed during the biological reconnaissance survey is included in Appendix C.

4.3 - Special-Status Wildlife

4.3.1 - RESULTS OF LITERATURE REVIEW AND DATABASE SEARCHES

There were 15 special-status wildlife species identified in the literature and database review that are known or have the potential to occur within the nine-quad search area centered on

the Project (Table 4-2). There is one historical CNDDDB record for prairie falcon (*Falco mexicanus*) that overlaps with the BSA.

Table 4-2
Special-Status Wildlife Species Occurring in the Region of the BSA
 (Source: CNDDDB 2023, and USFWS 2023)

Scientific Name	Common Name	Status
Invertebrates		
<i>Danaus plexippus</i>	monarch butterfly	FC, -
Reptiles		
<i>Elgaria panamintina</i>	Panamint alligator lizard	-, SSC
<i>Gopherus agassizii</i>	desert tortoise	FT, ST
Birds		
<i>Asio otus</i>	long-eared owl	-, SSC
<i>Athene cunicularia</i>	burrowing owl	-, SSC
<i>Charadrius nivosus nivosus</i>	western snowy plover	FT, SSC
<i>Falco mexicanus</i>	prairie falcon	-, WL
<i>Gymnogyps californianus</i>	California condor	FE, SE
<i>Pipilo crissalis eremophilus</i>	Inyo California towhee	FT, SE
<i>Toxostoma lecontei</i>	Le Conte's thrasher	-, ST
Mammals		
<i>Antrozous pallidus</i>	pallid bat	-, SSC
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat	-, SSC
<i>Eumops perotis californicus</i>	western mastiff bat	-, SSC
<i>Ovis canadensis nelsoni</i>	desert bighorn sheep	-, FP
<i>Xerospermophilus mohavensis</i>	Mohave ground squirrel	-, FT
<i>Vulpes macrotis arsipus</i>	desert kit fox	-, FGC

Abbreviations:

FC	Federal Candidate
FE	Federal Endangered Species
FGC	Fish and Game Code
FT	Federal Threatened Species
SFP	Fully Protected Animal, CDFW
SE	California Endangered Species
ST	California Threatened Species
SSC	California Department of Fish and Game Species of Special Concern

4.3.2 - PRESENCE OF SPECIAL-STATUS WILDLIFE

There is no roosting habitat for monarch butterfly (*Danaus plexippus*) present within the BSA, although this species may travel through the BSA as a transient. Additionally, no milkweed (*Asclepias* sp.) was observed within the BSA, which is a required food source for larval monarch butterflies. No wetland, marsh, or riparian habitat exists within the BSA to support nesting or foraging Inyo California towhee (*Pipilo crissalis eremophilus*) or

Panamint alligator lizard (*Elgaria panamintina*) which inhabits riparian areas in the desert at the bottom of rocky canyons, near streams and springs.

No desert tortoise sign (e.g., scat, tracks, or burrows) were observed within the BSA. The nearest CNDDDB recorded occurrence (EONDX 110170) is approximately 1.2-miles north of the BSA (CDFW 2023a). The occurrence was for an adult desert tortoise crossing a dirt road in March 2017. The BSA is highly disturbed from disking, construction of an existing solar field, and urbanization (e.g., dirt roads and debris) from the residences in the vicinity. The disturbance in the vicinity has resulted in historical ground disturbance that results in no potential for foraging, or habitation of desert tortoise in the BSA.

There are no dense woodlands with coniferous or broadleaved trees near a water source that could provide suitable habitat for long-eared owl (*Asio otus*). Burrowing owl (*Athene cunicularia*) inhabit grassland, open bare ground, and utilize existing small mammal burrows, typically created by California ground squirrel, for breeding and shelter. There were no burrows or diagnostic sign (e.g., whitewash, tracks, prey remains) of burrowing owl observed within the BSA. Due to a lack of suitable burrows on site and highly disturbed condition of the site the likelihood of a resident burrowing owl on site is extremely unlikely.

No suitable foraging or nesting habitat is present within the BSA, due to the highly disturbed condition of the BSA, for western snowy plover (*Charadrius nivosus nivosus*), California condor (*Gymnogyps californianus*), prairie falcon, or Le Conte's thrasher (*Toxostoma lecontei*). The CNDDDB recorded occurrence (EONDX 26139), for prairie falcon, that overlaps with the BSA is from 1975 which is presumed extant. No additional data was recorded for this occurrence. There are no rocky outcroppings, mines or caves, cliff faces, tree hollows, buildings, or bridges within the BSA that would support the pallid bat (*Antrozous pallidus*), the western mastiff bat (*Eumops perotis californicus*), or the Townsend's big-eared bat (*Corynorhinus townsendii*).

The BSA is too low in elevation and does not provide suitable foraging habitat for desert bighorn sheep (*Ovis canadensis nelsoni*). There are no steep, rugged mountainous terrain within the BSA that would provide climbing habitat for the desert bighorn sheep to avoid predators. Desert bighorn sheep are known to cross valley floors to neighboring mountainous regions but due to the urbanization and highly disturbed condition of the BSA it is unlikely for desert bighorn sheep to cross within the BSA.

No small mammal burrows, with appropriate configuration in size and shape, or diagnostic sign for Mohave ground squirrel (*Xerospermophilus mohavensis*) were observed within the BSA. According to CDFW, the closest known population is located approximately 8.2-miles southwest of the BSA (CDFW 2023b). This area surrounds the town of Ridgecrest and moves east on State Route (SR) 178 towards the area known as Pinnacles Entrance. Additionally, the closest core population of Mohave ground squirrel is the Coso Range-Olancha core population approximately 25.0-miles northwest of the BSA.

The desert kit fox (*Vulpes macrotis arsipus*) could be present as a transient forager within the BSA. There are no CNDDDB records of this species because CNDDDB does not record

sightings due to the species not being listed State or federally listed as endangered, threatened, or species of special concern. However, the species is protected as a fur-bearing mammal under Fish and Game Code § 4000.

The Project site lacks optimal suitable denning habitat for the species due to the past and current level of disturbance and the surrounding BSA has been similarly degraded. However, kit foxes, in general, are highly adaptable and can forage from the nearby residential houses. No desert kit fox or diagnostic sign of the species (e.g., tracks, dens, scat, prey remains) were observed during the field survey, and the lack of small mammal burrows observed indicates the site does not support an adequate prey base. Surrounding land use and habitat conditions make it unlikely that the desert kit fox would be present, other than as a transient forager.

4.3.3 - NESTING MIGRATORY BIRDS AND RAPTORS

There were no active nests observed within the BSA during the survey. The transmission and utility poles outside the BSA could support a variety of nesting bird species, including larger species such as raptors and common raven.

4.4 - Critical Habitat, Movement Corridors, and Linkages

4.4.1 - PRESENCE OF CRITICAL HABITAT

No designated critical habitat occurs within the BSA. The nearest USFWS designated critical habitat is for Inyo California towhee located approximately 3.1 miles northwest of the BSA (Figure 4-1).

4.4.2 - PRESENCE OF MOVEMENT CORRIDORS AND LINKAGES

There are no known wildlife movement corridors or habitat linkages that intersect the BSA. The Project is situated within a highly disturbed area that is predominately used for urban development and provides minimal linkage between suitable natural habitats for most wildlife species. Due to the highly disturbed condition of the Project, there is no substantial movement of wildlife onto or off of the BSA.

4.5 - Wetlands and Other Waters

The feature identified by the NHD that bisects the portion of the BSA, known as Trona 4, through in the middle of the northwest area that flows southeast towards Trona Wildrose Road was not observed during the survey. No stream indicators such as mud cracks, bed, or bank were identified. No hydrologic, topographic features or aquatic plant species were observed to indicate an intermittent riverine feature. The feature described in the NHD data does not currently exist on the Project site.

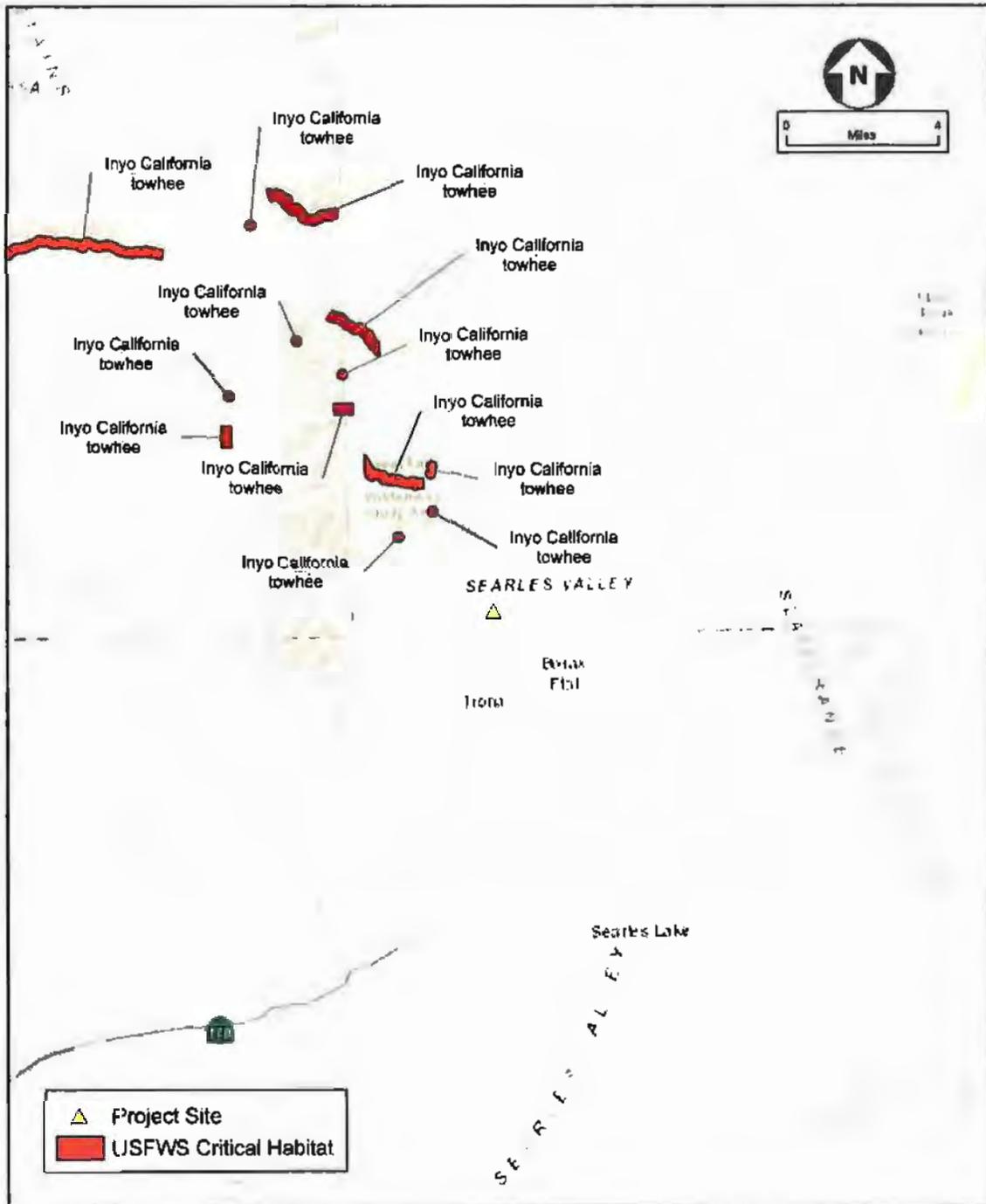


Figure 4-1
Mapped Critical Habitat in the Project Vicinity
Trona 4 and 7 Solar Project,
Inyo County, California

SECTION 5 - POTENTIAL PROJECT IMPACTS

The purpose of this section is to present an evaluation of the potential for Project-related impacts to sensitive biological resources to occur resulting from Project construction activities. Although the potential for impacts of the Project is anticipated to be minor because the Project site is highly disturbed, there are some risks of Project impacts. These are discussed below.

5.1 - Potential Impacts to Sensitive Vegetation Communities

No sensitive vegetation communities occur within the BSA. The Project would not impact sensitive natural communities.

5.2 - Potential Impacts to Special-Status Plant Species

No special-status plant species occur within the BSA and there is no suitable habitat for any special-status plant species on or near the BSA. The Project would not impact any special-status plant species.

5.3 - Potential Impacts to Special-Status Wildlife Species

Two special-status wildlife species, desert kit fox, and nesting birds were determined to have potential to occur within the BSA as transients. Available habitat within the BSA fulfilling the foraging requirements of these species is limited to none. No potential desert kit fox dens were observed within the BSA and the potential for future habitation by foxes is limited due to the highly disturbed condition of the site. There was no diagnostic sign of nesting birds or raptors during the survey; however, existing transmission and utility poles are located outside the BSA, which would not be affected by the Project, could provide suitable stick nest building structures for nesting birds.

Any special-status species that use the Project as a movement corridor could be indirectly impacted by Project activities, though little wildlife was observed in or near BSA during the reconnaissance survey conducted for the Project.

5.4 - Potential Impacts to Nesting Birds and Raptors

No nests were observed within the BSA. There is potential for birds to forage and nest within the BSA in existing structures, and in tress and utility poles in the surrounding urban areas. If there are active nests present during Project activities, nests could be destroyed, and Project activities could interfere with normal breeding behaviors, which could discourage breeding or lead to nest abandonment or failure.

5.5 - Potential Impacts to Critical Habitat, Movement Corridors and Linkages

5.5.1 - POTENTIAL IMPACTS TO CRITICAL HABITAT

The Project would not impact any designated critical habitat.

5.5.2 - POTENTIAL IMPACTS TO MOVEMENT CORRIDORS AND LINKAGES

Project activities would not impact any movement corridors or habitat linkages.

5.6 - Potential Impacts to Wetlands and Waters

As noted previously, there is one record of a jurisdictional wetland feature within the BSA, as defined by the NWI (USFWS 2023c). However, this feature was not observed during the survey, and it is not currently present on the Project site. There were no other visible signs of waters or wetland features within the BSA, and there would be no impacts to wetland resources.

SECTION 6 - RECOMMENDATIONS

The Project is anticipated to have no impacts to sensitive natural communities, special-status plants, wetlands and water features, Critical Habitat, or migratory corridors. There is a low potential for Project activities to desert kit fox and nesting and foraging birds and raptors. To avoid or minimize impacts to these species and incidental impacts to other common, non-sensitive wildlife species, we recommend that the following measures be implemented as Best Management Practices (BMPs) during Project construction activities:

- A pre-activity survey of the Project and a 250-foot buffer for desert kit fox and nesting migratory birds and a 500-foot buffer for nesting raptors surrounding the Project footprint should be conducted. The survey should occur no less than 14 days prior to the start of construction activities and no more than 30 days prior to the start of construction activities. If construction is delayed beyond 30 days from the time of the survey, then another survey would need to be conducted. The survey should be conducted by a qualified biologist with adequate training and experience conducting surveys for special-status wildlife species.
- If dens or burrows that could support desert kit fox are discovered during the pre-activity survey, appropriate avoidance buffers, as outline in Table 6-1, should be established. No work should occur within these buffers unless a qualified biologist approves and monitors the activity.

Table 6-1
Disturbance Buffers for Desert Kit Fox Dens

Sensitive Resource	Buffer Zone from Disturbance (feet)
Potential desert kit fox den	50
Known desert kit fox den	100
Natal desert kit fox den	500

- A Worker Environmental Awareness Training Program should be prepared and presented to all workers that will be on-site during construction activities to minimize or eliminate impacts to sensitive biological resources.
- Project-related vehicles should observe a 20-mph speed limit in all Project areas, except on county roads and state and federal highways; this is particularly important at night when kit foxes, and other animals are most active. To the extent possible, nighttime construction should be minimized. Off-road traffic outside of designated project areas should be prohibited.
- To prevent inadvertent entrapment of kit foxes, and other wildlife species during work activities, the contractor should cover all excavated, steep-walled holes or trenches more than 2 feet deep at the close of each working day with plywood or similar materials or provide one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, the contractor should thoroughly inspect them for trapped wildlife.

- Kit foxes and other wildlife species are attracted to den-like structures such as pipes and may enter stored pipes, becoming trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4 inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for wildlife before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the designated biologist has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved once to remove it from the path of construction activity until the fox has escaped.
- All trash and food items that attract wildlife should be discarded into closed containers and properly disposed of at the end of each workday.
- To prevent harassment or mortality of listed species, no pets should be permitted on the Project site.

To protect nesting migratory birds and raptors, it is recommended that:

- If Project activities are scheduled during the breeding bird season, from February 1 through September 15, then a preconstruction survey for nesting birds should be conducted within the Project site and within a 500-foot radius surrounding the Project site for active nesting sites. Construction activities should not be conducted within 250 feet of an active bird nest and within 500 feet of an active raptor nest. These avoidance distances may be reduced if the qualified biologist determines that activities are not affecting the breeding success of the nesting birds.

SECTION 7 - SUMMARY AND CONCLUSIONS

Land within the Project site is highly disturbed and contains no habitat that would support special-status plant species or sensitive natural communities. There are no designated Critical Habitats, movement corridors, wetlands, or water features that would be impacted by the Project.

Based on the literature and database searches and results of the site survey, there is potential for special-status species to occur on the site: desert kit fox and nesting birds. Due to the disturbed nature of the Project, surrounded by residential development, a main roadway and urban uses, and the lack of a suitable prey base, impacts to the desert kit fox are not anticipated to occur. Desert kit foxes would likely be only transient visitors to the Project site. If nesting birds were to nest in the vicinity of the Project, impacts to the species could occur. Implementation of the recommended BMPs and avoidance measures outlined in Section 6 would minimize any Project impacts to these species.

This BRE has been performed in accordance with professionally accepted biological investigation practices conducted at this time and in this geographic area. The findings and opinions conveyed in this report are based on findings derived from specified historical and literary sources and a biological survey of the Project site and surrounding area. The biological investigation was limited by the scope of work performed. The biological survey was also limited by the environmental conditions present at the time of the survey. In addition, general biological (or protocol) surveys do not guarantee that the organisms are not present and would not be discovered in the future within the site. Mobile wildlife species could occupy the site on a transient basis or re-establish populations in the future. No other guarantees or warranties, expressed or implied, are provided.

SECTION 8 - REFERENCES

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APPENDIX A

SPECIAL-STATUS SPECIES DATABASE SEARCH RESULTS

TRONA 4 AND 7 SOLAR PROJECT



Selected Elements by Common Name
California Department of Fish and Wildlife
California Natural Diversity Database



Query Criteria: `Quail IS (Homewood Canyon (3511784) OR (Slute Range Crossing (3511783) OR (Manly Fall (3511782) OR (Trona East (3511773) OR (Trona West (3511774) OR (Copper Queen Canyon (3511772) OR (Wasland (3511784) OR (Searles Lake (3511783) OR (Layton Spring (3511762))`



Selected Elements by Common Name
 California Department of Fish and Wildlife
 California Natural Diversity Database



Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
Amargosa beardtongue <i>Pencstemon fulvicornis</i> var. <i>amargosae</i>	PDSCR1L2F2	None	None	G4T3	S2	1B.3
Booth's evening-primrose <i>Eriogonum boothii</i> ssp. <i>boothii</i>	PDONA03052	None	None	G5T4	S3	2B.3
burrowing owl <i>Athene cunicularia</i>	ABNSB10010	None	None	G4	S3	SSC
Chesley's crysanthemum <i>Cryptantha chesleyi</i>	PDBOR0A3M0	None	None	G3	S3	1B.2
Darwin Mesa milk-vetch <i>Astragalus atratus</i> var. <i>menseus</i>	PDFAB0F0Z3	None	None	G4G5T2	S2	1B.1
desert bighorn sheep <i>Ovis canadensis nelsoni</i>	AMALE04013	None	None	G4T4	S3	FP
desert tortoise <i>Gopherus agassizii</i>	ARAAP01012	Threatened	Threatened	G3	S2S3	
Emory's crucifixion-thorn <i>Castilleja emoryi</i>	PDSIM03030	None	None	G3G4	S2S3	2B.2
Inyo California towhee <i>Melospiza crissalis eremophilus</i>	ABPEX74071	Threatened	Endangered	G4C5T2	S2	
Le Conte's thrasher <i>Toxostoma lecontei</i>	ABPBK08100	None	None	G4	S3	SSC
long-eared owl <i>Aelo cyus</i>	ABNSB13010	None	None	G5	S3?	SSC
Mohave ground squirrel <i>Xerospemophilus mohavensis</i>	AMAFB05150	None	Threatened	G3	S2	
Morrison bumble bee <i>Bombus morrisoni</i>	IIHYM24460	None	None	G3	S1S2	
palmyr bat <i>Antrozous pallidus</i>	AMACC10010	None	None	G4	S3	SSC
Panamint alligator lizard <i>Elgaria panamintina</i>	ARACB01050	None	None	G3	S3	SSC
prairie falcon <i>Falco mexicanus</i>	ABNKD08080	None	None	G5	S4	WL
Ripley's screech owl <i>Alicia ripleyi</i>	PDPLM041E0	None	None	G3	S2	2B.3
Townsend's big-eared bat <i>Corynorhinus townsendi</i>	AMACC08010	None	None	G4	S2	SSC
western mastiff bat <i>Eumops perotis californicus</i>	AMACD02011	None	None	G4G5T4	S3S4	SSC
western small-footed myotis <i>Myotis californicus</i>	AMACC03230	None	None	G5	S3	
western snowy plover <i>Charadrius nivosus nivosus</i>	ABNNE03031	Threatened	None	G3T3	S3	SSC

Record Count: 21



Search Results

12 matches found. Click on scientific name for details

Search Criteria: 9-Quad Include [511773:3511772:3511784:3511782:3511783:3511764:3511762:3511763:3511774]

▲ SCIENTIFIC NAME	COMMON NAME	FAMILY	LIFEFORM	BLDMING PERIOD	FED LIST	STATE LIST	GLOBAL RANK	STATE RANK	CA RARE PLANT RANK	CA ENDEMIC	DATE ADDED	PHOTO
Alliaria ricaloi	Ripley's alliella	Polemoniaceae	perennial herb	May-Jul	None	None	G3	S2	2B.3		1974-01-01	 © 2020 Joey Makarewicz
Astragalus strabus var. metescous	Darwin Mesa milk-vetch	Fabaceae	perennial herb	Apr-Jun	None	None	G4G5T2	S2	1B.1	Yes	1980-01-01	No Photo Available
Astragalus ferruginosus var. horreyanus	Bonago milk-vetch	Fabaceae	annual herb	Feb-May	None	None	G5T67	S4	4.3		1974-01-01	No Photo Available
Ceanothus emoryi	Emory's ceanothion	Simaroubaceae	perennial deciduous shrub	(Apr)Jun-Jul(Sep-Oct)	None	None	G3G4	S2S3	2B.2		1974-01-01	No Photo Available
Coryphantha eremicus ssp. eremicus	desert birds-beak	Orobanchaceae	annual herb (hemiparasitic)	Jul-Oct	None	None	G3T9	S3	4.3	Yes	1980-01-01	No Photo Available
Cryptantha clokeyi	Clokey's cryptantha	Boraginaceae	annual herb	Apr	None	None	G3	S3	1B.2	Yes	1994-01-01	No Photo Available
Diploplosis capitata	Death Valley monkeyflower	Phymaceae	perennial herb	Feb-Jun	None	None	G4	S4	4.3	Yes	1974-01-01	 © 2015 James Moorefield
Eriophora boothii ssp. boothii	Booth's evening-primrose	Onagraceae	annual herb	Apr-Sep	None	None	G5T4	S3	2B.3		1980-01-01	No Photo Available
Lycium torreyi	Torrey's box-thorn	Solanaceae	perennial shrub	(Jan-Feb)Mar-Jun(Sep-Nov)	None	None	G4G6	S3	4.2		2015-05-05	No Photo Available
Penstemon barbatus var. amerigosae	Amerigosa beardtongue	Plantaginaceae	perennial herb	Apr-Jun	None	None	G4T3	S2	1B.3		1980-01-01	 Steve Matson 2017

<i>Bryum violaceum</i>	wine-colored tuft moss	Bryaceae	moss	None	None	Q3G4	S3S4	4 2	2014- 06-10	No Photo Available
<i>Funaria brevipila</i>				OC	GNR	SNR	CBR		2011- 12-13	No Photo Available

Showing 1 to 12 of 12 entries

Suggested Citation:

California Native Plant Society, Rare Plant Program. 2023. Rare Plant Inventory (online edition, v9.5). Website <https://www.careplants.org> [accessed 8 May 2023].



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Carlsbad Fish And Wildlife Office
2177 Salk Avenue - Suite 250
Carlsbad, C A 92008-7385
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In Reply Refer To:
Project Code: 2023-0079069
Project Name: Trona

May 08, 2023

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A biological assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a biological assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a biological assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found at the Fish and Wildlife Service's Endangered Species Consultation website at:

<https://www.fws.gov/endangered/what-we-do/faq.html>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/eo-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

05/08/2023

3

Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

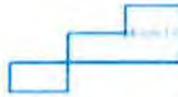
This species list is provided by:

Carlsbad Fish And Wildlife Office
2177 Salk Avenue - Suite 250
Carlsbad, CA 92008-7385
(760) 431-9440

PROJECT SUMMARY

Project Code: 2023-0079069
Project Name: Trona
Project Type: New Constr - Above Ground
Project Description: Trona Project
Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.80623905,-117.350854358784,14z>



Counties: Inyo County, California

ENDANGERED SPECIES ACT SPECIES

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

BIRDS

NAME	STATUS
California Condor <i>Gymnogyps californianus</i> Population: U.S.A. only, except where listed as an experimental population There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8193	Endangered
Inyo California Towhee <i>Pipilo crissalis eremophilus</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3912	Threatened

REPTILES

NAME	STATUS
Desert Tortoise <i>Gopherus agassizii</i> Population: Wherever found, except AZ south and east of Colorado R., and Mexico There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/4481	Threatened

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: QK, Inc.
Name: Karlssa Denney
Address: 5080 California Avenue
Address Line 2: Suite 220
City: Bakersfield
State: CA
Zip: 93309
Email: karlssa.denney@qkinc.com
Phone: 6616162600

APPENDIX B
REPRESENTATIVE PHOTOGRAPHS OF THE
TRONA 4 AND 7 SOLAR PROJECT



Photograph 1: Northeast corner of the Project site, facing south.
GPS Coordinates: 35.807173, -117.348633.
Photograph taken by Eric Madueno on May 8, 2023.



Photograph 2: Northwest corner of the Project site, facing east.
GPS Coordinates: 35.806347, -117.350748.
Photograph taken by Eric Madueno on May 8, 2023.



Photograph 3: Center of the Project site, facing south.
GPS Coordinates: 35.805690, -117.351008.
Photograph taken by Eric Madueno on May 8, 2023.



Photograph 4: Southeast corner of the Project site, facing west.
GPS Coordinates: 35.805503, -117.348542.
Photograph taken by Eric Madueno on May 8, 2023.



Photograph 5: Southwest corner of the Project site, facing east.
GPS Coordinates: 35.805426, -117.353007.
Photograph taken by Eric Madueno on May 8, 2023.



Photograph 6: Southwest portion of the Project site, facing north.
GPS Coordinates: 35.804793, -117.354196.
Photograph taken by Eric Madueno on May 8, 2023.



Photograph 7: Northern portion of the Project site, facing north.
GPS Coordinates: 35.807118, -117.349915.
Photograph taken by Eric Madueno on May 8, 2023.

APPENDIX C

PLANT AND WILDLIFE SPECIES OBSERVED

TRONA 4 AND 7 SOLAR PROJECT

**Table C - 1
Plant and Wildlife Species Observed within the BSA**

Scientific Name	Common Name	Status
Plants		
<i>Ambrosia salsola</i>	cheesebush	None
<i>Chaenactis</i> sp.	pincushion	None
<i>Chylisma claviformis</i>	brown eyes	None
<i>Cryptantha</i> sp.	cryptantha	None
<i>Descurainia pinnata</i>	western tansymustard	None
<i>Grayia spinosa</i>	spiny hopsage	None
<i>Larrea tridentata</i>	creosote	None
<i>Lepidium flavum</i>	yellow pepper grass	None
<i>Loesellastrum matthewsii</i>	desert calico	None
<i>Malacothrix glabrata</i>	desert dandelion	None
<i>Salsola</i> sp.	Russian thistle	None
<i>Suaeda nigra</i>	bush seepweed	None

APPENDIX C

374 Poli Street, Suite 200 • Ventura, California 93003
 Office (805) 275-1515 • Fax (805) 667-8104

Date: June 21, 2023

To: Valley Wide Engineering & Construction Services

From: Graham Stephens; and, Andre Almeida, P.E. – Sespe Consulting, Inc.

Re: CEQA Air Quality and Greenhouse Gas Analysis Memorandum for the Barker Photovoltaic Solar Project in Inyo County, California

Sespe Consulting, Inc. (“Sespe”) has prepared the following memorandum to evaluate the potential air quality and greenhouse gas impacts resulting from the construction and operation of two proposed photovoltaic (PV) solar facilities located in Inyo County, California. Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site (collectively referred to herein as the “Project”). See Figure 1 in Attachment A which shows the Project Area boundaries, and the surrounding environmental setting.

The California Environmental Quality Act (CEQA) requires an environmental analysis, including those related to air quality and greenhouse gases (GHG), for projects requiring discretionary approval by a local lead agency with land use authority, which in this case is Inyo County (the “County”). Therefore, pursuant to CEQA, this memorandum describes and analyzes the proposed Project’s estimated air and GHG emissions and associated impacts. Potential air toxics emissions and associated health risks are also evaluated. Table 1 below summarizes the applicable CEQA Appendix G – Environmental Checklist Form questions that are used as criteria against which to evaluate the significance of the Project impacts related air quality and GHG resources, as well as the corresponding significance thresholds determinations.

Table 1: Summary of CEQA Significance Determinations

CEQA Threshold	Impact Determination
AIR QUALITY-1: Would the Project conflict with or obstruct implementation of the applicable air quality plan?	Less Than Significant
AIR QUALITY-2: Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	Less Than Significant
AIR QUALITY-3: Would the Project expose sensitive receptors to substantial pollutant concentrations?	Less Than Significant
AIR QUALITY-4: Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	Less Than Significant

CEQA Threshold	Impact Determination
GREENHOUSE GAS EMISSIONS-1: Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	Less Than Significant
GREENHOUSE GAS EMISSIONS-2: Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	No Impact

PROJECT SUMMARY

The Project is located on contiguous County parcels (assessor’s parcel numbers [APNs] 038-330-32, 038-330-33, 038-330-34 and 038-330-46), located north of the unincorporated town of Trona, California. The Project consists of two separate applications for renewable energy permits, one covering approximately 15 acres (referred to as the Trona 4 site) and the other covering approximately 5 acres (referred to as the Trona 7 site). Both the Trona 4 and Trona 7 solar arrays will connect to the existing Southern California Edison (SCE) 33-kilovolt (kV) transmission line that passes through the Project area with separate connections.

The Trona 7 PV solar facility would consist of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The Trona 4 site would also generate approximately 3.0 MW of electricity utilizing approximately 6,000 single-axis tracker solar panels. Both sites are currently graded and highly disturbed with little to no natural vegetation, habitat, water features or structures. A private dirt track and a junk yard also existed within the western portion of the Trona 4 site, but both features have been recently removed.

The Project Area is located approximately 3.0 miles north of the unincorporated Trona community, and approximately 1.0 mile west of the Trona Airport. Surrounding areas are generally undeveloped, flat or gently sloped, graded and without significant vegetation. The Project Area is bordered by an existing solar facility to the south, scattered residential homes to the west, and miscellaneous abandoned vehicles, local trash and debris. Access to the site is provided by dirt roads connecting to Trona Wildrose Road to the east of the site. See Figure 1 (Attachment A) which shows the Project Area and adjacent land uses.

Project Construction

Project construction will involve minor land disturbance, consisting of minor leveling, digging of shallow trenches for placing underground conduits, and installation of a 20-foot by 20-foot concrete pad for a transformer. Site preparation will require approximately two days using a grader and a backhoe. Water trucks will also be utilized as needed to control dust throughout the construction phase. In addition to regular watering using the mobile water trucks, further dust controls will include the placement of crushed limestone on the ground, and the application of a non-toxic clay polymer compound, such as EarthGlue, to provide further dust suppression as needed. Stabilized construction entrance and exits will also be installed and maintained at driveways to reduce sediment track-out onto the adjacent public roadway.

Following the trenching and leveling, metal pole supports will be installed on which the solar panels will be mounted. Poles will be driven directly into the ground using a compact, lightweight pile driver. A forklift may also

be used onsite during this construction phase. Installation of the mounting poles, solar panels and related infrastructure (transformer, connection to adjacent SCE lines, etc.) will take approximately two months. Regular watering, limestone base, and chemical binders (e.g., EarthGlue) will continue to be used onsite to control dust during this phase of construction. Once operational, onsite control of fugitive dust is critical to solar operations, as solar panels coated by dust do not function at full capacity. As such, dust controls such the limestone base and/or EarthGlue binder will remain in place and be maintained post-construction.

Once installed, the solar panels will reach a maximum height of 12-feet above the ground surface (or less, as the panels change slightly in height as they rotate slowly throughout the day to track the sun). The solar panels will also feature anti-reflective coatings to minimize daytime glare and reflectivity. Both the Trona 4 and 7 sites will be fenced and gated to prevent unauthorized access.

Per information provided by the Applicant, Table 2 below summarizes the types of equipment that would operate onsite during the Project’s construction phase, as well as the activity levels. This information is utilized to quantify the Project’s air emissions resulting from onsite construction activities.

Table 2: Project Construction Equipment List and Activity Level

Equipment	Engine Tier	Total Duration of Operations		Onsite Location
		Total Weeks	Total Hours	
Grader	Tier 4	2	40	Trona 4 (former track area)
Bulldozer	Tier 4	2	40	Trona 4 (former track area)
Water truck (4,000 gal.)	Tier 4	8	150	Throughout Site
Water truck (4,000 gal.)	Tier 4	8	150	Throughout Site
Forklift (Reach)	Tier 4	8	150	Throughout Site
PD5 Pile Driver	Tier 4	8	150	Throughout Site
Light-Duty Pickups	Tier 4	8	150	Throughout Site
Light-Duty Pickups	Tier 4	8	150	Throughout Site

Project Operations

After construction is complete, the PV solar facilities will be placed into commercial operation. Unlike construction, operation of the PV Solar Facilities will not require permanent onsite personnel, as control of the solar array would be automated and/or controlled remotely. At times, operations staff would come to the site to conduct routine maintenance and inspections, but these activities would be infrequent, and would only require one light-duty work vehicle travelling to and from the site (assume approximately 15 vehicle miles travelled round trip per site inspection). At most, it’s assumed that up to one site inspection will occur per week during normal facility operations. Table 3 below summarizes the vehicle activity levels used to quantify operational emissions.

Table 3: Project Operations Vehicle Activity Level

Vehicle Type	Engine Tier	Roundtrips per Year	VMT's per Roundtrip	Notes / Assumptions
Light-Duty Pickup Truck	Tier 4	52	15	Assume vehicle would originate from nearby Ridgecrest (approximately 15 miles roundtrip). To conservatively estimate vehicle emissions, the analysis assumed up to one inspection/maintenance trip could occur per week (in reality, periodic inspections would most likely be far less).

Note that in addition to fuel combustion in off-road construction equipment and on-road vehicles, electricity consumption is also considered an indirect source of GHG emissions under CEQA. However, because the Project involves PV solar facilities, it would therefore be a net producer of renewable electricity, and the Project would therefore not produce indirect GHG's as a result of electricity consumption. See the discussion below for additional detail.

APPLICABLE CEQA METHODOLOGIES AND SIGNIFICANCE THRESHOLDS

The Project Area is located in the Great Basin Valleys Air Basin (GBVAB), and is within the jurisdictional boundaries of the Great Basin Unified Air Pollution Control District (GBUAPCD). While the GBUAPCD has regulatory authority over stationary air emissions sources and administers permits limiting emissions of criteria air pollutants and toxic air contaminants (TACs) within the GBVAB, they have yet to establish numerical significance thresholds or publish guidance for evaluating air quality and GHG impacts under CEQA. Similarly, Inyo County also has no established thresholds or CEQA guidance. Therefore, in lieu of appropriate local thresholds, numerical standards published by the Mojave Desert Air Quality Management District (MDAQMD) and the South Coast Air Quality Management District (SCAQMD) are utilized within this memorandum to determine the significance of Project impacts. Use of the MDAQMD and SCAQMD thresholds is also consistent with other CEQA documents certified by both the County and GBUAPCD, including the Environmental Impact Report (EIR) certified by the County in 2015 for their Renewable Energy General Plan Amendment (REGPA) (Inyo County, 2015).

MDAQMD's *California Environmental Quality Act (CEQA) and Federal Conformity Guidelines* (MDAQMD, 2020) contains various significance thresholds that can be applied to the Project. Specifically, MDAQMD guidance states that a project would have a potentially significant air quality impact under CEQA if it:

1. Generates total emissions (direct and indirect) in excess of the thresholds given in Table 4;
2. Generates a violation of any ambient air quality standard when added to the local background;
3. Does not conform with the applicable attainment or maintenance plan(s)¹;
4. Exposes sensitive receptors to substantial pollutant concentrations, including those resulting in a cancer risk greater than or equal to 10 in a million and/or a Hazard Index (HI) (non-cancerous) greater than or equal to 1.

¹ A project is deemed to not exceed this threshold, and hence not be significant, if it is consistent with the existing land use plan. Zoning changes, specific plans, general plan amendments and similar land use plan changes which do not increase dwelling unit density, do not increase vehicle trips, and do not increase vehicle miles traveled are also deemed to not exceed this threshold (MDAQMD, 2020).

Table 4: MDAQMD CEQA Numeric Emissions Thresholds

Criteria Pollutant	Annual Threshold (short tons)	Daily Threshold (pounds)
Greenhouse Gases (CO ₂ e)	100,000	548,000
Carbon Monoxide (CO)	100	548
Oxides of Nitrogen (NO _x)	25	137
Volatile Organic Compounds (VOC)	25	137
Oxides of Sulfur (SO _x)	25	137
Particulate Matter (PM ₁₀)	15	82
Particulate Matter (PM _{2.5})	12	65
Hydrogen Sulfide (H ₂ S)	10	54
Lead (Pb)	0.6	3

In addition to the MDAQMD thresholds summarized above, additional guidance and thresholds published by the SCAQMD are also utilized. Specifically, SCAQMD’s health risk screening tool is utilized to address CEQA Guidelines Appendix G, Air Quality Threshold Criteria (c) below.

With respect to GHG emissions, most requirements for sources and projects to reduce GHG emissions in California originate from the Assembly Bill (AB) 32 Scoping Plan (the “Scoping Plan”) and associated programs administered by the California Air Resources Control Board (CARB). The Scoping Plan is the State’s blueprint for how GHG reductions will be achieved. Local jurisdictions may have requirements as well, but the overall effort is centralized with CARB. Therefore, potential GHG impacts under CEQA can be determined based on whether a specific project may conflict with the current Scoping Plan.

In addition to the state-wide Scoping Plan, in 2008 the SCAQMD adopted the Interim GHG Significance Threshold which takes a tiered approach whereby individual projects can be “screened-out” and found to have less than significant CEQA GHG impacts by one of the following five methods: exemption from CEQA, GHG emissions already analyzed in GHG budgets from in approved regional plans, having emissions less than the 10,000 metric tons of CO₂ equivalent emissions per year (MT CO₂e/year) screening level for industrial projects, meeting best performance standards, or purchase GHG emissions offsets by funding projects or buying them outright. Projects with incremental increases less than these thresholds can be screened out of further analysis and are not cumulatively considerable.

In the decade since the SCAQMD adopted this Interim GHG Significance Threshold, several new laws and executive orders were adopted that require additional reductions in years after 2020. For instance, Senate Bill 32 (Lara, 2016) requires that GHG emissions be 40% less than 1990 levels by 2030. Senate Bill 100 (de Leon, 2018), which was signed by the Governor, requires 100% zero-carbon electricity by 2045. On the day SB 100 was signed into law, the Governor also signed Executive Order B-55-18 which commits California to total, economy-wide carbon neutrality by 2045.

For these reasons, Project’s GHG emissions levels and the use of the MDAQMD and SCAQMD screening threshold presented below are for disclosure purposes as well as CEQA compliance, because this impact analysis for the Project follows the approach certified by SCAQMD for other projects. The approach used by SCAQMD to assess GHG impacts from those project recognized that consumers of electricity and transportation fuels are, in effect, regulated by requiring providers and importers of electricity and fuel to participate in the GHG Cap-and-Trade Program and other state/sector-wide programs (e.g., low carbon fuel standard, renewable portfolio standard, etc.). Each such sector-wide program exists within the framework of AB 32 and its descendant laws the purpose of which is to achieve GHG emissions reductions consistent with the AB 32 Scoping Plan.

EMISSIONS QUANTIFICATION METHODOLOGIES

This assessment incorporates the following methodologies in the quantification of criteria pollutant, toxic air contaminant (TAC) and GHG emissions during the Project’s construction and operation phases. Additionally, health risk screening was performed as outlined in this section. Detailed emissions calculations can be found in Attachment B, and documentation related to the health risk screening can be found in Attachment C.

Onsite Project construction phase emissions were determined using CARB’s California Emissions Estimator Model (CalEEMod®) and the equipment and activity levels summarized in Table 2 above. Attachment D contains the CalEEMod output results and documentation for the Project. Off-site construction phase vehicle exhaust emissions were calculated separately, assuming up to ten contractors would drive 15 miles round trip per day, for up to 25 total days of construction. Similarly, operation phase vehicle exhaust emissions were calculated assuming up to one employee trip per day, travelling a total of 1S miles to and from the site, as well as 1 mile within the site boundaries. Employee truck emissions were estimated using CARB’s Emissions Factors (EMFAC) 2021 model, assuming each employee would utilize a “light-duty truck (LDT2)” with a diesel engine vehicle. Lastly, road dust emissions from onsite vehicle traffic were calculated using the unpaved road emissions factor outlined in AP-42 Section 13.2.2 published by the Environmental Protection Agency (EPA). TACs from road dust emissions were quantified using San Diego Air Pollution Control District (SDAPCD) speciation profile R01 – *Haul Roads, General* (SDAPCD, 2021).

Health risk screening was performed using the SCAQMD Risk Tool V1.105 (the “Risk Tool”). A Tier 2 analysis was performed per SCAQMD Risk Assessment Procedures version 8.1. The analysis represents a highly conservative risk assessment used to determine if more complex assessment (i.e., modeling) is necessary. Per SCAQMD Risk Assessment Procedures version 8.1:

Tier 2 is a screening risk assessment, which includes procedures for determining the level of risk from a source for cancer risk, cancer burden, HIA, HIC8, and HIC. If the estimated risk from Tier 2 screening is below Rule 1401 limits, then a more detailed evaluation is not necessary.

In order to perform health risk screening for each risk type (e.g., cancer, chronic, and acute impacts) over the course of the Project, the screening analysis for the Project was divided into four phases as outlined in Table 5 below. Also see Attachment C for additional detail.

Table 5: Screening Health Risk Assessment Phases

Health Risk Screening Phase Title	Project Phase	Risk Type Assessed	Model Duration (Years)
Screen 1	Construction	Acute	2
Screen 2a	Construction	Cancer/Chronic	2
Screen 2b	Operation	Cancer/Chronic	30
Screen 3	Operation	Acute	2

Notes: Total Project cancer risk is determined by combining risk from Screen 2a and Screen 2b. Attachment B contains TAC emissions quantified by Project phase. Attachment C contains SCAQMD Risk Tool output documentation.

Model duration used in the health screening was conservatively chosen based on the available model duration options. Although onsite construction activities would not last longer than a single year (i.e., estimate to take approximately 2 months total), in the Risk Tool two years is the shortest duration available, and 30 years is the longest. Project health risk emissions were conservatively modeled using a point source in the Tier 2 analysis. Meteorological data from the “Desert Hot Springs Airport” was used in the risk tool, as the climate in Desert Hot

Springs area is similar to that of Inyo County. Residential receptor distance was set to 130 meters (i.e., 425-feet) and commercial distance was set to 1,000 meters (i.e., 3,280-feet).

CEQA IMPACT ANALYSIS

The following section summarizes the Project's potential impacts with respects to air quality and GHGs, which address the specific impact statements outlined in the current CEQA Guidelines Appendix G Environmental Checklist Form (California Code of Regulations, Title 14). As discussed above, this analysis primarily uses the MDAQMD approved methods and thresholds to quantify the impacts associated with the Project. Methods or guidance provided by the SCAQMD were also used in certain cases to supplement MDAQMD guidance when applicable.

Air Quality

Air Quality-1: *Would the Project conflict with or obstruct implementation of the applicable air quality plan? (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (a))*

The Project would be required to comply with regional air quality rules promulgated by the GBUAPCD and participate in reducing air pollutant emissions. As the local air district with jurisdiction over the Project, the GBUAPCD is the applicable agency tasked with implementing programs and regulations required by the Clean Air Act (CAA) and the California Clean Air Act (CCAA). In that capacity, the GBUAPCD has prepared plans to attain Federal and State ambient air quality standards. Pursuant to the CAA, the GBUAPCD is required to reduce emissions of criteria pollutants for which the GBVAB is in nonattainment. While portions of Inyo County are in nonattainment for particulate matter (i.e., PM₁₀), the Project Area is located within the Coso Junction PM₁₀ State Implementation Plan (SIP) (GBUAPCD, 2021), which was redesignated as in attainment by the EPA in 2010 per the National Ambient Air Quality Standards (NAAQS). While the Project is not located in a nonattainment area for PM₁₀, the GBUAPCD still maintains established thresholds of significance for criteria pollutant emissions for any new stationary source or modification of an existing stationary source as part of their "New Source Review Requirements for Determining Impact on Air Quality" (Rule 216).

As discussed above, the Project proposes to develop PV solar facilities on an approximately 20-acre Project Area, located north of the town of Trona. Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollutant emissions, including those required under their new source review requirements. Further, development of renewable solar projects in Inyo County was contemplated as part of the County's REGPA, and the Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.

The primary air emissions associated with the Project would be fugitive dust emissions during facility construction, and to a lesser extent fugitive dust due to vehicles travelling on unpaved roadways during facility operations. Fugitive dust is addressed under GBUAPCD Rules 401 and 402, and the Applicant would be required to comply with applicable provisions found therein. While some grading and clearing would be required to prepare the site for installation of the solar panels, because the site is already relatively flat, and because much of the site has already been prepared, only minimal grading would be required. In accordance with GBUAPCD rules, mobile water trucks will also be used onsite throughout the entirety of the construction phase to control fugitive dust. Limestone base materials and/or soil binders such as EarthGlue will also be used onsite to control dust emissions, and will remain on certain portions of the site to reduce dust once the facility is put into normal operation. Note,

implementation of these dust control measures is consistent with applicable GBUAPCD rules, as well as the standard mitigations measures described within the EIR prepared by Inyo County in support of the REGPA.

Through compliance with GBUAPCD's new source review for stationary sources, and through implementation of onsite fugitive dust control measures consistent with GBUAPCD's Rule 401 and 402 requirements, as well as the programmatic mitigations described within the EIR prepared by the County for their REGPA, the Project would be consistent with applicable air quality plans adopted by the GBUAPCD. Therefore, the Project would not obstruct implementation of applicable air quality plans, and impacts would therefore be less than significant with no mitigation required.

Air Quality-2: *Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard? (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (b))*

CEQA defines cumulative impacts as two or more individual effects which, when considered together, are either significant or "cumulatively considerable", meaning they add considerably to a significant environmental impact. An adequate cumulative impact analysis considers a project over time and in conjunction with other past, present, and reasonably foreseeable future projects whose impacts might compound those of the project being assessed.

By its very nature, air pollution is largely a cumulative impact, and is a result of past and present development. Similarly, the application of thresholds of significance for criteria pollutants, such as those promulgated by the MDAQMD, is also relevant to the determination of whether a project's individual emissions would have a cumulatively significant impact on air quality.

A CEQA lead agency, in this case Inyo County, may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program, including but not limited to an air quality attainment or maintenance plan that provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area in which the project is located (CCR §15064(h)(3)).

Thus, if project emissions (i.e., change from baseline) exceed the MDAQMD thresholds for carbon monoxide (CO), Oxides of Nitrogen (NO_x), Volatile Organic Compounds (VOC), Oxides of Sulfur (SO_x), and particulate matter (PM₁₀ or PM_{2.5}), hydrogen sulfide (H₂S), or lead (Pb), summarized previously in Table 4 above, then a project would potentially result in a cumulatively considerable net increase of a criteria pollutant. The applicable MDAQMD significance criteria as well as the Project's worst-case annual and daily emissions are presented in Table 6 and Table 7 below. Note that the Project year and day with the maximum amount of emissions were compared to the applicable thresholds to determine the potential significance of Project criteria pollutant emissions. See the emissions summaries in Attachment B, as well as the CalEEMod output files in Attachment D, for additional detail.

Table 6: Project Criteria Pollutant Increase (Annual Emissions)

Pollutant	Maximum Project Emissions (tons/year)	Significance Threshold (tons/year)	Exceeds Criteria?
Carbon Monoxide (CO)	0.4	100	No
Oxides of Nitrogen (NO _x)	0.2	25	No
Volatile Organic Compounds (VOC)	0.009	25	No
Oxides of Sulfur (SO _x)	0.001	25	No
Particulate Matter (PM ₁₀)	0.13	15	No
Particulate Matter (PM _{2.5})	0.028	12	No
Hydrogen Sulfide (H ₂ S)	0	10	No
Lead (Pb)	3.0E-06	0.6	No

Note, none of the Project's construction or operational emissions sources would emit Hydrogen Sulfide (H₂S).

Table 7: Project Criteria Pollutant Increase (Daily Emissions)

Pollutant	Maximum Project Emissions (pounds/day)	Significance Threshold (pounds/day)	Exceeds Criteria?
Carbon Monoxide (CO)	32	548	No
Oxides of Nitrogen (NO _x)	16	137	No
Volatile Organic Compounds (VOC)	0.8	137	No
Oxides of Sulfur (SO _x)	0.1	137	No
Particulate Matter (PM ₁₀)	0.001	82	No
Particulate Matter (PM _{2.5})	0.5	65	No
Hydrogen Sulfide (H ₂ S)	0	54	No
Lead (Pb)	0.0001	3	No

Note, none of the Project's construction or operational emissions sources would emit Hydrogen Sulfide (H₂S).

Table 6 and Table 7 above show that the Project's estimated daily and annual emissions are well below established MDAQMD thresholds. Therefore, the Project would not result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable Federal or State ambient air quality standard, and impacts would be less than significant with no mitigation required.

Air Quality-3: Would the Project expose sensitive receptors to substantial pollutant concentrations? (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (c))

Determination of whether project emissions would expose receptors to substantial pollutant concentrations is a function of assessing potential health risks. Sensitive receptors are facilities that house or attract children, the elderly, people with illnesses, or others who are especially sensitive to the effects of air pollutants. Hospitals, schools, convalescent facilities, and residential areas are examples of sensitive receptors. When evaluating whether a project has the potential to result in localized impacts, the nature of the air pollutant emissions, the proximity between the emitting facility and sensitive receptors, the direction of prevailing winds, and local topography must be considered.

A Health Risk Screening was performed to evaluate the effects of TACs, including diesel particulate matter (DPM) from vehicle engines, and various substances found in fugitive dust emissions (i.e., metals and respirable crystalline silica). Health risks associated with the Project are presented in Table 8, which shows impacts are well

below applicable SCAQMD screening thresholds. Therefore, there would be no new or significant health risk impacts from the Project, with no mitigation required. See the health risk screening results in Attachment C for additional detail.

Table 8: Project Health Risk Screening Results

Health Risk Screening Phase	Risk Type Assessed	Risk Units	Maximum Risk Value	Risk Threshold	Threshold Exceeded?
Screen 1	Acute	Hazard Index	0.0003	1.0	No
Screen 2a	Chronic	Hazard Index	0.0009	1.0	No
	Cancer	MICR Per Million Exposed	1.9	10	No
Screen 2b	Chronic	Hazard Index	0.0006	1.0	No
	Cancer	MICR Per Million Exposed	0.009	10	No
Screen 2 (Total)	Cancer	MICR Per Million Exposed	1.9	10	No
Screen 3	Acute	Hazard Index	0.0007	1.0	No

Notes: See Attachment C for the risk tool output files. Values in the table above may differ slightly from the attached values due to rounding. MICR = "Maximum Individual Cancer Risk".

Air Quality-4: *Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?* (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (d))

Due to the subjective nature of odor impacts, the number of variables that can influence the potential for an odor impact, and the variety of odor sources, there are no quantitative or formulaic methodologies to determine the presence of a significant odor impact. The intensity of an odor source's operations and its proximity to sensitive receptors influences the potential significance of odor emissions. Substantial odor-generating operations generally include wastewater treatment facilities, composting facilities, agricultural operations, and heavy industrial operations. Note, the Project would not involve any activities with the potential to generate odor impacts. While diesel exhaust from mobile equipment/vehicles, such as those that would be used onsite during construction, has a slight odor, odor intensity would decrease rapidly with distance and is not expected to be frequently (or at all) detectable at locations outside of the Project Area boundaries. No other potential source of odors are associated with the Project construction activities or ongoing operations. Further, the Project would comply with GBUAPCD's nuisance rules, including those related to odor. As such, the Project will not result in other emissions (such as those leading to odors) that could adversely affect a substantial number of people, and therefore the Project impacts were determined to be less than significant with no mitigation required.

Greenhouse Gases

Greenhouse Gas Emissions-1: *Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?* (CEQA Guidelines Appendix G, Greenhouse Gas Threshold Criteria (a))

In general, it is widely recognized that no single project could generate enough GHG emissions to noticeably change the global climate temperature; however, the combination of GHG emissions from past, present, and future projects could contribute substantially to global climate change. GHG emissions, and their associated contribution to climate change, are inherently a cumulative impact issue.

This concept is also reflected in California’s 2022 *Scoping Plan for Achieving Carbon Neutrality* (CARB, 2022). Specifically, regulations are implemented in order to reduce the cumulative impact of GHG emissions on a statewide level, and generally not at the project-level. Sources of GHG emission associated with the Project include fuel combustion within construction equipment and vehicles travelling to and from the site, and indirect GHG’s emitted through electricity consumption. Fuel is regulated at a level in the supply chain above an individual project, such that any project has no choice but to purchase and use fuel energy in California which is already regulated. The Project therefore is simply a location in which GHG emissions are emitted by consuming fuel that was already regulated through Cap-and-Trade, applicable Low-Carbon Fuel Standards (GHG) and other applicable regulations higher up the supply chain.

To comply with CEQA, GHG emissions impacts from implementing the Project were calculated at the Project-specific level for construction and operations, and compared to applicable significance thresholds published by the MDAQMD and the SCAQMD. Impact analysis for the Project follows the approach certified by SCAQMD for other projects, which takes into account the cumulative nature of the energy industry and recognizes that consumers of electricity and diesel fuel are, in effect, regulated by higher level emissions restrictions on the producers of these energy sources. As shown in Table 9 below, the Project’s worst case annual GHG emissions are well below the applicable MDAQMD and the SCAQMD screening thresholds.

Table 9: Project GHG Emissions

Source / Parameter	CO ₂ e (MT/year)
Total Project Emissions	63
MDAQMD Screening Threshold	100,000
Exceed?	No
SCAQMD Screening Threshold	10,000
Exceed?	No

For the reasons outlined above, the proposed Project would have a less than significant GHG impact, with no mitigation measures required.

Greenhouse Gas Emissions-2: *Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?* (CEQA Guidelines Appendix G, Greenhouse Gas Threshold Criteria (b))

Project emissions of GHGs are presented in Table 9 above. The Project would emit GHGs from fuel burned in mobile equipment and vehicle engines; however, the quantity of fuel consumed would be minimal. Specifically, onsite construction activities would be temporary in nature (take approximately two months to complete). Similarly, because the facility would be monitored remotely once placed into operation, operational fuel consumption would also be minimal (estimate a maximum of up to one inspection per week). Transportation fuel suppliers and importers, such as the ones the Applicant would use during both construction and operation, are required to report emissions under the Cap-and-Trade which is designed to reduce GHG emissions as needed to achieve emissions reductions described in related planning documents, which primarily consists of the AB 32 Scoping Plan(s), described previously. Thus, the emissions reductions will occur at a level in the supply chain above

the Project which will have no choice but to use fuels with GHG intensities that are consistent with the CARB's Scoping Plan.

Furthermore, because the Project involves renewable PV solar facilities, development of the Project would help California meet their state-wide climate change goals by producing clean renewable electricity within Inyo County. Energy generated by the Project likely would replace energy produced by the burning of fossil fuels elsewhere in the region, thereby resulting in a net reduction of GHG emissions. For example, based upon data described within the EIR published for the County's REGPA, a renewable solar project with a capacity of 900 MW could offset up to 1 million MT of CO₂e per year. As noted above, collectively the Project would have a total capacity of approximately 4.2 MW, which would result in significant GHG offsets per the REGPA methodology.

In summary, the GHGs associated with the Project would be consistent with the AB 32 Scoping Plan and applicable County and GBUAPCD policies. Conversely, by generating sustainable solar electricity, the Project is expected to offset GHG emissions that would otherwise result due to the burning of fossil fuels at other power generating facilities, which would therefore result in a beneficial impact. Therefore, the Project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases, and there would be no impact.

CONCLUSIONS

In summary, the Project would generate a small amount of air quality and GHG emissions due to fuel combustion within offroad construction equipment and on-road vehicles. These impacts will be less than significant per the applicable CEQA guidance and significance thresholds. Specifically, onsite equipment and offsite vehicles travelling to and from the site during the Project's construction phase would generate minimal and short-term air emissions over an approximately two month period, and onsite construction emissions were found to be below applicable numeric thresholds.

Once the facility is constructed and put into operation, long-term air emissions would also be minimal and well below applicable CEQA thresholds. Because the solar facilities would be monitored remotely and would generally operate without the need for a permanent onsite staff, at most is estimated that a single-light duty truck would travel to and from the site no more than once per week to conduct routine inspections and maintenance. As such, air emissions associated with ongoing operations were also found to be less than significant.

In addition to combustion emissions, fugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment track-out onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout the life of the Project, which will in turn ensure impacts remain less than significant.

Lastly, because the proposed facility is a renewable energy project, the Project would have a beneficial impact related to GHG emissions and climate change. The County, through adoption of their REGPA, is promoting

renewable solar development to reduce GHG emissions and help the region and state meet their aggressive climate change goals. Once operational, the Project would provide a renewable source of electricity that would offset existing electrical generating facilities that rely upon the combustion of fossil fuels. As such, the Project would be consistent with the County's REGPA and would have a beneficial effect related to GHG.

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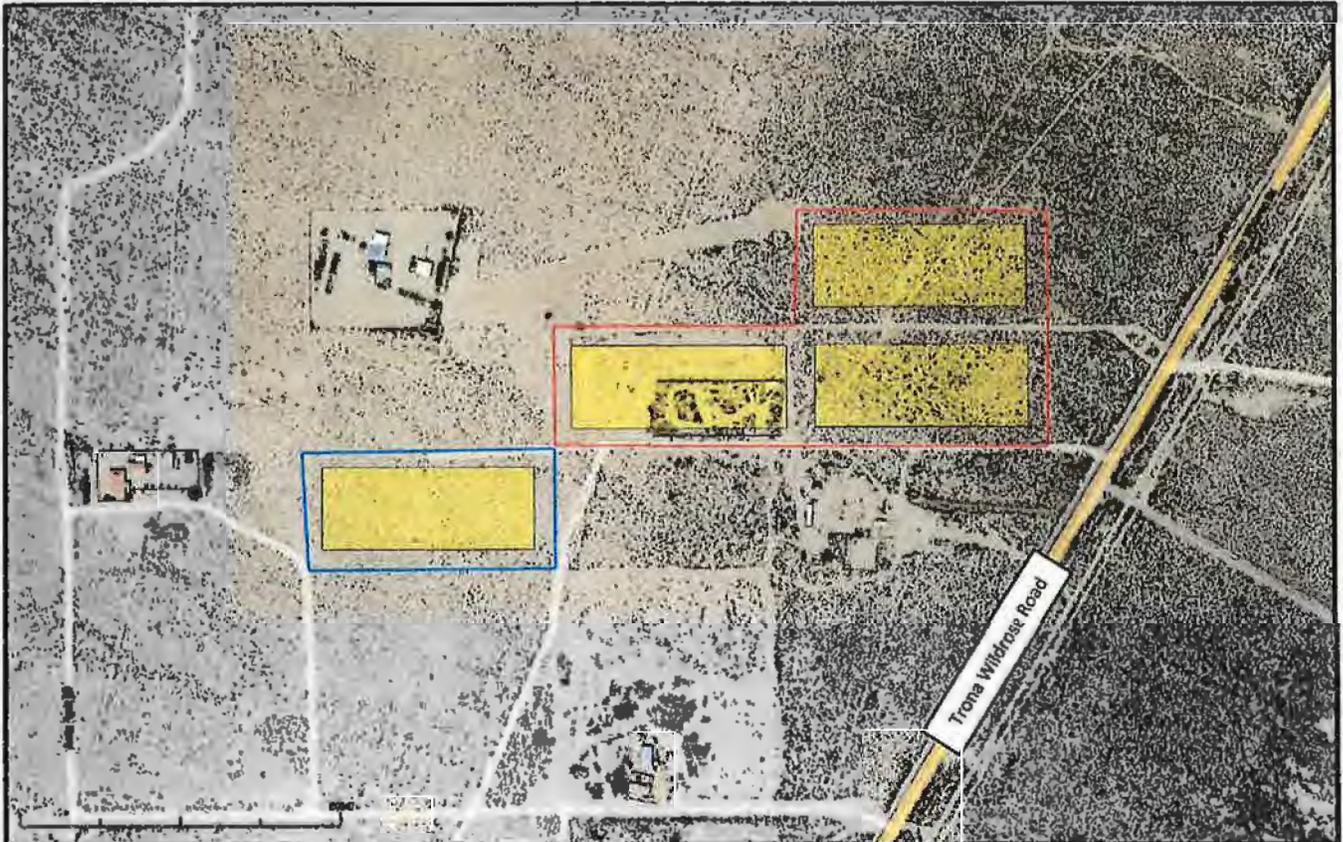
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ATTACHMENTS

- A. Figures
- B. Project Emissions Summary (Construction and Operations)
- C. SCAQMD's Health Risk Screening Tool Output File/Results
- D. CalEEMod Output File/Results

ATTACHMENT A

Figures



Source: Google Earth™ (2023)

- Project Site Boundary - Trona 4 (approx.)
- Project Site Boundary - Trona 7 (approx.)
- Proposed Solar Array Footprint/Construction Area (approx.)



SESPE
CONSULTING, INC.
A Crinly Camacho Group Company

FIGURE

1

PROJECT OVERVIEW

Inyo County Solar Project
Trona Wildrose Road
Inyo County, California

PROJECT #:	230510-0036	DATE:	6/5/23
SCALE:	See Above	DRAWN BY:	GPS

ATTACHMENT B

Project Emissions Summary (Construction and Operations)

Summary of Project Emissions						
Criteria Pollutant	Annual Threshold (short tons)^A	Maximum Year Project Emissions (short tons)	Annual Threshold Exceeded?	Daily Threshold (pounds)^A	Max Day Project Emissions (pounds)	Daily Threshold Exceeded?
Greenhouse Gases (CO ₂ e)	100,000	63	No	548,000	6,388	No
Carbon Monoxide (CO)	100	0.4	No	548	32	No
Oxides of Nitrogen (NO _x)	25	0.2	No	137	16	No
Volatile Organic Compounds (VOC)	25	0.009	No	137	0.8	No
Oxides of Sulfur (SO _x)	25	0.001	No	137	0.1	No
Particulate Matter (PM ₁₀)	15	0.130	No	82	0.001	No
Particulate Matter (PM _{2.5})	12	0.028	No	65	0.5	No
Hydrogen Sulfide (H ₂ S) ^B	10	0	No	54	0	No
Lead (Pb)	0.6	3.0E-06	No	3	0.0001	No

Footnotes:

A - Annual and daily thresholds taken from MDAQMD's *California Environmental Quality Act (CEQA) and Federal Conformity Guidelines* (February 2020).

B - Note, none of the Project's construction or operational emissions sources would emit Hydrogen Sulfide (H₂S).

Onsite Construction Phase Emissions (from CalEEMod)

2. Emissions Summary

2.1 Construction Emissions Compared Against Thresholds

	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	TOG	NOx	CO	SO ₂	CO ₂
Daily, Winter (Max) Unmit. (lbs)	0.1150	0.1493	0.2643	0.1150	0.0150	0.1500	0.3172	16.0921	32.2832	0.0562	6282.57
Average Daily (Max) Unmit. (lbs)	0.0068	0.0088	0.0156	0.0068	0.0021	0.0069	0.0479	0.9552	1.9178	0.0033	371.23
Annual (Max) Unmit. (tons)	0.0012	0.0016	0.0028	0.0012	0.0004	0.0016	0.0087	0.1743	0.3500	0.0006	61.46

Offsite Construction Phase Emissions (Calculated)

Construction Emissions	PM10 (total)	PM10 (Dust)	Exhaust Emissions								
			PM10	PM2.5	NOx	CO ₂	N ₂ O	ROG	TOG	CO	SO ₂
Offsite Emissions (lbs/day)	0.00665278	N/A	5.87E-03	0.00188557	0.01582079	109,879,352.4	0.000283472	0.016681332	0.006102966	0.006947864	0.0608884
Offsite Emissions (lbs/yr)	0.171631949	N/A	0.17163	0.007272	0.49702	2646.98331	0.00709	0.41709	0.15257	0.17970	1.52221

Off-site operation - LD12 Miles Per Day: 150 (Emissions based on 150 Miles Per Day)

Off-site operation - LD12 Miles Per Year: 3750 (Emissions based on 3750 Miles Per Year)

Onsite and Offsite Operation Phase Emissions (Calculated)

Operation Emissions	PM10 (total)	PM10 (Dust)	Exhaust Emissions								
			PM10	PM2.5	NOx	CO ₂	N ₂ O	ROG	TOG	CO	SO ₂
Onsite Emissions (lbs/hr)	2.6	2.6	4.58E-05	2.19E-05	1.06E-04	7.06E-01	1.89E-06	1.11E-04	4.07E-05	4.53E-05	4.06E-04
Onsite Emissions (lbs/day)	2.6	2.6	4.58E-05	2.12577E-05	0.00010587	0.705862216	1.88981E-06	0.000111209	4.06866E-05	4.6319E-05	0.0004056
Onsite Emissions (lbs/yr)	260	260	0.011899815	0.005527005	0.0275267	183.5241762	0.000491352	0.028934309	0.010578509	0.01204293	0.1058399
Offsite Emissions (lbs/day)	0.00069	N/A	5.87E-06	0.000318666	0.00156906	10.58793324	2.83472E-05	0.001668133	0.000610799	0.000694784	0.0068884
Offsite Emissions (lbs/yr)	0.11	N/A	0.17497227	0.002905075	0.41290054	2752.662643	0.007370273	0.43321463	0.15867764	0.18064984	1.5830921

Onsite operation - LD12 Miles Per Day Traveled: 1

Off-site operation - LD12 Miles Per Day Traveled: 15

Health Risk Screening Inputs

Onsite Pollutant Emissions	Construction Acute (Screen 1)	Cancer/Chronic (Screen 2a)	Cancer/Chronic (Screen 2b)	Operation Acute (Screen 3)
	Max Day Emissions Rate - Construction (lbs/hr)	Max Year Average Emissions Rate - Construction (lbs/hr)	Max Year Average Emissions Rate - Operation (lbs/hr)	Max Day Emissions Rate - Construction (lbs/hr)
Arsenic and Compounds (Inorganic)	3.73317E-07	7.34124E-09	2.73973E-07	3.16022E-05
Beryllium and Compounds	1.86658E-08	3.67062E-10	1.36986E-08	2.58011E-06
Cadmium and Compounds	1.86658E-06	3.67062E-10	1.36986E-08	2.58011E-05
Copper and Compounds	1.86658E-06	3.67062E-08	1.36986E-06	0.000758011
Lead and Compounds (Inorganic)	9.33292E-07	1.83531E-08	6.84932E-07	0.000129005
Manganese and Compounds	9.33292E-06	1.83531E-07	6.84932E-06	0.001290055
Nickel and Compounds	3.73317E-07	7.34124E-09	2.73973E-07	5.16022E-05
Selenium and Compounds	9.33292E-08	1.83531E-09	6.84932E-08	1.29005E-05
Total Particulate (PM)	0.014372816	0.00283404	1.35843E-06	4.58E-05

Screen 1 - Acute (1-hour) maximum 24-hour average daily construction activity emissions from mobile and stationary sources.
 Screen 2a - Cancer/Chronic (44) - Maximum 365-day average daily construction activity emissions from mobile and stationary sources.
 Screen 2b - Cancer/Chronic (13) - Maximum 365-day average daily operation activity emissions from mobile and stationary sources.
 Screen 3 - Acute (1-hour) maximum 24-hour average daily operation activity emissions from mobile and stationary sources.

On-Road Vehicle Emissions Factors (EMFAC DATA):

Source: EMFAC2021 (v1.0.2) Emissions Inventory

Region Type: Sub-Area

Region: Inyo (GBV)

Calendar Year: 2024

Season: Annual

Vehicle Classification: EMFAC202x Categories

Units: miles/day for CVMT and EVMT, trips/day for Trips, kWh/day for Energy Consumption, tons/day for Emissions, 1000 gallons/day for Fuel Consumption

Region	Calendar Year	Vehicle Category	Model Year	Speed	Fuel	Population	Total VMT	CVMT	EVMT	Trips	Energy Consumption
Inyo (GBV)	2024	LDT2	Aggregate	Aggregate	Diesel	50,696,9863	2134,2364	2134,2364		0 241,24064	0

NOx_TOTEX	PM2.5_TOTAL	PM10_TOTAL	CO2_TOTEX	CH4_TOTEX	N2O_TOTEX	ROG_TOTAL	TOG_TOTAL	CO_RUNEX	CO_TOTEX	SOx_TOTEX	NH3_RUNEX
0.000112978	2.26845E-05	4.88404E-05	0.7532384	2.017E-06	0.00011867	4.3417E-05	4.943E-05	0.0004332	0.0004332	7.137E-06	7.29304E-06

Calculated Emissions Factors (lb/vmt)

PM10	PM2.5	NOx	CO2	N2O	ROG	TOG	CO	SOx
4.57685E-05	2.12577E-05	0.000105872	0.7058622	1.89E-06	0.00011121	4.0687E-05	4.632E-05	0.0004059

Haul Road Fugitive Dust Factors

Fugitive Dust Speciation Profile

Pollutant	Concentration (ppm)	Concentration
Arsenic	20	0.00002
Beryllium	1	0.000001
Cadmium	1	0.000001
Copper	100	0.0001
Lead	50	0.00005
Manganese	500	0.0005
Nickel	20	0.00002
Selenium	5	0.000005
Zinc	200	0.0002

Source: San Diego APCD Table R01 - HAUL ROADS, GENERAL PAVED & UNPAVED, WITH DEFAULT TRACE METAL COMPOSITION

Note: The table above includes toxic air contaminants presented in both the SDAPCD speciation profile, and the SCAQMD Risk Tool

Unpaved Road Emission Factors

Unpaved Road emissions factor from AP42 Section 13.2.2

$$EF \text{ (lb/VMT)} = 4.9 * (S/12)^{0.7} + (W/3)^{0.45}$$

S = silt content (%) =
W = avg truck weight

EF (lb/VMT) =

Control Efficiency =

Emission Factor (lb/VMT) =

Silt content based on green Sand and Gravel Processing from AP-42 Table 13.2.2-1.

PM2.5 emissions are 21.2% of PM10 for unpaved roads (SCAQMD Updated CEIDARS Table)

On-Road Light Truck	
PM10	PM2.5
4.8	
3	
2.58	0.55
0%	0%
2.58	0.55

ATTACHMENT C

SCAQMD's Health Risk Screening Tool Output

TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT

(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool V1.105

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

1. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wks/yr
Control Efficiency	0.000	
Does source have T-BACT?	NO	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
	5000	
Distance-Residential	130	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	2	years

Conversion Units (select unit)

From feet

To meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	3.73E-07	74.92	3.73E-07	0.00000	3.73317E-07
B8	Beryllium and Compounds	1.87E-08	9.012	1.87E-08	0.00000	1.86658E-08
C1	Cadmium and Compounds	1.87E-08	112.41	1.87E-08	0.00000	1.86658E-08
C23	Copper and Compounds	1.87E-06	63.55	1.87E-06	0.00000	1.86658E-06
L1	Lead and Compounds (Inorganic)	9.33E-07	207.2	9.33E-07	0.00000	9.33292E-07
M2	Manganese and Compounds	9.33E-06	54.938	9.33E-06	0.00000	9.33292E-06
N12	Nickel and Compounds	3.73E-07	58.71	3.73E-07	0.00000	3.73317E-07
S1	Selenium and Compounds	9.33E-08	78.96	9.33E-08	0.00000	9.33292E-08
P1	Particulate Emissions from Diesel-Fueled Engines	1.44E-02	350	1.44E-02	0.00000	0.014372816

6. Hazard Index Summary

A/N: N/A

Application deemed complete date: 06/08/21

HIA = $[Q(\text{hr}) * (X/Q)_{\text{acute}} * MWAF] / \text{Acute REL}$

HIC = $[Q(\text{hr}) * (X/Q) * MP * MWAF] / \text{Chronic REL}$

HIC 8-hr = $[Q(\text{hr}) * (X/Q) * WAF * MWAF] / \text{8-hr Chronic REL}$

Target Organs	Acute	Chronic	8-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	8-hr Chronic Pass/Fail
Alimentary system (Intest) - AI		6.97E-05		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	2.53E-04	4.27E-02	4.85E-04	Pass	Pass	Pass
Developmental - DEV	1.53E-04	4.32E-02	4.85E-04	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eye				Pass	Pass	Pass
Hematopoietic system - HEM		5.19E-04		Pass	Pass	Pass
Immune system - IMM	2.53E-04	5.19E-05	1.21E-04	Pass	Pass	Pass
Kidney - KID		3.59E-05		Pass	Pass	Pass
Nervous system - NS	2.53E-04	4.47E-02	1.55E-03	Pass	Pass	Pass
Reproductive system - REP	2.53E-04	4.32E-02	4.85E-04	Pass	Pass	Pass
Respiratory system - RESP	2.53E-06	9.93E-02	6.06E-04	Pass	Pass	Pass
Skin		4.27E-02	4.85E-04	Pass	Pass	Pass

TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT

(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool V1.105

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

1. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wks/yr
Control Efficiency	0.000	
Does source have T-BACT?	YES	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
	5000	ft
Distance-Residential	130	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	2	years

Conversion Units (select units)

From feet

To meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	7.34E-09	74.92	7.34E-09	0.00000	7.34124E-09
B8	Beryllium and Compounds	3.67E-10	9.012	3.67E-10	0.00000	3.67062E-10
C1	Cadmium and Compounds	3.67E-10	112.41	3.67E-10	0.00000	3.67062E-10
C23	Copper and Compounds	3.67E-08	63.55	3.67E-08	0.00000	3.67062E-08
L1	Lead and Compounds (Inorganic)	1.84E-08	207.2	1.84E-08	0.00000	1.83531E-08
M2	Manganese and Compounds	1.84E-07	54.938	1.84E-07	0.00000	1.83531E-07
N12	Nickel and Compounds	7.34E-09	58.71	7.34E-09	0.00000	7.34124E-09
S1	Selenium and Compounds	1.84E-09	78.96	1.84E-09	0.00000	1.83531E-09
P1	Particulate Emissions from Diesel-Fueled Engines	2.83E-04	350	2.83E-04	0.00000	0.000283404

5a. MICR

MICR Resident = CP (mg/(kg-day))⁻¹ * Q (ton/yr) * (X/Q) Resident * CEF Resident * MF Resident * 1e-6 * MWAF

MICR Worker = CP (mg/(kg-day))⁻¹ * Q (ton/yr) * (X/Q) Worker * CEF Worker * MF Worker * WAF Worker * 1e-6 * MWAF

Compound	Residential	Commercial
Arsenic and Compounds (Inorganic)	6.59E-09	6.70E-13
Beryllium and Compounds	1.87E-11	5.42E-15
Cadmium and Compounds	3.34E-11	9.67E-15
Copper and Compounds		
Lead and Compounds (Inorganic)	7.12E-11	7.62E-15
Manganese and Compounds		
Nickel and Compounds	4.05E-11	1.17E-14
Selenium and Compounds		
Particulate Emissions from Diesel-Pooled En	1.89E-06	5.48E-10
Total	1.90E-06	5.48E-10
	PASS	PASS

5b. Is Cancer Burden Calculation Needed (MICR > 1E-07)

YES

New X/Q at which MICR_{90%} is one-in-a-million [(µg/m³)/(ton/yr)]:

9.54E-01

New Distance, interpolated from X/Q table using New X/Q (miles):

284.01

Zone Impact Area (km²):

2.53E-01

Zone of Impact Population (7000 person/km²):

1.77E+03

Cancer Burden:

8.29E-03

Cancer Burden is less than or equal to 0.5

PASS

6. Hazard Index Summary

HIA = $(C(\text{lb/hr}) * (D/Q)_{\text{air}} * MWAF) / \text{Acute REL}$

HIC = $(C(\text{ton/yr}) * (D/Q) * MF * MWAF) / \text{Chronic REL}$

HIC 3-hr = $(C(\text{ton/yr}) * (D/Q) * WAF * MWAF) / \text{3-hr Chronic REL}$

A/N: N/A

Application deemed complete date: 06/04/23

Target Organs	Acute	Chronic	3-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	3-hr Chronic Pass/Fail
Adipose system (liver) - AL		1.37E-06		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	4.98E-06	4.40E-04	9.53E-06	Pass	Pass	Pass
Developmental - DEV	4.98E-06	4.50E-04	9.53E-06	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eyes				Pass	Pass	Pass
Hematopoietic system - HEM		1.02E-05		Pass	Pass	Pass
Immune system - IMM	4.98E-06	1.02E-06	2.38E-06	Pass	Pass	Pass
Kidney - KID		2.05E-07		Pass	Pass	Pass
Nervous system - NS	4.98E-06	2.79E-04	3.06E-05	Pass	Pass	Pass
Reproductive system - REP	4.98E-06	8.50E-04	9.53E-06	Pass	Pass	Pass
Respiratory system - RESP	4.98E-06	1.96E-03	1.19E-05	Pass	Pass	Pass
Skin		4.30E-04	9.53E-06	Pass	Pass	Pass

TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT

(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool V1.105

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

I. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wks/yr
Control Efficiency	0.000	
Does source have T-BACT?	NO	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
Building Area		
Distance-Residential	1000	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	30	years

Conversion Units (select units)

From feet

To meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	2.74E-07	74.92	2.74E-07	0.00000	2.73973E-07
B8	Beryllium and Compounds	1.37E-08	9.012	1.37E-08	0.00000	1.36986E-08
C1	Cadmium and Compounds	1.37E-08	112.41	1.37E-08	0.00000	1.36986E-08
C23	Copper and Compounds	1.37E-06	63.55	1.37E-06	0.00000	1.36986E-06
L1	Lead and Compounds (Inorganic)	6.85E-07	207.2	6.85E-07	0.00000	6.84932E-07
M2	Manganese and Compounds	6.85E-06	54.938	6.85E-06	0.00000	6.84932E-06
N12	Nickel and Compounds	2.74E-07	58.71	2.74E-07	0.00000	2.73973E-07
S1	Selenium and Compounds	6.85E-08	78.96	6.85E-08	0.00000	6.84932E-08
P1	Particulate Emissions from Diesel-Fueled Engines	1.36E-06	350	1.36E-06	0.00000	1.35843E-06

5a. MICH

MICR Resident = CP (mg/kg-day)⁻¹ * Q (ton/yr) * (X/Q) Resident * CEF Resident * MP Resident * 1e-6 * MWAF

MICR Worker = CP (mg/kg-day)⁻¹ * Q (ton/yr) * (X/Q) Worker * CEF Worker * MP Worker * WAF Worker * 1e-6 * MWAF

Compound	Residential	Commercial
Arsenic and Compounds (Inorganic)	8.50E-09	3.26E-10
Beryllium and Compounds	3.06E-11	2.53E-12
Cadmium and Compounds	5.47E-11	4.51E-12
Copper and Compounds		
Lead and Compounds (Inorganic)	8.74E-11	3.68E-12
Manganese and Compounds		
Nickel and Compounds	6.64E-11	5.47E-12
Selenium and Compounds		
Particulate Emissions from Diesel-Fueled Ev	3.98E-10	3.28E-11
Total	9.14E-09	3.75E-10
	PASS	PASS

5b. Is Cancer Burden Calculation Needed (MICH > 1E-6)?

NO

New X/Q at which MICR₁₀₀ is one-in-a-million [(ug/m³)(ton/yr)]:

New Distance, interpolated from X/Q table using New X/Q (meter):

Zone Impact Area (km²):

Zone of Impact Population (7000 persons/km²):

Cancer Burden:

6. Hazard Index Summary

A/N: N/A

Application derived complete date: 06/08/23

HIA = $[Q(\text{b/hr}) * (X/Q)_{\text{max}} * MWF] / \text{Acute REL}$

HIC = $[Q(\text{mg/yr}) * (X/Q) * MP * MWF] / \text{Chronic REL}$

HIC 8-hr = $[Q(\text{mg/yr}) * (X/Q) * WAF * MWF] / \text{8-hr Chronic REL}$

Target Organs	Acute	Chronic	8-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	8-hr Chronic Pass/Fail
Alimentary system (liver) - AL		1.03E-06		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	3.67E-06	6.37E-04	7.18E-06	Pass	Pass	Pass
Developmental - DEV	3.67E-06	6.40E-04	7.18E-06	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eye				Pass	Pass	Pass
Hematopoietic systems - HEM		7.69E-06		Pass	Pass	Pass
Immune system - IMM	3.67E-06	7.69E-07	1.80E-06	Pass	Pass	Pass
Kidney - KID		3.37E-07		Pass	Pass	Pass
Nervous system - NS	3.67E-06	6.62E-04	2.30E-05	Pass	Pass	Pass
Reproductive system - REP	3.67E-06	6.40E-04	7.18E-06	Pass	Pass	Pass
Respiratory system - RESP	3.67E-06	6.41E-04	8.98E-06	Pass	Pass	Pass
Skin		6.32E-04	7.18E-06	Pass	Pass	Pass

TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT

(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool VI.105

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

1. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wka/yr
Control Efficiency	0.000	
Does source have T-BACT?	NO	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
Building Area		
Distance-Residential	1000	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	2	years

Conversion Units (select unit)

From feet

To meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	5.16E-05	74.92	5.16E-05	0.00000	5.16022E-05
B8	Beryllium and Compounds	2.58E-06	9.012	2.58E-06	0.00000	2.58011E-06
C1	Cadmium and Compounds	2.58E-06	112.41	2.58E-06	0.00000	2.58011E-06
C23	Copper and Compounds	2.58E-04	63.55	2.58E-04	0.00000	0.000258011
L1	Lead and Compounds (Inorganic)	1.29E-04	207.2	1.29E-04	0.00000	0.000129005
M2	Manganese and Compounds	1.29E-03	54.938	1.29E-03	0.00000	0.001290055
N12	Nickel and Compounds	5.16E-05	58.71	5.16E-05	0.00000	5.16022E-05
S1	Selenium and Compounds	1.29E-05	78.96	1.29E-05	0.00000	1.29005E-05
P1	Particulate Emissions from Diesel-Fueled Engines	4.58E-05	350	4.58E-05	0.00000	4.57685E-05

6. Hazard Index Summary

A/N: N/A

Application deemed complete date: 06/08/13

HIA = $[Q(\text{hr}) * (X/Q)_{\text{max}} * MWAF] / \text{Acute REL}$

HIC = $[Q(\text{month}) * (X/Q) * MP * MWAF] / \text{Chronic REL}$

HIC 8-hr = $[Q(\text{8-hr}) * (X/Q) * WAF * MWAF] / \text{8-hr Chronic REL}$

Target Organs	Acute	Chronic	8-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	8-hr Chronic Pass/Fail
Alimentary system - AL		1.94E-04		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	6.91E-04	1.19E-01	1.35E-03	Pass	Pass	Pass
Developmental - DEV	6.91E-04	1.20E-01	1.35E-03	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eye				Pass	Pass	Pass
Hematopoietic system - HEM		1.45E-03		Pass	Pass	Pass
Immune system - IMM	6.91E-04	1.45E-04	3.39E-04	Pass	Pass	Pass
Kidney - KID		1.00E-04		Pass	Pass	Pass
Nervous system - NS	6.91E-04	1.25E-01	4.34E-03	Pass	Pass	Pass
Reproductive system - RBP	6.91E-04	1.20E-01	1.35E-03	Pass	Pass	Pass
Respiratory system - RESP	6.91E-06	1.21E-01	1.62E-03	Pass	Pass	Pass
Skin		1.19E-01	1.35E-03	Pass	Pass	Pass

6a. Hazard Index Acute - Resident
 HIA = (Q/Tbhc) * (C/Q)max resident * MWF / Acute REL

A/N: N/A

Application deemed complete date: 2/6/2023

Compound	HIA - Residential									
	AL	CV	DEV	EYE	HBM	IMM	NS	REP	RESP	SKIN
Arsenic and Compounds (Inorganic)		6.91E-04	6.91E-04				6.91E-04	6.91E-04		
Beryllium and Compounds										
Cadmium and Compounds									6.91E-06	
Copper and Compounds										
Lead and Compounds (Inorganic)										
Manganese and Compounds						6.91E-04				
Nickel and Compounds										
Selenium and Compounds										
Particulate Emissions from Diesel-Fueled En										
Total		6.91E-04	6.91E-04			6.91E-04	6.91E-04	6.91E-04	6.91E-06	

ATTACHMENT D

CalEEMod Output Files

Inyo Solar Summary Report

Table of Contents

- 1. Basic Project Information
 - 1.1. Basic Project Information
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- 2. Emissions Summary
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- 6. Climate Risk Detailed Report
 - 6.2. Initial Climate Risk Scores
 - 6.3. Adjusted Climate Risk Scores
- 7. Health and Equity Details
 - 7.3. Overall Health & Equity Scores
 - 7.5. Evaluation Scorecard

1. Basic Project Information

1.1. Basic Project Information

Data Field	Value
Project Name	Inyo Solar
Construction Start Date	1/1/2024
Lead Agency	—
Land Use Scale	Project/site
Analysis Level for Defaults	County
Windspeed (m/s)	3.70
Precipitation (days)	9.60
Location	100 Moaes Ln, Trona, CA 93562, USA
County	Inyo
City	Unincorporated
Air District	Great Basin UAPCD
Air Basin	Great Basin Valleys
TAZ	3013
EDFZ	10
Electric Utility	Southern California Edison
Gas Utility	—
App Version	2022.1.1.14

1.2. Land Use Types

Land Use Subtype	Size	Unit	Lot Acreage	Building Area (sq ft)	Landscape Area (sq ft)	Special Landscape Area (sq ft)	Population	Description
User Defined Industrial	20.0	User Defined Unit	20.0	0.00	0.00	—	—	—

1.3. User-Selected Emission Reduction Measures by Emissions Sector

No measures selected

2. Emissions Summary

2.1. Construction Emissions Compared Against Thresholds

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Un/Mit.	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e	
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.82	0.81	16.0	32.4	0.08	0.11	0.15	0.26	0.11	0.04	0.15	—	6,260	6,260	0.25	0.06	0.02	6,283	
Average Daily (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
Unmit.	0.05	0.05	0.98	1.92	< 0.005	0.01	0.01	0.02	0.01	< 0.005	0.01	—	370	370	0.02	< 0.005	0.02	371	
Annual (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
Unmit.	0.01	0.01	0.17	0.35	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	—	61.2	61.2	< 0.005	< 0.005	< 0.005	61.5	

6. Climate Risk Detailed Report

6.2. Initial Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	1	0	0	N/A
Sea Level Rise	N/A	N/A	N/A	N/A
Wildfire	1	0	0	N/A
Flooding	N/A	N/A	N/A	N/A

Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	0	0	0	N/A
Air Quality Degradation	N/A	N/A	N/A	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores do not include implementation of climate risk reduction measures.

6.3. Adjusted Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	1	1	1	2
Sea Level Rise	N/A	N/A	N/A	N/A
Wildfire	1	1	1	2
Flooding	N/A	N/A	N/A	N/A
Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	1	1	1	2
Air Quality Degradation	N/A	N/A	N/A	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores include implementation of climate risk reduction measures.

7. Health and Equity Details

7.3. Overall Health & Equity Scores

Metric	Result for Project Census Tract
CalEnviroScreen 4.0 Score for Project Location (a)	46.0

Healthy Places Index Score for Project Location (b)	51.0
Project Located In a Designated Disadvantaged Community (Senate Bill 635)	No
Project Located in a Low-Income Community (Assembly Bill 1550)	Yes
Project Located In a Community Air Protection Program Community (Assembly Bill 617)	No

a: The maximum CalEnviroScreen score is 100. A high score (i.e., greater than 50) reflects a higher pollution burden compared to other census tracts in the state.

b: The maximum Health Places Index score is 100. A high score (i.e., greater than 50) reflects healthier community conditions compared to other census tracts in the state.

7.5. Evaluation Scorecard

Health & Equity Evaluation Scorecard not completed.

EXHIBIT 3

**INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT
PROGRAM ENVIRONMENTAL IMPACT REPORT**

Mitigation Monitoring and Reporting Program

Prepared for:

County of Inyo
168 N. Edwards Street
Independence, CA 93526

Prepared by:

HELIX Environmental Planning, Inc.
11 Natoma Street, Suite 155
Folsom, CA 95630

March 2015

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The California Environmental Quality Act (CEQA), Public Resources Code Section 21081.6, requires that a Mitigation Monitoring and Reporting Program (MMRP) be established upon completing findings. CEQA stipulates that “the public agency shall adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation.”

This MMRP has been developed in compliance with Section 21081.6 of CEQA. The County of Inyo (County) is the lead agency for the project under CEQA and will administer and implement the MMRP. The County is responsible for review of all monitoring reports, enforcement actions, and document disposition. The County will rely on information provided by the project site observers/monitors (e.g., construction manager, project manager, biologist, archaeologist, etc.) as accurate and up-to-date and will provide personnel to field check mitigation measure status, as required.

The mitigation measures in this MMRP are derived from the Program Environmental Impact Report (PEIR) for the proposed Renewable Energy General Plan Amendment (REGPA) project (proposed project) dated November 2014. To sufficiently track and document the status of mitigation measures for the proposed project, a mitigation matrix (Table 1) has been prepared and includes the following items:

- Mitigation Measure Number
- Mitigation Measure (text)
- Phase of Implementation / Mitigation Timing
- Frequency and/or Duration of Required Monitoring
- Enforcement or Reporting Agency / Action Notes
- Record Document Location

Mitigation measure timing has been noted in several specific timing increments, the most common being:

- During the design phase
- Prior to permit issuance
- During construction
- At completion of construction

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Table 1
INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
AESTHETICS				
<p>AES-1: Prepare visual studies that include existing views, scenic vistas, and visual resources and evaluate the potential impacts to existing visual resources.</p> <p>Site-specific visual studies shall be prepared to assess potential visual impacts for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA. The visual study shall include assessment of the existing visual environment, including existing views, scenic vistas, and visual resources, and evaluate the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. The study shall include assessment of public views from key observation points, the locations of which shall be determined in consultation with County staff and, if applicable, other public agencies with jurisdiction over the project site (e.g., BLM). Visual simulations shall be prepared to conceptually depict post-development views from the identified key observation points.</p> <p>The analysis and results of the study shall be documented in a memorandum that will include: (1) an assessment of the existing visual environment, including existing views, scenic vistas, and visual resources and (2) an evaluation of the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. Applicable recommendations from the project-specific visual analysis shall be incorporated into the associated individual project design to address identified potential visual impacts.</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department, and/or other applicable agencies.</p>	

Table 1
INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
AESTHETICS (cont.)				
<p>AES-2: Reduce potential effects of glare by preparing site-specific glare studies that inform project design.</p> <p>Site-specific glare studies shall be prepared for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA to assess potential glare impacts. Applicable results and recommendations from the project specific glare study shall be incorporated into the associated individual project designs to address identified potential visual impacts.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department	
<p>AES-3: Minimize visual contrast using colors that blend with surrounding landscape and do not create excessive glare.</p> <p>For proposed solar energy projects that are greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources, the surfaces of structures and buildings that are visible from public viewpoints shall be treated so that (1) their colors minimize visual contrast by blending with the surrounding landscape and (2) their colors and finishes do not create excessive glare. Surface color treatments shall include painting or tinting in earth tone colors to blend in with the surroundings desert and mountains. Materials, coatings, or paints having little or no reflectivity shall be used.</p>	Prior to / during construction	Prior to construction	Inyo County Planning Department and/or other applicable agencies.	
<p>AES-4: Install natural screens to protect ground-level views into the project.</p> <p>For all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, and where existing screening topography and vegetation are absent or minimal, natural-looking earthwork landforms (such as berms or contour slopes), vegetative, or architectural screening shall be installed to screen ground-level views into the project site. The</p>	Prior to / during construction	Prior to construction	Inyo County Planning Department	

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<p>shape and height of the earthwork landforms shall be context sensitive and consider distance and viewing angle from nearby public viewpoints.</p>				
<p>AES-5: Prepare lighting plan using BMPs consistent with the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010) to reduce night lighting during construction and operation.</p> <p>The project applicant shall prepare a lighting plan for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA that documents how project lighting would be designed and installed to minimize night sky impacts during construction and operation. The lighting plan shall include, at minimum, the following lighting design parameters:</p> <ul style="list-style-type: none"> • Lighting shall be of the minimum necessary brightness consistent with operational safety and security requirements. • Lighting shall incorporate fixture hoods/shielding with light directed downward and toward the area to be illuminated. • Light fixtures that are visible from beyond the project boundary shall have cutoff angles that are sufficient to prevent lamps and reflectors from being visible beyond the project boundary, except where necessary for security. • Project lighting shall be kept off when not in use whenever feasible and consistent with safety and security requirements. 	Prior to construction	Prior to construction	Inyo County Planning Department	
<p>AES-6: Treat PV solar panel glass with anti-reflective coating.</p> <p>For proposed PV facilities greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, glass used to cover solar panels shall be treated with an anti-reflective coating to further decrease reflection and increase the transmission of light through the glass to the cells.</p>	Prior to / during construction	Prior to construction	Inyo County Planning Department	

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<p>AES-7: Coordinate with the Federal Aviation Administration when considering the use of audio visual warning systems.</p> <p>For projects requiring aircraft warning lights, the project applicant shall coordinate with the Federal Aviation Administration (FAA) to consider the use and installation of audio visual warning systems technology on tower structures. If the FAA denies a permit for the use of audio visual warning systems, the project applicant shall limit lighting to the minimum required to meet FAA safety requirements.</p>	Prior to / during construction	Prior to construction	Inyo County Planning Department and/or other applicable agencies.	
<p>AES-8: Projects on federal land will comply with the respective federal agency’s visual guidelines and policies.</p> <p>Solar energy projects proposed on federal land within individual SEDAs and the OVSA shall be coordinated with the federal agency that is responsible for the management of the land and shall comply with the respective federal agency’s visual guidelines and policies.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	
<p>AES-9: The project will implement BMPs and measures during construction to reduce the visual and aesthetic effects of the construction site.</p> <p>The following measures shall be implemented for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA during construction:</p> <ul style="list-style-type: none"> • Construction boundaries and staging areas shall be clearly delineated and where appropriate fenced to prevent encroachment onto adjacent natural areas. • Construction staging and laydown areas visible from nearby roads, residences, and recreational areas shall be visually screened using temporary fencing. Fencing shall be of an appropriate design and color to visually blend with the site's surroundings. • Existing native vegetation shall be preserved to the greatest extent possible. • Project grading shall utilize undulating surface edges and contours 	During construction	During construction	Inyo County Planning Department Inyo County Department of Public Works	

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<p>that repeat the natural shapes, forms, textures, and lines of the surrounding landscape.</p> <ul style="list-style-type: none"> • Exposed soils shall be restored to their original contour and vegetation. • Stockpiled topsoils shall be reapplied to disturbed surfaces. 				
<p>AES-10: Projects requiring overhead electrical transmission connections will consider design and installation techniques that reduce visual impacts.</p> <p>For projects that require overhead electrical transmission connections to existing transmission lines and for the potential off-site transmission corridor to serve the Trona, Chicago Valley, and Charleston View SEDAs, the following shall be considered in the design and alignment of the transmission line connections:</p> <ul style="list-style-type: none"> • Avoid placing transmission towers and structures along ridgelines, peaks, or other locations where skylining effects would occur such that they would silhouette against the sky. • Place transmission corridor connection alignments along edges of clearings or at transition areas (i.e., natural breaks in vegetation or topography). • To the extent practicable, treat transmission towers and structures with color and surfaces to reduce visual contrast with the surrounding visual landscape. Alternative methods to reduce visual impacts may be considered for structures that cannot use conventional methods of painting without impeding electrical conveyance or without causing long-term environmental impacts through the constant reapplication of paint. These methods may include, but shall not be limited to, galvanizing or similar factory-applied conductive non-paint treatments. • Use of appropriate and context-sensitive transmission tower types (i.e., lattice structures compared to monopoles) to reduce visual contrast with the surrounding visual landscape. 	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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AGRICULTURE AND FORESTRY RESOURCES				
<p>AG-1: Review development proposals for potential impacts to agricultural operations.</p> <p>The County Agricultural Commissioner shall be responsible for reviewing new development proposals adjacent to agricultural operations to ensure they do not significantly impact agricultural operations.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Agriculture Commissioner/ Planning Department/	
<p>AG-2: Conduct site-specific investigations for agricultural lands.</p> <p>Site-specific agricultural resource investigations shall be completed for proposed solar development projects within the individual SEDAs and the OVSA that are located on lands utilized for agricultural operations prior to final project design approval. If agricultural operations are identified within the project area, alternative designs should be implemented to avoid and/or minimize impacts to those resources. This may include mitigating conversion of agricultural lands based on the mitigation ratios identified in consultation with affected agencies at the cost of the project applicant to the satisfaction of the County. Mitigation ratios and impact fees assessed, if any, shall be outlined in the Renewable Energy Development Agreement, Renewable Energy Permit, or Renewable Energy Impact Determination.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department Inyo County Agriculture Commissioner	
<p>AG-3: Invasive plant species or noxious weeds.</p> <p>To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> • The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes. • Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site. • Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored. 	Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation	Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> • The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned. • Native vegetation shall be re-established as quickly as practicable on disturbed sites. • Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions. • Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations. 				
AIR QUALITY				
<p>AQ-1: Prepare site-specific air quality technical report.</p> <p>Prior to issuance of Major Use Permits for solar energy projects, a site-specific air quality technical report shall be prepared and approved by the County, which will verify compliance with County and Great Basin Unified Air Pollution Control District standards during construction and operation of the solar project.</p> <p>Mitigation Measures AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report, and will be implemented during construction and operation of future projects. These measures require implementation of dust control practices during construction activities and solar project operations.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	
<p>AQ-2: Reduce fugitive dust and particulate matter emissions during construction.</p> <p>To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rules 401 and 402 as well as applicable best management practices (BMP)s from the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010), solar projects shall implement fugitive dust and particulate matter emissions control measures including, but not limited to the following:</p> <ul style="list-style-type: none"> • Water and/or coarse rock all active construction areas as necessary and indicated by soil and air conditions; • Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard; 	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> • Pave or apply (non-toxic) soil stabilizers on all unpaved access roads; • Sweep daily (with water sweepers) all paved access roads; Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets; • Suspend excavation and grading activity when sustained winds make reasonable dust control difficult to implement, e.g., for winds over 25 miles per hour (mph). • Limit the speed of on-site vehicles to 15 mph. 				
<p>AQ-3: Implement dust control measures during operation.</p> <p>To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rule 401 and 402 as well as applicable BMPs from REAT’s Best Management Practices and Guidance Manual (REAT 2010), solar projects shall incorporate feasible dust control measures into the site design including, but not limited to, the following:</p> <ul style="list-style-type: none"> • Incorporate perimeter sand fencing into the overall design to prevent migration of exposed soils into the surrounding areas. The perimeter fence is intended to provide long-term protection around vulnerable portions of the site boundary; it is also intended to prevent off-road site access and sand migration across site boundaries and the associated impacts. • Incorporate wind deflectors intermittently across solar project sites. The solar panels themselves, especially where installed to transverse primary wind direction, will provide some measure of protection of the ground surface. Wind deflectors enhance this effect by lifting winds that may otherwise jet beneath panels, thereby disrupting long wind fetches, and reducing surface wind velocities and sand migration. • Orient infrastructure/solar panels perpendicular to primary wind directions. • Adjust panel operating angles to reduce wind speeds under panels. • Perform revegetation in areas temporarily denuded during construction. These areas would be replanted with native plant species that exist on the site presently. Irrigation would be applied temporarily during the plant establishment period (typically multiple 	During operation	During operation	Inyo County Planning Department and/or other applicable agencies.	

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<p>years), but after establishment it is expected that these areas would require little or no maintenance. Vegetation provides dust control by protecting and preventing threshold wind velocities at the soil surface. Studies have shown that an 11 to 54 percent vegetation cover on a site can provide up to 99 percent PM10 control efficiency (GBUAPCD 2008).</p> <ul style="list-style-type: none"> As the installation of solar panels and associated equipment progresses, each area that is completed (i.e. where no further soil disturbance is anticipated) will be treated with a dust palliative to prevent wind erosion. CARB certifications indicate that the application of dust suppressants can reduce PM10 emissions by 84 percent or more (CARB 2011). 				
BIOLOGICAL RESOURCES				
<p>BIO-1: Prepare project level biological resources evaluation and mitigation and monitoring plan.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact biological resources as determined by a qualified biologist (defined as a biologist with documented experience or training related to the subject species), a project level biological resource evaluation shall be prepared by a qualified biologist for the project. The biological resource evaluation shall include field reconnaissance and focused surveys as determined necessary by a qualified biologist to identify special status species and natural communities present or having the potential to occur on the site, an evaluation of the extent of those habitats, an evaluation of the potential for impacts to each special status species and/or habitat, and shall prescribe specific mitigation measures to avoid impacts to biological resources to the maximum extent practicable. The qualifications of any biologists conducting special status species surveys or focused habitat assessments will be submitted to CDFW prior to conducting fieldwork. The level of biological resource analysis will be based on factors such as the size of the proposed project, the extent of impacts to biological resources, and the sufficiency of existing data to determine impacts.</p> <p>An evaluation of the potential for off-site impacts to special status species and sensitive habitats will be included in the biological resources</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>evaluation, especially for projects involving groundwater pumping. Chapter 2 of the Basin Plan protects beneficial uses for groundwater with respect to groundwater recharge and freshwater replenishment and beneficial uses for wildlife habitats and flora and fauna including cold freshwater habitat, warm freshwater habitat, wildlife habitat, rare, threatened, or endangered species, spawning, reproduction, and development, preservation of biological habitats of special significance, and migration of aquatic organisms (RWQCB 1995). A project-specific evaluation of potential impacts to beneficial uses for groundwater as specified in the Basin Plan will be included in the biological resources evaluation.</p> <p>For projects in the Chicago Valley or Charleston View SEDAs, potential impacts to special status species and/or riparian and other groundwater dependent habitat in the Amargosa Watershed will be evaluated. If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch. USFWS and CDFW shall be contacted during preparation of the biological resources evaluation to obtain the best available scientific data on such potential impacts including existing hydrologic studies (e.g., the unpublished State of the Basin Report-2014 prepared by Zdon and Associates, Inc.).</p> <p>For projects with the potential to impact on- or off-site special status species or habitats as determined in the biological resources evaluation, a project-specific biological resources mitigation and monitoring plan shall be prepared that meets the approval of permitting agencies. The plan shall be implemented during all phases of the project and shall identify appropriate mitigation levels to compensate for significant direct, indirect, and cumulative impacts, including habitat, special status plant, and wildlife species losses as well as impacts to groundwater dependent vegetation or off-site impacts to special status species or sensitive habitats due to groundwater pumping. The plan shall address at a minimum:</p> <ul style="list-style-type: none"> • Biological resource avoidance and minimization measures and mitigation, monitoring and compliance measures required by federal, state, and local applicable permitting agencies. 				

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<ul style="list-style-type: none"> • Documentation (based on surveys) of sensitive plant and wildlife expected to be affected by all phases of the project (project construction, operation, abandonment, and decommissioning). Agencies may request additional surveying, based on the documentation or past experience working with the resources. Include measures to avoid or minimize impacts to species and habitat. • A detailed description of measures to minimize or mitigate permanent and temporary disturbances from construction activities. • All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction. • Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities. • Duration for each type of monitoring and a description of monitoring methodologies and frequency. • Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful. • All standards and remedial measures to be implemented if performance standards and criteria are not met. • A closure/decommissioning or abandonment plan, including a description of funding mechanism(s). • A process for proposing plan modifications to the County project manager. • All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction. • Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities. • Duration for each type of monitoring and a description of monitoring methodologies and frequency. • Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful. • All standards and remedial measures to be implemented if performance standards and criteria are not met. • A closure/decommissioning or abandonment plan, including a 				

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description of funding mechanism(s). <ul style="list-style-type: none"> A process for proposing plan modifications to the County project manager. 				
<p>BIO-2: Minimize impacts to special status plants.</p> <ul style="list-style-type: none"> Prior to the approval of any solar development projects or related infrastructure under the REGPA, a CDFW-approved botanist shall evaluate the potential for special status plant species to occur on the site and conduct surveys, if necessary, to determine presence or infer absence of special status plants on the site following the November 24, 2009 <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities</i> or the most current guidelines. When special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, to the maximum extent feasible, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs. <p>If special status plants are identified in the project area and complete avoidance of direct and indirect impacts is not feasible as determined by the County, the following measures shall be implemented to avoid and minimize impacts on special status plants:</p> <ul style="list-style-type: none"> If feasible, when special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs. For projects that are determined to have the potential to result in "take" of state or federally-listed plant species, consultation shall be conducted with CDFW or USFWS 	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	

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<p>respectively prior to project commencement, and appropriate mitigation measures developed if necessary.</p> <ul style="list-style-type: none"> When individuals of a special status species occur within an area proposed for construction and take cannot be avoided, mitigation shall be developed in coordination with USFWS and/or CDFW to reduce impacts on the local population of the special status species. Mitigation measures approved by USFWS and/or CDFW may include transplantation under the direction of a CDFW-approved botanist if transplantation of such species is deemed likely to succeed, or seed shall be collected prior to destruction of the plants and dispersed in suitable habitats not impacted by construction, if such habitats exist and seed collection is deemed likely to be successful by a CDFW-approved botanist with experience propagating the species in question. In all cases, CDFW will be notified at least 10 days prior to removal of any special status plant to allow transplantation or collection of seed at their discretion. If transplanting is proposed, the botanist shall coordinate with the appropriate resource agencies and local experts to determine whether transplantation is feasible. If the agencies concur that transplantation is a feasible mitigation measure, the botanist shall develop and implement a transplantation plan through coordination with the appropriate agencies. The special status plant transplantation plan shall involve identifying a suitable transplant site; moving some or all of the plant material and seed bank to the transplant site; collecting seed material and propagating it in a nursery (in some cases it is appropriate to keep plants onsite as nursery plants and sources for seed material); and monitoring the transplant sites to document recruitment and survival rates. Monitoring shall be conducted for a period of five years and transplantation shall be considered successful if an 80 percent survival rate has been achieved by the end of the five-year monitoring period. A mitigation and monitoring plan shall be developed by a qualified botanist/ restoration ecologist and submitted to CDFW for approval prior to approval of the proposed project. The mitigation and monitoring plan will dictate appropriate avoidance and minimization measures, compensatory mitigation, and monitoring requirements as 				

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<p>pertinent to the specific species and level of impact(s). Mitigation shall include, but is not limited to 1) protection of special status plant populations not directly impacted by construction or implementation of the project as stated above; 2) transplantation and/or collection of seed from impacted plants if feasible, as stated above; and 3) the preservation in perpetuity of an equivalent or larger off-site population for every individual or population of special status plant impacted including sufficient land surrounding the preserved population to ensure its survival in perpetuity as determined by a qualified botanist/ restoration ecologist. The qualified botanist/ restoration ecologist shall include plans to restore and enhance the preserved populations to the extent feasible.</p> <ul style="list-style-type: none"> • If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch, pursuant to Mitigation Measure HYD-2 in Section 4.9, Hydrology and Water Quality. If any solar development projects are proposed in the Chicago Valley or Charleston View SEDAs that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for down-watershed impacts to the habitats for special status plants in the Amargosa Watershed including the portion of the Amargosa River that has been designated by Congress as "Wild and Scenic." If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status plant species (e.g., Fish Slough, marshes, riparian areas, alkaline flats in the Amargosa Watershed and the portion of the Amargosa River that has been designated by Congress as "Wild and Scenic"), a management plan will be prepared in coordination with the County and submitted to the appropriate resource agency with oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on off-site habitat for special status plants such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County. 				

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<p>BIO-3: Minimize impacts to special status wildlife.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact special status wildlife as determined by a qualified biologist, a CDFW-approved wildlife biologist shall conduct a survey to document the presence or absence of suitable habitat for special status wildlife in the project site. The following steps shall be implemented to document special status wildlife and their habitats for each project, as determined by the CDFW-approved wildlife biologist:</p> <ul style="list-style-type: none"> • Review Existing Information. The wildlife biologist shall review existing information to develop a list of special status wildlife species that could occur in the project area or be impacted by the proposed project, either directly or indirectly (e.g., groundwater pumping could result in indirect impacts to off-site habitats for special status wildlife). The following information shall be reviewed as part of this process: the USFWS special status species list for the project region, CDFW's CNDDDB, previously prepared environmental documents, and USFWS issued biological opinions for previous projects. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of special status wildlife from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned. • Coordinate with State and Federal Agencies. The wildlife biologist shall coordinate with the appropriate agencies (CDFW, USFWS, BLM) to discuss wildlife resource issues in the project region and determine the appropriate level of surveys necessary to document special status wildlife and their habitats. • Conduct Field Studies. The wildlife biologist shall evaluate existing habitat conditions and determine what level of biological surveys may be required. The type of survey required shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on the existing conditions in the project area and the proposed construction activity, one or a combination of the following 	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>levels of survey may be required:</p> <ul style="list-style-type: none"> • Habitat Assessment. A habitat assessment determines whether suitable habitat is present. The wildlife biologist shall conduct project-specific habitat assessments consistent with protocols and guidelines issued by responsible agencies for certain special status species (e.g., USFWS' 2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California). Habitat assessments are used to assess and characterize habitat conditions and to determine whether return surveys are necessary. If no suitable habitat is present for a given special status species, no additional species-focused or protocol surveys shall be required. • Species-Focused Surveys. Project-specific species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status wildlife and if it is necessary to determine the presence or absence of the species in the project area. The wildlife biologist shall conduct project-specific surveys focusing on special status wildlife species that have the potential to occur in the region. The surveys shall be conducted during a period when the target species are present and/or active. • Protocol-Level Wildlife Surveys. The wildlife biologist shall conduct project specific protocol level surveys for special status species with the potential to be impacted by the proposed project. The surveys shall comply with the appropriate protocols and guidelines issued by responsible agencies for the special status species. USFWS and CDFW have issued survey protocols and guidelines for several special- status wildlife species that could occur in the project region, including (but not limited to): bald eagle, burrowing owl, golden eagle, Swainson's hawk, least Bell's vireo, willow flycatcher, desert tortoise, and desert kit fox. The protocols and guidelines may require that surveys be conducted during a particular time of year and/or time of day when the species is present and active. Many survey protocols require that only a USFWS- or CDFW-approved biologist perform the surveys. The project proponent shall coordinate with the appropriate state or federal agency biologist before the initiation of protocol-level surveys to 				

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<p>ensure that the survey results would be valid. Because some species can be difficult to detect or observe, multiple field techniques may be used during a survey period and additional surveys may be required in subsequent seasons or years as outlined in the protocol or guidelines for each species.</p> <ul style="list-style-type: none"> • Habitat Mapping. The wildlife biologist shall map special status wildlife or suitable habitat identified during the project-specific field surveys. • A Scientific Collecting Permit is required to take, collect, capture, mark, or salvage, for scientific, educational, and non-commercial propagation purposes, mammals, birds and their nests and eggs, reptiles, amphibians, fishes and invertebrates (Fish and Game Code Section 1002 and Title 14 Sections 650 and 670.7). All biologists will be required to obtain a Scientific Collecting Permit that may be required to handle any live or dead animals during construction or operation of a project. <p>In addition, the following measures should be implemented to avoid and minimize impacts on special status species and their habitats if they occur within a site:</p> <ul style="list-style-type: none"> • For projects that are determined to have the potential to result in "take" of state or federally-listed animal species, consultation shall be conducted with CDFW or USFWS respectively and appropriate mitigation measures developed as necessary, and take authorization shall be obtained prior to project commencement, if relevant. • If ground disturbing activities are required prior to site mobilization, such as for geotechnical borings or hazardous waste evaluations, a CDFW-approved biologist shall be present to monitor any actions that could disturb soil, vegetation, or wildlife. • In areas that could support desert tortoise or any other sensitive wildlife species, a qualified biologist with the appropriate CDFW and/or USFWS approvals for the species being relocated shall be onsite and respond accordingly should an animal need to be relocated... 				

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<ul style="list-style-type: none"> • Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. Vehicles shall not exceed 25 mph on the project site. Vehicles shall abide by posted speed limits on paved roads. • A CDFW-approved biologist shall be designated to oversee compliance with biological resources avoidance and minimization measures during mobilization, ground disturbance, grading, construction, operation, and closure/decommissioning, or project abandonment, particularly in areas containing or known to have contained sensitive biological resources, such as special status species and unique plant assemblages. The CDFW-approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The boundaries of all areas to be disturbed (including staging areas, access roads, and sites for temporary placement of spoils) shall be delineated with stakes and flagging prior to construction activities in consultation with the biological monitor. Spoils shall be stockpiled in disturbed areas lacking native vegetation and which do not provide habitat for special status species. Parking areas, staging and disposal site locations shall also be located in areas without native vegetation or special status species habitat. All disturbances, vehicles, and equipment shall be confined to the flagged areas. The CDFW-approved biologist shall be responsible for actions including, but not limited to, the following: <ul style="list-style-type: none"> ○ Clearly marking sensitive biological resource areas and inspecting the areas at appropriate intervals for meeting regulatory terms and conditions. ○ Inspecting, daily, active construction areas where wildlife may have become trapped (for example, trenches, bores, and other excavation sites that constitute wildlife pitfalls outside the permanently fenced area) before beginning construction. At the end of the day, conducting wildlife inspections of installed structures that would entrap or not allow escape during periods of construction inactivity. Periodically inspecting areas with 				

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<p>high vehicle activity (such as parking lots) for wildlife in harm's way.</p> <ul style="list-style-type: none"> ○ Periodically inspect stockpiled material and other construction material and equipment (including within the fenced areas) throughout the day as some species such as desert kit fox may enter the project site at any time. ○ Overseeing special status plant salvage operations. ○ Immediately recording and reporting hazardous spills immediately as directed in the project hazardous materials management plan. ○ Coordinating directly and regularly with permitting agency representatives regarding biological resources issues, and implementation of the biological resource avoidance and minimization measures. ○ Maintaining written records regarding implementation of the biological resource avoidance and minimization measures, and providing a summary of these records periodically in a report to the appropriate agencies. ○ Notifying the project owner and appropriate agencies of non-compliance with biological resource avoidance and minimization measures. ○ At the end of each work day, the biological monitor shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled or if backfilling is not feasible, the biological monitor shall ensure that all trenches, bores, and other excavations are sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with desert tortoise-exclusion fencing. All trenches, bores, and other excavations outside the areas permanently fenced with desert tortoise exclusion fencing shall be inspected periodically, but no less than three times, throughout the day and at the end of each workday by the CDFW-approved biologist. Should a tortoise or other wildlife become trapped, the CDFW and USFWS-approved desert tortoise biologist shall remove and relocate the individual as described in the project's Desert Tortoise Relocation/Translocation Plan. Any wildlife encountered during 				

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<p>the course of construction shall be allowed to leave the construction area unharmed.</p> <ul style="list-style-type: none"> ○ Any construction pipe, culvert, or similar structure with a diameter greater than 1 inch, stored less than 8 inches aboveground, and within desert tortoise habitat (i.e., outside the permanently fenced area) for one or more nights, shall be inspected by the biological monitor for desert tortoises or other special status species such as fringe-toed lizard, before the material is moved, buried, or capped. As an alternative, all such structures may be capped before being stored outside the fenced area, or placed on pipe racks. These materials would not need to be inspected or capped if they are stored within the permanently fenced area after the clearance surveys have been completed. ● Access roads, pulling sites, storage and parking areas outside of the fenced solar facility area shall be designed, installed, and maintained with the goal of minimizing impacts to native plant communities and sensitive biological resources. Transmission lines and all electrical components shall be designed, installed, and maintained in accordance with the APLIC Suggested Practices for Avian Protection on Power Lines (APLIC 2006) and Mitigating Bird Collisions with Power Lines (APLIC 2004) to reduce the likelihood of bird electrocutions and collisions. ● Facility lighting shall be designed, installed, and maintained to direct light downwards towards the project site and avoid light spillover to wildlife habitat. ● Construction and operation related noise levels shall be minimized to minimize impacts to wildlife. ● All vertical pipes shall be capped to prevent the entrapment of birds and other wildlife. ● All vehicles and equipment shall be maintained in proper working condition to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials. The biological monitor shall be informed of any hazardous spills immediately. Hazardous spills shall be immediately cleaned up and 				

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<p>the contaminated soil properly disposed of at a licensed facility. Servicing of construction equipment shall take place only at a designated area. Service/maintenance vehicles shall carry a bucket and pads to absorb leaks or spills.</p> <ul style="list-style-type: none"> • Road surfacing and sealants as well as soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants. Anticoagulants shall not be used for rodent control. Pre-emergents and other herbicides with documented residual toxicity shall not be used. Herbicides shall be applied in conformance with federal, state, and local laws and according to the guidelines for wildlife- safe use of herbicides in BIO 24 (Weed Management Plan). • The following measures shall be implemented to minimize attractants to wildlife: <ul style="list-style-type: none"> ○ If the application of water is needed to abate dust in construction areas and on dirt roads, use the least amount needed to meet safety and air quality standards and prevent the formation of puddles, which could attract wildlife to construction sites. The biological monitor shall patrol these areas to ensure water does not puddle and attract desert tortoise, common ravens, and other wildlife to the site and shall take appropriate action to reduce water application where necessary. ○ Water shall be prohibited from collecting or pooling for more than 24 hours after a storm event within the project retention basin. Standing water within the retention basin shall be removed, pumped, raked, or covered. Alternative methods or the timeframe for allowing the water to pool may be modified with the approval of the biological monitor. ○ Dispose trash and food-related items in self-closing, sealable containers with lids that latch to prevent wind and wildlife from opening containers. Empty trash containers daily and remove from the project site those associated with construction when construction is complete. ○ To avoid attracting insectivorous birds and bats, prepare a facility vector (such as mosquitoes or rodents) control plan, as appropriate, that meets the permitting agency approval and 				

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<p>would be implemented during all phases of the project.</p> <ul style="list-style-type: none"> • Workers or visitors, while on project property, shall be prohibited from feeding wildlife, bringing domestic pets to the project site, collecting native plants, or harassing wildlife. • To reduce the potential for the transmission of fugitive dust the project proponent shall implement dust control measures. These shall include: <ul style="list-style-type: none"> ○ The project proponent shall apply non-toxic soil binders, equivalent or better in efficiencies than the CARB- approved soil binders, to active unpaved roadways, unpaved staging areas, and unpaved parking area(s) throughout construction to reduce fugitive dust emissions. ○ Water the disturbed areas of the active construction sites at least three times per day and more often if uncontrolled fugitive dust is noted. Enclose, cover, water twice daily, and/or apply non-toxic soil binders according to manufacturer's specifications to exposed piles with a 5 percent or greater silt content. Agents with known toxicity to wildlife shall not be used. ○ Establish a vegetative ground cover (in compliance with biological resources impact mitigation measures above) or otherwise create stabilized surfaces on all unpaved areas at each of the construction sites within 21 days after active construction operations have ceased. ○ Increase the frequency of watering, if water is used as a soil binder for disturbed surfaces, or implement other additional fugitive dust mitigation measures, to all active disturbed fugitive dust emission sources when wind speeds (as instantaneous wind gusts) exceed 25 mph. • A project-specific worker environmental awareness program (WEAP) shall be developed and carried out during all phases of the project (site mobilization, ground disturbance, grading, construction, operation, closure/decommissioning, or project abandonment, and restoration/reclamation activities). The WEAP shall include the biological resources present and the measures for minimizing impacts 				

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<p>to those resources. Interpretation for non-English speaking workers shall be provided, and all new workers shall be instructed in the WEAP. The project field construction office files will contain the names of onsite personnel (for example, surveyors, construction engineers, employees, contractors, contractor's employees/ subcontractors) who have participated in the education program. All employees and contractors shall be trained to carry out the WEAP and on their role in ensuring the effectiveness of implementing the Plan. At a minimum, the WEAP shall including the following:</p> <ul style="list-style-type: none"> ○ Photos and habitat descriptions for special status species that may occur on the project site and information on their distribution, general behavior, and ecology. ○ Species sensitivity to human activities. ○ Legal protections afforded the species. ○ Project measures for protecting species. ○ State and federal law violation penalties. ○ Worker responsibilities for trash disposal and safe/ humane treatment of special status species found on the project site, associated reporting requirements, and specific required measures to prevent taking of threatened or endangered species. ○ Handout materials summarizing the contractual obligations and protective requirements specified in project permits and approvals. ○ Project site speed limit requirements and penalties. <ul style="list-style-type: none"> ● A project specific restoration, re-vegetation, and reclamation plan that meets the approval of permitting agencies shall be prepared and carried out for all projects. The plan shall address at a minimum: <ul style="list-style-type: none"> ○ Minimizing natural vegetation removal and the consideration of cutting or mowing vegetation rather than total removal, whenever possible. ○ Salvage and relocation of cactus and yucca from the site before beginning construction. ○ Identification of protocols to be used for vegetation salvage. ○ Reclaiming areas of temporarily disturbed soil using certified weed free native vegetation and topsoil salvaged from 				

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<p>excavations and construction activities.</p> <ul style="list-style-type: none"> ○ Restoration and reclamation of temporarily disturbed areas, including pipelines, transmission lines, staging areas, and temporary construction-related roads as soon as possible after completion of construction activities. The actions are recommended to reduce the amount of habitat converted at any one time and promote recovery to natural habitats. ○ Specifying proper seasons and timing of restoration and reclamation activities to ensure success. <ul style="list-style-type: none"> ● If any solar development projects are proposed that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for indirect off-site impacts to special status wildlife species and/or their habitats. If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status wildlife species (e.g., Amargosa vole, Ash Meadows naucorid), a management plan will be prepared in coordination with the County and submitted for approval to the appropriate resource agency with regulatory oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on off-site habitat for special status wildlife such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County. 				
<p>BIO-4: Minimize impacts to special status fish.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status fish, a project-specific groundwater impact analysis will be conducted to address potential impacts to habitat for special status fish. In addition, consultation with USFWS shall be conducted for projects with the potential to impact federally listed species including Owens pupfish or Owens tui chub and coordination with CDFW will be conducted for projects with the potential to impact state listed species or CDFW species of special concern including Owens sucker and Owens</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>speckled dace. For projects that are determined to have the potential to result in “take” of state or federally listed fish species, consultation shall be conducted with CDFW or USFWS respectively and take authorization obtained prior to project commencement.</p> <p>For all projects proposed in the Charleston View and Chicago Valley SEDAs, an analysis of potential down-watershed impacts to special-status fish species in the Amargosa Watershed will be conducted prior to project approval, if the project involves impacts to groundwater and/or requires pumping of groundwater (e.g. solar thermal projects). If the project is determined to have the potential to result in down-watershed impacts that could alter the hydrology of habitats for special-status fish species, a mitigation and monitoring plan will be prepared by the applicant to address potential impacts to groundwater and down-watershed biological resources and submitted to USFWS and CDFW for approval prior to project implementation. Mitigation measures will be developed in coordination with USFWS and CDFW to offset these impacts. Mitigation measures should include but are not limited to 1) a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio; 2) hydrological and biological monitoring of the impacts of groundwater pumping on the groundwater system and the sensitive habitats down-watershed; and 3) adaptive management to increase the ratio of water rights purchased and retired and restore habitats down-watershed if hydrological and biological monitoring indicates that the projects groundwater pumping is having detrimental effects to sensitive biological resources (e.g., special status species or sensitive natural communities as designated by USFWS, CDFW, or CNPS) within the watershed as determined by a qualified hydrologist/hydrogeologist or biologist in coordination with USFWS and/or CDFW.</p>				
<p>BIO-5: Minimize impacts to amphibians.</p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status amphibians.</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<ul style="list-style-type: none"> • Surveys for special status amphibians including but not limited to northern leopard frog, Owens Valley web-toed salamander, and Inyo Mountains slender salamander shall be conducted by a CDFW-approved biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction. • If any of these species are found on a project site during the surveys, CDFW shall be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats. • If federal or state-listed amphibians not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project, consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species. For projects that are determined to have the potential to result in "take" of state or federally-listed amphibian species, consultation shall be conducted with CDFW or USFWS respectively and take authorization shall be obtained prior to project commencement. 				
<p>BIO-6: Minimize impacts to desert tortoise.</p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>BIO-1) to have the potential to affect desert tortoise in order to avoid, minimize, and mitigate for impacts:</p> <ul style="list-style-type: none"> • Consultation shall be conducted with CDFW and USFWS for any projects where desert tortoise or signs of their presence is found on the site and/or the project is determined by a CDFW-approved biologist to have the potential to impact desert tortoise. In such cases, permits under Section 2080 of the Fish and Game Code and Section 7/10 of FESA authorizing incidental take of desert tortoise will be obtained from CDFW and USFWS respectively prior to implementation of the project, including any project-related ground disturbing activities. All requirements of the 2081/2080.1 permit and the Biological Opinion shall be implemented. • The project proponent shall fully mitigate for habitat loss and potential take of desert tortoise. The project specific mitigation shall be developed in coordination with CDFW and USFWS, and would be reflective of the mitigation measures described in the Biological Opinion prepared by the USFWS for the project. • The project developer shall provide funds for regional management of common ravens through the payment of a per-acre fee as determined in consultation with the USFWS. The fee shall be commensurate with current per-acre fees (at the time of project approval) required by the BLM and the CEC for development projects in the desert with the potential to provide subsidies to common ravens such as shelter, perching sites, and food. The fee shall be used by the Desert Managers Group to manage common ravens in the California desert with the goal of reducing their predation on desert tortoises. • Projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, Areas of Critical Environmental Concern, Desert Wildlife Management Areas, Priority Connectivity Areas, and other areas or easements managed for desert tortoises). 				

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<ul style="list-style-type: none"> • On project sites containing desert tortoise, consultation shall be conducted with USFWS and CDFW to determine the need for and/or feasibility of conducting desert tortoise translocation (changing location or position) to minimize the taking of the tortoises, if they are observed within the proposed project area. See http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/ for federal translocation plan guidance. Translocation plan development and implementation may require, but not be limited to: additional surveys of potential recipient sites; translocated and resident tortoise disease testing and health assessments; monitoring protocols; and consideration of climatic conditions at the time of translocation. Due to the potential magnitude of proposed renewable energy project impacts on desert tortoises, USFWS and CDFW must evaluate translocation efforts on a project by project basis in the context of cumulative effects. • A desert tortoise authorized biologist approved by CDFW and USFWS shall be contracted to oversee and be responsible for ensuring compliance with desert tortoise avoidance and minimization measures before initiation of and during ground-disturbing activities. The desert tortoise biologist shall conduct clearance surveys, tortoise handling, artificial burrow construction, egg handling, and other procedures in accordance with the Guidelines for Handling Desert Tortoise During Construction Projects (Desert Tortoise Council 1999) or the most current USFWS guidance. The desert tortoise biologist shall be present on site from March 15 through October 31 (active season) during ground-disturbing activities in areas outside the tortoise exclusion fencing. It is recommended that the biologist be on call from November 1 to March 14 (inactive season) and checks such construction areas immediately before construction activities begin. • Refer to the Ventura Fish and Wildlife Office website <http://www.fws.gov/ventura/endangered/species/surveys-protocol.html> for desert tortoise authorized biologist and monitor responsibilities and qualifications, and survey and translocation guidance, and refer to the Nevada Fish and Wildlife Office (desert 				

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<p>tortoise recovery office) website <http://www.fws.gov/nevada/desert_tortoise/dtro/.html> for desert tortoise federal recovery plan documents. Methods for clearance surveys, fence specification and installation, tortoise handling, artificial burrow construction, egg handling and other procedures shall be consistent with those described in the 2013 USFWS Desert Tortoise Field Manual available at the Ventura Fish and Wildlife Office website listed above, or more current guidance provided by CDFW and USFWS. All terms and conditions described in the Biological Opinion for the project prepared by the USFWS shall be implemented.</p> <ul style="list-style-type: none"> • The project owner shall undertake appropriate measures to manage the construction site and related facilities in a manner to avoid or minimize impacts to desert tortoise. These measures include, but are not limited to, the following: <ul style="list-style-type: none"> ○ The project applicant shall notify the USFWS and CDFW prior to project commencement and prior to the commencement of any ground disturbing activities. ○ Before starting project ground disturbing activities, the project proponent shall avoid potential desert tortoise harm by incorporating desert tortoise exclusion fencing into permanent fencing surrounding the proposed facility, and installing desert tortoise exclusion fencing around temporary project construction areas such as staging area, storage yards, excavations, and linear facilities. The tortoise exclusion fencing shall be constructed consistent with the USFWS 2010 Desert Tortoise Exclusion Fence Specifications or the most current guidance provided by USFWS and CDFW, and should be constructed in late winter or early spring to minimize impacts to desert tortoise and accommodate subsequent tortoise surveys. ○ Within 24 hours before starting tortoise exclusion fence construction, the desert tortoise biologist shall survey the fence alignment and utility right-of-way alignments and clear desert tortoises from the area. The surveys and relocation methods shall be conducted using techniques approved by the CDFW and USFWS. Following construction of the tortoise exclusion fence, 				

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<p>the desert tortoise biologist shall conduct clearance surveys within the fenced area to ensure as many desert tortoises as possible have been removed from the site. Burrows and tortoises identified within the project area shall be handled according to the 2013 USFWS Desert Tortoise Field Manual, and tortoises requiring relocation shall be handled in accordance with the project Desert Tortoise Relocation/Translocation Plan.</p> <ul style="list-style-type: none"> ○ Heavy equipment may enter the project site following the completion of project area desert tortoise clearance surveys by the desert tortoise biologist. Monitoring initial clearing and grading activities by the biologist will help ensure that tortoises missed during the initial clearance survey are moved from harm's way. ○ The desert tortoise biologist shall be responsible for appropriate documentation and reporting to the permitting agencies for desert tortoises handled, in accordance with the project Desert Tortoise Relocation/Translocation Plan. ○ Security gates shall be designed with minimal ground clearance to deter ingress by tortoises. The gates shall be kept closed, except for the immediate passage of vehicles, to prevent desert tortoise passage into the project area. ○ Following installation of the desert tortoise exclusion fencing – both the permanent site fencing and temporary fencing in the utility corridors – the fencing shall be regularly inspected by the biological monitor. The biological monitor shall ensure that damage to the permanent or temporary fencing is immediately blocked to prevent tortoise access and permanently repaired within 72 hours between March 15 and October 31, and within 7 days between November 1 and March 14. The biological monitor shall inspect permanent fencing quarterly and after major rains to ensure fences are intact and there is no ground clearance under the fence that would allow tortoises to pass. The biologist shall inspect construction pipes, culverts, or similar structures: (a) with a diameter greater than 3 inches, (b) stored for one or more nights, (c) less than 8 inches aboveground, and (d) within desert tortoise habitat (outside the permanently fenced area), before the materials are moved, buried, or capped. As an 				

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<p>alternative, the materials may be capped before storing outside the fenced area or placing on pipe racks. Inspection or capping is not necessary if the materials are stored within the permanently fenced area after completing desert tortoise clearance surveys.</p> <ul style="list-style-type: none"> ○ The project proponent shall ensure vehicular traffic does not exceed 25 miles per hour within the delineated project areas or on access roads in desert tortoise habitat. On unpaved roads suppress dust and protect air quality by observing a 10-mile per hour speed limit. ○ To avoid vehicle impacts to desert tortoise, workers shall be responsible for inspecting the ground under the vehicle for the presence of desert tortoise any time a vehicle or construction equipment is parked in desert tortoise habitat outside the permanently fenced area. If a desert tortoise is seen, it may move on its own. If it does not move within 15 minutes, the desert tortoise biologist may remove and relocate the animal to a safe location. ● The project proponent shall develop and implement a Desert Tortoise Relocation/Translocation Plan that is consistent with current USFWS approved guidelines. The goal of the plan will be to safely exclude desert tortoises from within the fenced project area and relocate/translocate them to suitable habitat capable of supporting them, while minimizing stress and potential for disease transmission. The plan shall be developed in consultation with the USFWS to ensure the document does not conflict with conditions issued under an Incidental Take Statement. The plan will utilize the most recent USFWS guidance on translocation that includes siting criteria for the translocation site and control site, methods for translocation/relocation including the holding pen, and post translocation/relocation monitoring. Development and implementation of a translocation plan may require, but may not be limited to, additional surveys of potential recipient sites; disease testing and health assessments of translocated and resident tortoises; and consideration of climatic conditions at the time of translocation. The plan shall designate a relocation site as close as possible to the disturbance site that provides suitable conditions for long term 				

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<p>survival of the relocated desert tortoise and outline a method for monitoring the relocated tortoise.</p> <ul style="list-style-type: none"> • The Desert Tortoise Relocation/Translocation Plan must be approved by the County, CDFW and USFWS prior to any project-related ground disturbing activity. • Within 30 days after initiation of relocation and/or translocation activities, the Designated Biologist shall provide to the Project Manager for review and approval, a written report identifying which items of the plan have been completed, and a summary of all modifications to measures made during implementation of the plan. Written monthly progress reports shall be provided to the Project Manager for the duration of the plan implementation. • The project proponent shall design and implement a Raven Monitoring, Management, and Control Plan that is consistent with the most current USFWS raven management guidelines. The goal of the plan shall be to minimize predation on desert tortoises by minimizing project-related increases in raven abundance. The plan shall be approved by the County, CDFW and USFWS prior to the start of any project-related ground disturbing activities. 				
<p>BIO-7: Minimize impacts to special status reptiles (except desert tortoise).</p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status reptiles (with the exception of desert tortoise which has separate mitigation measures):</p> <ul style="list-style-type: none"> • Surveys for special status reptiles including but not limited to northern sagebrush lizard, Panamint alligator lizard, and Mojave fringe-toed lizard shall be conducted by a CDFW-approved biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If 	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction.</p> <ul style="list-style-type: none"> • If any of these species are found on a project site during the surveys, CDFW will be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats. • If federal or state-listed reptiles not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project, consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species. 				
<p>BIO-8: Minimize impacts to Swainson’s hawk.</p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect Swainson’s hawk:</p> <ul style="list-style-type: none"> • Surveys shall be conducted for Swainson’s hawk by a CDFW-approved biologist according to the 2010 Swainson’s Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (California Department of Fish and Game [CDFG] 2010) or more recent guidance, unless otherwise directed by CDFW. This guidance dictates survey methods for detecting Swainson’s hawk nesting in or in the vicinity of a project site and measure to avoid and/or reduce impacts to nesting Swainson’s hawk if they are found. The project applicant shall be 	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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responsible for coordinating with CDFW and ensuring that the CDFW guidance is implemented.				
<p>BIO-9: Minimize impacts to burrowing owl.</p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect burrowing owl, unless otherwise directed by CDFW:</p> <ul style="list-style-type: none"> • In the calendar year that construction is scheduled to commence, surveys will be conducted by a CDFW-approved biologist to determine presence/absence of burrowing owls and/or occupied burrows in the project site and accessible areas within 500 feet according to the <i>CDFW's Staff Report on Burrowing Owls</i> (CDFG 2012). A non-breeding season survey will be conducted between December 1 and January 31 and a breeding season survey will be conducted between April 15 and July 15 according to established protocols (CDFG 2012). Pre-construction surveys will also be conducted within 30 days prior to construction to ensure that no additional burrowing owls have established territories since the initial surveys. If no burrowing owls are found during any of the surveys, no further mitigation will be necessary. If burrowing owls are found, then the following measures shall be implemented prior to the commencement of construction: <ul style="list-style-type: none"> ○ During the non-breeding season (September 1 through January 31) burrowing owls should be evicted by passive relocation as described in the Staff Report on Burrowing Owls (CDFG 2012). ○ Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) occupied burrows shall not be disturbed and shall be provided with a 75-meter protective buffer unless a qualified biologist approved by CDFW verifies through non-invasive means that either: (1) the birds have not begun egg laying or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. 	Prior to approval and/or issuance of Major Use Permits / prior to construction	Prior to approval and/or issuance of Major Use Permits / prior to construction	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> ○ If on-site avoidance is required, the location of the buffer zone will be determined by a qualified biologist. The developer shall mark the limit of the 75-meter buffer zone with yellow caution tape, stakes, or temporary fencing. The buffer will be maintained throughout the construction period. ○ Where on-site avoidance is not possible, CDFW should be consulted regarding the appropriate avoidance and minimization measures to avoid impacts to this species. 				
<p>BIO-10: Minimize impacts to western snowy plover, western yellow-billed cuckoo, Inyo California towhee, and bank swallow.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect federally-listed bird species for which survey protocols have not been published, including the western snowy plover, Inyo California towhee, and bank swallow, the USFWS shall be contacted to develop project specific measures to determine the potential for presence/absence of the species in the project area and appropriate avoidance and mitigation measures. For projects in the desert portions of the County, contact the Palm Springs Fish and Wildlife Office. For projects in the forested portions of the County or the Owens Valley, contact the Nevada Fish and Wildlife Office. Mitigation measures shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take” of federally-listed bird species, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. Western yellow-billed cuckoo, Inyo California towhee, and bank swallow are also state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of these species (as</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>BIO-11: Minimize impacts to southwestern willow flycatcher.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect southwestern willow flycatcher, surveys shall be conducted according to Southwestern Willow Flycatcher Protocol Revision 2010 (http://www.fws.gov/mountain-prairie/endspp/protocols/SWWFReport.pdf) following the guidelines for the revised protocol for project-related surveys or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office. For projects that are determined to have the potential to result in “take” of southwestern willow flycatcher, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. Southwestern willow flycatcher is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as defined by the Fish and Game Code). Mitigation measures shall be implemented and shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	
<p>BIO-12: Minimize impacts to bald and golden eagle.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect bald and golden eagles, the project proponent shall implement the following measures to avoid and offset impacts:</p> <ul style="list-style-type: none"> • Site specific surveys and monitoring of known or suspected eagle nesting and foraging habitat in areas where eagles occur (i.e., all of California) shall be conducted to provide background information 	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	

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<p>related to bald eagle take permits (golden eagle is fully protected pursuant to Fish and Game Code and no permits may be issued for their take). Surveys shall be conducted using (at least) methods and qualified personnel as recommended by CDFW and USFWS. Surveys shall be conducted according to the USFWS 2010 Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations (available online at http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/usfws_interim_goea_monitoring_protocol_10march2010.pdf), the USFWS's 2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California and CDFW's 2010 Bald Eagle Breeding Survey Instructions (both documents are available online at http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html) or the most recent guidance regarding non-breeding season surveys for winter, migratory, and floating populations of eagles determined in coordination with CDFW and USFWS.</p> <ul style="list-style-type: none"> • Where proposed projects may result in take of bald eagles, the USFWS shall be consulted to determine the standards and requirements for the permit titled "Eagle Take - Necessary to Protect Interests in a Particular Locality." Bald eagle take permits are performance based and will hinge on the merits of the application. The permit application form and related information are on the USFWS website: http://www.fws.gov/migratorybirds/baldeagle.htm. The final rule (Federal Register / Vol. 74, No. 175, September 11, 2009), Environmental Assessment (http://www.fws.gov/migratorybirds/CurrentBirdIssues/BaldEagle/EA_EagleTakePermit_Final.pdf), implementation and protocol documents, and consultations with USFWS will provide additional guidance. • Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas 				

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<p>used by eagles for thermal or orographic lift.</p> <ul style="list-style-type: none"> Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas used by eagles for thermal or orographic lift. Projects shall incorporate actions to avoid eagle disturbance (refer to the USFWS National Bald Eagle Management Guidelines, May 2007 and Interim Golden Eagle Technical Guidance: Inventory and Monitoring Protocols; and Other Recommendations in Support of Golden Eagle Management and Permit Issuance, Attachment II) in consultation with the USFWS to obtain the most current guidance and measures. 				
<p>BIO-13: Minimize impacts to least Bell’s vireo.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to contain habitat for least Bell’s vireo on or adjacent to the site, surveys shall be conducted according to the USFWS’s Least Bell’s Vireo Survey Guidelines (http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/LBVireo.2001.protocol.pdf) or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office.</p> <p>For projects that are determined to have the potential to result in “take” of least Bell’s vireo, either on or off-site due to direct or indirect impacts, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. Least Bell’s vireo is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>defined by the Fish and Game Code).</p> <p>For projects with the potential to result in direct or indirect impacts to least Bell’s vireo or its habitat, mitigation measures shall be developed in consultation with USFWS and CDFW and shall be implemented prior to project implementation. Such measures shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, habitat restoration, and compensatory mitigation for loss of habitat that may include implementation of captive breeding programs</p>				
<p>BIO-14: Minimize impacts to bighorn sheep.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect bighorn sheep, the project applicant shall retain a qualified biologist, approved by the USFWS and CDFW, to conduct preconstruction surveys for Sierra Nevada bighorn sheep and/or Peninsular and Mojave bighorn sheep depending on the location of the project. Due to low detection probabilities, the following data shall be used when evaluating potential projects impacts to the species: data relative to historic ranges of bighorn sheep; known and potential wildlife corridors (such as, those identified in the BLM Mojave and Colorado deserts land use plans); point location data; and existing literature. If bighorn sheep or their migration routes exist, are known or likely to occur on or in the vicinity of the project site, and may be affected by project-related activities, consultation shall be conducted with USFWS, CDFW, and other stakeholders, as appropriate, regarding avoidance, minimization, compensatory mitigation, or site abandonment.</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	
<p>BIO-15: Minimize impacts to Sierra Nevada red fox.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect Sierra Nevada red fox, CDFW shall be contacted to</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>develop project specific measures to determine the potential for presence/absence of this species in the project area and appropriate avoidance and mitigation measures. Mitigation measures shall include, but are not limited to, a species specific habitat assessment and/or focused surveys to determine whether Sierra Nevada red fox or its habitat is present in or adjacent to the project site, measures to avoid or minimize impacts to this species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take,” consultation will be conducted with CDFW under the California Endangered Species Act and incidental take authorization will be obtained prior to project commencement.</p>				
<p>BIO-16: Minimize impacts to Mohave ground squirrel.</p> <p>Protocol Mohave ground squirrel surveys shall be required for projects that propose impacts to habitat with potential to support Mohave ground squirrel or are within or adjacent to the species’ known range. Mohave ground squirrel surveys consist of a visual survey followed by 3 trapping sessions of 5 nights each (CDFW 2003). Each trapping session must be conducted during a specific time frame. The first session must be conducted between March 15 and April 30; the second between May 1 and May 31; and the third between June 15 and July 15. Trapping can be discontinued if a Mohave ground squirrel is trapped or observed, in which case the survey area is deemed to be occupied. If survey results are negative, the survey area will be deemed to be unoccupied for one year during which pre-construction surveys are not required. If survey results are positive, the project shall obtain an incidental take permit from CDFW under CESA Section 2081.</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	
<p>BIO-17: Minimize impacts to American badger and kit fox.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect American badger and/or kit fox, the following measures shall be implemented to avoid, minimize, and mitigate for impacts to these species:</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<ul style="list-style-type: none"> • The project proponent shall prepare and implement an American badger and/or kit fox management plan. The plan shall be prepared in accordance with the most current CDFW guidelines for these species. The plan shall be approved by CDFW prior to implementation. The plan shall include the following components: <ul style="list-style-type: none"> ○ Preconstruction surveys and mapping efforts: biological monitors shall perform pre- construction surveys for badger and kit fox dens in the project area, including areas within 250 feet of all project facilities, utility corridors, and access roads. If dens are detected, each den shall be classified as inactive, potentially active, or definitely active, including characterization of den type for kit fox (natal, pupping, likely satellite, atypical) per CDFW guidance, and mapped along with major project design elements. ○ Inactive dens that would be directly impacted by construction activities shall be excavated by hand and backfilled to prevent reuse by badgers or kit fox. Excavation and filling activities shall be performed by a CDFW-approved biologist. Potentially and confirmed active dens shall not be disturbed during the whelping/pupping season (February 1 to September 30). ○ Monitoring requirements. Potentially and definitely active dens that would be directly impacted by construction activities shall be monitored by the CDFW-approved biologist for three consecutive nights (during weather conditions favorable for detection) using a tracking medium (such as diatomaceous earth or fire clay) and/or infrared camera stations at the entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand. If tracks are observed, the den shall be progressively blocked with natural materials (rocks, dirt, sticks, and vegetation piled in front of the entrance) for the next three to five nights to discourage the badger or kit fox from continued use. After verification that the den is unoccupied it shall then be excavated and backfilled by hand to ensure that no badgers or kit fox are trapped in the den. ○ Passive relocation strategies. The management plan shall contain, at a minimum, several strategies to passively relocate 				

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<p>animals from the site. These methods may entail strategic mowing, fencing, or other feasible construction methods to assist in moving animals offsite toward desirable land. The plan shall address location of preferred offsite movement of animals, based on CDFW data and land ownership. Even with permission from the landowner, private land is to be avoided to the maximum extent practicable.</p> <ul style="list-style-type: none"> ○ Escape dens shall be installed along the perimeter fencing to reduce predation risk. ○ Kit fox disease prevention measures. The CDFW-approved biologist shall notify the County project manager and CDFW within 24 hours if a dead kit fox is found or appears sick. The plan must also detail a response to a kit fox injury, including a necropsy plan, reporting methods, and scope of adaptive methods in the event of a known or suspected outbreak. The project owner will pay for any necropsy work. 				
<p>BIO-18: Minimize impacts to other special status birds, raptors, migratory birds, nesting birds and bats.</p> <p>The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact nesting birds and/or bats and shall be implemented to avoid, minimize, and mitigate for impacts to birds and bats. These measures are for bird species without established protocols and non-listed bird species that lack species-specific mitigation measures (not applicable to the common raven). For future development proposed to be located on or near land with old mines, specific survey protocols and mine closure considerations shall be developed.</p> <p>Pre-Construction Bird Surveys and Avoidance Measures If project construction occurs between roughly February 1 and August 31, a CDFW-approved biologist shall conduct preconstruction surveys for nesting birds. The biologist(s) conducting the surveys shall be experienced bird surveyors and familiar with standard nest-locating techniques. Surveys shall be conducted in accordance with the following guidelines:</p> <ul style="list-style-type: none"> • CDFW and/or USFWS (depending on the avian species in question) 	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction / during operation</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction / during operation</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>shall be contacted to obtain approval of pre-construction survey methodology prior to commencement of the surveys.</p> <ul style="list-style-type: none"> • Surveys shall cover all potential nesting habitat in the project site and within 500 feet of the project site and linear facilities boundaries - inaccessible areas outside of the project boundary may be surveyed from within the project site or publicly accessible land with the aid of binoculars. • Vegetation removal or other ground disturbing activities should be avoided between February 1 and August 31; however if it cannot be avoided, the CDFW-approved biologist shall survey breeding/nesting habitat within the survey radius described within one week prior to the start of project activities. • CDFW and/or USFWS must provide concurrence with the survey findings prior to the start of construction. Site preparation and construction activities may begin after receiving the concurrence and if no breeding/nesting birds are observed. Additional follow up surveys shall be conducted if periods of construction inactivity exceed one week in any given area, an interval during which birds may establish a nesting territory and initiate egg laying and incubation. <p>If active nests are detected during the survey, a no-disturbance buffer zone (protected area surrounding the nest, the size of which is to be determined by the project biologist in consultation with CDFW and/or USFWS) and a monitoring plan shall be developed. The nesting bird plan shall identify the types of birds that may nest in the project area, the proposed buffers, monitoring requirements, and reporting standards that will be implemented to ensure compliance with the MBTA and Fish and Game Codes 3505 and 3505.3. The CDFW-approved biologist shall monitor the nest until he or she determines that nestlings have fledged and dispersed.</p> <p>Pre-Construction Bat Surveys and Avoidance Measures Preconstruction bat surveys shall be conducted by a CDFW-approved biologist(s) familiar with standard bat survey techniques. If night or day roosting bats are identified in project structures they shall not be disturbed and a 100 foot non-disturbance buffer shall be placed between the roost and</p>				

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<p>the construction activities until a determination is made whether the roost is a maternity roost or a non-breeding roost. Maternity colonies shall not be disturbed until coordination with CDFW is conducted to determine appropriate measures including an appropriate no-disturbance buffer. If the CDFW-approved bat biologist determines roosting bats consist of a non-breeding roost, the individuals shall be safely evicted under the direction of a CDFW-approved bat biologist. CDFW shall be notified of any bat evictions within 48 hours.</p> <p>Bat and Avian Protection Plan A bird and bat conservation strategy (BBCS) shall be prepared to reduce potential project impacts on migratory birds. The BBCS shall describe proposed actions to avoid, minimize, and mitigate adverse effects to migratory birds protected under the MBTA during construction and operations of the proposed project. The BBCS shall be submitted to USFWS and CDFW for approval prior to the start of ground disturbing activities. The BBCS shall address buffer distances for specific bird species and include a robust, systematic monitoring protocol to document mortality and habitat effects to birds. The monitoring protocol should incorporate the following objectives at a minimum: (1) a minimum of weekly monitoring for mortality and immediate necropsy to determine cause of death, both during construction and throughout the life of the project; (2) systematic data collection and reporting of bird mortality including data on the following: species, date, time, how the animal died (e.g., exhaustion, trauma), as well as any information on what might be attracting animals to the photovoltaic cells (light, insects, etc.); (3) a method to estimate the overall annual avian mortality rate associated with the facility, including mortality associated with all the features of the project that are likely to result in injury and mortality (e.g., fences, ponds, solar panels); and (4) methods to determine whether there is spatial differentiation within the solar field in the rates of mortality (i.e., panels on the edge of the field versus interior of the field). Biologists performing this work would be required to have a Scientific Collecting Permit from CDFW. Standardized and systematic data on bird and bat mortalities will be collected to contribute to the improvement of the scientific communities' understanding of both baseline and photovoltaic related mortality that occurs in solar projects in the desert and is needed in order to identify improved methods</p>				

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<p>to minimize adverse effects on migrating birds and bats.</p> <p>In the absence of a permit from the USFWS, the temporary or permanent possession of protected migratory birds and their carcasses is a violation of the MBTA. Because of the need for carcass collection to adequately monitor avian impacts during BBCS implementation and to reduce the food subsidy that carcasses may provide to common ravens (<i>Corvus corax</i>) and other predators, developers shall be required to obtain a special purpose utility permit from the USFWS allowing the collection of migratory birds and/or their carcasses prior to implementation of the monitoring protocol.</p> <p>General Bird Mortality Avoidance Measures The following measures shall be implemented to minimize bird mortality from birds attracted to solar facilities:</p> <ul style="list-style-type: none"> • All potential nesting vegetation (e.g., trees, shrubs) shall be removed within the fenced area of the facility to decrease attractive habitat. • The most current science regarding visual cues to birds that the solar panel is a solid structure shall be implemented. This may include but is not limited to UV-reflective or solid, contrasting bands spaced no further than 28 centimeters from each other. An adaptive management approach for reducing bird collisions with solar panels shall be implemented in coordination with the USFWS so that measures used are systematically tested and modified as appropriate. • Projects with documented avian mortality shall work with the USFWS to conduct additional research to test measures for reducing avian mortality. Such measures could include, but are not limited to, experimental lighting within the solar field and use of detection and deterrent technologies. • Developers of power tower operations shall implement adaptive management in consultation with the USFWS should mortality monitoring indicate that suspension of power tower operations during certain periods is necessary to reduce impacts on local or regional bird populations. Such measures may include, but are not limited to, suspending or reducing project operations during peak migration 				

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<p>seasons.</p> <ul style="list-style-type: none"> Vertical orientation of mirrors shall be avoided whenever possible (for example, mirrors shall be tilted during washing). Perch deterrent devices shall be placed on tower railings. Exclusionary measures shall be employed to prevent bats from roosting in and around the facility. <p>Minimize Impacts from Solar Flux The following mitigation measures shall be implemented in order to minimize avian impacts from solar flux:</p> <ul style="list-style-type: none"> Solar thermal developments utilizing solar power tower technologies shall be sited a minimum of 1,000 feet from Important Bird Areas, the OVSA, or riparian or other aquatic habitats including lakes, ponds, rivers, streams, and perennial wetland habitats unless potentially significant impacts are avoided, although the appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies. This requirement generally does not apply to seasonal or ephemeral wetland habitats unless deemed necessary by a qualified biologist in light of the wetland’s specific habitat value for bird species. The County shall require developers proposing solar power tower technology to coordinate with the USFWS during project planning. As part of that coordination process, and in conjunction with the project’s next tier of CEQA review, the USFWS will advise the County whether a Bird and Bat Conservation Strategy would be necessary for the project, and if required, would adequately reduce the effects of the project on migratory birds and bats. <p>Minimize Impacts from Open Evaporation Ponds The following mitigation measures shall be implemented for projects that require the use of open evaporation ponds:</p> <ul style="list-style-type: none"> An evaporation pond management plan shall be prepared and submitted to CDFW for approval prior to project approval. 				

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<ul style="list-style-type: none"> • If the use of open evaporation ponds is permitted for the project and especially if the water would be considered toxic to wildlife, ponds shall be designed to discourage bird and other wildlife use by properly netting or otherwise covering the pond. <p>Avoid Impacts from Electric Lines and Lights The following design measures shall be implemented for applicable projects to minimize impacts to bats and birds:</p> <ul style="list-style-type: none"> • Transmission lines and electrical components shall be installed and maintained in accordance with the Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006 (APLIC 2006) or the most recent guidance to reduce the likelihood of electrocutions of raptors and other large birds, . • Transmission lines and electrical components shall be installed and maintained in accordance with the APLIC's <i>Reducing Avian Collisions with Power Lines: The State of the Art in 2012</i> (Edison Electric Institute 2012) or the most recent guidance to reduce the likelihood of bird collisions. • Low and medium voltage connecting power lines shall be placed underground, if feasible. If burial of the lines is not feasible due to cost or other logistical reasons (for example in shallow bedrock areas) or may cause unacceptable impacts to biological habitats and their dependent species, overhead lines may be installed in compliance with the following requirements: <ul style="list-style-type: none"> ○ low and medium voltage overhead lines shall be sited away from high bird crossing locations, such as between roosting and feeding areas or between lakes, rivers, and nesting areas; and/or ○ low and medium voltage overhead lines shall be installed parallel to tree lines or be otherwise screened so that collision risk is reduced. • Permanent communication towers and permanent meteorological towers shall not be constructed with guy wires, if feasible. If guy wires are necessary for permanent or temporary towers, bird flight diverters or high visibility marking devices shall be used. In such 				

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<p>cases a monitoring plan shall be developed and carried out to determine the diverters'/devices' effectiveness in reducing bird and bat mortality.</p> <ul style="list-style-type: none"> • Facility lighting shall be installed and maintained to prevent upward and side casting of light towards wildlife habitat and motion sensors shall be used. If the FAA requires turbine or tower lighting to alert aircraft, red or white strobe lights shall be used on the structures to minimize avian collision risks. The strobes shall be on for as brief of a period as possible and the time between strobe or flashes shall be the longest allowable. Strobes shall be synchronized so that a strobe effect is achieved and towers are not constantly illuminated. • Lights with sensors and switches shall be used to keep lights off when not required. • The use of high-intensity lighting, steady-burning, or bright lights such as sodium vapor or spotlights shall be minimized. <p>Compensatory Mitigation for the Cumulative Loss of Migratory Bird Habitat along the Pacific Flyway The County shall require solar development projects implemented under the REGPA to mitigate for the loss of habitat by funding activities to restore, enhance, or conserve important habitat for migratory birds or to remove other mortality sources from the Pacific Flyway. Such funding may be directed to the Sonoran Joint Venture (http://sonoranjv.org), Central Valley Joint Venture (http://www.centralvalleyjointventure.org), or Intermountain West Joint Venture (http://iwjv.org), or other groups able to implement conservation of migratory birds within the Pacific Flyway. The amount of funding will be determined by the County in coordination with USFWS and shall be commensurate with the level of impact.</p>				
<p>BIO-19: Minimize impacts to special status natural communities and protected natural areas.</p> <p>Solar development authorized under the REGPA will not be sited within any special status natural communities or protected natural areas. If solar development is sited adjacent to any special status natural communities or protected natural areas or is determined to have the potential to impact any</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>off-site special status natural communities or protected natural areas during the project level biological resources evaluation (e.g., projects in the Laws SEDA could impact the hydrology of critical habitat for Fish Slough milk-vetch; projects in the Chicago Valley SEDA could negatively impact off-site mesquite bosque by altering drainage patterns or altering groundwater levels; projects in the Charleston View and Chicago Valley SEDAs could impact down-watershed habitats in the Amargosa Watershed (including habitats within the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic.”), a management plan will be developed in consultation with CDFW and/or USFWS. The management plan will address the potential offsite effects of the construction and on-going operations of the facility on special status species including but not limited to the effects of human disturbance, noise, nighttime maintenance activities, increased lighting, increased traffic on desert roads, and barriers to movement for special status species. The management plan will also address potential mechanisms of offsite habitat degradation such as introduction of invasive weeds, introduction or attraction of feral animals or other species attracted to areas with anthropogenic disturbance, hydrologic disruption due to groundwater impacts or alteration of surface drainage patterns, and increased risk of wildfires. The management plan will also outline the specific measures to be undertaken to avoid and/or minimize indirect effects of the solar development on the adjacent sensitive habitat and special status species and include a plan for long term monitoring of the adjacent habitat as well as an adaptive management plan.</p> <p>If riparian communities (other than water birch riparian scrub – a special status natural community that must be avoided) are present in a project area, impacts to riparian communities shall be avoided or minimized by implementing the following measures:</p> <ul style="list-style-type: none"> • The project shall be redesigned or modified to avoid direct and indirect impacts on riparian communities, if feasible. • Riparian communities adjacent to the project site shall be protected by installing environmentally sensitive area fencing, if necessary, in coordination with the project biologist. • The potential for long term loss of riparian vegetation shall be 				

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<p>minimized by trimming vegetation rather than removing the entire shrub. Shrub vegetation shall be cut at least 1 foot above ground level to leave the root systems intact and allow for more rapid regeneration of the species. Cutting shall be limited to a minimum area necessary within the construction zone. This type of removal shall be allowed only for shrub species (all trees shall be avoided) in areas that do not provide habitat for sensitive species (e.g., willow flycatcher).</p> <ul style="list-style-type: none"> If riparian vegetation is removed as part of a project, the loss of riparian vegetation shall be mitigated to ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW and USFWS). Compensation shall be provided at a minimum 1:1 ratio (1 acre restored or created for every 1 acre removed) and may be a combination of on-site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented that describes how riparian habitat shall be enhanced or recreated and monitored over a minimum period of time, as determined by the appropriate state and federal agencies. 				
<p>BIO-20: Minimize impacts to waters of the US/State, including wetlands.</p> <p>The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact waters of the US or waters of the State, including wetlands, and shall be implemented to avoid, minimize, and mitigate for such impacts. These measures shall be incorporated into contract specifications and implemented by the construction contractor. In addition, the project proponent shall ensure that the contractor incorporates all state and federal permit conditions into construction specifications.</p> <ul style="list-style-type: none"> Wetlands and other waters of the US/state shall be delineated on the project site using both USACE and CDFW definitions of wetlands. USACE jurisdictional wetlands shall be delineated using the methods outlined in the USACE 1987 Wetlands Delineation Manual and the 	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>Arid West Manual, or the most recent guidance. This information shall be mapped and documented as part of the CEQA documentation, as applicable, and in wetland delineation reports. All applicable permits shall be obtained prior to impacting waters of the US/State including CWA Section 404 and 401 permits from the USACE and the RWQCB respectively and a Streambed Alteration Agreement from CDFW.</p> <ul style="list-style-type: none"> • The project shall be redesigned or modified to avoid direct and indirect impacts on waters of the U.S./State, if feasible. • Standard erosion control measures shall be implemented for all phases of construction and operation where sediment runoff from exposed slopes threatens to enter waters of the State and/or waters of the US. Sediment and other flow-restricting materials shall be moved to a location where they shall not be washed back into the stream. All disturbed soils and roads within the project site shall be stabilized to reduce erosion potential, both during and following construction. Areas of disturbed soils (access and staging areas) with slopes trending towards a drainage shall be stabilized to reduce erosion potential. • Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing, if necessary, in coordination with the project biologist. • All construction vehicles and equipment shall use existing roadways to the extent feasible to avoid or reduce impacts to waters of the U.S./State. • Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used. • Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing at least 20 feet from the edge of the wetland. Depending on site-specific conditions and 				

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<p>permit requirements, this buffer may be wider than 20 feet in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within the fenced environmentally sensitive area.</p> <ul style="list-style-type: none"> • Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used. • Where determined necessary by resource specialists, geotextile cushions and other materials (e.g., timber pads, prefabricated equipment pads, or geotextile fabric) shall be used in saturated conditions to minimize damage to the substrate and vegetation. • Exposed slopes and stream banks shall be stabilized immediately on completion of installation activities. Other waters of the US shall be restored in a manner that encourages vegetation to reestablish to its pre-project condition and reduces the effects of erosion on the drainage system. • In highly erodible stream systems, banks shall be stabilized using a non-vegetative material that will bind the soil initially and break down within a few years. If the project engineers determine that more aggressive erosion control treatments are needed, geotextile mats, excelsior blankets, or other soil stabilization products shall be used. • During construction, trees, shrubs, debris, or soils that are inadvertently deposited below the ordinary high-water mark of drainages shall be removed in a manner that minimizes disturbance of the drainage bed and bank. • If wetlands are filled or disturbed as part of the solar project, compensation will be implemented for the loss of wetland habitat to 				

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<p>ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW, USFWS, and USACE). The compensation shall be at a minimum 1:1 ratio (1 acre restored or created for every 1 acre filled) and may be a combination of on site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented if onsite or offsite restoration or creation is chosen. The plan shall describe how wetlands shall be created and monitored for the duration established by the regulatory agency.</p> <ul style="list-style-type: none"> For solar projects proposing groundwater pumping, hydrological studies shall be performed to assess the potential for off-site impacts to jurisdictional waters that depend on groundwater. Projects shall be designed to avoid and/or minimize impacts to groundwater-dependent jurisdictional resources off-site, and all proposed impacts to such resources shall be reviewed by the agencies with jurisdiction over the affected resources, and mitigated according to those agencies' requirements. 				
<p>BIO-21: Minimize impacts to movement or migratory corridors or native wildlife nursery sites.</p> <p>The following mitigation measures will be implemented to minimize impacts to movement or migratory corridors or native wildlife nursery sites:</p> <ul style="list-style-type: none"> Solar development authorized under the REGPA shall not be sited in or within 1,000 feet of any areas determined by the County in consultation with responsible and trustee agencies to be Important Bird Areas, essential connectivity areas or linkages identified in the 2001 Missing Links in California's Landscape Project (Penrod et al. 2001), or tule elk and mule deer movement corridors unless potentially significant impacts are avoided. The appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies. Any proposed solar development projects in the OVSA shall be 	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>required to study the potential impact of the project on tule elk and mule deer movement corridors prior to project approval. If a proposed project is determined to be located within an important tule elk and mule deer movement corridor, the applicant shall be responsible for the preparation of a plan to avoid and/or minimize impacts to such corridors in coordination with CDFW.</p> <ul style="list-style-type: none"> As stated in Mitigation Measure BIO-6, projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Draft Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, ACECs, DWMAs, priority connectivity areas, and other areas or easements managed for desert tortoises) 				
<p>BIO-22: Minimize impacts to invasive plant species or noxious weeds.</p> <p>For projects implemented under the REGPA that are determined during the project level biological resource evaluation to have the potential to result in the spread of invasive plant species or noxious weeds, the following mitigation measures shall be implemented.</p> <p>To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes. Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site. Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored. 	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<ul style="list-style-type: none"> • The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned. • Native vegetation shall be re-established quickly on disturbed sites. • Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions. • Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations. 				
<p>BIO-23: Implement general design guidelines to minimize impacts to biological resources.</p> <p>All projects authorized under the REGPA will incorporate the following design guidelines as applicable in coordination with the County:</p> <ul style="list-style-type: none"> • Design and site the project, in consultation with the permitting agencies, to avoid or minimize impacts to sensitive and unique habitats and wildlife species. Locate energy generation facilities, roads, transmission lines, and ancillary facilities in the least environmentally sensitive areas (such as away from riparian habitats, streams, wetlands, vernal pools, drainages, sand dunes, critical wildlife habitats, wildlife conservation, management, other protected areas, or unique plant assemblages). <ul style="list-style-type: none"> ○ Design facilities to use existing roads and utility corridors as much as possible to minimize the number and length/size of new roads, laydown, and borrow areas. ○ Design transmission line poles, access roads, pulling sites, storage, and parking areas to avoid special status species or unique plant assemblages adjacent to linear facilities. ○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions. ○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions. ○ Design facilities to discourage their use as bird perching, drinking, or nesting sites. ○ Design facility lighting to prevent side casting of light toward wildlife habitat and skyward protection of light that may 	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>disorient night-migrating birds.</p> <ul style="list-style-type: none"> ○ Avoid using or degrading high value or large intact habitat areas, such as areas identified as sensitive natural habitat, Wilderness Areas, Areas of Critical Environmental Concern, critical habitat; riparian, sand dunes. ○ Avoid severing movement and connectivity corridors. Consider existing conservation investments such as protected areas and lands held in trust for conservation purposes. ○ Locate facilities so they do not disrupt sand transport processes nor remove some or all of a sand source that contributes to sand dune systems harboring listed or otherwise sensitive species. Avoid armoring nearby dune system. 				
<p>BIO-24: Minimize impacts to groundwater dependent vegetation.</p> <p>Any solar development projects or related infrastructure implemented under the REGPA which are located on City of Los Angeles-owned land or which could affect City of Los Angeles-owned land shall comply with the terms of the Agreement. A qualified biologist/botanist with experience in Inyo County shall evaluate the potential for any project implemented under the REGPA to impact groundwater dependent vegetation or ecosystems located on City of Los Angeles-owned land. If the qualified biologist/botanist determines that the project has the potential to impact groundwater dependent vegetation or ecosystems, a groundwater dependent vegetation management plan will be prepared. The plan will include an evaluation of the potential impacts to groundwater dependent vegetation or ecosystems and appropriate measures to avoid or reduce the impacts to the extent feasible. The plan shall be prepared in coordination with the County and LADWP and should describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on groundwater dependent vegetation or ecosystems as deemed appropriate by the qualified biologist in coordination with the County and LADWP. Projects that are likely to affect groundwater resources in a manner that would result in a substantial loss of riparian or wetland natural communities and/or habitat for sensitive flora and fauna associated with such habitats shall be avoided to the extent feasible and impacts shall be mitigated to a level determined to be acceptable by the County. The project and vegetation management plan</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department Inyo County Water Department and/or other applicable agencies.</p>	

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shall be approved by both the County and LADWP prior to implementation.				
<p>MM BIO-25: Minimize potential indirect impacts due to groundwater pumping.</p> <p>Mitigation measures for potential indirect impacts due to groundwater pumping are included in Mitigation Measure BIO-1, Mitigation Measure BIO-2, Mitigation Measure BIO-3, and Mitigation Measure BIO-4. Prior to approval of any project under the REGPA requiring groundwater pumping, the potential effects of the groundwater pumping on biological resources will be evaluated during preparation of the project-specific biological resources evaluation and will be based on the results of the hydrologic study conducted as a requirement of Mitigation Measure HYD-2 in Section 4.9, Hydrology and Water Quality. If groundwater pumping is determined to have the potential to result in off-site impacts to biological resources, measures will be included in the project-specific biological resources mitigation and monitoring plan to avoid, minimize, and mitigate for any such impacts. The measures will be commensurate with the resource and level of impact and may include but are not limited to vegetation and/or water table monitoring, preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County, and a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department Inyo County Water Department and/or other applicable agencies.	
CULTURAL RESOURCES				
<p>CUL-1: Minimize impacts to cultural resources.</p> <p>Adverse effects to historical resources (CRHP-eligible cultural resources) would be resolved on a project-specific level. As part of this process, resource identification efforts including pedestrian surveys, formal government-to-government tribal consultation with state lead agencies, and engagement with Native American communities would be necessary. Examples of ways to resolve adverse effects include:</p> <ul style="list-style-type: none"> • Plan ground disturbance to avoid cultural resources. • Deed cultural resources into permanent conservation easements. • Cap or cover archaeological resources with a layer of soil before building on the location. 	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> • Plan parks, greenspace, or other open space to incorporate cultural resources. • Write synthetic documents summarizing the current understanding of the history and prehistory of the project area and vicinity. • Recover data for archaeological resources. • Develop interpretive material to correspond with recreational uses to educate the public about protecting cultural resources and avoiding disturbance of sensitive resources. • Develop partnerships to assist in the training of groups and individuals to participate in site stewardship programs. • Coordinate with visual resources staff to ensure visual management standards consider cultural resources and tribal consultation to include landmarks of cultural significance to Native Americans (e.g., TCPs, trails). • Measures to address visual impacts to the setting of built-environment resources include: <ul style="list-style-type: none"> ○ Existing mature plant specimens shall be used for screening during construction, operation, and decommissioning phases. The identification of plant specimens that are determined to be mature and retained shall occur as part of the design phase and mapped/identified by a qualified plant ecologist or biologist and integrated into the final design and project implementation. ○ Revegetation of disturbed areas within the project area shall occur as various activities are completed. Plans and specifications for revegetation shall be developed by a qualified plant ecologist or biologist before any extant vegetation is disturbed. The revegetation plan shall include specification of maintenance and monitoring requirements, which shall be implemented for a period of 5 years after project construction or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist. Plant material shall be consistent with surrounding native vegetation. ○ The color of the wells, pipelines, storage tanks, control structures, and utilities shall consist of muted, earth-tone colors that are consistent with the surrounding natural color palette. Matte finishes shall be used to prevent reflectivity. For example, 				

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<p>integral color concrete should be used in place of standard gray concrete.</p> <ul style="list-style-type: none"> ○ The final revegetation and painting plans and specifications shall be reviewed and approved by an architect, landscape architect, or allied design professional licensed in the State of California to ensure that the design objectives and criteria are being met. ○ Specific impact identification and adjustments to finish specifications shall occur during project design. Implementation of the revegetation and coloration plans shall occur during oilfield development. Maintenance and monitoring requirements shall be implemented after initial project construction for a period of 5 years, or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist. <ul style="list-style-type: none"> ● Protective measures and monitoring protocols can be implemented for built environment resources located in close proximity to a project but that are not anticipated to be directly impacted by demolition or development but which may be subject to other direct impacts such as change in historic setting, vibration, noise, or inadvertent damage include: <ul style="list-style-type: none"> ○ Historic Structures Reports (HSR) shall be prepared for buildings and structures adjacent to the project area for which detailed information is required to develop protection measures. Reports shall be completed for buildings and structures that appear to be in poor condition and, therefore, potentially sensitive to development-related activities such as vibration. These reports shall determine if predevelopment stabilization through temporary shoring and bracing of these buildings is warranted. ○ Predevelopment condition assessments shall be prepared for buildings and structures that qualify as historical resources that are adjacent to the project area and are structurally stable, but could be unintentionally damaged during development. Should there be any question as to whether the project caused damage, these condition assessments will provide confirmation of the predevelopment condition. 				

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<ul style="list-style-type: none"> ○ Precautions to protect built environment historical resources from construction vehicles, debris, and dust may include fencing or debris meshing. Temporary mothballing, and fire and intrusion protection may be needed if the buildings are unoccupied during oil and gas field development. ○ Protective measures shall be field checked as needed during development by a qualified architectural historian with demonstrated experience conducting monitoring of this nature. Vibration monitoring may be required for buildings determined susceptible to vibration damage located in close proximity to development activities or machinery that cause vibration. ○ These measures are designed to avoid direct impacts such as vibration that may result in structural damage or inadvertent direct impacts. Structural damage or demolition would otherwise potentially result in a significant impact because character-defining features and aspects of historic integrity that convey the resource’s significance could be materially impaired. ○ Redesign of relevant facilities shall be used to avoid destruction or damage where feasible. ● For built resources that will be directly and significantly impacted, mitigation typically includes: <ul style="list-style-type: none"> ○ Historic American Building Survey (HABS), Historic American Engineering Record (HAER), and Historic American Landscape Survey (HALS) records will be prepared for historical resources that will be demolished. The HABS/HAER/HALS documentation will be prepared as appropriate for the impacted historical resource with HABS normally completed at Level II. These reports will include written and photographic documentation of the significant and character-defining features of these properties. While this documentation will not reduce impacts to a less than a significant level, it is needed to capture and preserve a description of the significant information and characteristics associated with the resource. ○ All HABS/HAER/HALS reports are subject to review and approval by the NPS. Following approval, the lead agencies will produce sufficient copies for distribution to identified 				

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<p>repositories, including the Library of Congress, the California State Library, the University of California Water Resources Center Archives, and any local repositories, as appropriate and agreed upon with the County Planning Department and interested parties. Distribution will ensure the formal documentation is retained and conveyed to a wide audience.</p> <ul style="list-style-type: none"> ○ Deconstruction and salvage of materials from demolished buildings will be performed to the extent feasible to enable the restoration of similar buildings and structures outside of the area of direct impact. Deconstruction and salvage will not reduce impacts to a less than significant level, but will help to ensure that similar resources are restored and maintained in manner that will ensure that examples of the resource type are preserved. ○ Relocate historically significant resources for which demolition cannot be feasibly avoided by development. In such circumstances, relocation must meet the requirements for the Special Criteria Consideration for Moved Buildings, Structures, and Objects to ensure the significance of the building is retained. ○ Require that the preservation or reuse of an eligible structure follow Department of the Interior (DOI) Standards and Guidelines for Archeology and Historic Preservation. If the building is considered a historic resource under CEQA, the local building inspector must grant code alternatives under the State Historic Building Code. ○ In a case where HABS/HAER documentation does not provide adequate mitigation to reduce impacts to a less than significant level, projects would normally be required to take additional steps to capture the history and memory of the resource and share this information with the public using various methods such as Web media, static displays, interpretive signs, use of on-site volunteer docents, or informational brochures. <ul style="list-style-type: none"> ● Avoidance and minimization are the preferred means by which the County would prevent potential impacts to cultural resources, including cultural landscapes. Preservation in place is the preferred manner to avoid and minimize impacts to historical and archaeological resources. All impacts to cultural resources that are 				

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<p>eligible or potentially eligible for listing on the CRHR shall be avoided, to the greatest extent possible. Preservation in place may be accomplished by, but is not limited to, the following: Avoidance of significant or potentially significant cultural resources through project redesign and the relocation of project element.</p> <ul style="list-style-type: none"> • Following avoidance and minimization, measures to address impacts to cultural resources at a landscape scale should follow the guidance in <i>A Strategy for Improving Mitigation Policies and Practices of the Department of the Interior</i> (DOI 2014) and the National Park Service Preservation Brief 36 - Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes, including but not limited to: <ul style="list-style-type: none"> ○ Document the individual landscape characteristics and features in the context of the landscape as a whole in a Cultural Landscape Report, including contributing and non-contributing features. ○ Develop compensatory mitigation. ○ Coordinate with other agencies. ○ Monitor and evaluate the progress of long-term mitigation. ○ Develop and maintain geospatial information systems for use in identifying existing and potential conservation strategies and development opportunities. 				
<p>CUL-1a: Designate project Cultural Resources Staff.</p> <p><u>Project Cultural Resources Specialist.</u> Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County Planning Department, a cultural resources specialist whose training and background conforms to the US Secretary of Interior’s Professional Qualifications Standards, as published in Code of Federal Regulations Title 36, part 61 shall be retained by the project owner to conduct a cultural resources inventory, evaluate any resources, produce a Cultural Resources Management and Treatment Plan and other related plans for the approved project and to implement any required plans and mitigation, as necessary as determined by the cultural resource specialist. Their qualifications shall be appropriate to the needs of</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>the project, and shall include local knowledge. If the project primarily impacts resources archaeological in nature, the cultural resources specialist shall have a background in archaeology, anthropology or cultural resource management. If the project impacts primarily built environment resources, the cultural resources specialist shall have a background in architectural history. Resumes of the proposed cultural resources staff shall be submitted to the County Planning Department or other CEQA lead agency for review and approval. The Monitoring and Treatment Plan (mitigation measure CUL-1c) shall be prepared and implemented under the direction of the cultural resources specialist and shall address and incorporate CUL-1a through CUL 1g.</p> <p><u>Additional Cultural Resources Staff.</u> The project’s cultural resources specialist may obtain the services of specialists, cultural resources monitors and field crew if needed, to assist in identification, evaluation, mitigation, monitoring, and curation activities. Cultural Resources Staff shall have a Bachelor’s degree in anthropology, archaeology, history, architectural history or related field, and demonstrated field experience. These individuals must also meet local lead agency qualifications and their resumes must be reviewed and approved by local lead agency staff prior to beginning work.</p>				
<p>CUL-1b: Draft a Historical Resources Treatment Plan.</p> <p>To mitigate the potential impacts on historical resources identified during inventory of the project area, a treatment plan for historical resources shall be developed by, depending on the nature of the resources identified, an archaeologist and/or architectural historian who meets the Secretary of Interior’s Professional Qualifications Standards. This treatment plan would include data recovery plans that would address National Register of Historic Places/California Register for Historic Resources-eligible cultural resources that would be impacted by the project by requiring some level of extracting the scientific value and analysis of the resources prior to development.</p>	Prior to construction	Prior to construction / during inventory of the project area	Inyo County Planning Department and/or other applicable agencies.	

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<p>CUL-1c: Draft a Monitoring and Treatment Plan.</p> <p>To mitigate the potential impacts related to inadvertent discovery of archaeological resources during construction, the project proponents shall have a Secretary of the Interior-qualified archaeologist implement a monitoring program and an unanticipated archaeological resource treatment plan. The qualified archaeologist will evaluate any resources uncovered during ground disturbing activities implement appropriate treatment as specified in the archaeological resource treatment plan. During all phases of the project that include ground disturbance, these ground-disturbing activities will be observed by an archaeological monitor, as determined necessary by the archaeologist.</p> <ol style="list-style-type: none"> a. If, during the course of monitoring, a potentially significant resource is discovered, the qualified archaeologist will have the authority to stop or redirect ground disturbing activities away from the resource until it can be evaluated. b. If previously unknown cultural deposits are discovered during the course of construction, such as previously undiscovered stratified cultural deposits, a testing program will be implemented to evaluate the stratified cultural deposit. c. A separate Native American monitor shall be retained by the project proponent to monitor ground disturbing activities in and around archaeological resources. The Native American monitor shall be selected through consultation with Native American tribal groups. The Native American monitor shall work in conjunction with the qualified archaeologist. 	Prior to / during construction	Prior to / during construction	Inyo County Planning Department and/or other applicable agencies.	
<p>CUL-1d: Authority to halt project activities.</p> <p>Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County or the relevant CEQA lead agency, the project owner shall submit a written document granting authority to halt project related activities to the project's cultural resources specialist (as defined in mitigation measure CUL-1a) and cultural resources monitors in the event of a discovery or possible damage to a cultural resource. Redirection of project related activities shall be accomplished under the direction of the project supervisor in consultation with the cultural resources specialist. The details of this</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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<p>agreement shall be stipulated in the Cultural Resources Management and Treatment Plan as required in mitigation measure CUL-1b.</p>				
<p>CUL-1e: Cultural Resources Worker Environmental Awareness Program.</p> <p>Prior to and for the duration of project activities, the project owner shall provide WEAP training to all new workers within their first week of employment at the project site. The training shall be prepared by the Project cultural resources specialist (as defined in CUL-1) in consultation with local Native Americans and shall incorporate the traditions and beliefs of local Native American groups into the presentation. The presentation may be conducted by any qualified cultural resources specialist and a Native American, if possible, and may be presented in the form of a video. A consulting fee or honorarium shall be negotiated with the local Native American consultants and presenter and paid to them for their participation. The training may be discontinued when project activities are completed or suspended, but must be resumed when project activities resume.</p> <p>The training shall include:</p> <ol style="list-style-type: none"> 1. A discussion of applicable laws and penalties under the law; 2. Samples or visuals of artifacts that might be found in the project vicinity; 3. A discussion of what such artifacts may look like when partially buried, or wholly buried and then freshly exposed; 4. A discussion of what prehistoric and historical archaeological deposits look like at the surface and when exposed during ground-disturbance, and the range of variation in the appearance of such deposits; 5. A discussion of what local Native American beliefs are, how those beliefs are related to cultural resources that may be found in the area, and the appropriate respectful behavior towards sacred places and objects; 6. Instruction that all cultural resources specialists have the authority to halt ground disturbance in the area of a discovery to an extent sufficient to ensure that the resource is protected from further impacts, as determined by the project cultural resources specialist (as defined in CUL-1); 	<p>Prior to / during construction</p>	<p>Prior to / during construction / for the duration of project activities</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>7. Instruction that employees are to avoid areas flagged as sensitive for cultural resources;</p> <p>8. Instruction that employees are to halt work on their own in the vicinity of a potential cultural resources discovery and shall contact their supervisor and the project cultural resources specialist (as defined in CUL-1), and that redirection of work would be determined by the project supervisor and the project cultural resources specialist;</p> <p>9. An informational brochure that identifies reporting procedures in the event of a discovery;</p> <p>10. An acknowledgement form signed by each worker indicating that they have received the training which shall be submitted to the County Planning Department and any other CEQA lead agency; and</p> <p>11. A sticker that shall be placed on hard hats indicating that environmental training has been completed.</p>				
<p>CUL-1f: Conduct cultural resources reporting.</p> <p>The project cultural resources specialist shall document results in interim and final reports as necessary. The contents and timing of these reports shall be stipulated in the Cultural Resources Management and Treatment Plan (CUL-1b).</p> <p>Final reports for archaeological resources, human remains, and some landscapes, shall be written by or under the direction of a Secretary of the Interior qualified archaeologist or architectural historian as appropriate for the project. Reports shall be provided in the California Office of Historic Preservation’s Archaeological Resource Management Reports: Recommended Contents and Format and local agency formats. Final documents shall report on all field activities including dates, times and locations, results, samplings, and analyses. All survey reports, Department of Parks and Recreation 523 series forms, data recovery reports, and any additional research reports not previously submitted to the California Historical Resource Information System and the State Historic Preservation Officer shall be included as appendices.</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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<p>CUL-1g: Proper curation of cultural resources collections.</p> <p>All archaeological materials retained as a result of the cultural resources investigations (survey, testing, data recovery) shall be curated in accordance the California State Historical Resources Commission’s <i>Guidelines for the Curation of Archaeological Collections</i>, into a retrievable storage collection in a public repository or museum. Additionally, all collection and retention of archaeological materials as a result of cultural resources investigations must comply with the regulations and policies of the land managing agency or property owner.</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	
<p>CUL-2: Implement proper actions in the event of the incidental discovery of human remains.</p> <p>In accordance with Section 7050.5 of the California Health and Safety Code, if human remains are found, the County Coroner shall be notified within 24 hours of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie potential remains shall occur until the County Coroner has determined, within two working days of notification of the discovery, the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains are or are believed to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with Section 5097.98 of the California Public Resources Code, the NAHC must immediately notify those persons it believes to be the most likely descendant of the deceased Native American. The descendants shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the County, the disposition of the human remains.</p> <p>Should human remains be discovered at any time during construction of the project, construction in the vicinity would halt and the County Coroner would be contacted immediately. If the Coroner determines that the remains do not require an assessment of cause of death and are probably Native American, then the NAHC would be contacted to identify the Most Likely Descendant.</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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<p>PALEO-1a: Protect paleontological resources.</p> <p>Project developers shall document in a paleontological resources assessment report whether paleontological resources exist in a project area on the basis of the following: the geologic context of the region and site and its potential to contain paleontological resources (including the fossil yield potential), a records search of institutions holding paleontological collections from California desert regions, a review of published and unpublished literature for past paleontological finds in the area, and coordination with paleontological researchers working locally in potentially affected geographic areas (or studying similar geologic strata).</p> <p>If paleontological resources are present at the site or if the geologic units to be encountered by the project (at the surface or the subsurface) have a high/very high or moderate/unknown fossil yield, a Paleontological Resources Management Plan shall be developed.</p> <p>The plan shall include the following types of requirements:</p> <ol style="list-style-type: none"> 1. The qualifications of the principal investigator and monitoring personnel 2. Construction crew awareness training content, procedures, and requirements 3. Any measures to prevent potential looting, vandalism, or erosion impacts 4. The location, frequency, and schedule for on-site monitoring activities 5. Criteria for identifying and evaluating potential fossil specimens or localities 6. A plan for the use of protective barriers and signs, or implementation of other physical or administrative protection measures 7. Collection and salvage procedures 8. Identification of an institution or museum willing and able to accept any fossils discovered 9. Compliance monitoring and reporting procedures <p>If the geologic units that would be affected by the project have been determined to have low fossil yield potential, paleontological resources shall</p>	<p>Prior to / during construction</p>	<p>Prior to / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>be included as an element in construction worker awareness training. The training shall include measures to be followed in the event of unanticipated discoveries, including suspension of construction activities in the vicinity.</p> <p>The Paleontological Resources Management Plan shall evaluate all of the construction methods proposed, including destructive excavation techniques. Where applicable, the principal investigator shall include in the plan an evaluation of the potential for such techniques to disturb or destroy paleontological resources, an evaluation of whether loss of such fossils would represent a significant impact, and discussion of mitigation or compensatory measures (such as recordation/recovery of similar resources elsewhere on the site) that are necessary to avoid or substantially reduce the impact.</p>				
GEOLOGY AND SOILS				
<p>GEO-1: Conduct site-specific geotechnical investigations.</p> <p>Site-specific geotechnical investigations will be completed for all applicable proposed development within the individual SEDAs and the OVSA, and the potential off-site transmission corridors associated with the Charleston View, Chicago Valley, and Trona SEDAs (if applicable), prior to final project design approval. These investigations will identify site-specific criteria related to considerations such as grading, excavation, fill, and structure/facility design. All applicable results and recommendations from the geotechnical investigations will be incorporated into the associated individual project design documents to address identified potential geologic and soil hazards, including but not necessarily limited to: ground rupture; ground acceleration (ground shaking); soil liquefaction (and related issues such as dynamic settlement and lateral spreading); landslides/slope instability; geologic and soil instability (including compressible/collapsible soils, subsidence, and corrosive soils); and expansive soils. The final project design documents will also encompass applicable standard design and construction practices from sources including the California Building Code (CBC), International Building Code (IBC), and County standards, as well as the results/recommendations of County plan review and on-the-ground geotechnical observations and testing to be conducted during project excavation, grading and construction activities (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of remedial measures</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>typically associated with identified potential geologic and soil hazards, pursuant to applicable regulatory and industry standards (as noted), is provided below. The remedial measures identified/recommended as part of the described site-specific geotechnical investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p>				
<ul style="list-style-type: none"> • <u>Ground Rupture</u>: (1) locate (or relocate) applicable facilities away from known active (or potentially active) faults and outside of associated CGS Earthquake Fault Zones; and (2) require appropriate (typically 50-foot) building exclusion buffers on either side of applicable fault traces. • <u>Ground Acceleration (Ground Shaking)</u>: (1) incorporate applicable seismic loading factors (e.g., IBC/CBC criteria) into the design of facilities such as structures, foundations/slabs, pavement, utilities, manufactured slopes, retaining walls and drainage facilities; (2) use remedial grading techniques where appropriate (e.g., removing/replacing and/or reconditioning unsuitable soils); and (3) use properly engineered fill per applicable industry/regulatory standards (e.g., IBC/CBC), including criteria such as appropriate fill composition, placement methodology, compaction levels, and moisture content. • <u>Liquefaction and Related Effects</u>: 1) remove unsuitable soils and replace with engineered fill (as previously described), per applicable regulatory/industry standards (e.g., IBC/CBC); (2) employ measures such as deep soil mixing (i.e., introducing cement to consolidate loose soils) or use of subsurface structures (e.g., stone columns or piles) to provide support (i.e., by extending structures into competent underlying units); (3) use subdrains in appropriate areas to avoid or reduce near-surface saturation; and (4) design for potential settlement of liquefiable materials through means such as use of post-tensioned foundations and/or flexible couplings for utility connections. • <u>Landslides/Slope Instability</u>: (1) construct properly drained shear keys and/or replace susceptible deposits with manufactured buttress fills where appropriate; (2) employ applicable slope laybacks (i.e., shallower slopes) and/or structural setbacks; (3) incorporate structures such as retaining walls and stability fills where appropriate 				

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<p>to provide support; and (4) implement proper slope drainage and landscaping where applicable per established regulatory/industry standards (e.g., IBC/CBC).</p> <ul style="list-style-type: none"> • Geologic and Soil Instability: (1) use standard efforts such as over-excavation and recompaction or replacement of unsuitable soils with engineered fill, and enhanced foundation design in applicable areas (e.g., post-tensioned or mat slab foundations); (2) use engineered fill, subdrains, surcharging (i.e., loading prior to construction to induce settlement) and/or settlement monitoring (e.g., through the use of settlement monuments) in appropriate areas; (3) implement groundwater withdrawal monitoring/restrictions per established legal/regulatory/industry standards (if applicable); and (4) remove unsuitable deposits and replace with non-corrosive fill, use corrosion-resistant construction materials (e.g., corrosion-resistant concrete and coated or non-metallic facilities), and install cathodic protection devices (e.g., use of a more easily corroded “sacrificial metal” to serve as an anode and draw current away from the structure to be protected) per established regulatory/industry standards (e.g., IBC/CBC). • Expansive Soils: (1) replace and/or mix expansive materials with non-expansive fill; and (2) cap expansive soils in place with an appropriate thickness of non-expansive fill per established regulatory/industry standards (e.g., IBC/CBC). 				
GREENHOUSE GAS EMISSIONS				
<p>GHG-1: Prepare site-specific Greenhouse Gas Report.</p> <p>Prior to approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination for a solar energy project, a site-specific greenhouse gas technical report will be prepared and approved by the County. The site-specific technical report will identify project-specific emissions to ensure compliance with the interim SCAQMD GHG thresholds, as well as measures to reduce operational greenhouse gas emissions. The technical report will be completed and approved by the County prior to the County’s action.</p>	<p>Prior to approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination</p>	<p>Prior to approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination</p>	<p>Inyo County Planning Department</p>	

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HAZARDS AND HAZARDOUS MATERIALS				
<p>HAZ-1: Conduct site-specific Phase I ESA.</p> <p>Site-specific Phase I Environmental Site Assessments (ESAs) shall be completed for all proposed development projects within the nine individual SEDAs and the OVSA, as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. Specifically, Phase I ESA investigations shall be conducted for the noted areas to identify the potential occurrence of hazardous materials and Recognized Environmental Conditions, (RECs, as defined in ASTM International E1527-05, Section 1.1.1), potentially involving the presence of contaminated soil or groundwater, and/or structures or facilities containing hazardous materials such as asbestos insulation, lead-based paint and polychlorinated biphenyls. Phase I investigations shall include: (1) appropriate regulatory database records review; (2) site reconnaissance; (3) review of appropriate maps, aerial photographs and other pertinent documents; (4) interviews with current/previous property owners, local government/industry officials, and other individuals with knowledge of the property and/or local environmental conditions; (5) documentation of known or potential RECs; and (6) identification of recommendations to address RECs or other concerns, if applicable (including Phase II ESA investigations, as outlined below).</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department and/or other applicable agencies.	
<p>Depending on the results of the described Phase I ESAs, one or more Phase II ESA investigations shall be conducted if identified as part of the Phase I recommendations. Phase II ESAs consist of “intrusive” investigations, in which original samples of soil, groundwater and/or building materials are collected and submitted for laboratory analysis to identify applicable contaminants. Based on the results of this testing, the Phase II ESAs shall identify the type and extent of REC (or other) contamination, and provide appropriate remedial measures to address associated hazards. Typical remedial measures may include efforts such as removal and proper disposal of contaminated materials (or on-site treatment and reuse, if applicable), or in situ treatments such as oxidation (use of aerobic bacteria to accelerate natural attenuation of organic contaminants) or bioremediation (e.g., using bacteria to remove contaminants from groundwater).</p> <p>All ESAs conducted for the proposed project shall be prepared in</p>				

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<p>conformance with applicable regulatory and industry standards, including ASTM International E1527-05 Standard Practice for Environmental Site Assessments, and Code of Federal Regulations Part 312, Standards and Practices for All Appropriate Inquiries. Applicable results and recommendations from the described Phase I and Phase II investigations shall be incorporated into the associated individual final project design documents to address identified potential hazardous material concerns.</p>				
<p>HAZ-2: Conduct site-specific Airport Safety Investigations. Site-specific Airport Safety Investigations shall be completed for all proposed development projects in the Laws, Trona, Charleston View, and Sandy Valley SEDAs, the OVSA, and related potential off-site transmission line corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs that are within two miles of a public or private airport prior to final project design approval. These investigations will assess the site-specific design and location of proposed facilities to determine if they are compatible with existing and planned future activities at nearby airports. The Airport Safety Investigations shall utilize applicable criteria from proposed project design information (e.g., facility locations and heights), airport comprehensive land use plans and/or management plans (if applicable), the Inyo County Airport Hazard Overlay Ordinance, and/or other pertinent information related to considerations such as airport hazard zones and traffic patterns, to identify potential safety conflicts. If such conflicts are identified, the Airport Safety Investigations shall provide remedial measures to address these concerns, potentially including efforts such as relocating and/or redesigning proposed facilities to avoid potential hazards. Applicable results and recommendations from the described Airport Safety Investigations shall be incorporated into the associated individual final project design documents to address identified potential airport-related concerns.</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	
<p>HAZ-3: Conduct site-specific School Safety Investigations. Site-specific School Safety Investigations shall be completed for all proposed development projects in the OVSA that are within one-quarter mile of an existing or proposed school, prior to final project design approval. These investigations will assess the site-specific design and location of proposed facilities to determine if they are compatible with</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department</p>	

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<p>existing and planned future activities at schools located within one-quarter mile. The School Safety Investigations shall utilize applicable criteria from proposed project design information, such as proposed hazardous material use/storage, associated facility locations, and required measures in Hazardous Materials Business Emergency/Contingency Plans and/or Risk Management Plans (e.g., proper inventory documentation, storage/containment, transport, employee training, and spill response/clean-up measures) to assess potential hazards to local schools from the use or emission of hazardous materials or wastes. If such hazards are identified, the School Safety Investigations shall provide remedial measures to address these concerns, potentially including efforts such as relocating (i.e., outside of the one quarter mile boundary) and/or redesigning proposed facilities (e.g., providing enclosures or secondary containment) to avoid potential hazards. Applicable results and recommendations from the described School Safety Investigations shall be incorporated into the associated individual final project design documents to address identified potential school-related concerns.</p>				
<p>HAZ-4: Conduct site-specific Wildfire Safety Investigations.</p> <p>Site-specific Wildfire Safety Investigations shall be completed for all proposed projects within the nine individual SEDAs and the OVSA, as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), that are in areas rated as moderate or high for wildfire hazards by California Department of Forestry and Fire Protection prior to final project design approval. Specifically, the Wildfire Safety Investigations shall be conducted for the noted areas to identify site-specific fire hazard ratings and associated risks to people and structures at proposed development sites. The Wildfire Safety Investigations shall include assessment of the following criteria for the noted areas and surrounding environments: (1) fire history; (2) fuel (vegetation) types; (3) climatic conditions (including wind patterns); (4) projected fire behavior (including flame lengths) from computer modeling (e.g., BehavePlus Fire Modeling System 5.0.4); (5) documentation of known or potential wildfire hazards to on-site people and structures; and (6) identification of remedial measures, if applicable (per applicable regulatory standards such as the California Building, Fire, and Residential Codes), potentially including efforts such as the use of fuel</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>modification, structural features (e.g., non-combustible materials and fire/ember/smoke barriers), alarm systems, and/or automatic sprinklers. Applicable results and recommendations from the described Wildfire Safety Investigations shall be incorporated into the associated individual final project design documents to address identified potential wildfire-related concerns.</p>				
HYDROLOGY AND WATER QUALITY				
<p>HYD-1: Conduct site-specific hydrologic investigations.</p> <p>Site-specific hydrologic investigations will be completed for proposed utility scale solar facility development projects within the individual SEDAs and the OVSA (i.e., those with grading, excavation or other activities potentially affecting hydrologic conditions, as determined by the County), as well as the potential off site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential hydrologic concerns, including but not necessarily limited to: drainage alteration, runoff rates and amounts, flood hazards, and existing/planned storm drain system capacity. The final project design documents will also encompass applicable standard design and construction practices from sources including NPDES, Basin Plan and County standards, as well as the results/recommendations of County plan review (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of remedial measures typically associated with identified potential hydrologic concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The remedial measures identified/recommended as part of the described site-specific hydrologic investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> • Drainage Alteration: (1) locate applicable facilities and activities (e.g., staging areas and soil/material stockpiles) outside of surface drainage courses and drainage channels; (2) re-route surface around applicable facilities, with such rerouting to be limited to the smallest 	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department Inyo County Department of Public Works Inyo County Water Department Inyo County Department of Environmental Health and/or other applicable agencies.</p>	

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<p>area feasible and re-routed drainage to be directed back to the original drainage course at the closest feasible location (i.e., the closest location to the point of diversion); and (3) use drainage structures to convey flows within/through development areas and maintain existing drainage patterns.</p> <ul style="list-style-type: none"> • Runoff Rates and Amounts: (1) minimize the installation of new impervious surfaces (e.g., by surfacing with pervious pavement, gravel or decomposed granite); and (2) use flow regulation facilities (e.g., detention/retention basins) and velocity control structures (e.g., riprap dissipation aprons at drainage outlets), to maintain pre-development runoff rates and amounts. • Flood Hazards: (1) work to locate proposed facilities and activities outside of mapped 100 year floodplain boundaries; (2) based on technical analyses such as Hydrologic Engineering Center-River Analysis System (HEC-RAS) studies, restrict facility locations to avoid adverse impacts related to impeding or redirecting flood waters; and (3) based on HEC RAS studies, use measures such as raised fill pads to elevate proposed structures above calculated flood levels, and/or utilize protection/containment structures (e.g., berms, barriers or waterproof doors) to avoid flood damage. • Storm Drain System Capacity: (1) implement similar measures as noted above for runoff rates and amounts; and (2) utilize additional and/or enlarged facilities to ensure adequate on- and off-site storm drain system capacity. 				
<p>HYD-2: Conduct site-specific groundwater investigations.</p> <p>Site-specific groundwater investigations will be completed for all proposed solar facility development projects within the individual SEDAs and the OVSA proposing to utilize groundwater resources, prior to final project design approval. These investigations will identify site-specific criteria related to considerations such as local aquifer volumes and hydrogeologic characteristics, current/proposed withdrawals, inflow/recharge capacity, and potential effects to local aquifer and well levels from proposed project withdrawals. All applicable results and recommendations from these investigations will be incorporated into the associated individual project design documents to address identified potential impacts to groundwater</p>	Prior to final project design approval	Prior to final project design approval	<p>Inyo County Planning Department</p> <p>Inyo County Water Department and/or other applicable agencies.</p>	

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<p>resources (per applicable regulatory standards), with all related requirements to be included in associated engineering/design drawings and construction contract specifications. A summary of the types of remedial measures typically associated with identified potential effects to groundwater resources is provided below. The remedial measures identified/recommended as part of the described site-specific groundwater investigations will take priority over the more general types of standard measures listed below.</p> <ul style="list-style-type: none"> • Aquifer/Well drawdown: (1) monitor local aquifer and private/production well levels to verify the presence or absence of project-related effects during pre-construction, construction, and operation periods (based on a methodology and monitoring schedule approved by the RWQCB and County); (2) document background and pre-construction groundwater conditions and comparable project-related construction and operation trends, along with related factors such as precipitation levels and groundwater budgets; (3) prepare scaled maps depicting the associated site(s), existing and proposed monitoring well locations, relevant natural (e.g., springs and groundwater-dependent vegetation) and other features (e.g., reservoirs), and pre- post-project groundwater contours, along with a description of cumulative water level changes; (4) restrict project-related groundwater withdrawals to appropriate levels to avoid significant adverse effects to local aquifers/wells and/or other groundwater-dependent uses (e.g., vegetation, springs or other related surface water features), based on thresholds approved by the RWQCB and County; and (5) provide mitigation for affected wells or other uses where applicable, potentially including well modifications (e.g., deepening pumps or wells) and/or financial compensation. • Groundwater Recharge Capacity: (1) reduce the area of on-site impervious surface if appropriate, through increased use of surfacing materials such as gravel, decomposed granite, or pervious pavement; and (2) use facilities such as retention/percolation basins and unlined drainage facilities to increase local infiltration and groundwater recharge. The County may employ water injection as a method of groundwater recharge 				

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<p>as deemed appropriate on a case by case basis. This decision would be made during project specific CEQA analysis for a given solar energy development proposal.</p>				
<p>HYD-3: Conduct site-specific water quality investigations.</p> <p>Site-specific water quality investigations will be completed for long-term solar facility operations associated with applicable proposed development projects within the individual SEDAs and the OVSA (i.e., those with activities potentially affecting water quality conditions, as determined by the County), as well as the potential off site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential long-term water quality issues related to conditions such as: anticipated and potential pollutants to be used, stored or generated on-site; the location and nature (e.g., impaired status) of on-site and downstream receiving waters; and project design features to avoid/address potential pollutant discharges. The final project design documents will also encompass applicable standard design practices from sources including NPDES, Basin Plan and County standards, as well as the results/recommendations of project-related hazardous materials investigations and regulatory standards (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of BMPs typically associated with identified potential water concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The BMPs identified/recommended as part of the described site-specific water quality investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> • Low Impact Development (LID)/Site Design BMPs: LID/site design BMPs are intended to avoid, minimize and/or control post development runoff, erosion potential and pollutant generation to the maximum extent practicable by mimicking the natural hydrologic regime. The LID process employs design practices and techniques to effectively capture, filter, store, evaporate, detain and infiltrate runoff 	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department</p> <p>Inyo County Water Department Inyo County Department of Environmental Health and/or other applicable agencies.</p>	

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<p>close to its source through efforts such as: (1) minimizing developed/disturbed areas to the maximum extent feasible; (2) utilizing natural and/or unlined drainage features in on-site storm water systems; (3) disconnecting impervious pervious to slow concentration times, and directing flows from impervious surfaces into landscaped or vegetated areas; and (4) using pervious surfaces in developed areas to the maximum extent feasible.</p> <ul style="list-style-type: none"> • Source Control BMPs: Source control BMPs are intended to avoid or minimize the introduction of pollutants into storm drains and natural drainages to the maximum extent practicable by reducing on-site pollutant generation and off-site pollutant transport through measures such as: (1) installing no dumping” stencils/tiles and/or signs with prohibitive language (per current County guidelines) at applicable locations such as drainages and storm drain inlets to discourage illegal dumping; (2) designing trash storage areas to reduce litter/pollutant discharge through methods such as paving with impervious surfaces, installing screens or walls to prevent trash dispersal, and providing attached lids and/or roofs for trash containers; (3) designing site landscaping (if applicable) to maximize the retention of native vegetation and use of appropriate native, pest-resistant and/or drought-tolerant varieties to reduce irrigation and pesticide application requirements; and (4) providing secondary containment (e.g., enclosed structures, walls or berms) for applicable areas such as trash or hazardous material use/storage. • Treatment Control/LID BMPs: Treatment control (or structural) BMPs are designed to remove pollutants from runoff to the maximum extent practicable through means such as filtering, treatment or infiltration. Treatment control and/or LID BMPs are required to address applicable pollutants, and must provide medium or high levels of removal efficiency for these pollutants (per applicable regulatory requirements). Based on the anticipated pollutants of concern, potential LID and treatment control BMPs may include (1) providing water quality treatment and related facilities such as sediment basins, vegetated swales, infiltration basins, filtration devices and velocity dissipators to treat appropriate runoff flows and reduce volumes prior to off-site discharge (per applicable regulatory requirements); and (2) conducting 				

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regular inspection, maintenance and as-needed repairs of pertinent facilities and structures.				
LAND USE AND PLANNING				
No mitigation measures are required.				
MINERAL RESOURCES				
<p>MIN-1: Conduct site-specific mineral resource investigations.</p> <p>Site-specific mineral resource investigations will be completed for proposed development projects within the individual SEDAs, the OVSA, and the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. These investigations will include the following elements: (1) descriptions of regional and on-site geologic environments; (2) identification of site-specific potential for the occurrence of mineral resources; (3) assessment of estimated mineral resource quantities and extents (as applicable); (4) evaluation of associated potential for economic resource recovery, including considerations such as supply and demand, and production, processing and transportation costs; (5) determination of the presence of mineral entries such as mining claims and mineral leases, including descriptions of individual mineral entry types, issuing agencies and status; (6) assessment of potential impacts from project implementation to identified regionally- or locally-important mineral resources, associated exploration/recovery efforts, and valid mineral entries; and (7) development of remedial measures to address identified impacts to mineral resources, operations and entries, as feasible, potentially including efforts such as avoidance, use of proposed project development timing or phasing to accommodate mineral operations, or locating proposed project facilities to accommodate multiple use operations (e.g., through shared use of access or infrastructure). All applicable results and recommendations from the described investigations identifying identified potential mineral resource impacts and remedial measures will be incorporated into the associated individual project design documents.</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department	
NOISE				
NOI-1: Prepare technical noise report for solar facilities proposed within 500 feet of noise sensitive land uses.	Prior to approval and/or issuance of	Prior to approval and/or issuance of	Inyo County Planning Department	

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<p>If a proposed utility scale solar energy project resulting from implementation of the REGPA is within 500 feet of a residence or other noise sensitive land use, prior to issuance of a Major Use Permit, a site-specific noise technical report will be prepared and approved by the County. The technical report will verify compliance with all applicable County laws, regulations, and policies during operation of the solar project, including that noise levels would not exceed the relevant thresholds described in the General Plan Noise Element (60 dBA LDN for noise sensitive land uses such as residences, schools, transient lodging and medical facilities). The site specific noise technical report will include project specifications, applicable noise calculations, project design features, applicable BMPs and related information from the REAT’s Best Management Practices and Guidance Manual (REAT 2010), and mitigation measures applicable to the project. The technical noise report will address operational related noise sources, as well as noise from the use of generators during an emergency. The technical report will calculate specific anticipated noise and vibration levels from operations in accordance with County standards and provide specific mitigation when noise levels are expected to exceed County standards.</p>	Major Use Permits	Major Use Permits	Building and Safety Department	
<p>NOI-2: Implement construction noise reduction measures.</p> <p>If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT’s Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:</p> <ul style="list-style-type: none"> • Whenever feasible, electrical power will be used to run air compressors and similar power tools. • Equipment staging areas will be located as far as feasible from occupied residences or schools. • All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers. • Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors. • Stockpiling and vehicle staging areas shall be located as far as 	During construction	During construction	Inyo County Planning Department	

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practical from occupied dwellings.				
<p>NOI-3: Helicopter Noise Control Plan.</p> <p>In the event that a utility scale solar project site would have limited access and would require the use of helicopters during operation or maintenance of a facility, the County shall prepare a Helicopter Noise Control Plan that indicates where helicopters would be used and the frequency and duration for such use. The plan shall demonstrate compliance with the noise level limits within the County Noise Element for helicopter noise to properties within 1,600 feet of proposed helicopter use locations.</p>	During construction	During construction	Inyo County Planning Department	
POPULATION AND HOUSING				
No mitigation measures are required.				
PUBLIC SERVICES				
<p>PUB-1: Analyze public safety and protection response times and staff levels for each project.</p> <p>Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project's impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department and/or other applicable agencies.	
<p>PUB-2: Provide onsite security during the construction and long-term operation of the project.</p> <p>For project sites associated with proposed future solar development projects that are determined through Mitigation Measure PUB-1 to have insufficient law enforcement protection services or significant impacts to law enforcement services, project proponents shall be required to provide adequate, onsite private security for the duration of construction activities and during the long-term operation of the project to the satisfaction of the County. The actual size and configuration of the security detail shall be determined by the County during preparation of the Development</p>	During construction and operations	During construction and operations	Inyo County Planning Department	

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Agreement for the future solar energy project.				
PUB-3: Pay mitigation fees for public safety and protection services. The County shall require project proponents to pay established County development mitigation fees for fire and police protection services. Said fees shall be used to maintain proper staffing levels for fire, police protection, and emergency services and to sustain adequate response times as required by the County.	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department and/or other applicable agencies.	
RECREATION				
No mitigation measures are required.				
SOCIOECONOMICS				
SOC-1: Minimize Impacts on transient housing. To further offset potential negative effects and increased demand on transient housing, General Plan Policy ED-4.5, Employ and Train Local Labor, shall be supplemented with the following: <ul style="list-style-type: none"> • For renewable energy projects where the construction schedule exceeds one-year, community monitoring programs shall be developed that would identify and evaluate transient housing demand and other socioeconomic effects utilizing economic models such as JEDI. Measures developed for monitoring may include the collection of data reflecting the workforce demands and social effects (such as tracking any demonstrable drop in recreational usership) as a result of increased transient housing demand from construction workers at the local and County level. • Project developers shall work with the County, local chambers of commerce, and/or other applicable local groups to assist transient workers in finding temporary lodging. If temporary lodging is not available, developers of utility scale projects shall consider the feasibility of providing on-site temporary housing accommodations for all projects. 	During construction	During construction	Inyo County Planning Department	
SOC-2: Minimize Impacts on County Public Services. To further off-set potential negative effects on County public services, General Plan Policy ED 4.4, Offset the Cost to the County for Service	Prior to issuance of building permit	Prior to issuance of building permit	Inyo County Planning Department	

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<p>Provision, shall be supplemented with the following:</p> <ul style="list-style-type: none"> • Cooperative agreements between project applicants and the County shall be secured prior to issuance of a building permit or project-specific entitlement to ensure the following: • Unless property taxation of a renewable energy installation is deemed sufficient by the County, project applicants shall pay a fair-share public service impact fee. A potential method for estimating a fair-share contribution could be calculated by: • [annual service budget] X [estimated number of temporary workers temporarily in-migrating ÷ County population served]. • The public service fee (and formula used for calculating fair-share) shall be adjusted based on the duration of project construction (e.g., a project only lasting 9 months would utilize 75 percent of the annual budget, one lasting 1.5 years would utilize 150 percent of the annual budget, etc.); and • Project applicants shall maximize the County's receipt of sales and use taxes paid in connection with construction of the project by methods such as including language in construction contracts identifying jobsites to be located within the County and requiring construction contractors to attribute sales and use taxes to the County in their Board of Equalization filings and permits. 				
TRANSPORTATION AND CIRCULATION				
<p>TRA-1: Prepare site-specific traffic control plans for individual projects.</p> <p>Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.</p>	Prior to / during construction	Prior to / during construction	Inyo County Planning Department and/or other applicable agencies.	
<p>TRA-2: Implement recommendations from traffic impact analysis on surrounding roadways and intersections.</p>	During construction	During construction	Inyo County Planning Department	

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<p>Site-specific construction traffic impact analyses shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to evaluate potential traffic impacts on surrounding roadways and intersections during the construction period. Applicable results and recommendations from the project-specific construction traffic impact analysis shall be implemented during the appropriate construction phase to address identified potential construction traffic impacts.</p>			<p>and/or other applicable agencies.</p>	
UTILITIES AND SERVICE SYSTEMS				
<p>UTIL-1: Projects within the western solar energy group will not exceed a combined maximum of 250 MW or 1,500 acres.</p> <p>Future projects within the Western Solar Energy Group shall be limited to a combined maximum of 250 MW or 1,500 acres of development area). The County shall implement a tracking program to ensure all future solar development projects within the Western Solar Energy Group do not exceed 250 MW. Once the 250 MW (or 1,500 acres of development area) is reached, the County shall not approve further projects within the Western Solar Energy Group unless project applicants can provide proof of adequate and existing transmission capabilities for the project.</p>	<p>Prior to issuance of building permit</p>	<p>At the beginning and completion of each project</p>	<p>Inyo County Planning Department</p>	
<p>UTIL-2: Projects within the Southern and Eastern Solar Energy Groups will be required have necessary and/or adequate transmission lines.</p> <p>Future development within the Southern and Eastern Solar Energy Groups shall be required to include the necessary transmission lines or provide proof of adequate transmission capabilities for the project.</p>	<p>Prior to issuance of building permit</p>	<p>Prior to issuance of building permit</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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August 25, 2023

FROM: John Mays

85517 12th St. (P.O. Box 583)

Trona, CA 93592

TO: Inyo County Planning Department via email inyoplanning@inyocounty.us

Attn: Cynthia Draper cdraper@inyocounty.us

CC: Patrick Soluri patrick@semlawyers.com, Tom Kidder tkidder85@gmail.com, Amanda Mcnamara-Ball akmcmamara80@gmail.com, Brian McNamara b.mcnamara1951@gmail.com

RE: Comments on Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Study (Initial Study) dated July 19, 2023, for REP 2022-01 and REP 2022-02

1.) The new documents fail to sufficiently address any comments previously submitted on REP 2022-01 and REP 2022-02 by myself, the others included on this email, or by my legal representation. All of these comments are resubmitted here by reference including those by Tom Kidder, Amanda, McNamara-Ball, and Brian McNamara. The additional comments herein are also being submitted on their behalf. Also, we wish to incorporate all our complaints sent to Inyo County regarding these projects since 2021 by reference.

2.) The Initial Study shows Inyo County Planning Departments repeated reluctance to perform the necessary CEQA analysis as guided by the Renewable Energy General Plan Amendment Final Programmatic Environmental Impact Report dated March 2015 (PEIR). Inyo County has failed to comply with CEQA requirements and effectively bypassed CEQA requirements by not performing the necessary environmental analyses that are enumerated by the PEIR. Compounded by the lack of enforcement and the repeated disregard for permitting procedures, destruction of environmental resources and endangerment of human health has occurred. The Inyo County Planning Department should not be allowed to conduct any such approval for solar permits until it can demonstrate proper compliance with CEQA requirements and its own regulations.

3.) The new biological evaluation as provided with the new Initial Study is a grossly insufficient analysis designed only to advance the project. It represents a token glance done in only 58 minutes at the project site. The necessary biological evaluation that is needed to accurately assess biological impacts is described in detail by the PEIR and has been mentioned at length in previous comments. A representative evaluation would require multiple visits over the full year to account for seasonal variations of wildlife and plant species and multiple observations to substantiate the presence of or lack of any species. The authors' own comments confirm that the study is insufficient, stating it is "limited by the scope of work performed" and "limited by conditions present at the time of the study." The US FWS

letter appears to be a form letter automatically generated on the same day of the study and represents no actual consultation with US FWS. All of this is typical of the methods of cursory review repeatedly applied by the Inyo County Planning Department. This has nothing to do with accurately assessing impacts but purely designed to avoid substantial review by understating the impacts on the ecology of the project.

4.) The biological evaluation does, however, strongly document the destruction of wildlife habitat and plant life caused by the illegal and repeated pre-permit construction efforts. Despite numerous reports and documentation provided, Inyo County has continued to allow this site destruction repeatedly throughout the permit process. This directly subverts the environmental laws of the State of California and requirements of CEQA. Clearly, the lack of concern for wildlife being present at the project and minimal impacts on wildlife and plants within the biological evaluation resides primarily on the fact that the project “has been disked and exhibits little vegetation regrowth” and is thus devoid of habitat. In fact, the site has been graded with vegetation removed so extensively that it represents an intentional farming practice that completely turns the soil. Such disking destroys any animal burrows which would be evidence of food sources or homes for species. It also destroys the vegetation on which such Endangered or Special Status Species live upon or within.

5.) The eye-blink biological evaluation is essentially certain to have overlooked species which may have been just simply missed, transient, or seasonal to the site including Mojave Ground Squirrel, Burrowing Owl, Desert Tortoise, and other Endangered and Special Status Species as listed by US FWS as potentially occurring in the area. These are all typical in the region, have been reported by the observations of residents, and not addressed by the Initial study or mitigation provided.

6.) The new biological evaluation states that more detailed additional studies be done before construction. However, realistic, comprehensive biological studies need to be done before permit approval to ensure proper mitigation has been put in place before the permit can be issued.

As proposed by the approach in the biological evaluation, a vast number of species with potential to be present but that were not observed in this single 58-minute survey would not be protected. The biological evaluation recommends only surveying and mitigation for the desert kit fox and migratory birds but does not detail surveys or mitigation for numerous other wildlife and vegetation species which US FWS say could be present. This grossly avoids substantial mitigations required to protect wildlife and vegetation and thus increases the potential for a take. For this reason, complete biological studies must be completed in advance of a permit approval so that proper mitigation is in place.

7.) A report with analysis on dust generated provided by the new Initial Study is insufficient. It does not account for:

- dust generated from bare grounds during high winds
- actual conditions where dust control is not implemented
- a realistic construction period which is much greater than the assumed overall period of 2 months and 2 weeks of “minor” grading. This is especially overly optimistic as no grading or drainage plan has been envisioned. There is no provision for removal of large boulders which are prevalent through the subsurface and cause major difficulties in drilling the panel supports.

- dust generated from accumulated sand dune deposits at project fencing as evidenced in examples of California City solar plants as provided with previous comments. Does not account for fence construction and maintenance for windblown sand accumulations.

- does not account for heavy truck traffic on local roads to deliver project construction materials and operating supplies. Does not provide location of roads to be traveled as no access or road plan is provided. If using local dirt roads, this could be within a few feet of residences.

- does not assess the long-term and short-term effects on several nearby receptors which are residences within less than 500 ft, especially during wind events

- incorrectly steps the facility footprint substantial back from parcel boundaries although this is not the design, and no permit conditions require this. (fig.1). This improper mechanism to avoid dust and pollutants traveling across the project boundary.

- does not include the existing operating facility in its assessment of long-term and short-term impacts, REP 2021-01

The current solar facility, REP 2021-01, which is less than half the size of these proposed permits, has taken at least a couple of years to be constructed. Even now apparently, construction is still not finished. The project currently has stockpiled earthen materials and construction equipment on site. There has been grading of the site and placement of gravel during recent months.

As documented to Inyo County Planning Department, as reported January 13, 2022, all the surface of REP 2022-01 and REP 2022-02 was graded without dust control methods being applied and has been left that way since that date. Additional construction work with no dust control has been documented and reported in the last few months. Video was provided to Inyo County officials documenting extreme dust generation during high wind events.

An evaluation of impacts from dust generation and resulting health and equity impacts have not been sufficiently addressed by the new Initial Study and are grossly understated by the new analysis.

7.) The Initial Study does not address the fact that Inyo County is unable and unwilling to enforce dust control at the current operating solar facility and the proposed sites. It has been demonstrated by numerous reports that dust control procedures are not being followed and other unlawful construction practices are being allowed by the Inyo County without recourse. This negates any mitigation provided in the Initial Study proclaiming that dust control measures will be implemented and negates the determinations made by Inyo County in the Initial Study on impacts from dust.

8.) Attached is evidence of other complaints on Facebook regarding another solar site in Inyokern. This site is owned and being developed by the same owner/developer as REP 2022-01 and REP 2022-02 on July 22, 2023. This was during the same time when complaints were made regarding the Trona facility. The developer's repeated lack of compliance must be enforced otherwise there is no substance to mitigation that the Initial study is based upon. Inyo County cannot proceed with these permits until it can demonstrate proper management of its solar facilities, it has set a precedent to the contrary. Otherwise, substantial impacts to public health can occur.



WTF IS HAPPENING IN RIDGECREST · ...

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Russ Lester · Jun 22 at 17:45 · 🌐

To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that...

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To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that everyone has to drive thru. Just sayin

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25 comments

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🗨️ Comment

➤ Send

👍👎🗨️ 23

15 comments

👍 Like

🗨️ Comment

👍 23 >

Top comments

Kady Buckholz
I was just talking about this.
1h Like Reply

Jamie Weston
😂😂😂 I saw that the other day when I was doing a delivery.
1h Like Reply

Maria Jordan
Lamooo that's dumb lol like we can control when the wind blows
49m Like Reply

Donald Hitt
Solar field going in
39m Like Reply

Sharon Boyer
Drove through it!!
1h Like Reply

Mindy Spivey

1h Like Reply

Ginger Brown

40m Like Reply

Amanda McNamara
Call Kern County Planning Commission and complain. It's an air permit violation. They are supposed to keep a water truck on it all the time.
2m Like Reply

Tina Flanigan
Solar power.
1h Like Reply

Tamy Rice
Agreed
1h Like Reply

Ginger Brown
Call the county...valley fever because of clearing land like this ...o the county forgot to tell us ... U have to request the test if u have symptoms....and they need to water truck this to keep the dust down...they also must have a permit....people need to call...here is your info...

40m Like Reply

Anthony Levesque
No
10m Like Reply

Robbie Harper
Or at least plow the north 40 at less than 60!
1h Like Reply

Write a comment...

9:02 [status icons]

Login

LLC (202130910556)		
M&S INYOKERN CORP. (4661667)	> 11/05/2020	Active
RB INYOKERN SOLAR LLC (201615410405)	> 05/25/2016	Suspended - FTB
RB INYOKERN SOLAR WDAT 1203 LLC (202206311083)	> 03/02/2022	Active
RB INYOKERN SOLAR WDAT 1281 LLC (202206311152)	> 03/02/2022	Active
RIDGECREST INYOKERN RD, LLC (201623510120)	> 08/15/2016	Active
SIERRA PACIFIC INDUSTRIES, INYOKERN DIVISION (375961)	> 05/25/1959	Suspended - FTB
TA - INYOKERN, LLC (200932310149)	> 11/13/2009	Terminated

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9.) A full EIR is prescribed by CEQA for these projects and is required for these projects to advance. This was required by Kern County Planning for the owner/developer's solar facility in Inyokern. That study may be found here and serves as an example of the more extensive impact evaluation and coordination on biological evaluation necessary. This permitting action required incidental take permits for the Desert

Tortoise and Mojave ground squirrel. Since Inyo County allowed pre-permit construction this take may have already occurred.

<https://kernplanning.com/environmental-doc/rb-inyokern-solar-project/>



California Program Office

P.O. Box 401, Folsom, California 95763 | 916-313-5800

www.defenders.org

August 25, 2023

Cynthia M. Draper, Assistant Planner
Inyo County Planning Department
168 N. Edwards Street
Independence, CA 93526
Delivered via email to: cdraper@inyocounty.us

RE: Renewable Energy Permit – Barker-Trona 4 (SCH 2022110323) and
Renewable Energy Permit – Barker-Trona 7 (SCH 2022110344)

Dear Ms. Draper:

Thank you for the opportunity to provide comments in response to the Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Studies (DMND) for the proposed Barker-Trona 4 Solar and Barker-Trona 7 Solar Farms (collectively, the “Projects”). Defenders of Wildlife (Defenders) is dedicated to protecting all wild animals and plants in their natural communities and has nearly 2.1 million members and supporters in the United States, with more than 316,000 residing in California. We strongly support renewable energy development that will help meet California’s emission reduction goals and avoids destruction of important wildlife habitat and the loss of at-risk species. Achieving a low-carbon energy future is critical for protecting California’s internationally treasured wildlife, landscapes and diverse habitats.

The proposed Projects are solar photovoltaic PV electricity generating facilities and associated infrastructure: Barker-Trona 4 would generate 3.0 MW of renewable energy on a 15-acre parcel and Barker-Trona 7 would generate 1.2 MW on an adjacent 5-acre parcel, located in Inyo County west of Trona Wildrose Road, between the Trona Airport and the border of San Bernardino County. The Projects were submitted under separate applications due to their separate interconnections to the existing Southern California Edison 33kV transmission line that passes through the area. The Project site is zoned as rural residential, and the area of both Projects is described as graded and “highly disturbed,” with “no natural vegetation, habitat, water features, or structures.” Portions of the Barker-Trona 4 site were previously used as “a private dirt track and a junk yard.” Additionally, the Projects are located within a designated Inyo County Solar Energy Development Area,¹ and are not located within Natural Landscape Blocks,²

¹ See <https://databasin.org/maps/new/#datasets=d035971f69f84ba9b3fdbba2ed551a442>

² See <https://databasin.org/maps/new/#datasets=e1bb8c9a9631413f97b28cc72a5efe93>

Essential Connectivity Areas,³ mapped critical habitat,⁴ or state or global Important Bird Areas.⁵ While the site lies partially in areas designated as modeled predicted occupied habitat for the desert tortoise,⁶ Defenders concurs with the Projects' Biological Resource Evaluation, which concluded that neither tortoises nor suitable habitat are present on the site.

As we transition toward a clean energy future, it is imperative that we consider the near-term impact of solar development on our biodiversity, fish and wildlife habitat, and natural landscapes while addressing the long-term impacts of climate change. Therefore, renewable energy projects must be planned, sited, developed and operated to avoid, minimize and mitigate adverse impacts on wildlife and lands with known high-resource values. Defenders finds the Projects are fully consistent with these criteria through being sited on previously distributed lands and applying appropriate mitigation measures to reduce the impact on special-status species in the region, including desert kit fox and birds protected by the Migratory Bird Treaty Act, as outlined on page 6-18 of the Biological Resource Evaluation. These measures include conducting pre-activity surveys and equipment inspections, avoidance buffers, worker training, speed limits, covering of holes and trenches, and proper waste management processes. We encourage the County to continue siting renewable energy projects in low-conflict areas in order to avoid or minimize impacts on sensitive species.

Thank you once again for the opportunity to provide comments on the DMND for the Barker-Trona 4 and 7 projects and for considering our comments. We look forward to reviewing the Final Environmental Documents for the Projects and request to be notified when they are available. Please feel free to contact us with any questions.

Respectfully submitted,



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ADelach@defenders.org



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Senior California Representative
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SMarkowska@defenders.org

³ See <https://databasin.org/maps/new/#datasets=c57212b3aa1243d28216a1b7db18a1ca>

⁴ Per Figure 4-1, Trona 4 and 7 Solar Project Biological Resource Evaluation, at <https://ceqanet.opr.ca.gov/2022110323/2>

⁵ See <https://databasin.org/maps/new/#datasets=1180b50bafef4871a019245da1c8b6b2>

⁶ See <https://databasin.org/maps/new/#datasets=a1f5e25b9b944f9fa6aa3be8f54f8a2e>

October 10, 2023

Via Electronic Mail

Planning Department, County of Inyo
168 North Edwards Street
Post Office Drawer L
Independence, CA 93526
Inyoplanning@inyocounty.us

Re: Response to Comments on Renewal Energy Permit Nos. 2022-01/2022-02

Dear Ms. Draper,

This law firm represents Robbie Barker and Valley Wide Engineering & Construction, Inc. (collectively, the “applicant”) regarding applications for two renewable energy permits, Nos. 2022-01 and 2022-02, (the “Projects”) set to be heard by the Inyo County Planning Commission on October 25, 2023. This letter responds to an August 24, 2023 comment letter submitted by the Soluri Meserve law firm on behalf of its client, John Mays.

By way of overview, the comment letter fails to demonstrate any procedural or substantive defect in the County’s decision to prepare Mitigated Negative Declarations (MNDs). These are small solar energy facilities, to be installed on a total of 20 acres in a sparsely populated area located north of the Trona community, within a Solar Energy Development Area (“SEDA”) designated by the Board of Supervisors in 2015. The single-axis tracker panels will be placed on flat land without special scenic or habitat value, using accepted best management practices for dust control. No significant adverse environmental impacts whatsoever are expected.

Of particular note, the Projects have a combined generating output of only 4.2 megawatts (“MW”). This makes these Projects far smaller than the “utility-scale” solar projects (i.e., more than 20 MW) that were the main focus of the Renewable Energy General Plan Amendment (“REGPA”) adopted by the Board of Supervisors in 2015. We raise this because the Board also certified a Programmatic EIR (“PEIR”) for the REGPA, and the PEIR contained several mitigation measures which the comment letter demands to be applied to these Projects. As we explain below, however, most of the PEIR’s mitigation measures apply to utility-scale projects, not to small projects like this. Thus, the County did not err by deciding that many of those mitigations were inappropriate for these Projects.

Below, we have set forth each of the August 24, 2023 comments in italics, then provided the applicant’s response. As our responses show, the County’s treatment of the Projects, and the County’s decision to adopt MNDs, is correct and well supported by the record.

RESPONSES TO COMMENTS

A. Failure to Include Mitigation Monitoring and Reporting Plan

Although clearly identifying each document as an “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeatedly checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County fails to prepare Mitigation Monitoring and Reporting Program(s) (“MMRP”(s)). This violates CEQA (CEQA Guidelines, § 15097) and also the Inyo County Code. (County Code, Ch. 15.44.) To wit:

15.44.005 General.

The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment.

Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)

15.44.010 Application.

A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)

15.44.020 Timing.

Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment.

The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)

15.44.030 Contents.

The monitoring plan shall contain, at a minimum, the following:

A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;

B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);

C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;

D. Identification of the person or entity responsible for monitoring and verification;

E. The method of reporting monitoring results to the county. (Ord. 957 § 1 (part), 1995.)

15.44.040 Enforcement.

Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)

Setting aside the RMND's practice of not identifying mitigation measures required to reduce Project impacts, the RMND's expressly identify mitigation measures in Sections IV(a), XIII(a) and XXI(a). Thus, the RMND's require a draft MMRP that is circulated for public comment. The RMND's are therefore procedurally invalid. A new RMND or EIR must be recirculated for public review along with the required MMRP.

Response:

The commenter contends that it was error for the County not to circulate a Mitigation, Monitoring and Reporting Plan (MMRP) along with the MND. The commenter appears, however, to have misread the applicable requirements. The County's ordinances permit a MMRP to be adopted by the County at the time of project approval and adoption of a MND, which has not yet occurred. Section 15.44.020 requires that a draft MMRP "be subject to public review and comment," but does not require that it be circulated (or recirculated) with a MND. Similarly, nothing in the CEQA Guidelines requires that a MMRP be circulated with an MND. (See CEQA Guidelines, §§ 15073 [public review of MNDs], 15073.5 [recirculation of MNDs], 15097 [rules for MMRPs].) To the contrary, section 15097 indicates that a MMRP is formulated after the public review process, not before. Here, therefore, the County may comply with its ordinances and CEQA by ensuring that the MMRP is made available for public review before it adopts a MND.

B. Project Piecemealing

CEQA's conception of the term "project" is broad to maximize protection of the environment. (Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist. (2007) 147 Cal.App.4th 643, 653; San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27

Cal.App.4th 713, 730. “This big picture approach to the definition of a project (i.e., including “the whole of an action”) prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project into smaller components which, when considered separately, may not have a significant environmental effect.” (Nelson v. County of Kern (2010) 190 Cal.App.4th 252, 270-271.)

The County is dividing a project into smaller components. The Project consists of two REPs for photovoltaic solar power generation on adjacent parcels owned by the same person, Robbie Barker. The RMNDs explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)

Notwithstanding this, the County has prepared two separate RMNDs for the Project. These RMNDs include:

- *“RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-01/Barker- Trona 7” (See Exhibit 1.)*
- *“RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-02/Barker- Trona 4” (See Exhibit 2.)*

Dividing a single project into two CEQA documents violates CEQA. The relevant test is whether the activities have “substantial independent utility.” (Del Mar Terrace Conservancy, Inc. v. City Council (1992) 10 Cal.App.4th 712, 736.) It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by preparing two separate RMNDs for what it concedes is a single project under CEQA. A reviewing court would exercise its independent judgment on this issue with no deference to the agency. (Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)

We previously commented on this issue, and the RMNDs provided make the case for piecemealed review even stronger. Both RMND’s technical reports analyze the two REPs as a single project. The air quality report explains, “Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site

(collectively referred to herein as the ‘Project’).” Similarly, the biological resources report states, “Biological Resource Evaluation – Trona 4 and 7 Solar Project.” The RMNDs themselves explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)

It appears that the County now recognizes the two REPs constitute a single CEQA project. If so, the County must prepare a single CEQA document for that single project. The County’s continued reliance on two separate CEQA documents for a single CEQA project violates CEQA.

Response:

The commenter asserts that the County analyzed the Projects in a “piecemeal” manner that is generally prohibited by CEQA. Precisely the opposite took place.

Piecemealing occurs if a lead agency “split[s] one large project into smaller ones, resulting in piecemeal environmental review that obscures the project’s full environmental consequences.” (*Make UC a Good Neighbor v. Regents of Univ. of California* (2023) 88 Cal.App.5th 656, 683, citing *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1222; see also CEQA Guidelines § 15378 [“project” means “the whole of the action...”].)

No piecemealing occurred here. Mr. Barker filed two separate solar applications with the County, one for each of the connections that Mr. Barker needs to make to the utility grid. Rather than analyze the applications separately, the County analyzed both as a single project in the Initial Study and throughout all of the supporting documents (photographs, biological evaluation, air emissions analysis). Thus, there was no piecemealing at all, because the County analyzed both applications together as a single project.

The commenter’s confusion appears to stem from the fact that the County has prepared two separate MNDs. The commenter has not shown that this was error. The County organized its MNDs in this way for the obvious reason that the applicant submitted two separate applications for approval. The County thus prepared two separate approvals to fulfill the County’s procedural need to render a decision on each application. The commenter offers no legal authority prohibiting a lead agency from preparing multiple approvals, each supported by a separate MND, for multiple applications supported by a single, combined environmental review.

Finally, the commenter appears to believe that the County’s treatment of the applications requires consideration of the issue of “independent utility.” (See *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 108; *Planning & Conserv. League v. Castaic Lake Wat. Agency* (2009) 180 Cal.App.4th 210, 235.) The question of “independent utility” arises if a lead agency performs separate environmental reviews for related projects. Here, in contrast, the County analyzed the applications together, as a single project, in a single environmental review. Thus, the independent utility doctrine has no application here.

C. Failure to Adequately Analyze Cumulative Impacts

A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an environmental impact report (“EIR”). (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1184, 1214.)

Despite this mandate, the two RMNDs’ cumulative impacts analyses continue to be impermissibly cursory. Each RMND’s cumulative impact analysis provide in full:

*No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note **in the vicinity are PV solar projects within the Trona SEDA**, but the overall number and size of these projects are **likely to be less than analyzed in the PEIR**. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.*

(RMND, § XXI(b), emphasis added.)

This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) Here, the RMNDs appear to limit the scope of cumulative projects to those “within the Trona SEDA.” The RMNDs fail to explain this limitation, which violates CEQA. (CEQA Guidelines, § 15130, subd. (b)(3) [“Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used”].) The EIR for the Inyo County Renewable General Plan Amendment (“REGPA”) provided a reasonably expansive list of cumulative projects. (REGPA EIR, Table 5-1.) The County could have relied on that list of projects so long as

it complied with CEQA's requirements for tiering/incorporation by reference as well as updating a cumulative project list, but the County did not follow that procedure. (CEQA Guidelines, § 15130, subd. (b)(1); § 15150, subd. (c); § 15152.)

Similarly, the RMNDs appear to limit the scope of cumulative projects by stating that PV solar projects are the only projects "of note." The RMNDs fails to explain what is meant by limiting cumulative projects to only those "of note." CEQA includes no such limitation, and instead requires a CEQA document to set forth "[a] list of past, present, and probably future projects producing related or cumulative impacts." (CEQA Guidelines, § 15130, subd. (b)(1)(A).) For example, the Project will unquestionably result in dust generation. Projects other than PV solar projects may also generate dust and therefore must be identified as cumulative projects.

Response:

The comment letter fails to recognize the difference between the "cumulative" analysis that CEQA requires for an EIR versus that required for an initial study supporting a negative declaration. As one court observed:

Substantial confusion exists about the scope of analysis of cumulative impacts required in an initial study. Many practitioners treat the question of whether impacts are "cumulatively considerable" under 14 Cal Code Regs § 15065(c) as equivalent to "significant cumulative effects" under 14 Cal Code Regs § 15130 and 15355, which govern the cumulative impacts analysis in an EIR... There appears to be a difference between the "cumulative impacts" analysis required in an EIR and the question of whether a project's impacts are "cumulatively considerable" for purposes of determining whether an EIR must be prepared at all.

(San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1996) 42 Cal.App.4th 608, 623 [citations and some internal quotations omitted].)

The comment letter exhibits this confusion. The letter relies on CEQA Guidelines sections 15130 and 15355, which govern the cumulative impacts analysis in an EIR. Similarly, its reliance upon *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184 is misplaced because the case involved an EIR, not an initial study. For the same reason, the commenter mistakenly relies on the discussion of cumulative impacts in the PEIR as a template for the Initial Study.

The correct method for assessing – in an initial study – whether impacts are cumulatively considerable is described in Section 15065(a)(3) of the CEQA Guidelines, as interpreted and applied by *San Joaquin Raptor/Wildlife Rescue Center* and related cases. The question is whether the "incremental effects" of a project are "considerable" when evaluated against the backdrop of environmental effects of other projects. (*San Joaquin Raptor*, 42 Cal.App.4th at pp. 623-624.) Where the initial study concludes

that these effects are absent, a challenger must point to some substantial evidence that a cumulatively considerable incremental effect exists.

Here, the comment letter attacks the Initial Study’s conclusions with respect to potential dust generation. The letter does not, however, provide evidence of any existing cumulative impact involving dust, or that an incremental effect of the Projects on that impact is considerable. Without such evidence, the challenge fails. (See *San Joaquin Raptor*, 42 Cal.App.4th at pp. 624-625 [rejecting unsubstantiated claim of cumulatively considerable effects]; *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1358 [no evidence that projects would have cumulative effects or that any such effects would be considerable]; see also Kostka & Zischke, *Practice Under The California Environmental Quality Act* (C.E.B. 2023) § 6.34, p. 6-33.)

The comment letter also fails to acknowledge that the Initial Study and its attachments affirmatively provide evidence that no cumulatively considerable dust effect will occur. As explained in the Initial Study, the Trona area is in “attainment” for PM-10 and only one other small project is planned for the area. The Appendix C air quality memorandum stated that particular matter (PM-10 and PM-2.5) will be orders of magnitude below significance thresholds, and in addition, the projects would be subject to dust control mitigation measures. (See IS, pp. 2-3, Sec. III, Exhibit C, p. 9.) In sum, the Initial Study is supported by substantial evidence showing that the Projects will have no considerable incremental dust effects requiring study in an EIR.

D. RMNDs Failed to Adequately Analyze And Mitigate Project Impacts

The RMNDs failed to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 74 (No Oil I).) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (Citizens Action to Serve All Students v. Thornley (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (No Oil I, supra, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (Id. At p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.

In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This

is assured by incorporation into an MMRP. (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (Federation of Hillside & Canyon v. City of Los Angeles (2000) 83 Cal.App.4th 1252, 1261 (Federation).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See San Bernardino Valley Audubon Society v. Metropolitan Water District (1999) 71 Cal.App.4th 382, 392.)

Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, 311 (Sundstrom).) For example, in Sundstrom the court held that the absence of information explaining why no alternative sludge disposal site is available “permits the reasonable inference that sludge disposal presents a material environmental impact.” (Ibid.) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.

Response:

This commenter recites various legal principles to conclude that an EIR is necessary, but does not offer facts to explain why. In this regard, “substantial evidence” is “facts, reasonable assumptions predicated upon facts, expert opinion supported by facts...” (CEQA Guidelines, § 15384.) It does not include “argument, speculation, [or] unsubstantiated opinion or narrative...” (Id.) As the comment is nothing more than argument and unsubstantiated opinion, it fails to show any error in the County’s treatment of the Projects.

D.1. RMNDs Impermissibly Conflate Analysis of Impacts and Mitigation

For every resource area, the RMNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (Lotus v. Department of Transportation (2014) 223

Cal.App.4th 645, 658 (Lotus) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.

For example, with respect to whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the RMNDs assert, “No . . . The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) CEQA requires the RMNDs to disclose the significance of the impact without regard for mitigation, separately identify all feasible mitigation measures and assess their effectiveness at reducing the impact. (Lotus, supra, 223 Cal.App.4th at 655-656 [“Caltrans compounds this omission by incorporating the proposed mitigation measures into its description of the project and then concluding that any potential impacts from the project will be less than significant. . . . By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA”].) The RMNDs follow this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.

Response:

The commenter errs in two basic ways.

First, the commenter attempts to apply EIR-level standards to an initial study. The commenter cites *Lotus v. Department of Transp.* (2014) 223 Cal.App.4th 645, where an EIR failed to consider the impact of placing a roadway in proximity to the roots of old growth trees. The commenter also cites *San Joaquin Raptor Rescue Center v. Cnty. of Merced* (2007) 149 Cal.App.4th 645, 663-664, where the EIR failed to adequately disclose certain groundwater impacts. Both courts applied the CEQA requirement that EIRs have a “detailed statement” of a project’s significant effects. (CEQA, § 21100, subd. (b); CEQA Guidelines, § 15126(a).)

An initial study, in contrast, is subject to different standards. “[A]n initial study is neither intended nor required to include the level of detail included in an EIR.” (CEQA Guidelines, § 15063(a)(3); *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1192-

1194 [an initial study should be “brief” and is not subject to EIR standards]; see also Kostka & Zischke, supra, § 6.18, p. 6-19 (“[a]n initial study need not be a mini EIR...”). The commenter applies the wrong standards.

Second, and more importantly, the commenter fails to show that the Initial Study neglected to analyze any significant adverse effect. The only specific complaint raised by the letter is that the Initial Study did not analyze if the Projects would “[c]onflict with or obstruct implementation of the applicable air quality plan... (IS, § III.a.) The commenter’s analysis, however, omitted critical language when it quoted the Initial Study. This language omitted by is in bold below:

No. There is no applicable air quality plan for the area in which the project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards. The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. **(See Appendix C, Air Quality and Greenhouse Gas Memorandum.) The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.**

(IS, III.a.)

In short, the commenter omitted that part of the passage which explained that the Projects will not obstruct the implementation of any applicable air quality plan because there is no applicable plan for the area. By only partially quoting the Initial Study, the comment obscured the impact analysis set forth within the Initial Study. In any event, the commenter does not challenge the conclusion that the Projects will not conflict with any applicable air quality plan. In sum, the comment does not demonstrate any error by the County.

D.2.a. Mitigation Measures are not Adequately Defined

CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See Sierra Club v. County of San Diego (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; Gray v. County of Madera (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (Federation, supra, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (Preserve Wild Santee v. City of Santee (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the

formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. Sacramento Old City Association v. City Council of Sacramento (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound in the RMNDs. Just a few representative examples are provided.

Response:

This comment cites various legal authorities, without offering any facts or analysis, to support the conclusory statement that the MNDs are defective. As such, the commenter does not provide any substantial evidence showing error. (CEQA Guidelines, § 15384.) Also, every case and regulation cited in this comment involves mitigation requirements for an EIR, not an initial study or mitigated negative declaration. As such, the comment is of questionable value.

D.2.b. Mitigation Measures are not Adequately Defined

The RMNDs claim that construction air quality will be less than significant because “[t]he applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) The RMNDs fail to adequately define these “standard techniques.” Are the “standard techniques” limited to the three identified techniques? If so, why are the RMNDs excluding other techniques disclosed in mitigation measure AQ-2 of the REGPA EIR? Further, the RMNDs fail to adequately describe the mere three techniques mentioned that would allow an assessment of their effectiveness. For example, how frequently will water trucks be used? Is there a standard for when water trucks will be required during construction? How is limestone used effectively to reduce dust? How are dust suppressants used? Are there other possible dust suppressants other than EarthGlue? If so, are any of these other dust suppressants more effective than EarthGlue? What are the tests or triggers for application of limestone or dust suppressants?

Response:

The comment is correct that the “standard techniques” that would be used for dust control include: (1) wetting down areas, (2) applying limestone to stabilize the ground surface and (3) applying dust suppressants such as EarthGlue. These three control measures are identified in the Initial Study in section III.a, and in the air quality memorandum in Appendix C, at pages 7-8.

The comment also questions why the MNDs have not incorporated all of the dust control techniques listed in Mitigation Measure AQ-2 of the PEIR. The answer is in the PEIR itself. The PEIR

states that AQ-2 was developed for “utility scale” solar projects (i.e., over 20 MW generating capacity). (PEIR, p. 4.3-17.) For smaller-scale projects like these, which total 4.2 MW of generating capacity, “the need for implementation of [MM AQ-2] shall be determined based on the professional judgment of a qualified County planner...” (PEIR, p. 4.3-17.) Thus, the County had the discretion to determine that “utility-scale” mitigation is unnecessary here due to the small scale of the Projects.

The commenter also questions whether the dust controls are sufficiently detailed and seeks additional data regarding their efficacy and alternatives. This depth of analysis is not necessary due to the scale of the impact. According to Appendix C, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the thresholds of significance for PM-10 and PM-2.5 emissions. This is orders of magnitude below the threshold. Considering the miniscule impact, it is unnecessary to conduct a comparative analysis of dust control techniques to determine that MNDs are proper.

Finally, it should be noted that dust control measures are not, in practice, as specific as the commenter appears to desire. For example, MM AQ-2 from the PEIR is “[w]ater and/or coarse rock all active construction areas as necessary and as indicated by soil and air conditions.” (PEIR, p. 4.3-18.) In addition, the PEIR refers to REAT Best Management Practices (2010), which includes the following provision for dust control:

Use dust suppressant applications or other suppressant techniques to control dust emissions from onsite unpaved roads and unpaved parking areas, as well as to mitigate fugitive dust emissions from wind erosion on areas disturbed by construction activities. When considering the use of water or chemical dust suppressants take into account water supply and chemical dust suppressant issues.

(REAT, p. 29.) Such measures leave the details of implementation to the discretion of the approving agency. The dust control measures followed by the applicant here allow the same flexibility.

D.2.c. Mitigation Measures are not Adequately Defined

Addressing some or all of these questions is necessary for the RMNDs to adequately inform the public and decision-makers that mitigation is effective to reduce the impact to less than significant on sensitive receptors such as the adjacent residential properties. An MND cannot rely on a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (King & Gardiner Farms, supra, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 511.) The RMNDs have failed to provide evidence that its vague mitigation will be effective.

Response:

As an initial matter, the cases cited in the comment (*King & Gardiner Farms* and *Sierra Club*) analyzed EIRs rather than initial studies or negative declarations, and therefore are of questionable value here.

In any event, the comment incorrectly assumes that the dust controls listed in the Initial Study are required to reduce dust impacts to a less-than-significant level. The record does not support such an assumption. As documented in the Appendix C memo, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the typical thresholds of significance for PM-10 and PM-2.5 particulate emissions. This is before the application of dust controls. As such, the Initial Study did not need to rely upon these controls to find that fugitive dust impacts are less-than-significant. Such dust controls would only further reduce an already small and insignificant effect.

D.2.d. Mitigation Measures are not Adequately Defined

Further, the RMNDs also failed to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant's REP 2018-01 that was issued in 2018.

Response:

Statements by non-expert members of the public may, in limited circumstances, constitute substantial evidence that merits consideration by a CEQA lead agency. Generally, these are limited to personal observations on non-technical subjects. (See *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.) Neighbors' observations of noise and traffic conditions, in particular, are often accepted by courts as substantial evidence because no special expertise is needed to render those observations. (See, e.g., *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 730 [noise]; *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1152 [traffic congestion].)

In contrast, when the subject matter requires technical expertise, neighbors' opinions or observations do not qualify as substantial evidence. For example, in *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, non-expert residents performed their own noise calculations and tried to submit them as substantial evidence of a noise impact. The court held: “[a]lthough they present their numbers as scientific fact, we find appellants’ calculations are essentially opinions rendered by nonexperts, which do not amount to substantial evidence.” (*Id.*, at p. 894.) Similarly, in *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, neighbors challenged the decision to adopt a mitigated negative declaration, arguing that data showing groundwater contamination raised a fair argument of a hazardous material impact that required study in an EIR. The court held:

Statements of area residents who are not environmental experts may qualify as substantial evidence if they are based on relevant personal observations or involve “nontechnical” issues... However, a complex scientific issue such as the migration of chemicals through land calls for

expert evaluation, and the Neighbors do not profess any expertise that would qualify them to opine on that subject... Accordingly, ACC's conclusion that there was a "low" potential for contamination from hazardous materials from the adjacent property stands unrefuted, and an EIR is not required to address the subject.

(Bowman, at p. 583.)

Here, the comment suffers from two problems. First, the question of air quality impacts is inherently technical in nature and the opinions of non-expert neighbors are not substantial evidence. The questions analyzed in the Initial Study – such as, would the project “violate any air quality standard,” or “expose sensitive receptors to substantial pollutant concentrations” – are technical in nature. The Appendix C air quality memorandum, for instance, answered these questions through computer modeling prepared by expert consultants. In this setting, opinions by non-expert members of the public are not substantial evidence.

Second, the neighbors' reported concerns¹ involve a different project. Generalized concerns stemming from neighbors' observations of different projects are not substantial evidence relative to the specific project at issue. In *Lucas Valley Homeowners Assn. v. County of Marin* (1991) 233 Cal.App.3d 130, neighbors attacked a negative declaration a use permit granted to an orthodox Jewish congregation that applied to turn a house into a synagogue. The neighbors offered testimony of “generalized concerns and fears about traffic and parking impacts, or relate anecdotes of parking problems generated by [the applicant] at a different site.” According to the court, such evidence “does not rise to the level of a fair argument” of a significant adverse impact. (*Id.*, at p. 163.) Similarly, the testimony of neighbors in this case regarding the applicant's purported actions in regard to a separate project are not substantial evidence here.

D.2.e. Mitigation Measures are not Adequately Defined

The RMNDs also improperly assume, without adequate project-specific analysis, that regulatory compliance will mitigate impacts. Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the RMNDs assert, “No . . . The applicant will be conditioned to obtain any required permits, and follow best management practices required by the GBUAPCD.” (RMND, § III(a).) This is inadequate under CEQA because a determination that regulatory compliance is adequate must be based on project-specific analysis. (Californians for Alternatives to Toxics v. Dept. of Food and Agriculture (2005) 136 Cal.App.4th 1.) Here, the RMNDs do not even identify what is required by the Great Basin Unified Air Pollution Control District (“GBUAPCD”), much less provide a project-specific analysis of how those requirements would be effective here. While the County may be inclined to point to an Air Quality Memorandum as supplying that missing analysis, this effort fails for two reasons. First, the

¹ The commenter does not identify exactly what the neighbors' opinions are, or where those opinions are expressed.

analysis does not provide the missing information, explaining only, “Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollution emissions, including those required under their new source review requirements.” (AQ Memorandum, p. 7.) Thus discussion fails to describe applicable requirements, much less how those requirements applied here would effectively mitigate impacts. Second, even if the Air Quality Memorandum did provide some additional information, CEQA caselaw explains that such information cannot be buried in an appendix. (Vineyard Area Citizens, supra, 40 Cal.4th at 442. [information “buried in an appendix is not a substitute for good faith reasoned analysis”].)

Response:

The commenter takes issue with the County’s proposed condition to require the applicant to obtain any required permits from the Great Basin Unified Air Pollution Control District (GBUAPDC) and to follow any of GBUAPDC’s best management practices. This condition is entirely appropriate and typical and does not reflect any error by the County.

“A condition requiring compliance with environmental regulations is a common and reasonable mitigation measure.” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308, citing *Perley v. Board of Supervisors* (1982) 137 Cal.App.3d 424, 430; see also *Gentry v. City of Murrieta* (1995) 36 Cal.App.3d 1359, 1396 [approval of habitat conservation plan]; *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236-237 [mitigation measure requiring applicant to secure wetlands permits from Army Corps and Cal. Department of Fish & Wildlife].)

The commenter correctly notes that problems can arise when a lead agency employs such a condition to defer the environmental review to another agency. (See *Sundstrom*, 202 Cal.App.3d at pp. 308-309 [rather than studying issue of sewage sludge disposal, county attempted to defer analysis to the water board permit process]; *Californians for Alternatives to Toxics v. Dept. of Food and Agric.* (2005) 136 Cal.App.4th 1 [Dept. Food & Agric. evaded duty to prepare a complete EIR for an pest-control proposal by deferring issue to a separate review by Dept. of Pesticide Regulation].)

It is apparent from the record that the County conducted (and did not defer) the air quality analysis. The Initial Study explained that these are small projects, involving low impact and short-term construction, in an “attainment” area with few residents and no nearby schools or hospitals. The Initial Study appended a technical analysis of the air emissions, which were all well below accepted thresholds of significance. (IS, Appendix C, p. 9.) In short, there is no evidence that the County deferred any part of its analysis to the GBUAPDC.

D.2.f. Mitigation Measures are not Adequately Defined

The RMNDs then attempts to cite to the REGPA programmatic EIR (“PEIR”) and its MMRP in an attempt to dismiss significance of these

impacts. (RMND, §III(a).) The plain language of the PEIR refutes this effort:

*The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. However, since the air basin is within the Owens Valley PM10 Planning Area, **fugitive dust emissions from construction must be mitigated.***

(PEIR, p. 4.3-10, emphasis added.) Here, however, there is no such mitigation. For example, the AQ-2 includes such measures as “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph.” The RMNDs conspicuously fail to mention these additional mitigation measures, much less identify them as such in an enforceable MMRP for the Project.

Response:

The commenter incorrectly states that the Projects are in the Owens Valley PM-10 Planning Area. As stated on page 3 of the Initial Study, and page 7 of the Appendix C memorandum, the Projects are in the Coso Junction PM-10 Planning Area which (unlike Owens Valley) is “in attainment” for PM-10. The comment also incorrectly assumes that, even if the Projects were located in the Owens Valley, dust controls in Mitigation Measure AQ-2 are mandatory. As noted above, the PEIR gave County staff discretion to determine whether the PEIR’s mitigation measures should be applied to projects smaller than utility scale. (PEIR, p. 4.3-17.)

D.2.g. Mitigation Measures are not Adequately Defined

Finally, the RMNDs claim that PEIR mitigation measures AQ-1 through -3 “applied to utility-scale projects of greater than 20 MW and did not apply to smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner.” This is inexcusably false. The plain language of AQ-1 through -3 as revised and approved does not include such limitations. (Exhibit 3, March 2015 MMRP.)

PEIR AQ-1 states, “AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report.” The RMNDs violate this mandate because the Air Quality report does not incorporate the specific requirements of AQ-2 and AQ-3. It merely states, “[T]he Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.” PEIR mitigation measures AQ-1, -2 and -3 are not “goals and policies” of the REGPA; they are mitigation measures under CEQA. The Air Quality report does not even identify these mitigation measures, much

less “incorporate” them into its “site-specific technical report.” At best, the Air Quality Memo states:

[F]ugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment trackout onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout the life of the Project, which will in turn ensure impacts remain less than significant.

(Air Quality Memo, p. 12.0.)

While this provides a general discussion of some mitigation measures that could be used to address dust emissions, this discussion fails to comply with CEQA. This discussion fails to correlate the identified measures to the requirements of the GBUAPCD or the PEIR. Are these measures the only ones that will be used to satisfy the requirements of the PEIR and GBUAPCD? If so, why does this discussion omit any reference to “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph” as set forth in AQ-2. Further, this discussion in the Air Quality Memo does not explain how this discussion is enforceable against the project. This is precisely the function of mitigation measures and an MMRP.

Response:

The commenter first asserts that the language of Mitigation Measures AQ-1 – AQ-3 does not provide County staff with the discretion to determine which, if any, of those mitigations are appropriate for projects smaller than utility scale. The comment overlooks language in the PEIR that does exactly that. Section 4.3.5 of the PEIR provides, in relevant part:

Air quality mitigation measures have been developed for solar energy development projects producing more than 20 MW of electricity for off-site use (utility scale) and would be implemented to mitigate adverse impacts to air quality. As previously mentioned, small scale solar energy projects are considered to result in no impacts under CEQA; however, all individual solar energy facility projects applications (including small scale, community scale, and ~~distributed generation~~ commercial scale) shall

be reviewed by the county **and the need for implementation of the following mitigation measures shall be determined based on the professional judgment of a qualified county planner...**

If a proposed ~~distribution-generation~~ commercial scale or community scale solar development project is determined by the county to have the potential to impact air quality, then the following mitigation measures shall be implemented **as determined necessary by the qualified county planner...**

(PEIR, p. 4.3-17 [underlines and strikethroughs in original; bold emphasis added].)

Plainly, the PEIR gave County staff the flexibility to determine whether the PEIR mitigation measures should be applied to solar projects generating less than 20 MW. Given that the output for the Projects is 4.2 MW, and the Projects will occupy far less land than a 20 MW solar array, the County is within its discretion to determine that some or all of the mitigation applicable to 20 MW+ projects are inappropriate here.

We suspect that the comment reflects some confusion between the relationship between a MMRP and an EIR. A MMRP is designed to: “ensure that the mitigation measures and project revisions identified in the negative declaration of are implemented.” (CEQA Guidelines, § 15097; see also CEQA, § 21081.6(a)(1).) Said differently, a MMRP only implements measures contained in an EIR or negative declaration. If an MMRP does not do so faithfully, the EIR or negative declaration control. Here, to the extent that the 2015 MMRP did not fully capture the PEIR’s mitigation, the language in the PEIR itself still controls.

D.2.h. Mitigation Measures are not Adequately Defined

Finally, regulatory compliance is only permissible when it is reasonable to assume that they will actually be complied with. “[C]ompliance with regulations is a common and reasonable mitigation measure, and may be proper where it is reasonable to expect compliance.” (Oakland Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884, 906.) Here, the project applicant has repeatedly violated County and air district rules and permits with respect to this Project and earlier projects. These repeated violations have been documented by County staff and establish that it is not reasonable to simply assume that the project applicant will comply with such permit terms in the future.

Response:

The commenter asserts, without supporting facts, that the applicant violated County and air district rules. However, unsubstantiated narrative is not substantial evidence. (See CEQA Guidelines, § 15384.) Further, CEQA requires a lead agency to accept existing “baseline” conditions when preparing a CEQA review, even if those conditions result from an alleged violation of law. (See *Communities for a Better Environmental v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 321, fn. 7;

Eureka Citizens for Responsible Gov. v. City of Eureka (2007) 147 Cal.App.4th 357, 370-371 [baseline for school playground project was existing playground, even though past construction may have violated city code]; *Fat v. Cnty. of Sacramento* (2002) 97 Cal.App.4th 1270, 1278-1281 [existing airport activity part of baseline, even if it occurred previously without permit]; *Riverwatch v. Cnty. of San Diego* (1999) 76 Cal.App.4th 1428, 1453 [improper to extend baseline into past to capture illegal mining activity]; see also *Bottini v. City of San Diego* (2018) 27 Cal.App.5th 281, 303 [noting caselaw.] Thus, the comment has not identified any flaw in the County's treatment of the Projects.

D.2.i. Mitigation Measures are not Adequately Defined

In short, the RMNDs improperly rely on mitigation to avoid analysis of project impacts and fail to provide adequate information in order to determine whether mitigation is effective and enforceable. Without this necessary information, the RMND's significance determinations are not supported by substantial evidence.

Response:

For the reasons stated above, the commenter has not shown that the County erred in any way. The impacts of these small solar Projects are uniformly less than significant. The dust controls and other measures adopted here are in the nature of best management practices that are applied without regard to the scale or significance of impacts. The applicant should not be penalized for committing to do more than is strictly required to mitigate non-existent impacts.

D.3. RMNDs Inconsistently apply the PEIR's Mitigation Measures

Our prior comment letter explains that the original MNDs appeared to have ignored literally dozens of mitigation measures adopted pursuant to the PEIR. The RMNDs now appear to incorporate the PEIR's mitigation measures but have done so inconsistently and in violation of CEQA. For example, sections IV(a) (Biological Resources) and XIII(a) (Noise) appear to incorporate mitigation measures set forth in the PEIR in order to address the Project's potentially significant impacts in those resource areas. Setting aside the procedural deficiency of not circulating an MMRP including these mitigation measures, the RMNDs fail to explain why the same procedure was not followed in other resource areas [fn: Examples include air quality, agricultural impacts, transportation, water quality and visual resources] where the PEIR requires mitigation in order to support a less-than-significant determination. The leading CEQA treatise explains, "As activities within the program are approved, the agency must incorporate, if feasible, the mitigation measures and alternatives developed in the program EIR in its action approving the activity." (I Kostka and Zischke, Practice Under the Cal. Environmental Quality Act (2nd ed. 2023) § 10.16, p. 10-20.)

Response:

The commenter has not shown any inconsistency in application of the PEIR’s mitigation measures. The comment fails to appreciate that the PEIR applied mainly to large solar projects (20 MW or greater generating capacity), and that the PEIR left it to County staff’s discretion to apply the PEIR’s mitigation measures to smaller-scale projects. The biological resources and noise analysis are examples in which the County exercised its discretion in appropriate ways.

With respect to biological resources, the PEIR provided County staff the discretion, for small-scale projects, whether to require a biological resource evaluation or implement the biological resource mitigation measures in the PEIR. (PEIR, p. 4.4-123.) Here, County staff examined the sites and found no species or habitat that would be affected. (IS, IV.a.) The record also contains a biological resource evaluation prepared on the applicant’s behalf which corroborates staff’s observations but also noted that certain species (desert kit fox, protected birds) could unexpectedly visit, and listed mitigation measures to ensure the risks to these species are less than significant. The Initial Study stated that these measures were “consistent with” the PEIR, but the Initial Study did not incorporate the PEIR’s mitigation measures, which County staff had the discretion not to do.

With respect to noise, the PEIR gave County staff similar discretion to determine whether to impose the PEIR mitigation measures on projects less than utility-scale. (PEIR, p. 4.12-19.) However, the PEIR also noted that the General Plan Noise Element requires noise mitigation for construction that is within 500 feet of a residential receptor. (PEIR, p. 4.12-9.) Portions of the Projects are approximately 400 feet from two residential structures. (See IS, XIII.a.) Thus, the County reasonably imposed PEIR Mitigation Measure NOI-2 to mitigate construction noise within that 500-foot area. That decision gives effect to the General Plan and implements the PEIR mitigations to the extent needed, which the County has the discretion to do.

The County also had discretion to impose, or not to impose, the PEIR’s mitigation for the other resource areas cited by the commenter (air quality, agricultural impacts, transportation, water quality and visual resources). (See PEIR, pp. 4.3-17 [air quality], 4.2-14 [agriculture], 4.17-12 [transportation]; 4.9-44-45 [water quality]; 4.1-25-26 [visual; resources].) The County was not obligated to incorporate any of them given the small size of the Projects. The commenter has not shown that the County’s proposed exercise of discretion is contrary to the record.

E. The County Does Not Explain the Lack of Visual Simulations

The RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR. AES-1 requires “site-specific visual studies . . . to assess potential visual impacts.” “Visual simulations shall be prepared to conceptually depict-post development views from the identified key observation points.” No such studies were prepared. Instead, Appendix A consists solely of low-quality “representative photographs” of apparently existing conditions.

The RMND states, “Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a

qualified planner to not have a potential to impact visual resources, including a scenic vista.” The RMNDs conspicuously fails to provide any substantial evidence supporting this conclusion. The RMNDs fail to set forth any analysis, much less written report, supporting this conclusion. The RMNDs fail to identify the County planner purportedly making this determination, the date of the determination, the criteria followed by the County planner or any specific facts supporting this determination. There is no evidence, much less substantial evidence, supporting the MND’s conclusory assertion that an unspecified “qualified County planner” determined that the Project would not have the potential to impact visual resources.

Response:

The comment errs in a number of ways.

First, the commenter states, incorrectly, that “[t]he RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR.” The Initial Study stated only that the Projects were “consistent with” the PEIR which did not require site-specific visual studies for projects with less than 20 MW generating capacity. This comment thus mischaracterizes the Initial Study.

Second, the commenter asserts that no substantial evidence supports the conclusion that the Projects would not have a significant impact on a scenic vista. Such evidence is clear from the record. The Initial Study states that the Projects are not located near a scenic vista (IS, I.a.), and the comment provides no contrary evidence. Moreover, the Initial Study explains that the Projects are located on the valley floor, on a site without scenic resources, near junk and scrap yards, in an area removed from any scenic highways or recognized scenic resources. (IS, pp. 3-4, I.a.) These observations were buttressed by corroborative photographs. (IS, Appendix A.) Thus, the County had a factual basis for its determination and was clear in its rationale.

Third, the commenter states that the record fails to identify the planner making the visual resources determination. This also is not accurate. The Initial Study was signed by Cynthia Draper, an Assistant Planner with the Inyo County Planning Department, on July 19, 2023. The commenter must presume that this planner made the determinations in the initial study.

Fourth and finally, the comment incorrectly assumes that there is substantial evidence in the record giving rise to the need for a visual study. Such evidence does not exist, nor has the commenter offered any. (CEQA Guidelines, § 15384 [substantial evidence not include “argument, speculation, [or] unsubstantiated opinion or narrative...”].) Rather, the evidence shows that these are small projects, in a sparsely populated area and few residents, in an area without recognized scenic resources. There is no error in the County’s analysis.

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F. The RMNDs Fail to Include a Traffic Control Plan:

PEIR mitigation measure TRA-1 provides:

Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.

The RMNDs do not include the required traffic control plan, nor even mention mitigation measure TRA-1. While the RMNDs state that the Project “will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase,” there is no attempt to explain why these “few” construction vehicles do not require a traffic control plan to avoid conflicts with adjacent and nearby residents.

Response:

The commenter again overlooks language in the PEIR that makes the transportation mitigation measures (including TRA-1) applicable only to utility-scale solar projects, and which gives County staff discretion to determine whether the PEIR mitigation measures are appropriate for a smaller-scale project like this. (PEIR, p. 4.17-12.) Here, the Initial Study documented that the Projects would generate only a small amount of traffic on a lightly-used road:

The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.

(IS, XVII.a.) The Appendix C air memorandum, similarly, conservatively assumed that approximately ten contractors would visit per day for 25 days during construction, and almost no traffic (one daily trip) would occur in operations. (IS, Appendix C, p. 6.) These are small traffic volumes on a lightly-traveled road. The record does not suggest that a site-specific traffic control plan is necessary. The County’s treatment of the Projects is supported by substantial evidence.

G. The MNDs Fail to Address Impacts Associated with Noxious Weeds:

Mitigation measure AG-3 provides, “To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed.” In violation of this mitigation measure, no weed-abatement plan appears to have been prepared, and the RMNDs make no reference to such a plan.

Response:

Again, the commenter overlooks language in the PEIR that makes the agricultural mitigation measures (including AG-3) applicable only to utility-scale solar projects, and which gives County staff discretion to determine if they are appropriate for smaller-scale projects. (PEIR, p. 4.2-14.) As stated in the initial study, agriculture and farming are not significant land uses in the area, the Projects would not result in the conversion of agricultural land. (IS, pp. 3, II.) Thus, the Projects are not expected to have any impacts to agriculture that warrant a weed management program, and the County was within its discretion to determine that such a mitigation measure was unnecessary.

CONCLUSION

On behalf of Mr. Barker, we appreciate the County’s work on the Projects, and the opportunity to respond to the comments. If you have any questions, please do not hesitate to contact me at (916) 501-2395 or shungerford@hthglaw.com.

Very truly yours,
HARRISON, TEMBLADOR, HUNGERFORD & GUERNSEY



By
Sean Hungerford

cc: Client

October 10, 2023

Via Electronic Mail

Planning Department, County of Inyo
168 North Edwards Street
Post Office Drawer L
Independence, CA 93526
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Re: Response to Comments on Renewal Energy Permit Nos. 2022-01/2022-02

Dear Ms. Draper,

This law firm represents Robbie Barker and Valley Wide Engineering & Construction, Inc. (collectively, the “applicant”) regarding applications for two renewable energy permits, Nos. 2022-01 and 2022-02, (the “Projects”) set to be heard by the Inyo County Planning Commission on October 25, 2023. This letter responds to an August 24, 2023 comment letter submitted by the Soluri Meserve law firm on behalf of its client, John Mays.

By way of overview, the comment letter fails to demonstrate any procedural or substantive defect in the County’s decision to prepare Mitigated Negative Declarations (MNDs). These are small solar energy facilities, to be installed on a total of 20 acres in a sparsely populated area located north of the Trona community, within a Solar Energy Development Area (“SEDA”) designated by the Board of Supervisors in 2015. The single-axis tracker panels will be placed on flat land without special scenic or habitat value, using accepted best management practices for dust control. No significant adverse environmental impacts whatsoever are expected.

Of particular note, the Projects have a combined generating output of only 4.2 megawatts (“MW”). This makes these Projects far smaller than the “utility-scale” solar projects (i.e., more than 20 MW) that were the main focus of the Renewable Energy General Plan Amendment (“REGPA”) adopted by the Board of Supervisors in 2015. We raise this because the Board also certified a Programmatic EIR (“PEIR”) for the REGPA, and the PEIR contained several mitigation measures which the comment letter demands to be applied to these Projects. As we explain below, however, most of the PEIR’s mitigation measures apply to utility-scale projects, not to small projects like this. Thus, the County did not err by deciding that many of those mitigations were inappropriate for these Projects.

Below, we have set forth each of the August 24, 2023 comments in italics, then provided the applicant’s response. As our responses show, the County’s treatment of the Projects, and the County’s decision to adopt MNDs, is correct and well supported by the record.

RESPONSES TO COMMENTS

A. Failure to Include Mitigation Monitoring and Reporting Plan

Although clearly identifying each document as an “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeatedly checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County fails to prepare Mitigation Monitoring and Reporting Program(s) (“MMRP”(s)). This violates CEQA (CEQA Guidelines, § 15097) and also the Inyo County Code. (County Code, Ch. 15.44.) To wit:

15.44.005 General.

The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)

15.44.010 Application.

A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)

15.44.020 Timing.

Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment.
The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)

15.44.030 Contents.

The monitoring plan shall contain, at a minimum, the following:

- A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;*
- B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);*

C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;

D. Identification of the person or entity responsible for monitoring and verification;

*E. The method of reporting monitoring results to the county.
(Ord. 957 § 1 (part), 1995.)*

15.44.040 Enforcement.

Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)

Setting aside the RMND's practice of not identifying mitigation measures required to reduce Project impacts, the RMND's expressly identify mitigation measures in Sections IV(a), XIII(a) and XXI(a). Thus, the RMND's require a draft MMRP that is circulated for public comment. The RMND's are therefore procedurally invalid. A new RMND or EIR must be recirculated for public review along with the required MMRP.

Response:

The commenter contends that it was error for the County not to circulate a Mitigation, Monitoring and Reporting Plan (MMRP) along with the MND. The commenter appears, however, to have misread the applicable requirements. The County's ordinances permit a MMRP to be adopted by the County at the time of project approval and adoption of a MND, which has not yet occurred. Section 15.44.020 requires that a draft MMRP "be subject to public review and comment," but does not require that it be circulated (or recirculated) with a MND. Similarly, nothing in the CEQA Guidelines requires that a MMRP be circulated with an MND. (See CEQA Guidelines, §§ 15073 [public review of MNDs], 15073.5 [recirculation of MNDs], 15097 [rules for MMRPs].) To the contrary, section 15097 indicates that a MMRP is formulated after the public review process, not before. Here, therefore, the County may comply with its ordinances and CEQA by ensuring that the MMRP is made available for public review before it adopts a MND.

B. Project Piecemealing

CEQA's conception of the term "project" is broad to maximize protection of the environment. (Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist. (2007) 147 Cal.App.4th 643, 653; San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27

Cal.App.4th 713, 730. “This big picture approach to the definition of a project (i.e., including “the whole of an action”) prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project into smaller components which, when considered separately, may not have a significant environmental effect.” (Nelson v. County of Kern (2010) 190 Cal.App.4th 252, 270-271.)

The County is dividing a project into smaller components. The Project consists of two REPs for photovoltaic solar power generation on adjacent parcels owned by the same person, Robbie Barker. The RMNDs explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)

Notwithstanding this, the County has prepared two separate RMNDs for the Project. These RMNDs include:

- *“RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-01/Barker- Trona 7” (See Exhibit 1.)*
- *“RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-02/Barker- Trona 4” (See Exhibit 2.)*

Dividing a single project into two CEQA documents violates CEQA. The relevant test is whether the activities have “substantial independent utility.” (Del Mar Terrace Conservancy, Inc. v. City Council (1992) 10 Cal.App.4th 712, 736.) It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by preparing two separate RMNDs for what it concedes is a single project under CEQA. A reviewing court would exercise its independent judgment on this issue with no deference to the agency. (Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)

We previously commented on this issue, and the RMNDs provided make the case for piecemealed review even stronger. Both RMND’s technical reports analyze the two REPs as a single project. The air quality report explains, “Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site

(collectively referred to herein as the ‘Project’).” Similarly, the biological resources report states, “Biological Resource Evaluation – Trona 4 and 7 Solar Project.” The RMNDs themselves explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)

It appears that the County now recognizes the two REPs constitute a single CEQA project. If so, the County must prepare a single CEQA document for that single project. The County’s continued reliance on two separate CEQA documents for a single CEQA project violates CEQA.

Response:

The commenter asserts that the County analyzed the Projects in a “piecemeal” manner that is generally prohibited by CEQA. Precisely the opposite took place.

Piecemealing occurs if a lead agency “split[s] one large project into smaller ones, resulting in piecemeal environmental review that obscures the project’s full environmental consequences.” (*Make UC a Good Neighbor v. Regents of Univ. of California* (2023) 88 Cal.App.5th 656, 683, citing *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1222; see also CEQA Guidelines § 15378 [“project” means “the whole of the action...”].)

No piecemealing occurred here. Mr. Barker filed two separate solar applications with the County, one for each of the connections that Mr. Barker needs to make to the utility grid. Rather than analyze the applications separately, the County analyzed both as a single project in the Initial Study and throughout all of the supporting documents (photographs, biological evaluation, air emissions analysis). Thus, there was no piecemealing at all, because the County analyzed both applications together as a single project.

The commenter’s confusion appears to stem from the fact that the County has prepared two separate MNDs. The commenter has not shown that this was error. The County organized its MNDs in this way for the obvious reason that the applicant submitted two separate applications for approval. The County thus prepared two separate approvals to fulfill the County’s procedural need to render a decision on each application. The commenter offers no legal authority prohibiting a lead agency from preparing multiple approvals, each supported by a separate MND, for multiple applications supported by a single, combined environmental review.

Finally, the commenter appears to believe that the County’s treatment of the applications requires consideration of the issue of “independent utility.” (See *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 108; *Planning & Conserv. League v. Castaic Lake Wat. Agency* (2009) 180 Cal.App.4th 210, 235.) The question of “independent utility” arises if a lead agency performs separate environmental reviews for related projects. Here, in contrast, the County analyzed the applications together, as a single project, in a single environmental review. Thus, the independent utility doctrine has no application here.

C. Failure to Adequately Analyze Cumulative Impacts

A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an environmental impact report (“EIR”). (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1184, 1214.)

Despite this mandate, the two RMNDs’ cumulative impacts analyses continue to be impermissibly cursory. Each RMND’s cumulative impact analysis provide in full:

*No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note **in the vicinity are PV solar projects within the Trona SEDA**, but the overall number and size of these projects are **likely to be less than analyzed in the PEIR**. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.*

(RMND, § XXI(b), emphasis added.)

This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) Here, the RMNDs appear to limit the scope of cumulative projects to those “within the Trona SEDA.” The RMNDs fail to explain this limitation, which violates CEQA. (CEQA Guidelines, § 15130, subd. (b)(3) [“Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used”].) The EIR for the Inyo County Renewable General Plan Amendment (“REGPA”) provided a reasonably expansive list of cumulative projects. (REGPA EIR, Table 5-1.) The County could have relied on that list of projects so long as

it complied with CEQA's requirements for tiering/incorporation by reference as well as updating a cumulative project list, but the County did not follow that procedure. (CEQA Guidelines, § 15130, subd. (b)(1); § 15150, subd. (c); § 15152.)

Similarly, the RMNDs appear to limit the scope of cumulative projects by stating that PV solar projects are the only projects "of note." The RMNDs fails to explain what is meant by limiting cumulative projects to only those "of note." CEQA includes no such limitation, and instead requires a CEQA document to set forth "[a] list of past, present, and probably future projects producing related or cumulative impacts." (CEQA Guidelines, § 15130, subd. (b)(1)(A).) For example, the Project will unquestionably result in dust generation. Projects other than PV solar projects may also generate dust and therefore must be identified as cumulative projects.

Response:

The comment letter fails to recognize the difference between the "cumulative" analysis that CEQA requires for an EIR versus that required for an initial study supporting a negative declaration. As one court observed:

Substantial confusion exists about the scope of analysis of cumulative impacts required in an initial study. Many practitioners treat the question of whether impacts are "cumulatively considerable" under 14 Cal Code Regs § 15065(c) as equivalent to "significant cumulative effects" under 14 Cal Code Regs § 15130 and 15355, which govern the cumulative impacts analysis in an EIR... There appears to be a difference between the "cumulative impacts" analysis required in an EIR and the question of whether a project's impacts are "cumulatively considerable" for purposes of determining whether an EIR must be prepared at all.

(San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1996) 42 Cal.App.4th 608, 623 [citations and some internal quotations omitted].)

The comment letter exhibits this confusion. The letter relies on CEQA Guidelines sections 15130 and 15355, which govern the cumulative impacts analysis in an EIR. Similarly, its reliance upon *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184 is misplaced because the case involved an EIR, not an initial study. For the same reason, the commenter mistakenly relies on the discussion of cumulative impacts in the PEIR as a template for the Initial Study.

The correct method for assessing – in an initial study – whether impacts are cumulatively considerable is described in Section 15065(a)(3) of the CEQA Guidelines, as interpreted and applied by *San Joaquin Raptor/Wildlife Rescue Center* and related cases. The question is whether the "incremental effects" of a project are "considerable" when evaluated against the backdrop of environmental effects of other projects. (*San Joaquin Raptor*, 42 Cal.App.4th at pp. 623-624.) Where the initial study concludes

that these effects are absent, a challenger must point to some substantial evidence that a cumulatively considerable incremental effect exists.

Here, the comment letter attacks the Initial Study’s conclusions with respect to potential dust generation. The letter does not, however, provide evidence of any existing cumulative impact involving dust, or that an incremental effect of the Projects on that impact is considerable. Without such evidence, the challenge fails. (See *San Joaquin Raptor*, 42 Cal.App.4th at pp. 624-625 [rejecting unsubstantiated claim of cumulatively considerable effects]; *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1358 [no evidence that projects would have cumulative effects or that any such effects would be considerable]; see also Kostka & Zischke, *Practice Under The California Environmental Quality Act* (C.E.B. 2023) § 6.34, p. 6-33.)

The comment letter also fails to acknowledge that the Initial Study and its attachments affirmatively provide evidence that no cumulatively considerable dust effect will occur. As explained in the Initial Study, the Trona area is in “attainment” for PM-10 and only one other small project is planned for the area. The Appendix C air quality memorandum stated that particular matter (PM-10 and PM-2.5) will be orders of magnitude below significance thresholds, and in addition, the projects would be subject to dust control mitigation measures. (See IS, pp. 2-3, Sec. III, Exhibit C, p. 9.) In sum, the Initial Study is supported by substantial evidence showing that the Projects will have no considerable incremental dust effects requiring study in an EIR.

D. RMNDs Failed to Adequately Analyze And Mitigate Project Impacts

The RMNDs failed to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 74 (No Oil I).) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (Citizens Action to Serve All Students v. Thornley (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (No Oil I, supra, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (Id. At p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.

In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This

is assured by incorporation into an MMRP. (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (Federation of Hillside & Canyon v. City of Los Angeles (2000) 83 Cal.App.4th 1252, 1261 (Federation).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See San Bernardino Valley Audubon Society v. Metropolitan Water District (1999) 71 Cal.App.4th 382, 392.)

Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, 311 (Sundstrom).) For example, in Sundstrom the court held that the absence of information explaining why no alternative sludge disposal site is available “permits the reasonable inference that sludge disposal presents a material environmental impact.” (Ibid.) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.

Response:

This commenter recites various legal principles to conclude that an EIR is necessary, but does not offer facts to explain why. In this regard, “substantial evidence” is “facts, reasonable assumptions predicated upon facts, expert opinion supported by facts...” (CEQA Guidelines, § 15384.) It does not include “argument, speculation, [or] unsubstantiated opinion or narrative...” (Id.) As the comment is nothing more than argument and unsubstantiated opinion, it fails to show any error in the County’s treatment of the Projects.

D.1. RMNDs Impermissibly Conflate Analysis of Impacts and Mitigation

For every resource area, the RMNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (Lotus v. Department of Transportation (2014) 223

Cal.App.4th 645, 658 (Lotus) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.

For example, with respect to whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the RMNDs assert, “No . . . The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) CEQA requires the RMNDs to disclose the significance of the impact without regard for mitigation, separately identify all feasible mitigation measures and assess their effectiveness at reducing the impact. (Lotus, supra, 223 Cal.App.4th at 655-656 [“Caltrans compounds this omission by incorporating the proposed mitigation measures into its description of the project and then concluding that any potential impacts from the project will be less than significant. . . . By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA”].) The RMNDs follow this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.

Response:

The commenter errs in two basic ways.

First, the commenter attempts to apply EIR-level standards to an initial study. The commenter cites *Lotus v. Department of Transp.* (2014) 223 Cal.App.4th 645, where an EIR failed to consider the impact of placing a roadway in proximity to the roots of old growth trees. The commenter also cites *San Joaquin Raptor Rescue Center v. Cnty. of Merced* (2007) 149 Cal.App.4th 645, 663-664, where the EIR failed to adequately disclose certain groundwater impacts. Both courts applied the CEQA requirement that EIRs have a “detailed statement” of a project’s significant effects. (CEQA, § 21100, subd. (b); CEQA Guidelines, § 15126(a).)

An initial study, in contrast, is subject to different standards. “[A]n initial study is neither intended nor required to include the level of detail included in an EIR.” (CEQA Guidelines, § 15063(a)(3); *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1192-

1194 [an initial study should be “brief” and is not subject to EIR standards]; see also Kostka & Zischke, supra, § 6.18, p. 6-19 (“[a]n initial study need not be a mini EIR...”). The commenter applies the wrong standards.

Second, and more importantly, the commenter fails to show that the Initial Study neglected to analyze any significant adverse effect. The only specific complaint raised by the letter is that the Initial Study did not analyze if the Projects would “[c]onflict with or obstruct implementation of the applicable air quality plan... (IS, § III.a.) The commenter’s analysis, however, omitted critical language when it quoted the Initial Study. This language omitted by is in bold below:

No. There is no applicable air quality plan for the area in which the project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards. The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. **(See Appendix C, Air Quality and Greenhouse Gas Memorandum.) The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.**

(IS, III.a.)

In short, the commenter omitted that part of the passage which explained that the Projects will not obstruct the implementation of any applicable air quality plan because there is no applicable plan for the area. By only partially quoting the Initial Study, the comment obscured the impact analysis set forth within the Initial Study. In any event, the commenter does not challenge the conclusion that the Projects will not conflict with any applicable air quality plan. In sum, the comment does not demonstrate any error by the County.

D.2.a. Mitigation Measures are not Adequately Defined

CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See Sierra Club v. County of San Diego (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; Gray v. County of Madera (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (Federation, supra, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (Preserve Wild Santee v. City of Santee (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the

formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. Sacramento Old City Association v. City Council of Sacramento (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound in the RMNDs. Just a few representative examples are provided.

Response:

This comment cites various legal authorities, without offering any facts or analysis, to support the conclusory statement that the MNDs are defective. As such, the commenter does not provide any substantial evidence showing error. (CEQA Guidelines, § 15384.) Also, every case and regulation cited in this comment involves mitigation requirements for an EIR, not an initial study or mitigated negative declaration. As such, the comment is of questionable value.

D.2.b. Mitigation Measures are not Adequately Defined

The RMNDs claim that construction air quality will be less than significant because “[t]he applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) The RMNDs fail to adequately define these “standard techniques.” Are the “standard techniques” limited to the three identified techniques? If so, why are the RMNDs excluding other techniques disclosed in mitigation measure AQ-2 of the REGPA EIR? Further, the RMNDs fail to adequately describe the mere three techniques mentioned that would allow an assessment of their effectiveness. For example, how frequently will water trucks be used? Is there a standard for when water trucks will be required during construction? How is limestone used effectively to reduce dust? How are dust suppressants used? Are there other possible dust suppressants other than EarthGlue? If so, are any of these other dust suppressants more effective than EarthGlue? What are the tests or triggers for application of limestone or dust suppressants?

Response:

The comment is correct that the “standard techniques” that would be used for dust control include: (1) wetting down areas, (2) applying limestone to stabilize the ground surface and (3) applying dust suppressants such as EarthGlue. These three control measures are identified in the Initial Study in section III.a, and in the air quality memorandum in Appendix C, at pages 7-8.

The comment also questions why the MNDs have not incorporated all of the dust control techniques listed in Mitigation Measure AQ-2 of the PEIR. The answer is in the PEIR itself. The PEIR

states that AQ-2 was developed for “utility scale” solar projects (i.e., over 20 MW generating capacity). (PEIR, p. 4.3-17.) For smaller-scale projects like these, which total 4.2 MW of generating capacity, “the need for implementation of [MM AQ-2] shall be determined based on the professional judgment of a qualified County planner...” (PEIR, p. 4.3-17.) Thus, the County had the discretion to determine that “utility-scale” mitigation is unnecessary here due to the small scale of the Projects.

The commenter also questions whether the dust controls are sufficiently detailed and seeks additional data regarding their efficacy and alternatives. This depth of analysis is not necessary due to the scale of the impact. According to Appendix C, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the thresholds of significance for PM-10 and PM-2.5 emissions. This is orders of magnitude below the threshold. Considering the miniscule impact, it is unnecessary to conduct a comparative analysis of dust control techniques to determine that MNDs are proper.

Finally, it should be noted that dust control measures are not, in practice, as specific as the commenter appears to desire. For example, MM AQ-2 from the PEIR is “[w]ater and/or coarse rock all active construction areas as necessary and as indicated by soil and air conditions.” (PEIR, p. 4.3-18.) In addition, the PEIR refers to REAT Best Management Practices (2010), which includes the following provision for dust control:

Use dust suppressant applications or other suppressant techniques to control dust emissions from onsite unpaved roads and unpaved parking areas, as well as to mitigate fugitive dust emissions from wind erosion on areas disturbed by construction activities. When considering the use of water or chemical dust suppressants take into account water supply and chemical dust suppressant issues.

(REAT, p. 29.) Such measures leave the details of implementation to the discretion of the approving agency. The dust control measures followed by the applicant here allow the same flexibility.

D.2.c. Mitigation Measures are not Adequately Defined

Addressing some or all of these questions is necessary for the RMNDs to adequately inform the public and decision-makers that mitigation is effective to reduce the impact to less than significant on sensitive receptors such as the adjacent residential properties. An MND cannot rely on a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (King & Gardiner Farms, supra, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 511.) The RMNDs have failed to provide evidence that its vague mitigation will be effective.

Response:

As an initial matter, the cases cited in the comment (*King & Gardiner Farms* and *Sierra Club*) analyzed EIRs rather than initial studies or negative declarations, and therefore are of questionable value here.

In any event, the comment incorrectly assumes that the dust controls listed in the Initial Study are required to reduce dust impacts to a less-than-significant level. The record does not support such an assumption. As documented in the Appendix C memo, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the typical thresholds of significance for PM-10 and PM-2.5 particulate emissions. This is before the application of dust controls. As such, the Initial Study did not need to rely upon these controls to find that fugitive dust impacts are less-than-significant. Such dust controls would only further reduce an already small and insignificant effect.

D.2.d. Mitigation Measures are not Adequately Defined

Further, the RMNDs also failed to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant's REP 2018-01 that was issued in 2018.

Response:

Statements by non-expert members of the public may, in limited circumstances, constitute substantial evidence that merits consideration by a CEQA lead agency. Generally, these are limited to personal observations on non-technical subjects. (See *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.) Neighbors' observations of noise and traffic conditions, in particular, are often accepted by courts as substantial evidence because no special expertise is needed to render those observations. (See, e.g., *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 730 [noise]; *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1152 [traffic congestion].)

In contrast, when the subject matter requires technical expertise, neighbors' opinions or observations do not qualify as substantial evidence. For example, in *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, non-expert residents performed their own noise calculations and tried to submit them as substantial evidence of a noise impact. The court held: “[a]lthough they present their numbers as scientific fact, we find appellants’ calculations are essentially opinions rendered by nonexperts, which do not amount to substantial evidence.” (*Id.*, at p. 894.) Similarly, in *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, neighbors challenged the decision to adopt a mitigated negative declaration, arguing that data showing groundwater contamination raised a fair argument of a hazardous material impact that required study in an EIR. The court held:

Statements of area residents who are not environmental experts may qualify as substantial evidence if they are based on relevant personal observations or involve “nontechnical” issues... However, a complex scientific issue such as the migration of chemicals through land calls for

expert evaluation, and the Neighbors do not profess any expertise that would qualify them to opine on that subject... Accordingly, ACC's conclusion that there was a "low" potential for contamination from hazardous materials from the adjacent property stands unrefuted, and an EIR is not required to address the subject.

(Bowman, at p. 583.)

Here, the comment suffers from two problems. First, the question of air quality impacts is inherently technical in nature and the opinions of non-expert neighbors are not substantial evidence. The questions analyzed in the Initial Study – such as, would the project “violate any air quality standard,” or “expose sensitive receptors to substantial pollutant concentrations” – are technical in nature. The Appendix C air quality memorandum, for instance, answered these questions through computer modeling prepared by expert consultants. In this setting, opinions by non-expert members of the public are not substantial evidence.

Second, the neighbors' reported concerns¹ involve a different project. Generalized concerns stemming from neighbors' observations of different projects are not substantial evidence relative to the specific project at issue. In *Lucas Valley Homeowners Assn. v. County of Marin* (1991) 233 Cal.App.3d 130, neighbors attacked a negative declaration a use permit granted to an orthodox Jewish congregation that applied to turn a house into a synagogue. The neighbors offered testimony of “generalized concerns and fears about traffic and parking impacts, or relate anecdotes of parking problems generated by [the applicant] at a different site.” According to the court, such evidence “does not rise to the level of a fair argument” of a significant adverse impact. (*Id.*, at p. 163.) Similarly, the testimony of neighbors in this case regarding the applicant's purported actions in regard to a separate project are not substantial evidence here.

D.2.e. Mitigation Measures are not Adequately Defined

The RMNDs also improperly assume, without adequate project-specific analysis, that regulatory compliance will mitigate impacts. Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the RMNDs assert, “No . . . The applicant will be conditioned to obtain any required permits, and follow best management practices required by the GBUAPCD.” (RMND, § III(a).) This is inadequate under CEQA because a determination that regulatory compliance is adequate must be based on project-specific analysis. (Californians for Alternatives to Toxics v. Dept. of Food and Agriculture (2005) 136 Cal.App.4th 1.) Here, the RMNDs do not even identify what is required by the Great Basin Unified Air Pollution Control District (“GBUAPCD”), much less provide a project-specific analysis of how those requirements would be effective here. While the County may be inclined to point to an Air Quality Memorandum as supplying that missing analysis, this effort fails for two reasons. First, the

¹ The commenter does not identify exactly what the neighbors' opinions are, or where those opinions are expressed.

analysis does not provide the missing information, explaining only, “Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollution emissions, including those required under their new source review requirements.” (AQ Memorandum, p. 7.) Thus discussion fails to describe applicable requirements, much less how those requirements applied here would effectively mitigate impacts. Second, even if the Air Quality Memorandum did provide some additional information, CEQA caselaw explains that such information cannot be buried in an appendix. (Vineyard Area Citizens, supra, 40 Cal.4th at 442. [information “buried in an appendix is not a substitute for good faith reasoned analysis”].)

Response:

The commenter takes issue with the County’s proposed condition to require the applicant to obtain any required permits from the Great Basin Unified Air Pollution Control District (GBUAPDC) and to follow any of GBUAPDC’s best management practices. This condition is entirely appropriate and typical and does not reflect any error by the County.

“A condition requiring compliance with environmental regulations is a common and reasonable mitigation measure.” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308, citing *Perley v. Board of Supervisors* (1982) 137 Cal.App.3d 424, 430; see also *Gentry v. City of Murrieta* (1995) 36 Cal.App.3d 1359, 1396 [approval of habitat conservation plan]; *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236-237 [mitigation measure requiring applicant to secure wetlands permits from Army Corps and Cal. Department of Fish & Wildlife].)

The commenter correctly notes that problems can arise when a lead agency employs such a condition to defer the environmental review to another agency. (See *Sundstrom*, 202 Cal.App.3d at pp. 308-309 [rather than studying issue of sewage sludge disposal, county attempted to defer analysis to the water board permit process]; *Californians for Alternatives to Toxics v. Dept. of Food and Agric.* (2005) 136 Cal.App.4th 1 [Dept. Food & Agric. evaded duty to prepare a complete EIR for an pest-control proposal by deferring issue to a separate review by Dept. of Pesticide Regulation].)

It is apparent from the record that the County conducted (and did not defer) the air quality analysis. The Initial Study explained that these are small projects, involving low impact and short-term construction, in an “attainment” area with few residents and no nearby schools or hospitals. The Initial Study appended a technical analysis of the air emissions, which were all well below accepted thresholds of significance. (IS, Appendix C, p. 9.) In short, there is no evidence that the County deferred any part of its analysis to the GBUAPDC.

D.2.f. Mitigation Measures are not Adequately Defined

The RMNDs then attempts to cite to the REGPA programmatic EIR (“PEIR”) and its MMRP in an attempt to dismiss significance of these

impacts. (RMND, §III(a).) The plain language of the PEIR refutes this effort:

*The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. However, since the air basin is within the Owens Valley PM10 Planning Area, **fugitive dust emissions from construction must be mitigated.***

(PEIR, p. 4.3-10, emphasis added.) Here, however, there is no such mitigation. For example, the AQ-2 includes such measures as “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph.” The RMNDs conspicuously fail to mention these additional mitigation measures, much less identify them as such in an enforceable MMRP for the Project.

Response:

The commenter incorrectly states that the Projects are in the Owens Valley PM-10 Planning Area. As stated on page 3 of the Initial Study, and page 7 of the Appendix C memorandum, the Projects are in the Coso Junction PM-10 Planning Area which (unlike Owens Valley) is “in attainment” for PM-10. The comment also incorrectly assumes that, even if the Projects were located in the Owens Valley, dust controls in Mitigation Measure AQ-2 are mandatory. As noted above, the PEIR gave County staff discretion to determine whether the PEIR’s mitigation measures should be applied to projects smaller than utility scale. (PEIR, p. 4.3-17.)

D.2.g. Mitigation Measures are not Adequately Defined

Finally, the RMNDs claim that PEIR mitigation measures AQ-1 through -3 “applied to utility-scale projects of greater than 20 MW and did not apply to smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner.” This is inexcusably false. The plain language of AQ-1 through -3 as revised and approved does not include such limitations. (Exhibit 3, March 2015 MMRP.)

PEIR AQ-1 states, “AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report.” The RMNDs violate this mandate because the Air Quality report does not incorporate the specific requirements of AQ-2 and AQ-3. It merely states, “[T]he Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.” PEIR mitigation measures AQ-1, -2 and -3 are not “goals and policies” of the REGPA; they are mitigation measures under CEQA. The Air Quality report does not even identify these mitigation measures, much

less “incorporate” them into its “site-specific technical report.” At best, the Air Quality Memo states:

[F]ugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment trackout onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout the life of the Project, which will in turn ensure impacts remain less than significant.

(Air Quality Memo, p. 12.0.)

While this provides a general discussion of some mitigation measures that could be used to address dust emissions, this discussion fails to comply with CEQA. This discussion fails to correlate the identified measures to the requirements of the GBUAPCD or the PEIR. Are these measures the only ones that will be used to satisfy the requirements of the PEIR and GBUAPCD? If so, why does this discussion omit any reference to “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph” as set forth in AQ-2. Further, this discussion in the Air Quality Memo does not explain how this discussion is enforceable against the project. This is precisely the function of mitigation measures and an MMRP.

Response:

The commenter first asserts that the language of Mitigation Measures AQ-1 – AQ-3 does not provide County staff with the discretion to determine which, if any, of those mitigations are appropriate for projects smaller than utility scale. The comment overlooks language in the PEIR that does exactly that. Section 4.3.5 of the PEIR provides, in relevant part:

Air quality mitigation measures have been developed for solar energy development projects producing more than 20 MW of electricity for off-site use (utility scale) and would be implemented to mitigate adverse impacts to air quality. As previously mentioned, small scale solar energy projects are considered to result in no impacts under CEQA; however, all individual solar energy facility projects applications (including small scale, community scale, and ~~distributed generation~~ commercial scale) shall

be reviewed by the county **and the need for implementation of the following mitigation measures shall be determined based on the professional judgment of a qualified county planner...**

If a proposed ~~distribution-generation~~ commercial scale or community scale solar development project is determined by the county to have the potential to impact air quality, then the following mitigation measures shall be implemented **as determined necessary by the qualified county planner...**

(PEIR, p. 4.3-17 [underlines and strikethroughs in original; bold emphasis added].)

Plainly, the PEIR gave County staff the flexibility to determine whether the PEIR mitigation measures should be applied to solar projects generating less than 20 MW. Given that the output for the Projects is 4.2 MW, and the Projects will occupy far less land than a 20 MW solar array, the County is within its discretion to determine that some or all of the mitigation applicable to 20 MW+ projects are inappropriate here.

We suspect that the comment reflects some confusion between the relationship between a MMRP and an EIR. A MMRP is designed to: “ensure that the mitigation measures and project revisions identified in the negative declaration of are implemented.” (CEQA Guidelines, § 15097; see also CEQA, § 21081.6(a)(1).) Said differently, a MMRP only implements measures contained in an EIR or negative declaration. If an MMRP does not do so faithfully, the EIR or negative declaration control. Here, to the extent that the 2015 MMRP did not fully capture the PEIR’s mitigation, the language in the PEIR itself still controls.

D.2.h. Mitigation Measures are not Adequately Defined

Finally, regulatory compliance is only permissible when it is reasonable to assume that they will actually be complied with. “[C]ompliance with regulations is a common and reasonable mitigation measure, and may be proper where it is reasonable to expect compliance.” (Oakland Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884, 906.) Here, the project applicant has repeatedly violated County and air district rules and permits with respect to this Project and earlier projects. These repeated violations have been documented by County staff and establish that it is not reasonable to simply assume that the project applicant will comply with such permit terms in the future.

Response:

The commenter asserts, without supporting facts, that the applicant violated County and air district rules. However, unsubstantiated narrative is not substantial evidence. (See CEQA Guidelines, § 15384.) Further, CEQA requires a lead agency to accept existing “baseline” conditions when preparing a CEQA review, even if those conditions result from an alleged violation of law. (See *Communities for a Better Environmental v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 321, fn. 7;

Eureka Citizens for Responsible Gov. v. City of Eureka (2007) 147 Cal.App.4th 357, 370-371 [baseline for school playground project was existing playground, even though past construction may have violated city code]; *Fat v. Cnty. of Sacramento* (2002) 97 Cal.App.4th 1270, 1278-1281 [existing airport activity part of baseline, even if it occurred previously without permit]; *Riverwatch v. Cnty. of San Diego* (1999) 76 Cal.App.4th 1428, 1453 [improper to extend baseline into past to capture illegal mining activity]; see also *Bottini v. City of San Diego* (2018) 27 Cal.App.5th 281, 303 [noting caselaw.] Thus, the comment has not identified any flaw in the County's treatment of the Projects.

D.2.i. Mitigation Measures are not Adequately Defined

In short, the RMNDs improperly rely on mitigation to avoid analysis of project impacts and fail to provide adequate information in order to determine whether mitigation is effective and enforceable. Without this necessary information, the RMND's significance determinations are not supported by substantial evidence.

Response:

For the reasons stated above, the commenter has not shown that the County erred in any way. The impacts of these small solar Projects are uniformly less than significant. The dust controls and other measures adopted here are in the nature of best management practices that are applied without regard to the scale or significance of impacts. The applicant should not be penalized for committing to do more than is strictly required to mitigate non-existent impacts.

D.3. RMNDs Inconsistently apply the PEIR's Mitigation Measures

Our prior comment letter explains that the original MNDs appeared to have ignored literally dozens of mitigation measures adopted pursuant to the PEIR. The RMNDs now appear to incorporate the PEIR's mitigation measures but have done so inconsistently and in violation of CEQA. For example, sections IV(a) (Biological Resources) and XIII(a) (Noise) appear to incorporate mitigation measures set forth in the PEIR in order to address the Project's potentially significant impacts in those resource areas. Setting aside the procedural deficiency of not circulating an MMRP including these mitigation measures, the RMNDs fail to explain why the same procedure was not followed in other resource areas [fn: Examples include air quality, agricultural impacts, transportation, water quality and visual resources] where the PEIR requires mitigation in order to support a less-than-significant determination. The leading CEQA treatise explains, "As activities within the program are approved, the agency must incorporate, if feasible, the mitigation measures and alternatives developed in the program EIR in its action approving the activity." (I Kostka and Zischke, Practice Under the Cal. Environmental Quality Act (2nd ed. 2023) § 10.16, p. 10-20.)

Response:

The commenter has not shown any inconsistency in application of the PEIR’s mitigation measures. The comment fails to appreciate that the PEIR applied mainly to large solar projects (20 MW or greater generating capacity), and that the PEIR left it to County staff’s discretion to apply the PEIR’s mitigation measures to smaller-scale projects. The biological resources and noise analysis are examples in which the County exercised its discretion in appropriate ways.

With respect to biological resources, the PEIR provided County staff the discretion, for small-scale projects, whether to require a biological resource evaluation or implement the biological resource mitigation measures in the PEIR. (PEIR, p. 4.4-123.) Here, County staff examined the sites and found no species or habitat that would be affected. (IS, IV.a.) The record also contains a biological resource evaluation prepared on the applicant’s behalf which corroborates staff’s observations but also noted that certain species (desert kit fox, protected birds) could unexpectedly visit, and listed mitigation measures to ensure the risks to these species are less than significant. The Initial Study stated that these measures were “consistent with” the PEIR, but the Initial Study did not incorporate the PEIR’s mitigation measures, which County staff had the discretion not to do.

With respect to noise, the PEIR gave County staff similar discretion to determine whether to impose the PEIR mitigation measures on projects less than utility-scale. (PEIR, p. 4.12-19.) However, the PEIR also noted that the General Plan Noise Element requires noise mitigation for construction that is within 500 feet of a residential receptor. (PEIR, p. 4.12-9.) Portions of the Projects are approximately 400 feet from two residential structures. (See IS, XIII.a.) Thus, the County reasonably imposed PEIR Mitigation Measure NOI-2 to mitigate construction noise within that 500-foot area. That decision gives effect to the General Plan and implements the PEIR mitigations to the extent needed, which the County has the discretion to do.

The County also had discretion to impose, or not to impose, the PEIR’s mitigation for the other resource areas cited by the commenter (air quality, agricultural impacts, transportation, water quality and visual resources). (See PEIR, pp. 4.3-17 [air quality], 4.2-14 [agriculture], 4.17-12 [transportation]; 4.9-44-45 [water quality]; 4.1-25-26 [visual; resources].) The County was not obligated to incorporate any of them given the small size of the Projects. The commenter has not shown that the County’s proposed exercise of discretion is contrary to the record.

E. The County Does Not Explain the Lack of Visual Simulations

The RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR. AES-1 requires “site-specific visual studies . . . to assess potential visual impacts.” “Visual simulations shall be prepared to conceptually depict-post development views from the identified key observation points.” No such studies were prepared. Instead, Appendix A consists solely of low-quality “representative photographs” of apparently existing conditions.

The RMND states, “Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a

qualified planner to not have a potential to impact visual resources, including a scenic vista.” The RMNDs conspicuously fails to provide any substantial evidence supporting this conclusion. The RMNDs fail to set forth any analysis, much less written report, supporting this conclusion. The RMNDs fail to identify the County planner purportedly making this determination, the date of the determination, the criteria followed by the County planner or any specific facts supporting this determination. There is no evidence, much less substantial evidence, supporting the MND’s conclusory assertion that an unspecified “qualified County planner” determined that the Project would not have the potential to impact visual resources.

Response:

The comment errs in a number of ways.

First, the commenter states, incorrectly, that “[t]he RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR.” The Initial Study stated only that the Projects were “consistent with” the PEIR which did not require site-specific visual studies for projects with less than 20 MW generating capacity. This comment thus mischaracterizes the Initial Study.

Second, the commenter asserts that no substantial evidence supports the conclusion that the Projects would not have a significant impact on a scenic vista. Such evidence is clear from the record. The Initial Study states that the Projects are not located near a scenic vista (IS, I.a.), and the comment provides no contrary evidence. Moreover, the Initial Study explains that the Projects are located on the valley floor, on a site without scenic resources, near junk and scrap yards, in an area removed from any scenic highways or recognized scenic resources. (IS, pp. 3-4, I.a.) These observations were buttressed by corroborative photographs. (IS, Appendix A.) Thus, the County had a factual basis for its determination and was clear in its rationale.

Third, the commenter states that the record fails to identify the planner making the visual resources determination. This also is not accurate. The Initial Study was signed by Cynthia Draper, an Assistant Planner with the Inyo County Planning Department, on July 19, 2023. The commenter must presume that this planner made the determinations in the initial study.

Fourth and finally, the comment incorrectly assumes that there is substantial evidence in the record giving rise to the need for a visual study. Such evidence does not exist, nor has the commenter offered any. (CEQA Guidelines, § 15384 [substantial evidence not include “argument, speculation, [or] unsubstantiated opinion or narrative...”].) Rather, the evidence shows that these are small projects, in a sparsely populated area and few residents, in an area without recognized scenic resources. There is no error in the County’s analysis.

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F. The RMNDs Fail to Include a Traffic Control Plan:

PEIR mitigation measure TRA-1 provides:

Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.

The RMNDs do not include the required traffic control plan, nor even mention mitigation measure TRA-1. While the RMNDs state that the Project “will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase,” there is no attempt to explain why these “few” construction vehicles do not require a traffic control plan to avoid conflicts with adjacent and nearby residents.

Response:

The commenter again overlooks language in the PEIR that makes the transportation mitigation measures (including TRA-1) applicable only to utility-scale solar projects, and which gives County staff discretion to determine whether the PEIR mitigation measures are appropriate for a smaller-scale project like this. (PEIR, p. 4.17-12.) Here, the Initial Study documented that the Projects would generate only a small amount of traffic on a lightly-used road:

The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.

(IS, XVII.a.) The Appendix C air memorandum, similarly, conservatively assumed that approximately ten contractors would visit per day for 25 days during construction, and almost no traffic (one daily trip) would occur in operations. (IS, Appendix C, p. 6.) These are small traffic volumes on a lightly-traveled road. The record does not suggest that a site-specific traffic control plan is necessary. The County’s treatment of the Projects is supported by substantial evidence.

G. The MNDs Fail to Address Impacts Associated with Noxious Weeds:

Mitigation measure AG-3 provides, “To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed.” In violation of this mitigation measure, no weed-abatement plan appears to have been prepared, and the RMNDs make no reference to such a plan.

Response:

Again, the commenter overlooks language in the PEIR that makes the agricultural mitigation measures (including AG-3) applicable only to utility-scale solar projects, and which gives County staff discretion to determine if they are appropriate for smaller-scale projects. (PEIR, p. 4.2-14.) As stated in the initial study, agriculture and farming are not significant land uses in the area, the Projects would not result in the conversion of agricultural land. (IS, pp. 3, II.) Thus, the Projects are not expected to have any impacts to agriculture that warrant a weed management program, and the County was within its discretion to determine that such a mitigation measure was unnecessary.

CONCLUSION

On behalf of Mr. Barker, we appreciate the County’s work on the Projects, and the opportunity to respond to the comments. If you have any questions, please do not hesitate to contact me at (916) 501-2395 or shungerford@hthglaw.com.

Very truly yours,
HARRISON, TEMBLADOR, HUNGERFORD & GUERNSEY



By
Sean Hungerford

cc: Client

ATTACHMENT- D

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AGENDA ITEM NO.: Action Item No. 5
PLANNING COMMISSION MEETING DATE: October 25, 2023
SUBJECT: Renewable Energy Permit # 2022-01/Barker

EXECUTIVE SUMMARY

The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on one private parcel (APN:038-330-46) in Trona, California. This permit would allow the applicant to construct a proposed 1.2-megawatt (MW) commercial scale photovoltaic solar facility, referred to as Trona 7. The project proposes approximately 2,300 single axis tracker solar panels, encompassing 5-acres of pre-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: Robbie Barker

Site Address: Trona, CA 93592

Community: Trona, CA

A.P.N.: 038-330-46

General Plan: Residential Estate (RE); SEDA Overlay

Zoning: Rural Residential-5.0-acre minimum -RR-5.0-MH

Size of Parcel: 5 acres.

SURROUNDING LAND USE:

Location:	Use:	Gen. Plan Designation	Zoning
North	Vacant	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)
South	Vacant	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)
East	Developed/ Solar	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)
West	Single Family Res	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)

Staff Recommended Action: Approve the Renewable Energy Permit 2022-01

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). 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. (*See attached diagram 32 & 32f*)

When the County adopted the REGPA in 2015, it certified a Programmatic Environmental Impact Report (PEIR), 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, with the least amount of individual and cumulative impacts to land and resources. (2015 REGPA, 3-4) *

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

Overview

The applicant has applied for a Renewable Energy Permit with the Inyo County Planning Department to construct a 1.2-megawatt (MW) commercial scale photovoltaic solar energy facility, referred to as Trona 7, on one 5-acre parcel (APN:038-330-46), owned by Robbie Barker. The project would construct roughly 2,300 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 graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The project area is surrounded by vacant land to the north and south. The land to the east consists of a developed commercial solar field, owned by the applicant, and the land to the west consists of a single-family residence. Approximately five residential structures are within 0.5 miles of the Project Area located mostly to the south and west. Two of these structures are approximately 400 feet from the edge of the Project Area. Other land uses within 0.5 mile of the Project Area include storage of equipment, vehicles, scrap yards and storage units. (*See vicinity Map-2*)

The proposed application for a Renewable Energy Permit aligns with Inyo County Code Section 21.16-*General Provisions for Renewable Energy Development**, 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).* The application for this permit has met the requirements of Inyo County Code Section 21.16.060* 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 1.2-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 Code. 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 ES1*). *

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). 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 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. However, staff made the decision to do an initial study to cover all bases.

In December 2022, An Initial Study with a Mitigated Negative Declaration (ISMND) was performed by staff to consider possible significant impacts to environmental resources for this project. Based on the fact that the project site was devoid of natural habitat at the time the application was submitted, it was determined that a biological survey and a cultural report was not required. The State review period for the ISMND ended on December 27, 2022 and no comments were received from local and state agencies.

Due to public comment regarding the first ISMND, the applicant, although it was not necessary or required, decided to have a biological survey and air quality report done and asked staff to revise and recirculate the ISMND through the CEQA State Clearinghouse. A public hearing for Renewable Energy Permit 2022-01/Barker, was originally set before the Planning Commission on March 23, 2023 to approve the application, but due to noticing errors it was postponed to May 3, 2023 and once again to October 25, 2023 to provide time to recirculate the ISMND based on the comments received. The state review period for the recirculated ISMND ended on August 17, 2023. No comments were received from State or Local agencies. Public comments were received and sent to the Planning Commission for review. A copy of the recirculated ISNMD can be found at <https://www.inyocounty.us/services/planning-department/current-projects>.

NOTICING & REVIEW

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. No comments have been received to date.

The application for Renewable energy permit 2022-01/Barker 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. No 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 recirculated Notice of Availability of the Initial Study was published in the *Inyo Register* on July 25, 2023. Notification of the public hearing date for this permit was published in the *Inyo Register* on October 13, 2023. Public comments were received and sent to the Planning Commission for review.

RECOMMENDATION

Planning Department staff recommends the approval of Renewable Energy Permit 2022-01/Barker, 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 (December 2022 & August 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. 2022-01/ Barker. 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 2022-01/Barker. 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. *Notification of local American Tribes*

*Per Inyo County Code, Title 9 chapter 9.52, Disturbance of Archaeological, Paleontological and Historical Features**, the owner/developer shall notify a representative from local native American tribes in the event native artifacts or human remains are uncovered.

5. *Air Quality*

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

6. Desert kit fox and nesting birds

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

7. Noise

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

*The following are links to the REGPA, PEIR, Chapter 21.16 General Provisions, Title 9-Chapter 9.52, Chapter 21.04.030, Chapter 21.16.060 and PRC 21080.3.1(b)

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

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

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

[Chapter 9.52 DISTURBANCE OF ARCHAEOLOGICAL, PALEONTOLOGICAL AND HISTORICAL FEATURES \(qcode.us\)](https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_21-chapter_21_16-21_04_030)

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

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

[https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC§ionNum=21080.3.1.](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC§ionNum=21080.3.1)

ATTACHMENTS:

Vicinity map

Vicinity map – 2

Vicinity map- Proposed and existing solar fields

Public Resource Code Section 21166

Site Plan

Diagram 32: Solar Energy Development area and Owens Valley Study Area

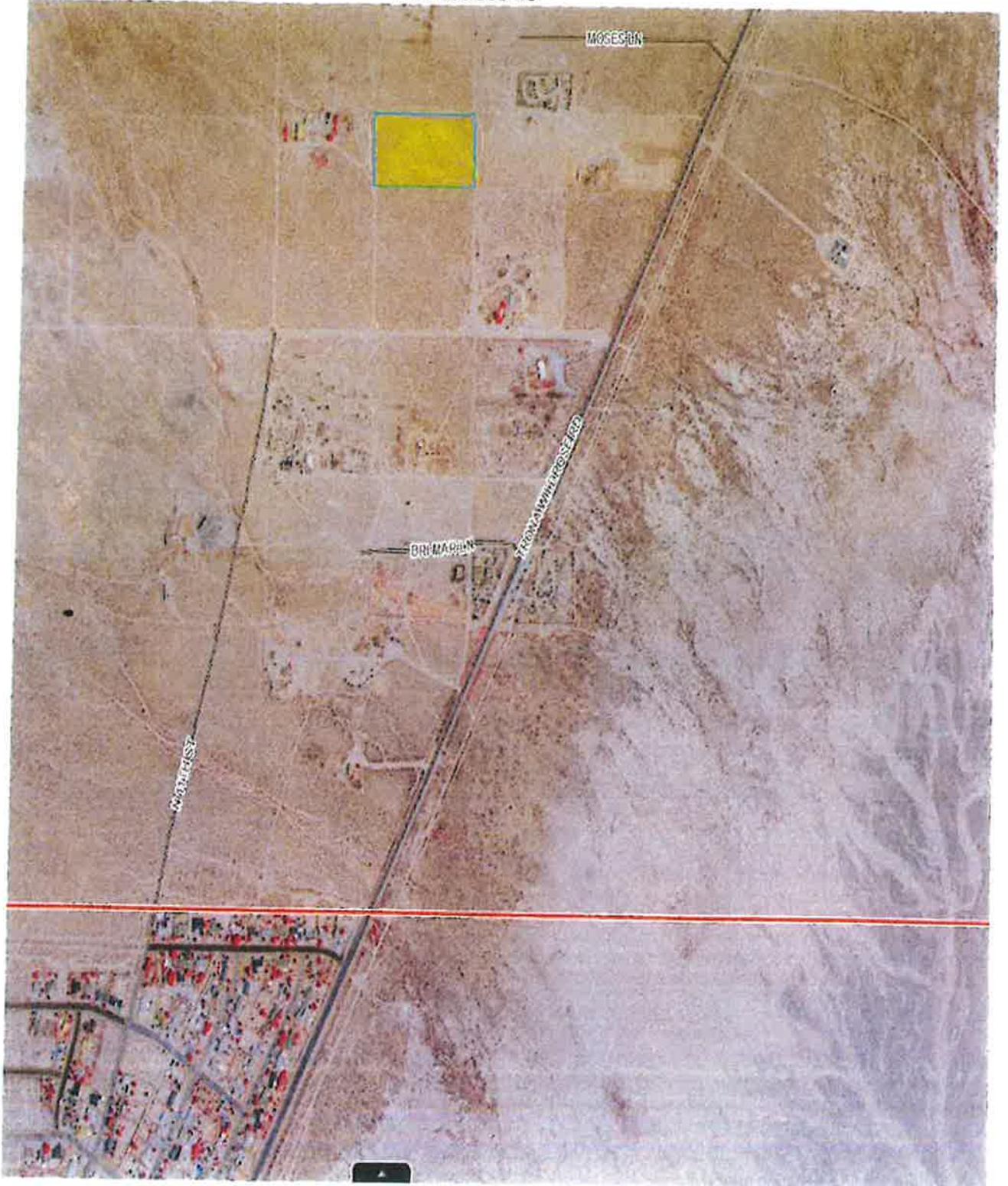
Diagram 32f: Solar Energy Development area- Trona

Mitigation and Monitoring Program

VICINITY MAP

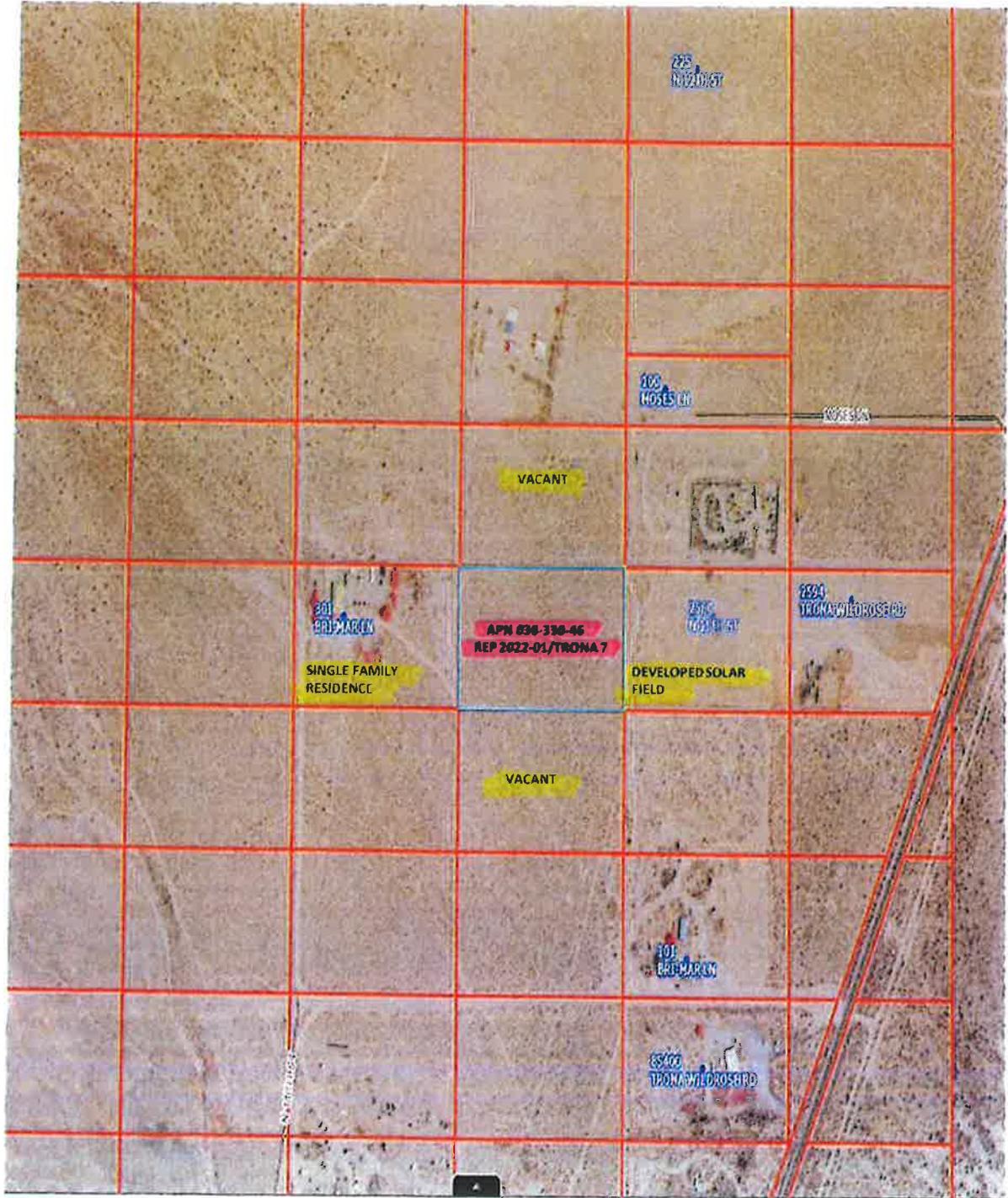
REP 2022-01/ BARKER

APN 038-330-46

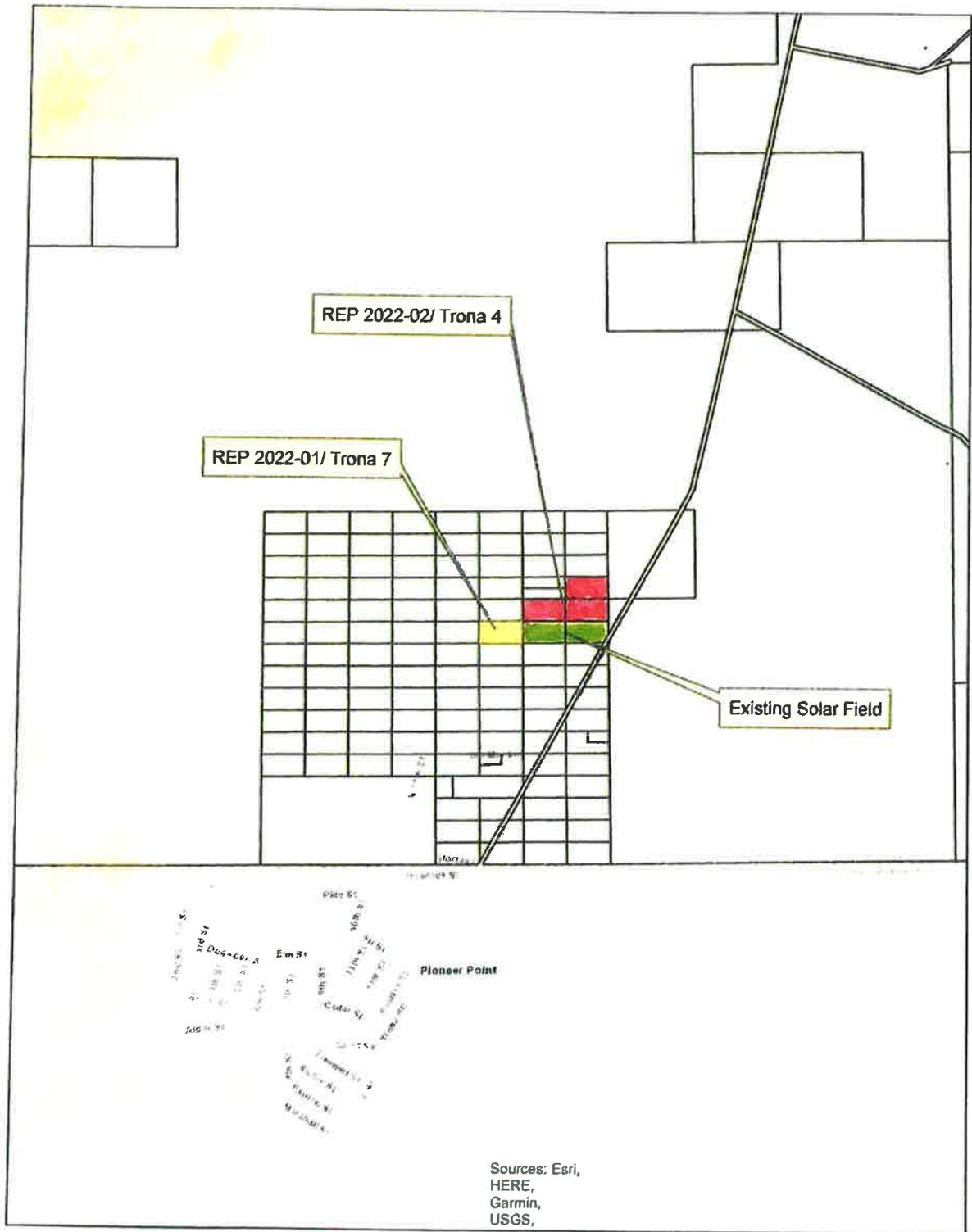


VICINITY MAP- 2

REP 2022-01/BARKER



Vicinity Map- Proposed and existing solar fields



Cal. Pub. Resources Code § 21166

[Download PDF](#)

Current through the 2023 Legislative Session.

Section 21166 - Subsequent or supplemental report required

When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

- (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

Cal. Pub. Res. Code § 21166

[Previous Section](#)

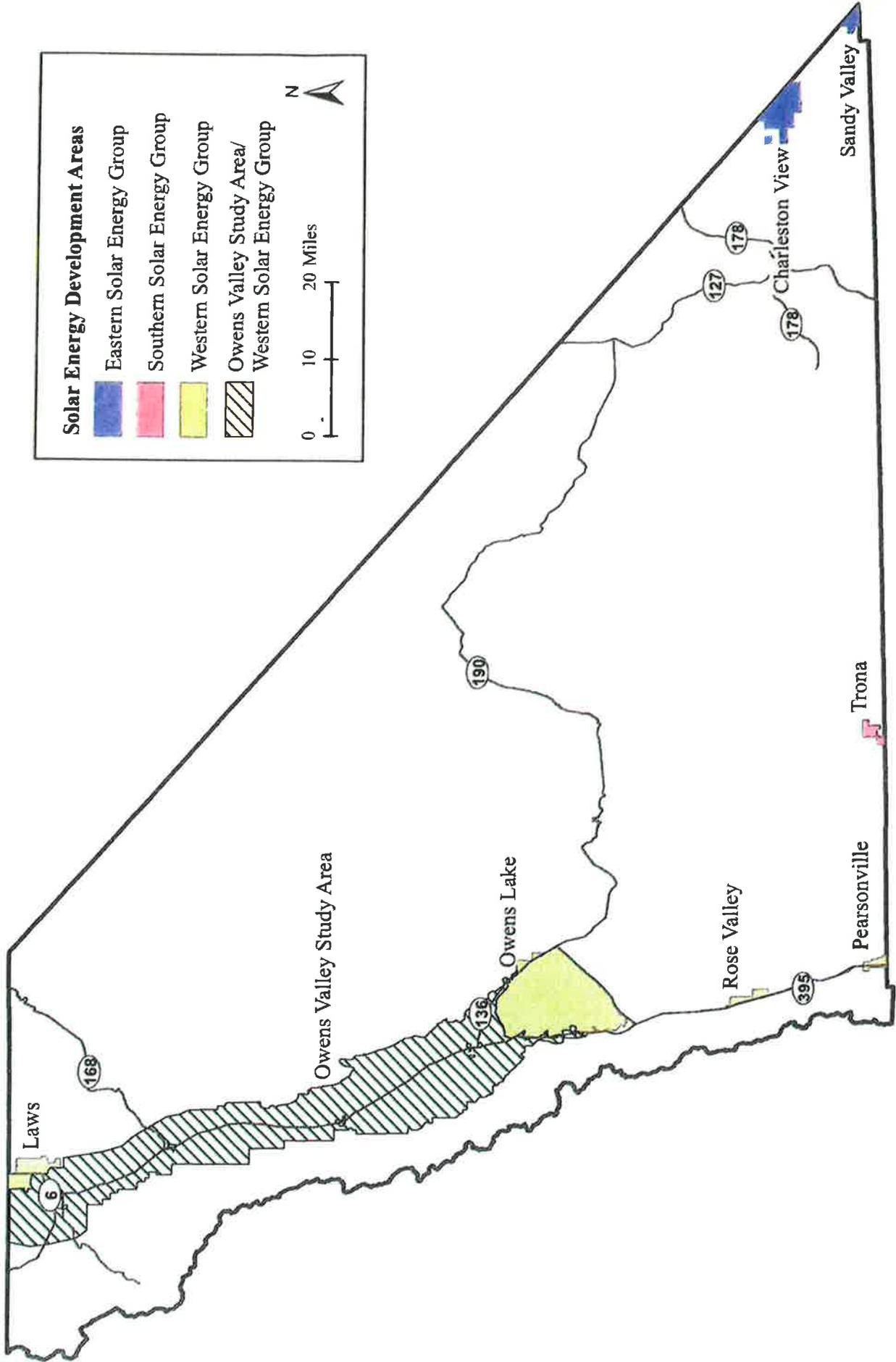
[Section 21165 - Project carried out by two or more public agencies](#)

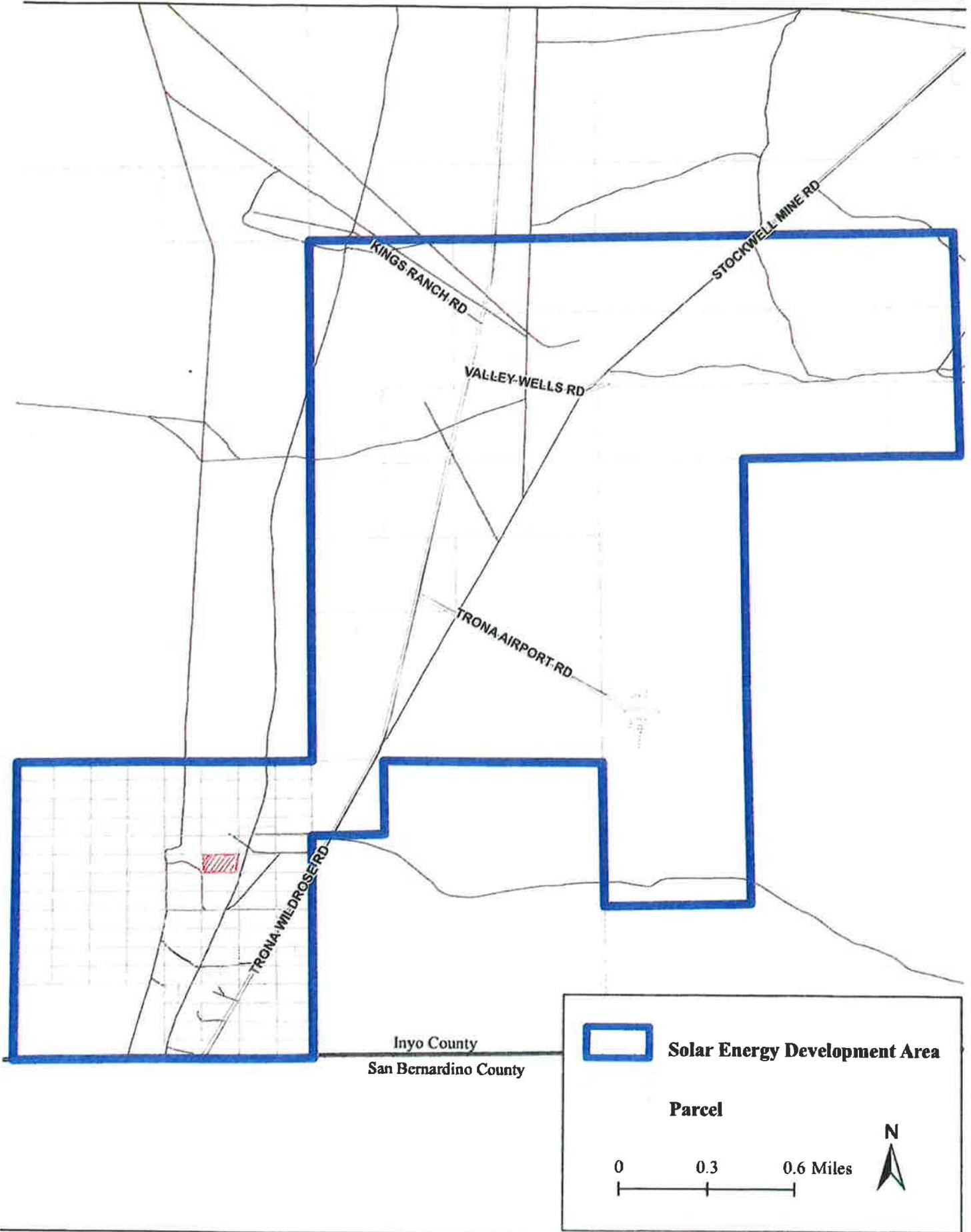
[Next Section](#)

[Section 21166.1 - Effect of decision to prepare report with respect to impacts within geographic area or group of projects on document prepared for individual project](#)

Diagram 32: Solar Energy Development Areas and Owens Valley Study Area

GPA #2013-02, March 24, 2015





MITIGATION & MONITORING PROGRAM

Renewable Energy Permit 2022-01/ BARKER

INTRODUCTION

This Mitigation and Monitoring Program (MMP) has been developed for Renewable Energy Permit/2202-01/Barker, 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
Air Quality		
<p>IIIa) During construction the following measures to control fugitive dust and emissions of particles shall be employed:</p> <ul style="list-style-type: none"> • Provision of equipment and staffing for watering of all exposed or disturbed soil surfaces or use of an appropriate dust palliative or suppressant. • Watering or treating of all disturbed but inactive portions of the site with appropriate dust suppressant. • Watering or treating of all disturbed but inactive portions of 	<p>On-site contractor(s)</p> <p>Great Basin Unified Air Pollution Control District (GBUAPCD)</p> <p>Public Works (Building and Safety)</p> <p>Planning Department</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>

<p>the site with an appropriate dust suppressant.</p> <ul style="list-style-type: none"> • Covering of materials transported by truck to control dust. • Daily clean-up of mud and dirt carried onto paved streets from the site. • 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. 		
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Biological Resources		
<p>IVa) A Pre-activity survey of the Project and a 250-foot buffer for desert kit fox and nesting migratory birds and a 500-foot buffer for nesting raptors surrounding the Project footprint shall be conducted.</p> <p>The survey should occur no less than 14 days prior to the start of construction activities and no more than 30 days prior to the start of construction activities.</p> <p>If construction is delayed beyond 30 days from the time of the survey, then another survey will need to be conducted.</p> <p>The survey shall be conducted by a qualified biologist.</p>	<p>Developer</p> <p>Inyo County Planning Department.</p>	<p>Preconstruction survey documents shall be presented to the Inyo County Planning Department prior to issuance of a building permit.</p> <p>Workers' Environmental Awareness training program documents shall be presented to the Inyo County Planning Department prior to issuance of a building permit.</p> <p>20MPH speed limit signs shall be posted on the project site prior to construction and maintained throughout the life of the project.</p> <p>Inyo County Planning Department will inspect the project site yearly.</p>

Nesting migratory birds and raptors:

- If project activities are scheduled during the breeding bird season, from February 1 through September 15, then a preconstruction survey for nesting birds shall be conducted within the Project site and within a 500-foot radius surrounding the Project site for active nesting sites.
- Construction activities should not be conducted within 250 feet of an active bird nest and within 500 feet of an active raptor nest. These avoidance distances may be reduced if the qualified biologist determines that activities are not affecting the breeding success of the nesting birds.

Desert Kit Fox:

- If dens or burrows that could support desert kit fox are discovered during the pre-activity survey, avoidance buffers shall be established, and no work shall occur within these buffers unless a qualified biologist

approves and monitors the activity.

- A Worker Environmental Awareness Training Program shall be prepared and presented to all workers that will be on-site during construction activities to minimize or eliminate impacts to sensitive biological resources.
- Project-related vehicles shall observe a 20-mph speed limit in all Project areas except on County roads and state and federal highways
- During work activities, the contractor shall cover all excavated , steep-walled holes or trenches more than 2 feet deep at the close of each working day. Before such holes are filled, the contractor shall thoroughly inspect them for trapped wildlife.
- All construction pipes, culverts or similar structures with a diameter of 4 inches or greater that are stored at the construction site for one or more overnight periods shall be inspected for wildlife before the pipe is

<p>buried, capped, or otherwise moved or used. If a kit fox is discovered inside a pipe, the section of pipe shall not be moved until the designated biologist has been consulted.</p> <ul style="list-style-type: none"> • All trash and food items that attract wildlife shall be discarded into closed containers and properly disposed of each workday. • To prevent harassment or mortality of listed species, no pets shall be permitted on the project site. 		
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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>	<p>Inyo County Public works (Building and safety) 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>

- Whenever feasible, electrical power will be used to run air compressors and similar power tools.

- Equipment staging areas will be located as far as feasible from occupied residences or schools.

- All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.

- Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.

- Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings.

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.

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.

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 muzzled and maintained. Consider use of battery powered forklifts and other facility vehicles.

4) Ensure all stationary construction equipment (i.e., compressors and generators) is located as far as practicable from nearby residences.

5) If blasting or other noisy activities are required during the construction period, notify nearby residents and the permitting agencies 24 hours in advance.

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.

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.

8) Install mufflers on air coolers and exhaust stacks of all diesel and gas-driven engines. Equip all emergency pressure relief valves and steam blow-down lines with silencers to limit noise levels.

9) Contain facilities within buildings or other types of effective noise enclosures.

10) Employ engineering controls, including sound-insulated equipment and control rooms, to reduce the average noise level in normal work areas.

ATTACHMENT- E

NOTICE OF
DECISION AND
NOTICE OF
DETERMINATION

FILED

Notice of Determination

OCT 25 2023

Appendix D

To: Office of Planning and Research **INYO CO. CLERK**
U.S. Mail: **DANIELLE BENTON, CLERK**
P.O. Box 3044 1400 Tenth St., Rm 113
Sacramento, CA 95812-3044 Sacramento, CA 95814

From: Public Agency: Inyo County Planning
Address: P.O. Drawer L
Independence CA 93526
Contact: Cynthia Draper
Phone: 760-878-0265

County Clerk
County of: Inyo
Address: P.O. Box F
Independence, CA 93526

Lead Agency (if different from above):
Address: _____
Contact: _____
Phone: _____

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (if submitted to State Clearinghouse): ~~2008051038~~ 2022110344

Project Title: Renewable Energy Permit 2022-01/Barker

Project Applicant: Robbie Barker- 82740 Trona Road, Trona California 93562/ 760-372-4734

Project Location (include county): APN 038-330-46, Trona California - Inyo County

Project Description:

Renewable Energy Permit located on one private parcel (APN:038-330-46) in Trona, California. This permit will allow the applicant to construct a 1.2-megawatt (MW) commercial scale photovoltaic solar facility, referred to as Trona 7. The project proposes approximately 2,300 single axis tracker solar panels, encompassing 5-acres of pre-disturbed land. The project is a Mitigated Negative Declaration of Environmental Impact under the California Environmental Quality Act (CEQA).

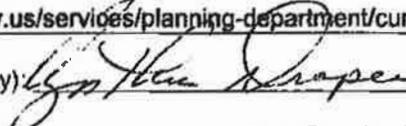
This is to advise that the Inyo County Planning Commission has approved the above
(Lead Agency or Responsible Agency)

described project on October 25, 2023 and has made the following determinations regarding the above
(date)
described project.

1. The project (will will not) have a significant effect on the environment.
2. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures (were were not) made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan (was was not) adopted for this project.
5. A statement of Overriding Considerations (was was not) adopted for this project.
6. Findings (were were not) made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

<https://www.inyocounty.us/services/planning-department/current-projects>

Signature (Public Agency):  Title: Assistant Planner

Date: October 25, 2023 Date Received for filing at OPR: October 28, 2023

Authority cited: Sections 21083, Public Resources Code.
Reference Section 21000-21174, Public Resources Code.

Revised 2011

23-00035



**Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526**

**Phone: (760) 878-0263
FAX: (760) 878-0382
E-Mail: inyoplanning@inyocounty.us**

NOTICE OF DECISION

October 25, 2023

Robbie Barker
82740 Trona Rd
Trona, CA 93562

SUBJECT: Approval of Renewable Energy Permit (REP) 2022-01/Barker

On October 25, 2023, Inyo County Planning Commission considered the above action, which would allow for a Renewable Energy Permit to construct a 1.2-Megawatt photovoltaic solar facility that uses approximately 2300 single axis tracker solar panels. The property is zoned Rural Residential-5.0-acre min and is located on APN 038-330-46, in the community of Trona. The project is a Mitigated Negative Declaration of Environmental Impact under the California Environmental Quality Act (CEQA)

After deliberation, the Planning Commission voted 4-0 to approve the project 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 (December 2022 & August 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. 2022-01/ Barker. 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 Renewable Energy Permit No. 2022-01/Barker. 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. Notification of local American Tribes

Per Inyo County Code, Title 9 chapter 9.52, Disturbance of Archaeological, Paleontological and Historical Features, the owner/developer shall notify a representative from local native American tribes in the event native artifacts or human remains are uncovered.

5. Air Quality

The owner/developer shall implement and follow the Mitigation and Monitoring Program. Failure to do so will result in the revocation of the Renewable Energy Permit No. 2022-01/Barker

6. Desert kit fox and nesting birds

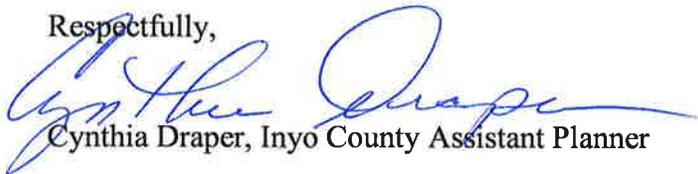
The owner/developer shall implement and follow the Mitigation and Monitoring Program. Failure to do so will result in the revocation of the Renewable Energy Permit No. 2022-01/Barker

7. Noise

The owner/developer shall implement and follow the Mitigation and Monitoring Program. Failure to do so will result in the revocation of the Renewable Energy Permit No. 2022-01/Barker

If there are any questions regarding the above information, please contact the Inyo County Planning office at (760) 878-0263.

Respectfully,

A handwritten signature in blue ink, appearing to read "Cynthia Draper", is written over the typed name. The signature is fluid and cursive, with a large initial "C" and "D".

Cynthia Draper, Inyo County Assistant Planner

ATTACHMENT -F

OCTOBER 25, 2023
PLANNING
COMMISSION
MINUTES

COUNTY OF INYO PLANNING COMMISSION

MINUTES OF October 25, 2023 MEETING

COMMISSIONERS:

HOWARD LEHWALD
CAITLIN (KATE) J. MORLEY
TODD VOGEL
CALLIE PEEK
SCOTT KEMP

FIRST DISTRICT
SECOND DISTRICT
THIRD DISTRICT (CHAIR)
FOURTH DISTRICT (VICE)
FIFTH DISTRICT

Inyo County Planning Commission
Post Office Drawer L
Independence, CA 93526
(760) 878-0263
(760) 872-0712 FAX

STAFF:

CATHREEN RICHARDS
CHRISTIAN MILOVICH
RYAN STANDRIDGE
SALLY FAIRCLOTH
NATE GREENBERG
MIKE ERRANTE

PLANNING DIRECTOR
ASSISTANT COUNTY COUNSEL
ASSOCIATE PLANNER
PROJECT COORDINATOR
COUNTY ADMINISTRATOR
PUBLIC WORKS DIRECTOR

The Inyo County Planning Commission met in regular session on Wednesday, October 25, 2023. Commissioner Vogel opened the meeting at 10:02 a.m. These minutes are to be considered for approval by the Planning Commission at their next scheduled meeting.

ITEM 1: **PLEDGE OF ALLEGIANCE** – All recited the Pledge of Allegiance at 10:03 a.m.

ITEM 2: **ROLL CALL** - Commissioners, Todd Vogel, Kate Morley, Callie Peek, and Howard Lehwald were present.

Staff present: Cathreen Richards, Planning Director, Ryan Standridge, Associate Planner, Cynthia Draper, Assistant Planner, and Christian Milovich, Assistant County Counsel.

Staff absent: Nate Greenberg, County Administrator; Michael Errante, Public Works Director.

ITEM 3: **PUBLIC COMMENT PERIOD** – This item provides the opportunity for the public to address the Planning Commission on any planning subject that is not scheduled on the agenda.

Commissioner Vogel opened the Public Comment Period at 10:03 a.m.
No comments were made.

ITEM 4: **APPROVAL OF MINUTES (Action Item)** – Approval of the Minutes from the August 23, 2023, meeting of the Planning Commission.

MOTION: Commissioner Morley made the motion to approve the minutes. The motion was seconded by Commissioner Peek.

The Motion passed 4-0-1 with commissioner Kemp absent.

ITEM 5: RENEWABLE ENERGY PERMIT-2022-01/BARKER - The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on one parcel (APN: 038-330-46), in Trona, California. This permit would allow the applicant to construct a proposed 1.2 megawatt (MW) photovoltaic solar facility that uses approximately 2,300 single axis tracker solar panels. The project encompasses 5-acres of pre-disturbed land. This project is a Mitigated Negative Declaration pursuant to CEQA.

Cynthia Draper, Assistant Planner, notified the Commissioners that a revision to the mitigation and monitoring program was being submitted for Commissions review prior to presenting the staff report. Once the revision was submitted for record, she presented the project.

Commissioner Morley acknowledged that the SCE Renewable Energy Program is not a county run program but asked if the county had additional information.

Cynthia Draper, Assistant Planner answered that the county does not have much information and stated that the program is an application process with Southern California Edison (SCE) and is based on qualifications.

Commissioner Morley asked Cynthia to summarize the revisions to the mitigation monitoring program.

Cynthia Draper, Assistant Planner stated that the revision was an expansion of the current monitoring program that included fifteen additional mitigations pertaining to noise.

Commissioner Lehwald had concerns about who would be doing the monitoring and how the conditions would be reported.

Cynthia Draper, Assistant planner clarified that the monitoring and reporting concerns were specific to the noise. She also explained that policing would be the responsibility of the neighboring parcels. They would need to contact the Planning Department or the Sheriff's Department to report the disturbance. She explained that if the developer did not comply with the conditions, it could lead to revocation of the permit.

Commissioner Morley requested clarification on the reporting requirements for dust.

Cynthia Draper, Assistant Planner stated that according to the mitigation and monitoring program, the Great Basin Unified Air Pollution Control District would be contacted directly for dust mitigation issues.

Cathreen Richards, Director provided a follow-up statement explaining to the commissioners that Great Basin is the regulatory and enforcement agency for dust control. However, the county would also go out to verify the complaint because it is part of the condition of approval. Any violation to the conditions of approval, are subject to possible revocation of the renewable energy permit.

Commissioner Lehwald had concerns about fire suppression at the site and wanted to confirm that the county had done its due diligence.

Cynthia Draper, Assistant planner confirmed with the applicant that in addition to the San Bernardino County fire department there was a volunteer fire department that would respond. She

said that she informed the San Bernardino County fire department of the project, and no issue or comments were received.

Commissioner Lehwald had concerns with setbacks based on comments received and asked for clarification.

Cynthia Draper, Assistant Planner explained that there are residences within 400 feet of the project site and that the project meets the required setbacks.

Commissioner Lehwald expressed concerns about the visual aspects of the project.

Cathreen Richards, Director explained that the visual resources were considered and addressed in the CEQA document for the Renewal Energy General Plan Amendment. No mitigation was required.

Public Comment- Commissioner Vogel opened the Public Hearing at 10:31 a.m.

Sean Hungerford, the attorney representing Robbie Barker explained that he came on board with the project when CEQA questions arose. His firm submitted a written response to public comments that was included in the staff report. He stated he was available to answer any questions after he clarified the new noise mitigations. The source of the changes to the new mitigations came directly out of the program EIR for the SEDA approved in 2015. The mitigations related to the construction noise within 500 feet of a residence and other sensitive receptors were added to the monitoring program.

Commissioner Vogel asked how long construction will take.

Sean Hungerford answered that it would take two weeks for trenching and grading and eight weeks to do poles and paneling.

Commissioner Vogel asked what kind of noise the facility will emit post construction.

Sean Hungerford said no impact based off the REGPA baseline study. The inverters are centrally located within the project and are not within the 500 feet of any structures.

Commissioner Peek asked how much traffic will impact the area once construction is finished.

Sean Hungerford answered that once construction was complete not much traffic would occur except for the occasional routine maintenance and checking for vandalism.

Robbie Barker of Valley Wide Construction commented that he was available to answer any questions the Commissioner may have.

Commissioner Vogel asked Robbie Barker what type of hazardous or combustible materials are on site after construction is complete.

Robbie Barker answered that there would be none. He went on to say that the only potential hazard material would be the inverter but when built to specs and tests are passed it removes the hazard. The solar array has an automatic monitoring system that also mitigates issues that arise.

Commissioner Vogel asked Planning staff if the project could create a larger buffer between the residences by moving the project west within the setback and closer to the existing Solar Array.

Cathreen Richards, Director explained that it could not be done without a setback variance.

Commissioner Lehwald asked if future expansion of solar arrays in this area is anticipated in the future.

Robbie Barker of Valley Wide engineering stated that based on SCE existing infrastructure the system may allow for two more.

Commissioner Peek asked if dust mitigation was used on his previous solar array project.

Robbie Barker answered that no dust mitigation was used, but it is now, and this project will have dust mitigation

Tom Kidder, property owner to the west of the solar project addressed the commissioners explaining that his family has owned the property for sixty years and that the project parcels are residential and not commercial and believes the solar should not be allowed. Mr. Kidder expressed concern on how CEQA was completed and has concerns for dust mitigation during the upcoming construction.

Mr. Kidder also had a fencing complaint, but it pertained to project REP 2022-02 and was tabled until the following agenda item because they are different projects.

Commissioner Vogel asked Mr. Kidder if adding security screening would help eliminate some of his visual concerns. Mr. Kidder Replied no, then the view would be of a fence.

Commissioner Lehwald initiated a discussion about Visual Resources based on concerns he received prior to the hearing. Staff explained that visual resources were addressed in the program

EIR and in the mitigated negative declaration documents. It was determined that no mitigation was required.

Commissioner Vogel closed the Public Hearing at 10:57 a.m.

Commissioner Discussion- Commissioner Vogel opened the Commissioner Discussion

A brief discussion ensued to clarify which public comments pertained to 2022-01/Barker. One of Commissioner Morley's questions pertained to this project. A written comment had alleged that the applicant had graded in preparation for the solar installation.

Cathreen Richards, Director explained that staff does not work off supposition, once the permit application was received, the planner went to the site and witnessed that the parcel were devoid of vegetation.

MOTION: Commissioner Vogel made a motion to approve renewable energy permit-2022-01/Barker as presented by Cynthia Draper

Commissioner Peek seconded the motion.

The Motion passed 4-0-1 with commissioner Kemp absent.

ITEM 6: RENEWABLE ENERGY PERMIT 2022-02/BARKER- The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on three parcels (038-330-32, 33, 34), in Trona California. This permit would allow the applicant to construct a proposed 3 megawatt (MW) photovoltaic solar facility that uses approximately 6,000 single axis tracker solar panels. The project encompasses 15-acres of pre-disturbed land. This project is a Mitigated Negative Declaration pursuant to CEQA.

Cynthia Draper, Assistant Planner gave the staff report.

Commissioner Morley inquired about the Moses Lane jurisdiction with regard to public comment.

Cynthia Draper, Assistant Planner explained that Moses Lane is on private property and is termed as a prescriptive right of way. The prescriptive right of way is a civil matter between the two property owners and does not pertain to the solar project being approved.

Christian Milovich, Assistant County counsel, assured the planning commissioners that the prescriptive right of way is not under the purview of the planning commission, and it is a civil matter.

Public Comment- Commissioner Vogel opened the Public Hearing at 11:23 a.m.

Tom Kidder, property owner to the west of the solar project provided a brief statement that reiterated his concerns mentioned in the previous project. Mr. Ritter expressed his disagreement with the county's view of the prescriptive right of way as it will block access to his driveway. He stated that the prescriptive right of way should be considered by the commission prior to issuance

of the permit. Mr. Kidder also disagreed with the staff's analysis of the property during CEQA review because he alleged that the applicant graded during the previously permitted solar project. Mr. Kidder said he believes that the SEDA, allowing commercial use in a residential zone, will affect future development and solar projects should be done on BLM land.

Sean Hungerford, attorney representing Robbie Barker of Valley Wide Construction, reassured the commissioners that the prescriptive right of way is a title issue that will be worked out, but it does not require Planning Commission deliberation. He informed the Commission that he advised his client not to talk about the right of way issue because it is a civil matter that has not been resolved.

Commissioner Lehwald asked if the applicant was aware of Mr. Kidder's application to install the mobile home. On the parcel next to the project.

Sean Hungerford, the attorney representing Robbie Barker of Valley Wide Construction, explained to the Commissioners that Mr. Ritter has property rights and can also build to standards governed by Inyo County.

MOTION: Commissioner Vogel made a motion to approve renewable energy permit 2022-02/Barker. Commissioner Peek made the second.

The Motion passed 4-0-1 with commissioner Kemp absent.

COMMISSIONERS' REPORT/COMMENTS

No comments were made.

DIRECTOR'S REPORT

Director Richards announced that Sally Faircloth was present and will be taking over as Planning Commission Secretary. The Commissioners all welcomed her and congratulated her. Director Richards went on to announce that a Special meeting will need to be held for an appeal for a revocation of a hosted short-term rental. After a brief discussion about availability, it was decided that the next scheduled meeting would be on November 15, 2023, at 10:00 a.m.

ADJOURNMENT

Commissioner Vogel adjourned the meeting at 11:45 a.m.

Prepared by:
Ryan Standridge
Planning Department

From: Howard Smith <hsmotorsports@msn.com>
Sent: Monday, May 1, 2023 7:47 PM
To: Cynthia Draper <cdraper@inyocounty.us>
Subject: Comments on Renewal Barker Solar and Renewable Energy Permit.

You don't often get email from hsmotorsports@msn.com. [Learn why this is important](#)

May 1,
2023

To whom it may
concern.

My name is Howard D. Smith. I live at 2021 Homewood Canyon Road Homewood Canyon. Ca. 93592. I support the proposed Solar and Renewable Energy project near Trona. I have lived in the Trona area since 1977. I owned a 5- acre parcel of land next to the newly finished Barker Solar and Renewable Energy facility since 1980. My 5 acres were mostly fenced & used to store junk cars & scrap metal. I have spent much time on the property & did not experience any inconvenience while the present facility was being built. One big reason I support this project is I own 6 rental properties in Trona. Trona has two very large coal fired boilers. I can go to my properties on any given day & find coal dust lying on the cars. I know that Solar and Renewable Energies are clean & safe. Trona is a small town so news travels fast. I hear there maybe one or two people objecting to this project. One of the persons objecting had concerns about the area being rural residential and not industrial development is not appropriate for the area and will damage property rights and the health and lifestyle of families living in the area. It will introduce industrial activities that will create additional safety concerns for residents and children who live and play in the area. This is a ridiculous statement! Not many years ago the Inyo board of supervisors had a very good meeting at the golf course near Trona. The meeting was well posted in advance. My wife & I attended along with about 50 other local residents. The future plans for the area we are talking about were talked about, inc. solar, wind and pot cultivation at that time. NO ONE voted no to any of this. I would like to address another concern. One person in opposition is saying that, 1. Inyo County has allowed the operator to destroy existing vegetation and wildlife habitat just months prior to the permits being submitted despite the use being clearly for solar development. 2. At a minimum the public is unaware the project area is actually home to the largest habitat of the endangered Mojave Ground Squirrel in California, and likely other species of concern as Inyo County says there are none present such as the Desert Tortoise, and Burrowing Owl which are mentioned in the permit documents. This is not true. I worked for Mojave pistachio relocating the Mojave Ground Squirrel. It lives 45 miles to our north & cannot live in this heat. I also relocated the Desert Tortoise, and Burrowing Owl. Because of my previous experience I took great time & effort searching for Desert Tortoise, Burrowing Owl and snakes. I have spent over 6 months clearing my 5 acres looking for all the above. I did not find any birds, snakes or tortoise! Not one in all that time. Thank you, Howard Smith

Permit 2022-01/Barker Solar Permit 2022-02/Barker Solar and Renewable Energy Permit

Tom Kidder
100 Moses Lane
P. O. Box 1045
Trona, CA 93592

My name is Tom Kidder Property owner bordering on two sides of the project site. I am a retired Facilities Manager for California State Parks. While employed by CSP I was a project manager/consultant for multiple solar projects state wide. I say this so it is known that I am an advocate of solar and not against solar in the appropriate locations following the law and proper procedures. In addition to my comments, I would like it to be known that I concur with all comments and finding made by my neighbor John Mays P.O. Box 583 Trona, CA 93502

No notification from County or Applicant – REGPA 2015 General Plan Revision Gov-2.3 County shall provide the opportunity for the public to engage in the planning process at the onset. and 2.4 Developer must notify residents and/or land owners.

Applicant has stated his intent to block my driveway (Moses Ln.) Moses Ln. has been maintain by my family and has been the access to my home for more that 60 yrs.

Staff report states “Located on land that is highly disturbed with no natural habitat and has been previously graded” Applicant circumvented CEQA law by clearing the land just months before submitting project applications and with total disregard for the law or health and welfare of the nearby residents. Three of the four lots purposed in these two projects where unspoiled desert fauna with the same vegetation and wildlife habitat as the adjacent protected BLM lands. Inyo county is complicit in this action by their own admission as stated in the staff report “Has been previously graded”. The evidence is also readily available on Google Earth. In addition, work on these projects continues to move forward even though there is not a permit to do so. Crush rock has been delivered to the project site for months and continues to be delivered a recent as today 4/28/2023. There is several hundred yards of crushed rock now onsite and zero dust control measures have been taken. (Attached photos taken 4/27/2023)

The now damaged project site was habitat for the listed and endangered desert tortious and Mojave ground squirrel and potentially others. In fact, I have seen both of these species on and near my property. Because proper surveys were not completed, we do not know if there has been any take and therefore should assume there was.

Environmental Review - Mitigated Negative Declaration is the improper environmental review process for the above reasons just stated.

Staff Report states - Vacant land to the north, south and west? My home shares borders to the north and east of the project. The project is 350 feet from my front porch and directly in my viewshed. There is also a home site 30 feet from the project site. The permitted manufactured

home was removed in the 80's and the infrastructure is still there I intend on placing a new home in this location. This property value will plummet if this project moves forward.

This community is zoned Rural Residential, Residential being the word to emphasize. It is completely improper to put a purely commercial operation in a residential community. The county and the applicant are attempting to take advantage of a disadvantaged community. I have personally spoke with many of my neighbors about these solar projects. Every person I've spoken with is upset about it but not willing to speak up. Many are afraid of the county and the applicant. The county and the applicant are attempting to take advantage of an underserved low-income community. Inyo County Code clearly states the purpose for rural residential properties are "to provide suitable areas and appropriate environments for low density, single family rural estate type uses"

I have health concerns from the dust that the barren land is now producing this affects not only the residents in our Inyo County community but the residents in Trona as well.

These projects will bring increased traffic, road impacts to our unpaved roads and safety concerns in our community.

These solar projects set a bad precedent for future development. I am a 3rd generation owner of this property my daughter and grandchildren (4th and 5th generations) live in Trona and will own our little piece a paradise someday. It will be a sad day if we are over taken and surrounded by solar panels.

The REGPA 2015 General plan amendment needs to be revisited. It is inappropriate and unacceptable that all of the 5-acre rural residential parcels are included in the Trona SEDA. These purely commercial uses are a detriment and have many negative impacts to the natural environment and residents of our small community. Ultimately, I would like to see these 5-acre RR parcels removed from the Trona SEDA and returned to the Residential Estate designation.

I ask that these projects be denied and the REGPA 2015 General plan amendment be revisited and adjusted with the wildlife, environment, health wellbeing and quality of life of the residents in consideration.

**Comments on Renewal Energy Permit 2022-01/Barker Solar and Renewable Energy Permit
2022-02/Barker Solar**

March 21, 2023

Due to anticipated potential retaliation and nature of my highly specific comments within I would request that my comments be kept strictly confidential.

My name is John Mays. I am a licensed professional engineer in California, Colorado, and South Dakota. I live directly adjacent or very close to both proposed permits in question and have observed first-hand the activities of the proposed and existing projects and its developer/operator over about 2 years now. I have worked in the mining industry, often as a leading corporate executive or manger, for over 30 years working during much of this time supervising and implementing regulatory efforts, environmental compliance, regulatory litigation, and project development across several states in the US.

Never in 30 years of being a participant of many similar regulatory actions have I ever seen such apparent negligence and lack of involvement by a regulatory agency. The proposals here are a violation of existing rights and not in the public's best interest. The number of procedural errors and incorrect statements make the current proposals technically unsound and legally indefensible. Review of these proposals show Inyo County unqualified to perform such evaluations and their recent actions demonstrate they are incapable of properly enforcing compliance at this remote location. Inyo County's own procedures as found in the REGPA, have been fundamentally violated to a great extent, and federal state, and local laws and regulations have likely been violated as well. The magnitude and number of these violations support a legal challenge should it be necessary. This could include pursuit of relief from the properly approved Renewable Energy Permit 2021-01 which has been allowed to operate in violation of requirements for several months.

I request that the Board immediately deny the proposal for Renewal Energy Permit 22-01/Barker and Renewable Energy Permit 22-02/Barker. As well, the County needs to update the 2015 REGPA and remove all the rural residential parcels from the Trona SEDA. These areas are clearly not suitable for solar development as this is an active residential community which has been lived in many decades, it is home to families right at the edge of this development who will have their lives, health, and property rights seriously diminished by such improper industrial development. Additionally, these two new proposals set a precedent for a future that expands and exacerbates impacts across this private residential area paving the way for expansive unregulated solar development. The following reasons are why these permits must be denied:

- 1.) The area is rural residential and not industrial development is not appropriate for the area and will damage property rights and the health and lifestyle of families living in the area. It will introduce industrial activities that will create additional safety concerns for residents and children who live and play in the area. My son is an autistic teenager with severe development display that leaves him unable to verbally communicate and unable to comprehend the dangers involved by industrial traffic, nor dangers associated with the project. We moved here to specifically here to avoid such danger. The proposals here will increase use of roads and lands in very close proximity to my home that is not appropriate for a residential area. A substantial buffer zone of a half mile should be in place between

residences and this solar activity to avoid impacts to residents. Additionally, Inyo County has misinterpreted and not properly assessed impacts to several parcels adjacent to the proposals as “vacant” because these are contiguous with our residences and are an active part of our homes.

2.) Inyo County has repeatedly mischaracterized and improperly announced the project as heavily disturbed and with no natural vegetation in public statements. The developer purchased the properties soon after he received permits for Renewable Energy Permit 2021-01 and has commenced removal of all vegetation and topsoil just a few months before submitting permits completely contrary to Inyo Counties regulations.

3.) Inyo County did not properly follow its own requirements found in the REGPA to provide an meaningful opportunity to landowners and the community to “engage”. Such requirements need to occur at the onset of the project, meaning when an application is submitted. This did not occur. Despite the obtuse wording of their regulations placing the burden on the uninformed local party, it is realistically should be Inyo Counties responsibility to try to meaningfully engage with those immediately impacted by the project upfront to avoid a giant mess and legal issues in the aftermath. Given the nature of Inyo Counties actions here appears that it is trying as much as possible to avoid this communication so that the permits will be resolved without anyone’s knowledge. This is completely contrary to the intent of any permit process as well as the REGPA.

4.) Inyo County has allowed the operator to destroy existing vegetation and wildlife habitat just months prior to the permits being submitted despite the use being clearly for solar development. This is specifically not allowed in the Inyo County regulations. By these actions, it allows developers to escape reclamation requirements and eliminate environmental aspects of concern. This is made possible by purchasing private land and destroying vegetation prior to permit submittal and should not be allowed.

5.) Inyo County has not conducted a proper assessment of impacts to biological resources including a wildlife survey with on-site identification of species of concern prior to issuance of permits. No protection is given to avian species of concern in including raptors and migratory birds as well as their food sources such as lagomorphs which reside in local vegetation. Proper avoidance buffers of nesting locations need to be identified. Wildlife habitat and food sources of species of concern were destroyed by the developer/operator prior to the permit issuance. The presence of wildlife and protective measures were not discussed or evaluated, except to be handled later. This does not give comfort and does not inform the public properly. It also puts this wildlife at risk. Indeed, at a minimum the public is unaware the project area is actually home to the largest habitat of the endangered Mojave Ground Squirrel in California, and likely other species of concern as Inyo County says there are none present such as the Desert Tortoise, and Burrowing Owl which are mentioned in the permit documents. The need to be evaluated prior to permit issuance in consultation with the proper agencies.

6.) Inyo County has not properly managed the existing project REP 2021-01 and allowed violations for many months of its own requirements (REGPA, MER-2.7) for minimizing dust emissions and has thus endangered the public health,

7.) Inyo County has not properly assessed visual impacts and aesthetics which would be greatly altered by the projects. Solar is a drastic change to the landscape including the “desert kitsch” in the immediate community. This old and dilapidated aesthetic has been used extensively in dozens of films, commercials, TV shows, music videos, video games, and other cultural media and is of a recognizable

character worldwide. Such filming occurred in the recent year. The movie “Just Add Water” filmed in Trona is set in this very setting. It is suggested the Inyo County may learn more of this from the Ridgecrest Regional Film Society. Junk yards make up this aesthetic, but modern solar cells do not. This existing solar facility has already had a substantial impact on the viewshed from my home and other residents which has not been properly mitigated. Further expansion of this facility as proposed here will destroy this viewshed for myself, residents, and tourists.

8.) Inyo County has not properly assessed impacts to tourism in area well known as one of the main routes of tourism into Death Valley and onward into Inyo County. This is industrial development immediately adjacent to the highway used to enter Death Valley National Park and is within a few miles of the park boundary. These solar cells constitute negative visual impacts detrimental to the attraction of the National Park.

9.) Inyo County has disproportionately affected disadvantaged communities by the design of its REGPA and the proposal which disproportionately impacts ethnic groups and those living in poverty. Inyo County has not performed the necessary outreach for these communities, who are likely fearful and unable to properly respond. Diagram 32 in the REGPA suspiciously lacks Solar Energy Development Areas near the main population centers of Inyo County where electricity would mostly be needed. Instead, the REGPA locates the SEDA’s far away in small, disadvantaged communities who were likely without knowledge of Inyo County’s solar plan and not able to engage because the lack of meaningful outreach.

10.) Inyo County has not properly assessed hazardous chemicals to be stored at the project which potentially include highly flammable lithium batteries and fuel among others stating there will be none.

11.) Inyo County has not properly assessed fugitive dust, an EPA deemed pollutant. It is clear that this pollutant will be generated in substantial quantities yet Inyo County states there will be no pollutants. Inyo County needs to do dispersion modeling on fugitive dust to evaluate air impacts within miles of the project and also provide an analysis of its impact on public health prior to issuing permits.

12.) Inyo County has not provided documents allowing for proper review by the public including information that support its environmental assessments during the REGPA or regarding these proposals, the project applications, reclamation plans, grading plans, and maps and design information of the project. Nor have any of the documents been provided to the public in Spanish.

13.) The developer did not notify landowners and the public as required by REGPA, GOV-2.4

14.) The developer/operator is not suitable for the project based on violation of Inyo County regulations by conducting development without a permit. The operator has already shown general disregard and hostility to landowners in the area without performing any outreach on the project. The developer/operator is responsible for compliance with all applicable regulations including the very common practice of dust control and thus has committed willful violation of such regulations, despite the lack of an air permit. None of this complaint and violation history or the outcomes was provided for viewing by the public. Additionally, the developer/operator has already not shown a good stewardship in terms of other areas of concern including poor housekeeping and visual upkeep of the existing site, infringement of property owner’s rights by placement of refuse on these neighboring lands, a general

lack of security of the site, and untimely efforts to complete construction of the project. Additionally, the developer/operator has also constructed fencing within a right-of-way.

15.) Inyo County has not properly assessed impacts to agriculture despite the fact of subsistence agriculture is present within the Trona SEDA. This includes in the past immediately adjacent to the project and currently with a few hundred feet. The County has ignored the common use of rural residential property for this purpose and well as effects of dust on the existing agriculture.

16.) It appears Inyo County has not engaged in necessary agencies in the area who manage lands in the area which would be impacted by the development. Given that that impacts area from fugitive dust, vegetation and wildlife are far reaching this would be expected include BLM, US FWS, CA Department of Game and Fish, Trona Historical Society, Great Basin Unified Air Pollution District, as well as communities and agencies in San Bernadino County, and likely others. This needs to be done prior to making a staff recommendation so proper information can be provided to the public for review. Additionally, the staff commonly assume that “no response” is meaningful outreach when it may be likely no one ever received such information. This previously occurred with the Great Basin Unified Air Pollution District who did not respond to the request for comment. It was only long after permit issuance and after many months of construction that controls for protection of air quality were put into place. This failure was rectified too late, coming only after complaints were made and not preventing months of unregulated releases of fugitive dust.

17.) Inyo county needs to assess the cumulative effects of the proposals along with impacts that have been documented during the prior construction phase. It needs to account for the effect of other similar impacts found in similar existing solar facilities. The County needs to evaluate the cumulative impacts including an environmental justice assessment should development continue to expand into full 600 acres as allowed by the REGPA. This assessment should account for the greater likelihood that private rural residential parcels of the Trona SEA would likely be the sole property type utilized, therefore greatly impacting homeowners and residents, as this avoids a more complicated federal permitting process. This is a pattern already evident so far.

18.) Inyo County has not properly assessed effects caused by wind erosion, site grading, and protection of topsoil including during normal and extreme rainfall events. No information was provided on any plans for compliance with NPDES (National Pollutant Discharge Elimination System) requirements. There are no observable topsoil stockpiles in the previous and proposed project areas. Runoff channels are readily observable in the project areas.

19.) Inyo County needs to properly set a reclamation bond for the project and use a cash bond or other suitable financial instrument. This evidently is not required on Renewable Energy Permit 21-01 which uses solar cells on the project. This bond needs to set reclamation standards based on vegetation existing before the developer/operator destroyed it prior to submitting an application. Additionally, it is not acceptable to use resale of the projects’ solar cells as the reclamation bond. They would depreciate in value. Not requiring a bond before disturbance would allow the operator to highly disturb the project prior to purchasing the solar cells without a guarantee in place.

20.) Inyo County has not properly assessed impacts based on wind-blown accumulations of sand and the formation of sand dunes as result of the removal of vegetation on the project. It has not assessed how

these sand dunes will affect downwind communities and residents including increasing negative air quality impacts and the burial of structures.

21.) There is no apparent documented cost-benefit analysis of the proposed project and assessment of the benefit to the local community. Despite a clear emphasis on the importance of local benefits in the REGPA, including such things as lowered electric rates, it is unclear whether the project will result in any benefit to local residents. This includes what and how much they specifically they will be. As these comments expand upon there appears there will be substantial negative impacts to local homeowners and residents with nothing in return.

22.) Inyo County has not properly assessed archeological or tribal resources and historical preservation as required by law. Tribal consultation may still be in progress since submittal of the previous permit application in 2018. The Planning Department in its 2021 staff recommendation for approval (Permit 2021-01) identified additional tribal consultation was necessary as the project lies within the Chemehuevi Traditional Use Area. This is not discussed in these new proposals. Ancestral homes are adjacent to the projects, one of which has been inhabited for five generations and another for three generations. The area is part of a substantial mining community over 100 years old. Apparently, Inyo County is proposing and has already allowed disturbance prior to an archeological field survey. This archeology survey would be not simply for tribal artifacts, and it should be conducted by qualified individuals to confirm the presence or lack thereof prior to disturbance. This would also serve to inform tribal interest at the site. Inyo County procedures for unanticipated discoveries rely on identification of tribal or cultural artifact by the operator who is not qualified to make such an assessment.

23.) It is unclear if Inyo County has done necessary evaluation of the flight path into the Trona Airport and supporting documentation to the FAA, in cooperation with airport management.

24.) Inyo County has not provided a road management plan on how the permit areas will be accessed for construction and operation. Due to the amount of activity, a turnaround to access the facility would be expected to be needed on Highway 178. The public and residents have not been advised on how they will be impacted on their private roads and right of ways by the project because the county apparently has not done the proper planning.

Extension of Comment Period

I received a informal letter announcing a public meeting on March 15, seven days prior to the hearing scheduled for March 22. Given the short notice, I already have commitments for that date and cannot attend. It is not possible to review the two proposals in such a short time to obtain a full set of comments for legal standing in the permit process. Also, this is far too little time to prepare a proper response and fully document and support all issues of concern. This would include time necessary to retain legal counsel to potentially review the legality of the action and previous events. The technical nature of many of these concerns would potentially involve seeking input from technical experts and making additional contact with the surrounding public and agencies that manage the area. There are a large amount of relevant material not made available for review including permit applications and attachments with project details to the online documents that need to be provided. The REGPA requires that the operator make notification with landowners at the time of submittal and opportunity for local landowners and public to engage in the process, which has not been possible to date. I would request an extension of the time consistent with such a process and assuming a proper notification of

permit submission. **For that reason, I would request an extension of 120 days based on the estimated time to complete a full review.** That is unless Renewable Energy Permit 22-01 and 22-02 cannot be denied outright based on the comments provided herein.

Inyo County and the Operator Did Not Engage or provide the Proper Notification

From the *FINAL REGPA, AS ADOPTED BY THE BOARD OF SUPERVISORS PUBLIC HEARING MARCH 24, 2015.*

- Policy Gov-2.3: Public Involvement: The County shall provide the opportunity for the public to engage in the planning process at the onset of any renewable energy solar facility project and for all other large or potentially controversial projects applied for in the County.
- Policy GOV-2.4: The County shall require that renewable energy solar facility developers notify residents and/or landowners by direct mailings or other appropriate means announcing projects at the time an application is submitted.

“Engage” does not mean to simply notify. It means an opportunity to involve meaningfully, which includes meaningful communication between parties and efforts to ensure effected parties are fully informed and have proper ability to give feedback on the effects of the project. “At the onset” does not mean seven days prior to final approval. Inyo County has completely disregarded its obligation to provide an opportunity to engage in a timely fashion. This is also despite a request to be notified in my email of such permit applications being submitted on December 1, 2021, sent to Cathreen Richards, Planning Director. As well as extensive communication of concern on the proceeding dust emissions from the existing project.

I am the only person in the local community that I am aware of who has been notified about the proposed projects. This was done in an informal hand addressed letter, with no return confirmation receipt, see photo attached. Inyo County mentions no attempts to realistically notice within the local community, most of which is associated with the town of Trona and very remote from most of Inyo County. The Inyo Register is not a proper form of public notice in this case and is not associated with the demographics of this area which is 2 hours or more from away from the main communities of Inyo County such as Independence, Lone Pine, Mammoth, and Bishop. Its residents are commonly associated with San Bernadino County. I am not aware of this paper being for sale at any store in Trona and there is no circulation of any paper in the area. Regardless, the proposed actions effects multiple residents and landowners within the Trona REGPA and the community of Trona did not receive an opportunity to “engage” through a public notice in remote newspaper with no local visibility. Especially given the air impacts impact shown to effect Trona, San Bernadino County and other SEDA residents was documented in emails including photos and video dated November 30, 2021 and January 21, 2022 sent to the planning department.

I did not receive any notification of the Notice of Availability and Intent posted in the Inyo Register on November 14, 2022 for public comment. As discussed, this paper is not available in the area to any local person. Despite my prior request to be notified. Therefore, I was unreasonably denied an opportunity to engage and provide comments on the Initial Study Mitigated Negative Declaration.

I also did not receive any notification from the developer as required by Policy GOV-2.4. Nor any communication from Inyo County on this submittal of applications. Inyo County provides no evidence of this in documents online.

Additionally, I was also not notified or provided the opportunity to engage in the process during the development of the REGPA despite residing with the proposed SEDA.

The county planning department is aware that I previously submitted videos and pictures over a period of several months during the construction of the facility which showed a repeated disregard for dust control procedures and Inyo County regulations for development of Renewable Energy Projects. This correspondence resulted in the discovery that there was lack of an air quality assessment and air permit, which is crucial component to prevent health impacts to the public. Inyo county has again proposed issuance permits and public review without performing an air quality assessment or air quality permitting. Further, it has not included analysis including arising from the reported incidents in this documentation. This lack of information could change public involvement and concern regarding the project.

Communications and a photo documenting the start of scraping away of the topsoil and vegetation by the developer pre-permit was provided to the Inyo County Planning Department on January 13, 2022. This is about 10 months after permits were issued on Renewable Energy Permit 21-01 and appears to coincide with the recent acquisition of the properties by the developer. Regardless that these unpermitted properties were contiguous with Renewable Energy Permit 2021-01, had the same owner which was the developer of REP 2021-01, and that an air quality permit was pending, the County refused to stop this pre-permit development activity based on claim by the owner it was not for solar. A few months later during the same year and the developer applies for solar permits for these same fully stripped parcels. Unbelievably, Inyo County Planning Department is now recommending for approval despite full knowledge of this activity. The developer has violated Inyo County regulations for Renewable Energy Projects and substantially bypassed Inyo County ability evaluate impacts on the native state of the environment, eliminating potential issues of concern, and reduction reclamation requirements. Inyo County describes the two proposed project areas as "heavily disturbed" and "lacking vegetation". However, this was not true just a few months before the developer stripped the lands bare. Inyo County made its evaluations based on an environment following a complete destruction of topsoil, native habitat and vegetation. This is an incorrect and untrue basis. This has the been in turn been misrepresented to the public and the Board of Supervisors. For this reason, the two proposed permit areas must be denied approval.

From Inyo County Code:

21.16.010 Renewable energy permit.

Any person who proposes to construct a facility within the county or modify an existing facility within the county shall, prior to the commencement of construction or modification, first apply for and obtain from the county planning commission a renewable energy permit, unless specifically exempted from such requirements by this title or by state or federal law. (Ord. 1158 § 3, 2010.)

21.24.010 Prohibition.

No person shall construct a facility without first obtaining a renewable energy development agreement, a renewable energy permit or a renewable energy impact determination and no person shall operate a facility in violation of a renewable energy permit or renewable energy development agreement. (Ord. 1158 § 3, 2010.)

Vegetation Destruction

Photographic satellite evidence of the pre-existing vegetation on the proposed Renewal Energy Permit 2022-01 and 2022-02 can be found online. Images in 2020 prior to Barker ownership of the parcels clearly show identical vegetation to surrounding undisturbed areas. To be fully accurate, for REP 2022-02 there is a single parcel within #38-330-34 that was previously disturbed though the two other parcels 38-330-32 and 38-330-33 that are indistinguishable from undisturbed lands. For REP 2022-01 there was essentially no prior disturbance and health vegetation similar to undisturbed adjacent lands is readily visible in 2020. Additionally, 2018 satellite information shows the same pre-permit disturbance by the developer was true for the already permitted REP 2021-01 which was classified as heavily disturbed despite one parcel #38-330-47 showing quite the contrary. Satellite images are currently only available up to 2020.

Ground level photos taken March 19, 2023 as provided show the conditions following pre-permit stripping of the topsoil and vegetation.

Vegetation in the form of a hardly scrub brush that takes a considerable time to become established was destroyed on all of these parcels. These plants are about 1-3 feet in height and provide the most important primary stabilization and reduction of airborne topsoil transmission. Examples of this vegetation are provided with the attached photos.

Prior Issues with Renewable Energy Permit 21-01/Barker Solar and Dust

For many months perhaps even over more than a year dust was seen emanating from parcels 38-330-47 and 38-330-48 as clearing efforts were underway never was any dust controls measures observed and frequently dust inudating nearby residences particularly the McNamara residence. A complaint was only filed after repeated observations of this activity which also included clear of a considerable amount of material associated with a decaying old mobile home which was also observed being made airborne.

On November 30, 2021 photos showing a fugitive dust were provided to the Inyo County Planning Department. The photos showed a suspended cloud of dust covering a large area of the Searles Valley. This lead to Inyo County referring me to the Greater Basin Unified Air Pollution District. It was advised that no air permit was in place because the GBUAPD had not commented on REP 21-01. Not until Dec 17, 2021 was an air permit issued for the project by GBUAPD.

On December 6, 2021 following discussions by the Great Basin Unified Air Pollution District with the operator of Renewable Energy Project 21-01 additional plumes of dust traveling well outside to the permit area for Renewal Energy Permit 22-01 were provided as requested. Still at this time the operator was allowed to continue activities without a permit

On January 21, 2022 a massive airborne dust plume from the solar plant was filmed during a high wind occurrence and provided to the Inyo County Planning Department and Great Basin Unified Air Pollution

District. This video shows dust inundating and completely occluding from view houses all the way into Pioneer Point (a community of Trona). This plume likely resulted in removal of large amount of topsoil. This dust was observed blowing all the way through to the Trona school and heavily deposited further near the Trona post office which is 4 miles downwind. Video is attached.

For this reason, Inyo County needs to assess fugitive dust in much greater distances than the project boundary and needs to allow comment from those which may have or could be impacted by this project. Such an assessment should include dispersion modeling of construction and operations phases and an evaluation of potential health impacts including and not limited to silicosis and valley fever.

Wildlife Concerns

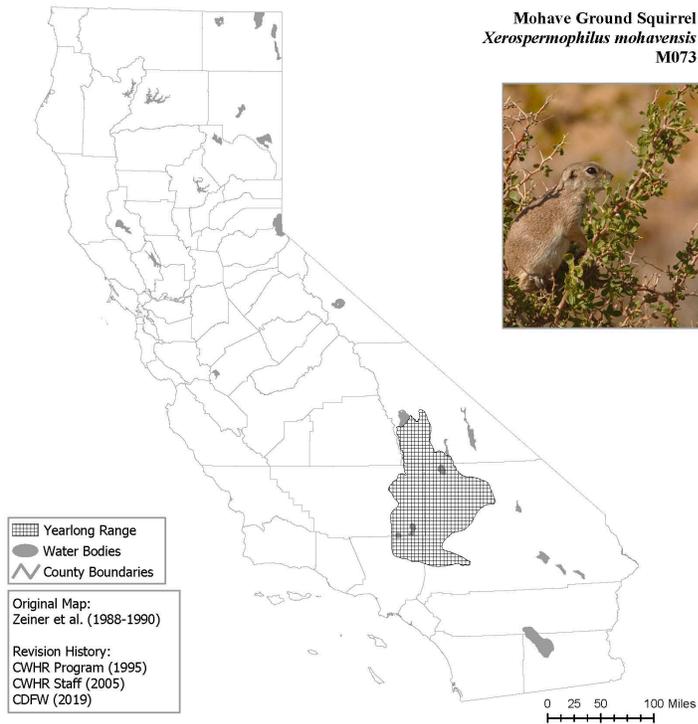
Due to the known presence of endangered species such as the Mojave ground squirrel, Inyo County needs to first perform a full biological assessment and inventory prior to issuing permits. Apparently, Inyo County also did not evaluate migratory birds and raptors which should also be afforded similar protection before permits are issued and may require avoidance buffers for protection. This would ensure critical habitat is not destroyed or negatively affected. Such an inventory needs to include not only the 15 acres within the proposals but a survey of the surrounding area sufficient to protect and prevent impacts to wildlife in the surrounding area. This survey also needs to be conducted over the period of a year to account for seasonal variation of wildlife populations and particularly their food sources. Inyo County needs to fully consult with wildlife agencies prior to permit issuance.

In a similar fashion needs to perform all these same actions before permits are issued for vegetation and identify species of concern. There is no analysis of this in the permit documents

All this information must be provided to the public for review prior to permit issuance. Indeed, without proper wildlife surveys and wildlife agency consultation Inyo County does not provide any protection nor allow any public involvement for plant and animal species as they have not been assessed. Given the documented actions pre-permit of the developer this is paramount.

Special care should be given to the Mojave ground squirrel which appear seasonally and regularly in the immediate area. I personally observe these in great numbers through the permit areas each year when they begin to appear in spring and during the summer. I believe they hibernate during the winter. The following map shows that these proposals are within the single largest habitat in California.

California Wildlife Habitat Relationships System
California Department of Fish and Wildlife
California Interagency Wildlife Task Group



Range maps are based on available occurrence data and professional knowledge. They represent current, but not historic or potential, range. Unless otherwise noted above, maps were originally published in Zeiner, D.C., W.F. Laudenslayer, Jr., K.E. Mayer, and M. White, eds. 1988-1990. California's Wildlife. Vol. I-III. California Depart. of Fish and Game, Sacramento, California. Updates are noted in maps that have been added or edited since original publication.

Photo by Yathin Krishnappa: <http://yathin.com/wordpress/about/>
License: <https://creativecommons.org/licenses/by-nc-nd/2.0>

View and download map in BIOS: <https://apps.wildlife.ca.gov/bios/?dslist=908>

Hawks have been regularly observed in and surrounding the permit areas which serve as hunting grounds for lagomorphs and other food sources. Nesting locations of such raptors in the larger area need to be identified to provide proper protection for the protected species. I have even seen at times hawks nesting in the largest tree in my yard which will be a few hundred feet from the project.

I have also heard a number of reports from locals that the Desert Tortoise occurs in the area. This includes the previous owners of home who told me that they lived at one time in rocks on the eastern side of the parcel with my house.

Other Solar Projects

I have been much more aware and observed numerous solar facilities elsewhere in Nevada and California in other counties. In particular, those nearby California City in the small communities of Ricardo and Cantil. I would like to provide the following observations:

- 1.) some facilities do not remove topsoil and readily build supporting structures for solar cells on top.
- 2.) all of these facilities are well removed from residential areas, completely unlike these Trona permits which are with a few hundred feet or less from inhabited residences. The one exception being the community of Ricardo/Cantil, CA which has suffered considerably.

3.) These facilities are clearly marked with messages allowing for immediately reporting excessive dust and warning people on the highway.

4.) In some, particularly those facilities near Cantil/Ricardo. Downwind of the prevailing wind direction there is significant accumulation of blowing and drifting sand. This sand is at times increasingly burying residential structures and is also easily mobilized in high winds creating a high concentration of fugitive dust that can expose the public to a health risk. This an environmental disaster in this community and we have one in the making with these proposals.

All these need to be accounted for and evaluated by Inyo County prior to permit issuance so that the public may be informed. Given the extreme proximity of these proposals, such downwind accumulations of blowing sand may prohibit the project.

Additional Comments and Photos and Other Information

A second document is being provided with many large file size information items. Please refer to this for additional information related to the above as well as additional comments. *It is requested that this document also be kept confidential.*

Cynthia Draper

From: John Mays <johnmmays1@gmail.com>
Sent: Wednesday, March 22, 2023 8:05 AM
To: Cynthia Draper
Subject: Re: Comments on REP 2022-01 and REP 2022-02 INYO COUNTY BOARD OF SUPERVISORS MEETING MARCH 22, 2023

Cynthia,

Thank you for following up on my request to keep my comments confidential. Given this I recind my request for confidentiality and you may may use all of my comments publically.

Thank you,

John

On Wed, Mar 22, 2023, 7:38 AM Cynthia Draper <cdraper@inyocounty.us> wrote:

Sorry about that. It was right before 5 and I was rushing to respond to you. I must have had that name in my head.

Thank you,

Cynthia

From: John Mays <johnmmays1@gmail.com>
Sent: Tuesday, March 21, 2023 5:03 PM
To: Cynthia Draper <cdraper@inyocounty.us>
Subject: Re: Comments on REP 2022-01 and REP 2022-02 INYO COUNTY BOARD OF SUPERVISORS MEETING MARCH 22, 2023

You don't often get email from johnmmays1@gmail.com. [Learn why this is important](#)

Thank you Cynthia.

My name is John by the way.

On Mar 21, 2023, at 4:58 PM, Cynthia Draper <cdraper@inyocounty.us> wrote:

Hello Dave,

I received your comment and attachment just fine. I have sent it to the Commissioners and your name will remain confidential at the meeting.

Thank you, Drive safe.

Cynthia

From: John Mays <johnmmays1@gmail.com>

Sent: Tuesday, March 21, 2023 4:41 PM

To: Cynthia Draper <cdraper@inyocounty.us>

Subject: Comments on REP 2022-01 and REP 2022-02 INYO COUNTY BOARD OF SUPERVISORS MEETING MARCH 22, 2023

You don't often get email from johnmmays1@gmail.com. [Learn why this is important](#)

Cynthia,

Please see attached my comments that I request be confidential.

Note that I was not properly notified about the submission of the permit applications and have not been given a reasonable opportunity to engage in these permits. As such I am requesting an extension of the time to review.

I have serious concerns regarding the two permits.

I also have a second document with many large file size items that I would like to deliver but will likely be too large for email. These have substantial information that I would like to have included.

I cannot attend the meeting because I have to travel to Arizona for business and have only a few days to respond to the notice that was mailed by the county announcing the hearing.

Thank you,

John

Additional Comments on Renewable Energy Permits 2022-01 and 2022-02

John Mays P.O. Box 583, Trona CA 93592

1.) The scope of proposed solar projects is not consistent with the zoning designation of the residential community in which it is proposed. This community consists of many long-term residents and subsistence agriculture use. The design of solar facilities precludes acceptable rural residential uses that are listed under Inyo County Code. Expansion of such facilities will create an increasing diminishment or such land available for Rural Residential uses. This use is scarce in the region surrounding Trona.

All of the parcels in the areas used by proposed projects are zoned Rural Residential. Nearly all of the surrounding community consists of parcels zoned as Rural Residential. Please see the map of the REGPA, Southern Solar Energy Group. (Referred to here as Trona SEDA)

Inyo County Code states the following as the purpose for the rural residential

18.21.010 Purpose.

It is the intent and purpose of this chapter to provide suitable areas and appropriate environments for low density, single family rural residential and estate type uses where certain agricultural activities can be successfully maintained in conjunction with residential uses on relatively large parcels. The RR (rural residential) zone is intended to be applied to the areas outside the urban communities of Inyo County which are without fully developed services and where individual residences are expected to be largely self-sustaining, particularly for water and sewage disposal. (Ord. 943 § 4, 1994.)

Furthermore, under 18.21.020, 18.21.30, and 18.21.04 none of these uses make any mention of commercial uses or solar plant development.

It is important to note that while the REGPA allows that Inyo County **“may consider”** Commercial and Utility scale solar projects within any zoning designation this does not mean that such proposals are automatically consistent with such use and must be approved. Indeed, in this case the proposals preclude and seriously deteriorate the available zoned use. There appears to be a large disconnect in the REGPA when one accounts for the number of available Rural Residential Parcels within the Trona SEDA and the total allowable use of 600 acres for solar development. While the Trona SEDA is much larger than the 600 acres because of a larger amount of BLM lands within it, these BLM lands are not likely to be used due to a more difficult permitting process. This creates the real possibility for complete decimation of the Rural Residential use where such activity is now currently focused with one existing and now three proposed new projects all in the RR zoned area. This is not consistent with the primary purpose of the zoning of these parcels, not to mention the proximity to the residential areas of Trona. As such, this error needs to be corrected and all of the Rural Residential parcels within the Trona SEDA should be removed for possible solar commercial and utility scale consideration by an update to the REGPA. In this way, ongoing future use for housing and agriculture can be preserved. Such housing that allows subsistence agriculture is an important and valuable resource for the county and not widely available in the Trona community.

It should be added that such a situation is not apparent near other more developed parts of Inyo County, where more detailed evaluation is apparently required. This double-standard shows that Trona has been overlooked.

As an alternative to use of rural residential parcels, there is a considerable quantity of other lands within the Trona SEDA at distance from residents that would serve to minimize impacts to residents much more favorably.

2.) Has the developer completed construction on REP 2021-01? This does not appear to be the case as the project continues to have construction equipment, large piles of limestone gravel, and chemical tanks being stored on-site. Also, such piles of gravel ave also been placed in the right of way on another recently announced solar project in the Trona SEDA owned by the developer's brother and blocking one resident's access to his property.



April 10, 2023 picture of REP 2021-01 showing number of piles of limestone gravel and earth, drilling rigs, some portable chemical tanks, refuse rolloff, etc.



April 10, 2023 Same limestone gravel deposited across the right of way and well-established existing access road. Gravel and equipment is on another solar project recently proposed for development by SBC Developments.

3.) Inyo County needs to consider effects beyond the boundaries of the parcels on which the proposed projects are being constructed and also seek input from landowners and the community well beyond a 300 ft limit. From the REGPA,

- *Policy MER-2.6: Avoid, Minimize, or Mitigate Impacts. The County shall work with renewable energy solar developers and other agencies to avoid, minimize, or mitigate impacts to the social, economic, visual, and environmental resources of the County from renewable energy solar facility development.*

Inyo County's limited engagement of the community and residents in this matter is recipe for disaster and will also result in a loss of social, visual, and environmental resources. Indeed, Inyo County has not done proper research into these matters. History includes a lack of improper environmental controls for the first permitted solar facility and the allowance of pre-permit construction on these projects. Inyo County's analysis on these projects indicates that such analysis stops with the parcel, yet many impacts here are far reaching. Such impacts include visual impacts, impacts to wildlife and vegetation, social and economic impacts, and environmental impacts including those on health and safety. Such long ranging impacts have already occurred with the massive amounts of unregulated fugitive dust emissions that were allowed for many months to harm residents immediately adjacent and miles down wind. Roads and power transmission lines are other effects outside of the parcel property lines not considered appropriately in the permit documents.

4.) Inyo County needs to prepare a project specific EIR based on new additional information or substantiate its conclusion that its Draft Mitigated Negative Declaration is appropriate under CEQA

regulations. It has not explained its rationale for not conducting an EIR. It has also not done the necessary environmental review to support the findings here. Given substantial incorrect information in the Draft Negative Declarations for REP 2022-01 and REP 2022-02, it is highly probable these assessments have been made by unqualified individuals with little to no project specific information. Inyo County needs to prepare a sufficient EIR to assess social, visual, and environmental impacts on this project before proceeding and has made no demonstration this has been previously completed or has otherwise obtained the necessary project specific additional analysis required. Outstanding analysis including obtaining an air permit and conducting wildlife studies after the permit is issued are inconsistent with the requirement to avoid and minimize impacts which cannot be done until the environment is first understood. This also means that staff findings have not been completed properly and improperly conveyed to the public for review.

No previous studies, documents, and sources are cited regarding environmental data to support the proposed permits nor in documents that were provided with the permits. Thus, no opportunity has been provided to the public to review any data supporting the conclusions made by staff on this project. Given the lack of information and its apparent inadequacy, it is believed that such information does not exist. In such a case, CEQA regulations require these investigations to be conducted before these permits can be issued.

The last study of the area was in 2015 under the Final Program Environmental Impact Report (EIR). This report is dated and as primary form of mitigation requires a multitude of site-specific field surveys and environmental assessment for each solar project before they are approved. The REGPA states that it should be regularly updated and now is the proper time given the large extent of issues of concern.

One aspect overlooked by Inyo County includes residents including children that are now living adjacent to the proposed facilities including myself and others. No assessment has been done from the point of view of local residents. How are we now going to be impacted? Does Inyo County even care?

5.) Land Compatibility Issues

Inyo County has not undertaken the necessary environmental review as required by the Inyo County Renewable Energy General Plan Amendment, Volume II – Final Program Environmental Impact Report, March 2015 (here after referred to as the EIR)

4.10.3.4 Land Use Compatibility

Future solar energy projects could result in potential land use compatibility issues, depending on the location of such projects and the presence of nearby uses that could perceive nuisances or incompatibilities. For example, noise or glare from a future solar energy project could be inconsistent with adjacent sensitive uses, such as residences or school uses. Based on existing land uses within the SEDAs, it is expected that future solar energy projects within the SEDAs would be relatively isolated from other uses; however, most of the SEDAs do contain some amount of residential uses or other uses that could be sensitive to activities associated with a solar development project, if it was located in close proximity. Future solar development projects would be subject to the applicable land use requirements of the County and additional environmental review. As part of this review, each project would be analyzed to determine impacts regarding the land use compatibility with adjacent uses. Future development of solar energy projects within the SEDAs would require appropriate siting and is subject to further review and approval from the County. As such, the REGPA would not result in significant impacts associated

with the land use compatibility. Impacts associated with the proposed REGPA would be less than significant.

Instead, Inyo County uses the REGPA as a basis for compatibility for land use but provides no additional analysis. Quoting the “Evidence” supporting Findings #2 and #3 from the Staff Report:

“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 therefor has consistency with the General Plan.”

“Utility scale and commercial scale renewable energy solar facilities are allowed within any zoning district under Title 18 of the Inyo County Code, 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.”

Statements of the Planning Department here conflict with the findings of the EIR which states that additional review is necessary when in proximity to residences which are sensitive to land use and approval is dictated by the results of this analysis not by simply the SEDA designation. Inyo County has not provided or performed this additional environmental analysis.

6.) Inyo County has not performed the necessary Noise Report as required by the EIR as applicable to Commercial scale facilities. Mitigation measure from the EIR:

MM NOI-1: Prepare technical noise report for solar facilities proposed within 500 feet of noise sensitive land uses.

If a proposed utility scale solar energy project resulting from implementation of the REGPA is within 500 feet of a residence or other noise sensitive land use, prior to issuance of a Major Use Permit, a site-specific noise technical report will be prepared and approved by the County. The technical report will verify compliance with all applicable County laws, regulations, and policies during operation of the solar project, including that noise levels would not exceed the relevant thresholds described in the General Plan Noise Element (60 dBA L_{DN} for noise sensitive land uses such as residences, schools, transient lodging and medical facilities). The site specific noise technical report will include project specifications, applicable noise calculations, project design

features, applicable BMPs and related information from the REAT’s Best Management Practices and Guidance Manual (REAT 2010), and mitigation measures applicable to the project. The technical noise report will address operational related noise sources, as well as noise from the use of generators during an emergency. The technical report will calculate specific anticipated noise and vibration levels from operations in accordance with County standards and provide specific mitigation when noise levels are expected to exceed County standards.

7.) Impacts on Housing

Table 4.13-6 estimates total housing of 18 within the Trona SEDA and determines impacts not to be significant. However, this analysis does not account for the fact and likelihood that solar development will be solely focused and within the much smaller residential portion of the Trona SEDA where these residents reside. Cumulative impact analysis of multiple solar projects solely located on the Rural

Residential should be undertaken to determine these now disproportionate effects on residents. It should also account for the likelihood that such residents may be of little to no income and not able to relocate, unlike the ease of relocation indicated by the EIR. It should also account for the displacement of future housing use away from rural residential parcels by solar development. This requires additional evaluation as it would be expected to change substantially the impact assessment.

8.) Fire Protection

From the Inyo County General Plan:

- *Policy PSU-8.1: Fire Protection for New Development. Prior to the approval of development projects, the County shall determine the need for fire protection services. New development in unincorporated areas of the County shall not be approved unless adequate fire protection facilities can be provided.*

Staff analysis in the Mitigated Negative Declaration leaves it unclear how sufficient fire protection was determined adequate for the projects or if a specific adequacy analysis here was even performed. The Draft Mitigated Declaration simply says “no concerns” from the San Bernadino Fire Department which is not comforting to a resident in a very remote area and is not sufficient analysis to meet the requirement.

There is no discussion of a fire protection plan or any forward thinking towards fire protection. No mitigation measures to prevent the occurrence of a fire in the proposed solar facility are discussed. This should be analyzed extensively due to the significant potential for loss of life and property. Will the project have fire-fighting services coming from San Bernadino County? Or would these services be travelling an 85 minute drive from Olancho or a 93 minute drive from Lone Pine as described by the EIR? Are the fire fighters sufficiently trained and equipped to fight a large-scale electrical fire? How fast would it spread to local vegetation and further spread before being extinguished?

There are limited resources of the tiny San Bernadino Fire station department in Trona. Is this sufficient to handle a large-scale fire of possibly 30 acres in size with unique electrical hazards? Given a large, concentrated quantity of combustible photovoltaic solar cells as fuel is this response time sufficient to protect residents living adjacent to the solar project from fire propagation and potentially toxic smoke inhalation? Our experiences here indicate absolutely not!

Nothing is discussed in the permit documents to address these concerns.

Mitigation measures from the EIR require greater analysis here,

MM PUB-1: Analyze public safety and protection response times and staff levels for each utility scale project.

Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project's impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.

9.) Private security

The Draft Mitigated Negative Declaration says private security will be relied upon. I have never once observed any private security personnel at the current solar project REP 2021-01 during construction or operation. Has this been enforced? It also mentions no new police service is required but does not describe how it reached this conclusion. There is insufficient analysis in the permit documents addressing the following mitigation as required by the EIR,

MM PUB-1: Analyze public safety and protection response times and staff levels for each utility scale project.

Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project's impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.

MM PUB-2: Provide onsite security during the construction and long-term operation of the utility scale project.

For project sites associated with proposed future solar development projects that are determined through mitigation measure PUB-1 to have insufficient law enforcement protection services or significant impacts to law enforcement services, project proponents shall be required to provide adequate, onsite private security for the duration of construction activities and during the long-term operation of the project to the satisfaction of the County. The actual size and configuration of the security detail shall be determined by the County during preparation of the Development Agreement for the future solar energy project.

10.) Agriculture use

Rural residential properties are deemed necessary for agriculture not just now but also in the future. This is currently taking place within the SEDA and near the proposed permits. Inyo County has not analyzed impacts to agriculture as required by the EIR. As follows:

MM AG-1: Review development proposals for potential impacts to agricultural operations.

The County Agricultural Commissioner shall be responsible for reviewing new development proposals adjacent to agricultural operations to ensure they do not significantly impact agricultural operations.

MM AG-2: Conduct site specific investigations for agricultural lands.

Site-specific agricultural resource investigations shall be completed for proposed solar development projects within the individual SEDAs and the OVSA that are located on lands utilized for agricultural operations prior to final project design approval. If agricultural operations are identified within the project area, alternative designs should be implemented to avoid and/or minimize impacts to those resources. This may include mitigating conversion of agricultural lands based on the mitigation ratios identified in consultation with affected agencies at the cost of the project applicant to the satisfaction of the County. Mitigation ratios and impact fees assessed, if any, shall be outlined in the Renewable Energy Development Agreement, Renewable Energy Permit, or Renewable Energy Impact Determination.

MM AG-3: Invasive plant species or noxious weeds.

To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all

phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:

- *The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes.*
- *Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site.*
- *Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored.*
- *The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned.*
- *Native vegetation shall be re-established as quickly as practicable on disturbed sites.*
- *Weed Monitor and quickly implement control measures to ensure early detection and*
- *eradication of weed invasions.*
- *Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations.*

No mitigation is described in the Mitigated Negative Declaration/Staff Report and agriculture is incorrectly described as non-existent.

11.) Fugitive Dust

As required by mitigating measures in the EIR, Inyo County has not revealed a site-specific air quality technical report. Instead, it places reliance on the Great Basin Unified Air Pollution Control District. Such an air permit is not subject to public comment. Inyo Counties approach is here is not consistent with the REGPA nor the EIR which requires Inyo County to follow through here before permits are issued. Again, this mistake has previously occurred and is now occurring again. Note these requirements are PRIOR TO ISSUANCE.

Mitigation from the EIR

MM AQ-1: Prepare site-specific air quality technical report.

Prior to issuance of Major Use Permits for solar energy projects, a site-specific air quality technical report shall be prepared and approved by the County, which will verify compliance with County and GBUAPCD standards during construction and operation of the solar project.

Mitigation Measures AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report, and will be implemented during construction and operation of future projects. These measures require implementation of dust control practices during construction activities and solar project operations.

MM AQ-2: Reduce fugitive dust and particulate matter emissions during construction.

To control emissions of particulate matter, and to ensure compliance with GBUAPCD Rules 401 and 402 as well as applicable BMPs from REAT's Best Management Practices and Guidance Manual (REAT 2010), solar projects shall implement fugitive dust and particulate matter emissions control measures including, but not limited to the following:

- *Water and/or coarse rock all active construction areas as necessary and indicated by soil and air conditions;*
- *Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;*
- *Pave or apply (non-toxic) soil stabilizers on all unpaved access roads;*
- *Sweep daily (with water sweepers) all paved access roads;*
- *Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;*
- *Suspend excavation and grading activity when sustained winds make reasonable dust control difficult to implement, e.g., for winds over 25 miles per hour (mph).*
- *Limit the speed of on-site vehicles to 15 mph.*

MM AQ-3: Implement dust control measures during operation.

- *To control emissions of particulate matter, and to ensure compliance with GBUAPCD Rules 401 and 402 as well as applicable BMPs from REAT's Best Management Practices and Guidance Manual (REAT 2010), solar projects shall incorporate feasible dust control measures into the site design including, but not limited to, the following:*
- *Incorporate perimeter sand fencing into the overall design to prevent migration of exposed soils into the surrounding areas. The perimeter fence is intended to provide long-term protection around vulnerable portions of the site boundary; it is also intended to prevent off-road site access and sand migration across site boundaries and the associated impacts.*
- *Incorporate wind deflectors intermittently across solar project sites. The solar panels themselves, especially where installed to transverse primary wind direction, will provide some measure of protection of the ground surface. Wind deflectors enhance this effect by lifting winds that may otherwise jet beneath panels, thereby disrupting long wind fetches, and reducing surface wind velocities and sand migration.;*
- *Orient infrastructure/solar panels perpendicular to primary wind directions; .and*
- *Adjust panel operating angles to reduce wind speeds under panels.*
- *Perform revegetation in areas temporarily denuded during construction. These areas would be replanted with native plant species that exist on the site presently. Irrigation would be applied temporarily during the plant establishment period (typically multiple years), but after establishment it is expected that these areas would require little or no maintenance. Vegetation provides dust control by protecting and preventing threshold wind velocities at the soil surface. Studies have shown that an 11 to 54 percent vegetation cover on a site can provide up to 99 percent PM10 control efficiency (GBUAPCD 2008).*
- *As the installation of solar panels and associated equipment progresses, each area that is completed (i.e., where no further soil disturbance is anticipated) will be treated with a dust palliative to prevent wind erosion. CARB certifications indicate that the application of dust suppressants can reduce PM₁₀ emissions by 84 percent or more (CARB 2011).*

None of these mitigations are described in the Mitigated Negative Declaration or Staff Report. The current orientation of the solar cells is parallel and not perpendicular to the primary wind direction. None of these operational mitigations are visually apparent on the currently operating solar site, REP 2021-01, and none were visibly used during construction either. Is Inyo County performing the necessary oversight of these projects? The answer is no.

12.) Biological Resources

The EIR lists the following special status species of concern in the Trona SEDA. “Desert tortoise, burrowing owl, golden eagle, prairie falcon, and Mohave ground squirrel,” and monarch butterfly have the potential to occur in the SEDA.

The Draft Mitigated Negative Declaration misleadingly states the following: “There are no CFW or USFW special status species found on the proposed project site. The project is graded, scraped and completely devoid of plants and native habitat.” This statement is incorrect and misleading because:

- Inyo County allowed the developer to grade the site and remove all vegetation pre-permit just a few months prior destroying all habitat and vegetation.
- Inyo County has yet to conduct the required biological inventories as these are a permit condition to be performed later.
- Inyo County is not considering avian and migratory species
- Inyo County is not considering presence of vegetation and wildlife species on adjacent lands and the overall environment that will be impacted.

Furthermore, the EIR indicates potential impacts to the Mojave Ground Squirrel. *“Habitat for Mohave ground squirrel occurs in the Owens Lake, Rose Valley, Pearsonville, and Trona SEDAs. Impacts to this species could occur as a result of implementation of the REGPA if solar development occurred within or adjacent to suitable habitat. Direct effects to this species could include disturbance of individuals from construction and operations activities. Once constructed, solar facilities could also potentially pose a barrier to movement for this species.”*

The EIR goes on to indicate many reasons to be concerned regarding biological resources. From the EIR:

“Trona Solar Energy Development Area

The total allowable developable area within the Trona SEDA is 600 acres, and utility scale or commercial scale projects in this SEDA may require construction of associated transmission infrastructure. Development of solar projects, including the associated infrastructure, within the Trona SEDA could potentially impact terrestrial habitats including alkali desert scrub and desert scrub. Aquatic habitats potentially containing waters of the US/State including freshwater ponds and freshwater wetland could also be impacted. There is no USFWS-designated critical habitat in the Trona SEDA; however, Inyo California towhee critical habitat is located in the Argus Mountains to the west of the SEDA although this species has been proposed for delisting and the USFWS has found that delisting this species is warranted. The SEDA does not contain essential connectivity areas, missing links, or Important Bird Areas.

Table 4.4-9 identifies one special status species of insect, desert tortoise, prairie falcon, and Mohave ground squirrel one reptile, one mammal, three birds, and one plant species as either being known to occur or having the potential to occur within or adjacent to the Trona SEDA and be impacted by development activities within the SEDA. Special status species may be directly or indirectly affected by future solar projects in the Trona SEDA if the development would encroach on that species habitat or movement corridors. Impacts to special status species would not be expected to be limited to those mapped by the CNDDDB. The CNDDDB relies on reported sightings of special status species, and is not a complete inventory of special status species habitat.

Special status species identified as having the potential to be impacted by development within alkali desert scrub and desert scrub of the Trona SEDA include desert tortoise, and Mohave ground squirrel, prairie falcon, golden eagle, and burrowing owl. No special status species were identified as having the potential to occur within aquatic habitats in the SEDA. Although no special status plant species were identified as having the potential to occur in the Trona SEDA, botanical inventories would need to be conducted to support this determination.

Project-specific impacts to special status species would depend on the location of the project, the suitability of the habitats present, construction timing, and the species likely to occur. Impacts on rare plants and special status wildlife species could result in a substantial reduction in local population size, lowered reproductive success, or habitat fragmentation.”

Again, these statements in the EIR indicate that no biological inventories were conducted as a part of the EIR and that these are crucial to a complete environmental assessment and need to be conducted prior to permit issuance. Such inventories could identify real biological concerns and significant impacts.

Additional detail on these impacts is described in the EIR as follows, included here at length to detail the number and magnitude of potential impacts involved:

4.4.3.1 Project Level Impacts to Biological Resources

Ground Disturbance or Vegetation Trimming or Removal

Future construction and maintenance of solar projects under the REGPA resulting in ground disturbance or vegetation trimming or removal would have the potential to impact special status species or sensitive natural communities. Direct or indirect impacts to special status species or loss/degradation of habitat would be a significant impact.

Impacts to Rare Plants

Future construction and maintenance of solar projects under the REGPA could result in the direct loss or indirect loss or disturbance of special status plant species individuals or populations occurring within or outside of the project area. Direct impacts could include trampling, clearing or grading of habitat occupied by special status plant species, or other activities that result in habitat removal. Indirect impacts could include spills or runoff of chemicals or other toxic substances from construction areas and/or equipment that enter areas occupied by populations of rare plants adjacent to construction areas, alteration of local drainage patterns, or adverse effects from dust or windborne contaminants. In addition, solar projects requiring groundwater pumping could result in indirect impacts to off-site populations of special status plants through alteration of the water table. Direct and indirect impacts on special status plant species could result in a substantial reduction in local population size, lowered reproductive success, or habitat fragmentation. In addition, construction-related disturbances may allow the introduction or spread of invasive plants which compete with native plants and degrade the habitat.

Direct or indirect impacts to special status plant species resulting in loss of individuals or loss/degradation of habitat would be a significant impact.

General Impacts to Special Status Wildlife

Impacts to special status wildlife species could occur during construction and/or operation of the future solar developments under the REGPA. General impacts to special status wildlife species are presented

here, and more detailed discussion is provided in following sections with considerations pertinent to certain species and/or life forms.

General Construction Impacts

Habitat Disturbance

Biological communities within the construction footprint of solar developments implemented under the REGPA would be reduced or altered through habitat modifications including clearing, trampling or grading vegetation, changes to hydrology, alterations to the existing soil conditions, and filling or removing wetlands or sensitive habitats. Habitat modifications can result in the loss or adverse constriction of migration and wildlife movement corridors. Although habitats adjacent to solar energy projects might remain unaffected, the nearby disturbance on the project site might deter special status species from using habitat near the proposed project. Habitat modifications may also provide increased opportunities to predators (e.g., increased litter or water may attract coyotes, ravens or feral dogs, and structures provide perch sites to raptors). Alternately, habitat modifications may also result in changes to abundance of prey or forage species as a result of ground disturbance and vegetation removal.

Wildlife Mortality, Injury or Displacement

Individuals of special status species occurring within the construction footprint during construction could be injured, killed, or disturbed by construction activities. Special status wildlife species occupying underground burrows (e.g., desert tortoise, kit fox, burrowing owl) could be killed or displaced from the collapse of their burrows resulting from soil compaction. Site clearing and grading can remove vegetation resulting in a loss of dispersal, breeding or foraging habitat, as well as the direct removal of active bird nests. The movement of equipment and vehicles through the project area could negatively affect wildlife by collisions, or increased noise and dust. The noise and disturbance associated with construction-related activities can negatively affect nesting birds and may lead to abandoned eggs or young and subsequent nest failure for nesting raptors and other special status nesting birds. Construction related activities and the associated human presence increase the risk of fire from igniting sources such as vehicles, cigarettes, welding, and increased fuels from invasive plant species.

Introduction or Spread of Invasive Species

Habitat modification also provides opportunities for the introduction or spread of non-native, invasive plant species resulting from soil disturbance, native vegetation removal, and introduction of the species from construction equipment or seed mixes. Invasive species may compete with native species, affecting the viability of native species populations, and may also alter the habitat by making it difficult for wildlife to negotiate the landscape. As previously mentioned, the spread of invasive plant species may also increase the risk of fire by providing an increased fuel source. In arid environments, invasive species of plants often grow more densely than native species and may burn hotter thereby increasing the risk and impacts of fire.

General Operational Impacts

Operation of future solar facilities under the REGPA could result in long term persistent impacts to special status wildlife species. These include disturbance to common and sensitive wildlife from vehicle traffic, increased human presence, facility maintenance (includes equipment repairs and washing panels and mirrors, weed and vegetation control, etc.), operational noises associated with daytime operations and nighttime maintenance activities, nighttime lighting and collisions. Death or injury to wildlife as a

result of operations would be potentially significant and mitigation would be necessary. Refer to specific wildlife impacts and considerations for additional operational impacts.

Construction of heliostat fields involves the placement of cylindrical pipes to support the structures. Vertically placed, open-topped pipes associated with future solar developments pose a threat to birds falling in from perching or nests placed at the opening, or entering in search of nesting cavities or food. Birds (and other animals such as bats, small reptiles, other small mammals) that have descended into vertical pipes may become entrapped and die from starvation and exposure (Brean 2011; American Bird Conservancy 2011; Audubon California 2013).

Death or injury to special status wildlife as a result of construction and/or operations would be a significant impact, and mitigation would be necessary.

Specific Wildlife Impacts and Considerations

Following are potential impacts to specific species or wildlife that could occur as a result of implementation of the REGPA based on their life form, status, known potential to occur in the project area, and regulatory considerations.

Impacts to Special Status Insects

*Monarch butterfly is known to migrate through western Inyo County during seasonal movements between the California coast and the Great Basin. This species relies on species of milkweeds (*Asclepias* spp.) as its obligate larval host plant, and migrations span multiple generations. Adult migrating monarchs require sheltered roost sites where temperatures remain cool but above freezing. Reductions in the extent and abundance of milkweeds would reduce larval host plant availability during migrations, and removal of trees could reduce suitable roosting sites if the affected trees were in suitable climatic microsites. In addition, solar thermal projects can promote butterfly mortality both through extreme heat and by attracting avian predators. The USFWS announced on December 29, 2014 that it has begun a review of monarch butterfly for listing under the Endangered Species Act. This listing might also include a designation of critical habitat, which could include habitats found within SEDAs.*

Impacts to Burrowing Owl

Nesting Potential nesting and foraging habitat for burrowing owl occurs within all SEDAs and the OVSA, and the species is known to occupy portions of the Laws, Owens Lake, and Rose Valley SEDAs and the OVSA (located within the Western Solar Energy Group) and this species is known to occupy portions of those locations. Impacts to burrowing owl could occur as a result of implementation of the REGPA if solar development occurred within nesting or foraging habitat for this species. Potential impacts to burrowing owls include nest disturbance, loss of nesting habitat, and loss of foraging habitat. Construction-related activities could potentially disturb nesting burrowing owls on or adjacent to construction sites as well as result in the loss of foraging habitat. Earth-moving activities could potentially trap or injure owls in their burrows, and disturbance near nests could potentially cause nest abandonment. Up to 1,500 acres of potential foraging habitat for burrowing owl could be lost in the Laws, Owens Lake, and Rose Valley SEDAs and the OVSA if all of the total allowable developable acres for the Western Solar Energy Group were developed within suitable foraging habitat for burrowing owl and were within close proximity to a nest. This is likely a significant over-estimation of the potential impacts to burrowing owl habitat because much of the land would not be suitable foraging habitat or within close proximity to a nest.

If solar development occurred in proximity to burrowing owl nest sites, human activity may cause owl nest abandonment or interfere with the incubation and feeding of young in a way that reduces reproductive success. Increased owl predation could also potentially occur in proximity to solar development, as a result of the typical increase in human-associated owl predators (Odell and Knight 2001). Mortality because of vehicle strikes may also increase on existing roads because of the increased traffic that would result from the solar development.

Loss of burrowing owl nesting or foraging habitat or nest disturbance would be a significant impact.

Impacts to Bald Eagle and Golden Eagle

Bald eagle has been reported nesting within the OVSA in the vicinity of Tinemaha Reservoir. Golden eagle has been reported nesting in the Rose Valley SEDA in the vicinity of the Haiwee Powerhouse. These species Bald eagle typically nests in tall trees away from human disturbances; golden eagle typically nests on cliffs. Golden eagle is considered to have potential to nest in the vicinity of all SEDAs and the OVSA. Impacts to bald and golden eagle could occur as a result of implementation of the REGPA if solar development occurred within or adjacent to nesting or foraging habitat for these species. Potential impacts to eagles could include nest disturbance and loss of nesting habitat.

If solar development occurred in proximity to eagle nest sites, human activity may cause nest abandonment or interfere with the incubation and feeding of young in a way that reduces reproductive success. If a suitable nest tree was removed, it could potentially result in the loss of nesting habitat.

Loss of bald or golden eagle nesting or foraging habitat or nest disturbance would be a significant impact.

Impacts to Inyo California Towhee

Inyo California towhee is not known to occur within any of the SEDAs or the OVSA. However, Inyo California towhee critical habitat is located in the Argus Mountains to the west of the Trona SEDA. If solar development occurred within or adjacent to nesting or foraging habitat for this species, construction activities and long term operations could result in nest disturbance and loss of nesting habitat.

Loss of Inyo California towhee nesting habitat or nest disturbance would be a significant impact.

Impacts to Mohave Ground Squirrel

Habitat for Mohave ground squirrel occurs in the Owens Lake, Rose Valley, Pearsonville, and Trona SEDAs. Impacts to this species could occur as a result of implementation of the REGPA if solar development occurred within or adjacent to suitable habitat. Direct effects to this species could include disturbance of individuals from construction and operations activities. Once constructed, solar facilities could also potentially pose a barrier to movement for this species.

Indirect impacts to this species could include habitat degradation due to introduction of invasive weeds, avoidance by this species of areas near manmade structures, increased traffic on desert roads, and increased risk of wildfires.

Up to 1,500 acres of suitable habitat for Mohave ground squirrel could be impacted by the proposed project if all of the total allowable developable area within the Western Solar Energy Group was developed within habitat for this species, and an additional 600 acres could be impacted in the Trona SEDA if all of the total allowable developable area within that SEDA was developed within habitat for

this species (see Table 3-1 for the total allowable maximum area for each Solar Energy Group). This is likely an over-estimation of the potential impacts to this species as it is unlikely that all of the developable acreage within the OVSA would be within this species habitat.

Disturbance of individuals or loss/degradation of habitat for this species would be a significant impact.

Impacts to Other Special Status Birds, Raptors, Migratory Birds and Bats

Special status birds and bats may occur in the SEDAs and the OVSA during project construction and operation and are subject to the general construction and operation impacts described above. Additional considerations specific to bats and birds are presented here.

Nesting and Roosting Sites

Construction and maintenance activities would exclude bird species less tolerant of anthropogenic disturbance. The introduction of structures (i.e., power towers, stacks of pallets, or construction materials) would provide potential roosting opportunities for bats and certain species of birds during construction and operation of the facility. Depending on the species, birds may actively nest on the ground near solar panels, vehicles, foundations, construction trailers, and other equipment left overnight or during a long weekend. Bats may roost in various structures. In areas with phased construction, or during long weekends or holidays with the facilities closed, birds or bats may quickly utilize potential nesting or roosting sites.

Impacts to roosting bats or nesting birds, or removal of nests during construction or operation would be considered a significant impact.

Collisions

Solar facilities may include relatively tall structures such as power towers (750 feet high), boilers, and air-cooled condenser units (120 feet high) that create a physical hazard to some wildlife. In particular, birds may collide with communication towers, transmission lines, and other elevated structures including buildings. Some birds species are at high risk for collision with power lines and guy wires that are difficult to see. Collision rates generally increase in low light conditions, during strong winds, and during panic flushes when birds are startled by a disturbance or are fleeing from danger. Bird collisions with power lines may occur for a variety of reasons, such as habitat, lighting, weather, bird species (body size, flight behavior, distribution and abundance, flocking behavior), and the power line configuration and location (Avian Power Line Interaction Committee [APLIC] 2012). Power lines located between feeding and roosting areas of flocking birds may present an increased collision risk, especially near rivers, lakes, or wetlands (APLIC 2014).

Lighting may result in increased collisions by attracting birds and bats to the area (lighting attracts insects), or disorienting them (birds). The lighting used may play an important role in preventing avian fatalities from night collisions with tall structures. Gehring et al. (2009) suggested that avian fatalities can be reduced, perhaps by 50 to 71 percent at guyed communication towers by removing steadily-burning red lights. Towers lit with strobe or flashing lights had less avian fatalities than non-flashing red lights (Gehring et al. 2009).

Since birds are prone to collisions with reflective surfaces, it could be expected that utility scale solar energy projects could cause bird mortality. Glare from the solar panels may confuse or disorient birds in flight, and cause it to collide with solar energy facilities or other objects. Glare may also attract birds confusing it as water, or attract insects, which attract insect eating birds, which attract predatory birds,

increasing the likeliness of collisions. Similarly, solar thermal facilities use water ponds which attract birds (and insects), thereby increasing the likeliness of collision. Operation of solar panels in PV systems could cause an increase in polarized light pollution which occurs from light reflecting off of dark colored structures. Polarized light pollution can compete with water bodies for attracting insects and birds, thereby putting birds at greater risk for collision. Further, polarized light pollution can alter the ability of wildlife to seek out suitable habitat and elude or detect the presence of predators (Horvath et al. 2009). It has also been documented that for a variety of birds and other species polarized light pollution can affect their ability to detect natural polarized light patterns in the sky which can lead to the effect on their navigation ability and ultimately effects on dispersal and reproduction (Horvath et al. 2009).

At the 10-MW Solar One facility (a 10-MW pilot thermal energy facility located in the Mojave Desert in San Bernardino County that operated from 1982 to 1988), the results of a 40-week long study indicated that much of the bird mortality consisted predominantly of collisions with the mirrored heliostats; however some were killed by burns received while flying between two standby points. The USFWS Forensics Laboratory conducted a review of bird carcasses from three solar energy facilities, and analysis of the causes of avian mortality at various types of solar facilities in 2013 (Kagan et al. unpub.). It was determined that the size and continuity of the panels may contribute to the likeliness for collisions from birds mistaking the facility for water, or affected by polarized light. Solar systems with vertically oriented, continuously placed solar panels would provide a more continuous sky/water appearance (Kagan et al. unpub.). Although bird response to glare or polarized light pollution from solar panel technology is not well understood, it is likely that large scale facilities will see an increase in birds colliding with mirrors and perish. Solar facilities containing ponds that are accessible to birds may attract birds. Birds attracted to water features become habituated to the presence of accessible aquatic environment, which may also lead to misinterpretation of the glare from the nearby solar facility (Kagan et al. unpub.).

The severity of the impact to birds from collisions would vary depending on the species and numbers of birds involved. Studies are currently being conducted to find ways to minimize collisions with solar panels by reducing the attractiveness of solar panels to polarotatic insects and/or installing visual variables to break up the reflective surface and provide a visual cue that the panel is a solid structure (Kagan et al. unpub.). Death or injury to special status birds, raptors, and other migratory birds due to collisions would be considered a significant impact.

Electrocution

Transmission tower and pole design is a major factor in the electrocution risks to birds. Electrocution occurs when a perching bird simultaneously contacts two energized phase conductors or an energized conductor and grounded hardware. This happens most frequently when a bird attempts to perch on a transmission tower/pole with insufficient clearance between these elements.

Electrocution can occur when horizontal separation is less than the distance of a bird's wingspan or where vertical separation is less than a bird's length from head-to-foot. Electrocution can also occur when birds perched side-by-side span the distance between these elements (APLIC 2006).

The majority of bird electrocutions are caused by lines that are energized at voltage levels between 1 and 60 kV, and "the likelihood of electrocutions occurring at voltages greater than 60 kV is low" because phase-to-phase and phase-to-ground clearances for lines greater than 60 kV are typically sufficient to prevent bird electrocution (APLIC 2006).

Impacts to special status birds, raptors, and other migratory birds resulting from electrocution would be considered to be a significant impact.”

The EIR describes many significant potential impacts to several protected species or those of special status.

Mitigation from the EIR and other regulations require a full project specific biological resource evaluation PRIOR TO APPROVAL. These mitigations also require evaluation for off-site impacts as well as the need to conduct the study over the course of the year to account for seasonal variations. The Draft Mitigated Negative Declaration and Staff Report contain no specific mitigation, other than a study post-permit, to prevent impacts to biological resources and protect vegetation and wildlife species. This is highly insufficient and dangerous to the protection of such resources.

The required mitigation is listed at length here to illustrate the magnitude of the lack of permit requirements that should be in place for these proposals. It is believed that Inyo County has also proceeded with REP 2021-01 without such mitigation.

MM BIO-1: Prepare project level biological resources evaluation and mitigation and monitoring plan.

Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact biological resources as determined by a qualified biologist (defined as a biologist with documented experience or training related to the subject species), a project level biological resource evaluation shall be prepared by a qualified biologist for the project. The biological resource evaluation shall include field reconnaissance and focused surveys as determined necessary by a qualified biologist to identify special status species and natural communities present or having the potential to occur on the site, an evaluation of the extent of those habitats, an evaluation of the potential for impacts to each special status species and/or habitat, and shall prescribe specific mitigation measures to avoid or reduce impacts to biological resources to the maximum extent practicable. The qualifications of any biologists conducting special status species surveys or focused habitat assessments will be submitted to CDFW prior to conducting fieldwork. The level of biological resource analysis will be based on factors such as the size of the proposed project, the and extent of impacts to biological resources, and the sufficiency of existing data to determine impacts.

An evaluation of the potential for off-site impacts to special status species and sensitive habitats will be included in the biological resources evaluation, especially for projects involving groundwater pumping. Chapter 2 of the Basin Plan protects beneficial uses for groundwater with respect to groundwater recharge and freshwater replenishment and beneficial uses for wildlife habitats and flora and fauna including cold freshwater habitat, warm freshwater habitat, wildlife habitat, rare, threatened, or endangered species, spawning, reproduction, and development, preservation of biological habitats of special significance, and migration of aquatic organisms (RWQCB 1995). A project-specific evaluation of potential impacts to beneficial uses for groundwater as specified in the Basin Plan will be included in the biological resources evaluation.

For projects with the potential to impact on- or off-site special status species or habitats as determined in the biological resources evaluation, a project-specific biological resources mitigation and monitoring plan shall be prepared in cooperation with and that meets the approval of permitting agencies. The plan shall be implemented during all phases of the project and shall identify appropriate mitigation levels to

compensate for significant direct, indirect, and cumulative impacts, including habitat, special status plant, and wildlife species losses as well as impacts to groundwater dependent vegetation or off-site impacts to special status species or sensitive habitats due to groundwater pumping. The plan shall address at a minimum:

- *Biological resource avoidance and minimization measures and mitigation, monitoring and compliance measures required by federal, state, and local applicable permitting agencies.*
- *Documentation (based on surveys) of sensitive plant and wildlife expected to be affected by all phases of the project (project construction, operation, abandonment, and decommissioning). Agencies may request additional surveying, based on the documentation or past experience working with the resources. Include measures to avoid or minimize impacts to species and habitat.*
- *A detailed description of measures to minimize or mitigate permanent and temporary disturbances from construction activities.*
- *All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction.*
- *Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities.*
- *Duration for each type of monitoring and a description of monitoring methodologies and frequency.*
- *Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful.*
- *All standards and remedial measures to be implemented if performance standards and criteria are not met.*
- *A closure/decommissioning or abandonment plan, including a description of funding mechanism(s).*
- *A process for proposing plan modifications to the County project manager.*

MM BIO-2: Minimize impacts to special status plants.

- *Prior to the approval of any solar development projects or related infrastructure under the REGPA, a CDFW-approved botanist shall evaluate the potential for special status plant species to occur on the site and conduct surveys, if necessary, to determine presence or infer absence of special status plants on the site following the November 24, 2009 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities or the most current guidelines. When special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, to the maximum extent feasible, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs. with the potential to impact special status plant species as determined by a qualified biologist/botanist, a qualified botanist shall determine the presence or absence of special status plants within the project site. The following steps shall be implemented to document special-status plants, as determined necessary by the botanist:*
- *Review Existing Information. The botanist shall review existing information to develop a list of special status plants that could grow in the specific project area. Sources of information*

consulted shall include CDFW's CNDDDB, the CNPS electronic inventory, and previously prepared environmental documents. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of sensitive plants from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.

- *Coordinate with Agencies. The botanist shall coordinate with the appropriate agencies (i.e., CDFW and USFWS) to discuss botanical resource issues and determine the appropriate level of surveys necessary to document special status plants*
- *Conduct Field Studies. The botanist shall evaluate existing habitat conditions for each project and determine what level of botanical surveys may be required. The type of botanical survey shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on these factors and the proposed construction activity, one or a combination of the following levels of survey may be required:*
 - *Habitat Assessment. A habitat assessment shall be conducted to determine whether suitable habitat is present. This type of assessment can be conducted at any time of year and is used to assess and characterize habitat conditions and determine whether return surveys are necessary. If no suitable habitat is present, no additional surveys shall be required.*
 - *Species-Focused Surveys. Species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status plants. The surveys shall focus on special status plants that could grow in the region, and would be conducted during a period when the target species are evident and identifiable.*
 - *Floristic Protocol-Level Surveys. Floristic surveys that follow the CNPS Botanical Survey Guidelines shall be conducted in areas that are relatively undisturbed and/or have a moderate to high potential to support special status plants. The CNPS Botanical Survey Guidelines require that all species be identified to the level necessary to determine whether they qualify as special status plants, or are plant species with unusual or significant range extensions. The guidelines also require that field surveys be conducted when special status plants that could occur in the area are evident and identifiable. To account for different special status plant identification periods, one or more series of field surveys may be required in spring and summer months.*
- *Map Special Status Plants. Special status plant populations identified during the field surveys shall be mapped and documented as part of the CEQA process, as applicable. Project development plans shall consider avoidance to the extent practicable. If avoidance is not practicable while otherwise obtaining the projects objectives, then other suitable measures and mitigation shall be implemented in coordination with the appropriate regulatory agency (i.e., USFWS, CDFW, BLM).*
- *If special status plants are identified in the project area and complete avoidance of direct and indirect impacts is not feasible as determined by the County, the following measures shall be implemented to avoid and minimize impacts on special status plants:*
 - *The project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, if feasible.*
 - *If feasible, when special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs.*

- *For projects that are determined to have the potential to result in “take” of state or federally-listed plant species, consultation shall be conducted with CDFW or USFWS respectively prior to project commencement, and appropriate mitigation measures developed if necessary..*
- *Special status plants near the project site shall be protected by installing environmentally sensitive area fencing (orange construction barrier fencing) around special status plant populations. The environmentally sensitive area fencing shall be installed at least 20 feet from the edge of the population. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within the fenced environmentally sensitive area.*
- *No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. If When individuals of a special status species occur within an area proposed for construction and take cannot be avoided, avoidance of special status plants is not feasible, mitigation shall be developed in coordination with USFWS and/or CDFW to reduce impacts on the local population of the special status species. No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. Mitigation measures approved by USFWS and/or CDFW may include transplantation If individuals of a special status species occur within an area proposed for construction and take cannot be avoided, the plants shall be transplanted under the direction of a qualified CDFW-approved botanist if transplantation of such species is deemed likely to succeed, or seed shall be collected prior to destruction of the plants and dispersed in suitable habitats not impacted by construction, if such habitats exist and seed collection is deemed likely to be successful by a qualified CDFW-approved botanist with experience propagating the species in question. In all cases, CDFW will be notified at least 10 days prior to removal of any special status plant to allow transplantation or collection of seed at their discretion.*
- *If transplanting is proposed, the botanist shall coordinate with the appropriate resource agencies and local experts to determine whether transplantation is feasible. If the agencies concur that transplantation is a feasible mitigation measure, the botanist shall develop and implement a transplantation plan through coordination with the appropriate agencies. The special status plant transplantation plan shall involve identifying a suitable transplant site; moving some or all of the plant material and seed bank to the transplant site; collecting seed material and propagating it in a nursery (in some cases it is appropriate to keep plants onsite as nursery plants and sources for seed material); and monitoring the transplant sites to document recruitment and survival rates. Monitoring shall be conducted for a period of five years and transplantation shall be considered successful if an 80 percent survival rate has been achieved by the end of the five-year monitoring period.*
- *A mitigation and monitoring plan shall be developed by a qualified botanist/ restoration ecologist and submitted to CDFW for approval prior to approval of the proposed project. The mitigation and monitoring plan will dictate appropriate avoidance and minimization measures, compensatory mitigation, and monitoring requirements as pertinent to the specific species and level of impact(s). Mitigation shall include, but is not limited to 1) protection of special status plant populations not directly impacted by construction or implementation of the project as stated above; 2) transplantation and/or collection of seed from impacted plants if feasible, as stated above; and 3) the preservation in perpetuity of an equivalent or larger off-site population for every individual or population of special status plant impacted including sufficient land surrounding the preserved population to ensure its survival in perpetuity as determined by a*

qualified botanist/ restoration ecologist. The qualified botanist/ restoration ecologist shall include plans to restore and enhance the preserved populations to the extent feasible.

MM BIO-3: Minimize impacts to special status wildlife.

- *Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact special status wildlife as determined by a qualified biologist, a qualified CDFW-approved wildlife biologist shall conduct a survey to document the presence or absence of suitable habitat for special status wildlife in the project site. The following steps shall be implemented to document special status wildlife and their habitats for each project, as determined by the CDFW-approved wildlife biologist:*
- *Review Existing Information. The wildlife biologist shall review existing information to develop a list of special status wildlife species that could occur in the project area or be impacted by the proposed project, either directly or indirectly (e.g., groundwater pumping could result in indirect impacts to off-site habitats for special status wildlife). The following information shall be reviewed as part of this process: the USFWS special status species list for the project region, CDFW's CNDDDB, previously prepared environmental documents, and USFWS issued biological opinions for previous projects. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of special status wildlife from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.*
- *Coordinate with State and Federal Agencies. The wildlife biologist shall coordinate with the appropriate agencies (CDFW, USFWS, BLM) to discuss wildlife resource issues in the project region and determine the appropriate level of surveys necessary to document special status wildlife and their habitats.*
- *Conduct Field Studies. The wildlife biologist shall evaluate existing habitat conditions and determine what level of biological surveys may be required. The type of survey required shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on the existing conditions in the project area and the proposed construction activity, one or a combination of the following levels of survey may be required:*
- *Habitat Assessment. A habitat assessment determines whether suitable habitat is present. The wildlife biologist shall conduct project-specific habitat assessments consistent with protocols and guidelines issued by responsible agencies for certain special status species. (e.g., USFWS' and CDFW have issued protocols for evaluating bald eagle habitat (2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California). Habitat assessments are used to assess and characterize habitat conditions and to determine whether return surveys are necessary. If no suitable habitat is present for a given special status species, no additional species-focused or protocol surveys shall be required.*
- *Species-Focused Surveys. Project-specific species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status wildlife and if it is necessary to determine the presence or absence of the species in the project area. The wildlife biologist shall conduct project-specific surveys focusing on special status wildlife species that have the potential to occur in the region. The surveys shall be conducted during a period when the target species are present and/or active.*
- *Protocol-Level Wildlife Surveys. The wildlife biologist shall conduct project specific protocol level surveys for special status species with the potential to be impacted by the proposed project.*

The surveys shall comply with the appropriate protocols and guidelines issued by responsible agencies for the special status species. USFWS and CDFW have issued survey protocols and guidelines for several special- status wildlife species that could occur in the project region, including (but not limited to): bald eagle, burrowing owl, golden eagle, Swainson's hawk, least Bell's vireo, willow flycatcher, desert tortoise, and San Joaquin desert kit fox. The protocols and guidelines may require that surveys be conducted during a particular time of year and/or time of day when the species is present and active. Many survey protocols require that only a USFWS- or CDFW-approved biologist perform the surveys. The project proponent shall coordinate with the appropriate state or federal agency biologist before the initiation of protocol-level surveys to ensure that the survey results would be valid. Because some species can be difficult to detect or observe, multiple field techniques may be used during a survey period and additional surveys may be required in subsequent seasons or years as outlined in the protocol or guidelines for each species.

- *Habitat Mapping. The wildlife biologist shall map special status wildlife or suitable habitat identified during the project-specific field surveys.*
- *A Scientific Collecting Permit is required to take, collect, capture, mark, or salvage, for scientific, educational, and non-commercial propagation purposes, mammals, birds and their nests and eggs, reptiles, amphibians, fishes and invertebrates (Fish and Game Code Section 1002 and Title 14 Sections 650 and 670.7). All biologists will be required to obtain a Scientific Collecting Permit that may be required to handle any live or dead animals during construction or operation of a project.*
- *In addition, the following measures should be implemented to avoid and minimize impacts on special status species and their habitats if they occur within a site:*
- *For projects that are determined to have the potential to result in "take" of state or federally-listed animal species, consultation shall be conducted with CDFW or USFWS respectively and appropriate mitigation measures developed as necessary, and take authorization shall be obtained prior to project commencement, if relevant.*
- *Any special status wildlife and/or their habitats identified within a project site outside of the work area will be protected by installing environmentally sensitive area fencing around habitat features, such as seasonal wetlands, burrows, and nest trees. The environmentally sensitive area fencing or staking shall be installed at a minimum distance from the edge of the resource as determined through coordination with state and federal agency biologists (USFWS and CDFW, BLM). The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction- related activities, vehicle operation, material and equipment storage, and other surface- disturbing activities within the fenced environmentally sensitive area.*
- *If ground disturbing activities are required prior to site mobilization, such as for geotechnical borings or hazardous waste evaluations, a qualified CDFW-approved biologist shall be present to monitor any actions that could disturb soil, vegetation, or wildlife.*
- *In areas that could support desert tortoise or any other sensitive wildlife species, a County-approved qualified biologist with the appropriate CDFW and/or USFWS approvals for the species being salvaged and relocated shall be onsite and respond accordingly should an animal need to be relocated. walk immediately ahead of equipment during the clearing and grading activities to salvage and relocate the wildlife in the path of the operations. The species shall be*

salvaged and relocated to off-site habitat when conditions will not jeopardize the health and safety of the biologist.

- *Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. Vehicles shall not exceed 25 mph on the project site. Vehicles shall abide by posted speed limits on paved roads.*
- *For projects with the potential to affect desert tortoise, parking and storage shall occur within the area enclosed by desert tortoise exclusion fencing to the extent feasible. No vehicles or construction equipment parked outside the fenced area shall be moved prior to an inspection of the ground beneath the vehicle for the presence of desert tortoise. If a desert tortoise is observed, it shall be left to move on its own. If it does not move within 15 minutes, a CDFW and USFWS approved desert tortoise biologist may remove and relocate the animal to a safe location if temperatures are within the range described in the Desert Tortoise Field Manual (USFWS 2013 or most recent version, available from the Ventura Fish and Wildlife Office website <http://www.fws.gov/ventura/angered/species/surveys-protocol.html>). All access roads outside of the fenced project footprint shall be delineated with temporary desert tortoise exclusion fencing on either side of the access road, unless otherwise authorized by the County project manager and County biologist.*
- *A qualified CDFW-approved biologist shall be designated to oversee compliance with biological resources avoidance and minimization measures during mobilization, ground disturbance, grading, construction, operation, and closure/decommissioning, or project abandonment, particularly in areas containing or known to have contained sensitive biological resources, such as special status species and unique plant assemblages. The qualified CDFW-approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The boundaries of all areas to be disturbed (including staging areas, access roads, and sites for temporary placement of spoils) shall be delineated with stakes and flagging prior to construction activities in consultation with the biological monitor. Spoils shall be stockpiled in disturbed areas lacking native vegetation and which do not provide habitat for special status species. Parking areas, staging and disposal site locations shall also be located in areas without native vegetation or special status species habitat. All disturbances, vehicles, and equipment shall be confined to the flagged areas. The qualified CDFW-approved biologist shall be responsible for actions including, but not limited to, the following:*
 - *Clearly marking sensitive biological resource areas and inspecting the areas at appropriate intervals for meeting regulatory terms and conditions.*
 - *Inspecting, daily, active construction areas where wildlife may have become trapped (for example, trenches, bores, and other excavation sites that constitute wildlife pitfalls outside the permanently fenced area) before beginning construction. At the end of the day, conducting wildlife inspections of installed structures that would entrap or not allow escape during periods of construction inactivity. Periodically inspecting areas with high vehicle activity (such as parking lots) for wildlife in harm's way.*
 - *Periodically inspect stockpiled material and other construction material and equipment (including within the fenced areas) throughout the day as some species such as desert kit fox may enter the project site at any time.*
 - *Overseeing special status plant salvage operations.*
 - *Immediately recording and reporting hazardous spills immediately as directed in the project hazardous materials management plan.*

- *Coordinating directly and regularly with permitting agency representatives regarding biological resources issues, and implementation of the biological resource avoidance and minimization measures.*
- *Maintaining written records regarding implementation of the biological resource avoidance and minimization measures, and providing a summary of these records periodically in a report to the appropriate agencies.*
- *Notifying the project owner and appropriate agencies of non-compliance with biological resource avoidance and minimization measures.*
- *At the end of each work day, the biological monitor shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled or if backfilling is not feasible, the biological monitor shall ensure that all trenches, bores, and other excavations are sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with desert tortoise-exclusion fencing. All trenches, bores, and other excavations outside the areas permanently fenced with desert tortoise exclusion fencing shall be inspected periodically, but no less than three times, throughout the day and at the end of each workday by the qualified CDFW-approved biologist. Should a tortoise or other wildlife become trapped, the CDFW and USFWS-approved desert tortoise biologist shall remove and relocate the individual as described in the project's Desert Tortoise Relocation/Translocation Plan. Any wildlife encountered during the course of construction shall be allowed to leave the construction area unharmed.*
- *Any construction pipe, culvert, or similar structure with a diameter greater than 3 1 inches, stored less than 8 inches aboveground, and within desert tortoise habitat (i.e., outside the permanently fenced area) for one or more nights, shall be inspected by the biological monitor for desert tortoises or other special status species such as fringe-toed lizard, before the material is moved, buried, or capped. As an alternative, all such structures may be capped before being stored outside the fenced area, or placed on pipe racks. These materials would not need to be inspected or capped if they are stored within the permanently fenced area after the clearance surveys have been completed.*
- *Access roads, pulling sites, storage and parking areas outside of the fenced solar facility area shall be designed, installed, and maintained with the goal of minimizing impacts to native plant communities and sensitive biological resources. Transmission lines and all electrical components shall be designed, installed, and maintained in accordance with the APLIC Suggested Practices for Avian Protection on Power Lines (APLIC 2006) and Mitigating Bird Collisions with Power Lines (APLIC 2004) to reduce the likelihood of bird electrocutions and collisions.*
- *Facility lighting shall be designed, installed, and maintained to direct light downwards towards the project site and avoid light spillover to wildlife habitat.*
- *Construction and operation related noise levels shall be minimized to minimize impacts to wildlife.*
- *All vertical pipes greater than 4 inches in diameter shall be capped to prevent the entrapment of birds and other wildlife.*
- *All vehicles and equipment shall be maintained in proper working condition to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials. The biological monitor shall be informed of any hazardous spills immediately. Hazardous spills shall be immediately cleaned up and the contaminated soil properly disposed of at a licensed facility. Servicing of construction equipment shall take place*

only at a designated area. Service/maintenance vehicles shall carry a bucket and pads to absorb leaks or spills.

- *Road surfacing and sealants as well as soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants. Anticoagulants shall not be used for rodent control. Pre-emergents and other herbicides with documented residual toxicity shall not be used. Herbicides shall be applied in conformance with federal, state, and local laws and according to the guidelines for wildlife- safe use of herbicides in BIO-24 (Weed Management Plan).*
- *The following measures shall be implemented to minimize attractants to wildlife:*
- *If the application of water is needed to abate dust in construction areas and on dirt roads, use the least amount needed to meet safety and air quality standards and prevent the formation of puddles, which could attract wildlife to construction sites. The biological monitor shall patrol these areas to ensure water does not puddle and attract desert tortoise, common ravens, and other wildlife to the site and shall take appropriate action to reduce water application where necessary.*
- *Water shall be prohibited from collecting or pooling for more than 24 hours after a storm event within the project retention basin. Standing water within the retention basin shall be removed, pumped, raked, or covered. Alternative methods or the timeframe for allowing the water to pool may be modified with the approval of the biological monitor.*
- *Dispose trash and food-related items in self-closing, sealable containers with lids that latch to prevent wind and wildlife from opening containers. Empty trash containers daily and remove from the project site those associated with construction when construction is complete*
- *To avoid attracting insectivorous birds and bats, prepare a facility vector (such as mosquitoes or rodents) control plan, as appropriate, that meets the permitting agency approval and would be implemented during all phases of the project.*
- *Workers or visitors, while on project property, shall be prohibited from feeding wildlife, bringing domestic pets to the project site, collecting native plants, or harassing wildlife.*
- *To reduce the potential for the transmission of fugitive dust the project proponent shall implement dust control measures. These shall include:*
- *The project proponent shall apply non-toxic soil binders, equivalent or better in efficiencies than the CARB- approved soil binders, to active unpaved roadways, unpaved staging areas, and unpaved parking area(s) throughout construction to reduce fugitive dust emissions.*
- *Water the disturbed areas of the active construction sites at least three times per day and more often if uncontrolled fugitive dust is noted. Enclose, cover, water twice daily, and/or apply non-toxic soil binders according to manufacturer's specifications to exposed piles with a 5 percent or greater silt content. Agents with known toxicity to wildlife shall not be used unless approved by the County biologist and County project manager.*
- *Establish a vegetative ground cover (in compliance with biological resources impact mitigation measures above) or otherwise create stabilized surfaces on all unpaved areas at each of the construction sites within 21 days after active construction operations have ceased.*
- *Increase the frequency of watering, if water is used as a soil binder for disturbed surfaces, or implement other additional fugitive dust mitigation measures, to all active disturbed fugitive dust emission sources when wind speeds (as instantaneous wind gusts) exceed 25 mph.*
- *A project-specific worker environmental awareness program (WEAP) shall be developed and carried out during all phases of the project (site mobilization, ground disturbance, grading, construction, operation, closure/decommissioning, or project abandonment, and restoration/reclamation activities). The WEAP shall include the biological resources present and*

the measures for minimizing impacts to those resources. Interpretation for non-English speaking workers shall be provided, and all new workers shall be instructed in the WEAP. The project field construction office files will contain the names of onsite personnel (for example, surveyors, construction engineers, employees, contractors, contractor's employees/ subcontractors) who have participated in the education program. All employees and contractors shall be trained to carry out the WEAP and on their role in ensuring the effectiveness of implementing the Plan. At a minimum, the WEAP shall including the following:

- *Photos and habitat descriptions for special status species that may occur on the project site and information on their distribution, general behavior, and ecology.*
- *Species sensitivity to human activities.*
- *Legal protections afforded the species. o Project measures for protecting species.*
- *State and federal law violation penalties.*
- *Worker responsibilities for trash disposal and safe/ humane treatment of special status species found on the project site, associated reporting requirements, and specific required measures to prevent taking of threatened or endangered species.*
- *Handout materials summarizing the contractual obligations and protective requirements specified in project permits and approvals.*
- *Project site speed limit requirements and penalties.*
- *A project specific restoration, re-vegetation, and reclamation plan that meets the approval of permitting agencies shall be prepared and carried out for all projects. The plan shall address at a minimum:*
- *Minimizing natural vegetation removal and the consideration of cutting or mowing vegetation rather than total removal, whenever possible.*
- *Salvage and relocation of cactus and yucca from the site before beginning construction.*
- *Identification of protocols to be used for vegetation salvage.*
- *Reclaiming areas of temporarily disturbed soil using certified weed free native vegetation and topsoil salvaged from excavations and construction activities.*
- *Restoration and reclamation of temporarily disturbed areas, including pipelines, transmission lines, staging areas, and temporary construction-related roads as soon as possible after completion of construction activities. The actions are recommended to reduce the amount of habitat converted at any one time and promote recovery to natural habitats.*
- *Specifying proper seasons and timing of restoration and reclamation activities to ensure success.*

BIOLOGICAL RESOURCES CONCLUSION

The EIR requires the Inyo County to prepare biological inventories and studies prior to permit approval. Further, it also requires extensive mitigation during construction and operation that is not apparent in the proposed permit documents. Based on daily observations of the site, it appears that much of the wildlife and vegetation mitigation described by the EIR has not been implemented during REP 2021-01 construction and operation. Such things as turtle fences, and other similarly observable mitigation have not been in apparent use. Inyo County's adherence to the mitigation listed in EIR for biological resources is highly in question.

The Inyo County allowance of pre-permit wildlife and vegetation destruction is in complete violation of its objectives to avoid and minimize environmental impacts, in violation of state and federal laws, and could include a take of a protected species. Such impacts that may have already been caused by this pre-permit activity are enumerated in the EIR analysis of impacts included above.

13.) Road Planning is not considered. Inyo County provides no support or analysis of road traffic changes that would result from the proposed projects. It is likely these roads will be the same as those used by adjacent residents. It is unclear how the developer will use these roads resulting in an increase in overall traffic and greater use by heavy equipment and large trucks. It is unclear if the developer/operator will have to comply with speed limits or other traffic control measures will be put in place to protect workers and the public. Of particular concern is access on and off the highway for which no planning is apparent. All three homes immediately adjacent to these projects are often occupied by children who use the area for play and recreation. How are they going to be protected?

Mitigation from the EIR requires development of traffic control plans. These would be especially useful and applicable for the proposed projects. This analysis should be done prior to issuance of permits.

MM TRA-1: Prepare site-specific traffic control plans for utility scale projects.

Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.

MM TRA-2: Implement recommendations from traffic impact analysis on surrounding roadways and intersections.

Site-specific construction traffic impact analyses shall be prepared for all proposed utility scale solar energy projects within the individual SEDAs and the OVSA to evaluate potential traffic impacts on surrounding roadways and intersections during the construction period, including wear and tear on County roads. Applicable results and recommendations from the project-specific construction traffic impact analysis shall be implemented during the appropriate construction phase to address identified potential construction traffic impacts.

14.) Impacts to Recreational Use are not fully considered and some are expected. I think it would be fair to say that OHV is one of the main recreation activities of the community and an important one for nearly all the local community, including Trona's youth who do not have a lot of other opportunities for sport and outdoor recreation. One of these is BLM trail, P105, that passes through the middle of both proposed projects. This trail is the only one following the existing right of way and is the main access to desert riding from Trona into the open riding areas in the north. Is this important trail now going to be blocked? Such a blockage would create a negative impact to OHV use and could in use of the highway.

15.) Cumulative Impacts

There are currently three new Renewable Energy permits proposed before Inyo County. This includes REP 2022-01 and REP 2022-02 of about 20 acres herein as well as a more recent 10 acres from SBC investments. These both expand significantly beyond the approximately 10 acres developed for REP 2021-01. This would create a total of about 40 acres spread across the area should these projects move forward. These projects clearly show an increasing impact to the Rural Residential parcels at the south end of the Trona SEDA. As a result, Inyo County has not performed the necessary assessment for this overall arrangement and cumulative impacts of all of these project areas that is now necessary. The current Draft Mitigated Negative Declarations/Staff Report are insufficient to cover assessment of all of

these projects as a whole. Impacts would expect to be greatly amplified by this piecemeal approach of the solar development. Reasons have been provided why the trend for use of rural residential would be expected to increase and assessment of a full 600 acre development focused on these RR parcels could be necessary. Such an updated assessment would need to account for the alternative of using other non-rural residential parcels in the Trona SEDA for solar.

What all this means is that this Rural Residential zoned area will be irrevocably damaged in a way that is not in the interest of the public and Inyo County. The approach being taken will destroy wildlife, vegetation, and any enjoyable use of rural housing in the area. This housing provides a unique lifestyle connected to the outdoors. Instead, Inyo County would be serving only the pocketbook of just one individual if it approves these permits. Trona is a uniquely rare and unusually wild place to live that should be preserved. Inyo County needs to deny the permits proposed for Renewable Energy Develop herein, rewrite its REGPA, and remove all rural residential parcels from the Trona SEDA.

16.) Inyo county needs to assess visual impacts from the visual perspective of residents living in proximity to the proposed projects. As such a resident, from my analysis these impacts would be severe and significantly detrimental to quality of life. From my home, there are impressive views of the Trona Pinnacles and several scenic surrounding mountain ranges including Telescope Peak which would be interrupted. Unlike what is required by the REGPA, there is no benefit provided by REP 2022-01 or REP 2022-02 offsetting this.

17.) Based on previous emails, I remove the confidentiality requirement included on previous comments such that these comments may be shared within the planning department and with the board of supervisors.

18.) The developer continues to do pre-permit construction efforts. This includes stockpiling of limestone gravel at the proposed project site. This should not be allowed given this permit is currently being considered. Inyo County has previously been notified of such activity which is not allowable under several laws and regulations and therefore is complicit in such activity. The attached pictures were taken on April 24, 2023.



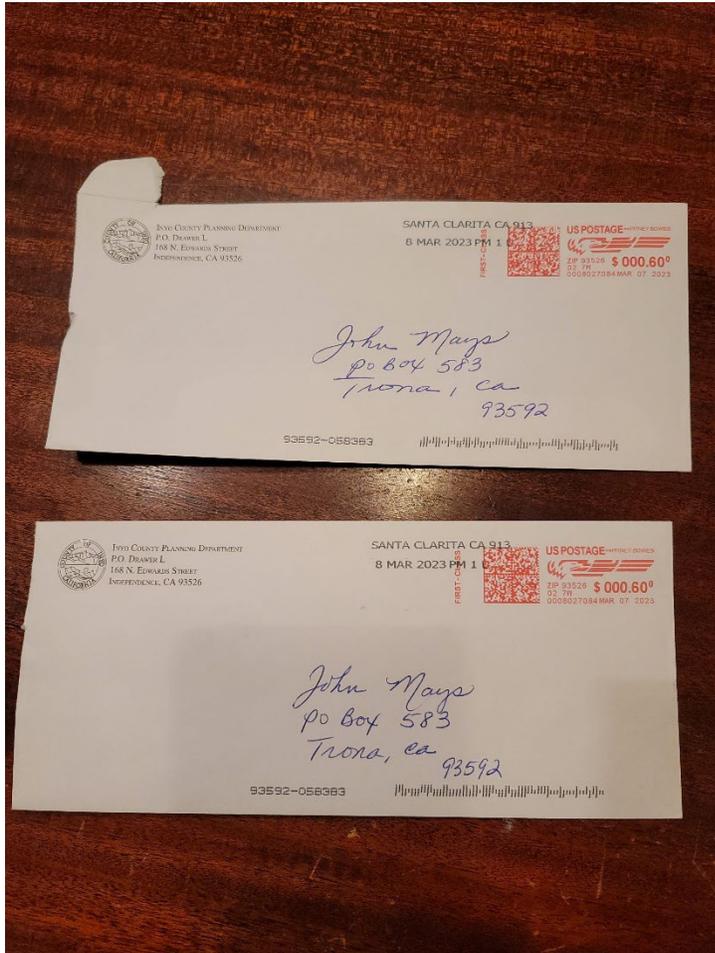
March 21, 2022

Attachments for John Mays Comments on REP 2022-01 and REP 2022-02

- 1.) Photo of delivery method of hearing notices
- 2.) Satellite Photo and Map of Local Project Area
- 3.) Satellite Photo showing relationship of the project areas and town of Trona
- 4.) 2016 satellite photo
- 5.) 2018 satellite photo
- 6.) 2020 satellite photo
- 7.) January 13, 2022 Photo of pre-permit site grading as delivered to Planning dept.
- 8.) March 19, 2023 set of 8 recent photos showing pre-permit vegetation destruction
- 9.) November 30, 2021 Photo of dust emissions as delivered to Planning dept.
- 10.) December 6, 2021 set of two photos showing repeated dust emissions and lack of dust control measures
- 11.) January 21, 2022 set of five photos showing dust plume impacting a number of local homes and Trona
- 12.) March 19, 2023 image of viewshed from Mays Residence towards existing and proposed solar development.
- 13.) Entrance to the REP 2021-01
- 14.) March 21, 2023 Photos of Solar Facilities in the California City Area
- 15.) March 21, 2023 Photos of Ricardo/Cantil CA
- 16.) Emails with Inyo County Planning and Great Basin Unified Air Pollution

Please note that the resolution here in a Word document is not as good as in the actual photos but meant to inform in short time frame that was available to prepare these comments. All photos and video can be provided including many additional ones on different days.

Hearing Notice Envelopes as delivered. How does Inyo County know these were even delivered? Note the date March 8, 2023. These were mailed just two weeks before the final hearing and could have easily been not received in time or lost. This is not proper notification.



Satellite Photo showing relationship of the homes in Trona and the Trona Airport. These homes are approximately 3300 ft from the proposed Renewable Energy Projects and in the primary down wind direction. There are also multiple residences between the REPs and the Pioneer Point (a community of Trona).



2016 Satellite Photo – Note Parcel 38-330-47 is not disturbed as about half of 38-330-48 is not disturbed



2018 Satellite Photo – note that the developer has begun wholesale stripping of 38-330-47 and 38-330-48 prior to the permit which was issued in 2021 – no air permits in place. Also, small sand dune formation now that the properties are barren of vegetation.



2020 Satellite Photo – Note the complete lack of protective vegetation absent an air permit now two years later in the area of the REP 2021-01 and prior to its approval. Parcels for the 38-330-46, 38-330-32, 38-330-33 of REP 2022-01 and REP 2022-02 are undisturbed and indistinguishable from undisturbed land with clear presence of large scrub brush.



Photo of pre-permit scraping efforts underway sent to Inyo County Planning Department on Jan 13, 2022. View from Mays Residence. Note the new absence of the large brush which can be seen from aerial photos.



March 19 Photo at Ground Level looking East across Permit area of REP 2022-01 after stripping of land. Note the large depth at which the grading dug into the topsoil.



March 19, 2023 Photo looking west across permit area for REP 2022-01. Note extensive vegetation destruction. Note that the developer pushed soil onto the neighbor's land.



March 19, 2023 Photo looking north across permit area for REP 2022-01 with the Kidder (Moses) residence in the background



March 19, 2023 Photo construction of fence for REP 2021-01 within the right-away between 38-330-47 and 38-330-46. Fence sits right on property line shown by stakes in the foreground. Road moved to the west.



March 19, 2023 looking South across permit area for REP 2022-02. Note extensive vegetation destruction. And lack of scrub brush. The constructed REP 2021-01 in the background.



March 19, 2023 photo looking east across Permit Area for REP 22-02 with Kidder (Moses) residence in the background. This is along the access road to the Kidder residence which has been in place for 60 years and is a well-established road. Note the size of the brush in foreground which is located on BLM surface. This brush has been destroyed by pre-permit scraping and was present fully across 38-330-33 and 38-330-32 prior. Note materials left on the property.



Photo of Dust Emissions from REP 2021-01 Construction provided to Inyo County Planning Department on November 30, 2021. Note the inundated McNamara residence and plume spread at distance throughout the valley. Zoom provided.



Photos of Dust Emissions from REP 2021-01 Construction on December 6, 2021 provided to Inyo County Planning Department and Great Basin Unified Air Pollution District



Photos of Dust Emissions from REP 2021-01 Construction on December 6, 2021 provided to Inyo County Planning Department and Great Basin Unified Air Pollution District. This sort of activity occurred for many months prior to being reported.



January 21, 2022 Photo sequence from video sent to Inyo County Planning and Great Basin Unified Air Pollution District of massive dust emissions from the permit areas of REP 2022-01, 2022-02, and 21-01 during high winds. This is looking east from the Mays Residence and the dust has occluded the fence (see previous January 13, 2021 photo with scraper for reference)



Comparative photo from the same location (March 20, 2023)



Second Photo in the series note that the McNamara residence and another residence is not visible in the dust cloud. A tree by the residence can be seen.



Comparative Photo in from the same location (March 20, 2023). Zoom shows two residences.



Third Photo from video. There are two additional residences which cannot be seen because of the dust cloud. One of these has subsistence agriculture.



Comparative Photo (same as before) with Zoom of another residence on the right.



Fourth photo from the video. The dust hides another residence due south from the Mays residence. Homes in Trona would normally be visible here and are being inundated with dust.



Comparative Photo from the same location (March 20, 2023) Note number of structures and homes which are not visible due to the concentration of the dust cloud. Homes in the community of Trona area visible along the tree line though this is a little hard to see at this resolution.



Fifth photo from the video. This shows edge of the dust plume off in the distance. This dust was found blanketing the street in front of the Trona Post office 4 miles away and as well as the Trails Drive-In. Note this is only a brief clip of the entire video and one of several other days of other similar events that have been photographed and recorded.



Comparative photo taken in the same location (March 20,2023) Note there is a full-time resident in the “junk yard” that is the first structures from this direction.



Picture from Mays Residence west towards REP 2022-01 that is yet constructed and REP 2021-01 as built.



March 21, 2023 Photo Entrance to the REP 2021-01. Please note the material pushed on adjacent land as well as trash And destroyed culvert. Also, the gate allows people and animals to enter. My dog got through there once. This can trap wildlife.



March 21, 2023 Photo of Solar Facilities Near California City. Note the proper gates and hotline phone number. Neuralia Road



March 21, 2023 Photos of Solar Facilities near California City. Note the lighted warning signs for blowing dust and sand and there are many of them along Neuralia Road which passes by a large number of solar facilities.



March 21, 2023 Photos of windblown sand at solar facilities near California City right adjacent to Neuralia Road. Apparent mitigation measures here appear to include scaping away of the dust outside of the fence.



Another similar photo.



March 21, 2023 Photos Of Ricardo/Cantil CA. Note that this town has been buried by blowing dust often a few feet in depth and sometime several feet.. A solar plant is immediately adjacent to the community; however, these photos are at a good distance away at the far end of the community estimated about thousand feet or downwind. Solar facilities can be seen in the background.



Another Photo. The solar facility can be seen at the end of the road in the picture. Note massive sand accumulation.



Another photo with solar cells in the background. Trees indicate the direction of the wind as coming from solar facility.



Another Photo showing the position of the Solar Facility relative to the community.



Emails

Gmail - RE: [Contact Information] Trona Solar Plant Construction

3/21/23, 7:26 AM



John Mays <johnmays1@gmail.com>

RE: [Contact Information] Trona Solar Plant Construction

Matt Kingsley <mkingsley@inyocounty.us>
To: "johnmays1@gmail.com" <johnmays1@gmail.com>

Tue, Nov 30, 2021 at 3:27 PM

John, yes I remember you and thank you for contacting me. I am forwarding your questions and concerns to Cathreen Richards (Inyo Co. Planning Dept. Director) and Phill Kadoo (Great Basin Air Pollution Control Officer). I will encourage both to contact you directly. If you do not hear from them in the next couple of days, please call or email to follow up.

Matt

From: web.noreply
Sent: Tuesday, November 30, 2021 12:51 PM
To: Matt Kingsley
Subject: [Contact Information] Trona Solar Plant Construction

John Mays (not verified) (johnmays1@gmail.com) sent a message using the contact form at <https://www.inyo-county.us/contact-information>.

The sender's name
John Mays
The sender's email
johnmays1@gmail.com
Subject
Trona Solar Plant Construction
Comment or Question
Mr. Kingsley,

Good afternoon, I don't know if you remember me but I met you a meeting at the Trona airport last year.

I live very near a solar facility currently under construction just outside of Trona. The owner of the facility told me today that he recent purchased the property adjacent (parcel #036-330-46) to my home (parcel #036-330-45) and will begin striping and fencing the property for additional solar use. My question to you is the new property been permitted yet for this activity. My concern is that removing the vegetation on a large area will create a large amount of windblown dust, particularly on windy days and this also significantly change the appearance of the area where we live. There are several residential homes currently occupied by families immediately surrounding the project.

Additionally, we have already had significant amounts of dust coming from the current construction over the last several months. I have attached a picture of this activity from a couple months ago. They currently have a scraper in operation at the moment within the solar project.

I would sincerely appreciate your attention to this matter.

Sincerely,

John Mays
720-415-0426
Contact ID:
contact-522
Images
(looking east from my residence)

Cathreen Richards <crichards@inyocounty.us>
To: "johnmays1@gmail.com" <johnmays1@gmail.com>
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Good afternoon, Mr. Mays

The properties you are inquiring about, have a permit for a 2MW solar facility (it is for two lots). The permit was granted in late March of this year.

The dust issues will need to be reported to the Great Basin Unified Air Pollution Control District. I will forward your complaint to them as well.

If you have additional questions regarding the permit, please feel free to contact me at:

Cathreen Richards, Planning Director
Inyo County Planning Department
PO Drawer L, Independence, CA 93826
Phone: 760-878-0447
Email: crichards@inyocounty.us

From: web@nrc.org
Sent: Tuesday, November 30, 2021 2:51 PM
To: Matt Kingley
Subject: [Contact Information] Trona Solar Plant Construction

John Mays (not verified) (johnmays1@gmail.com) sent a message using the contact form at <https://www.innocounty.us/contact-information>.

The sender's name

John Mays

The sender's email

johnmays1@gmail.com

Subject

Trona Solar Plant Construction

Comment or Question

Mr. Kingley,

Good afternoon. I don't know if you remember me but I met you a meeting at the Trona airport last year.

I live very near a solar facility currently under construction just outside of Trona. The owner of the facility told me today that he recent purchased the property adjacent (parcel # 039-230-46) to my home (parcel #039-230-46). Additionally, we have already had significant amounts of dust coming from the current construction over the last several months. I have attached a picture of this activity from a couple months ago. They currently have I would sincerely appreciate your attention to this matter.

Sincerely,

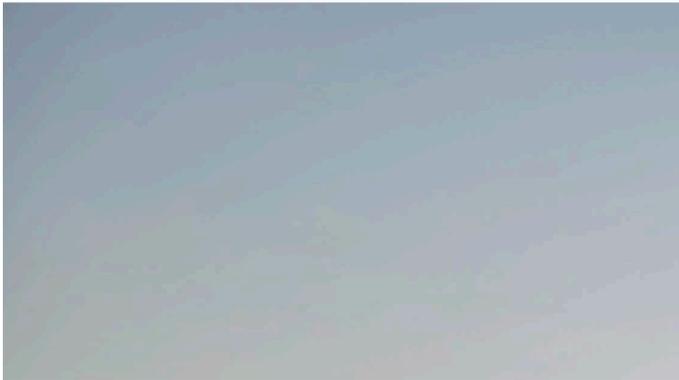
John Mays

730-415-0426

Contact ID

contact-522

Images







John Mays <johnmays1@gmail.com>
To: m.kingsley@inyocounty.us

Tue, Nov 30, 2021 at 4:51 PM

Thanks Matt. Much appreciated. Good to talk to you again.

John Mays <johnmays1@gmail.com>
To: Cathleen Richards, conchards@inyocounty.us
Cc: Matt Kingsley, mkingsley@inyocounty.us

Tue, Nov 30, 2021 at 6:14 PM

Cathleen,
Many thanks for the quick response. Just looking at Inyo county GIS it appears that parcels 038-330-47 and 03-330-48 make up the two parcels in the permit and the owner indicated expanding onto parcel 038-330-45 which is adjacent to my home is not in the permit. Is this correct? Would the owner be able to begin on ground preparations, such as stripping the vegetation prior to obtaining a permit on parcel 038-330-45?
Thanks,

John
(Unsubscribe)

Cathreen Richards <crichards@inyocounty.us> Wed, Dec 1, 2021 at 6:35 AM
To: John Mays <johnmays1@gmail.com>
Cc: Matt Kingsley <matk5h@gmail.com>

Good Morning,

The permit is only good for parcels 039-330-47 and 48. The owner may not expand onto 039-330-46 unless they also get a permit for that parcel. I did check in with the owner and they are not doing anything on that particular parcel.

Just to finish answering your question, though, since there is not a permit on 039-330-46 they cannot do anything in preparation for a solar facility, however, if they are clearing for another allowed use it would be fine.

Thank you,
Cathreen

From: John Mays [mailto:johnmays1@gmail.com]
Sent: Tuesday, November 30, 2021 6:14 PM
To: Cathreen Richards
Cc: Matt Kingsley
Subject: Re: Trona Solar Plant Construction

CAUTION: This email originated from outside of the Inyo County Network. DO NOT click links or open attachments unless you recognize and trust the sender. Contact Information Services with questions or concerns.

John Mays <johnmays1@gmail.com> Wed, Dec 1, 2021 at 9:47 AM
To: Cathreen Richards <crichards@inyocounty.us>
Cc: Matt Kingsley <matk5h@gmail.com>

Thanks Cathreen.

John Mays <johnmays1@gmail.com> Wed, Dec 1, 2021 at 10:06 AM
To: Cathreen Richards <crichards@inyocounty.us>
Cc: Matt Kingsley <matk5h@gmail.com>

Cathreen,

Thank you again for your attention to this. I just wanted to add that if a permit is requested that I be contacted at the proper time so I may participate in the process. I know that the County has already been very communicative on these things with us here and I very much appreciate it.

Sincerely,
John
(Unsubscribe)

John Mays <johnmays1@gmail.com> Thu, Jan 13, 2022 at 4:13 PM
To: Cathreen Richards <crichards@inyocounty.us>
Cc: Matt Kingsley <matk5h@gmail.com>

Cathreen,

Good afternoon.

Today we have clearing of the vegetation and scraping of the top soil off of two additional parcels (039-330-46 and 039-330-33) that are adjacent to the solar plant (see below). Is this construction approved? One of the parcels is directly adjacent to my home. The solar plant is currently within proximity to three homes with half a dozen children living in immediate vicinity. Looking online this entire area is zoned as rural residential, but this appears to be industrial activity. It was my understanding from below that there is no permit in place for such expansion. My neighbors and myself would like to be advised of any permitting or re-zoning activity here so that we may directly intervene in opposition. Previously the solar plant owner contacted me wanting to purchase my land to expand the solar project. Now we have a very large and unprotected bare spot which will undoubtedly increase the amount of dust generated during windy conditions substantially.

Thanks.

John

Sent from Mail for Windows

[\[Download picture\]](#)



20220112_145505.jpg
3441K

John Mays <johnmays1@gmail.com> Fri, Jan 21, 2022 at 12:41 PM
To: Catherine Richards <crichard@ingocounty.us>, Luke Eisenhardt <leisenhardt@gbuspcd.org>, Ann Logan <ann@gbuspcd.org>
Cc: Matt Kingdey <matk19@gmail.com>

Good morning. Please see the attached video filmed today of the blowing dust being generated by the solar plant and the adjacent stripped areas. This really emphasizes the concern about large areas of unprotected/bare ground. Note that the video begins looking at the solar plant area (and also three adjacent parcels recently stripped by the owner) and ends looking at the community of Pioneer Point. The community and nearby homes downwind are usually visible but are not in the video as they are being miserably inundated by dust. I would like to also bring your attention that no dust is generated where the vegetation is still in place. I would still like to get a response to my previous email. What has the county done to prevent this type of health hazard and what erosion control measures are in place here? There appears to be nothing being done differently since November.

[\[Download picture\]](#)

20220121_113459_1_1_1.mp4
1766K

Ann Logan <ann@gbuspcd.org> Fri, Jan 21, 2022 at 4:41 PM
To: John Mays <johnmays1@gmail.com>
Cc: Catherine Richards <crichard@ingocounty.us>, Luke Eisenhardt <leisenhardt@gbuspcd.org>, Matt Kingdey <matk19@gmail.com>

John,
We have received your photo and video and will be following up on it with the property owner.

[\[Download picture\]](#)

John Mays <johnmays1@gmail.com> Mon, Jan 24, 2022 at 11:21 AM
To: lstone65@gmail.com

Tom,
That follow is the latest email with video I sent on Friday. And their response. You might want to read the thread as well as it includes a few things.

[\[Download picture\]](#)



John Mays <johnmays1@gmail.com>

Trona Solar Plant - Renewable Energy Permit 2021-01

3 messages

John Mays <johnmays1@gmail.com> Fri, Jan 28, 2022 at 4:56 AM
To: Cathreen Richards <crichards@inyocounty.us>
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Cathreen,

I was reading through the documents online regarding Renewable Energy Permit 2021-01/Barker Solar and CEQA addendum both reference a previously lapsed 2018 permit that contains the basis for the staff analysis and mitigation for the project. This was not included in the documents available online and I would like to request a copy of Initial Study and any other relevant documents that were publicly available at that time so that I may understand the permit that has been issued here.

From the CEQA Addendum.

"The ND prepared for the original renewable energy permit application, certified in July 2018, evaluated the project through an Initial Study (IS). The ISND identified several avoidance and minimization measures that were incorporated into project design, as conditions of approval for issuance of the permit, to avoid potentially significant impacts."

The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,

John

Cathreen Richards <crichards@inyocounty.us> Fri, Jan 28, 2022 at 9:00 AM
To: John Mays <johnmays1@gmail.com>
Cc: Matt Kingsley <mkingsley@inyocounty.us>

John,

Attached is the original 2018 staff report and ISMND and the 2021 staff report. It was amended because the applicant increased the project area, but did not exceed the project footprint. The project also had to be amended because the applicant did not produce a reclamation plan in the required time. In other words, the 2021 project added solar panels into the area already evaluated by the original CEQA ISMND and provided the required reclamation plan.

So, a new ISMND was not required.

FYI, the Great Basin Unified Air Pollution Control District did not submit comments during the state agency review period; therefore, the planner who worked on the project had nothing from them to add as a mitigation.

Cathreen

From: John Mays [mailto:johnmays1@gmail.com]
Sent: Friday, January 28, 2022 4:56 AM
To: Cathreen Richards
Cc: Matt Kingsley
Subject: Trona Solar Plant - Renewable Energy Permit 2021-01

CAUTION: This email originated from outside of the Inyo County Network. DO NOT click links or open attachments unless you recognize and trust the sender. Contact Information Services with questions or concerns.

Cathreen,

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The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,

John

3 attachments

 Solar_Barker_Staff_Report.pdf
524K

 IS_ND_Trona_SEDA_signed.pdf
1387K

 2021-01_Barker_staff_report.pdf
491K

John Mays <johnmays1@gmail.com>
To: Cathreen Richards <crichards@inyocounty.us>
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Mon, Jan 31, 2022 at 9:24 AM

Thank You Cathreen.

Sent from Mail for Windows

From: Cathreen Richards
Sent: Friday, January 28, 2022 9:00 AM
To: John Mays
Cc: Matt Kingsley
Subject: RE: Trona Solar Plant - Renewable Energy Permit 2021-01

John,

Attached is the original 2018 staff report and ISMND and the 2021 staff report. It was amended because the applicant increased the project area, but did not exceed the project footprint. The project also had to be amended because the applicant did not produce a reclamation plan in the required time. In other words, the 2021 project added solar panels into the area already evaluated by the original CEQA ISMND and provided the required reclamation plan.

So, a new ISMND was not required.

FYI, the Great Basin Unified Air Pollution Control District did not submit comments during

the state agency review period; therefore, the planner who worked on the project had nothing from them to add as a mitigation.

Cathreen

From: John Mays [mailto:johnmays1@gmail.com]
Sent: Friday, January 28, 2022 4:56 AM
To: Cathreen Richards
Cc: Matt Kingsley
Subject: Trona Solar Plant - Renewable Energy Permit 2021-01

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From the CEQA Addendum.

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The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,

John



John Mays <johnmays1@gmail.com>

Trona Solar Plant - Renewable Energy Permit 2021-01

3 messages

John Mays <johnmays1@gmail.com> Fri, Jan 28, 2022 at 4:56 AM
To: Cathreen Richards <crichards@inyocounty.us>
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Cathreen,

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The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,

John

Cathreen Richards <crichards@inyocounty.us> Fri, Jan 28, 2022 at 9:00 AM
To: John Mays <johnmays1@gmail.com>
Cc: Matt Kingsley <mkingsley@inyocounty.us>

John,

Attached is the original 2018 staff report and ISMND and the 2021 staff report. It was amended because the applicant increased the project area, but did not exceed the project footprint. The project also had to be amended because the applicant did not produce a reclamation plan in the required time. In other words, the 2021 project added solar panels into the area already evaluated by the original CEQA ISMND and provided the required reclamation plan.

So, a new ISMND was not required.

Trona Solar Plant, which was forwarded to us by Matt Kingsley. Regarding the dust emissions, Luke Eisenhardt, one of our Air Quality Specialists, will be following up with the owner regarding the lack of dust mitigation measures, as well as a lack of the proper air district permit for the solar project. If you observe additional dust emissions impacting residences and/or crossing the property boundary please document them and let us know.

Regarding your inquiry about expansion onto additional parcels, we at the air district do not have any information about expansion at this time. Inyo County Planning, whom Matt also forwarded the email to, should be able to answer that question.

Please contact Luke at leisenhardt@gbuapcd.org or 760-872-8211 ext 228 if you observe additional dust emissions from the project or have any other questions.

Thank you,
Ann

Ann Logan
Deputy Air Pollution Control Officer
Great Basin Unified Air Pollution Control District
157 Short Street Bishop, California 93514
(760) 872-8211
www.gbuapcd.org

John Mays <johnmmays1@gmail.com> Mon, Dec 6, 2021 at 10:39 AM
To: Ann Logan <ann@gbuapcd.org>
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phill Kiddoo <pkiddoo@gbuapcd.org>, "mkingsley@inyocounty.us" <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

Ann,

Just from this morning. As per your request below, appears dust crossing the property line here.

Can you advise further on the situation regarding Air Quality for the solar plant? Your email below speaks about lack of proper air district permit. Is construction able to proceed without this permit? If the operator needs to obtain a permit, does this permit go to public comment? Was any enforcement action taken?

Thanks,

John

Sent from Mail for Windows

From: Ann Logan
Sent: Thursday, December 2, 2021 9:59 AM
To: johnmays1@gmail.com
Cc: Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards
Subject: Trona Solar Plant

John,

Good morning. Great Basin Unified Air Pollution Control District received your complaint and inquiry regarding the Trona Solar Plant, which was forwarded to us by Matt Kingsley. Regarding the dust emissions, Luke Eisenhardt, one of our Air Quality Specialists, will be following up with the owner regarding the lack of dust mitigation measures, as well as a lack of the proper air district permit for the solar project. If you observe additional dust emissions impacting residences and/or crossing the property boundary please document them and let us know.

Regarding your inquiry about expansion onto additional parcels, we at the air district do not have any information about expansion at this time. Inyo County Planning, whom Matt also forwarded the email to, should be able to answer that question.

Please contact Luke at leisenhardt@gbuapod.org or 760-872-8211 ext 228 if you observe additional dust emissions from the project or have any other questions.

Thank you,

Ann

Ann Logan
Deputy Air Pollution Control Officer
Great Basin Unified Air Pollution Control District
157 Short Street Bishop, California 93514
(760) 872-8211
www.gbuapod.org

2 attachments



20211206_072322.jpg
3267K



20211206_081048.jpg
2183K

Ann Logan <ann@gbuapcd.org> Mon, Dec 6, 2021 at 11:43 AM
To: John Mays <johnmays1@gmail.com>
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phill Kiddoo <pkiddoo@gbuapcd.org>, "mkingsley@inyocounty.us" <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

John,
Thank you for the email, photos, and information. We will be following up with the owner. Regarding your questions, it would be good to have a call. Could you please let us know the best number to reach you?

On Mon, Dec 6, 2021 at 10:39 AM John Mays <johnmays1@gmail.com> wrote:

Ann,

Just from this morning. As per your request below, appears dust crossing the property line here.

Can you advise further on the situation regarding Air Quality for the solar plant? Your email below speaks about lack of proper air district permit. Is construction able to proceed without this permit? If the operator needs to obtain a permit, does this permit go to public comment? Was any enforcement action taken?

Thanks,

John

Sent from Mail for Windows

From: Ann Logan
Sent: Thursday, December 2, 2021 9:59 AM
To: johnmays1@gmail.com
Cc: Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards
Subject: Trona Solar Plant

John,

Good morning. Great Basin Unified Air Pollution Control District received your complaint and inquiry regarding the Trona Solar Plant, which was forwarded to us by Matt Kingsley. Regarding the dust emissions, Luke Eisenhardt, one of our Air Quality Specialists, will be following up with the owner regarding the lack of dust mitigation measures, as well as a lack of the proper air district permit for the solar project. If you observe additional dust emissions impacting residences and/or crossing the property boundary please document them and let us know.

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Please contact Luke at leisenhardt@gbuapcd.org or 760-872-8211 ext 228 if you observe additional dust emissions from the project or have any other questions.

Thank you,

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John Mays <johnmays1@gmail.com>

Trona Solar Plant

7 messages

Ann Logan <ann@gbuapcd.org> Thu, Dec 2, 2021 at 9:58 AM
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Ann,
Thank you very much for looking into this. We will stay in touch if we see anything. Really appreciate your attention to this matter.

Sincerely,

John

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John Mays <johnmays1@gmail.com> Mon, Dec 6, 2021 at 11:50 AM
To: Ann Logan <ann@gbuapcd.org>
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phill Kiddoo <pkiddoo@gbuapcd.org>, Matt Kingsley <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

My phone number is 720-415-0426.

Thanks,

John

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www.gbuapcd.org

Luke Eisenhardt <leisenhardt@gbuapcd.org>
To: John Mays <johnmays1@gmail.com>
Cc: Ann Logan <ann@gbuapcd.org>

Tue, Dec 7, 2021 at 9:58 AM

Good morning John,

I just called you, but your voicemail box is full. Please call me if you have any questions. If you have any followup complaints, pictures, information, etc. regarding this project, please direct them to me or Ann Logan.

Thank you,

Luke Eisenhardt

Air Quality Specialist
Great Basin Unified Air Pollution Control District
157 Short Street
Bishop, California 93514
760-872-8211, ext. 228
760-258-9690, direct
760-920-0327, cell
www.gbuapcd.org

On Mon, Dec 6, 2021 at 11:50 AM John Mays <johnmays1@gmail.com> wrote:
My phone number is 720-415-0426.

Thanks,

John

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John Mays <johnmmays1@gmail.com>
Draft To: John Mays <johnmmays1@gmail.com>

Thu, Jan 13, 2022 at 2:31 PM

Sent from Mail for Windows

From: John Mays
Sent: Monday, December 6, 2021 10:39 AM
To: Ann Logan
Cc: Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards
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the state agency review period; therefore, the planner who worked on the project had nothing from them to add as a mitigation.

Cathreen

From: John Mays [mailto:johnmays1@gmail.com]
Sent: Friday, January 28, 2022 4:56 AM
To: Cathreen Richards
Cc: Matt Kingsley
Subject: Trona Solar Plant - Renewable Energy Permit 2021-01

CAUTION: This email originated from outside of the Inyo County Network. DO NOT click links or open attachments unless you recognize and trust the sender. Contact Information Services with questions or concerns.

Cathreen,

I was reading through the documents online regarding Renewable Energy Permit 2021-01/Barker Solar and CEQA addendum both reference a previously lapsed 2018 permit that contains the basis for the staff analysis and mitigation for the project. This was not included in the documents available online and I would like to request a copy of Initial Study and any other relevant documents that were publicly available at that time so that I may understand the permit that has been issued here.

From the CEQA Addendum.

"The ND prepared for the original renewable energy permit application, certified in July 2018, evaluated the project through an Initial Study (IS). The ISND identified several avoidance and minimization measures that were incorporated into project design, as conditions of approval for issuance of the permit, to avoid potentially significant impacts."

The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,

John



John Mays <johnmays1@gmail.com>

Trona Solar Plant - Renewable Energy Permit 2021-01

John Mays <johnmays1@gmail.com>
To: Cathreen Richards <crichards@inyocounty.us>
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Fri, Jan 28, 2022 at 4:56 AM

Cathreen,

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Cathreen Richards <crichards@inyocounty.us>
To: John Mays <johnmays1@gmail.com>
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Fri, Jan 28, 2022 at 9:00 AM

John,

Attached is the original 2018 staff report and ISMND and the 2021 staff report. It was amended because the applicant increased the project area, but did not exceed the project footprint. The project also had to be amended because the applicant did not produce a reclamation plan in the required time. In other words, the 2021 project added solar panels into the area already evaluated by the original CEQA ISMND and provided the required reclamation plan.

So, a new ISMND was not required.

Trona Solar Plant, which was forwarded to us by Matt Kingsley. Regarding the dust emissions, Luke Eisenhardt, one of our Air Quality Specialists, will be following up with the owner regarding the lack of dust mitigation measures, as well as a lack of the proper air district permit for the solar project. If you observe additional dust emissions impacting residences and/or crossing the property boundary please document them and let us know.

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My phone number is 720-416-0426.

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Subject: Trona Solar Plant

John,

Good morning, Great Basin Unified Air Pollution Control District received your complaint and inquiry regarding the Trona Solar Plant, which was forwarded to us by Matt Kingsley. Regarding the dust emissions, Luke Eisenhardt, one of our Air Quality Specialists, will be following up with the owner regarding the lack of dust mitigation measures, as well as a lack of the proper air district permit for the solar project. If you observe additional dust emissions impacting residences and/or crossing the property boundary please document them and let us know.

From: [Amanda McNamara-Ball](#)
To: [Cynthia Draper](#)
Subject: Public Comment -Hearing March 22, 2023
Date: Tuesday, March 21, 2023 7:04:54 PM
Attachments: [Resized_20230315_133336.jpeg](#)
[Resized_20230315_133343.jpeg](#)

You don't often get email from akmcnamara80@gmail.com. [Learn why this is important](#)

Hello,

I am a resident at 33063 Bri-Mar Ln (aka 100 Bri-Mar Ln - in process of getting changed). This residence is directly South and South-East of parcels mentioned in the attached notices. I would like it to be public record that I adopt the comments entered by Mr. John M. Mays and Mr. Thomas Kidder.

Thank you for your time,
Amanda K. Ball
760-382-4101

Sent Via Email (inyoplanning@inyocounty.us)

To: County of Inyo, Planning Commission
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

Re: May 3, 2023, County of Inyo Planning Commission Meeting, Agenda Item Nos. 7 (Renewable Energy Permit 2022-01/Barker) and 8 (Renewable Energy Permit 2022-02/Barker)

Dear Members of the Inyo County Planning Commission and Board of Supervisors:

My property is adjacent to the existing solar facility and adjacent to the proposed project expansion involving the two permits under consideration. I have lived with my family on my property since 1974. This includes three generations that currently live with me including my son, daughter, and granddaughter. I have experience with construction projects around Trona over the many years and retired from Caltrans several years ago.

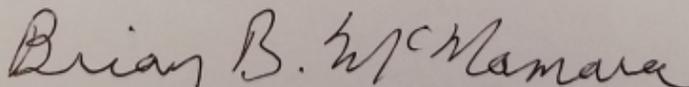
We have used the parcels on which we live for agriculture including raising animals for food including chickens, pigs, cows, and other livestock. We enjoy living in a natural area, with its wildlife and native vegetation as well as the beautiful vistas in every direction. Expansion of this project will destroy this natural area which I grew up in and ruin the quality of life for my family for generations to come. These solar plants eliminate all presence of the natural environment on the land which they are constructed and seriously degrade the surrounding native environment including wildlife, vegetation, air quality, roads, aesthetics, and human health. Inyo County has not evaluated these impacts correctly. The permit documents also do not discuss any impacts to or from power lines or corridors which will be used for transmission or other later projects.

My home is immediately downwind of the current solar plant and these associated proposed projects. We have been affected by blowing dust from them for at least a couple years now. We have repeatedly observed construction of these facilities without any dust control measures. We also have observed no protection for the desert tortoise during the construction. In my experience, it is well known that these measures need to be in place for any construction project in this area. Also, during the construction, a large amount of material was pushed onto my property and left there. We have never observed any security on the project which is unmanned. Overall, the project has been a sloppy, half-complete collection of material piles and unused equipment that shows no concern for visual appearance and protection of the public.

I oppose the construction and operation of these projects. It has been my experience that Inyo County is unable to manage anything in our remote part of the county. This area has been treated by the County for many years as: "Out of sight. Out of mind." This has been shown again with the recent construction and permitting. Also, the owner of the project shows little care for his neighbors or compliance with regulations. I was NOT notified by the owner regarding submittal of applications for the proposed projects as required by the REGPA. Since Inyo County lacks the resources to make any effort to supervise the project nor cares at all about enforcing rules and regulations, we expect even worse things to come if these permits are approved.

My family and I support the comments of John Mays, his legal counsel, and Tom Kidder. We urge the Planning Department and Board of Supervisors to deny these permits and remove all Rural Residential parcels in the area from the Trona REGPA. The solar use as proposed here is not the proper use for these areas.

Thank you,



Brian B. McNamara
101 Bri-Mar Lane
P.O.Box 592
Trona, California 93562



tel: 916.455.7300 · fax: 916.244.7300
510 8th Street · Sacramento, CA 95814

May 1, 2023

SENT VIA EMAIL

(inyoplanning@inyocounty.us;
Cynthia Draper, Assistant Planner, cdraper@inyocounty.us)

County of Inyo
Planning Commission
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

**Re: May 3, 2023, County of Inyo Planning Commission Meeting
Agenda Item Nos. 7 (Renewable Energy Permit 2022-01/Barker)
and 8 (Renewable Energy Permit 2022-02/Barker)**

Dear Members of the Inyo County Planning Commission:

On behalf of our client, John Mays, this letter provides comments regarding the May 3, 2023, Planning Commission meeting, agenda item numbers 7 (Renewable Energy Permit 2022-01/Barker) and 8 (Renewable Energy Permit 2022-02/Barker) (collectively, the “Projects”).

The County’s approval of the Project is riddled with both procedural and substantive violations of law as set forth more fully below. Further, this letter documents some of the applicable principles that authorize the Planning Commission to deny the Projects. Specifically, section I of this letter describes the County’s violation of the Brown Act that prevents the Planning Commission from taking action on the Project at the May 3, 2023 meeting. Section II describes several substantive and procedural violations of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq. [“CEQA”]) associated with the two mitigated negative declarations (“MNDs”) for the Project. Section III describes the proper framework for the Planning Commission’s discretionary action on the underlying Renewal Energy Permits (“REPs”).

I. Violations of the Brown Act

The County has violated the Brown Act by failing to properly disclose to the public that it intends to take action on (namely, adopt) two different MNDs as part of its actions regarding the Project. It is settled that the Brown Act requires agendas to identify

proposed CEQA actions. An agenda must specifically state the action that the body is proposing to take, including a proposed action under CEQA. (*San Joaquin Raptor Rescue Center v. County of Merced* (2013) 216 Cal.App.4th 1167, 1178 (*San Joaquin Raptor*) [agency violated Brown Act by failing to identify action on CEQA document in its posted agenda, reasoning that the Brown Act “mandates that each item of business be described on the agenda, not left to speculation or surmise”].) Neither the public hearing notice (See **Exhibit 1**) nor agenda for the May 3, 2023 Planning Commission meeting (**Exhibit 2**) identify any CEQA actions associated with the Project. This violates the Brown Act. (*San Joaquin Raptor, supra*, 216 Cal.App.4th at 1178.)

As a result of the inadequate public notice, the Planning Commission may not adopt the MNDs on May 3, 2023. Further, the Planning Commission may not approve the REPs subject to later consideration of the MNDs, since CEQA requires consideration of a project’s CEQA analysis prior to taking action on the underlying entitlements. (Cal. Code Regs., tit. 14, § 15000 et seq. [“CEQA Guidelines”]; CEQA Guidelines, § 15074, subd. (b) [“Prior to approving a project, the decision-making body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration”].) However, this does not prejudice either the County or the applicant because, as discussed in the next section, the County may not lawfully approve the Project based on the existing record.

II. Violations of CEQA

The Project, comprised of two separate REPs and MNDs, is riddled with substantive and procedural violations of CEQA. The record contains substantial evidence of a fair argument that the Project will result in significant environmental impacts, including human health impacts to nearby residents, triggering the need to prepare an Environmental Impact Report (“EIR”). (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) At minimum, the City will need to prepare a revised MND that complies with CEQA’s substantive and procedural mandates.

A. Project Piecemealing

CEQA’s conception of the term “project” is broad to maximize protection of the environment. (*Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist.* (2007) 147 Cal.App.4th 643, 653; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730 (*San Joaquin Raptor I*). “This big picture approach to the definition of a project (i.e., including “the whole of an action”) prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project

into smaller components which, when considered separately, may not have a significant environmental effect.” (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 270-271.)

Here, it appears that the County appears to be engaging in impermissible piecemealing by splitting apart a 4.2 megawatt photovoltaic solar facility located on 20 acres with the same operator seeking County approval at exactly the same time — and also happen to be adjacent to a previously approved 1 megawatt solar facility by that same operator. (See **Exhibit 3**, parcel map; **Exhibit 4**, Notice of Determination and Notice of Availability for 2018-01.) The relevant test is whether the activities have “substantial independent utility.” (*Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal.App.4th 712, 736 (*Del Mare Terrace*)). It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by apparently not even considering whether the two requested REPs have independent utility, much less elucidating facts on this issue one way or another. A court would review this issue exercising its independent judgment with no deference to the agency. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)

B. Failure to Analyze Cumulative Impacts

Even if is determined that the two requested REPs have independent utility and therefore are properly considered separate projects for purposes of CEQA, the two MNDs violate CEQA by not analyzing their cumulative impacts.

A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an EIR. (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.)

Despite this mandate, the two MNDs' cumulative impacts analyses set forth in cursory fashion:

No, the proposed project does not have impacts that are individually limited but cumulatively considerable. Due to the sparseness of the natural environment and lack of plant or animal habitat, this location is well suited for solar development. More generation capacity may be added to the southern SEDA in Inyo County, but this cumulative effect would still be minimal given the lack of affected resources in the area.

This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) There is no attempt to do so. Incredibly, each MND's cumulative impact analysis omits any reference to the other concurrently requested REP by the same applicant located immediately adjacent and proposed for approval by the County on the very same day. Nor is there any discussion of the solar facility — also adjacent to each project — that was approved in 2018. (CEQA Guidelines, § 15130, subd. (b)(1)(A) [“A list of past, present, and probable future projects”].)

Neither MND includes any discussion of how each requested REP would interact with the other concurrently-requested REP or the existing REP located immediately adjacent to the two proposed REP sites. Thus, each MND fails to “determine[] whether the incremental impacts of the project are cumulatively considerable by evaluating them against the backdrop of the environmental effects of other projects. The question is . . . whether the effects of the individual project are considerable.” (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1996) 42 Cal.App.4th 608, 624 [internal quotations and emphasis omitted].)

Each MND's analysis of cumulative impacts is wholly inadequate. To the extent it is claimed that the MND's cumulative impact analysis tiers from (CEQA Guidelines, § 15152) or incorporates by reference (CEQA Guidelines, § 15150) the cumulative impact analysis set forth in the Renewable Energy General Plan Amendment Program Environmental Impact Report (SCH No. 2014061039) (“PEIR”), the MND's have failed to comply with CEQA's requirements for each procedure.

The CEQA Guidelines set forth specific requirements for tiering:

When tiering is used, the later EIRs or negative declarations shall refer to the prior EIR and state where a copy of the prior EIR may be examined.

The later EIR or negative declaration should state that the lead agency is using the tiering concept and that it is being tiered with the earlier EIR.

(CEQA Guidelines, § 15152, subd. (g).)

Similarly, the CEQA Guidelines set forth specific requirements for incorporation by reference:

(b) Where part of another document is incorporated by reference, such other document shall be made available to the public for inspection at a public place or public building. The EIR or negative declaration shall state where the incorporated documents will be available for inspection. At a minimum, the incorporated document shall be made available to the public in an office of the lead agency in the county where the project would be carried out or in one or more public buildings such as county offices or public libraries if the lead agency does not have an office in the county.

(c) Where an EIR or negative declaration uses incorporation by reference, the incorporated part of the referenced document shall be briefly summarized where possible or briefly described if the data or information cannot be summarized. The relationship between the incorporated part of the referenced document and the EIR shall be described.

(d) Where an agency incorporates information from an EIR that has previously been reviewed through the state review system, the state identification number of the incorporated document should be included in the summary or designation described in subdivision (c).

(CEQA Guidelines, § 15150.)

The MNDs failed to comply with the requirements for either tiering or incorporation by reference. The MNDs never mentioned the PEIR, much less summarized the relevant discussion[s] purportedly relied upon or identify where the PEIR was available for public inspection. Indeed, our office could only locate Volume II of II of the Final EIR, and not Volume I of the Final EIR or the Draft EIR. Thus, there is no credible claim that the MND's tiered or incorporated by reference the PEIR. Further, our comment letter addresses additional CEQA deficiencies related to the PEIR below.

C. The MND's Failed to Adequately Analyze and Mitigate Project Impacts

The MND fails to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 74 (*No Oil I*.) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (*Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (*No Oil I, supra*, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (*Id.* at p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.

In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This is assured by incorporation into a Mitigation Monitoring and Reporting Plan (“MMRP”). (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation of Hillside & Canyon v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 (*Federation*).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See *San Bernardino Valley Audubon Society v. Metropolitan Water District* (1999) 71 Cal.App.4th 382, 392.)

Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311 (*Sundstrom*).) For example, in *Sundstrom* the court held that the absence of information explaining why no alternative sludge disposal site is available

“permits the reasonable inference that sludge disposal presents a material environmental impact.” (*Ibid.*) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.

1. The MND Impermissibly Conflates Analysis of Impacts and Mitigation

For every resource area, the MNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 658 (*Lotus*) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.

For example, regarding whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the MNDs assert, “No, control of air quality issues during construction, primarily dust mitigation, will be managed with techniques utilizing, [sic] application of water, and application of dust suppressants.” (MND, § III(a).) Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the MNDs assert, “No, the proposed project will be in compliance with air quality standards as the applicant is conditioned with obtaining any required permits and following best management practices as set forth by the Great Basin Unified Air Pollution Control District.” This structure that conflates analysis of project impacts and mitigation violates CEQA. (*Lotus, supra*, 223 Cal.App.4th at 658.) The MND follows this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.

2. The MNDs Fail to adopt Mitigation Measures and Mitigation Monitoring and Reporting Plans

Although clearly identifying each document as a “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeated checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County incredibly fails to adopt any mitigation measures or incorporate such mitigation measures into an MMRP. This violates CEQA. (CEQA Guidelines, § 15097.) This also violates the Inyo County Code. (County Code, Ch. 15.44.) To wit:

15.44.005 General.

The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)

15.44.010 Application.

A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)

15.44.020 Timing.

Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment. The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)

15.44.030 Contents.

The monitoring plan shall contain, at a minimum, the following:

A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;

B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);

C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;

D. Identification of the person or entity responsible for monitoring and verification;

E. The method of reporting monitoring results to the county. (Ord. 957 § 1 (part), 1995.)

15.44.040 Enforcement.

Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)

The MNDs do not contain the required MMRPs. Further, the conditions of approval cannot credibly be construed as MMRPs because they do not contain the information required by CEQA or the County Code.

3. Mitigation Measures are not adequately defined or effective

CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (*Federation, supra*, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound. Just a few representative examples are provided.

The MNDs claim that construction air quality will be less than significant because “dust mitigation will be managed with techniques utilizing application of water, and application of dust suppression.” The MND fails to explain what specific “techniques” are proposed. Will the operator use water trucks? If so, how frequently? Will they come on a regular schedule or on call as needed? If on call as needed, what is the trigger for requiring the water trucks? What dust specific dust suppressants are proposed? How are they applied? Can dust suppressants be used along with water trucks? None of these questions, which related directly to the effectiveness of dust mitigation, are answered. An MND cannot use a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (*King & Gardiner Farms, supra*, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 511.) The MND has failed to provide evidence that its vague mitigation will be effective. Further, the MND also fails to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant’s REP 2018-01 that was issued in 2018.

The MNDs claim that construction noise will be less than significant without the need for any mitigation. The MND asserts that noise “will be well under OSHA standards” because noise “will be minimized with construction during daytime business hours.” The MND does not even identify the relevant noise standard, much less disclose the noise levels from construction equipment. Nor does limiting construction to daytime hours have any effect on the actual noise level during those daytime hours, which is completely undisclosed.

Regarding aesthetic impacts, the MNDs assert there will be less than significant impacts because “[t]he County applied a set of criteria that included avoidance of areas containing scenic resources when identifying the proposed SEDAs.” Does this mean that every property located within the SEDA Overlay area cannot be observed from a scenic vista? This is apparently not the case since the MND states further, “The boundaries and locations of the SEDAs have been sighted in areas where there is no abundance of scenic resources within the SEDA boundaries themselves.” The MND fails to explain what is meant by “abundance” of scenic resources, much less “within the SEDA boundaries themselves.” In short, there is no information suggesting that the undisclosed County “criteria” will effectively reduce aesthetic impacts.

Regarding water quality impacts, the MNDs conclude that the Project will not violate any water quality standards because “[t]he Project will be subject to regulation by

the Lahontan Regional Water Quality Control Board and the Inyo County Environmental Health Department.” The MNDs, however, fail to provide the required project-specific analysis of potential impacts and the effect of regulatory compliance. (*Californians for Alternatives to Toxic v. Dept. of Food & Agriculture* (2005) 136 Cal.App.4th 1.)

In short, the MNDs’ cursory analyses fail to provide adequate information about the effectiveness of proposed “mitigation” measures relied upon by the MNDs to find Project impacts less than significant.

4. The MNDs failed to apply the PEIR’s mitigation measures

The MNDs violate CEQA because they fail to address the PEIR that the County certified in 2015 along with its MMRP. With respect to the PEIR, the staff reports for the Project assert:

An Initial Study with a Mitigated Negative Declaration (ISMND) was performed and considered for possible significant impacts to environmental resources for Renewable Energy Permit 2022-02/Barker. The County of Inyo produced a program level EIR (2015 REGPA), pursuant to Section 15168 of CEQA Guidelines, to address environmental impacts from the planned solar development areas. This document distinguishes all SEDAs that are the most environmentally suitable for solar projects, with the least amount of individual and cumulative impacts to land and resources (2015 REGPA, 3-4). A copy of the ISMND can be found at <https://www.inyocounty.us/services/planning-department/current-projects>.¹

The staff reports are correct that the PEIR was prepared “to address environmental impacts from the planned solar development areas.” What the staff reports fail to address, however, is that the County adopted an MMRP for the PEIR that includes extensive mitigation measures for later subject project-level approvals in order to reduce environmental impacts. (See **Exhibit 5**, PEIR MMRP.)² “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation, supra*, 83 Cal.App.4th at 1261.) The County’s analysis of the

¹ The County violates CEQA Guidelines sections 15150, 15152 and 15168 by providing a link to the MNDs and not the referenced PEIR.

² Reinforcing the County’s violation of CEQA Guidelines sections 15150, 15152 and 15168, the adopted MMRP for the PEIR is not available on the County’s website. The attached **Exhibit 5** is taken from the Final EIR Volume II.

Project violates CEQA because its environmental review wholly ignores those mitigation measures. (CEQA Guidelines, § 15168, subd. (c)(3) [“An agency shall incorporate feasible mitigation measures and alternatives developed in the program EIR into later activities in the program”]; *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1186-1187 [“CEQA requires that feasible mitigation measures actually be implemented as a condition of development, and not merely be adopted and then neglected or disregarded”].)

It appears that the County literally ignored and disregarded the dozens of mitigation measures that are applicable to the Project through the County’s earlier adoption of the PEIR’s MMRP. These mitigation measures include, but are not limited to AES-1, AG-3, AQ-1 through -3, Bio-1 through -23, Bio-25, Cul-1, NOI-1.³

Any revised CEQA analysis, whether an EIR or revised and recirculated MND, will need to address these mitigation measures.

III. There is ample evidence in the record to deny the requested REPs

The analysis above documents the various ways in which the Project (comprised of REPs 2022-01 and 2022-02) may have significant impacts on the health and welfare of nearby residents and the environment. Our client and other residents have provided extensive documentation regarding the applicant’s flagrant disregard for nearby residents and the environment. There is little doubt that these actions will continue. In light of this, the Commission should exercise its broad discretionary authority to deny the requested Renewable Energy Permits.

The County Code grants the Planning Commission broad authority to approve or deny Renewable Energy Permits. For example, County Code section 21.320.070 provides:

21.20.070 Health, safety and welfare of the county’s citizens.

Prior to the issuance of a renewable energy impact determination or the granting of a renewable energy permit, the county planning commission

³ Certain PEIR mitigation measures such as AES-1 – 10 apply to projects greater than 20 MW and also “proposed solar energy projects that are distributed generation commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA.” The staff record provides no information indicating that the County made any such determination for the Project, much less support any such determination with analysis supported by substantial evidence.

must find that, through the imposition of mitigation measures, the approval of a reclamation plan, the receipt of adequate financial assurances, and by other conditions incorporated into the determination or imposed upon the permit, ***the health, safety and welfare of the county's citizens, the county's environment, including its public trust resources, and the county's financial well-being, have been adequately safeguarded.***

(Emphasis added.)

The highlighted language is commonly known as the “health and welfare” standard, which represents broad authority to deny a land use entitlement. (*SP Star Enterprises v. City of Los Angeles* (2009) 173 Cal.App.4th 459, 473.) Further, this language necessarily means that the requested Renewable Energy Permits are subject to denial by the Planning Commission. (*BreakZone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1224 (*BreakZone*) [“[a] CUP is discretionary by definition”].) The County’s decision to deny the Renewable Energy Permits would be afforded great deference by a reviewing court. (Code Civ. Proc., § 1094.5, subd. (b).) The County’s decision will be overturned only if no reasonable person would have reached the same conclusions. (*Harris v. City of Costa Mesa* (1994) 25 Cal.App.4th 963, 969 (*Harris*); *BreakZone, supra*, 81 Cal.App.4th at 1244.) A reviewing court presumes an agency’s decision is correct and will resolve all reasonable doubts in favor of the administrative findings and decision; the party challenging the decision bears the burden to demonstrate otherwise. (Evid. Code, § 664; see *Breneric Associates v. City of Del Mar* (1998) 69 Cal.App.4th 166, 175.)

Further, and importantly, the law is well settled that only one reason is required to deny a CUP. (*Desmond v. County of Contra Costa* (1993) 21 Cal.App.4th 330, 336-337 (*Desmond*)). *Desmond* explains with clarity:

Because we are reviewing a denial of a requested land use permit, it is not necessary to determine that each finding by the Board was supported by substantial evidence. As long as the Board made a finding that any one of the necessary elements enumerated in the ordinances was lacking, and this finding was itself supported by substantial evidence, the Board’s denial of appellant’s application must be upheld.

(*Id.* at 336-337 [italic in original]; see also *Saad v. City of Berkeley* (1994) 24 Cal.App.4th 1206, 1213 [inadequacy of a single finding does not undermine denial of permit when other adequate findings were made].) What is more, a single finding to

deny a CUP may be based solely on neighborhood opposition. The court in *Harris* explains:

“It is appropriate and even necessary for the [agency] to consider the interest of neighboring property owners in reaching a decision whether to grant or deny a land use entitlement, and the opinions of neighbors may constitute substantial evidence on this issue.”

(*Harris, supra*, 25 Cal.App.3d at 973, emphasis added; *Dore v. County of Ventura* (1994) 23 Cal.App.4th 320, 328-329.) We understand that nearby residents have already reached out to the County, explaining that the existing 10-acre solar project is contributing to unacceptable dust and resulting health impacts. These concerns will justify denial of the Renewable Energy Permits even if they are in “technical compliance” with the County’s zoning code, General Plan or other planning documents. The *Desmond* decision explains:

This finding of unsuitability to the character of the surrounding neighborhood is sufficient by itself to support the denial of appellants’ application for a land use permit. (*Guinnane v. San Francisco City Planning Com.*, *supra*, 209 Cal.App.3d at pp. 740-743 [local agency denied permit on basis of finding that large size of house was “not in character” with surrounding neighborhood even though in technical compliance with zoning and building codes; upheld].)

(*Desmond, supra*, 21 Cal.App.4th at 338.)

We encourage the Planning Commission to carefully consider the written comments from neighboring property owners that have already been submitted as well as the additional oral comments that you will no doubt hear at the hearing.

Finally, and importantly, the Planning Commission should not feel constrained to simply adopt the recommended findings prepared by staff since agencies are afforded considerable latitude with regard to the precision and formality of their findings denying a project. (*Young v. City of Coronado* (2017) 10 Cal.App.5th 408, 421.) Findings under Code of Civil Procedure section 1094.5 need not be “extensive or detailed.” (*Environmental Protection Information Center v. California Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 516.) Findings may incorporate matters by reference, or omissions may be filled by relevant references available in the record. (*Craik v. County of Santa Cruz* (2000) 81 Cal.App.4th 880, 884.) An agency may also memorialize its findings in writing after the quasi-adjudicatory decision itself. (See *Levi*

County of Inyo
Planning Commission
May 1, 2023
Page 15 of 15

Family Partnership, L.P. v. City of Los Angeles (2015) 241 Cal.App.4th 123 [upholding planning commission findings supporting the decision to deny a permit application given first orally at a public hearing and then memorializing the decision in writing nearly one year later].) The Planning Commission is well within its authority to reject staff's recommendation of approval in the staff report and instead vote to deny the permit along with instructions for staff to come back with written findings consistent with the Commission's reasoning and evidence elucidated at the hearing. Finally, it is not necessary to prepare any CEQA document in order to deny a project. (Pub. Resources Code, § 21080, subd. (b)(5); CEQA Guidelines, § 15270, subd. (a).)

In summary, the Planning Commission is vested with wide discretion to deny the requested Renewable Energy Permits based on broad considerations of public welfare. Only one reason is necessary to deny the Project, which can be supplied by public opposition and will be upheld by a reviewing court unless no reasonable person could reach the same conclusion.

* * *

We thank you for the opportunity to comment.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

cc: John Mays (johnmmays1@gmail.com)

Attachments:

Exhibit 1, Public Hearing Notice
Exhibit 2, Agenda for the May 3, 2023 Planning Commission Meeting
Exhibit 3, Parcel Map
Exhibit 4, Notice of Availability and Notice of Determination for 2018-01
Exhibit 5, PEIR MMRP

EXHIBIT 1



**Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526**

Phone: (760) 878-0263
FAX: (760) 872-2712
E-Mail: inyoplanning@inyocounty.us

PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN the Inyo County Planning Commission will hold public hearings Wednesday, May 3, 2023, at 10:00 a.m. in the Board of Supervisors Room, County Administrative Center, at 224 North Edwards Street, Independence, to consider the following:

Renewable Energy Permit No. 2022-01/Barker

The applicant has applied for a Renewable Energy Permit, located on one private parcel (038-330-46) in Trona California. The proposed project will connect to Southern California Edison's transmission infrastructure to generate renewable energy for consumers. The property is zoned Rural Residential (RR)-5-acre minimum, with General Plan designations of Residential Estate (RE). The project area is also part of a Solar Energy Development Area (SEDA) overlay, as adopted by the Inyo County Board of Supervisors in 2015.

If you challenge any finding, determination, or decision made regarding this project in court, you may be limited to raising only the issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered prior to the hearing.

Comments can be made regarding these projects prior to the meeting via U.S. Mail: PO Drawer L, Independence, CA 93526, Fax [(760) 872-2712], or by email (inyoplanning@inyocounty.us)

All mailed, faxed, and emailed comments will become part of the official record, and the Planning Commission will take that feedback into consideration as it deliberates.

EXHIBIT 2

Agenda

County of Inyo Planning Commission

Board of Supervisors Room
Inyo County Administrative Center
Independence, California

HOWARD LEHWALD
CAITLIN (KATE) J. MORLEY
TODD VOGEL
CALLIE PEEK
SCOTT KEMP

CATHREEN RICHARDS
RYAN STANDRIDGE
CYNTHIA DRAPER
PAULA RIESEN
MICHAEL ERRANTE
NATE GREENBERG
CHRISTIAN MILOVICH

FIRST DISTRICT
SECOND DISTRICT
THIRD DISTRICT (CHAIR)
FOURTH DISTRICT (VICE CHAIR)
FIFTH DISTRICT

PLANNING DIRECTOR
ASSOCIATE PLANNER
ASSISTANT PLANNER
PROJECT COORDINATOR
PUBLIC WORKS DIRECTOR
COUNTY ADMINISTRATOR
COUNTY COUNSEL

Inyo County Planning Commission
Post Office Drawer L
Independence, CA 93526
(760) 878-0263
(760) 872-2712 FAX
inyoplanning@inyocounty.us

This meeting will be held in the Board of Supervisors Room located at 224 N. Edwards Street, in Independence California.

Items will be heard in the order listed on the agenda unless the Planning Commission rearranges the order or the items are continued. Estimated start times are indicated for each item. The times are approximate and no item will be discussed before its listed time.

Lunch Break will be given at the Planning Commission's convenience.

The Planning Commission Chairperson will announce when public testimony can be given for items on the Agenda. The Commission will consider testimony on both the project and related environmental documents.

The applicant or any interested person may appeal all final decisions of the Planning Commission to the Board of Supervisors. Appeals must be filed in writing to the Inyo County Board of Supervisors within 15 calendar days per ICC Chapter 15 [California Environmental Quality Act (CEQA) Procedures] and Chapter 18 (Zoning), and 10 calendar days per ICC Chapter 16 (Subdivisions), of the action by the Planning Commission. If an appeal is filed, there is a fee of \$300.00. Appeals and accompanying fees must be delivered to the Clerk of the Board Office at County Administrative Center Independence, California. If you challenge in court any finding, determination or decision made pursuant to a public hearing on a matter contained in this agenda, you may be limited to raising only those issues you or someone else raised at the public hearing, or in written correspondence delivered to the Inyo County Planning Commission at, or prior to, the public hearing.

Public Notice: In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Planning Department at (760) 878-0263 (28 CFR 35.102-3.104 ADA Title II). Notification 72 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Planning Department 2 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format (Government Code Section 54954.2).

May 3, 2023

**10:00
A.M.**

- 1. PLEDGE OF ALLEGIANCE.**
- 2. ROLL CALL** – Roll Call to be taken by staff.
- 3. PUBLIC COMMENT PERIOD** – This is the opportunity for anyone in the audience to address the Planning Commission on any planning subject that is not scheduled on the Agenda.

**Action
Item**

- 4. APPROVAL OF MINUTES** – Approval of minutes from the March 22, 2023 Planning Commission Meeting.

- Action Item Public Hearing**
5. **AMENDMENT TO CONDITIONAL USE PERMIT 1994-2 BROWN’S SUPPLY; RECLAMATION PLAN 1994-2 BROWN’S SUPPLY**-The applicant has applied to amend Conditional Use Permit (CUP) 1994-2 and Reclamation Plan (REC) 1994-2, proposing to remove the east pit of 4.97 acres within the existing mining boundary and update both the CUP and REC to store foreign materials on site.
- Action Item Public Hearing**
6. **AMENDMENT TO RECLAMATION PLAN 1997-6 INDEPENDENCE MS#118 CALIFORNIA DEPARTMENT OF TRANSPORTATION**-The applicant has applied for an amendment to Reclamation Plan 97-6 with permission from the Bureau of Land Management (BLM). The California Department of Transportation proposing a minor revision of the condition of approval #20, abandoning the well, in the approved plan at the Independence Pit MS #118.
- Action Item Public Hearing**
7. **RENEWABLE ENERGY PERMIT 2022-01/BARKER**- The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on one privately owned parcel(APN:038-330-46), in Trona California. This permit would allow the applicant to construct a proposed 1-megawatt photovoltaic solar facility that uses approximately 2,300 single axis tracker solar panels. The project encompasses 5-acres of pre-disturbed land.
- Action Item Public Hearing**
8. **RENEWABLE ENERGY PERMIT 2022-02/BARKER**-The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on three privately owned parcels (APN:038-330-32,33,34), in Trona California. This permit would allow the applicant to construct a proposed 3-megawatt photovoltaic solar facility that uses approximately 6,000 single axis tracker solar panels. The project encompasses 15- acres of pre-disturbed land.
- Work shop**
9. **BROWN ACT REVIEW** – County Counsel will give a presentation to the Planning Commission about the Brown ACT and how it applies to the Planning Commission.

COMMISSIONERS’ REPORT/COMMENTS

Commissioners to give their report/comments to staff.

PLANNING DIRECTOR’S REPORT

Planning Director, Cathreen Richards, will update the Commission on various topics.

CORRESPONDENCE-INFORMAITONAL

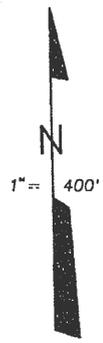
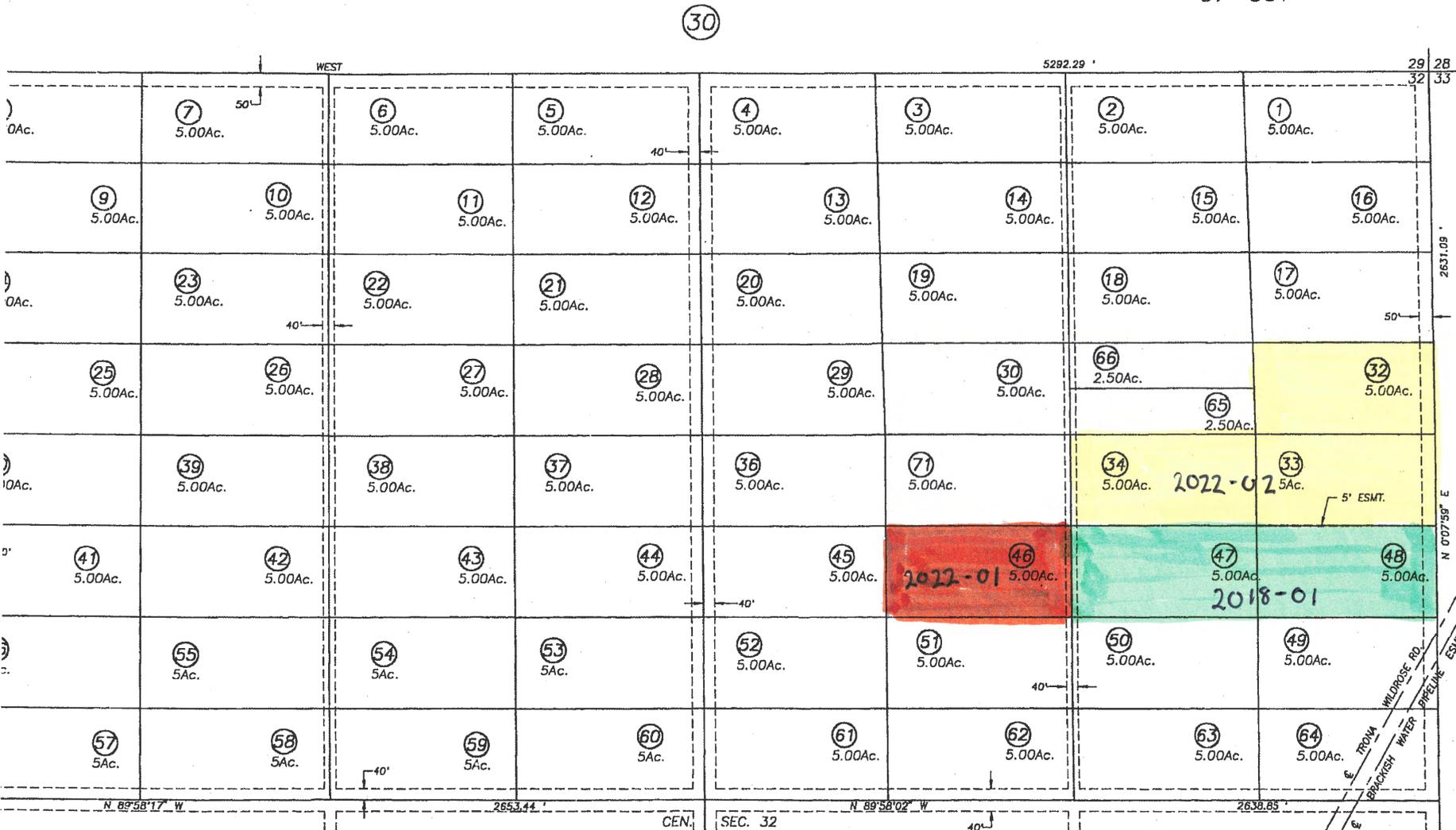
EXHIBIT 3

N1/2 SEC. 32 T.24S., R.43E., M.D.B. & M.

BLM SMALL TRACT CLASSIFICATION-CALIFORNIA NO. 128

TAX RATE AREA
67-001

38-33



30

34

r.S. Bk. 8 Pgs. 69 & 94

- NOTE:
1. THIS DOCUMENT WAS PREPARED FOR ASSESSMENT PURPOSES ONLY.
 2. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN.
 3. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.

Assessor's Map Bk. 38 Pg. 3
County of Inyo, Calif.
1963

11-17-97
08-22-96

JUL 1

EXHIBIT 4

FILED

JUN 05 2018

**INYO CO. CLERK
KAMMI FOOTE, CLERK**



**Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526**

**Phone: (760) 878-0263
FAX: (760) 872-2712
E-Mail: inyoplanning@inyocounty.us**

NOTICE OF AVAILABILITY AND INTENT

Notice is hereby given that an Initial Study and Draft Negative Declaration of Environmental Impact have been prepared pursuant to the California Environmental Quality Act (CEQA) and Inyo County CEQA Procedures, and are available for public review for the following application:

Renewable Energy Permit #2018-01/Barker

The applicant has applied for a renewable energy permit to construct a 1 megawatt (MW) photovoltaic solar facility, located on two privately owned parcels (038-330-47 & 038-330-48) in Trona, California. The project will be built on two parcels (5 acres each) with a total project area of 10 acres. The proposed project will connect to Southern California Edison's transmission infrastructure to generate renewable energy for consumers.

The 30-day review period for this Draft Negative Declaration of Environmental Impact begins on June 6, 2018 and expires on July 5, 2018. During this period comments may be submitted regarding the Initial Study and Negative Declaration. Inyo County is not required to respond to any comments received after this date. Written comments and all questions should be addressed to the Inyo County Planning Department at P.O. Drawer "L," Independence, CA 93526, faxed to (760) 878-0382, or emailed to inyoplanning@inyocounty.us.

Copies of the Initial Study and Draft Negative Declaration of Environmental Impact for this project are available for review at the Inyo County Planning Department (168 N. Edwards Street, Independence), County libraries, and the Inyo County Planning Department's website at www.inyoplanning.org.

18-00018

JUL 31 2018

INYO CO. CLERK
KAMMI FOOTE, CLERK

Notice of Determination

Appendix D

To:

Office of Planning and Research
U.S. Mail: Street Address:
P.O. Box 3044 1400 Tenth St., Rm 113
Sacramento, CA 95812-3044 Sacramento, CA 95814

County Clerk
County of: Inyo
Address: 168 N. Edwards St, PO Drawer F
Independence, CA 93526

From:

Public Agency: Inyo County Planning Department
Address: 168 N. Edwards Street
Independence, CA 93526
Contact: Cathreen Richards
Phone: 760-878-0447

Lead Agency (if different from above):
Address:
Contact:
Phone:

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (if submitted to State Clearinghouse): 2018061007

Project Title: Solar 2018-01/Barker

Project Applicant: Robbie Barker, PO Box 907, Trona CA 93592 #760-382-4111

Project Location (include county): Trona, CA / Inyo County

Project Description:

The proposed project would construct a 1 megawatt (MW) photovoltaic solar facility that uses approximately 3,500 fixed tilt or single axis tracker solar panels. The project encompasses 10 acres of pre-disturbed land, which is being used primarily for the storage of miscellaneous equipment. The project would connect to Southern California Edison's transmission and distribution infrastructure, helping the State meet its greenhouse gas emission reduction targets by producing carbon neutral electricity.

This is to advise that the County of Inyo has approved the above
(Lead Agency or Responsible Agency)

described project on 7/25/2018 and has made the following determinations regarding the above
(date)
described project.

1. The project [will will not] have a significant effect on the environment.
2. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [were were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [was was not] adopted for this project.
5. A statement of Overriding Considerations [was was not] adopted for this project.
6. Findings [were were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

<http://inyoplanning.org/projects.htm>

Signature (Public Agency):  Title: Planning Director

Date: 7/31/2018 Date Received for filing at OPR:

EXHIBIT 5

Table ES-1 IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
AESTHETICS		
<p>Future solar energy developments within the SEDAs and OVSA could result in potentially significant visual impacts related to: (1) scenic vistas and scenic resources; (2) degradation of the existing visual character or quality of the site and its surroundings; and (3) light and glare.</p>	<p>AES-1: Prepare visual studies that include existing views, scenic vistas, and visual resources and evaluate the potential impacts to existing visual resources. Site-specific visual studies shall be prepared to assess potential visual impacts for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are distributed generation <u>commercial scale</u> or community scale that have been determined by a <u>qualified</u> County qualified-planner to have the potential to impact visual resources within the individual SEDAs and the OVSA. The visual study shall include assessment of the existing visual environment, including existing views, scenic vistas, and visual resources, and evaluate the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. The study shall include assessment of public views from key observation points, the locations of which shall be determined in consultation with County staff and, if applicable, other public agencies with jurisdiction over the project site (e.g., BLM). Visual simulations shall be prepared to conceptually depict post-development views from the identified key observation points.</p> <p>The analysis and results of the study shall be documented in a memorandum that will include: (1) an assessment of the existing visual environment, including existing views, scenic vistas, and visual resources and (2) an evaluation of the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. Applicable recommendations from the project-specific visual analysis shall be incorporated into the associated individual project design to address identified potential visual impacts.</p> <p>AES-2: Reduce potential effects of glare by preparing site-specific glare studies that inform project design. Site-specific glare studies shall be prepared for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are distributed generation <u>commercial scale</u> or community scale that have been determined by a <u>qualified</u> County qualified-planner to have the potential to impact visual resources within the individual SEDAs and the OVSA to assess potential glare impacts. Applicable results and recommendations from the project-specific glare study shall be incorporated into the associated individual project designs to address identified potential visual impacts.</p>	<p>Significant and Unavoidable</p>

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
AESTHETICS (cont.)		
	<p>AES-3: Minimize visual contrast using colors that blend with surrounding landscape and do not create excessive glare. The project applicant For future proposed solar energy projects that are greater than 20 MW (utility scale) and for proposed solar energy <u>projects</u> that are distributed generation commercial scale or community scale that have been determined by a <u>qualified County qualified</u> planner to have the potential to impact visual resources, <u>shall treat</u> the surfaces of structures and buildings that are visible from public viewpoints <u>shall be treated</u> so that (1) their colors minimize visual contrast by blending with the surrounding landscape and (2) their colors and finishes do not create excessive glare. Surface color treatments shall include painting or tinting in earth tone colors to blend in with the surroundings desert and mountains. Materials, coatings, or paints having little or no reflectivity shall be used.</p> <p>AES-4: Install natural screens to protect ground-level views into the project. For all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are <u>commercial scale distributed generation</u> or community scale that have been determined by a <u>qualified County qualified</u> planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, <u>and</u> where existing screening topography and vegetation are absent or minimal, natural-looking earthwork landforms (such as berms or contour slopes), vegetative, or architectural screening shall be installed to screen ground-level views into the project site. The shape and height of the earthwork landforms shall be context sensitive and consider distance and viewing angle from nearby public viewpoints.</p> <p>AES-5: Prepare lighting plan using BMPs consistent with the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010) to reduce night lighting during construction and operation. The project applicant shall prepare a lighting plan for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are distributed generation commercial scale or community scale that have been determined by a <u>qualified County qualified</u> planner to have the potential to impact visual resources within the individual SEDAs and the OVSA that documents how project lighting would be designed and installed to</p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
AESTHETICS (cont.)		
	<p>minimize night sky impacts during construction and operation. The lighting plan shall include, at minimum, the following lighting design parameters:</p> <ul style="list-style-type: none"> • Lighting shall be of the minimum necessary brightness consistent with operational safety and security <u>requirements</u>. • Lighting shall incorporate fixture hoods/shielding with light directed downward <u>and</u> or toward the area to be illuminated. • Light fixtures that are visible from beyond the project boundary shall have cutoff angles that are sufficient to prevent lamps and reflectors from being visible beyond the project boundary, except where necessary for security. • Project lighting shall be kept off when not in use whenever feasible and consistent with safety and security <u>requirements</u>. • <p>AES-6: Treat PV solar panel glass with anti-reflective coating. For proposed PV facilities greater than 20 MW (utility scale) and for proposed solar energy projects that are distributed generation commercial scale or community scale that have been determined by a <u>qualified</u> County qualified planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, glass used to cover solar panels shall be treated with an anti-reflective coating to further decrease reflection and increase the transmission of light through the glass to the cells.</p> <p>AES-7: Coordinate with the Federal Aviation Administration when considering the use of audio visual warning systems. For projects requiring aircraft warning lights, the project applicant shall coordinate with the Federal Aviation Administration (FAA) to consider the use and installation of audio visual warning systems technology¹ on tower structures. If the FAA denies a permit for the use of audio visual warning systems, the project applicant shall limit lighting to the minimum required to meet FAA safety requirements.</p>	

¹ AVWS technology consists of all-weather, day and night, low-voltage, radar-based obstacle avoidance systems that activate lighting and audio signals to alert pilots of the presence of potential obstacles. The lights and audio warnings are inactive when there is no air traffic in the area of potential obstruction.

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
AESTHETICS (cont.)		
	<p>AES-8: Projects on federal land will comply with the respective federal agency’s visual guidelines and policies. Solar energy projects proposed on federal land within individual SEDAs and the OVSA shall be coordinated with the federal agency that is responsible for the management of the land and shall comply with the respective federal agency’s visual guidelines and policies.</p> <p>AES-9: The project will implement BMPs and measures during construction to reduce the visual and aesthetic effects of the construction site. The following measures shall be implemented for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are distributed generation-commercial scale or community scale that have been determined by a <u>qualified</u> County qualified-planner to have the potential to impact visual resources within the individual SEDAs and the OVSA during construction:</p> <ul style="list-style-type: none"> • Construction boundaries and staging areas shall be clearly delineated and where appropriate fenced to prevent encroachment onto adjacent natural areas. • Construction staging and laydown areas visible from nearby roads, residences, and recreational areas shall be visually screened using temporary fencing. Fencing shall be of an appropriate design and color to visually blend with the site’s surroundings. • Existing native vegetation shall be preserved to the greatest extent possible. • Project grading shall utilize undulating surface edges and contours that repeat the natural shapes, forms, textures, and lines of the surrounding landscape. • Exposed soils shall be restored to their original contour and vegetation. • Stockpiled topsoils shall be reapplied to disturbed surfaces. <p>AES-10: Projects requiring overhead electrical transmission connections will consider design and installation techniques that reduce visual impacts. For projects that require overhead electrical transmission connections to existing transmission lines and for the potential off-site transmission corridor to serve the Trona, Chicago Valley, and Charleston View SEDAs, the following shall be considered in the design and alignment of the transmission line connections:</p>	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
AESTHETICS (cont.)		
	<ul style="list-style-type: none"> • Avoid placing transmission towers and structures along ridgelines, peaks, or other locations where skylining effects would occur such that they would silhouette against the sky. • Place transmission corridor connection alignments along edges of clearings or at transition areas (i.e., natural breaks in vegetation or topography). • <u>To the extent practicable, treat transmission towers and structures with color and surfaces to reduce visual contrast with the surrounding visual landscape. Alternative methods to reduce visual impacts may be considered for structures that cannot use conventional methods of painting without impeding electrical conveyance or without causing long-term environmental impacts through the constant reapplication of paint. These methods may include, but shall not be limited to, galvanizing or similar factory-applied conductive non-paint treatments.</u> • Use of appropriate and context-sensitive transmission tower types (i.e., lattice structures compared to monopoles) to reduce visual contrast with the surrounding visual landscape. 	
AGRICULTURE AND FORESTRY RESOURCES		
<p>Implementation of the REGPA could result in potentially significant impacts to farmlands through the direct and indirect conversion of those resources.</p> <p>No significant impacts to forestry resources would occur with implementation of the REGPA.</p>	<p>AG-1: Review development proposals for potential impacts to agricultural operations. The County Agricultural Commissioner shall be responsible for reviewing new development proposals adjacent to agricultural operations to ensure they do not significantly impact agricultural operations.</p> <p>AG-2: Conduct site specific investigations for agricultural lands. Site-specific agricultural resource investigations shall be completed for proposed solar development projects within the individual SEDAs and the OVSA that are located on lands utilized for agricultural operations prior to final project design approval. If agricultural operations are identified within the project area, alternative designs should be implemented to avoid and/or minimize impacts to those resources. This may include mitigating conversion of agricultural lands based on the mitigation ratios identified in consultation with affected agencies at the cost of the project applicant to the satisfaction of the County. Mitigation ratios and impact fees assessed, if any, shall be outlined in the Renewable Energy Development Agreement, Renewable Energy Permit, or Renewable Energy Impact Determination.</p>	Less Than Significant

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
AGRICULTURE AND FORESTRY RESOURCES (cont.)		
	<p>AG-3: Invasive plant species or noxious weeds. To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> • The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes. • Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site. • Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored. • The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned. • Native vegetation shall be re-established as quickly as practicable on disturbed sites. • Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions. • Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations. 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
AIR QUALITY		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scaled distributed generation</u>, and/or community scale, and/or facilities) could result in potentially significant impacts related to: (1) daily threshold exceedances during construction activities; (2) daily threshold exceedances during operations; and (3) cumulatively considerable net increase in criteria pollutants during construction activities.</p>	<p>AQ-1: Prepare site-specific air quality technical report. Prior to issuance of Major Use Permits for solar energy projects, a site-specific air quality technical report shall be prepared and approved by the County, which will verify compliance with County and Great Basin Unified Air Pollution Control District standards during construction and operation of the solar project.</p> <p>Mitigation measures AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report, and will be implemented during construction and operation of future projects. These measures require implementation of dust control practices during construction activities and solar project operations.</p> <p>AQ-2: Reduce fugitive dust and particulate matter emissions during construction. To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rules 401 and 402 as well as applicable best management practices (BMP)s from the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010), solar projects shall implement fugitive dust and particulate matter emissions control measures including, but not limited to the following:</p> <ul style="list-style-type: none"> • Water and/or coarse rock all active construction areas as necessary and indicated by soil and air conditions; • Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard; • Pave or apply (non-toxic) soil stabilizers on all unpaved access roads; • Sweep daily (with water sweepers) all paved access roads; Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets; • Suspend excavation and grading activity when sustained winds make reasonable dust control difficult to implement, e.g., for winds over 25 miles per hour (mph). • Limit the speed of on-site vehicles to 15 mph. 	<p>Less Than Significant</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
AIR QUALITY (cont.)		
	<p>AQ-3: Implement dust control measures during operation. To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rule 401 and 402 as well as applicable BMPs from REAT’s Best Management Practices and Guidance Manual (REAT 2010), solar projects shall incorporate feasible dust control measures into the site design including, but not limited to, the following:</p> <ul style="list-style-type: none"> • <u>Incorporate perimeter sand fencing into the overall design to prevent migration of exposed soils into the surrounding areas. The perimeter fence is intended to provide long-term protection around vulnerable portions of the site boundary; it is also intended to prevent off-road site access and sand migration across site boundaries and the associated impacts.</u> • <u>Incorporate wind deflectors intermittently across solar project sites. The solar panels themselves, especially where installed to transverse primary wind direction, will provide some measure of protection of the ground surface. Wind deflectors enhance this effect by lifting winds that may otherwise jet beneath panels, thereby disrupting long wind fetches, and reducing surface wind velocities and sand migration.</u> • <u>Orient infrastructure/solar panels perpendicular to primary wind directions; and</u> • <u>Adjust panel operating angles to reduce wind speeds under panels.</u> • <u>Perform revegetation in areas temporarily denuded during construction. These areas would be replanted with native plant species that exist on the site presently. Irrigation would be applied temporarily during the plant establishment period (typically multiple years), but after establishment it is expected that these areas would require little or no maintenance. Vegetation provides dust control by protecting and preventing threshold wind velocities at the soil surface. Studies have shown that an 11 to 54 percent vegetation cover on a site can provide up to 99 percent PM10 control efficiency (GBUAPCD 2008).</u> • <u>As the installation of solar panels and associated equipment progresses, each area that is completed (i.e. where no further soil disturbance is anticipated) will be treated with a dust palliative to prevent wind erosion. CARB certifications indicate that the application of dust suppressants can reduce PM10 emissions by 84 percent or more (CARB 2011).</u> 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scaled distributed generation, and/or community scale, and/or facilities</u>) could result in potentially significant impacts related to sensitive biological resources. Potential impacts to specific resource areas are described below.</p>	<p>BIO-1: Prepare project level biological resources evaluation and mitigation and monitoring plan. <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact biological resources as determined by a qualified biologist (defined as a biologist with documented experience or training related to the subject species), a project level biological resource evaluation shall be prepared by a qualified biologist for the project. The biological resource evaluation shall include field reconnaissance and focused surveys as determined necessary by a qualified biologist to identify special status species and natural communities present or having the potential to occur on the site, an evaluation of the extent of those habitats, an evaluation of the potential for impacts to each special status species and/or habitat, and shall prescribe specific mitigation measures to avoid or reduce impacts to biological resources to the maximum extent practicable. The qualifications of any biologists conducting special status species surveys or focused habitat assessments will be submitted to CDFW prior to conducting fieldwork. The level of biological resource analysis will be based on factors such as the size of the proposed project, the and extent of impacts to biological resources, and the sufficiency of existing data to determine impacts.</u></p> <p><u>An evaluation of the potential for off-site impacts to special status species and sensitive habitats will be included in the biological resources evaluation, especially for projects involving groundwater pumping. Chapter 2 of the Basin Plan protects beneficial uses for groundwater with respect to groundwater recharge and freshwater replenishment and beneficial uses for wildlife habitats and flora and fauna including cold freshwater habitat, warm freshwater habitat, wildlife habitat, rare, threatened, or endangered species, spawning, reproduction, and development, preservation of biological habitats of special significance, and migration of aquatic organisms (RWQCB 1995). A project-specific evaluation of potential impacts to beneficial uses for groundwater as specified in the Basin Plan will be included in the biological resources evaluation.</u></p>	<p>Significant and Unavoidable</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>For projects in the Chicago Valley or Charleston View SEDAs, potential impacts to special status species and/or riparian and other groundwater dependent habitat in the Amargosa Watershed will be evaluated. If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch. USFWS and CDFW shall be contacted during preparation of the biological resources evaluation to obtain the best available scientific data on such potential impacts including existing hydrologic studies (e.g., the unpublished State of the Basin Report-2014 prepared by Andy Zdon and Associates, Inc).</u></p> <p><u>For projects with the potential to impact on- or off-site special status species or habitats as determined in the biological resources evaluation, a project-specific biological resources mitigation and monitoring plan shall be prepared in cooperation with and that meets the approval of permitting agencies. The plan shall be implemented during all phases of the project and shall identify appropriate mitigation levels to compensate for significant direct, indirect, and cumulative impacts, including habitat, special status plant, and wildlife species losses as well as impacts to groundwater dependent vegetation or off-site impacts to special status species or sensitive habitats due to groundwater pumping. The plan shall address at a minimum:</u></p> <ul style="list-style-type: none"> • Biological resource avoidance and minimization measures and mitigation, monitoring and compliance measures required by federal, state, and local applicable permitting agencies. • Documentation (based on surveys) of sensitive plant and wildlife expected to be affected by all phases of the project (project construction, operation, abandonment, and decommissioning). Agencies may request additional surveying, based on the documentation or past experience working with the resources. Include measures to avoid or minimize impacts to species and habitat. • A detailed description of measures to minimize or mitigate permanent and temporary disturbances from construction activities. • 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> • • All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction. • Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities. • Duration for each type of monitoring and a description of monitoring methodologies and frequency. • Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful. • All standards and remedial measures to be implemented if performance standards and criteria are not met. • A closure/decommissioning or abandonment plan, including a description of funding mechanism(s). • A process for proposing plan modifications to the County project manager. • All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction. • Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities. • Duration for each type of monitoring and a description of monitoring methodologies and frequency. • Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful. • All standards and remedial measures to be implemented if performance standards and criteria are not met. • A closure/decommissioning or abandonment plan, including a description of funding mechanism(s). • A process for proposing plan modifications to the County project manager. 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
<p>Impacts to special status plant species could occur during construction and/or operation of the future solar developments under the REGPA.</p>	<p>BIO-2: Minimize impacts to special status plants. <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA, a CDFW-approved botanist shall evaluate the potential for special status plant species to occur on the site and conduct surveys, if necessary, to determine presence or infer absence of special status plants on the site following the November 24, 2009 <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities</i> or the most current guidelines. When special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, to the maximum extent feasible, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs, with the potential to impact special status plant species as determined by a qualified biologist/botanist, a qualified botanist shall determine the presence or absence of special status plants within the project site. The following steps shall be implemented to document special-status plants, as determined necessary by the botanist:</u></p> <ul style="list-style-type: none"> ● Review Existing Information. The botanist shall review existing information to develop a list of special status plants that could grow in the specific project area. Sources of information consulted shall include CDFW’s CNDDDB, the CNPS electronic inventory, and previously prepared environmental documents. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of sensitive plants from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned. ● Coordinate with Agencies. The botanist shall coordinate with the appropriate agencies (i.e., CDFW and USFWS) to discuss botanical resource issues and determine the appropriate level of surveys necessary to document special status plants. ● Conduct Field Studies. The botanist shall evaluate existing habitat conditions for each project and determine what level of botanical surveys may be required. The type of botanical survey shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on these factors and the proposed construction activity, one or a combination of the 	<p>Less Than Significant</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>following levels of survey may be required:</p> <ul style="list-style-type: none"> ● Habitat Assessment. A habitat assessment shall be conducted to determine whether suitable habitat is present. This type of assessment can be conducted at any time of year and is used to assess and characterize habitat conditions and determine whether return surveys are necessary. If no suitable habitat is present, no additional surveys shall be required. ● Species Focused Surveys. Species focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status plants. The surveys shall focus on special status plants that could grow in the region, and would be conducted during a period when the target species are evident and identifiable. ● Floristic Protocol Level Surveys. Floristic surveys that follow the CNPS Botanical Survey Guidelines shall be conducted in areas that are relatively undisturbed and/or have a moderate to high potential to support special status plants. The CNPS Botanical Survey Guidelines require that all species be identified to the level necessary to determine whether they qualify as special status plants, or are plant species with unusual or significant range extensions. The guidelines also require that field surveys be conducted when special status plants that could occur in the area are evident and identifiable. To account for different special status plant identification periods, one or more series of field surveys may be required in spring and summer months. ● Map Special Status Plants. Special status plant populations identified during the field surveys shall be mapped and documented as part of the CEQA process, as applicable. Project development plans shall consider avoidance to the extent practicable. If avoidance is not practicable while otherwise obtaining the projects objectives, then other suitable measures and mitigation shall be implemented in coordination with the appropriate regulatory agency (i.e., USEFWS, CDFW, BLM). <p>If special status plants are identified in the project area <u>and complete avoidance of direct and indirect impacts is not feasible as determined by the County</u>, the following measures shall be implemented to avoid and minimize impacts on special status plants:</p> <ul style="list-style-type: none"> ● The project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, if feasible. ● If feasible, when special status plants are found on a site, the project shall be 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>redesigned or modified to avoid direct and indirect impacts on special status plants, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs.</u></p> <ul style="list-style-type: none"> • <u>For projects that are determined to have the potential to result in “take” of state or federally-listed plant species, consultation shall be conducted with CDFW or USFWS respectively prior to project commencement, and appropriate mitigation measures developed if necessary.-</u> • Special status plants near the project site shall be protected by installing environmentally sensitive area fencing (orange construction barrier fencing) around special status plant populations. The environmentally sensitive area fencing shall be installed at least 20 feet from the edge of the population. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area. • No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. If individuals of a special status species occur within an area proposed for construction and take cannot be avoided, avoidance of special status plants is not feasible, mitigation shall be developed in coordination with USFWS and/or CDFW to reduce impacts on the local population of the special status species. No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. Mitigation measures approved by USFWS and/or CDFW may include transplantation. If individuals of a special status species occur within an area proposed for construction and take cannot be avoided, the plants shall be transplanted under the direction of a qualified CDFW-approved botanist if transplantation of such species is deemed likely to succeed, or seed shall be collected prior to destruction of the plants and dispersed in suitable habitats not impacted by construction, if such habitats exist and seed collection is deemed likely to be successful by a qualified CDFW-approved botanist with experience propagating the species in 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>question. In all cases, CDFW will be notified at least 10 days prior to removal of any special status plant to allow transplantation or collection of seed at their discretion.</p> <ul style="list-style-type: none"> • <u>If transplanting is proposed, the botanist shall coordinate with the appropriate resource agencies and local experts to determine whether transplantation is feasible. If the agencies concur that transplantation is a feasible mitigation measure, the botanist shall develop and implement a transplantation plan through coordination with the appropriate agencies. The special status plant transplantation plan shall involve identifying a suitable transplant site; moving <u>some or all of the plant material and seed bank to the transplant site; collecting seed material and propagating it in a nursery (in some cases it is appropriate to keep plants onsite as nursery plants and sources for seed material); and monitoring the transplant sites to document recruitment and survival rates. Monitoring shall be conducted for a period of five years and transplantation shall be considered successful if an 80 percent survival rate has been achieved by the end of the five-year monitoring period.</u></u> • <u>A mitigation and monitoring plan shall be developed by a qualified botanist/ restoration ecologist and submitted to CDFW for approval prior to approval of the proposed project. The mitigation and monitoring plan will dictate appropriate avoidance and minimization measures, compensatory mitigation, and monitoring requirements as pertinent to the specific species and level of impact(s). Mitigation shall include, but is not limited to 1) protection of special status plant populations not directly impacted by construction or implementation of the project as stated above; 2) transplantation and/or collection of seed from impacted plants if feasible, as stated above; and 3) the preservation in perpetuity of an equivalent or larger off-site population for every individual or population of special status plant impacted including sufficient land surrounding the preserved population to ensure its survival in perpetuity as determined by a qualified botanist/ restoration ecologist. The qualified botanist/ restoration ecologist shall include plans to restore and enhance the preserved populations to the extent feasible.</u> • <u>If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch, pursuant to Mitigation Measure HYD-2 in Section 4.9, Hydrology</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>and Water Quality. If any solar development projects are proposed in the Chicago Valley or Charleston View SEDAs that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for down-watershed impacts to the habitats for special status plants in the Amargosa Watershed including the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic.” If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status plant species (e.g., Fish Slough, marshes, riparian areas, alkaline flats in the Amargosa Watershed and the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic”), a management plan will be prepared in coordination with the County and submitted to the appropriate resource agency with oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on off-site habitat for special status plants such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County.</u></p>	
<p>Impacts to special status wildlife species could occur as a result of implementation of the REGPA if construction and/or operation of the future solar developments would occur within or adjacent to suitable habitat. This includes potential impacts to special status fish, amphibians, reptiles, birds, and mammals.</p>	<p>BIO-3: Minimize impacts to special status wildlife. <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact special status wildlife as determined by a qualified biologist, a qualified CDFW-approved wildlife biologist shall conduct a survey to document the presence or absence of suitable habitat for special status wildlife in the project site. The following steps shall be implemented to document special status wildlife and their habitats for each project, as determined by the CDFW-approved wildlife biologist:</u></p> <ul style="list-style-type: none"> • <u>Review Existing Information.</u> The wildlife biologist shall review existing information to develop a list of special status wildlife species that could occur in the project area or be impacted by the proposed project, either directly or indirectly (e.g., groundwater pumping could result in indirect impacts to off-site habitats for special status wildlife). The following information shall be reviewed as part of this process: the USFWS special status species list for the project region, CDFW’s CNDDDB, previously prepared environmental documents, and USFWS issued biological opinions for 	<p>Significant and Unavoidable</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>previous projects. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of special status wildlife from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.</p> <ul style="list-style-type: none"> • Coordinate with State and Federal Agencies. The wildlife biologist shall coordinate with the appropriate agencies (CDFW, USFWS, BLM) to discuss wildlife resource issues in the project region and determine the appropriate level of surveys necessary to document special status wildlife and their habitats. • Conduct Field Studies. The wildlife biologist shall evaluate existing habitat conditions and determine what level of biological surveys may be required. The type of survey required shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on the existing conditions in the project area and the proposed construction activity, one or a combination of the following levels of survey may be required: • Habitat Assessment. A habitat assessment determines whether suitable habitat is present. The wildlife biologist shall conduct project-specific habitat assessments consistent with protocols and guidelines issued by responsible agencies for certain special status species- (e.g., USFWS' and CDFW have issued protocols for evaluating bald eagle habitat (2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California). Habitat assessments are used to assess and characterize habitat conditions and to determine whether return surveys are necessary. If no suitable habitat is present for a given special status species, no additional species-focused or protocol surveys shall be required. • Species-Focused Surveys. Project-specific species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status wildlife and if it is necessary to determine the presence or absence of the species in the project area. The wildlife biologist shall conduct project-specific surveys focusing on special status wildlife species that have the potential to occur in the region. The surveys shall be conducted during a period when the target species are present and/or active. • Protocol-Level Wildlife Surveys. The wildlife biologist shall conduct project specific protocol level surveys for special status species with the potential to be impacted by the proposed project. The surveys shall comply with the appropriate protocols and 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>guidelines issued by responsible agencies for the special status species. USFWS and CDFW have issued survey protocols and guidelines for several special- status wildlife species that could occur in the project region, including (but not limited to): bald eagle, burrowing owl, golden eagle, Swainson’s hawk, least Bell’s vireo, willow flycatcher, desert tortoise, and San Joaquin desert kit fox. The protocols and guidelines may require that surveys be conducted during a particular time of year and/or time of day when the species is present and active. Many survey protocols require that only a USFWS- or CDFW-approved biologist perform the surveys. The project proponent shall coordinate with the appropriate state or federal agency biologist before the initiation of protocol-level surveys to ensure that the survey results would be valid. Because some species can be difficult to detect or observe, multiple field techniques may be used during a survey period and additional surveys may be required in subsequent seasons or years as outlined in the protocol or guidelines for each species.</p> <ul style="list-style-type: none"> • <u>Habitat Mapping.</u> The wildlife biologist shall map special status wildlife or suitable habitat identified during the project-specific field surveys. • <u>A Scientific Collecting Permit is required to take, collect, capture, mark, or salvage, for scientific, educational, and non-commercial propagation purposes, mammals, birds and their nests and eggs, reptiles, amphibians, fishes and invertebrates (Fish and Game Code Section 1002 and Title 14 Sections 650 and 670.7). All biologists will be required to obtain a Scientific Collecting Permit that may be required to handle any live or dead animals during construction or operation of a project.</u> <p>In addition, the following measures should be implemented to avoid and minimize impacts on special status species and their habitats if they occur within a site:</p> <ul style="list-style-type: none"> • For projects that are determined to have the potential to result in “take” of state or federally-listed animal species, consultation shall be conducted with CDFW or USFWS respectively <u>and appropriate mitigation measures developed as necessary, and take authorization shall be obtained prior to project commencement, if relevant.</u> • Any special status wildlife and/or their habitats identified within a project site outside of the work area will be protected by installing environmentally sensitive area fencing around habitat features, such as seasonal wetlands, burrows, and nest trees. The 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>environmentally sensitive area fencing or staking shall be installed at a minimum distance from the edge of the resource as determined through coordination with state and federal agency biologists (USFWS and CDFW, BLM). The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area.</p> <ul style="list-style-type: none"> • If ground disturbing activities are required prior to site mobilization, such as for geotechnical borings or hazardous waste evaluations, a <u>qualified CDFW-approved biologist</u> shall be present to monitor any actions that could disturb soil, vegetation, or wildlife. • <u>In areas that could support desert tortoise or any other sensitive wildlife species, a County-approved qualified biologist with the appropriate CDFW and/or USFWS approvals for the species being salvaged and relocated shall be onsite and respond accordingly should an animal need to be relocated.</u> walk immediately ahead of equipment during the clearing and grading activities to salvage and relocate the wildlife in the path of the operations. The species shall be salvaged and relocated to off-site habitat when conditions will not jeopardize the health and safety of the biologist. • Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. Vehicles shall not exceed 25 mph on the project site. Vehicles shall abide by posted speed limits on paved roads. • For projects with the potential to affect desert tortoise, parking and storage shall occur within the area enclosed by desert tortoise exclusion fencing to the extent feasible. No vehicles or construction equipment parked outside the fenced area shall be moved prior to an inspection of the ground beneath the vehicle for the presence of desert tortoise. If a desert tortoise is observed, it shall be left to move on its own. If it does not move within 15 minutes, a CDFW and USFWS approved desert tortoise biologist may remove and relocate the animal to a safe location if temperatures are within the range 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>described in the Desert Tortoise Field Manual (USFWS 2013 or most recent version, available from the Ventura Fish and Wildlife Office website http://www.fws.gov/ventura/endangered/species/surveys_protocol.html). All access roads outside of the fenced project footprint shall be delineated with temporary desert tortoise exclusion fencing on either side of the access road, unless otherwise authorized by the County project manager and County biologist.</p> <ul style="list-style-type: none"> • A qualified<u>CDFW-approved</u> biologist shall be designated to oversee compliance with biological resources avoidance and minimization measures during mobilization, ground disturbance, grading, construction, operation, and closure/decommissioning, or project abandonment, particularly in areas containing or known to have contained sensitive biological resources, such as special status species and unique plant assemblages. The qualified<u>CDFW-approved</u> biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The boundaries of all areas to be disturbed (including staging areas, access roads, and sites for temporary placement of spoils) shall be delineated with stakes and flagging prior to construction activities in consultation with the biological monitor. Spoils shall be stockpiled in disturbed areas lacking native vegetation and which do not provide habitat for special status species. Parking areas, staging and disposal site locations shall also be located in areas without native vegetation or special status species habitat. All disturbances, vehicles, and equipment shall be confined to the flagged areas. The qualified<u>CDFW-approved</u> biologist shall be responsible for actions including, but not limited to, the following: <ul style="list-style-type: none"> ○ Clearly marking sensitive biological resource areas and inspecting the areas at appropriate intervals for meeting regulatory terms and conditions. ○ <u>Inspecting, daily, active construction areas where wildlife may have become trapped (for example, trenches, bores, and other excavation sites that constitute wildlife pitfalls outside the permanently fenced area) before beginning construction. At the end of the day, conducting wildlife inspections of installed structures that would entrap or not allow escape during periods of construction inactivity. Periodically inspecting areas with high vehicle activity (such as parking lots) for wildlife in harm’s way.</u> ○ <u>Periodically inspect stockpiled material and other construction material and</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>equipment (including within the fenced areas) throughout the day as some species such as desert kit fox may enter the project site at any time.</u></p> <ul style="list-style-type: none"> ○ Overseeing special status plant salvage operations. ○ Immediately recording and reporting hazardous spills immediately as directed in the project hazardous materials management plan. ○ Coordinating directly and regularly with permitting agency representatives regarding biological resources issues, and implementation of the biological resource avoidance and minimization measures. ○ Maintaining written records regarding implementation of the biological resource avoidance and minimization measures, and providing a summary of these records periodically in a report to the appropriate agencies. ○ Notifying the project owner and appropriate agencies of non-compliance with biological resource avoidance and minimization measures. ○ At the end of each work day, the biological monitor shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled or if backfilling is not feasible, the biological monitor shall ensure that all trenches, bores, and other excavations are sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with desert tortoise-exclusion fencing. All trenches, bores, and other excavations outside the areas permanently fenced with desert tortoise exclusion fencing shall be inspected periodically, but no less than three times, throughout the day and at the end of each workday by the qualifiedCDFW-approved biologist. Should a tortoise or other wildlife become trapped, the CDFW and USFWS-approved desert tortoise biologist shall remove and relocate the individual as described in the project’s Desert Tortoise Relocation/Translocation Plan. Any wildlife encountered during the course of construction shall be allowed to leave the construction area unharmed. ○ Any construction pipe, culvert, or similar structure with a diameter greater than 3<u>1</u> inches, stored less than 8 inches aboveground, and within desert tortoise habitat (i.e., outside the permanently fenced area) for one or more nights, shall be inspected by the biological monitor for desert tortoises or other 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>special status species such as fringe-toed lizard, before the material is moved, buried, or capped. As an alternative, all such structures may be capped before being stored outside the fenced area, or placed on pipe racks. These materials would not need to be inspected or capped if they are stored within the permanently fenced area after the clearance surveys have been completed.</p> <ul style="list-style-type: none"> • Access roads, pulling sites, storage and parking areas outside of the fenced solar facility area shall be designed, installed, and maintained with the goal of minimizing impacts to native plant communities and sensitive biological resources. Transmission lines and all electrical components shall be designed, installed, and maintained in accordance with the APLIC Suggested Practices for Avian Protection on Power Lines (APLIC 2006) and Mitigating Bird Collisions with Power Lines (APLIC 2004) to reduce the likelihood of bird electrocutions and collisions. • Facility lighting shall be designed, installed, and maintained to direct light downwards towards the project site and avoid light spillover to wildlife habitat. • Construction and operation related noise levels shall be minimized to minimize impacts to wildlife. • All vertical pipes greater than 4 inches in diameter shall be capped to prevent the entrapment of birds and other wildlife. • All vehicles and equipment shall be maintained in proper working condition to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials. The biological monitor shall be informed of any hazardous spills immediately. Hazardous spills shall be immediately cleaned up and the contaminated soil properly disposed of at a licensed facility. Servicing of construction equipment shall take place only at a designated area. Service/maintenance vehicles shall carry a bucket and pads to absorb leaks or spills. • Road surfacing and sealants as well as soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants. Anticoagulants shall not be used for rodent control. Pre-emergents and other herbicides with documented residual toxicity shall not be used. Herbicides shall be applied in conformance with federal, state, and local laws and according to the guidelines for wildlife- safe use of herbicides in BIO-24 (Weed Management Plan). 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> • The following measures shall be implemented to minimize attractants to wildlife: <ul style="list-style-type: none"> ○ If the application of water is needed to abate dust in construction areas and on dirt roads, use the least amount needed to meet safety and air quality standards and prevent the formation of puddles, which could attract wildlife to construction sites. The biological monitor shall patrol these areas to ensure water does not puddle and attract desert tortoise, common ravens, and other wildlife to the site and shall take appropriate action to reduce water application where necessary. ○ Water shall be prohibited from collecting or pooling for more than 24 hours after a storm event within the project retention basin. Standing water within the retention basin shall be removed, pumped, raked, or covered. Alternative methods or the timeframe for allowing the water to pool may be modified with the approval of the biological monitor. ○ Dispose trash and food-related items in self-closing, sealable containers with lids that latch to prevent wind and wildlife from opening containers. Empty trash containers daily and remove from the project site those associated with construction when construction is complete. ○ To avoid attracting insectivorous birds and bats, prepare a facility vector (such as mosquitoes or rodents) control plan, as appropriate, that meets the permitting agency approval and would be implemented during all phases of the project. • Workers or visitors, while on project property, shall be prohibited from feeding wildlife, bringing domestic pets to the project site, collecting native plants, or harassing wildlife. • To reduce the potential for the transmission of fugitive dust the project proponent shall implement dust control measures. These shall include: <ul style="list-style-type: none"> ○ The project proponent shall apply non-toxic soil binders, equivalent or better in efficiencies than the CARB- approved soil binders, to active unpaved roadways, unpaved staging areas, and unpaved parking area(s) throughout construction to reduce fugitive dust emissions. ○ Water the disturbed areas of the active construction sites at least three times per day and more often if uncontrolled fugitive dust is noted. Enclose, cover, 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>water twice daily, and/or apply non-toxic soil binders according to manufacturer’s specifications to exposed piles with a 5 percent or greater silt content. Agents with known toxicity to wildlife shall not be used unless approved by the County biologist and County project manager.</p> <ul style="list-style-type: none"> ○ Establish a vegetative ground cover (in compliance with biological resources impact mitigation measures above) or otherwise create stabilized surfaces on all unpaved areas at each of the construction sites within 21 days after active construction operations have ceased. ○ Increase the frequency of watering, if water is used as a soil binder for disturbed surfaces, or implement other additional fugitive dust mitigation measures, to all active disturbed fugitive dust emission sources when wind speeds (as instantaneous wind gusts) exceed 25 mph. ● A project-specific worker environmental awareness program (WEAP) shall be developed and carried out during all phases of the project (site mobilization, ground disturbance, grading, construction, operation, closure/decommissioning, or project abandonment, and restoration/reclamation activities). The WEAP shall include the biological resources present and the measures for minimizing impacts to those resources. Interpretation for non-English speaking workers shall be provided, and all new workers shall be instructed in the WEAP. The project field construction office files will contain the names of onsite personnel (for example, surveyors, construction engineers, employees, contractors, contractor’s employees/ subcontractors) who have participated in the education program. All employees and contractors shall be trained to carry out the WEAP and on their role in ensuring the effectiveness of implementing the Plan. At a minimum, the WEAP shall including the following: <ul style="list-style-type: none"> ○ Photos and habitat descriptions for special status species that may occur on the project site and information on their distribution, general behavior, and ecology. ○ Species sensitivity to human activities. ○ Legal protections afforded the species. ○ Project measures for protecting species. ○ State and federal law violation penalties. ○ Worker responsibilities for trash disposal and safe/ humane treatment of 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>special status species found on the project site, associated reporting requirements, and specific required measures to prevent taking of threatened or endangered species.</p> <ul style="list-style-type: none"> ○ Handout materials summarizing the contractual obligations and protective requirements specified in project permits and approvals. ○ Project site speed limit requirements and penalties. ● A project specific restoration, re-vegetation, and reclamation plan that meets the approval of permitting agencies shall be prepared and carried out for all projects. The plan shall address at a minimum: <ul style="list-style-type: none"> ○ Minimizing natural vegetation removal and the consideration of cutting or mowing vegetation rather than total removal, whenever possible. ○ Salvage and relocation of cactus and yucca from the site before beginning construction. ○ Identification of protocols to be used for vegetation salvage. ○ Reclaiming areas of temporarily disturbed soil using certified weed free native vegetation and topsoil salvaged from excavations and construction activities. ○ Restoration and reclamation of temporarily disturbed areas, including pipelines, transmission lines, staging areas, and temporary construction-related roads as soon as possible after completion of construction activities. The actions are recommended to reduce the amount of habitat converted at any one time and promote recovery to natural habitats. ○ <u>Specifying proper seasons and timing of restoration and reclamation activities to ensure success.</u> ● <u>If any solar development projects are proposed that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for indirect off-site impacts to special status wildlife species and/or their habitats. If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status wildlife species (e.g., Amargosa vole, Ash Meadows naucorid), a management plan will be prepared in coordination with the County and submitted for approval to the appropriate resource agency with regulatory oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>prescribe mitigation to offset the impacts of the project on off-site habitat for special status wildlife such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County.</u></p>	
	<p>BIO-4: Minimize impacts to special status fish. <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status fish, a project-specific groundwater impact analysis will be conducted to address potential impacts to habitat for special status fish. In addition, consultation with USFWS shall be conducted for projects with the potential to impact federally listed species including Owens pupfish or Owens tui chub and coordination with CDFW will be conducted for projects with the potential to impact state listed species or CDFW species of special concern including Owens sucker and Owens speckled dace. For projects that are determined to have the potential to result in “take” of state or federally listed fish species, consultation shall be conducted with CDFW or USFWS respectively and take authorization obtained prior to project commencement.</u></p> <p><u>For all projects proposed in the Charleston View and Chicago Valley SEDAs, an analysis of potential down-watershed impacts to special-status fish species in the Amargosa Watershed will be conducted prior to project approval, if the project involves impacts to groundwater and/or requires pumping of groundwater (e.g. solar thermal projects). If the project is determined to have the potential to result in down-watershed impacts that could alter the hydrology of habitats for special-status fish species, a mitigation and monitoring plan will be prepared by the applicant to address potential impacts to groundwater and down-watershed biological resources and submitted to USFWS and CDFW for approval prior to project implementation. Mitigation measures will be developed in coordination with USFWS and CDFW to offset these impacts. Mitigation measures should include but are not limited to 1) a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio; 2) hydrological and biological monitoring of the impacts of groundwater pumping on the groundwater system and the sensitive habitats down-watershed; and 3) adaptive management to increase the ratio of water rights purchased and retired and restore habitats down-watershed if hydrological and biological monitoring indicates that the projects groundwater pumping is</u></p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>having detrimental effects to sensitive biological resources (e.g., special status species or sensitive natural communities as designated by USFWS, CDFW, or CNPS) within the watershed as determined by a qualified hydrologist/hydrogeologist or biologist in coordination with USFWS and/or CDFW. For projects that are determined to have the potential to result in “take” of state or federally listed fish species, consultation shall be conducted with CDFW or USFWS respectively and take authorization obtained prior to project commencement.</u></p> <p>BIO-5: Minimize impacts to amphibians. The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status amphibians.</p> <ul style="list-style-type: none"> • Surveys for special status amphibians including but not limited to northern leopard frog, Owens Valley web-toed salamander, and Inyo Mountains slender salamander shall be conducted by a <u>qualified CDFW-approved</u> biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction. • If any of these species are found on a project site during the surveys, CDFW shall be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats. • If federal or state-listed amphibians not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project, 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species. For projects that are determined to have the potential to result in “take” of state or federally-listed amphibian species, consultation shall be conducted with CDFW or USFWS respectively and take authorization shall be obtained prior to project commencement.</p>	
	<p>BIO-6: Minimize impacts to desert tortoise. The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect desert tortoise in order to avoid, minimize, and mitigate for impacts:</p> <ul style="list-style-type: none"> • Consultation shall be conducted with CDFW and USFWS for any projects where desert tortoise or <u>signs of their presence</u> is found on the site and/or the project is determined by a <u>qualified CDFW-approved</u> biologist to have the potential to impact desert tortoise. In such cases, permits under Section 2080 of the Fish and Game Code and Section 7/10 of FESA authorizing incidental take of desert tortoise will be obtained from CDFW and USFWS respectively prior to implementation of the project, including any project-related ground disturbing activities. All requirements of the 2081/2080.1 permit and the Biological Opinion shall be implemented. • The project proponent shall fully mitigate for habitat loss and potential take of desert tortoise. The project specific mitigation shall be developed in coordination with CDFW and USFWS, and would be reflective of the mitigation measures described in the Biological Opinion prepared by the USFWS for the project. • <u>The project developer shall provide funds for regional management of common ravens through the payment of a per-acre fee as determined in consultation with the USFWS. The fee shall be commensurate with current per-acre fees (at the time of project approval) required by the BLM and the CEC for development projects in the desert with the potential to provide subsidies to common ravens such as shelter, perching sites, and food. The fee shall be used by the Desert Managers Group to manage common ravens in the California desert with the goal of reducing their predation on desert tortoises.</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> • Projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, Areas of Critical Environmental Concern, Desert Wildlife Management Areas, Priority Connectivity Areas, and other areas or easements managed for desert tortoises). • On project sites containing desert tortoise, consultation shall be conducted with USFWS and CDFW to determine the need for and/or feasibility of conducting desert tortoise translocation (changing location or position) to minimize the taking of the tortoises, if they are observed within the proposed project area. See http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/ for federal translocation plan guidance. Translocation plan development and implementation may require, but not be limited to: additional surveys of potential recipient sites; translocated and resident tortoise disease testing and health assessments; monitoring protocols; and consideration of climatic conditions at the time of translocation. Due to the potential magnitude of proposed renewable energy project impacts on desert tortoises, USFWS and CDFW must evaluate translocation efforts on a project by project basis in the context of cumulative effects. • A desert tortoise authorized biologist approved by CDFW and USFWS shall be contracted to oversee and be responsible for ensuring compliance with desert tortoise avoidance and minimization measures before initiation of and during ground-disturbing activities. The desert tortoise biologist shall conduct clearance surveys, tortoise handling, artificial burrow construction, egg handling, and other procedures in accordance with the Guidelines for Handling Desert Tortoise During Construction Projects (Desert Tortoise Council 1999) or the most current USFWS guidance. The desert tortoise biologist shall be present on site from March 15 through October 31 (active season) during ground-disturbing activities in areas outside the tortoise exclusion fencing. It is recommended that the biologist be on call from November 1 to March 14 (inactive season) and checks such construction areas immediately before construction activities begin. • Refer to the Ventura Fish and Wildlife Office website http://www.fws.gov/ventura/endangered/species/surveys-protocol.html for desert 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>tortoise authorized biologist and monitor responsibilities and qualifications, and survey and translocation guidance, and refer to the Nevada Fish and Wildlife Office (desert tortoise recovery office) website <http://www.fws.gov/nevada/desert_tortoise/dtro/.html> for desert tortoise federal recovery plan documents. Methods for clearance surveys, fence specification and installation, tortoise handling, artificial burrow construction, egg handling and other procedures shall be consistent with those described in the 2013 USFWS Desert Tortoise Field Manual available at the Ventura Fish and Wildlife Office website listed above, or more current guidance provided by CDFW and USFWS. All terms and conditions described in the Biological Opinion for the project prepared by the USFWS shall be implemented.</p> <ul style="list-style-type: none"> • The project owner shall undertake appropriate measures to manage the construction site and related facilities in a manner to avoid or minimize impacts to desert tortoise. These measures include, but are not limited to, the following: <ul style="list-style-type: none"> ○ <u>The project applicant shall notify the USFWS and CDFW prior to project commencement and prior to the commencement of any ground disturbing activities.</u> ○ Before starting project ground disturbing activities, the project proponent shall avoid potential desert tortoise harm by incorporating desert tortoise exclusion fencing into permanent fencing surrounding the proposed facility, and installing desert tortoise exclusion fencing around temporary project construction areas such as staging area, storage yards, excavations, and linear facilities. The tortoise exclusion fencing shall be constructed consistent with the USFWS 2010 Desert Tortoise Exclusion Fence Specifications or the most current guidance provided by USFWS and CDFW, and should be constructed in late winter or early spring to minimize impacts to desert tortoise and accommodate subsequent tortoise surveys. ○ Within 24 hours before starting tortoise exclusion fence construction, the desert tortoise biologist shall survey the fence alignment and utility right-of-way alignments and clear desert tortoises from the area. The surveys and relocation methods shall be conducted using techniques approved by the CDFW and USFWS. Following construction of the tortoise exclusion fence, the desert tortoise biologist shall conduct clearance surveys within the fenced area to ensure as many 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>desert tortoises as possible have been removed from the site. Burrows and tortoises identified within the project area shall be handled according to the 2013 USFWS Desert Tortoise Field Manual, and tortoises requiring relocation shall be handled in accordance with the project Desert Tortoise Relocation/Translocation Plan.</p> <ul style="list-style-type: none"> ○ Heavy equipment may enter the project site following the completion of project area desert tortoise clearance surveys by the desert tortoise biologist. Monitoring initial clearing and grading activities by the biologist will help ensure that tortoises missed during the initial clearance survey are moved from harm’s way. ○ The desert tortoise biologist shall be responsible for appropriate documentation and reporting to the permitting agencies for desert tortoises handled, in accordance with the project Desert Tortoise Relocation/Translocation Plan. ○ Security gates shall be designed with minimal ground clearance to deter ingress by tortoises. The gates shall be kept closed, except for the immediate passage of vehicles, to prevent desert tortoise passage into the project area. ○ Following installation of the desert tortoise exclusion fencing, both the permanent site fencing and temporary fencing in the utility corridors, the fencing shall be regularly inspected by the biological monitor. The biological monitor shall ensure that damage to the permanent or temporary fencing is immediately blocked to prevent tortoise access and permanently repaired within 72 hours between March 15 and October 31, and within 7 days between November 1 and March 14. The biological monitor shall inspect permanent fencing quarterly and after major rains to ensure fences are intact and there is no ground clearance under the fence that would allow tortoises to pass. The biologist shall inspect construction pipes, culverts, or similar structures: (a) with a diameter greater than 3 inches <u>of one inch or greater</u>, (b) stored for one or more nights, (c) less than 8 inches aboveground, and (d) within desert tortoise habitat (outside the permanently fenced area), before the materials are moved, buried, or capped. As an alternative, the materials may be capped before storing outside the fenced area or placing on pipe racks. Inspection or capping is not necessary if the materials are stored within the permanently fenced area after completing desert tortoise clearance surveys. 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> ○ The project proponent shall ensure vehicular traffic does not exceed 25 miles per hour within the delineated project areas or on access roads in desert tortoise habitat. On unpaved roads suppress dust and protect air quality by observing a 10-mile per hour speed limit. ○ To avoid vehicle impacts to desert tortoise, workers shall be responsible for inspecting the ground under the vehicle for the presence of desert tortoise any time a vehicle or construction equipment is parked in desert tortoise habitat outside the permanently fenced area. If a desert tortoise is seen, it may move on its own. If it does not move within 15 minutes, the desert tortoise biologist may remove and relocate the animal to a safe location. ● The project proponent shall develop and implement a Desert Tortoise Relocation/Translocation Plan that is consistent with current USFWS approved guidelines. The goal of the plan will be to safely exclude desert tortoises from within the fenced project area and relocate/translocate them to suitable habitat capable of supporting them, while minimizing stress and potential for disease transmission. The plan shall be developed in consultation with the USFWS to ensure the document does not conflict with conditions issued under an Incidental Take Statement. The plan will utilize the most recent USFWS guidance on translocation that includes siting criteria for the translocation site and control site, methods for translocation/relocation including the holding pen, and post translocation/relocation monitoring. Development and implementation of a translocation plan may require, but may not be limited to, additional surveys of potential recipient sites; disease testing and health assessments of translocated and resident tortoises; and consideration of climatic conditions at the time of translocation. The plan shall designate a relocation site as close as possible to the disturbance site that provides suitable conditions for long term survival of the relocated desert tortoise and outline a method for monitoring the relocated tortoise. ● The Desert Tortoise Relocation/Translocation Plan must be approved by the County, CDFW and USFWS prior to any project-related ground disturbing activity. <u>Plans may also be subject to approval by the County as part of the conditions of approval for future projects.</u> ● Within 30 days after initiation of relocation and/or translocation activities, the Designated Biologist shall provide to the Project Manager for review and approval, a 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>written report identifying which items of the plan have been completed, and a summary of all modifications to measures made during implementation of the plan. Written monthly progress reports shall be provided to the Project Manager for the duration of the plan implementation.</p> <ul style="list-style-type: none"> The project proponent shall design and implement a Raven Monitoring, Management, and Control Plan that is consistent with the most current USFWS raven management guidelines. The goal of the plan shall be to minimize predation on desert tortoises by minimizing project-related increases in raven abundance. The plan shall be approved by the County, CDFW and USFWS prior to the start of any project-related ground disturbing activities. <u>Plans may also be subject to approval by the County as part of the conditions of approval for future projects.</u> 	
	<p>BIO-7: Minimize impacts to special status reptiles (except desert tortoise). The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status reptiles (with the exception of desert tortoise which has separate mitigation measures):</p> <ul style="list-style-type: none"> Surveys for special status reptiles including but not limited to northern sagebrush lizard, Panamint alligator lizard, and Mojave fringe-toed lizard shall be conducted by a qualified <u>CDFW-approved</u> biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction. If any of these species are found on a project site during the surveys, CDFW will be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats.</p> <ul style="list-style-type: none"> • If federal or state-listed reptiles not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project, consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species. 	
	<p>BIO-8: Minimize impacts to Swainson’s hawk. The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect Swainson’s hawk:</p> <ul style="list-style-type: none"> • Surveys shall be conducted for Swainson’s hawk by a <u>qualified CDFW-approved</u> biologist according to the 2010 Swainson’s Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (California Department of Fish and Game [CDFG] 2010) or more recent guidance, unless otherwise directed by CDFW. This guidance dictates survey methods for detecting Swainson’s hawk nesting in or in the vicinity of a project site and measure to avoid and/or reduce impacts to nesting Swainson’s hawk if they are found. The project applicant shall be responsible for coordinating with CDFW and ensuring that the CDFW guidance is implemented. 	
	<p>BIO-9: Minimize impacts to burrowing owl. The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect burrowing owl, unless otherwise directed by CDFW:</p> <ul style="list-style-type: none"> • In the calendar year that construction is scheduled to commence, surveys will be conducted by a <u>qualified CDFW-approved</u> biologist to determine presence/absence of 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>burrowing owls and/or occupied burrows in the project site and accessible areas within 500 feet according to the CDFW’s <i>Staff Report on Burrowing Owls</i> (CDFG 2012). A winter non-breeding season survey will be conducted between December 1 and January 31 and a nesting-breeding season survey will be conducted between April 15 and July 15 according to established protocols (CDFG 2012). Pre-construction surveys will also be conducted within 30 days prior to construction to ensure that no additional burrowing owls have established territories since the initial surveys. If no burrowing owls are found during any of the surveys, no further mitigation will be necessary. If burrowing owls are found, then the following measures shall be implemented prior to the commencement of construction:</p> <ul style="list-style-type: none"> ○ During the non-breeding season (September 1 through January 31) burrowing owls should be evicted by passive relocation as described in the <i>Staff Report on Burrowing Owl Mitigation</i>s (CDFG 2012). <u>A burrowing owl exclusion plan will be prepared and submitted to CDFW for approval prior to implementation of burrowing owl exclusion or relocation activities.</u> ○ Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31); occupied burrows shall not be disturbed and shall be provided with a 75-meter protective buffer <u>as stipulated in the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG 2012)</u>, unless a qualified biologist approved by CDFW verifies through non-invasive means that either: (1) the birds have not begun egg laying or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. ○ If on-site avoidance is required, the location of the buffer zone will be determined by a qualified <u>CDFW-approved</u> biologist. The developer shall mark the limit of the 75-meter buffer zone with yellow caution tape, stakes, or temporary fencing. The buffer will be maintained throughout the construction period. ● Where on-site avoidance is not possible, CDFW should be consulted regarding the appropriate avoidance and minimization measures to avoid impacts to this species. ○ <u>Impacts to occupied burrowing owl habitat as defined by CDFW will be mitigated in compliance with the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG 2012) including restoration of temporarily disturbed habitats to pre-</u> 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>project conditions and compensatory mitigation for permanent impacts. A</u></p> <ul style="list-style-type: none"> <u>burrowing owl mitigation plan will be prepared and submitted to CDFW for approval prior to commencement of any ground disturbing activities. The plan will describe potential impacts to burrowing owl resulting from the proposed project and prescribe mitigation measures in accordance with CDFW guidelines.</u> 	
	<p>BIO-10: Minimize impacts to western snowy plover, western yellow-billed cuckoo, Inyo California towhee, and bank swallow.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect federally-listed bird species (without published survey protocols)<u>for which survey protocols have not been published</u>, including the western snowy plover, western yellow-billed cuckoo, Inyo California towhee, and bank swallow, the USFWS shall be contacted to develop project specific measures to determine the potential for presence/absence of the species in the project area and appropriate avoidance and mitigation measures. For projects in the desert portions of the County, contact the Palm Springs Fish and Wildlife Office. For projects in the forested portions of the County or the Owens Valley, contact the Nevada Fish and Wildlife Office. Mitigation measures shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take” of federally-listed bird species, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. <u>Western yellow-billed cuckoo, Inyo California towhee, and bank swallow are also state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of these species (as defined by the Fish and Game Code).</u></p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>BIO-11: Minimize impacts to southwestern willow flycatcher. Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect southwestern willow flycatcher, surveys shall be conducted according to Southwestern Willow Flycatcher Protocol Revision 20010 (http://www.fws.gov/mountain-prairie/endspp/protocols/SWWFReport.pdfhttp://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/SWWFlycatcher.2000.protocol.pdf) following the guidelines for the revised protocol for project-related surveys or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office. For projects that are determined to have the potential to result in “take” of southwestern willow flycatcher, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. <u>Southwestern willow flycatcher is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as defined by the Fish and Game Code).</u> Mitigation measures shall be implemented and shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat.</p>	
	<p>BIO-12: Minimize impacts to bald and golden eagle. Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect bald and golden eagles, the project proponent shall implement the following measures to avoid and offset impacts:</p> <ul style="list-style-type: none"> • Site specific surveys and monitoring of known or suspected eagle nesting and foraging habitat in areas where eagles occur (i.e., all of California) shall be conducted to provide background information related to <u>bald eagle take permits (golden eagle is fully protected pursuant to Fish and Game Code and no permits may be issued for their</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>take). Surveys shall be conducted using (at least) methods and qualified personnel as recommended by CDFW and USFWS. Surveys shall be conducted according to the USFWS’s 2010 <i>Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations</i> (available online at http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/usfws_interim_goea_monitoring_protocol_10march2010.pdf), the USFWS’s 2004 <i>Protocol for Evaluating Bald Eagle Habitat and Populations in California</i> and CDFW’s 2010 <i>Bald Eagle Breeding Survey Instructions</i> (both documents are available online at http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html) or the most recent guidance regarding non-breeding season surveys for winter, migratory, and floating populations of eagles determined in coordination with CDFW and USFWS.</p> <ul style="list-style-type: none"> • Where proposed projects may result in take of bald or golden eagles, the USFWS shall be consulted to determine the standards and requirements for the permit titled “Eagle Take – Necessary to Protect Interests in a Particular Locality.” Bald Eagle take permits are performance based and will hinge on the merits of the application. The permit application form and related information are on the USFWS website: http://www.fws.gov/migratorybirds/baldeagle.htm. The final rule (Federal Register / Vol. 74, No. 175, September 11, 2009), Environmental Assessment (http://www.fws.gov/migratorybirds/CurrentBirdIssues/BaldEagle/FEA_EagleTakePermit_Final.pdf), implementation and protocol documents, and consultations with USFWS will provide additional guidance. • Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas used by eagles for thermal or orographic lift. • Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas used by eagles for thermal or orographic lift. 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> Projects shall incorporate actions to avoid eagle disturbance (refer to the USFWS National Bald Eagle Management Guidelines, May 2007 and Interim Golden Eagle Technical Guidance: Inventory and Monitoring Protocols; and Other Recommendations in Support of Golden Eagle Management and Permit Issuance, Attachment II) in consultation with the USFWS to obtain the most current guidance and measures. 	
	<p>BIO-13: Minimize impacts to least Bell’s vireo. Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to <u>contain habitat for least Bell’s vireo on or adjacent to the site, have the potential to affect least Bell’s vireo,</u> surveys shall be conducted according to the USFWS’s Least Bell’s Vireo Survey Guidelines (http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/LBVireo.2001.protocol.pdf) or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office.</p> <p>For projects that are determined to have the potential to result in “take” of least Bell’s vireo, <u>either on or off-site due to direct or indirect impacts,</u> consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. <u>Least Bell’s vireo is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as defined by the Fish and Game Code).</u></p> <p><u>For projects with the potential to result in direct or indirect impacts to least Bell’s vireo or its habitat, mitigation measures shall be developed in consultation with USFWS and CDFW and shall be implemented prior to project implementation. Such measures and shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, habitat restoration, and compensatory mitigation for loss of habitat</u></p>	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<u>that may include implementation of captive breeding programs.</u>	
	<p>BIO-14: Minimize impacts to bighorn sheep. Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect bighorn sheep, the project applicant shall retain a qualified biologist, approved by the USFWS and CDFW, to conduct preconstruction surveys for Sierra Nevada bighorn sheep and/or Peninsular and Mojave bighorn sheep depending on the location of the project. Due to low detection probabilities, the following data shall be used when evaluating potential projects impacts to the species: data relative to historic ranges of bighorn sheep; known and potential wildlife corridors (such as, those identified in the BLM Mojave and Colorado deserts land use plans); point location data; and existing literature. If bighorn sheep or their migration routes exist, are known or likely to occur on or in the vicinity of the project site, and may be affected by project-related activities, the consultation shall be conducted with USFWS, CDFW, and other stakeholders, as appropriate, regarding avoidance, minimization, compensatory mitigation, or site abandonment. For projects that are determined to have the potential to result in “take” of state or federally listed bighorn sheep, consultation shall be conducted with CDFW or USFWS respectively and take authorization shall be obtained prior to project commencement.</p> <p>BIO-15: Minimize impacts to Sierra Nevada red fox. Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect Sierra Nevada red fox, CDFW shall be contacted to develop project specific measures to determine the potential for presence/absence of this species in the project area and appropriate avoidance and mitigation measures. Mitigation measures shall include, but are not limited to, a species specific habitat assessment and/or focused surveys to determine whether Sierra Nevada red fox or its habitat is present in or adjacent to the project site, measures to avoid or minimize impacts to this species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take,” consultation will be conducted with CDFW under the California Endangered Species Act and incidental take authorization will be obtained prior to project commencement.</p>	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>BIO-16: Minimize impacts to Mohave ground squirrel. <u>Protocol Mohave ground squirrel surveys shall be required for projects that propose impacts to habitat with potential to support Mohave ground squirrel or are within or adjacent to the species’ known range. Mohave ground squirrel surveys consist of a visual survey followed by 3 trapping sessions of 5 nights each (CDFW 2003). Each trapping session must be conducted during a specific time frame. The first session must be conducted between March 15 and April 30; the second between May 1 and May 31; and the third between June 15 and July 15. Trapping can be discontinued if a Mohave ground squirrel is trapped or observed, in which case the survey area is deemed to be occupied. If survey results are negative, the survey area will be deemed to be unoccupied for one year during which pre-construction surveys are not required. If survey results are positive, the project shall obtain an incidental take permit from CDFW under CESA Section 2081.</u></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect Mohave ground squirrel, consultation shall be conducted with CDFW to determine the survey protocol and mitigation measures appropriate to the project. For projects that are determined to have the potential to result in “take” of Mohave ground squirrel, consultation shall be conducted with CDFW and take authorization shall be obtained prior to project commencement. Avoidance and mitigation measures shall include but are not limited to the following: The project applicant shall retain a CDFW approved Mohave ground squirrel biologist to oversee CDFW required measures including but not limited to tasks such as conducting clearance surveys, handling Mohave ground squirrels, artificial burrow construction, and other procedures in accordance with CDFW protocols.</p> <p>BIO-17: Minimize impacts to American badger and kit fox. Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect American badger and/or kit fox, the following measures shall be implemented to avoid, minimize, and mitigate for impacts to these species:</p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> • The project proponent shall prepare and implement an American badger and/or kit fox management plan. The plan shall be prepared in accordance with the most current CDFW guidelines for these species. The plan shall be approved by CDFW prior to implementation. The plan shall include the following components: <ul style="list-style-type: none"> ○ Preconstruction surveys and mapping efforts: biological monitors shall perform pre- construction surveys for badger and kit fox dens in the project area, including areas within 250 feet of all project facilities, utility corridors, and access roads. If dens are detected, each den shall be classified as inactive, potentially active, or definitely active, including characterization of den type for kit fox (natal, pupping, likely satellite, atypical) per CDFW guidance, and mapped along with major project design elements. ○ Inactive dens that would be directly impacted by construction activities shall be excavated by hand and backfilled to prevent reuse by badgers or kit fox. Excavation and filling activities shall be performed by the a qualified <u>CDFW-approved</u> biologist. Potentially and confirmed active dens shall not be disturbed during the whelping/pupping season (February 1 to September 30). ○ Monitoring requirements. Potentially and definitely active dens that would be directly impacted by construction activities shall be monitored by the qualified <u>CDFW-approved</u> biologist for three consecutive nights (during weather conditions favorable for detection) using a tracking medium (such as diatomaceous earth or fire clay) and/or infrared camera stations at the entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand. If tracks are observed, the den shall be progressively blocked with natural materials (rocks, dirt, sticks, and vegetation piled in front of the entrance) for the next three to five nights to discourage the badger or kit fox from continued use. After verification that the den is unoccupied it shall then be excavated and backfilled by hand to ensure that no badgers or kit fox are trapped in the den. ○ Passive relocation strategies. The management plan shall contain, at a minimum, several strategies to passively relocate animals from the site. These methods may entail strategic mowing, fencing, or other feasible construction methods to assist in moving animals offsite toward desirable land. The plan 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>shall address location of preferred offsite movement of animals, based on CDFW data and land ownership. Private <u>Even with permission from the landowner, private</u> land is to be avoided to the maximum extent practicable.</p> <ul style="list-style-type: none"> ○ Escape dens shall be installed along the perimeter fencing to reduce predation risk. ○ Kit fox disease prevention measures. The qualified <u>CDFW-approved</u> biologist shall notify the County project manager and CDFW within 24 hours if a dead kit fox is found or appears sick. The plan must also detail a response to a kit fox injury, including a necropsy plan, reporting methods, and scope of adaptive methods in the event of a known or suspected outbreak. The project owner will pay for any necropsy work. 	
	<p>BIO-18: Minimize impacts to other special status birds, raptors, migratory birds, nesting birds and bats.</p> <p>The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact nesting birds and/or bats and shall be implemented to avoid, minimize, and mitigate for impacts to birds and bats. These measures are for bird species without established protocols and non-listed bird species that lack species-specific mitigation measures (not applicable to the common raven). For future development proposed to be located on or near land with old mines, specific survey protocols and mine closure considerations shall be developed.</p> <p>Pre-Construction Bird Surveys and Avoidance Measures</p> <p>If project construction occurs between roughly February 1 and August 31, a County-approved <u>qualified biologist(s)</u> County-approved <u>CDFW-approved biologist</u> shall conduct preconstruction surveys for nesting birds. The biologist(s) conducting the surveys shall be experienced bird surveyors and familiar with standard nest-locating techniques. Surveys shall be conducted in accordance with the following guidelines:</p> <ul style="list-style-type: none"> ● <u>CDFW and/or USFWS (depending on the avian species in question) shall be contacted to obtain approval of pre-construction survey methodology prior to commencement of the surveys.</u> 	Significant and Unavoidable

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> • Surveys shall cover all potential nesting habitat in the project site and within 500 feet of the project site and linear facilities boundaries – inaccessible areas outside of the project boundary may be surveyed from within the project site or publicly accessible land with the aid of binoculars. • Vegetation removal or other ground disturbing activities should be avoided between February 1 and August 31; however if it cannot be avoided, the <u>CDFW-approved avian</u> biologist shall survey breeding/nesting habitat within the survey radius described within one week prior to the start of project activities. • CDFW and/or USFWS must provide concurrence with the survey findings prior to the start of construction. Site preparation and construction activities may begin after receiving the concurrence and if no breeding/nesting birds are observed. Additional follow up surveys shall be conducted if periods of construction inactivity exceed one week in any given area, an interval during which birds may establish a nesting territory and initiate egg laying and incubation. • If active nests are detected during the survey, a no-disturbance buffer zone (protected area surrounding the nest, the size of which is to be determined by the project biologist in consultation with CDFW and/or USFWS) and a monitoring plan shall be developed. The nesting bird plan shall identify the types of birds that may nest in the project area, the proposed buffers, monitoring requirements, and reporting standards that will be implemented to ensure compliance with the MBTA and Fish and Game Codes 3505 and 3505.3. The avian <u>CDFW-approved</u> biologist shall monitor the nest until he or she determines that nestlings have fledged and dispersed. <p>Pre-Construction Bat Surveys and Avoidance Measures</p> <p>Preconstruction bat surveys shall be conducted by a qualified <u>CDFW-approved</u> biologist(s) familiar with standard bat survey techniques. If night or day roosting bats are identified in project structures they shall not be disturbed and a 100-foot non-disturbance buffer shall be placed between the roost and the construction activities until a determination is made whether the roost is a maternity roost or a non-breeding roost. Maternity colonies shall not be disturbed until coordination with CDFW is conducted to determine appropriate measures including an appropriate no-disturbance buffer. If the qualified <u>CDFW-approved</u> bat biologist determines</p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>roosting bats consist of a non-breeding roost, the individuals shall be safely evicted under the direction of a <u>qualified CDFW-approved bat biologist</u>. CDFW shall be notified of any bat evictions within 48 hours.</p> <p><u>Bat and Avian Protection Plan</u> A bat and avian protection plan shall be developed to protect bats, migratory birds, and golden eagles while improving conservation, safety, and reliability for utility customers. The plan shall include measures to monitor the death and injury of birds from solar flux, radiance, and collisions with facility features such as reflective mirror-like surfaces. Guidance in the California Guidelines (Appendix D) and Avian Protection Plan Guidelines published by the APLIC and USFWS (2005) shall be consulted. The plan shall be approved by the County, CDFW, and USFWS prior to the start of project construction. The following monitoring/detection recommendations from the USFWS Forensics Laboratory (Kagan et al. unpub.) shall be considered:</p> <ul style="list-style-type: none"> • Install video cameras sufficient to provide 360 degree coverage around each tower to record birds (and bats) entering and exiting the flux. • For at least 2 years (and in addition to the planned monitoring protocol), conduct daily surveys for birds (at all 3 facilities), as well as insects and bats around each tower at the base of and immediately adjacent to the towers in the area cleared of vegetation. Timing of daily surveys can be adjusted to minimize scavenger removal of carcasses. Surveys in the late afternoon might be optimal for bird carcasses, and first light for bat carcasses. • Use dogs for monitoring surveys to detect dead and injured birds that have hidden themselves in the brush, both inside and outside the perimeter of the facility. <p>To decrease removal of carcasses, implement appropriate raven deterrent actions.</p> <p><u>Bird and Bat Conservation Strategy</u></p> <p><u>A bird and bat conservation strategy (BBCS) shall be prepared to reduce potential project impacts on migratory birds. The BBCS shall describe proposed actions to avoid, minimize, and mitigate adverse effects to migratory birds protected under the MBTA during construction and operations of the proposed project. The BBCS shall be submitted to USFWS and CDFW for approval prior to the start of ground disturbing activities. The BBCS shall address buffer</u></p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>distances for specific bird species and include a robust, systematic monitoring protocol to document mortality and habitat effects to birds. The monitoring protocol should incorporate the following objectives at a minimum: (1) a minimum of weekly monitoring for mortality and immediate necropsy to determine cause of death, both during construction and throughout the life of the project; (2) systematic data collection and reporting of bird mortality including data on the following: species, date, time, how the animal died (e.g., exhaustion, trauma), as well as any information on what might be attracting animals to the photovoltaic cells (light, insects, etc.); (3) a method to estimate the overall annual avian mortality rate associated with the facility, including mortality associated with all the features of the project that are likely to result in injury and mortality (e.g., fences, ponds, solar panels); and (4) methods to determine whether there is spatial differentiation within the solar field in the rates of mortality (i.e., panels on the edge of the field versus interior of the field). Biologists performing this work would be required to have a Scientific Collecting Permit from CDFW. Standardized and systematic data on bird and bat mortalities will be collected to contribute to the improvement of the scientific communities’ understanding of both baseline and photovoltaic related mortality that occurs in solar projects in the desert and is needed in order to identify improved methods to minimize adverse effects on migrating birds and bats.</u></p> <p><u>In the absence of a permit from the USFWS, the temporary or permanent possession of protected migratory birds and their carcasses is a violation of the MBTA. Because of the need for carcass collection to adequately monitor avian impacts during BBCS implementation and to reduce the food subsidy that carcasses may provide to common ravens (<i>Corvus corax</i>) and other predators, developers shall be required to obtain a special purpose utility permit from the USFWS allowing the collection of migratory birds and/or their carcasses prior to implementation of the monitoring protocol.</u></p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>General Bird Mortality Avoidance Measures</p> <p>The following measures are recommended by the USFWS Forensics Laboratory and shall be implemented to minimize bird mortality from birds attracted to solar facilities:</p> <ul style="list-style-type: none"> • All potential nesting vegetation (e.g., trees, shrubs) shall be removed within the fenced area of the facility to decrease attractive habitat. • <u>The most current science regarding visual cues to birds that the solar panel is a solid structure shall be implemented. This may include but is not limited to UV-reflective or solid, contrasting bands spaced no further than 28 centimeters from each other. An adaptive management approach for reducing bird collisions with solar panels shall be implemented in coordination with the USFWS so that measures used are systematically tested and modified as appropriate. This may include but is not limited to UV reflective or solid, contrasting bands spaced no further than 28 centimeters from each other.</u> • <u>Projects with documented avian mortality shall work with the USFWS to conduct additional research to test measures for reducing avian mortality. Such measures could include, but are not limited to, experimental lighting within the solar field and use of detection and deterrent technologies.</u> • <u>Developers of Ppower tower operations shall be suspended during peak migration times for indicated species. implement adaptive management in consultation with the USFWS should mortality monitoring indicate that suspension of power tower operations during certain periods is necessary to reduce impacts on local or regional bird populations. Such measures may include, but are not limited to, suspending or reducing project operations during peak migration seasons.</u> • Vertical orientation of mirrors shall be avoided whenever possible (for example, mirrors shall be tilted during washing). • If the use of open evaporation ponds is permitted for the project and especially if the water would be considered toxic to wildlife, ponds shall be designed to discourage bird and other wildlife use by properly netting or otherwise covering the pond. • Perch deterrent devices shall be placed on tower railings. • Exclusionary measures shall be employed to prevent bats from roosting in and around the facility. 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>Minimize Impacts from Solar Flux</p> <p>The following mitigation measures shall be implemented in order to minimize <u>avian impacts from solar flux</u>:</p> <ul style="list-style-type: none"> • <u>Solar thermal developments utilizing solar power tower technologies shall not be sited in or within a minimum of 1,000 feet of from Important Bird Areas (as determined by the County in consultation with Responsible and Trustee agencies), the OVSA, or riparian or other aquatic habitats including lakes, ponds, rivers, streams, and perennial wetland habitats unless potentially significant impacts are avoided, although the appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies. This requirement generally does not apply to seasonal or ephemeral wetland habitats unless deemed necessary by a qualified biologist in light of the wetland’s specific habitat value for bird species.</u> • <u>The County shall require developers proposing solar power tower technology to coordinate with the USFWS during project planning. As part of that coordination process, and in conjunction with the project’s next tier of CEQA review, the USFWS will advise the County whether a Bird and Bat Conservation Strategy would be necessary for the project, and if required, would adequately reduce the effects of the project on migratory birds and bats.</u> <p>Minimize Impacts from Open Evaporation Ponds</p> <p>The following mitigation measures shall be implemented for projects that require the use of open evaporation ponds:</p> <ul style="list-style-type: none"> • <u>An evaporation pond management plan shall be prepared and submitted to CDFW for approval prior to project approval.</u> • <u>If the use of open evaporation ponds is permitted for the project and especially if the water would be considered toxic to wildlife, ponds shall be designed to discourage bird and other wildlife use by properly netting or otherwise covering the pond.</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>Avoid Impacts from Electric Lines and Lights</p> <p>The following design measures shall be implemented for applicable projects to minimize impacts to bats and birds:</p> <ul style="list-style-type: none"> • Transmission lines and electrical components shall be installed and maintained in accordance with the Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006 (APLIC 2006) or the most recent guidance to reduce the likelihood of electrocutions of raptors and other large birds, . • Transmission lines and electrical components shall be installed and maintained in accordance with the APLIC’s Mitigating Bird <u>Reducing Avian Collisions with Power Lines: The State of the Art in 1994-2012</u> (Edison Electric Institute 2004<u>2012</u>) or the most recent guidance to reduce the likelihood of bird collisions. • Low and medium voltage connecting power lines shall be placed underground, if feasible. If burial of the lines is not feasible due to cost or other logistical reasons (for example in shallow bedrock areas) or may cause unacceptable impacts to biological habitats and their dependent species, overhead lines may be installed in compliance with the following requirements: <ul style="list-style-type: none"> ○ low and medium voltage overhead lines shall be sited away from high bird crossing locations, such as between roosting and feeding areas or between lakes, rivers, and nesting areas; and/or ○ low and medium voltage overhead lines shall be installed parallel to tree lines or be otherwise screened so that collision risk is reduced. • Permanent communication towers and permanent meteorological towers shall not be constructed with guy wires, if feasible. If guy wires are necessary for permanent or temporary towers, bird flight diverters or high visibility marking devices shall be used. In such cases a monitoring plan shall be developed and carried out to determine the diverters’/devices’ effectiveness in reducing bird and bat mortality. • Facility lighting shall be installed and maintained to prevent upward and side casting of light towards wildlife habitat and motion sensors shall be used. If the FAA requires 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>turbine or tower lighting to alert aircraft, red or white strobe lights shall be used on the structures to minimize avian collision risks. The strobes shall be on for as brief of a period as possible and the time between strobe or flashes shall be the longest allowable. Strobes shall be synchronized so that a strobe effect is achieved and towers are not constantly illuminated.</p> <ul style="list-style-type: none"> • Lights with sensors and switches shall be used to keep lights off when not required. • The use of high-intensity lighting, steady-burning, or bright lights such as sodium vapor or spotlights shall be minimized. <p><u>Compensatory Mitigation for the Cumulative Loss of Migratory Bird Habitat along the Pacific Flyway</u></p> <p><u>The County shall require solar development projects implemented under the REGPA to mitigate for the loss of habitat by funding activities to restore, enhance, or conserve important habitat for migratory birds or to remove other mortality sources from the Pacific Flyway. Such funding may be directed to the Sonoran Joint Venture (http://sonoranjv.org), Central Valley Joint Venture (http://www.centralvalleyjointventure.org), or Intermountain West Joint Venture (http://iwjv.org), or other groups able to implement conservation of migratory birds within the Pacific Flyway. The amount of funding will be determined by the County in coordination with USFWS and shall be commensurate with the level of impact.</u></p>	
<p>Impacts to special status natural communities (i.e., vegetation communities of limited distribution statewide or within a county or region) could occur as a result of implementation of the REGPA if construction and/or operation of the future solar developments results in the disturbance or loss of</p>	<p>BIO-19: Minimize impacts to special status natural communities and protected natural areas.</p> <p>Solar development authorized under the REGPA will not be sited within any special status natural communities or protected natural areas. If solar development is sited adjacent to any special status natural communities or protected natural areas <u>or is determined to have the potential to impact any off-site special status natural communities or protected natural areas during the project level biological resources evaluation (e.g., projects in the Laws SEDA could impact the hydrology of critical habitat for Fish Slough milk-vetch; projects in the Chicago Valley SEDA could negatively impact off-site mesquite bosque by altering drainage patterns or altering groundwater levels; projects in the Charleston View and Chicago Valley SEDAs could impact down-watershed habitats in the Amargosa Watershed (including habitats within</u></p>	<p>Less Than Significant</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
protected natural communities.	<p>the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic.”), a management plan will be developed in consultation with CDFW and/or USFWS. The management plan will address the potential offsite effects of the construction and on-going operations of the facility on special status species including but not limited to the effects of human disturbance, noise, nighttime maintenance activities, increased lighting, increased traffic on desert roads, and barriers to movement for special status species. The management plan will also address potential mechanisms of offsite habitat degradation such as introduction of invasive weeds, introduction or attraction of feral animals or other species attracted to areas with anthropogenic disturbance, hydrologic disruption due to groundwater impacts or alteration of surface drainage patterns, and increased risk of wildfires. The management plan will also outline the specific measures to be undertaken to avoid and/or minimize indirect effects of the solar development on the adjacent sensitive habitat and special status species and include a plan for long term monitoring of the adjacent habitat as well as an adaptive management plan.</p> <p>If riparian communities (other than water birch riparian scrub – a special status natural community that must be avoided) are present in a project area, impacts to riparian communities shall be avoided or minimized by implementing the following measures:</p> <ul style="list-style-type: none"> • The project shall be redesigned or modified to avoid direct and indirect impacts on riparian communities, if feasible. • Riparian communities adjacent to the project site shall be protected by installing environmentally sensitive area fencing, at least 20 feet from the edge of the riparian vegetation. Depending on site specific conditions, this buffer may be narrower or wider than 20 feet if necessary, in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area. • The potential for long term loss of riparian vegetation shall be minimized by trimming vegetation rather than removing the entire shrub. Shrub vegetation shall be cut at least 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>1 foot above ground level to leave the root systems intact and allow for more rapid regeneration of the species. Cutting shall be limited to a minimum area necessary within the construction zone. This type of removal shall be allowed only for shrub species (all trees shall be avoided) in areas that do not provide habitat for sensitive species (e.g., willow flycatcher).</p> <ul style="list-style-type: none"> • If riparian vegetation is removed as part of a project, the loss of riparian vegetation shall be mitigated to ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW and USFWS). Compensation shall be provided at a minimum 1:1 ratio (1 acre restored or created for every 1 acre removed) and may be a combination of on-site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented that describes how riparian habitat shall be enhanced or recreated and monitored over a minimum period of time, as determined by the appropriate state and federal agencies. 	
<p>Construction and maintenance activities associated with future projects implemented under the REGPA could result in disturbance or loss of waters of the US and/or State. These wetlands or other waters of the US/State could be affected through direct removal, filling, hydrological interruption (including dewatering), alteration of bed and bank, and other construction related activities.</p>	<p>BIO-20: Minimize impacts to waters of the US/State, including wetlands. The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact waters of the US or waters of the State, including wetlands, and shall be implemented to avoid, minimize, and mitigate for such impacts. These measures shall be incorporated into contract specifications and implemented by the construction contractor. In addition, the project proponent shall ensure that the contractor incorporates all state and federal permit conditions into construction specifications.</p> <ul style="list-style-type: none"> • <u>Wetlands and other waters of the US/state shall be delineated on the project site using both USACE and CDFW definitions of wetlands. USACE jurisdictional wetlands shall be delineated using the methods outlined in the USACE 1987 Wetlands Delineation Manual and the Arid West Manual, or the most recent guidance.</u> This information shall be mapped and documented as part of the CEQA documentation, as applicable, and in wetland delineation reports. All applicable permits shall be obtained prior to impacting waters of the US/State including CWA Section 404 and 401 permits 	<p>Less Than Significant</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>from the USACE and the RWQCB respectively and a Streambed Alteration Agreement from CDFW.</p> <ul style="list-style-type: none"> • <u>The project shall be redesigned or modified to avoid direct and indirect impacts on waters of the U.S./State, if feasible.</u> • Standard erosion control measures shall be implemented for all phases of construction and operation where sediment runoff from exposed slopes threatens to enter waters of the State and/or waters of the US. Sediment and other flow-restricting materials shall be moved to a location where they shall not be washed back into the stream. All disturbed soils and roads within the project site shall be stabilized to reduce erosion potential, both during and following construction. Areas of disturbed soils (access and staging areas) with slopes trending towards a drainage shall be stabilized to reduce erosion potential. • Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing at least 20 feet from the edge of the wetland. Depending on site specific conditions and permit requirements, this buffer may be wider than 20 feet, if necessary, in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area. • <u>All construction vehicles and equipment shall use existing roadways to the extent feasible to avoid or reduce impacts to waters of the U.S./State.</u> • Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used. • Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing at least 20 feet from the edge of the wetland. Depending on site-specific conditions and permit requirements, this buffer may be wider than 20 feet in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>construction drawings. The construction specifications shall contain clear language that prohibits construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within the fenced environmentally sensitive area.</p> <ul style="list-style-type: none"> • Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used. • Where determined necessary by resource specialists, geotextile cushions and other materials (e.g., timber pads, prefabricated equipment pads, or geotextile fabric) shall be used in saturated conditions to minimize damage to the substrate and vegetation. • Exposed slopes and stream banks shall be stabilized immediately on completion of installation activities. Other waters of the US shall be restored in a manner that encourages vegetation to reestablish to its pre-project condition and reduces the effects of erosion on the drainage system. • In highly erodible stream systems, banks shall be stabilized using a non-vegetative material that will bind the soil initially and break down within a few years. If the project engineers determine that more aggressive erosion control treatments are needed, geotextile mats, excelsior blankets, or other soil stabilization products shall be used. • During construction, trees, shrubs, debris, or soils that are inadvertently deposited below the ordinary high-water mark of drainages shall be removed in a manner that minimizes disturbance of the drainage bed and bank. • If wetlands are filled or disturbed as part of the highway-solar project, compensation will be implemented for the loss of wetland habitat to ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW, USFWS, and USACE). The compensation shall be at a minimum 1:1 ratio (1 acre restored or created for every 1 acre filled) and may be a combination of on site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented if onsite or offsite restoration or creation is chosen. The plan shall describe how wetlands shall be created and 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	monitored for the duration established by the regulatory agency.	
Impacts to wildlife movement or corridors may occur as a result of implementation of the. Project activities that would interfere with the movement of resident or migratory species or impede fish or wildlife corridors, or nursery habitat would be considered to be a potentially significant impact.	<p>BIO-21: Minimize impacts to movement or migratory corridors or native wildlife nursery sites. <u>The following mitigation measures will be implemented to minimize impacts to movement or migratory corridors or native wildlife nursery sites:</u></p> <ul style="list-style-type: none"> • <u>Solar development authorized under the REGPA should shall not be sited in or within 1,000 feet of any areas determined by the County in consultation with responsible and trustee agencies to be Important Bird Areas, essential connectivity areas or linkages identified in the 2001 Missing Links in California’s Landscape Project (Penrod et al. 2001), or USFWS identified desert tortoise priority connectivity areas or tule elk and mule deer movement corridors unless potentially significant impacts are avoided. The appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies.</u> • <u>Any proposed solar development projects in the OVSA shall be required to study the potential impact of the project on tule elk and mule deer movement corridors prior to project approval. If a proposed project is determined to be located within an important tule elk and mule deer movement corridor, the applicant shall be responsible for the preparation of a plan to avoid and/or minimize impacts to such corridors in coordination with CDFW.</u> • <u>As stated in Mitigation Measure BIO-6, projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Draft Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, ACECs, DWMAs, priority connectivity areas, and other areas or easements managed for desert tortoises).</u> 	Less Than Significant
The spread of invasive plant species or noxious weeds could occur as a result of implementation of the REGPA. Invasive species impacts would have the potential to cause an	<p>BIO-22: Minimize impacts sspread of to invasive plant species or noxious weeds. For projects implemented under the REGPA that are determined during the project level biological resource evaluation to have the potential to result in the spread of invasive plant species or noxious weeds, the following mitigation measures shall be implemented:</p> <p>To prevent the introduction and spread of noxious weeds, a project-specific integrated weed</p>	Less Than Significant

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
adverse affect on a variety of special status species and sensitive natural communities through alteration of a broad range of ecological interactions. This would be a potentially significant impact.	<p>management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> • The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes. • Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site. • Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored. • The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned. • Native vegetation shall be re-established quickly on disturbed sites. • Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions. • Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations. 	
Implementation of the REGPA has the potential to result in significant impacts to special status plants and wildlife, riparian habitats and other sensitive natural communities, and waters of the US, and/or state.	<p>BIO-23: Implement general design guidelines to minimize impacts to biological resources. All projects authorized under the REGPA will incorporate the following design guidelines as applicable in coordination with the County:</p> <ul style="list-style-type: none"> • Design and site the project, in consultation with the permitting agencies, to avoid or minimize impacts to sensitive and unique habitats and wildlife species. Locate energy generation facilities, roads, transmission lines, and ancillary facilities in the least environmentally sensitive areas (such as away from riparian habitats, streams, wetlands, vernal pools, drainages, sand dunes, critical wildlife habitats, wildlife conservation, management, other protected areas, or unique plant assemblages). <ul style="list-style-type: none"> ○ Design facilities to use existing roads and utility corridors as much as possible to minimize the number and length/size of new roads, laydown, and borrow areas. ○ Design transmission line poles, access roads, pulling sites, storage, and parking areas to avoid special status species or unique plant assemblages 	Significant and Unavoidable

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> adjacent to linear facilities. ○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions. ○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions. ○ Design facilities to discourage their use as bird perching, drinking, or nesting sites. ○ Design facility lighting to prevent side casting of light toward wildlife habitat and skyward protection of light that may disorient night-migrating birds. ○ Avoid using or degrading high value or large intact habitat areas, such as areas identified as sensitive natural habitat, Wilderness Areas, Areas of Critical Environmental Concern, critical habitat; riparian, sand dunes. ○ Avoid severing movement and connectivity corridors. Consider existing conservation investments such as protected areas and lands held in trust for conservation purposes. ○ Locate facilities so they do not disrupt sand transport processes nor remove some or all of a sand source that contributes to sand dune systems harboring listed or otherwise sensitive species. Avoid armoring nearby dune system sand sources. 	
Implementation of the REGPA has the potential to result in significant impacts to groundwater dependent vegetation primarily within the Owens Valley.	<p>BIO-24: Minimize impacts to groundwater dependent vegetation and ecosystems. Any solar development projects or related infrastructure implemented under the REGPA <u>which are located on City of Los Angeles-owned land or which could affect City of Los Angeles-owned land</u> shall comply with the terms of the Agreement. A qualified biologist/botanist <u>with experience in Inyo County</u> shall evaluate the potential for any project implemented under the REGPA to impact groundwater dependent vegetation <u>or ecosystems located on City of Los Angeles-owned land</u>. If the qualified biologist/botanist determines that the project has the potential to impact groundwater dependent vegetation <u>or ecosystems</u>, a groundwater dependent vegetation management plan will be prepared. The plan will include an evaluation of the potential impacts to groundwater dependent vegetation <u>or ecosystems</u> and appropriate measures to avoid or reduce the impacts to the extent feasible. The plan shall be prepared in coordination with the County <u>and LADWP</u> and should describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on groundwater dependent vegetation <u>or ecosystems</u> as deemed appropriate by</p>	Less Than Significant

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>the qualified biologist in coordination with the County and LADWP. <u>Projects that are likely to affect groundwater resources in a manner that would result in a substantial loss of riparian or wetland natural communities and/or habitat for sensitive flora and fauna associated with such habitats shall be avoided to the extent feasible and impacts shall be mitigated to a level determined to be acceptable by the County. The project and vegetation management plan shall be approved by both the County and LADWP prior to implementation.</u></p>	
<p><u>Implementation of the REGPA has the potential to result in indirect impacts to sensitive species and their habitats due to groundwater pumping.</u></p>	<p>BIO-25: Minimize potential indirect impacts due to groundwater pumping <u>Mitigation measures for potential indirect impacts due to groundwater pumping are included in Mitigation Measure BIO-1, Mitigation Measure BIO-2, Mitigation Measure BIO-3, and Mitigation Measure BIO-4. Prior to approval of any project under the REGPA requiring groundwater pumping, the potential effects of the groundwater pumping on biological resources will be evaluated during preparation of the project-specific biological resources evaluation and will be based on the results of the hydrologic study conducted as a requirement of Mitigation Measure HYD-2 in Section 4.9, Hydrology and Water Quality. If groundwater pumping is determined to have the potential to result in off-site impacts to biological resources, measures will be included in the project-specific biological resources mitigation and monitoring plan to avoid, minimize, and mitigate for any such impacts. The measures will be commensurate with the resource and level of impact and may include but are not limited to vegetation and/or water table monitoring, preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County, and a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio.</u></p>	<p><u>Less Than Significant</u></p>

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES		
<p>Implementation of future projects associated with the REGPA has the potential to cause a substantial adverse change in the significance of a historical or archaeological resources, and cultural landscapes, as defined in Section 15064.5 of the State CEQA Guidelines.</p>	<p><u>CUL-1: Minimize impacts to cultural resources.</u> <u>Adverse effects to historical resources (CRHP-eligible cultural resources) would be resolved on a project-specific level. As part of this process, resource identification efforts including pedestrian surveys, formal government-to-government tribal consultation with state lead agencies, and engagement with Native American communities would be necessary. Examples of ways to resolve adverse effects include:</u></p> <ul style="list-style-type: none"> • <u>Plan ground disturbance to avoid cultural resources.</u> • <u>Deed cultural resources into permanent conservation easements.</u> • <u>Cap or cover archaeological resources with a layer of soil before building on the location.</u> • <u>Plan parks, greenspace, or other open space to incorporate cultural resources.</u> • <u>Write synthetic documents summarizing the current understanding of the history and prehistory of the project area and vicinity.</u> • <u>Recover data for archaeological resources.</u> • <u>Develop interpretive material to correspond with recreational uses to educate the public about protecting cultural resources and avoiding disturbance of sensitive resources.</u> • <u>Develop partnerships to assist in the training of groups and individuals to participate in site stewardship programs.</u> • <u>Coordinate with visual resources staff to ensure visual management standards consider cultural resources and tribal consultation to include landmarks of cultural significance to Native Americans (e.g., TCPs, trails).</u> 	<p><u>Significant and Unavoidable</u></p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> • <u>Measures to address visual impacts to the setting of built-environment resources include:</u> <ul style="list-style-type: none"> ○ <u>Existing mature plant specimens shall be used for screening during construction, operation, and decommissioning phases. The identification of plant specimens that are determined to be mature and retained shall occur as part of the design phase and mapped/identified by a qualified plant ecologist or biologist and integrated into the final design and project implementation.</u> ○ <u>Revegetation of disturbed areas within the project area shall occur as various activities are completed. Plans and specifications for revegetation shall be developed by a qualified plant ecologist or biologist before any extant vegetation is disturbed. The revegetation plan shall include specification of maintenance and monitoring requirements, which shall be implemented for a period of 5 years after project construction or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist. Plant material shall be consistent with surrounding native vegetation.</u> ○ <u>The color of the wells, pipelines, storage tanks, control structures, and utilities shall consist of muted, earth-tone colors that are consistent with the surrounding natural color palette. Matte finishes shall be used to prevent reflectivity. For example, integral color concrete should be used in place of standard gray concrete.</u> ○ <u>The final revegetation and painting plans and specifications shall be reviewed and approved by an architect, landscape architect, or allied design professional licensed in the State of California to ensure that the design objectives and criteria are being met.</u> ○ <u>Specific impact identification and adjustments to finish specifications shall occur during project design. Implementation of the revegetation and coloration plans shall occur during oilfield development. Maintenance and monitoring requirements shall be implemented after initial project construction for a period of 5 years, or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist.</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> • <u>Protective measures and monitoring protocols can be implemented for built environment resources located in close proximity to a project but that are not anticipated to be directly impacted by demolition or development but which may be subject to other direct impacts such as change in historic setting, vibration, noise, or inadvertent damage include:</u> <ul style="list-style-type: none"> ○ <u>Historic Structures Reports (HSR) shall be prepared for buildings and structures adjacent to the project area for which detailed information is required to develop protection measures. Reports shall be completed for buildings and structures that appear to be in poor condition and, therefore, potentially sensitive to development-related activities such as vibration. These reports shall determine if predevelopment stabilization through temporary shoring and bracing of these buildings is warranted.</u> ○ <u>Predevelopment condition assessments shall be prepared for buildings and structures that qualify as historical resources that are adjacent to the project area and are structurally stable, but could be unintentionally damaged during development. Should there be any question as to whether the project caused damage, these condition assessments will provide confirmation of the predevelopment condition.</u> ○ <u>Precautions to protect built environment historical resources from construction vehicles, debris, and dust may include fencing or debris meshing. Temporary mothballing, and fire and intrusion protection may be needed if the buildings are unoccupied during oil and gas field development.</u> ○ <u>Protective measures shall be field checked as needed during development by a qualified architectural historian with demonstrated experience conducting monitoring of this nature. Vibration monitoring may be required for buildings determined susceptible to vibration damage located in close proximity to development activities or machinery that cause vibration.</u> ○ <u>These measures are designed to avoid direct impacts such as vibration that may result in structural damage or inadvertent direct impacts. Structural damage or demolition would otherwise potentially result in a significant impact because character-defining features and aspects of historic integrity that convey the resource’s significance could be materially impaired.</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> ○ <u>Redesign of relevant facilities shall be used to avoid destruction or damage where feasible.</u> ● <u>For built resources that will be directly and significantly impacted, mitigation typically includes:</u> <ul style="list-style-type: none"> ○ <u>Historic American Building Survey (HABS), Historic American Engineering Record (HAER), and Historic American Landscape Survey (HALS) records will be prepared for historical resources that will be demolished. The HABS/HAER/HALS documentation will be prepared as appropriate for the impacted historical resource with HABS normally completed at Level II. These reports will include written and photographic documentation of the significant and character-defining features of these properties. While this documentation will not reduce impacts to a less than a significant level, it is needed to capture and preserve a description of the significant information and characteristics associated with the resource.</u> ○ <u>All HABS/HAER/HALS reports are subject to review and approval by the NPS. Following approval, the lead agencies will produce sufficient copies for distribution to identified repositories, including the Library of Congress, the California State Library, the University of California Water Resources Center Archives, and any local repositories, as appropriate and agreed upon with the County Planning Department and interested parties. Distribution will ensure the formal documentation is retained and conveyed to a wide audience.</u> ○ <u>Deconstruction and salvage of materials from demolished buildings will be performed to the extent feasible to enable the restoration of similar buildings and structures outside of the area of direct impact. Deconstruction and salvage will not reduce impacts to a less than significant level, but will help to ensure that similar resources are restored and maintained in manner that will ensure that examples of the resource type are preserved.</u> ○ <u>Relocate historically significant resources for which demolition cannot be feasibly avoided by development. In such circumstances, relocation must meet the requirements for the Special Criteria Consideration for Moved Buildings, Structures, and Objects to ensure the significance of the building is retained.</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> ○ <u>Require that the preservation or reuse of an eligible structure follow Department of the Interior (DOI) Standards and Guidelines for Archeology and Historic Preservation. If the building is considered a historic resource under CEQA, the local building inspector must grant code alternatives under the State Historic Building Code.</u> ○ <u>In a case where HABS/HAER documentation does not provide adequate mitigation to reduce impacts to a less than significant level, projects would normally be required to take additional steps to capture the history and memory of the resource and share this information with the public using various methods such as Web media, static displays, interpretive signs, use of on-site volunteer docents, or informational brochures.</u> ● <u>Avoidance and minimization are the preferred means by which the County would prevent potential impacts to cultural resources, including cultural landscapes. Preservation in place is the preferred manner to avoid and minimize impacts to historical and archaeological resources. All impacts to cultural resources that are eligible or potentially eligible for listing on the CRHR shall be avoided, to the greatest extent possible. Preservation in place may be accomplished by, but is not limited to, the following: Avoidance of significant or potentially significant cultural resources through project redesign and the relocation of project element.</u> ● <u>Following avoidance and minimization, measures to address impacts to cultural resources at a landscape scale should follow the guidance in <i>A Strategy for Improving Mitigation Policies and Practices of the Department of the Interior</i> (DOI 2014) and the <i>National Park Service Preservation Brief 36 - Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes</i>, including but not limited to:</u> <ul style="list-style-type: none"> ○ <u>Document the individual landscape characteristics and features in the context of the landscape as a whole in a Cultural Landscape Report, including contributing and non-contributing features.</u> ○ <u>Develop compensatory mitigation.</u> ○ <u>Coordinate with other agencies.</u> ○ <u>Monitor and evaluate the progress of long-term mitigation.</u> ○ <u>Develop and maintain geospatial information systems for use in identifying existing and potential conservation strategies and development opportunities.</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<p style="text-align: center;">•</p> <p>CUL-1a: Designate project Cultural Resources Staff. <u>Project Cultural Resources Specialist.</u> Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County Planning Department, a cultural resources specialist whose training and background conforms to the US Secretary of Interior’s Professional Qualifications Standards, as published in Code of Federal Regulations Title 36, part 61 shall be retained by the project owner to conduct a cultural resources inventory, evaluate any resources, produce a Cultural Resources Management and Treatment Plan and other related plans for the approved project and to implement any required plans and mitigation, as necessary as determined by the cultural resource specialist. Their qualifications shall be appropriate to the needs of the project, <u>and shall include local knowledge.</u> If the project primarily impacts resources archaeological in nature, the cultural resources specialist shall have a background in archaeology, anthropology or cultural resource management. If the project impacts primarily built environment resources, the cultural resources specialist shall have a background in architectural history. Resumes of the proposed cultural resources staff shall be submitted to the County Planning Department or other CEQA lead agency for review and approval. The Monitoring and Treatment Plan (Mitigation Measure CUL-1c) shall be prepared and implemented under the direction of the cultural resources specialist and shall address and incorporate CUL-1a through CUL-1g.</p> <p><u>Additional Cultural Resources Staff.</u> The project’s cultural resources specialist may obtain the services of specialists, cultural resources monitors and field crew if needed, to assist in identification, evaluation, mitigation, monitoring, and curation activities. Cultural Resources Staff shall have a Bachelor’s degree in anthropology, archaeology, history, architectural history or related field, and demonstrated field experience. These individuals must also meet local lead agency qualifications and their resumes must be reviewed and approved by local lead agency staff prior to beginning work.</p> <p>CUL-1b: Draft a Historical Resources Treatment Plan. To mitigate the potential impacts on historical resources identified during inventory of the project area, a treatment plan for historical resources shall be developed by, depending on the nature of the resources identified, an archaeologist and/or architectural historian who meets the</p>	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<p>Secretary of Interior’s Professional Qualifications Standards. This treatment plan would include data recovery plans that would address National Register of Historic Places/California Register for Historic Resources-eligible cultural resources that would be impacted by the project by requiring some level of extracting the scientific value and analysis of the resources prior to development.</p> <p>CUL-1c: Draft a Monitoring and Treatment Plan. To mitigate the potential impacts related to inadvertent discovery of archaeological resources during construction, the project proponents shall have a Secretary of the Interior-qualified archaeologist implement a monitoring program and an unanticipated archaeological resource treatment plan. The qualified archaeologist will evaluate any resources uncovered during ground disturbing activities implement appropriate treatment as specified in the archaeological resource treatment plan. During all phases of the project that include ground disturbance, these ground-disturbing activities will be observed by an archaeological monitor, as determined necessary by the archaeologist.</p> <ul style="list-style-type: none"> a. If, during the course of monitoring, a potentially significant resource is discovered, the qualified archaeologist will have the authority to stop or redirect ground disturbing activities away from the resource until it can be evaluated. b. If previously unknown cultural deposits are discovered during the course of construction, such as previously undiscovered stratified cultural deposits, a testing program will be implemented to evaluate the stratified cultural deposit. c. A separate Native American monitor shall be retained by the project proponent to monitor ground disturbing activities in and around archaeological resources. The Native American monitor shall be selected through consultation with Native American tribal groups. The Native American monitor shall work in conjunction with the qualified archaeologist. <p>CUL-1d: Grant authority to halt project activities. Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County or the relevant CEQA</p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<p>lead agency, the project owner shall submit a written document granting authority to halt project related activities to the project’s cultural resources specialist (as defined in mitigation measure CUL-1a) and cultural resources monitors in the event of a discovery or possible damage to a cultural resource. Redirection of project related activities shall be accomplished under the direction of the project supervisor in consultation with the cultural resources specialist. The details of this agreement shall be stipulated in the Cultural Resources Management and Treatment Plan as required in Mitigation Measure CUL-1b.</p> <p>CUL-1e: Develop a Cultural Resources Worker Environmental Awareness Program. Prior to and for the duration of project activities, the project owner shall provide WEAP training to all new workers within their first week of employment at the project site. The training shall be prepared by the Project cultural resources specialist (as defined in CUL-1) in consultation with local Native Americans and shall incorporate the traditions and beliefs of local Native American groups into the presentation. The presentation may be conducted by any qualified cultural resources specialist and a Native American, if possible, and may be presented in the form of a video. A consulting fee or honorarium shall be negotiated with the local Native American consultants and presenter and paid to them for their participation. The training may be discontinued when project activities are completed or suspended, but must be resumed when project activities resume.</p> <p>The training shall include:</p> <ol style="list-style-type: none"> 1. A discussion of applicable laws and penalties under the law; 2. Samples or visuals of artifacts that might be found in the project vicinity; 3. A discussion of what such artifacts may look like when partially buried, or wholly buried and then freshly exposed; 4. A discussion of what prehistoric and historical archaeological deposits look like at the surface and when exposed during ground-disturbance, and the range of variation in the appearance of such deposits; 5. A discussion of what local Native American beliefs are, how those beliefs are related to cultural resources that may be found in the area, and the appropriate respectful behavior towards sacred places and objects; 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> 6. Instruction that all cultural resources specialists have the authority to halt ground disturbance in the area of a discovery to an extent sufficient to ensure that the resource is protected from further impacts, as determined by the project cultural resources specialist (as defined in CUL-1); 7. Instruction that employees are to avoid areas flagged as sensitive for cultural resources; 8. Instruction that employees are to halt work on their own in the vicinity of a potential cultural resources discovery and shall contact their supervisor and the project cultural resources specialist (as defined in CUL-1), and that redirection of work would be determined by the project supervisor and the project cultural resources specialist; 9. An informational brochure that identifies reporting procedures in the event of a discovery; 10. An acknowledgement form signed by each worker indicating that they have received the training which shall be submitted to the County Planning Department and any other CEQA lead agency; and 11. A sticker that shall be placed on hard hats indicating that environmental training has been completed. 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<p>CUL-1f: Conduct cultural resources reporting. The project cultural resources specialist shall document results in interim and final reports as necessary. The contents and timing of these reports shall be stipulated in the Cultural Resources Management and Treatment Plan (CUL-1b).</p> <p>Final reports for archaeological resources, human remains, and some landscapes, shall be written by or under the direction of a Secretary of the Interior qualified archaeologist or architectural historian as appropriate for the project. Reports shall be provided in the California Office of Historic Preservation’s Archaeological Resource Management Reports: Recommended Contents and Format and local agency formats. Final documents shall report on all field activities including dates, times and locations, results, samplings, and analyses. All survey reports, Department of Parks and Recreation 523 series forms, data recovery reports, and any additional research reports not previously submitted to the California Historical Resource Information System and the State Historic Preservation Officer shall be included as appendices.</p> <p>CUL-1g: Proper curation of cultural resources collections. All archaeological materials retained as a result of the cultural resources investigations (survey, testing, data recovery) shall be curated in accordance the California State Historical Resources Commission’s <i>Guidelines for the Curation of Archaeological Collections</i>, into a retrievable storage collection in a public repository or museum. <u>Additionally, all collection and retention of archaeological materials as a result of cultural resources investigations must comply with the regulations and policies of the land managing agency or property owner.</u></p>	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
Implementation of future projects associated with the REGPA may disturb human remains, including those interred outside of formal cemeteries.	<p>CUL-2: Implement proper actions in the event of the incidental discovery of human remains.</p> <p>In accordance with Section 7050.5 of the California Health and Safety Code, if human remains are found, the County Coroner shall be notified within 24 hours of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie potential remains shall occur until the County Coroner has determined, within two working days of notification of the discovery, the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains are or are believed to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with Section 5097.98 of the California Public Resources Code, the NAHC must immediately notify those persons it believes to be the most likely descendant of the deceased Native American. The descendants shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the County, the disposition of the human remains.</p> <p>Should human remains be discovered at any time during construction of the project, construction in the vicinity would halt and the County Coroner would be contacted immediately. If the Coroner determines that the remains do not require an assessment of cause of death and are probably Native American, then the NAHC would be contacted to identify the Most Likely Descendant.</p>	Significant and Unavoidable
Implementation of future projects associated with the REGPA has the potential to directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	<p>PALEO-1a: Protect paleontological resources.</p> <p>Project developers shall document in a paleontological resources assessment report whether paleontological resources exist in a project area on the basis of the following: the geologic context of the region and site and its potential to contain paleontological resources (including the fossil yield potential), a records search of institutions holding paleontological collections from California desert regions, a review of published and unpublished literature for past paleontological finds in the area, and coordination with paleontological researchers working locally in potentially affected geographic areas (or studying similar geologic strata).</p> <p>If paleontological resources are present at the site or if the geologic units to be encountered by the project (at the surface or the subsurface) have a high/very high or moderate/unknown fossil</p>	Significant and Unavoidable

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<p>yield, a Paleontological Resources Management Plan shall be developed.</p> <ol style="list-style-type: none"> 1. The plan shall include the following types of requirements: 2. The qualifications of the principal investigator and monitoring personnel 3. Construction crew awareness training content, procedures, and requirements 4. Any measures to prevent potential looting, vandalism, or erosion impacts 5. The location, frequency, and schedule for on-site monitoring activities 6. Criteria for identifying and evaluating potential fossil specimens or localities 7. A plan for the use of protective barriers and signs, or implementation of other physical or administrative protection measures 8. Collection and salvage procedures 9. Identification of an institution or museum willing and able to accept any fossils discovered 10. Compliance monitoring and reporting procedures <p>If the geologic units that would be affected by the project have been determined to have low fossil yield potential, paleontological resources shall be included as an element in construction worker awareness training. The training shall include measures to be followed in the event of unanticipated discoveries, including suspension of construction activities in the vicinity.</p> <p>The Paleontological Resources Management Plan shall evaluate all of the construction methods proposed, including destructive excavation techniques. Where applicable, the principal investigator shall include in the plan an evaluation of the potential for such techniques to disturb or destroy paleontological resources, an evaluation of whether loss of such fossils would represent a significant impact, and discussion of mitigation or compensatory measures (such as recordation/recovery of similar resources elsewhere on the site) that are necessary to avoid or substantially reduce the impact.</p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
HYDROLOGY AND WATER QUALITY		
<p>Implementation of a solar facility project as part of the REGPA would result in potentially significant impacts related to hydrologic conditions (including drainage alteration, runoff rates and amounts, flood hazards, and existing/planned storm drain system capacity); groundwater resources; and long-term water quality.</p>	<p>HYD-1: Conduct site-specific hydrologic investigations. Site-specific hydrologic investigations will be completed for proposed utility scale solar facility development projects within the individual SEDAs and the OVSA (i.e., those with grading, excavation or other activities potentially affecting hydrologic conditions, as determined by the County), as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential hydrologic concerns, including but not necessarily limited to: drainage alteration, runoff rates and amounts, flood hazards, and existing/planned storm drain system capacity. The final project design documents will also encompass applicable standard design and construction practices from sources including NPDES, <u>Basin Plan</u> and County standards, as well as the results/recommendations of County plan review (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of remedial measures typically associated with identified potential hydrologic concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The remedial measures identified/recommended as part of the described site-specific hydrologic investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> • Drainage Alteration: (1) locate applicable facilities <u>and activities (e.g., staging areas and soil/material stockpiles)</u> outside of surface drainage courses and drainage channels; (2) re-route surface around applicable facilities, with such re-routing to be limited to the smallest area feasible and re-routed drainage to be directed back to the original drainage course at the closest feasible location (i.e., the closest location to the point of diversion); and (3) use drainage structures to convey flows within/through development areas and maintain existing drainage patterns. 	<p>Less Than Significant</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
HYDROLOGY AND WATER QUALITY (cont.)		
	<ul style="list-style-type: none"> • Runoff Rates and Amounts: (1) minimize the installation of new impervious surfaces (e.g., by surfacing with pervious pavement, gravel or decomposed granite); and (2) use flow regulation facilities (e.g., detention/retention basins) and velocity control structures (e.g., riprap dissipation aprons at drainage outlets), to maintain pre-development runoff rates and amounts. • Flood Hazards: (1) work to locate proposed facilities <u>and activities</u> outside of mapped 100-year floodplain boundaries; (2) based on technical analyses such as Hydrologic Engineering Center-River Analysis System (HEC-RAS) studies, restrict facility locations to avoid adverse impacts related to impeding or redirecting flood waters; and (3) based on HEC-RAS studies, use measures such as raised fill pads to elevate proposed structures above calculated flood levels, and/or utilize protection/containment structures (e.g., berms, barriers or waterproof doors) to avoid flood damage. • Storm Drain System Capacity: (1) implement similar measures as noted above for runoff rates and amounts; and (2) utilize additional and/or enlarged facilities to ensure adequate on- and off-site storm drain system capacity. • <p>HYD-2: Conduct site-specific groundwater investigations. Site-specific groundwater investigations will be completed for all proposed solar facility development projects within the individual SEDAs and the OVSA proposing to utilize groundwater resources, prior to final project design approval. These investigations will identify site-specific criteria related to considerations such as local aquifer volumes and hydrogeologic characteristics, current/proposed withdrawals, inflow/recharge capacity, and potential effects to local aquifer and well levels, <u>as well as effects to groundwater-dependent surface water features including springs, marshes and bosques</u>, from proposed project withdrawals. All applicable results and recommendations from these investigations will be incorporated into the associated individual project design documents to address identified potential impacts to groundwater resources (per applicable regulatory standards), with all related requirements to be included in associated engineering/design drawings and construction contract specifications. A summary of the types of remedial measures typically associated with identified potential effects to groundwater <u>and related surface water</u> resources is provided below. The remedial measures identified/recommended as part of the described site-specific</p>	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
HYDROLOGY AND WATER QUALITY (cont.)		
	<p>groundwater investigations will take priority over the more general types of standard measures listed below.</p> <ul style="list-style-type: none"> • Aquifer/Well drawdown: (1) monitor local aquifer and private/production well levels to verify the presence or absence of project-related effects during pre-construction, construction, and operation periods (based on a methodology and monitoring schedule approved by the RWQCB and County); (2) document background and pre-construction groundwater conditions and comparable project-related construction and operation trends, along with related factors such as precipitation levels and groundwater budgets; (3) prepare scaled maps depicting the associated site(s), existing and proposed monitoring well locations, relevant natural (e.g., springs and groundwater-dependent vegetation) and other features (e.g., reservoirs), and pre- post-project groundwater contours, along with a description of cumulative water level changes; (4) restrict project-related groundwater withdrawals to appropriate levels to avoid significant adverse effects to local aquifers/wells and/or other groundwater-dependent uses (e.g., vegetation, springs or other related surface water features), based on thresholds approved by the RWQCB and County; and (5) provide mitigation for affected wells or other uses/resources where applicable, potentially including well modifications (e.g., deepening pumps or wells), <u>and/or financial compensation, and compensatory mitigation for impacts to groundwater-dependent surface water features and habitats.</u> • Groundwater Recharge Capacity: (1) reduce the area of on-site impervious surface if appropriate, through increased use of surfacing materials such as gravel, decomposed granite, or pervious pavement; and (2) use facilities such as retention/percolation basins and unlined drainage facilities to increase local infiltration and groundwater recharge. <u>The County may employ water injection as a method of groundwater recharge as deemed appropriate on a case by case basis. This decision would be made during project specific CEQA analysis for a given solar energy development proposal.</u> <p>HYD-3: Conduct site-specific water quality investigations. Site-specific water quality investigations will be completed for long-term solar facility operations associated with applicable proposed development projects within the individual SEDAs and the OVSA (i.e., those with activities potentially affecting water quality conditions,</p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
HYDROLOGY AND WATER QUALITY (cont.)		
	<p>as determined by the County), as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential long-term water quality issues related to conditions such as: anticipated and potential pollutants to be used, stored or generated on-site; the location and nature (e.g., impaired status) of on-site and downstream receiving waters; and project design features to avoid/address potential pollutant discharges. The final project design documents will also encompass applicable standard design practices from sources including NPDES, <u>Basin Plan</u> and County standards, as well as the results/recommendations of project-related hazardous materials investigations and regulatory standards (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of BMPs typically associated with identified potential water concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The BMPs identified/recommended as part of the described site-specific water quality investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> • Low Impact Development (LID)/Site Design BMPs: LID/site design BMPs are intended to avoid, minimize and/or control post-development runoff, erosion potential and pollutant generation to the maximum extent practicable by mimicking the natural hydrologic regime. The LID process employs design practices and techniques to effectively capture, filter, store, evaporate, detain and infiltrate runoff close to its source through efforts such as: (1) minimizing developed/disturbed areas to the maximum extent feasible; (2) utilizing natural and/or unlined drainage features in on-site storm water systems; (3) disconnecting impervious pervious to slow concentration times, and directing flows from impervious surfaces into landscaped or vegetated areas; and (4) using pervious surfaces in developed areas to the maximum extent feasible. 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
HYDROLOGY AND WATER QUALITY (cont.)		
	<ul style="list-style-type: none"> • Source Control BMPs: Source control BMPs are intended to avoid or minimize the introduction of pollutants into storm drains and natural drainages to the maximum extent practicable by reducing on-site pollutant generation and off-site pollutant transport through measures such as: (1) installing no dumping” stencils/tiles and/or signs with prohibitive language (per current County guidelines) at applicable locations such as drainages and storm drain inlets to discourage illegal dumping; (2) designing trash storage areas to reduce litter/pollutant discharge through methods such as paving with impervious surfaces, installing screens or walls to prevent trash dispersal, and providing attached lids and/or roofs for trash containers; (3) designing site landscaping (if applicable) to maximize the retention of native vegetation and use of appropriate native, pest-resistant and/or drought-tolerant varieties to reduce irrigation and pesticide application requirements; and (4) providing secondary containment (e.g., enclosed structures, walls or berms) for applicable areas such as trash or hazardous material use/storage. • Treatment Control/LID BMPs: Treatment control (or structural) BMPs are designed to remove pollutants from runoff to the maximum extent practicable through means such as filtering, treatment or infiltration. Treatment control and/or LID BMPs are required to address applicable pollutants, and must provide medium or high levels of removal efficiency for these pollutants (per applicable regulatory requirements). Based on the anticipated pollutants of concern, potential LID and treatment control BMPs may include (1) providing water quality treatment and related facilities such as sediment basins, vegetated swales, infiltration basins, filtration devices and velocity dissipators to treat appropriate runoff flows and reduce volumes prior to off-site discharge (per applicable regulatory requirements); and (2) conducting regular inspection, maintenance and as-needed repairs of pertinent facilities and structures. 	
LAND USE AND PLANNING		
No significant, unavoidable adverse land use and planning impacts would result from implementation of the proposed REGPA.	No mitigation measures are required.	Less Than Significant

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
MINERAL RESOURCES		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scale distributed generation, and/or</u> community scale, and/or facilities) could result in potentially significant impacts to mineral resources related to the loss of regionally or locally important mineral resources, as well as associated potential conflicts with valid mineral entries.</p>	<p>MIN-1: Conduct site-specific mineral resource investigations. Site-specific mineral resource investigations will be completed for proposed development projects within the individual SEDAs, the OVSA, and the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. These investigations will include the following elements: (1) descriptions of regional and on-site geologic environments; (2) identification of site-specific potential for the occurrence of mineral resources; (3) assessment of estimated mineral resource quantities and extents (as applicable); (4) evaluation of associated potential for economic resource recovery, including considerations such as supply and demand, and production, processing and transportation costs; (5) determination of the presence of mineral entries such as mining claims and mineral leases, including descriptions of individual mineral entry types, issuing agencies and status; (6) assessment of potential impacts from project implementation to identified regionally- or locally-important mineral resources, associated exploration/recovery efforts, and valid mineral entries; and (7) development of remedial measures to address identified impacts to mineral resources, operations and entries, as feasible, potentially including efforts such as avoidance, use of proposed project development timing or phasing to accommodate mineral operations, or locating proposed project facilities to accommodate multiple use operations (e.g., through shared use of access or infrastructure). All applicable results and recommendations from the described investigations identifying identified potential mineral resource impacts and remedial measures will be incorporated into the associated individual project design documents.</p>	<p>Less Than Significant</p>

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
NOISE		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scale distributed generation, and/or</u> community scale, and/or facilities) could result in potentially significant impacts related to: (1) exposure of persons to or generation of noise levels in excess of established standards during project operations; and (2) temporary or periodic increases in ambient noise levels during construction.</p>	<p>NOI-1: Prepare technical noise report for solar facilities proposed within 500 feet of noise sensitive land uses. If a proposed utility scale solar energy project resulting from implementation of the REGPA is within 500 feet of a residence or other noise sensitive land use, prior to issuance of a Major Use Permit, a site-specific noise technical report will be prepared and approved by the County. The technical report will verify compliance with all applicable County laws, regulations, and policies during operation of the solar project, including that noise levels would not exceed the relevant thresholds described in the General Plan Noise Element (60 dBA L_{DN} for noise sensitive land uses such as residences, schools, transient lodging and medical facilities). The site specific noise technical report will include project specifications, applicable noise calculations, project design features, applicable BMPs and related information from the REAT’s Best Management Practices and Guidance Manual (REAT 2010), and mitigation measures applicable to the project. The technical noise report will address operational related noise sources, as well as noise from the use of generators during an emergency. The technical report will calculate specific anticipated noise and vibration levels from operations in accordance with County standards and provide specific mitigation when noise levels are expected to exceed County standards.</p> <p>NOI-2: Implement construction noise reduction measures. If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT’s Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:</p> <ul style="list-style-type: none"> • Whenever feasible, electrical power will be used to run air compressors and similar power tools. • Equipment staging areas will be located as far as feasible from occupied residences or schools. • • • 	<p>Less Than Significant</p>

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
NOISE (cont.)		
	<ul style="list-style-type: none"> • All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers. • Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors. • Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings. • NOI-3: Prepare a Helicopter Noise Control Plan. In the event that a utility scale solar project site would have limited access and would require the use of helicopters during operation or maintenance of a facility, the County shall prepare a Helicopter Noise Control Plan that indicates where helicopters would be used and the frequency and duration for such use. The plan shall demonstrate compliance with the noise level limits within the County Noise Element for helicopter noise to properties within 1,600 feet of proposed helicopter use locations. 	
POPULATION AND HOUSING		
Implementation of the REGPA would result in less than significant impacts to population and housing.	No mitigation measures are required.	Less Than Significant

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
PUBLIC SERVICES		
<p>Implementation of the REGPA would result in potentially significant impacts associated with fire and police protection services.</p>	<p>PUB-1: Analyze public safety and protection response times and staff levels for each project. Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project’s impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.</p> <p>PUB-2: Provide onsite security during the construction and long-term operation of the project. For project sites associated with proposed future solar development projects that are determined through Mitigation Measure PUB-1 to have insufficient law enforcement protection services or significant impacts to law enforcement services, project proponents shall be required to provide adequate, onsite private security for the duration of construction activities and during the long-term operation of the project to the satisfaction of the County. The actual size and configuration of the security detail shall be determined by the County during preparation of the Development Agreement for the future solar energy project.</p> <p>PUB-3: Pay mitigation fees for public safety and protection services. The County shall require project proponents to pay established County development mitigation fees for fire and police protection services. Said fees shall be used to maintain proper staffing levels for fire and police protection, <u>and emergency</u> services and to sustain adequate response times as required by the County.</p>	<p>Less Than Significant</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
RECREATION		
Implementation of the REGPA would result in less than significant impacts to recreational facilities.	No mitigation measures are required.	Less Than Significant
SOCIOECONOMICS		
Implementation of the REGPA would result in potentially adverse socioeconomic effects related to changes in the local economy, housing availability related to temporary construction workers, and levels of public service provision.	<p>SOC-1: Minimize impacts on transient housing. To further offset potential negative effects and increased demand on transient housing, General Plan Policy ED-4.5, Employ and Train Local Labor, shall be supplemented with the following:</p> <ul style="list-style-type: none"> • For renewable energy projects where the construction schedule exceeds one-year, community monitoring programs shall be developed that would identify and evaluate transient housing demand and other socioeconomic effects utilizing economic models such as JEDI. Measures developed for monitoring may include the collection of data reflecting the workforce demands and social effects (such as tracking any demonstrable drop in recreational usership) as a result of increased transient housing demand from construction workers at the local and County level. • Project developers shall work with the County, local chambers of commerce, and/or other applicable local groups to assist transient workers in finding temporary lodging. If temporary lodging is not available, developers of utility scale projects shall consider the feasibility of providing on-site temporary housing accommodations for all projects. 	Less Than Significant

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
SOCIOECONOMICS		
	<p>SOC-2: Minimize impacts on County public services. To further off-set potential negative effects on County public services, General Plan Policy ED-4.4, Offset the Cost to the County for Service Provision, shall be supplemented with the following:</p> <ul style="list-style-type: none"> • Cooperative agreements between project applicants and the County shall be secured prior to issuance of a building permit or project-specific entitlement to ensure the following: • Unless property taxation of a renewable energy installation is deemed sufficient by the County, project applicants shall pay a fair-share public service impact fee. A potential method for estimating a fair-share contribution could be calculated by: • [annual service budget] X [estimated number of temporary workers temporarily in-migrating ÷ County population served]. • The public service fee (and formula used for calculating fair-share) shall be adjusted based on the duration of project construction (e.g., a project only lasting 9 months would utilize 75 percent of the annual budget, one lasting 1.5 years would utilize 150 percent of the annual budget, etc.); and • Project applicants shall maximize the County’s receipt of sales and use taxes paid in connection with construction of the project by methods such as including language in construction contracts identifying jobsites to be located within the County and requiring construction contractors to attribute sales and use taxes to the County in their Board of Equalization filings and permits. 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
TRANSPORTATION AND CIRCULATION		
<p>Implementation of the REGPA could result in potentially significant traffic impacts related to: (1) construction traffic; (2) air traffic safety hazards; and, (3) design-related traffic hazards.</p>	<p>TRA-1: Prepare site-specific traffic control plans for individual projects. Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.</p> <p>TRA-2: Implement recommendations from traffic impact analysis on surrounding roadways and intersections. Site-specific construction traffic impact analyses shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to evaluate potential traffic impacts on surrounding roadways and intersections during the construction period. Applicable results and recommendations from the project-specific construction traffic impact analysis shall be implemented during the appropriate construction phase to address identified potential construction traffic impacts.</p>	<p>Less Than Significant</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
UTILITIES AND SERVICE SYSTEMS		
Utility impacts associated with wastewater, water, stormwater facilities, and solid waste disposal would be less than significant.	No mitigation measures are required.	Less Than Significant
Implementation of the REGPA would result in potentially significant impacts related to the need for new transmission lines to serve future solar development.	<p>UTIL-1: Projects within the western solar energy group will not exceed a combined maximum of 250 MW or 1,500 acres. Future projects within the Western Solar Energy Group shall be limited to a combined maximum of 250 MW or 1,500 acres of development area). The County shall implement a tracking program to ensure all future solar development projects within the Western Solar Energy Group do not exceed 250 MW. Once the 250 MW (or 1,500 acres of development area) is reached, the County shall not approve further projects within the Western Solar Energy Group unless project applicants can provide proof of adequate and existing transmission capabilities for the project.</p> <p>UTIL-2: Projects within the Southern and Eastern Solar Energy Groups will be required have necessary and/or adequate transmission lines. Future development within the Southern and Eastern Solar Energy Groups shall be required to include the necessary transmission lines or provide proof of adequate transmission capabilities for the project.</p>	Less Than Significant



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for 1:00 p.m. Closed Session Informational

FROM: Inyo County Planning Commission and Planning Department

FOR THE BOARD MEETING OF: March 19, 2024

SUBJECT: Appeal No. 2023-03 (John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller) of Renewable Energy Permit (REP) 2022-02/Barker

DEPARTMENTAL RECOMMENDATION: Request the Board of Supervisors:

Conduct a Public Hearing regarding: Appeal No. 2023-03 (John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller) of Renewable Energy Permit (REP) 2022-02/Barker and deny the appeal (Attachment A - Appeal Letter).

SUMMARY DISCUSSION:

On September 19, 2022, the applicant, Robbie Barker, submitted two Renewable Energy Permit (REP) applications for two separate photovoltaic (PV) solar facilities on contiguous land. The applicant submitted two separate applications because each facility would connect separately to the existing Southern California Edison (SCE) 33-kv transmission line passing through the area, have different interconnection agreements, and therefore require two separate County permits to operate. The first application (No. 2022-01) is known to the applicant as "Trona 7". The second application (No. 2022-02) is known to the applicant as "Trona 4" and is the subject of this agenda item (the proposed project).

The Trona 4 project proposes a commercial scale PV solar facility within a 15-acre parcel that is contiguous (i.e., has a common corner) with the Trona 7 site. The facility would generate 3-Megawatts (MW) of electricity using approximately 6,000 single axis tracker solar panels. The Trona 4 project area is graded flat, or gently sloped and is highly disturbed with no natural vegetation, habitat, water features or structures. The project area is surrounded by private vacant land to the north. The land to the south is a developed commercial solar field, owned by the applicant, and the land to the east is vacant BLM land. The land to the west is both private vacant and misc. structure. Approximately five residential structures are within 0.5 miles of the project area located mostly to the south and west. Two of these structures are approximately 400 feet from the edge of the project area. Other land uses within 0.5 mile of the Project Area include storage of equipment, vehicles, scrap yards, and storage units (see Attachment B - Vicinity and Project Site maps).

REPs are subject to Inyo County Code (ICC) Title 21 as well as the Inyo County Renewable Energy General Plan Amendment (REGPA¹) and all requirements thereof. The REGPA was adopted by the County in March 2015 as a plan to help guide and regulate renewable energy development throughout Inyo County. As part of the REGPA process, a Programmatic Environmental Impact Report (PEIR²) was prepared pursuant to section 15168 of the California Environmental Quality Act (CEQA) Guidelines to address state-mandated

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

² <https://www.inyocounty.us/services/planning-department/environmental-reviews>

renewable energy demands and potential future utility-scale renewable energy projects within the County's footprint. The PEIR was certified by the County in 2015 alongside the REGPA and the proposed project is also subject to its terms. The proposed project is located within the Southern Solar Energy Development Area (SEDA) as approved and identified in the REGPA. The Southern SEDA allows for up to 600-acres of solar photo voltaic development.

Pursuant to section ES.7 of the PEIR, proposed solar energy projects *greater* than 20 MW are examined in light of the PEIR to determine whether any additional environmental document must be prepared while solar energy projects *up to* 20 MW may be exempt from further CEQA analysis, unless an event specified in Public Resources Code (PRC) section 21166 has occurred. Whether such an event has occurred is a determination to be made by a qualified County planner and if such a determination is made, a Supplemental EIR or other CEQA document *may* be required.

PRC section 21166 states:

When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

- (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.*
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.*
- (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.*

Mr. Barker's project proposes to install only a 3MW commercial scale photovoltaic solar facility and is therefore exempt from further environmental review pursuant to the express terms of the PEIR unless one of the triggering events in section 21166 exists. Staff determined that none of the triggering events listed in subsections (a), (b) or (c) of section 21166 existed such that a subsequent or supplemental environmental impact report was required. In other words, the PEIR prepared for the REGPA is legally sufficient and no further environmental review is required for this project.

Nevertheless, out of an abundance of caution, staff recommended a Negative Declaration be prepared to ensure a greater extent of analysis and, in particular, to review air quality as the Trona area is prone to dust events. Accordingly, in December 2022, an Initial Study with a Mitigated Negative Declaration (ISMND)³ was prepared by staff to consider possible significant impacts to environmental resources for the project. The project site was devoid of natural habitat/vegetation at the time the application was submitted so it was determined that neither a biological survey nor a cultural resources report were required. The State review period for the ISMND ended on December 27, 2022. The County received numerous public comments, but no comments were received from any local or state agencies, including the California Department of Fish and Wildlife or the Great Basin Unified Air Pollution Control District.

Based on the public comments received in response to the ISMND, the applicant decided to have a biological survey and air quality report prepared even though they were not required. The applicant requested staff revise and recirculate the ISMNDs⁴ through the CEQA State Clearinghouse with the new

³ <https://www.inyocounty.us/services/planning-department/current-projects>

⁴ <https://www.inyocounty.us/services/planning-department/current-projects>

information. Since the biological survey and air quality report were prepared for both projects as one, staff prepared the recirculated ISMNDs as a combined project, but submitted them to the CEQA Clearinghouse with two ISMNDs – one for each project – to ensure each separate permit application was processed correctly. The State review period for the recirculated ISMND ended on August 17, 2023. Like the first circulation, no comments were received from any local or state agencies though, again, numerous public comments were submitted by community members opposed to the project, including comments from attorneys retained by these community members.⁵

The additional surveys found no special status species on the project site; however, the bio-survey identified potential habitat for nesting birds and a possible wildlife corridor for the Desert Kit Fox. This led staff to add conditions of approval to the project to mitigate any potential impacts related to the nesting birds and wildlife corridor. The air quality study likewise did not identify any issues, but staff added conditions of approval to mitigate air quality during construction to minimize fugitive dust. Conditions of approval were also added for noise during construction. These conditions were put into a Mitigation, Monitoring Report table format to help make them more understandable to the public. (See Attachment D – Planning Commission Staff Report).

On October 25, 2023, the proposed project was presented to the Planning Commission and a duly noticed public hearing was held. During the public hearing the Commission heard from staff, the applicant, and several members of the public on various aspects of the project, including easements, fire risk, noise, dust in the area, and visual resources. The neighbors raised objections and opposed the project but did not request or accept any additional or modified conditions of approval, including, for example, the suggestion of a privacy fence to help mitigate visual impacts. After considering all evidence presented to it during the hearing, the Planning Commission approved REP 2022-02/Barker with Findings and Conditions of Approval. A Notice of Decision and Notice of Determination were filed for the project soon after (Attachment E – Notice of Decision and Determination) (Attachment F – Planning Commission Minutes).

The Planning Commission's decision was timely appealed by John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller (Appeal 2023-03). In their November 8, 2023, Appeal Letter, Appellants assert the following nine grounds as the basis for their appeal. Note that essentially all the appeal points are repeated from the CEQA comments submitted by the Appellants earlier in the process and the majority of staff responses below are taken directly from staff and applicant responses provided to the Planning Commission (see Attachment D)

- 1. Failure to approve a reclamation plan and financial assurances for the REPs. (County Code, §§ 21.20.030, -040, -070; REGPA Implementation Policy 10; General Plan Policy MER-2.8; REGPA mitigation measure Bio-3).**

Response:

ICC Chapter 21.20.030 states in pertinent part:

Any person who submits an application for a renewable energy impact determination or a renewable energy permit shall, at the time of the submission of the application, submit a

⁵ Most of the comments raised perceived CEQA issues, which issues were promptly responded to by staff and the applicant's attorney. These comments and all responses were included in the materials provided to the Planning Commission (Attachment C - Comments and Responses regarding the CEQA documents).

plan for reclamation/revegetation of the site of the facility once the facility is decommissioned or otherwise ceases to be operational. The reclamation plan shall be based upon the character of the surrounding area and such characteristics of the property as type of native vegetation, soil type, habitat, climate, water resources, and the existence of public trust resources...

...the county planning commission ... in the case of a renewable energy permit, shall impose as a condition of approval, a plan for the reclamation/revegetation of the site of the facility at the time that the facility is decommissioned, or otherwise ceases to be operational, and shall establish site-specific criteria for evaluating and monitoring compliance with the approved reclamation plan.

In compliance with the above, Mr. Barker submitted a draft reclamation⁶ plan with his initial application packet in February 2023. However, due to the continuing changes to the project – primarily the recirculation of the ISMND – the applicant was given additional time to finalize this plan, and on October 25, 2023, the Planning Commission approved the Trona 4 project with the following conditions of approval:

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 assurances/surety bond prior to the issuance of grading or building permits.*
- *The owner/developer shall submit an updated reclamation plan and updated financial assurance/surety bond to the Inyo County Planning Department every 5 years.*

Chapter 21.20.030 does not require the reclamation plan to be in its final form at the time it is submitted or at the time the Planning Commission considers the REP application for approval. It also does not require the Planning Commission to review the draft plan. Instead, it simply directs the Planning Commission to condition approval of the REP on the existence of said plan. Here, by imposing, as a condition of approval, the requirement that Mr. Barker submit a staff-approved decommissioning plan prior to the issuance of grading or building permits, the Planning Commission did what the code required.

Pursuant to ICC Chapter 21.20.040, as a condition to the approval of a renewable energy permit, and in order to ensure reclamation will be effectuated, the Planning Commission must also require financial assurances from the applicant that meet the criteria listed in subsections A-F of the same. The Planning Commission included this condition as required by the ICC.

ICC Chapter 21.20.070 states as follows:

Prior to the issuance of a renewable energy impact determination or the granting of a renewable energy permit, the county planning commission must find that, through the imposition of mitigation measures, the approval of a reclamation plan, the receipt of

⁶ Reclamation and decommissioning are used interchangeably throughout.

adequate financial assurances, and by other conditions incorporated into the determination or imposed upon the permit, the health, safety and welfare of the county's citizens, the county's environment, including its public trust resources, and the county's financial well-being, have been adequately safeguarded.

The Planning Commission adopted REP 2022-02 with conditions of approval directly addressing mitigation measures, approval of a reclamation plan, and receipt of adequate financial assurances. By considering these conditions as presented by staff during public the hearing, and adopting them, the Planning Commission determined that the conditions of approval addressing all elements listed in Chapter 21.20.070 adequately safeguarded the public health welfare and safety⁷.

General Plan Policy MER-2.8. mandates staff to work with applicants to develop their reclamation plans and ensure those plans contain certain elements and meet certain criteria. These are the guidelines staff follow when approving the final reclamation plan (which in this case will occur before Mr. Barker qualifies for building or grading permits). The REGPA Implementation Policy #10 requires staff to “*Review and approve reclamation plans and financial assurances at the onset of renewable energy solar facility development projects and oversee the full implementation of reclamation plans at the decommissioning and termination of renewable energy solar facilities.*” The Condition of Approval that requires a reclamation plan and financial assurances prior to the issuance of grading or building permits meets this requirement since it is with those permits that development will begin. Nothing in MER-2.8 or Policy #10 suggests the County acted inappropriately or in violation of its own codes and regulations in the processing of Mr. Barker's application.

With regard to Mitigation Measure BIO-3, it does not apply to the Trona 4 project because it, like all the mitigation measures in the PEIR, applies to solar photovoltaic projects located in designated SEDAs that produce *more than* 20MW of electricity. An exception to this rule exists if a specified event in section 21166 has occurred. Staff determined no such event had occurred.

The Final PEIR Volume II, page 4.4-122 states:

*“Biological resources mitigation measures have been developed for solar energy development projects **producing more than 20 MW** of electricity for off-site use (**utility scale**) and would be implemented to mitigate adverse impacts to biological resources. As previously mentioned, small scale solar energy projects are considered to result in no impacts under CEQA; however, all individual solar energy facility project applications (including small scale, community scale, and distributed generation commercial scale) **shall be reviewed by the County, and the need for implementation of the following mitigation measures shall be determined based on the professional judgment of a qualified county planner, pursuant to ICC Title 21 and State CEQA Guidelines.** For example, community scale solar developments (i.e., roof- or ground-mounted PV panels for a specific community's use) may be determined by a qualified county planner to have no potential impact on biological resources and would not require a biological resource evaluation or implementation of the biological resources mitigation measures listed in this section. **In***

⁷ See also Attachment E - Notice of Decision and Determination, Finding #6 wherein the Planning Commission made a health, welfare and safety finding supported by Environmental Health. This finding, along with the conditions of approval, adequately address 21.20.070.

such cases, the County shall document that no impacts to biological resources would occur and no mitigation measures are necessary in lieu of the biological resources evaluations required in Mitigation Measures BIO-1 through BIO-3". (emphasis added)

Based on this language, the Trona 4 project (producing less than 20 MW) is exempt from Mitigation Measure BIO-3. Nevertheless, a qualified biologist conducted a plant and wildlife (biological) survey of the proposed project site and found no special status plant or animal species. Potential habitat and a wildlife corridor were identified, and a mitigation and monitoring program was prepared for the project based on the biologist's findings. No further obligation to the mitigation and monitoring program set forth in the PEIR was required due to the county's actions regarding the project's CEQA evaluation with the ISMND.

2. Piecemealed CEQA review by splitting the overall renewable energy project (comprised of both REP 22-01 and 22-02) into two separate MNDs.

Response: The Appellants assert the County analyzed the two separate applications (REP 22-01 and 22-02) in a "piecemeal" manner that is prohibited by CEQA. Section 15378 of the CEQA Guidelines broadly defines a project under CEQA as "the whole of the action" that may result either directly or indirectly in physical changes to the environment. Impermissible piecemeal review occurs when a large project is broken up into one or more smaller ones – each with minimal potential impact on the environment – which cumulatively may have significant consequences (*Planning & Conservation League v. Castaic Lake Water Agency* (2009) 180 Cal.App.4th 210, 235).

In this case, two ISMNDs were circulated for the two projects. The first set resulted in public comments regarding possible biological and air-quality impacts. This caused the applicant to have a bio-survey and air quality report conducted for the projects, which were prepared as if this was one project. The applicant then requested that staff recirculate the ISMNDs. This does not qualify as piecemealing for two distinct reasons:

1. Mr. Barker filed two separate REP applications for two separate solar facilities on contiguous land (Trona 7 and Trona 4). Each facility connects separately to the SCE utility grid and has its own energy contract, therefore each needs to have its own permit to operate.
2. Because the two proposed facilities have a common applicant, are in proximity to each other, and would have similar impacts, the second Initial Study evaluated the environmental impacts of both applications as one Project, but again 2 ISMNDs were resubmitted to the State Clearinghouse one for each project, meaning Trona 4 was evaluated along with Trona 7 and Trona 7 was evaluated along with Trona 4. Throughout the recirculated Initial Study process and all supporting documents, the two separate projects are treated and referred to as one single project. Piecemealing occurs when one large project is cut into smaller portions in order to analyze smaller segments. In this case, the County took two individual projects and analyzed them as one, single project.

Furthermore, the County's decision to prepare two separate approvals was based on its administrative need to render a decision on two separate applications. While Appellants incorrectly label this as piecemealing, they also fail to acknowledge that the ISMNDs are

identical in the subject matter and conclusions. Further, they fail to provide any legal authority prohibiting a lead agency from preparing multiple approvals, each supported by a separate ISMND, for multiple applications supported by a single, combined environmental review.

3. Failure to include draft mitigation monitoring and reporting plans ("MMRP") in the MNDs for public review and comment as required by the ICC.

Response:

ICC 15.44.020 states as follows:

Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment. The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR.

This language requires the County to ensure the MMRP is available to the public for review and comment and that the plan is included in the proposed MND and adopted at the time the MND is adopted. This language does not require the County to circulate the MMRP with a MND and the Appellants incorrectly suggest it does. Further, nowhere in the CEQA Guidelines does it require an agency to include the reporting/monitoring plan in the draft MND. (See CEQA Guidelines, §§ 15073, 15073.5, and 15097.)

In this case, the County complied with all applicable laws and regulations in its treatment of the MMRP. Specifically, the MMRP, along with the ISMND, was made available to the public via the County's website on October 14, 2023, through the notice of hearing published for the Planning Commission meeting that took place on October 25, 2023 (this is more than the ten days required by law for notice). The notice included a direct link to the Planning Commission materials which included the MMRP and ISMND. These materials were also made available to the public at the Planning Department office. Following the public hearing on October 25, 2023, the Planning Commission approved the project along with the MMRP and the MND.

4. Failure to properly incorporate the REGPA Programmatic EIR and its MMRP into the County's CEQA review for the Project.

Response: This was not necessary per the Final PEIR Volume II prepared pursuant to section 15168 of the CEQA Guidelines for the REGPA. Specifically, page ES.7 of the PEIR states:

"This document has been prepared as a program-level EIR pursuant to Section 15168 of the State CEQA Guidelines to document the environmental impacts of solar energy development within the County. The contents of this PEIR represent the independent judgment of the County (State CEQA Guidelines Section 15050). Subsequent, proposed solar energy projects greater than 20 MW would be examined in the light of this PEIR to determine whether any additional environmental document must be prepared (State CEQA Guidelines Section 15168(c)). Solar energy projects up to 20 MW may be exempt from further CEQA analysis, unless an event specified in Public Resources Code Section 21166 occurs as determined by a qualified County planner, in which case a Supplemental EIR or other CEQA document may be required."

The County determined the PEIR to sufficiently address certain potential impacts of the project and those that were thought to require site-specific analysis were properly assessed with an ISMND that integrates enforceable mitigation measures based on the recirculated initial study. This falls directly under the direction of ES-7 as a qualified planner made the decision to require an “*other CEQA document.*”

5. Violating CEQA by conflating analysis of Project impacts and mitigation measures.

Response: Appellants raise this same issue in their comment letter to the Planning Commission and based on that letter it would appear they are incorrectly applying EIR-level standards to the initial study prepared for this project. In other words, they seem to imply that an IS needs to contain the same level of detail and analysis required for an EIR and on that basis claim the County erred in its preparation of the MND.

Pursuant to CEQA Guidelines section 15063(a)(3), an initial study is “*neither intended nor required to include the level of detail included in an EIR*”. Further, in this case the IS prepared for this project indicated “No Impact” or “Less than Significant Impact” for nearly all applicable categories. The checklist made a finding of “Less Than Significant with Mitigation Incorporated” for only three categories and appropriate mitigation measures were put into place for all three – biological resources (nesting birds and Kit Fox travel through the site), air quality (dust), and noise during construction. This was done by conditioning the project with pre-construction bio-surveys, dust management and suppression during construction and operation, and noise suppression during construction. Failure of the applicant to meet any of the conditions of approval, including the mitigation measures, may result in revocation of the REP.

The IS did not make any findings of “Potentially Significant Impact” and therefore an EIR was not required. The use and preparation of the MND was appropriate and done in compliance with the PEIR and CEQA Guidelines.

6. Failure to prepare EIRs despite the existence of a fair argument of significant environmental impacts.

Response: Again, the Trona 4 project is exempt from further CEQA analysis pursuant to the express terms of the PEIR. Staff elected to conduct further environmental review anyway and prepared a MND. A MND is appropriate when the environmental effects of the project can be avoided or mitigated to the point where clearly no substantial evidence, in light of the whole record, is presented that the project may have a significant effect (CEQA Guidelines § 15064(f)(2)). In this case, no impacts were identified in the IS that met the threshold to trigger an EIR. The use and preparation of the MND was appropriate and done in compliance with the PEIR and CEQA Guidelines.

Ignoring this, the Appellants claim a “fair argument” exists such that an EIR must be prepared. Pursuant to CEQA Guidelines section 15064(f)(1), the fair argument standard means that if a “fair argument” can be made that a project may have a significant effect on the environment, an EIR must be prepared. Pursuant to CEQA Guidelines section 15384, to support the existence of a fair argument of significant environmental impacts, the Appellants must provide substantial evidence that includes facts, reasonable assumptions predicated upon facts, and expert opinion

supported by facts. The Appellants incorrectly rely on argument, speculation, and unsubstantiated opinion and narrative and fail to provide any evidence, let alone substantial evidence, to support their claim that the Trona 4 project may have significant effects on the environment to necessitate the preparation of an EIR.

7. Reliance on mitigation measures that are inadequately defined, unenforceable, and of unknown effectiveness to conclude that environmental impacts are less than significant.

Response: The mitigation measures set forth for the project, and included as conditions of approval, were derived from the biological survey and air quality study conducted. The biological survey suggested mitigation measures which were prepared by a qualified biologist and the air quality study suggested mitigation measures prepared by a consulting firm that specializes in air quality and greenhouse gas impacts. Based on these experts' opinions, the mitigation measures created for the project would result in environmental impacts that are less than significant. Like all the conditions of approvals, these mitigation measures are fully enforceable⁸. If the applicant fails to follow or properly implement any of the conditions, the REP may be revoked.

Appellants fail to specify which mitigation measures they take issue with. They also fail to provide any facts, substantial evidence, or compelling argument and rely on vague, conclusory statements to support their contention that one or all of the mitigation measures are deficient. (See CEQA Guidelines § 15384.).

8. Inadequate identification of cumulative projects and analysis of cumulative impacts.

Response: Appellants raise this same issue in their comment letter to the Planning Commission and based on the language in that letter it would appear that they fail to recognize the difference between a cumulative analysis required for an EIR and that which is required for an initial study supporting a negative declaration. To argue their point, Appellants rely on CEQA Guidelines sections 15130 and 15355, which govern the cumulative impacts analysis in an EIR. An EIR was not prepared for this project because it was not required to be prepared therefore requirements for an EIR do not apply.

In response to the comment letter, on this discrete point, the applicant's attorney explained:

The correct method for assessing – in an initial study – whether impacts are cumulatively considerable is described in Section 15065(a)(3) of the CEQA Guidelines, as interpreted and applied by San Joaquin Raptor/Wildlife Rescue Center and related cases. The question is whether the “incremental effects” of a project are “considerable” when evaluated against the backdrop of environmental effects of other projects. (San Joaquin Raptor, 42 Cal.App.4th at pp. 623-624.) Where the initial study concludes that these effects are absent, a challenger must point to some substantial evidence that a cumulatively considerable incremental effect exists. (See response letter from Harrison, Temblador, Hungerford & Guernsey at Attachment C).

⁸ The mitigation and monitoring program provides direction for what particular agency or county department is responsible for particular aspects of the project monitoring and when it should occur.

Initial Study is supported by substantial evidence showing that the Projects will have no considerable incremental effects requiring the preparation of an EIR and Appellants have failed to show otherwise.

9. Inadequate analysis and disclosure of environmental impacts.

Response: Pursuant to the REGPA, staff reviewed the project first under the lens of the PEIR and although not necessary, decided to produce an ISMND for the project, primarily to address possible dust in the area. Based on public comment, and at the applicant's request, a recirculated ISMND was subsequently created to further evaluate possible environmental impacts. A biological survey and an air quality analysis were also conducted for the ISMND. All possible impacts were evaluated, disclosed, and where appropriate, mitigated through the ISMND process. These documents were also circulated pursuant to CEQA Guidelines and sent to the State Clearinghouse for State Agency review and the County Recorder for public comment. As already stated, public comment was addressed.

This project is expressly allowed by virtue of its location within an adopted SEDA as set forth in the Inyo County REGPA. The County determined no further environmental review was required pursuant to the PEIR but still prepared an ISMND, which was circulated and then recirculated again with a biological and air quality study. Based on the ISMND, and the administrative record as a whole, substantial evidence that the project has a significant impact on the environment does not exist.

Further, as evidenced in the record, the applicant has gone above and beyond that which is legally required to appease the appellants throughout this process, including supporting additional (un-mandated) environmental reviews, supporting a second circulation of the ISMND with a biological survey and air quality report, and remaining open to additional conditions of approval as were discussed during the Planning Commission's public hearing.

The County's preparation and use of the ISMND was proper and complied with all applicable laws and regulations and the Appellants have failed to show otherwise.

Recommended Actions:

Staff recommends the Board deny the appeal and uphold the Planning Commission's decision to approve REP 2022-02/Barker

ALTERNATIVES: The Board may consider the following alternatives.

1. Do NOT approve the requested actions. (Denial of the Appeal and upholding the Planning Commission decision to approve is recommended.)
2. Return to staff with direction.

OTHER AGENCY INVOLVEMENT: N/A

FINANCING: Costs to process the application and appeal are paid for by the applicant and the \$300 appeal fee was paid for by the appellants.

<u>APPROVALS</u>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)

_____ Date: _____

Attachments:

ATTACHMENT- A
APPEAL LETTER

November 8, 2023

SENT VIA EMAIL AND OVERNIGHT MAIL

(boardclerk@inyocounty.us)

Inyo County Board of Supervisors
Attention: Clerk of the Board
P.O. Drawer N
Independence, California 93526

**Re: Appeal of Planning Commission's October 25, 2023
Actions on Action Items 5 and 6:
Renewable Energy Permit 2022-01/Barker,
and Renewable Energy Permit 2022-02/Barker**

Dear Inyo County Board of Supervisors:

On behalf of John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller ("Appellants"), this letter appeals the Planning Commission's actions regarding Action Items 5 and 6 on the October 25, 2023 agenda, which include approvals of the Renewable Energy Permit ("REP") 2022-01/Barker and REP 2022-02/Barker (collectively, the "Project") and adoption of two separate mitigated negative declarations ("**MND**") for the Project ("Appeal"). The Appeal is submitted pursuant to Inyo County Code ("ICC") Chapters 15 and 18.

Appellants are "interested person[s]" and "adversely affected" by the Planning Commission's actions. As explained in earlier communications, Appellants own property and reside in close proximity to the Project site and would be negatively impacted by the County's failure to adequately analyze and mitigate the Project's various environmental impacts in violation of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq. ["CEQA"]), the County's General Plan, Renewable Energy General Plan Amendment ("REGPA"), and County Code as set forth herein and in earlier comment letters. Further, Appellants previously provided comments regarding the adequacy of the MNDs as required by ICC section 15.52.010.

Applicants appeal the Planning Commission's actions¹ on the following grounds:

1. Failure to approve a reclamation plan and financial assurances for the REPs.(County Code, §§ 21.20.030, -040, -070; REGPA Implementation Policy 10; General Plan Policy MER-2.8; REGPA mitigation measure Bio-3);
2. Piecemealed CEQA review by splitting the overall renewable energy project (comprised of both REP 22-01 and 22-02) into two separate MNDs;
3. Failure to include draft mitigation monitoring and reporting plans ("MMRP") in the MNDs for public review and comment as required by the ICC;
4. Failure to properly incorporate the REGPA Programmatic EIR and its MMRP into the County's CEQA review for the Project;
5. Violating CEQA by conflating analysis of Project impacts and mitigation measures;
6. Failure to prepare EIRs despite the existence of a fair argument of significant environmental impacts;
7. Reliance on mitigation measures that are inadequately defined, unenforceable, and of unknown effectiveness to conclude that environmental impacts are less than significant;
8. Inadequate identification of cumulative projects and analysis of cumulative impacts;
9. Inadequate analysis and disclosure of environmental impacts.

The above grounds for appeal are supported by numerous public comments previously submitted by this firm and directly by Appellants. That said, Appellants will also submit additional briefing and supporting evidence in accordance with Inyo County's *Board Governance and Rules of Procedure*, Rule 22. Such additional briefing

Since the County has prepared substantively identical staff reports and CEQA documents for the REP 22-01 and 22-02, these grounds for appeal apply to both approvals. Further, in an abundance of caution, Appellants have tendered two \$300 checks for appeal fees.

County of Inyo
Board of Supervisors
November 8, 2023
Page 3 of 3

will include detailed responses to the applicant's recent letter purporting to address public comments on the Project and MND.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

cc via email:

Darcy Ellis, Assistant Clerk of the Board, dellis@inyocounty.us
Cynthia Draper, Assistant Planner, cdraper@inyocounty.us
Inyo County Planning Department, inyoplan ni ng@invocou nty.us

Attachments via overnight delivery:

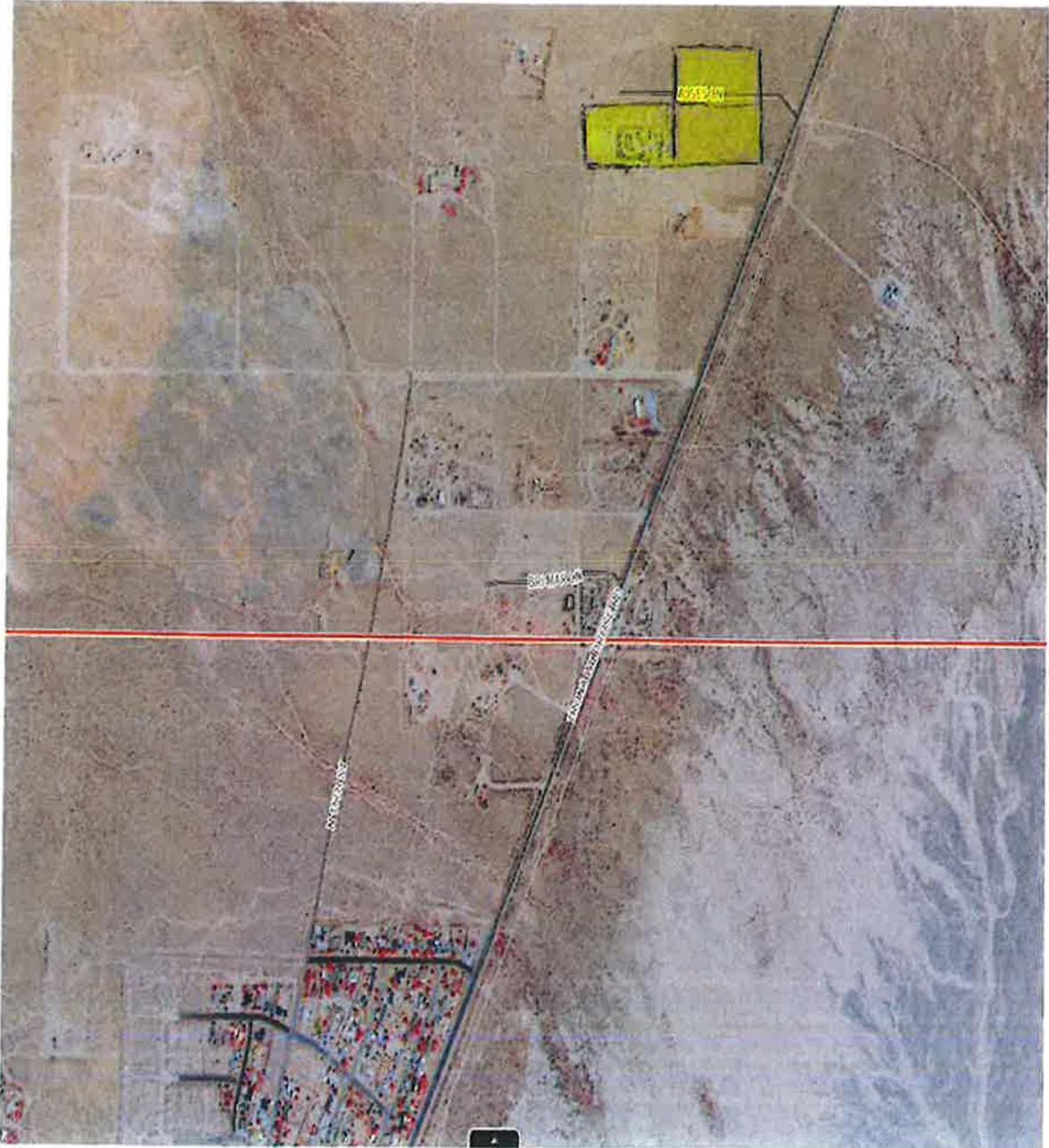
Check numbers 4391, 4392 in the amount of \$300 each

ATTACHMENT-B
VICINITY MAP AND SITE PLAN

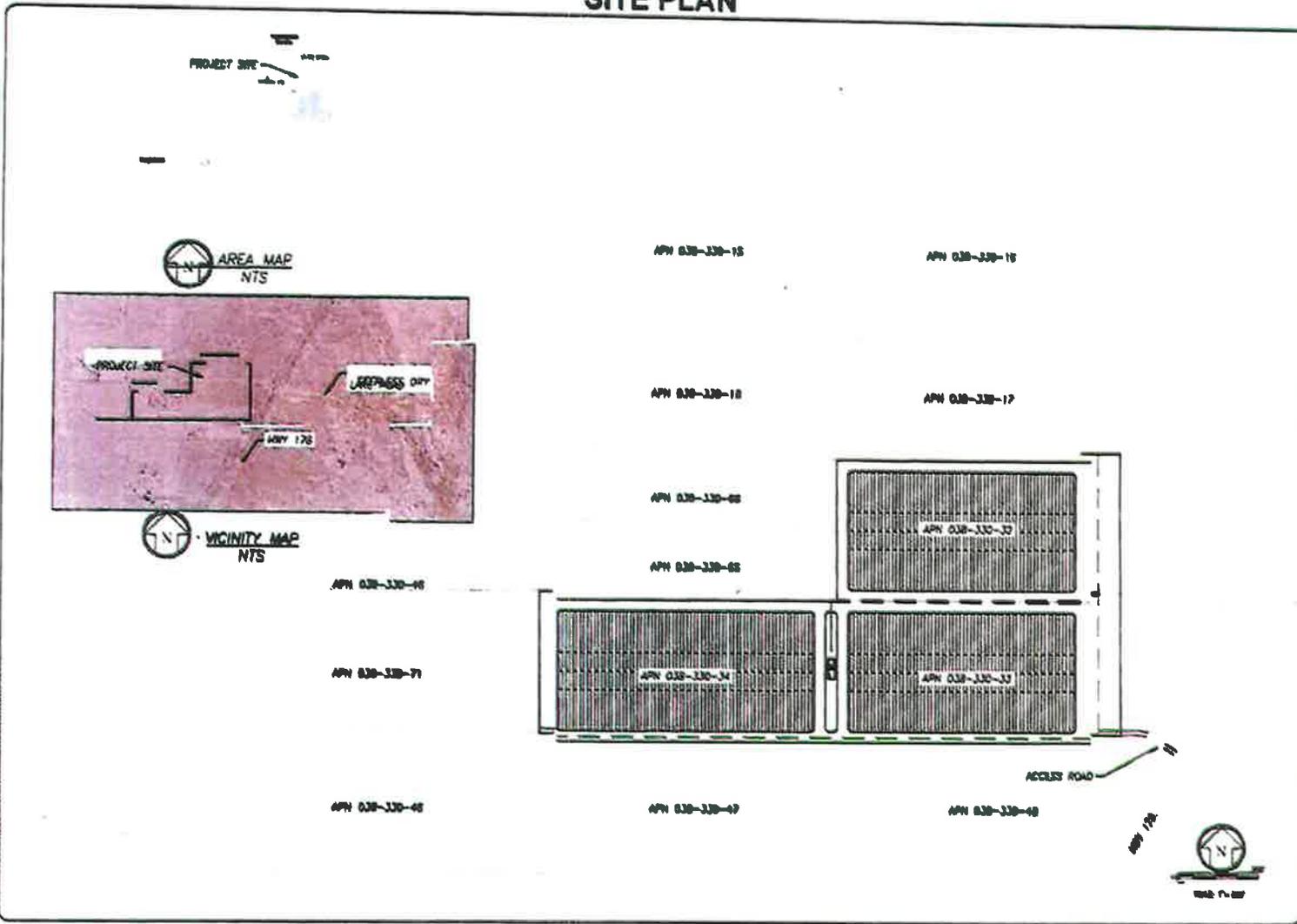
VICINITY MAP

REP 2022-02/BARKER

APN 038-330-32;33;34



REP 2022-02/BARKER SITE PLAN



Valley Wide Construction Controls
 10000 Valley Blvd, Suite 100
 Van Nuys, CA 91411
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 www.valleywidecontrols.com

GN
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 Fax: 818.708.1112
 www.gn.com

1. 1/2" = 100' (VERTICAL SCALE) 1/8" = 100' (HORIZONTAL SCALE)

ATTACHMENT- C
CEQA COMMENTS



California Program Office

P.O. Box 401, Folsom, California 95763 | 916-313-5800

www.defenders.org

August 25, 2023

Cynthia M. Draper, Assistant Planner
Inyo County Planning Department
168 N. Edwards Street
Independence, CA 93526
Delivered via email to: cdraper@inyocounty.us

RE: Renewable Energy Permit – Barker-Trona 4 (SCH 2022110323) and
Renewable Energy Permit – Barker-Trona 7 (SCH 2022110344)

Dear Ms. Draper:

Thank you for the opportunity to provide comments in response to the Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Studies (DMND) for the proposed Barker-Trona 4 Solar and Barker-Trona 7 Solar Farms (collectively, the “Projects”). Defenders of Wildlife (Defenders) is dedicated to protecting all wild animals and plants in their natural communities and has nearly 2.1 million members and supporters in the United States, with more than 316,000 residing in California. We strongly support renewable energy development that will help meet California’s emission reduction goals and avoids destruction of important wildlife habitat and the loss of at-risk species. Achieving a low-carbon energy future is critical for protecting California’s internationally treasured wildlife, landscapes and diverse habitats.

The proposed Projects are solar photovoltaic PV electricity generating facilities and associated infrastructure: Barker-Trona 4 would generate 3.0 MW of renewable energy on a 15-acre parcel and Barker-Trona 7 would generate 1.2 MW on an adjacent 5-acre parcel, located in Inyo County west of Trona Wildrose Road, between the Trona Airport and the border of San Bernardino County. The Projects were submitted under separate applications due to their separate interconnections to the existing Southern California Edison 33kV transmission line that passes through the area. The Project site is zoned as rural residential, and the area of both Projects is described as graded and “highly disturbed,” with “no natural vegetation, habitat, water features, or structures.” Portions of the Barker-Trona 4 site were previously used as “a private dirt track and a junk yard.” Additionally, the Projects are located within a designated Inyo County Solar Energy Development Area,¹ and are not located within Natural Landscape Blocks,²

¹ See <https://databasin.org/maps/new/#datasets=d035971f69f84ba9b3fdb2ed551a442>

² See <https://databasin.org/maps/new/#datasets=e1bb8c9a9631413f97b28cc72a5efe93>

Essential Connectivity Areas,³ mapped critical habitat,⁴ or state or global Important Bird Areas.⁵ While the site lies partially in areas designated as modeled predicted occupied habitat for the desert tortoise,⁶ Defenders concurs with the Projects' Biological Resource Evaluation, which concluded that neither tortoises nor suitable habitat are present on the site.

As we transition toward a clean energy future, it is imperative that we consider the near-term impact of solar development on our biodiversity, fish and wildlife habitat, and natural landscapes while addressing the long-term impacts of climate change. Therefore, renewable energy projects must be planned, sited, developed and operated to avoid, minimize and mitigate adverse impacts on wildlife and lands with known high-resource values. Defenders finds the Projects are fully consistent with these criteria through being sited on previously distributed lands and applying appropriate mitigation measures to reduce the impact on special-status species in the region, including desert kit fox and birds protected by the Migratory Bird Treaty Act, as outlined on page 6-18 of the Biological Resource Evaluation. These measures include conducting pre-activity surveys and equipment inspections, avoidance buffers, worker training, speed limits, covering of holes and trenches, and proper waste management processes. We encourage the County to continue siting renewable energy projects in low-conflict areas in order to avoid or minimize impacts on sensitive species.

Thank you once again for the opportunity to provide comments on the DMND for the Barker-Trona 4 and 7 projects and for considering our comments. We look forward to reviewing the Final Environmental Documents for the Projects and request to be notified when they are available. Please feel free to contact us with any questions.

Respectfully submitted,



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³ See <https://databasin.org/maps/new/#datasets=c57212b3aa1243d28216a1b7db18a1ca>

⁴ Per Figure 4-1, Trona 4 and 7 Solar Project Biological Resource Evaluation, at <https://ceqanet.opr.ca.gov/2022110323/2>

⁵ See <https://databasin.org/maps/new/#datasets=1180b50bafce4871a019245da1c8b6b2>

⁶ See <https://databasin.org/maps/new/#datasets=a1f5e25b9b944f9fa6aa3be8f54f8a2e>

August 25, 2023

FROM: John Mays

85517 12th St. (P.O. Box 583)

Trona, CA 93592

TO: Inyo County Planning Department via email inyoplanning@inyocounty.us

Attn: Cynthia Draper cdraper@inyocounty.us

CC: Patrick Soluri patrick@semlawyers.com, Tom Kidder tkidder85@gmail.com, Amanda Mcnamara-Ball akmcmamara80@gmail.com, Brian McNamara b.mcnamara1951@gmail.com

RE: Comments on Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Study (Initial Study) dated July 19, 2023, for REP 2022-01 and REP 2022-02

1.) The new documents fail to sufficiently address any comments previously submitted on REP 2022-01 and REP 2022-02 by myself, the others included on this email, or by my legal representation. All of these comments are resubmitted here by reference including those by Tom Kidder, Amanda, McNamara-Ball, and Brian McNamara. The additional comments herein are also being submitted on their behalf. Also, we wish to incorporate all our complaints sent to Inyo County regarding these projects since 2021 by reference.

2.) The Initial Study shows Inyo County Planning Departments repeated reluctance to perform the necessary CEQA analysis as guided by the Renewable Energy General Plan Amendment Final Programmatic Environmental Impact Report dated March 2015 (PEIR). Inyo County has failed to comply with CEQA requirements and effectively bypassed CEQA requirements by not performing the necessary environmental analyses that are enumerated by the PEIR. Compounded by the lack of enforcement and the repeated disregard for permitting procedures, destruction of environmental resources and endangerment of human health has occurred. The Inyo County Planning Department should not be allowed to conduct any such approval for solar permits until it can demonstrate proper compliance with CEQA requirements and its own regulations.

3.) The new biological evaluation as provided with the new Initial Study is a grossly insufficient analysis designed only to advance the project. It represents a token glance done in only 58 minutes at the project site. The necessary biological evaluation that is needed to accurately assess biological impacts is described in detail by the PEIR and has been mentioned at length in previous comments. A representative evaluation would require multiple visits over the full year to account for seasonal variations of wildlife and plant species and multiple observations to substantiate the presence of or lack of any species. The authors' own comments confirm that the study is insufficient, stating it is "limited by the scope of work performed" and "limited by conditions present at the time of the study." The US FWS

letter appears to be a form letter automatically generated on the same day of the study and represents no actual consultation with US FWS. All of this is typical of the methods of cursory review repeatedly applied by the Inyo County Planning Department. This has nothing to do with accurately assessing impacts but purely designed to avoid substantial review by understating the impacts on the ecology of the project.

4.) The biological evaluation does, however, strongly document the destruction of wildlife habitat and plant life caused by the illegal and repeated pre-permit construction efforts. Despite numerous reports and documentation provided, Inyo County has continued to allow this site destruction repeatedly throughout the permit process. This directly subverts the environmental laws of the State of California and requirements of CEQA. Clearly, the lack of concern for wildlife being present at the project and minimal impacts on wildlife and plants within the biological evaluation resides primarily on the fact that the project “has been disked and exhibits little vegetation regrowth” and is thus devoid of habitat. In fact, the site has been graded with vegetation removed so extensively that it represents an intentional farming practice that completely turns the soil. Such disking destroys any animal burrows which would be evidence of food sources or homes for species. It also destroys the vegetation on which such Endangered or Special Status Species live upon or within.

5.) The eye-blink biological evaluation is essentially certain to have overlooked species which may have been just simply missed, transient, or seasonal to the site including Mojave Ground Squirrel, Burrowing Owl, Desert Tortoise, and other Endangered and Special Status Species as listed by US FWS as potentially occurring in the area. These are all typical in the region, have been reported by the observations of residents, and not addressed by the Initial study or mitigation provided.

6.) The new biological evaluation states that more detailed additional studies be done before construction. However, realistic, comprehensive biological studies need to be done before permit approval to ensure proper mitigation has been put in place before the permit can be issued.

As proposed by the approach in the biological evaluation, a vast number of species with potential to be present but that were not observed in this single 58-minute survey would not be protected. The biological evaluation recommends only surveying and mitigation for the desert kit fox and migratory birds but does not detail surveys or mitigation for numerous other wildlife and vegetation species which US FWS say could be present. This grossly avoids substantial mitigations required to protect wildlife and vegetation and thus increases the potential for a take. For this reason, complete biological studies must be completed in advance of a permit approval so that proper mitigation is in place.

7.) A report with analysis on dust generated provided by the new Initial Study is insufficient. It does not account for:

- dust generated from bare grounds during high winds
- actual conditions where dust control is not implemented
- a realistic construction period which is much greater than the assumed overall period of 2 months and 2 weeks of “minor” grading. This is especially overly optimistic as no grading or drainage plan has been envisioned. There is no provision for removal of large boulders which are prevalent through the subsurface and cause major difficulties in drilling the panel supports.

- dust generated from accumulated sand dune deposits at project fencing as evidenced in examples of California City solar plants as provided with previous comments. Does not account for fence construction and maintenance for windblown sand accumulations.

- does not account for heavy truck traffic on local roads to deliver project construction materials and operating supplies. Does not provide location of roads to be traveled as no access or road plan is provided. If using local dirt roads, this could be within a few feet of residences.

- does not assess the long-term and short-term effects on several nearby receptors which are residences within less than 500 ft, especially during wind events

- incorrectly steps the facility footprint substantial back from parcel boundaries although this is not the design, and no permit conditions require this. (fig.1). This improper mechanism to avoid dust and pollutants traveling across the project boundary.

- does not include the existing operating facility in its assessment of long-term and short-term impacts, REP 2021-01

The current solar facility, REP 2021-01, which is less than half the size of these proposed permits, has taken at least a couple of years to be constructed. Even now apparently, construction is still not finished. The project currently has stockpiled earthen materials and construction equipment on site. There has been grading of the site and placement of gravel during recent months.

As documented to Inyo County Planning Department, as reported January 13, 2022, all the surface of REP 2022-01 and REP 2022-02 was graded without dust control methods being applied and has been left that way since that date. Additional construction work with no dust control has been documented and reported in the last few months. Video was provided to Inyo County officials documenting extreme dust generation during high wind events.

An evaluation of impacts from dust generation and resulting health and equity impacts have not been sufficiently addressed by the new Initial Study and are grossly understated by the new analysis.

7.) The Initial Study does not address the fact that Inyo County is unable and unwilling to enforce dust control at the current operating solar facility and the proposed sites. It has been demonstrated by numerous reports that dust control procedures are not being followed and other unlawful construction practices are being allowed by the Inyo County without recourse. This negates any mitigation provided in the Initial Study proclaiming that dust control measures will be implemented and negates the determinations made by Inyo County in the Initial Study on impacts from dust.

8.) Attached is evidence of other complaints on Facebook regarding another solar site in Inyokern. This site is owned and being developed by the same owner/developer as REP 2022-01 and REP 2022-02 on July 22, 2023. This was during the same time when complaints were made regarding the Trona facility. The developer's repeated lack of compliance must be enforced otherwise there is no substance to mitigation that the Initial study is based upon. Inyo County cannot proceed with these permits until it can demonstrate proper management of its solar facilities, it has set a precedent to the contrary. Otherwise, substantial impacts to public health can occur.



WTF IS HAPPENING IN RIDGECREST · ...

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To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that...

See more 🗨️

To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that everyone has to drive thru. Just sayin

👍👎🗨️ 41

25 comments

👍 Like

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➡️ Send

👍👎🗨️ 23

15 comments

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🗨️ Comment

👍 23 >

Top comments

Kady Buckholz
I was just talking about this.
1h Like Reply

Jamie Weston
🤔🤔🤔 I saw that the other day when I was doing a delivery.
1h Like Reply

Maria Jordan
Lamooo that's dumb lol like we can control when the wind blows
49m Like Reply

Donald Hitt
Solar field going in
39m Like Reply

Sharon Boyer
Drove through it!!
1h Like Reply

Mindy Spivey

1h Like Reply

Ginger Brown

40m Like Reply

Amanda McNamara
Call Kern County Planning Commission and complain. It's an air permit violation. They are supposed to keep a water truck on it all the time.
2m Like Reply

Tina Flanigan
Solar power.
1h Like Reply

Tamy Rice
Agreed
1h Like Reply

Ginger Brown
Call the county...valley fever because of clearing land like this ...o the county forgot to tell us ... U have to request the test if u have symptoms....and they need to water truck this to keep the dust down...they also must have a permit....people need to call...here is your info...

40m Like Reply

Anthony Levesque
No
10m Like Reply

Robbie Harper
Or at least plow the north 40 at less than 60!
1h Like Reply

Write a comment...

9:02

Login

LLC (202130910556)		
M&S INYOKERN CORP. (4661667)	> 11/05/2020	Active
RB INYOKERN SOLAR LLC (201615410405)	> 05/25/2016	Suspended - FTB
RB INYOKERN SOLAR WDAT 1203 LLC (202206311083)	> 03/02/2022	Active
RB INYOKERN SOLAR WDAT 1281 LLC (202206311152)	> 03/02/2022	Active
RIDGECREST INYOKERN RD, LLC (201623510120)	> 08/15/2016	Active
SIERRA PACIFIC INDUSTRIES, INYOKERN DIVISION (375961)	> 05/25/1959	Suspended - FTB
TA - INYOKERN, LLC (200932310149)	> 11/13/2009	Terminated

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9.) A full EIR is prescribed by CEQA for these projects and is required for these projects to advance. This was required by Kern County Planning for the owner/developer's solar facility in Inyokern. That study may be found here and serves as an example of the more extensive impact evaluation and coordination on biological evaluation necessary. This permitting action required incidental take permits for the Desert

Tortoise and Mojave ground squirrel. Since Inyo County allowed pre-permit construction this take may have already occurred.

<https://kernplanning.com/environmental-doc/rb-inyokern-solar-project/>



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August 25, 2023

SENT VIA EMAIL

(inyoplanning@inyocounty.us;
Cynthia Draper, Assistant Planner, cdraper@inyocounty.us)

County of Inyo
Planning Commission
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

**Re: Recirculated MNDs for Renewable Energy Permit 2022-01/Barker and
Renewable Energy Permit 2022-02/Barker**

Dear Ms. Draper:

On behalf of our client, John Mays, this letter provides comments regarding the two recirculated mitigated negative declarations (“RMND”) for Renewable Energy Permit (“REP”) 2022-01/Barker and REP 2022-02/Barker (collectively, the “Project”).

We previously submitted comments identifying numerous procedural and substantive violations of the California Environmental Quality Act (“CEQA”) associated with the two mitigated negative declarations (“MND”) previously prepared and circulated for the Project. We understand that the County has prepared the RMNDs that purport to correct some of the previously-identified deficiencies in the MNDs. For example, the RMND includes an appendix containing some “representative photographs” of existing conditions, a biological resources assessment and an air quality (“AQ”)/greenhouse gas emission report. Even with this new information, serious informational deficiencies persist. As described below, the RMNDs violate CEQA and cannot provide adequate environmental review for the Project.

A. The RMNDs Fail to Include Mitigation Monitoring and Reporting Plans

Although clearly identifying each document as an “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeatedly checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County fails to prepare Mitigation Monitoring and Reporting Program(s) (“MMRP”(s)). This violates

CEQA (CEQA Guidelines, § 15097) and also the Inyo County Code. (County Code, Ch. 15.44.) To wit:

15.44.005 General.

The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)

15.44.010 Application.

A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)

15.44.020 Timing.

Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment. The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)

15.44.030 Contents.

The monitoring plan shall contain, at a minimum, the following:

- A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;
- B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);
- C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;
- D. Identification of the person or entity responsible for monitoring and verification;
- E. The method of reporting monitoring results to the county. (Ord. 957 § 1 (part), 1995.)

15.44.040 Enforcement.

Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)

Setting aside the RMND's practice of not identifying mitigation measures required to reduce Project impacts, the RMND's expressly identify mitigation measures in Sections IV(a), XIII(a) and XXI(a). Thus, the RMND's require a draft MMRP that is circulated for public comment. The RMND's are therefore procedurally invalid. A new RMND or EIR must be recirculated for public review along with the required MMRP.

B. Project Piecemealing

CEQA's conception of the term "project" is broad to maximize protection of the environment. (*Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist.* (2007) 147 Cal.App.4th 643, 653; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730. "This big picture approach to the definition of a project (i.e., including "the whole of an action") prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project into smaller components which, when considered separately, may not have a significant environmental effect." (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 270-271.)

The County is dividing a project into smaller components. The Project consists of two REPs for photovoltaic solar power generation on adjacent parcels owned by the same person, Robbie Barker. The RMNDs explain, "This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts." (RMND, p. 3.) Notwithstanding this, the County has prepared two separate RMNDs for the Project. These RMNDs include:

- "RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-01/Barker- Trona 7" (See Exhibit 1.)
- "RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-02/Barker- Trona 4" (See Exhibit 2.)

Dividing a single project into two CEQA documents violates CEQA. The relevant test is whether the activities have “substantial independent utility.” (*Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal.App.4th 712, 736.) It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by preparing two separate RMNDs for what it concedes is a single project under CEQA. A reviewing court would exercise its independent judgment on this issue with no deference to the agency. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)

We previously commented on this issue, and the RMNDs provided make the case for piecemealed review even stronger. Both RMND’s technical reports analyze the two REPs as a single project. The air quality report explains, “Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site (collectively referred to herein as the ‘Project’).” Similarly, the biological resources report states, “Biological Resource Evaluation – Trona 4 and 7 Solar Project.” The RMNDs themselves explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)

It appears that the County now recognizes the two REPs constitute a single CEQA project. If so, the County must prepare a single CEQA document for that single project. The County’s continued reliance on two separate CEQA documents for a single CEQA project violates CEQA.

C. Failure to Adequately Analyze Cumulative Impacts

A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an environmental impact report (“EIR”). (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear

insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.)

Despite this mandate, the two RMNDs’ cumulative impacts analyses continue to be impermissibly cursory. Each RMND’s cumulative impact analysis provide in full:

No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note ***in the vicinity are PV solar projects within the Trona SEDA***, but the overall number and size of these projects are ***likely to be less than analyzed in the PEIR***. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.

(RMND, § XXI(b), emphasis added.)

This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) Here, the RMNDs appear to limit the scope of cumulative projects to those “within the Trona SEDA.” The RMNDs fail to explain this limitation, which violates CEQA. (CEQA Guidelines, § 15130, subd. (b)(3) [“Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used”].) The EIR for the Inyo County Renewable General Plan Amendment (“REGPA”) provided a reasonably expansive list of cumulative projects. (REGPA EIR, Table 5-1.) The County could have relied on that list of projects so long as it complied with CEQA’s requirements for tiering/incorporation by reference as well as updating a cumulative project list, but the County did not follow that procedure. (CEQA Guidelines, § 15130, subd. (b)(1); § 15150, subd. (c); § 15152.)

Similarly, the RMNDs appear to limit the scope of cumulative projects by stating that PV solar projects are the only projects “of note.” The RMNDs fails to explain what is meant by limiting cumulative projects to only those “of note.” CEQA includes no such limitation, and instead requires a CEQA document to set forth “[a] list of past, present, and probably future projects producing related or cumulative impacts.” (CEQA Guidelines, § 15130, subd. (b)(1)(A).) For example, the Project will unquestionably

result in dust generation. Projects other than PV solar projects may also generate dust and therefore must be identified as cumulative projects.

D. The RMNDs Failed to Adequately Analyze and Mitigate Project Impacts

The RMNDs failed to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 74 (*No Oil I*.) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (*Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (*No Oil I, supra*, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (*Id.* at p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.

In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This is assured by incorporation into an MMRP. (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation of Hillside & Canyon v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 (*Federation*).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See *San Bernardino Valley Audubon Society v. Metropolitan Water District* (1999) 71 Cal.App.4th 382, 392.)

Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (*Sundstrom v. County of Mendocino* (1988) 202

Cal.App.3d 296, 311 (*Sundstrom*.) For example, in *Sundstrom* the court held that the absence of information explaining why no alternative sludge disposal site is available “permits the reasonable inference that sludge disposal presents a material environmental impact.” (*Ibid.*) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.

1. *The RMNDs impermissibly conflate analysis of impacts and mitigation.*

For every resource area, the RMNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 658 (*Lotus*) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.

For example, with respect to whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the RMNDs assert, “No . . . The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) CEQA requires the RMNDs to disclose the significance of the impact without regard for mitigation, separately identify all feasible mitigation measures and assess their effectiveness at reducing the impact. (*Lotus, supra*, 223 Cal.App.4th at 655-656 [“Caltrans compounds this omission by incorporating the proposed mitigation measures into its description of the project and then concluding that any potential impacts from the project will be less than significant. . . . By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA”].) The RMNDs follow this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural

resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.

2. *Mitigation Measures are not adequately defined, effective or enforceable.*

CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (*Federation, supra*, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound in the RMNDs. Just a few representative examples are provided.

The RMNDs claim that construction air quality will be less than significant because “[t]he applicant will control dust during construction by *standard techniques* that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) The RMNDs fail to adequately define these “standard techniques.” Are the “standard techniques” limited to the three identified techniques? If so, why are the RMNDs excluding other techniques disclosed in mitigation measure AQ-2 of the REGPA EIR? Further, the RMNDs fail to adequately describe the mere three techniques mentioned that would allow an assessment of their effectiveness. For example, how frequently will water trucks be used? Is there a standard for when water trucks will be required during construction? How is limestone used effectively to reduce dust? How are dust suppressants used? Are there other possible dust suppressants other than EarthGlue? If so, are any of these other dust suppressants more effective than EarthGlue? What are the tests or triggers for application of limestone or dust suppressants?

Addressing some or all of these questions is necessary for the RMNDs to adequately inform the public and decision-makers that mitigation is effective to reduce the impact to less than significant on sensitive receptors such as the adjacent residential properties. An MND cannot rely on a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (*King & Gardiner Farms, supra*, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 511.) The RMNDs have failed to provide evidence that its vague mitigation will be effective. Further, the RMNDs also failed to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant’s REP 2018-01 that was issued in 2018.

The RMNDs also improperly assume, without adequate project-specific analysis, that regulatory compliance will mitigate impacts. Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the RMNDs assert, “No . . . The applicant will be conditioned to obtain any required permits, and follow best management practices required by the GBUAPCD.” (RMND, § III(a).) This is inadequate under CEQA because a determination that regulatory compliance is adequate must be based on project-specific analysis. (*Californians for Alternatives to Toxics v. Dept. of Food and Agriculture* (2005) 136 Cal.App.4th 1.) Here, the RMNDs do not even identify what is required by the Great Basin Unified Air Pollution Control District (“GBUAPCD”), much less provide a project-specific analysis of how those requirements would be effective here. While the County may be inclined to point to an Air Quality Memorandum as supplying that missing analysis, this effort fails for two reasons. First, the analysis does not provide the missing information, explaining only, “Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollution emissions, including those required under their new source review requirements.” (AQ Memorandum, p. 7.) Thus discussion fails to describe applicable requirements, much less how those requirements applied here would effectively mitigate impacts. Second, even if the Air Quality Memorandum did provide some additional information, CEQA caselaw explains that such information cannot be buried in an appendix. (*Vineyard Area Citizens, supra*, 40 Cal.4th at 442. [information “buried in an appendix is not a substitute for good faith reasoned analysis”].)

The RMNDs then attempts to cite to the REGPA programmatic EIR (“PEIR”) and its MMRP in an attempt to dismiss significance of these impacts. (RMND, §III(a).) The plain language of the PEIR refutes this effort:

The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. However, since the air basin is within the Owens Valley PM10 Planning Area, ***fugitive dust emissions from construction must be mitigated.***

(PEIR, p. 4.3-10, emphasis added.) Here, however, there is no such mitigation. For example, the AQ-2 includes such measures as “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph.” The RMNDs conspicuously fail to mention these additional mitigation measures, much less identify them as such in an enforceable MMRP for the Project.

Finally, the RMNDs claim that PEIR mitigation measures AQ-1 through -3 “applied to utility-scale projects of greater than 20 MW and did not apply to smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner.” This is inexcusably false. The plain language of AQ-1 though -3 as revised and approved does not include such limitations. (Exhibit 3, March 2015 MMRP.)

PEIR AQ-1 states, “AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report.” The RMNDs violate this mandate because the Air Quality report does not incorporate the specific requirements of AQ-2 and AQ-3. It merely states, “[T]he Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.” PEIR mitigation measures AQ-1, -2 and -3 are not “goals and policies” of the REGPA; they are mitigation measures under CEQA. The Air Quality report does not even identify these mitigation measures, much less “incorporate” them into its “site-specific technical report.” At best, the Air Quality Memo states:

[F]ugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment trackout onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout

the life of the Project, which will in turn ensure impacts remain less than significant.

(Air Quality Memo, p. 12.0.)

While this provides a general discussion of some mitigation measures that could be used to address dust emissions, this discussion fails to comply with CEQA. This discussion fails to correlate the identified measures to the requirements of the GBUAPCD or the PEIR. Are these measures the only ones that will be used to satisfy the requirements of the PEIR and GBUAPCD? If so, why does this discussion omit any reference to “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph” as set forth in AQ-2. Further, this discussion in the Air Quality Memo does not explain how this discussion is enforceable against the project. This is precisely the function of mitigation measures and an MMRP.

Finally, regulatory compliance is only permissible when it is reasonable to assume that they will actually be complied with. “[C]ompliance with regulations is a common and reasonable mitigation measure, and may be proper *where it is reasonable to expect compliance.*” (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906.) Here, the project applicant has repeatedly violated County and air district rules and permits with respect to this Project and earlier projects. These repeated violations have been documented by County staff and establish that it is not reasonable to simply assume that the project applicant will comply with such permit terms in the future.

In short, the RMNDs improperly rely on mitigation to avoid analysis of project impacts and fail to provide adequate information in order to determine whether mitigation is effective and enforceable. Without this necessary information, the RMND’s significance determinations are not supported by substantial evidence.

3. *The RMNDs inconsistently apply the PEIR’s mitigation measures.*

Our prior comment letter explains that the original MNDs appeared to have ignored literally dozens of mitigation measures adopted pursuant to the PEIR. The RMNDs now appear to incorporate the PEIR’s mitigation measures but have done so inconsistently and in violation of CEQA. For example, sections IV(a) (Biological Resources) and XIII(a) (Noise) appear to incorporate mitigation measures set forth in the PEIR in order to address the Project’s potentially significant impacts in those resource areas. Setting aside the procedural deficiency of not circulating an MMRP including these mitigation measures, the RMNDs fail to explain why the same procedure was not

followed in other resource areas¹ where the PEIR requires mitigation in order to support a less-than-significant determination. The leading CEQA treatise explains, “As activities within the program are approved, the agency must incorporate, if feasible, the mitigation measures and alternatives developed in the program EIR in its action approving the activity.” (1 Kostka and Zischke, Practice Under the Cal. Environmental Quality Act (2nd ed. 2023) § 10.16, p. 10-20.)

E. The County Does not Explain Why Visual Simulations Have Not Been Prepared

The RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR. AES-1 requires “site-specific visual studies . . . to assess potential visual impacts.” “Visual simulations shall be prepared to conceptually depict-post development views from the identified key observation points.” No such studies were prepared. Instead, Appendix A consists solely of low-quality “representative photographs” of apparently existing conditions.

The RMND states, “Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a qualified planner to not have a potential to impact visual resources, including a scenic vista.” The RMNDs conspicuously fails to provide any substantial evidence supporting this conclusion. The RMNDs fail to set forth any analysis, much less written report, supporting this conclusion. The RMNDs fail to identify the County planner purportedly making this determination, the date of the determination, the criteria followed by the County planner or any specific facts supporting this determination. There is no evidence, much less substantial evidence, supporting the MND’s conclusory assertion that an unspecified “qualified County planner” determined that the Project would not have the potential to impact visual resources.

F. The RMNDs Fail to Include a Traffic Control Plan

PEIR mitigation measure TRA-1 provides:

Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall,

¹ Examples include air quality, agricultural impacts, transportation, water quality and visual resources.

at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.

The RMNDs do not include the required traffic control plan, nor even mention mitigation measure TRA-1. While the RMNDs state that the Project “will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase,” there is no attempt to explain why these “few” construction vehicles do not require a traffic control plan to avoid conflicts with adjacent and nearby residents.

G. The MNDs Fail to Address Impacts Associated with Noxious Weeds

Mitigation measure AG-3 provides, “To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed.” In violation of this mitigation measure, no weed-abatement plan appears to have been prepared, and the RMNDs make no reference to such a plan.

* * *

The RMNDs continue to suffer from procedural and substantive violations of the County Code and CEQA that require recirculation. We thank you for the opportunity to comment.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Patrick M. Soluri

cc: John Mays (johnmmays1@gmail.com)

Attachments:

Exhibit 1 Recirculated Initial Study with Mitigated Negative Declaration /
Environmental Checklist Form / Renewable Energy Permit 2022-
01/Barker- Trona 7

County of Inyo
Planning Commission
August 25, 2023
Page 14 of 14

- Exhibit 2 Recirculated Initial Study with Mitigated Negative Declaration /
Environmental Checklist Form / Renewable Energy Permit 2022-
02/Barker- Trona 4
- Exhibit 3 Mitigation Monitoring and Reporting Program for the Inyo County
Renewable Energy General Plan Amendment Program Environmental
Impact Report (March 2015)

EXHIBIT 1



Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

Phone: (760) 878-0263
FAX : (760) 872-2712
E-Mail : inyoplanning@inyocounty.us

RECIRCULATED

DRAFT MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT
AND INITIAL STUDY

PROJECT TITLE: Renewable Energy Permit 2022-01/Barker- Trona 7

PROJECT LOCATION: The Project is located approximately 3 miles north of the unincorporated community of Trona, California. The Trona Airport sits roughly 1.3 miles to the northeast. The property is on private land owned by Robbie Barker, with an Assessor's Parcel Number of 038-330-46

PROJECT DESCRIPTION: The applicant is applying for a Renewable Energy Permit to construct a 1.2 Megawatt (MW) photovoltaic solar facility using approximately 2,300 single-axis tracker solar panels that will connect to the existing Southern California Edison (SCE) 33-kV transmission line passing through the area. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.

FINDINGS:

- A. The proposed project is consistent with goals and objectives of the Inyo County General Plan.
- B. The proposed project is consistent with the provisions of the Inyo County Zoning Ordinance.
- C. Potential adverse environmental impacts will not exceed thresholds of significance, either individually or cumulatively.
- D. Based upon the environmental evaluation of the proposed project, the Planning Department finds that the project does not have the potential to create a significant adverse impact on flora or fauna; natural, scenic, and historic resources; the local economy; public health, safety, and welfare. This constitutes a Mitigated Negative Finding for the Mandatory Findings required by Section 15065 of the CEQA Guidelines.

The 30-day public review period for this Draft Mitigated Negative Declaration will expire on August 25, 2023. Inyo County is not required to respond to any comments received after this date.

Additional information is available from the Inyo County Planning Department. Please contact Project Planner Cynthia Draper (760-878-0265) if you have any questions regarding this project.


Cathreen Richards
Director, Inyo County Planning Department

7/19/2023
Date



Planning Department
168 North Edwards Street
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Independence, California 93526

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INYO COUNTY PLANNING DEPARTMENT

APPENDIX G: CEQA INITIAL STUDY & ENVIRONMENTAL CHECKLIST FORM

1. Project title: Renewable Energy Permit 2022-01/Barker-Trona 7
2. Lead agency name and address: Inyo County Planning Department, PO Drawer L, Independence, CA 93526
3. Contact person and phone number: Cynthia Draper: (760) 878-0265
4. Project location: The property is on private land owned by Robbie Barker, Assessor parcel number 038-330-46, in Trona California.
5. Project sponsor's name and address: Robbie Barker 82740 Trona Rd., Trona, CA 93562
6. General Plan designation: Residential Estate (RE), SEDA overlay
7. Zoning: Rural Residential (RR-5.0)
8. Description of project: The applicant proposes a photovoltaic (PV) solar facility on a five-acre parcel, consisting of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.
9. Surrounding land uses and setting: The property is surrounded by undeveloped land, sparse residential dwellings, and commercial uses (such as equipment storage). Developed areas include the Trona Airport, scattered residences, and scrap yards. The surrounding parcels are highly disturbed, devoid of plants or native habitat. Weed abatement has been performed throughout the area.

Location:	Use:	Gen. Plan Designation	Zoning
North	Vacant	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
South	Vacant	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
East	Vacant	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
West	Single family residence	Residential Estate (RE)	Rural Residential (RR-5.0-MH)

10. Other public agencies whose approval is required: Inyo County Building and Safety, Inyo County Environmental Health, Inyo County Public Works

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun?

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 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 Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidential https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_18-chapter_18_12?view=alliality.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics Resources | <input type="checkbox"/> Agriculture & Forestry | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Energy |
| <input type="checkbox"/> Geology /Soils | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials |
| <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation | <input type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Wildfire | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Cynthia Draper
Cynthia Draper, Assistant Planner
Inyo County Planning Department

July 19-2023
Date.

RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION ENVIRONMENTAL CHECKLIST FORM

Renewable Energy Permit 2022-01/Barker- Trona 7

REGULATORY BACKGROUND

The Inyo County General Plan provides a vision for Inyo County’s long-range physical and economic development, including resource development and conservation. The General Plan contains implementing strategies, policies and programs enabling this vision to be accomplished. On March 24, 2015, the Board of Supervisors adopted an amendment to the General Plan known as the Renewable Energy General Plan Amendment (“REGPA”). The REGPA regulates the type, siting, and size of renewable energy solar development projects in the County through adoption of land use policies consistent with the broader goals in the General Plan.

The REGPA differentiates renewable energy solar facilities based on their size and output. It defines “utility-scale” facilities as those generating at least 20 megawatts (MW) for off-site use, consumption or sale. Facilities that generate less than 20 MW may include “commercial-scale” or “community-scale” facilities, depending on whether electricity is produced for off-site use or for use by a specific community. The REGPA states that the County “shall encourage the development of” commercial and community-scale facilities.

The REGPA also designated seven different areas of the County, known as Solar Energy Development Areas (SEDAs), where renewable energy solar facilities would be allowed. Policy LU-1.17 permits utility-scale and commercial-scale facilities to be considered in SEDAs, subject to any necessary environmental review. Renewable energy solar development within a SEDA is allowed in any zoning classification. The Trona SEDA covers an approximately 7.1-mile area in the Searles Valley, north of the unincorporated community of Trona. The REGPA allows 600 acres of renewable energy development in the Trona SEDA.

When the County adopted the REGPA in 2015, it certified a Programmatic Environmental Impact Report (PEIR). The PEIR analyzed the impacts of renewable energy solar development throughout the County. It identified less-than-significant environmental impacts to agriculture and forestry resources, air quality, geology, and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, socioeconomics, transportation and circulation, and utilities and service systems. The PEIR identified potentially significant and unavoidable impacts to aesthetics, biological resources, and cultural resources, and included mitigation measures to reduce these impacts to the extent feasible.

ENVIRONMENTAL SETTING

Inyo County covers approximately 10,200 square miles and is located on the east side of the Sierra Nevada Mountain range, within the east-central part of California. The County is primarily rural and undeveloped, characterized by open expanses, wide valleys and mountains ranging from low hills to jagged peaks. Elevations are from 282 feet below sea level within Death Valley National Park to 14,505 feet above sea level (amsl) in the Sierra Nevada

is arid to semi-arid, marked by low precipitation, abundant sunshine, frequent winds, moderate to low humidity, and high evapotranspiration.

The Project is located in the Searles Valley, at the southern edge of the County, north of the unincorporated Trona community, and in the Trona SEDA. As noted above, the SEDA covers approximately 7.1 square miles (4,550 acres). Most of the SEDA is undeveloped. Roughly 60 percent is managed by BLM, with the remainder under private ownership. Developed features include Trona Airport, scattered rural residences, and scrap yards. North of the airport lies Valley Wells, a state historical landmark, consisting of small buildings, abandoned recreational facilities, a desert golf course and well field. The Trona area is sparsely populated, containing less than 2,000 people.

Elevations within the Trona SEDA range from 2,100 feet to 1,650 feet amsl. The average January temperatures range from 32-58 degrees Fahrenheit, and in July from 73-105 degrees. Annual precipitation is low, averaging 3.98 inches. The habitat consists mainly of alkali desert scrub flats with ephemeral washes, with an open composition and canopy cover less than 50 percent.

Topography in the Trona SEDA, within the center of the northern Searles Valley, is generally level or gently sloped. Steeper terrain occurs to the west (the Argus Range), east, and north (the Slate Range). Surface exposures consist predominantly of late Quaternary alluvial/lake deposits, sandy to loamy topsoil with Mesozoic granitic intrusive rocks to the west, and areas to the east and north exhibiting an assemblage of Precambrian/Paleozoic metasediments, Mesozoic granitic intrusives, Mesozoic and Tertiary volcanics, and older Quaternary alluvial/sedimentary deposits. No mapped faults exist in the Searles Valley. The nearest mapped fault is the Panamint Fault, approximately 10 miles east.

The Trona SEDA is within the South Lahontan Basin, as designated in the 1995 (as amended) Lahontan RWQCB Water Quality Control Plan for the Lahontan Region (Basin Plan). The Trona SEDA is within the areal extent of the Searles Valley Groundwater Basin (Searles Basin), which includes an area of approximately 197,000 acres, and a water-bearing strata consisting of a thick (at least 750 feet) sequence of younger unconsolidated alluvial deposits and underlying (locally semi-consolidated) older alluvium.

Average reported municipal/irrigation well depths in the Searles Basin are approximately 300 feet (DWR 2003). Estimated groundwater storage capacity is 2.1 million acre-feet. Groundwater is characterized mainly as calcium-sodium-bicarbonate or sodium-calcium bicarbonate in nature, with groundwater near Searles Lake described as sodium-chloride in nature. The northwestern and southwestern portions of the Searles Basin exhibit generally good water quality (with locally elevated fluoride and nitrate levels), while areas near Searles Lake have poor water quality with TDS levels of between 12,000 and 420,000 mg/l (DWR 2003).

The Trona SEDA is within the Great Basin Valleys Air Basin (Air Basin). The Air Basin is named for its geological formation of valleys surrounded by mountains. Air rises and sinks due to the heat in the valleys and height of the mountains, which causes the air to settle in the valleys and low-lying areas. Areas in the Air Basin are under the jurisdiction of the Great Basin Unified Air Pollution Control District (GBUAPCD), which regulates air pollutant emissions for all stationary sources within the Air Basin.

In 1987, the Trona area was designated as a PM-10 nonattainment area by the United States EPA. The main source of PM-10 emissions in the region is the dry Owens Lake lakebed, which is located approximately 50 miles northwest of the Project. At the time, the Trona area was part of the Coso Junction Planning Area. In 2002, the US EPA redesignated the Searles Valley into three separate areas, and made a finding of attainment for Trona. (Federal Register, 2002a, 2002b.)

PROJECT DESCRIPTION

The applicant has applied for two renewable energy permits for two separate photovoltaic (PV) solar facilities on contiguous land (“Project”). The applicant submitted two separate applications because each facility would separately connect to the existing Southern California Edison (SCE) 33-kV transmission line passing through the area. This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.

The first application (No. 2022-01), known to the applicant as “Trona 7,” proposes a PV solar facility on a five-acre parcel, consisting of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.

The second application (No. 2022-02), also known as Trona 4, proposes a PV solar facility within a 15-acre parcel that is contiguous (i.e., has a common corner) with the Trona 7 site. The facility would generate 3.0 MW of electricity utilizing approximately 6,000 single-axis tracker solar panels. The site also is previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.

Both proposed facilities (collectively, the 20-acre “Project Area”) are located approximately three miles north of the Trona community and one mile west of the Trona Airport. The elevation of the Project Area is approximately 1,700 feet amsl. It has no history of agricultural use and is not federally managed. According to FEMA, the Project Area is within an Area of Minimal Flood Hazard.

Zoning in the Project Area is rural residential. Approximately five residential structures are within 0.5 miles of the Project Area, located mostly south and west. Two of these structures are approximately 400 feet from the edge of the Project Area (most of the Project Area is farther to the east and extends up to approximately 2,300 feet distant from these structures). Other land use in 0.5 miles of the Project Area include storage of equipment and vehicles, scrap yards and storage units. Representative photographs are included in Appendix A. Agricultural use of surrounding land is minimal. Agriculture and farming are not significant land uses in the area.

Construction will consist of limited grading in some areas, as the Project Area is already predominantly level and graded. Appendix B (Biological Resources Evaluation) documents the onsite conditions. Shallow trenching will be required for underground conduits, and one 20x20-foot concrete pad will be placed on each site to support the transformers. Following grading and

trenching, metal poles or masts will be installed into the ground to support the solar panels. Grading and trenching will require approximately two days. Pole and panel installation will take an estimated two months. Appendix C contains an equipment list, operating hours and projected air emissions.

Dust control measures will be used at all times during construction, and during Project operations (the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity). Dust controls during construction will consist of a watering truck, the application of crushed limestone to the ground, and application of a non-toxic clay polymer known as EarthGlue (specifications in Appendix D). Stabilized construction entrance and exits will be used to reduce sediment trackout onto the adjacent public roadway. During operations, limestone and EarthGlue will control dust.

Once installed, the solar panels will reach a maximum height of 12 feet above the ground (or less, as the panels change slightly in height as they rotate slowly throughout the day to track the sun). Panels will feature anti-reflective coatings to reduce daytime glare and reflectivity. Each facility will be fenced to prevent unauthorized access. Representative photographs of the panels and tracker supports are in Appendix E, showing a recently constructed solar project located on adjacent land (described in more detail below) that uses the same equipment design and components to be used by the Project.

The Project is the second renewable energy solar project proposed for the Trona SEDA. The prior project, on 10 acres adjacent to the Project Area, was approved and has been constructed by the applicant (Nos. 2018-01 and 2021-01). Another 10-acre project is reportedly in development to the south. Combined, the existing, proposed and potential future renewable solar projects are 40 acres, and account for a small part of the 600 acres allocated by the REGPA to solar projects in the Trona SEDA. Future solar projects in the Trona SEDA may not be possible, however, according to the applicant, until SCE improves its transmission infrastructure to increase its transmission capacity.

AGENCY COORDINATION AND PUBLIC INVOLVEMENT

Public notifications concerning the Project began approximately seven months ago. On November 14, 2022, the County gave public notice of the availability of a Draft Initial Study and Negative Declaration for each of the two applications. The 30-day review period ended on December 17, 2022. No comments were received.

A public hearing was set before the Planning Commission on March 23, 2023 to approve both applications. Two days before the hearing, the County received public comments from a nearby landowner, and as a result, the County postponed the hearing to May 3, 2023. Prior to the May hearing, the County received additional public comments. As a result, the County postponed the hearing again, revised the Initial Study and Mitigated Negative Declaration, and has recirculated the Initial Study and Mitigated Negative Declaration pursuant to Section 15073.5 of the CEQA Guidelines.

TRIBAL OUTREACH

In accordance with AB 52 and Public Resource Code Section 21081.3.1(b) tribes identified as being local to Inyo County were notified via certified letter about the project and the opportunity for consultation on this project. The tribes were notified 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 Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

TIERED DOCUMENT

A program EIR evaluates the environmental consequences of a series of actions that together constitute a large project and share common geographic, regulatory and environmental attributes. (Cal. Code of Regs., tit. 14, § 15168(a).) If the program EIR facilitates the approval of activities within a program, the agency must scrutinize those activities, as they arise for approval, to determine if additional environmental review is needed.

An agency's assessment of the adequacy of a prior program EIR for the approval of specific activities involves an analysis of whether the activity falls within the scope of the prior EIR and whether the activity will give rise to environmental impacts that were not previously analyzed in the program EIR. (Cal. Code of Regs., tit. 14, § 15168(c).) If impacts were adequately assessed, the agency can avoid further environmental documentation. (Id., tit. 14, § 15168(c).) If further review is needed, the "tiered" document should analyze only those effects that may be significant but were not analyzed in the program EIR, or that were considered significant but can be mitigated or avoided through further analysis. (Id., tit. 14, § 15152(d); see also Pub. Resources Code, §§ 21081(a)(1), 21094(c).)

The PEIR was a program EIR pursuant to section 15168 of the CEQA Guidelines. The County has determined that certain of the Project's potential impacts are adequately addressed in the PEIR. Others require site-specific analysis and are properly assessed in a Mitigated Negative Declaration that will integrate enforceable mitigation measures from the PEIR to ensure that they are enforced at the Project level. The County is treating the Mitigated Negative Declaration as a tiered document under the PEIR. The PEIR can be found at the following website link, or by typing or pasting the following text into an internet browser:

<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volme%20I.pdf>

CHECKLIST

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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I. AESTHETICS – Would the project:

a) Have a substantial adverse effect on a scenic vista?

No. The Project is not located near a scenic vista.

The Project is near the valley floor within an area that is visually characterized by junk yards, and outdoor storage of vehicles and equipment in a high desert environment. The Project is within the Trona SEDA, which has its location and boundaries in an area that lacks an abundance of scenic resources. (PEIR, 4.1-15.)

The Project is consistent with the PEIR analysis and mitigation measures. The potentially-applicable mitigation measures (AES-1 through 6, and 9) require that site-specific visual studies be prepared for utility-scale projects (i.e., generating greater than 20 MW) and for smaller-scale projects determined by a qualified county planner to have a potential to impact visual resources in individual SEDAs. Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a qualified planner to not have a potential to impact visual resources, including a scenic vista.

<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volme%20II.pdf>

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

No. The Project Area has previously been disturbed with roads, storage units, and weed abatement. It has previously been graded and is devoid of natural resources such as rock outcroppings and trees. No removal of vegetative life, rock outcroppings, or historic buildings within a scenic state highway will occur. It is not located within or adjacent to any designated scenic highways mapped by the California Department of Transportation. The Project involves the placement of PV solar panels that reach a maximum height of 12 feet.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly-accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

No. The Project will not affect the overall scenic integrity of the area. The Project Area is barren of natural resources that provide scenic value. The Project is in a rural, non-urbanized area and surrounded by property owners that frequently use the area for storage and scrap yards. Public views are mainly from Trona-Wildrose Road, and the Project will not substantially

degrade the existing visual character of the area from the perspective of passing motorists as the area is characterized by scrap yards and outdoor storage of materials. (Appendix A.) The low height of the panels (12 foot maximum, comparable to a single-story house) would not obstruct views of the Argus range to the west or the Slate range to the east.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

No. Due to the small size of the facilities, and their location and design, the Project will not significantly impact daytime or nighttime views. Construction will take place during the daytime hours only. Operation will not involve new light sources that affect nighttime views. The Project will use solar panels that integrate anti-reflective technology to minimize daytime glare, which is consistent with PEIR Mitigation Measure AES-6 (requiring that certain projects treat solar panels with anti-reflective coating). The boundaries and locations of SEDAs, including the Trona SEDA, were sited in areas without an abundance of scenic resources. (PEIR, 4.1-15.)

* * *

II. AGRICULTURAL AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program (FMMP) of the California Resources Agency, to nonagricultural use?

No, the Project is not located on land designated as farmland.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

No, the Project is not located on land zoned exclusively for agriculture. Inyo County has no Williamson Act contracts.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

No, the Project Area does not include forest land or timberland, or land zoned for forest land, timberland, or Timberland Production.

d) Result in the loss of forest land or conversion of forest land to non-forest use?

No, the Project is not located on forest land.

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

No, the Project is not located on farmland and is not conducive to future use as farmland. The Project Area has no history of agricultural production. To the extent that agricultural activities may exist on surrounding properties, the Project would have no impact on or interference with those activities.

* * *

III. AIR QUALITY: Where available, the significant criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?

No. There is no applicable air quality plan for the area in which the Project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards. The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. (See Appendix C, Air Quality and Greenhouse Gas Memorandum). The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.

Additionally, the Project is consistent with the PEIR analysis and mitigation measures. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. (See PEIR, p. 4.3-10.) The potentially-applicable air quality mitigation measures (AQS-1 through 3) applied to utility-scale projects of greater than 20 MW and did not apply to

smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner. Here, the Project involves a small commercial-scale facility that does not present significant air quality impacts. (See Appendix C.) Due to the size, location, low emissions well below all applicable thresholds (Appendix C) and design that incorporates dust controls and suppressants, AQS-1 through 3 are unnecessary to apply.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

No. The Project is located in an area in attainment for PM-10. The Project will be in compliance with air quality standards, as the applicant is conditioned to obtain any required permits and to follow best management practices as set forth by GBUAPCD. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) Project construction and operations will generate emissions that are well below all applicable air quality thresholds and standards. (See Appendix C.)

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

The Project is not in an area that is in non-attainment under any applicable standard. The operation of the solar project is not anticipated to result in a substantial increase in vehicular or stationary emissions once installed. As a result, long-term emissions resulting from Project operation are anticipated to be well below all applicable thresholds. (See Appendix C.) The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) The Project would not contribute to a cumulatively considerable net increase in non-attainment pollutants during operation, and impacts would be less than significant.

d) Expose sensitive receptors to substantial pollutant concentrations?

No, the proposed Project will not expose sensitive receptors to any new substantial pollutant concentrations. The construction process is low impact, involving minor leveling and digging of shallow trenches for placing underground conduits, and installation of a single 20'x20' concrete pad for a transformer. There are no nearby schools or hospitals. Few houses are in proximity to the Project Area. During construction, windblown dust will be controlled by watering, the application of limestone, and the application of a dust suppressant. Vehicle emissions will be well below applicable thresholds of significance during construction and operations. (See Appendix C.) During Project operation, the solar facility will not produce pollutants.

e) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

The proposed Project will not produce objectionable odors during the life of the operation. The Project will use typical construction techniques and the odors would be typical of most construction sites and temporary in nature.

* * *

IV. BIOLOGICAL RESOURCES:

Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

No. The Project Area has been inspected by County planning staff and by a qualified biologist. No CDFW or USFWS designated special status species were found in Project Area. The Project Area is graded, cleared of any significant vegetation, and contains no native habitat. No impacts through habitat modification are anticipated.

*A Biological Resource Evaluation (BRE) was performed by qualified biologists. (Appendix B.) The BRE surveyed the Project Area and a 250-foot buffer. No significant biological resources (plant or wildlife) were found present in the Project Area or buffer. In particular, the BRE found no evidence of desert tortoise (*Gopherus agassizii*) or suitable foraging habitat or other habitat for desert tortoise. The BRE also found no evidence of Mohave ground squirrel (*Xerospermophilus mohavensis*) or associated burrows and noted that the nearest population of Mohave ground squirrel is 8.2 miles southwest, and the nearest core population is 25 miles northwest.*

*The BRE concluded that the desert kit fox (*Vulpes macrotis arsipus*) could potentially visit the Project Area as a transient forager, but the Project Area and surroundings lack optimal denning habitat due to existing ground disturbance. The BRE also found a potential for nesting birds or raptors to forage and/or nest in the Project Area or buffer, using utility poles, although no active or inactive nests were observed. Nesting migratory birds and other raptors species, protected by the Migratory Bird Treaty Species Act, were not observed but have a potential to occur in or near the Project Area and surrounding areas. (Appendix B.)*

To mitigate the potential for impacts to desert kit fox and protected bird species, the BRE recommended Best Management Practices and avoidance measures including: a pre-activity survey, a vehicle speed limit of 20mph, covering of trenches, and proper disposal of food items, as set forth more specifically in the BRE. With these measures, the Project is not expected to significantly impact candidate, sensitive, or special status species.

The Project is consistent with the PEIR. The biological resource mitigation measures identified in the PEIR apply to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under CEQA" and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.4-122-123.) If the planner determines, after review, that a proposed commercial-scale project has a potential to impact biological resources, the PEIR mitigation measures shall be implemented "as determined necessary" by the planner. (PEIR, p. 4.4-123.) Here, the Project has no potential to impact biological resources other than potential impacts to desert kit fox and bird species. The mitigation measures in the BRE will ensure that the potential impacts to desert kit fox and bird species are less than significant, and it is unnecessary to implement any additional mitigation measures from the PEIR.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

No, there is no identified riparian habitat or other sensitive natural community in the Project Area or in close proximity that would be affected by the Project. The USFWS National Wetlands Inventory (USFWS 2014b) shows no freshwater wetlands near the Project Area. No protected natural areas are located within the Trona SEDA.

c) Have a substantial adverse effect on state or federal protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No, there are no federally protected wetlands in or near the Project Area, nor would the nature of the Project cause fill material or Project contaminants to enter flowing water.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

No, although the Project Area could potentially have occurrences of wildlife species, the Project will not interfere with migratory fish or wildlife species. As stated in the BRE, there are no known wildlife movement corridors or habitat linkages that intersect the Project Area. The Project Area is within a highly disturbed area and provides minimal linkage between suitable natural habitats for most wildlife species. The BRE anticipates no substantial movement of wildlife onto or from the Project Area.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

No, there are no local policies or ordinances in place protecting biological resources that pertain to the Project Area.

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

No, there are no adopted habitat or conservation plans that affect the Project Area. The proposed Project is within an area specifically designated for solar energy development pursuant to the REGPA.

Mitigation Measures: *The applicant shall implement all Best Management Practices recommended in Section 6 of the BRE (i.e., pre-activity surveys; avoidance buffers for desert kit fox; Worker Environmental Awareness Training Program; speed limit of 20-mph; covering of trenches deeper than two feet at the close of work day; inspection of pipes and culverts greater than four inches before burial; trash and food items onsite must be discarded into closed containers; no pets should be permitted onsite).*

* * *

V. CULTURAL RESOURCES: Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?

No, the Project will not cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5. The Project Area is vacant and undeveloped. It does not contain resources listed in, or determined to be eligible by, the State Historical Resources Commission for listing in, the California Register of Historical Resources, or any local register of historical resources. The Project Area also does not contain any known structures, features or sites that may be historically significant.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?

No, the Project does not contain any known archaeological resources, and will not cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5. Project construction requires limited ground-disturbance on land that is already flat, making the disturbance or discovery of unanticipated cultural, archaeological, or historical resources unlikely.

If any archaeological or cultural resources are inadvertently discovered in the Project Area, work shall immediately desist and County staff shall be immediately notified per Chapter 9.52, Disturbance of Archaeological, Paleontological and Historical Features of the Inyo County Code. The County will then work with the operator and local tribal members, including tribal THPOs, to develop a plan for preservation, protection, or relocation of the resource. With this mitigation measure, the Project will not cause an adverse change in the significance of an archaeological resource pursuant to Section 15064.5

c) Disturb any human remains, including those interred outside of dedicated cemeteries?

No, there are no known human remains or burial sites in the Project Area. Additionally, it is unlikely that such remains would be discovered due to the minimal nature of earth-disturbance on the Project site. However, if human remains are uncovered, the discovery would be treated in the same manner as an archeological resource described in (V b) above (i.e., work would cease immediately and remain stopped until a plan was developed for preservation, protection, or removal).

* * *

VI. ENERGY: Would the project:

a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

No, the Project is to construct a PV solar facility, totaling approximately 1.2 MW of generating capacity, that uses only a small amount of energy, and is required to meet California building standards including green and title 24 standards.

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

No, the Project is to construct a PV solar facility, totaling approximately 1.2 MW of generating capacity, located in one of the counties solar energy development areas (SEDAs), as identified by the General Plan. The project will generally advance state and local plans for renewable energy, rather than conflict with or obstruct such plans.

* * *

VII. GEOLOGY AND SOILS: Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

- i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

No, the Project is not in an Alquist-Priolo zone. The Project operates with little human intervention and would not expose people to significant risk of injury. In addition, the nature of the solar panels, and their low height, does not make them readily susceptible to adverse effects during seismic activity. Also, subsequent to the approval of the permit, the applicant shall work with the Inyo County Department of Building and Safety to ensure any building activities meet State and County Codes.

- ii) Strong seismic ground shaking?

No, the State Geologist has not mapped any faults in the Searles Valley in the vicinity of the Project. In addition, seismic activity and ground shaking can occur anywhere in the region, but compared to much of the rest of California, this is a less than average seismically active area. The California Building Code ensures that structures be constructed to required seismic standards in order to withstand such shaking.

- iii) Seismic-related ground failure, including liquefaction?

No, the Project is not within an area of soils known to be subject to liquefaction.

- iv) Landslides?

No, the Project Area is flat or gently sloping, and is not in an area prone to landslides.

- b) Result in substantial soil erosion or the loss of topsoil?

No, Project construction is limited to trenching for conduits, and minor grading to level the ground surface as needed. The limited scale of ground disturbance is not expected to result in a risk of substantial soil erosion or loss of topsoil, and in addition, the placement of limestone will stabilize the surface to protect against the low risk of erosion.

- c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or offsite landslide, lateral spreading, subsidence, liquefaction or collapse?

No, the proposed Project is not located in an area with a geologic unit or soil that is known to be unstable. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

No, the proposed Project is not located in an area with a known expansive soil type. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

No, the soils are compatible with septic tanks and other wastewater disposal systems, although the Project is not designed to have either septic tanks or wastewater disposal systems.

f) Directly or indirectly destroy a unique paleontological resource or site unique geologic feature?

No, the Project Area does not include any unique paleontological or geologic features.

* * *

VIII. GREENHOUSE GAS EMISSIONS: Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

No. GHGs generated during the construction phase would be minimal and below all applicable thresholds. (See Appendix C.) GHGs during Project operation would be virtually non-existent, and not present a significant impact, because the solar facilities do not generate any GHGs except for occasionally visits (estimated weekly) by the applicant in a light vehicle to monitor the facilities.

The Project is consistent with the PEIR. The PEIR identified mitigation measures applicable mainly to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under

CEQA” and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.7-12.) If the planner determines, after review, that a proposed commercial-scale project has a potential to generate a significant GHG impact, the PEIR mitigation measures shall be implemented “as determined necessary” by the planner. (PEIR, p. 4.7-12.) Here, the Project has no potentially significant GHG impacts, in light of the small scale of the Project and limited GHG emissions that would occur during construction. (Appendix C.)

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

No, the proposed Project will not conflict with any plan, policy or regulation adopted for the purpose of reducing GHG emissions. (Appendix C.)

* * *

IX. HAZARDS AND HAZARDOUS MATERIALS: Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

No. The proposed Project will produce a small amount of waste associated with operational maintenance activities. PV wastes include broken and rusted metal, defective or malfunctioning modules, electrical materials, empty containers, and other miscellaneous solid materials. These wastes will be generated infrequently. Most of this material will be collected and delivered back to the manufacturer for recycling or disposed of according to legal requirements. The presence of such wastes onsite would not pose a risk to surrounding properties and transporting it off site poses no threat or risk due to the inert nature of the waste materials.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

No. The proposed Project will not involve the use of a significant hazardous material. The operation of a PV solar facility does not involve the presence of any liquid wastes or hazardous materials readily capable of migrating to off-site properties. No battery storage will occur on site, or associated hazardous materials, as the solar facilities will connect directly to existing power lines operated by SCE. No significant hazard to the public or environment through a reasonably foreseeable upset or accident that could result in the release of hazardous materials is anticipated.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials,

substances, or waste within one-quarter mile of an existing or proposed school?

No. The proposed Project is not within one-quarter mile of an existing or proposed school, nor will it emit hazardous emissions, nor involve the handling of acutely hazardous materials, substances, or waste.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

No, the proposed Project is not located on a site included on a list of hazardous material sites compiled pursuant to Government Code section 65962.5.

e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the project area?

No. The Project operates passively and with little human intervention, and there will be no people typically working in the Project Area that could be affected by airport operations. The Project also does not pose a danger to Trona Airport maintenance workers because the airport is not a public use airport. Additionally, the airport is not used with enough frequency to pose a danger to anyone working in the Project Area.

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

No, the project will not physically interfere with an adopted emergency plan or emergency evacuation plan.

g) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

No, risk of loss, injury, and death involving wildland fires are not significant from this Project. Fire risks are identified as moderate at the Project Area, and no areas in proximity to it can be considered urbanized. Land surrounding the Project Area are not heavily vegetated and there are only a few residences in the proximity; therefore, the risk of loss, injury, or death involving

wildland fires is less than significant, and any potential risk is further mitigated by compliance with California Building Standards.

* * *

X. HYDROLOGY AND WATER QUALITY: Would the project:

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

No. The Project will not violate any water quality standards or waste discharge requirements. The Project Area is pre-disturbed. The Project Area is in a region characterized by a low level of precipitation. Project construction will involve some trenching and minor grading to level the land, which does not present a significant risk of violating any water quality standards or substantially degrading surface or groundwater quality. The applicant intends to use stabilized construction entrance and exits would be installed at driveways to reduce tracking of sediment onto adjacent public roadways. The Project is subject to regulation by the Lahontan Regional Water Quality Control Board and the Inyo County Environmental Health Department and will meet all applicable requirements.

b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

No. The Project will not have any effect on local groundwater. The project will not use local groundwater for its water needs, which are limited to dust control. All groundwater needs will be supplied by mobile trucks supplying water to the job site. Water demands are estimated at 40,000 gallons/week for dust control and site preparation and water will be trucked in from the Searles Domestic Water Company, located in Trona. The Project will not introduce any significant new areas of impervious surfaces that will prevent groundwater recharge.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

i) Result in substantial erosion or siltation on or off-site?

No. The Project proposes extremely minimal grading and no new impermeable or impervious surfaces. Other than installing a small concrete pad, no paving or other activities will increase the number of impermeable surfaces that could cause erosion or siltation. No drainage patterns

will be altered. Other than rare storm related overland run-off situations, no water passes over or through the Project Area.

- ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off-site?

No. The Project will not significantly change the landscape or existing runoff patterns or redirect or block flood flows. No drainage patterns or rates of runoff will be altered by the Project.

- iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

No. The Project is proposed in an area that is already disturbed and will have no substantial changes to runoff patterns. No increase in stormwater runoff will occur as a result of the Project.

- iv) impede or redirect flood flows?

No, the Project is in an area that is already disturbed and is not located in a flood hazard area.

- d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

No, the Project is in an area that is already disturbed, and is not located in a flood hazard, seiche or tsunami zone. Note that the BRE identified a potential surface water drainage based on prior mapping but no evidence of any such feature exists onsite and the mapping is therefore considered to be in error or outdated.

- e) Conflict with or obstruct implementation of a water quality control plan or sustainable ground water management plan?

No, the Project will not affect compliance with or implementation of the Lahontan Region water quality control plan and is not in an area included in a sustainable groundwater management plan.

* * *

XI. LAND USE AND PLANNING: Would the project:

a) Physically divide an established community?

No, there is no established community in the vicinity of the Project, and the Project would not physically divide such a community.

b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

No, the Project is consistent with the current zoning and advances the goals for renewable energy generation for the southern portion of the county, as described in the REGPA. This part of the Trona area also is explicitly called out and designated for solar energy generation as part of the southern Trona SEDA.

* * *

XII. MINERAL RESOURCES: Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

No. The Project Area has no known mineral resources of value to the region or state. The Project Area is not in a mapped area of regional or statewide significance by the State Mining and Geology Board. Development of the surface for solar generation would not in any event result in the permanent loss of mineral resources unexpectedly in this location.

b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

No, there are no known locally important mineral resources delineated in any land use plan that would be affected by the Project.

* * *

XIII. NOISE: Would the project:

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan

or noise ordinance, or other applicable standards of other agencies?

All potential noise impacts are within the scope of the PEIR analysis and will be subject to the PEIR mitigation measures. The PEIR evaluated the impacts of construction noise, including the use of construction equipment for grading, trenching, mast installation, installation of concrete footings, movement of heavy equipment and transportation of materials by truck. The PEIR also listed the individual equipment types that would be used to install a solar panel array, and the estimated noise levels associated with each item of equipment. (See PEIR, pp. 4.12-16 – 4.12-18.) The Project would use construction equipment of the types listed in the PEIR, and follow a construction process consistent with, or less impactful than, that anticipated in the PEIR. In this regard, the PEIR focused on utility-scale solar projects. The Project is a smaller, commercial-scale Project that will utilize a construction process that is comparatively light and short term in comparison to utility-scale projects. Trenching and grading will take two days using one grader, one backhoe and a water truck. Panel installation will occur over an estimated two months. No nighttime construction will occur. The Project does not present noise impacts that substantially differ from, or that are more impactful than, those analyzed in the PEIR. As such, the Project is within the scope of the PEIR pursuant to CEQA Guidelines section 15168(c)(2).

The PEIR adopted Mitigation Measure MM NOI-2 (“Implement construction noise reduction measures”) to ensure that construction noise impacts are avoided or reduced below a level of significance and would have no significant unavoidable adverse impacts. (PEIR, pp. 4.12-18.) The PEIR listed the following five mitigation measures:

If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT’s Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:

- Whenever feasible, electrical power will be used to run air compressors and similar power tools.*
- Equipment staging areas will be located as far as feasible from occupied residences or schools.*
- All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.*
- Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.*
- Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings.*

NOI-2 incorporated certain best management practices (BMPs) from REAT’s Best Management Practices and Guidance Manual (REAT 2010) for desert renewable energy projects. In regard to potential noise impacts, the manual lists 10 BMPs:

- 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.*
- 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.*
- 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.*
- 4) *Ensure all stationary construction equipment (i.e., compressors and generators) is located as far as practicable from nearby residences.*
- 5) *If blasting or other noisy activities are required during the construction period, notify nearby residents and the permitting agencies 24 hours in advance.*
- 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.*
- 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.*
- 8) *Install mufflers on air coolers and exhaust stacks of all diesel and gas-driven engines. Equip all emergency pressure relief valves and steam blow-down lines with silencers to limit noise levels.*
- 9) *Contain facilities within buildings or other types of effective noise enclosures.*
- 10) *Employ engineering controls, including sound-insulated equipment and control rooms, to reduce the average noise level in normal work areas.*

The western and northwestern edge of the Project Area is approximately 400 feet from two residential structures located westerly of the Project Area. Under CEQA Guidelines section 15168(c)(3), the Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of the residential structures.

Once the Project is constructed, operational noise sources will be limited to pad-mounted transformers and tracker array motors. Transformers will be located farther than 500 feet from a residence or other noise-sensitive land use and would not require further analysis under MM NOI-1 in the PEIR. Tracker motors generate low noise levels (see PEIR Table 4.12-4) and are sufficiently far from noise-sensitive land uses to have no potential noise-related impacts and to not require further noise study or mitigation. (See PEIR, p. 4.12-19.) As such, the operational impacts are expected to be less than significant.

b) Generation of excessive groundborne vibration or groundborne noise levels?

No, the Project involves relatively light ground disturbance with few vehicles. No excessive groundborne vibration or groundborne noise is expected. Considering the types of equipment that will be used, impacts associated with groundborne noise or vibration would be within the scope of the PEIR and less than significant. (See PEIR p. 4.12-15.)

c) For a project located within the vicinity of a private airstrip or, an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

No. Trona Airport is not public, nor is it used with frequency, and it is typically used by light aircraft only. The proposed Project will have minimal noise levels due to its nature and will not create excessive noise levels for personnel working near the Project Area. The Project Area is not immediately below any established flight path and persons working at the Project Area would not be exposed to any significant level of aircraft noise.

Mitigation Measures: *All potential impacts are within the scope of the PEIR analysis. The Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures.*

* * *

XIV. POPULATION AND HOUSING: Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

No. The Project is not likely to induce any population growth. The Project Area requires few maintenance personnel and will be monitored mostly remotely from offsite locations. No new residents are expected to result from the Project.

b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

No, the proposed Project will not displace existing housing or create a situation where replacement housing will be necessary. No housing currently exists in the Project Area. No existing housing will be removed to construct or operate the Project. The Project will have no effect on the level of housing in the Project Area or on surrounding properties.

* * *

XV. PUBLIC SERVICES: Would the project:

a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?

No. The Project is not considered to be located in a high-risk area for fire protection. The Project Area has no trees or established vegetation. The San Bernardino Fire Department (which provides fire protection services in the Trona community) was consulted on the Project. No concerns related to the Project Area were given.

Police protection?

No. No new police service will be required because of the Project. Offsite private security measures will mostly be used to monitor the Project Area.

Schools?

No, no new students or residents, or associated school services, will be required because of this Project.

Parks?

No, no new parks will be required because of the Project.

Other public facilities?

No, the proposed Project will not create substantial adverse physical impacts associated with a need for any other foreseeable public services.

* * *

XVI. RECREATION: Would the project:

a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

No, the proposed Project will not increase the use of existing recreational facilities. It is not anticipated that any portion of this Project will result in a change in the level of service required to provide parks or other recreational facilities.

b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

No, the proposed Project does not include recreational facilities, nor will it cause a need for an increase in parks or other recreational facilities that might have an adverse physical effect on the environment.

* * *

XVII. TRANSPORTATION:

a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?

No. The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.

b) Conflict or be inconsistent with CEQA Guidelines § 15064.3(b)?

No. The project will not result in an adverse change with respect to vehicle miles traveled (VMT). The Project will not significantly increase passenger vehicle traffic or commuter traffic in the region. Construction related traffic generally will be light. When construction is complete, the Project will be remotely monitored and have maintenance personnel on-site as needed during daytime hours. The Project is not within one-half mile of either an existing major transit stop or high-quality transit corridor. The Project will result in less than significant impacts to this resource.

c) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

No. The proposed Project will not result in any design features that increase transportation hazards. No changes will occur to public roads, including the Trona Wildrose Road. No curves or dangerous intersections will be added to the existing unpaved access road leading to the Project Area. Automobiles and trucks will be accommodated in the Project Area.

d) Result in inadequate emergency access?

No, the Project is proposed on properties that are directly adjacent to, and accessible from, Trona Wildrose Road and emergency access is and will continue to be available.

* * *

XVIII. TRIBAL CULTURAL RESOURCES: Would the project:

a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

No. The Project Area undeveloped and cleared of vegetation with no known tribal cultural resources. The proposed Project does not contain a resource eligible for listing in the California Register of Historical Resources, or in a local register for historical resources as defined in Public Resource Code section 5020.1(k). If any archeological or cultural resources are discovered on the site, work shall immediately stop, and Inyo County staff shall be immediately notified per Chapter 9.52 of the Inyo County Code.

- ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

The Project Area is vacant and undeveloped. It does not contain any resource determined by the County to be significant pursuant to criteria set forth in subdivision (c) of the Public Resource Code section 5024.1 (i.e., is associated with events that made a significant contribution to the state's cultural patterns, is associated with the lives of persons important in our past, embodies the distinctive characteristics of a type or period, or has yielded or may yield information important in prehistory or history).

* * *

XIX. UTILITIES AND SERVICE SYSTEMS: Would the project:

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

No. The proposed Project is for the approval of a PV solar facility that will primarily be remotely monitored and involve no continuous human presence. The Project will not result in the construction or relocation of new or expanded utility, wastewater, or other utility service systems. The goal of the Project is to create a sustainable supply of electric power, and it will not increase demand for utilities whatsoever.

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

No impact. During operation, water needs will be no more than 1.0-acre feet per year and will be utilized primarily for panel washing 2-4 times annually. During active construction, light water consumption (relative to other construction uses) will be required for dust suppression. All water needs will be covered via trucking it in from Searles Domestic Water Company, located in Trona. No landscaping water will be required.

c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

No. The Project would not generate wastewater requiring disposal or contribute to demand for wastewater treatment.

d) Generate solid waste in excess of state or local standards, or in excess of the capacity of soil infrastructure, or otherwise impair the attainment of solid waste reduction goals?

No. The Project will not require changes to the current solid waste capacity to accommodate them. Solid waste needs for the project will be minimal. Most of the volume of solid waste (scrap metals, electrical equipment, and proprietary solar array features) will be collected and recycled.

- e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

No impact. The Project and any future development will comply with Inyo County's solid waste standards, as required by the Inyo County Department of Environmental Health.

* * *

XX. WILDFIRE:

- a) Substantially impact an adopted emergency response plan or emergency evacuation plan?

No. There is not an adopted emergency response or evacuation plan for the area in which the Project is proposed.

- b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

No. The Project Area is on flat or gently-sloped land. It lacks vegetation and vegetation is sparse in the area, characterized mainly by desert scrub, making wildfire risks moderate to low. There will be no project occupants, and the project area is physically separated from surrounding structures. The proposed Project does little to add to the wildfire risk in the area. The risk of loss, injury or death involving wildland fires is less than significant at this site, and any potential risk is further mitigated by compliance with California Building Standards.

- c) Require the installation or maintenance of associated infrastructure (such as roads, fuel break, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

No. The Project will not cause the need for additional wildfire associated infrastructure.

- d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

No. The Project is on already graded and disturbed land. The addition of solar facilities will not create downslope or downstream flooding or landslides.

* * *

XXI. MANDATORY FINDINGS OF SIGNIFICANCE:

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number, or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

No, the Project will not impact or degrade the quality of the environment. The limited impact to resources in the Project Area can be mitigated to less than significant levels. Minimization measures have been written into the Mitigation Monitoring and Reporting Program for the permits and include: pre-activity surveys; avoidance buffers for desert kit fox; noise control measures subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures, dust mitigation measures to control air quality issues, and the monitoring efforts of a representative from local native American tribes in case native artifacts or human remains are uncovered.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a Project are considerable when viewed in connection with the effects of past Projects, the effects of other current Projects, and the effects of probable future Projects)?

No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note in the vicinity are PV solar projects within the Trona SEDA, but the overall number and size of these projects are likely to be less than analyzed in the PEIR. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

No, the Project has no known environmental effects that will cause substantial adverse effects on human beings either directly or indirectly.

EXHIBIT 2



Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

Phone: (760) 878-0263
FAX : (760) 872-2712
E-Mail : inyoplanning@inyocounty.us

RECIRCULATED
DRAFT MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT AND
INITIAL STUDY

PROJECT TITLE: Renewable Energy Permit 2022-02/Barker-Trona 4

PROJECT LOCATION: The Project site is located approximately 3 miles north of the unincorporated community of Trona, California. The property is on private land owned by Robbie Barker, Assessor parcel numbers 038-330-32, 038-330-33 and 038-330-34.

PROJECT DESCRIPTION: The applicant is applying for a Renewable Energy Permit to construct a 3.0 Megawatt (MW) photovoltaic solar facility using approximately 6,000 fixed single-axis tracker solar panels. The project site is located on 15-acres that are previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.

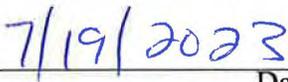
FINDINGS:

- A. The proposed project is consistent with goals and objectives of the Inyo County General Plan.
- B. The proposed project is consistent with the provisions of the Inyo County Zoning Ordinance.
- C. Potential adverse environmental impacts will not exceed thresholds of significance, either individually or cumulatively.
- D. Based upon the environmental evaluation of the proposed project, the Planning Department finds that the project does not have the potential to create a significant adverse impact on flora or fauna; natural, scenic, and historic resources; the local economy; public health, safety, and welfare. This constitutes a Mitigated Negative Finding for the Mandatory Findings required by Section 15065 of the CEQA Guidelines.

The 30-day public review period for this Draft Mitigated Negative Declaration will expire on August 25, 2023. Inyo County is not required to respond to any comments received after this date.

Additional information is available from the Inyo County Planning Department. Please contact Project Planner Cynthia Draper (760-878-0265) if you have any questions regarding this project.


Cathreen Richards
Director, Inyo County Planning Department


Date



Planning Department
168 North Edwards Street
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INYO COUNTY PLANNING DEPARTMENT

APPENDIX G: CEQA INITIAL STUDY & ENVIRONMENTAL CHECKLIST FORM

1. Project title: Renewable Energy Permit 2022-02/Barker- Trona 4
2. Lead agency name and address: Inyo County Planning Department, PO Drawer L, Independence, CA 93526
3. Contact person and phone number: Cynthia Draper: (760) 878-0265
4. Project location: The property is on private land owned by Robbie Barker, Assessor parcel numbers 038-330-32,038-330-33,038-330-34.
5. Project sponsor's name and address: Robbie Barker 82740 Trona Rd., Trona, CA 93562
6. General Plan designation: Residential Estate (RE), SEDA overlay
7. Zoning: Rural Residential (RR-5.0)
8. Description of project: The applicant is applying for a Renewable Energy Permit to construct a 3.0 Megawatt (MW) photovoltaic solar facility using approximately 6,000 fixed single-axis tracker solar panels. The project site is located on 15-acres that are previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.
9. Surrounding land uses and setting: The property is surrounded by undeveloped land, sparse residential dwellings, and commercial uses (such as equipment storage). Developed areas include the Trona Airport, scattered residences, and scrap yards. The surrounding parcels are highly disturbed, devoid of plants or native habitat. Weed abatement has been performed throughout the area.

Location:	Use:	Gen. Plan Designation	Zoning
North	Vacant	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
South	Developed/Solar	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
East	Vacant/ BLM	State and Federal lands (SFL)/Open space rec (OSR)	Open Space (OS-40)
West	Vacant/ (MS) Misc structure	Residential Estate (RE)	Rural Residential (RR-5.0-MH)

10. Other public agencies whose approval is required: Inyo County Building and Safety, Inyo County Environmental Health, Inyo County Public Works

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun?

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 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 Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidentiality.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics Resources | <input type="checkbox"/> Agriculture & Forestry | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Energy |
| <input type="checkbox"/> Geology /Soils | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials |
| <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation | <input type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Wildfire | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION

On the basis of this initial evaluation:

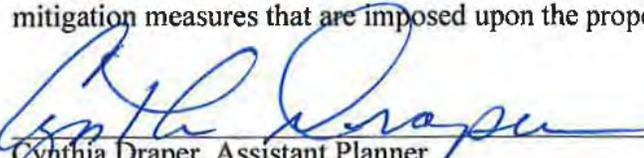
I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.


Cynthia Draper, Assistant Planner
Inyo County Planning Department

Date 7/19/23

**RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION
ENVIRONMENTAL CHECKLIST FORM**

Renewable Energy Permit 2022-02/Barker- Trona 4

REGULATORY BACKGROUND

The Inyo County General Plan provides a vision for Inyo County’s long-range physical and economic development, including resource development and conservation. The General Plan contains implementing strategies, policies and programs enabling this vision to be accomplished. On March 24, 2015, the Board of Supervisors adopted an amendment to the General Plan known as the Renewable Energy General Plan Amendment (“REGPA”). The REGPA regulates the type, siting, and size of renewable energy solar development projects in the County through adoption of land use policies consistent with the broader goals in the General Plan.

The REGPA differentiates renewable energy solar facilities based on their size and output. It defines “utility-scale” facilities as those generating at least 20 megawatts (MW) for off-site use, consumption or sale. Facilities that generate less than 20 MW may include “commercial-scale” or “community-scale” facilities, depending on whether electricity is produced for off-site use or for use by a specific community. The REGPA states that the County “shall encourage the development of” commercial and community-scale facilities.

The REGPA also designated seven different areas of the County, known as Solar Energy Development Areas (SEDAs), where renewable energy solar facilities would be allowed. Policy LU-1.17 permits utility-scale and commercial-scale facilities to be considered in SEDAs, subject to any necessary environmental review. Renewable energy solar development within a SEDA is allowed in any zoning classification. The Trona SEDA covers an approximately 7.1-mile area in the Searles Valley, north of the unincorporated community of Trona. The REGPA allows 600 acres of renewable energy development in the Trona SEDA.

When the County adopted the REGPA in 2015, it certified a Programmatic Environmental Impact Report (PEIR). The PEIR analyzed the impacts of renewable energy solar development throughout the County. It identified less-than-significant environmental impacts to agriculture and forestry resources, air quality, geology, and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, socioeconomics, transportation and circulation, and utilities and service systems. The PEIR identified potentially significant and unavoidable impacts to aesthetics, biological resources, and cultural resources, and included mitigation measures to reduce these impacts to the extent feasible.

ENVIRONMENTAL SETTING

Inyo County covers approximately 10,200 square miles and is located on the east side of the Sierra Nevada Mountain range, within the east-central part of California. The County is primarily rural and undeveloped, characterized by open expanses, wide valleys and mountains ranging from low hills to jagged peaks. Elevations are from 282 feet below sea level within Death Valley National Park to 14,505 feet above sea level (amsl) in the Sierra Nevada

mountains. The climate typically is arid to semi-arid, marked by low precipitation, abundant sunshine, frequent winds, moderate to low humidity, and high evapotranspiration.

The Project is located in the Searles Valley, at the southern edge of the County, north of the unincorporated Trona community, and in the Trona SEDA. As noted above, the SEDA covers approximately 7.1 square miles (4,550 acres). Most of the SEDA is undeveloped. Roughly 60 percent is managed by BLM, with the remainder under private ownership. Developed features include Trona Airport, scattered rural residences, and scrap yards. North of the airport lies Valley Wells, a state historical landmark, consisting of small buildings, abandoned recreational facilities, a desert golf course and well field. The Trona area is sparsely populated, containing less than 2,000 people.

Elevations within the Trona SEDA range from 2,100 feet to 1,650 feet amsl. The average January temperatures range from 32-58 degrees Fahrenheit, and in July from 73-105 degrees. Annual precipitation is low, averaging 3.98 inches. The habitat consists mainly of alkali desert scrub flats with ephemeral washes, with an open composition and canopy cover less than 50 percent.

Topography in the Trona SEDA, within the center of the northern Searles Valley, is generally level or gently sloped. Steeper terrain occurs to the west (the Argus Range), east, and north (the Slate Range). Surface exposures consist predominantly of late Quaternary alluvial/lake deposits, sandy to loamy topsoil with Mesozoic granitic intrusive rocks to the west, and areas to the east and north exhibiting an assemblage of Precambrian/Paleozoic metasediments, Mesozoic granitic intrusives, Mesozoic and Tertiary volcanics, and older Quaternary alluvial/sedimentary deposits. No mapped faults exist in the Searles Valley. The nearest mapped fault is the Panamint Fault, approximately 10 miles east.

The Trona SEDA is within the South Lahontan Basin, as designated in the 1995 (as amended) Lahontan RWQCB Water Quality Control Plan for the Lahontan Region (Basin Plan). The Trona SEDA is within the areal extent of the Searles Valley Groundwater Basin (Searles Basin), which includes an area of approximately 197,000 acres, and a water-bearing strata consisting of a thick (at least 750 feet) sequence of younger unconsolidated alluvial deposits and underlying (locally semi-consolidated) older alluvium.

Average reported municipal/irrigation well depths in the Searles Basin are approximately 300 feet (DWR 2003). Estimated groundwater storage capacity is 2.1 million acre-feet. Groundwater is characterized mainly as calcium-sodium-bicarbonate or sodium-calcium bicarbonate in nature, with groundwater near Searles Lake described as sodium-chloride in nature. The northwestern and southwestern portions of the Searles Basin exhibit generally good water quality (with locally elevated fluoride and nitrate levels), while areas near Searles Lake have poor water quality with TDS levels of between 12,000 and 420,000 mg/l (DWR 2003).

The Trona SEDA is within the Great Basin Valleys Air Basin (Air Basin). The Air Basin is named for its geological formation of valleys surrounded by mountains. Air rises and sinks due to the heat in the valleys and height of the mountains, which causes the air to settle in the valleys and low-lying areas. Areas in the Air Basin are under the jurisdiction of the Great Basin Unified Air Pollution Control District (GBUAPCD), which regulates air pollutant emissions for all stationary sources within the Air Basin.

In 1987, the Trona area was designated as a PM-10 nonattainment area by the United States EPA. The main source of PM-10 emissions in the region is the dry Owens Lake lakebed, which is located approximately 50 miles northwest of the Project. At the time, the Trona area was part of the Coso Junction Planning Area. In 2002, the US EPA redesignated the Searles Valley into three separate areas, and made a finding of attainment for Trona. (Federal Register, 2002a, 2002b.)

PROJECT DESCRIPTION

The applicant has applied for two renewable energy permits for two separate photovoltaic (PV) solar facilities on contiguous land ("Project"). The applicant submitted two separate applications because each facility would separately connect to the existing Southern California Edison (SCE) 33-kV transmission line passing through the area. This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.

The first application (No. 2022-01), known to the applicant as "Trona 7," proposes a PV solar facility on a five-acre parcel, consisting of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.

The second application (No. 2022-02), also known as Trona 4, proposes a PV solar facility within a 15-acre parcel that is contiguous (i.e., has a common corner) with the Trona 7 site. The facility would generate 3.0 MW of electricity utilizing approximately 6,000 single-axis tracker solar panels. The site also is previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.

Both proposed facilities (collectively, the 20-acre "Project Area") are located approximately three miles north of the Trona community and one mile west of the Trona Airport. The elevation of the Project Area is approximately 1,700 feet amsl. It has no history of agricultural use and is not federally managed. According to FEMA, the Project Area is within an Area of Minimal Flood Hazard.

Zoning in the Project Area is rural residential. Approximately five residential structures are within 0.5 miles of the Project Area, located mostly south and west. Two of these structures are approximately 400 feet from the edge of the Project Area (most of the Project Area is farther to the east and extends up to approximately 2,300 feet distant from these structures). Other land use in 0.5 miles of the Project Area include storage of equipment and vehicles, scrap yards and storage units. Representative photographs are included in Appendix A. Agricultural use of surrounding land is minimal. Agriculture and farming are not significant land uses in the area.

Construction will consist of limited grading in some areas, as the Project Area is already predominantly level and graded. Appendix B (Biological Resources Evaluation) documents the onsite conditions. Shallow trenching will be required for underground conduits, and one 20x20-foot concrete pad will be placed on each site to support the transformers. Following grading and

trenching, metal poles or masts will be installed into the ground to support the solar panels. Grading and trenching will require approximately two days. Pole and panel installation will take an estimated two months. Appendix C contains an equipment list, operating hours and projected air emissions.

Dust control measures will be used at all times during construction, and during Project operations (the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity). Dust controls during construction will consist of a watering truck, the application of crushed limestone to the ground, and application of a non-toxic clay polymer known as EarthGlue (specifications in Appendix D). Stabilized construction entrance and exits will be used to reduce sediment trackout onto the adjacent public roadway. During operations, limestone and EarthGlue will control dust.

Once installed, the solar panels will reach a maximum height of 12 feet above the ground (or less, as the panels change slightly in height as they rotate slowly throughout the day to track the sun). Panels will feature anti-reflective coatings to reduce daytime glare and reflectivity. Each facility will be fenced to prevent unauthorized access. Representative photographs of the panels and tracker supports are in Appendix E, showing a recently constructed solar project located on adjacent land (described in more detail below) that uses the same equipment design and components to be used by the Project.

The Project is the second renewable energy solar project proposed for the Trona SEDA. The prior project, on 10 acres adjacent to the Project Area, was approved and has been constructed by the applicant (Nos. 2018-01 and 2021-01). Another 10-acre project is reportedly in development to the south. Combined, the existing, proposed and potential future renewable solar projects are 40 acres, and account for a small part of the 600 acres allocated by the REGPA to solar projects in the Trona SEDA. Future solar projects in the Trona SEDA may not be possible, however, according to the applicant, until SCE improves its transmission infrastructure to increase its transmission capacity.

AGENCY COORDINATION AND PUBLIC INVOLVEMENT

Public notifications concerning the Project began approximately seven months ago. On November 14, 2022, the County gave public notice of the availability of a Draft Initial Study and Negative Declaration for each of the two applications. The 30-day review period ended on December 17, 2022. No comments were received.

A public hearing was set before the Planning Commission on March 23, 2023 to approve both applications. Two days before the hearing, the County received public comments from a nearby landowner, and as a result, the County postponed the hearing to May 3, 2023. Prior to the May hearing, the County received additional public comments. As a result, the County postponed the hearing again, revised the Initial Study and Mitigated Negative Declaration, and has recirculated the Initial Study and Mitigated Negative Declaration pursuant to Section 15073.5 of the CEQA Guidelines.

TRIBAL OUTREACH

In accordance with AB 52 and Public Resource Code Section 21081.3.1(b) tribes identified as being local to Inyo County were notified via certified letter about the project and the opportunity for consultation on this project. The tribes were notified 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 Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

TIERED DOCUMENT

A program EIR evaluates the environmental consequences of a series of actions that together constitute a large project and share common geographic, regulatory and environmental attributes. (Cal. Code of Regs., tit. 14, § 15168(a).) If the program EIR facilitates the approval of activities within a program, the agency must scrutinize those activities, as they arise for approval, to determine if additional environmental review is needed.

An agency's assessment of the adequacy of a prior program EIR for the approval of specific activities involves an analysis of whether the activity falls within the scope of the prior EIR and whether the activity will give rise to environmental impacts that were not previously analyzed in the program EIR. (Cal. Code of Regs., tit. 14, § 15168(c).) If impacts were adequately assessed, the agency can avoid further environmental documentation. (Id., tit. 14, § 15168(c).) If further review is needed, the "tiered" document should analyze only those effects that may be significant but were not analyzed in the program EIR, or that were considered significant but can be mitigated or avoided through further analysis. (Id., tit. 14, § 15152(d); see also Pub. Resources Code, §§ 21081(a)(1), 21094(c).)

The PEIR was a program EIR pursuant to section 15168 of the CEQA Guidelines. The County has determined that certain of the Project's potential impacts are adequately addressed in the PEIR. Others require site-specific analysis and are properly assessed in a Mitigated Negative Declaration that will integrate enforceable mitigation measures from the PEIR to ensure that they are enforced at the Project level. The County is treating the Mitigated Negative Declaration as a tiered document under the PEIR. The PEIR can be found at the following website link, or by typing or pasting the following text into an internet browser:

<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volme%20II.pdf>

CHECKLIST

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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I. AESTHETICS – Would the project:

a) Have a substantial adverse effect on a scenic vista?

No. The Project is not located near a scenic vista. The Project is near the valley floor within an area that is visually characterized by junk yards, and outdoor storage of vehicles and equipment in a high desert environment. The Project is within the Trona SEDA, which has its location and boundaries in an area that lacks an abundance of scenic resources. (PEIR, 4.1-15.)

The Project is consistent with the PEIR analysis and mitigation measures. The potentially-applicable mitigation measures (AES-1 through 6, and 9) require that site-specific visual studies be prepared for utility-scale projects (i.e., generating greater than 20 MW) and for smaller-scale projects determined by a qualified county planner to have a potential to impact visual resources in individual SEDAs. Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a qualified planner to not have a potential to impact visual resources, including a scenic vista.
<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volme%20II.pdf>

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

No. The Project Area has previously been disturbed with roads, storage units, and weed abatement. It has previously been graded and is devoid of natural resources such as rock outcroppings and trees. No removal of vegetative life, rock outcroppings, or historic buildings within a scenic state highway will occur. It is not located within or adjacent to any designated scenic highways mapped by the California Department of Transportation. The Project involves the placement of PV solar panels that reach a maximum height of 12 feet.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly-accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

No. The Project will not affect the overall scenic integrity of the area. The Project Area is barren of natural resources that provide scenic value. The Project is in a rural, non-urbanized area and surrounded by property owners that frequently use the area for storage and scrap yards. Public views are mainly from Trona-Wildrose Road, and the Project will not substantially

degrade the existing visual character of the area from the perspective of passing motorists as the area is characterized by scrap yards and outdoor storage of materials. (Appendix A.) The low height of the panels (12 foot maximum, comparable to a single-story house) would not obstruct views of the Argus range to the west or the Slate range to the east.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

No. Due to the small size of the facilities, and their location and design, the Project will not significantly impact daytime or nighttime views. Construction will take place during the daytime hours only. Operation will not involve new light sources that affect nighttime views. The Project will use solar panels that integrate anti-reflective technology to minimize daytime glare, which is consistent with PEIR Mitigation Measure AES-6 (requiring that certain projects treat solar panels with anti-reflective coating). The boundaries and locations of SEDAs, including the Trona SEDA, were sited in areas without an abundance of scenic resources. (PEIR, 4.1-15.)

* * *

II. AGRICULTURAL AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program (FMMP) of the California Resources Agency, to nonagricultural use?

No, the Project is not located on land designated as farmland.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

No, the Project is not located on land zoned exclusively for agriculture. Inyo County has no Williamson Act contracts.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

No, the Project Area does not include forest land or timberland, or land zoned for forest land, timberland, or Timberland Production.

d) Result in the loss of forest land or conversion of forest land to non-forest use?

No, the Project is not located on forest land.

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

No, the Project is not located on farmland and is not conducive to future use as farmland. The Project Area has no history of agricultural production. To the extent that agricultural activities may exist on surrounding properties, the Project would have no impact on or interference with those activities.

* * *

III. AIR QUALITY: Where available, the significant criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?

No. There is no applicable air quality plan for the area in which the Project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards. The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. (See Appendix C, Air Quality and Greenhouse Gas Memorandum). The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.

Additionally, the Project is consistent with the PEIR analysis and mitigation measures. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. (See PEIR, p. 4.3-10.) The potentially-applicable air quality mitigation measures (AQS-1 through 3) applied to utility-scale projects of greater than 20 MW and did not apply to

smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner. Here, the Project involves a small commercial-scale facility that does not present significant air quality impacts. (See Appendix C.) Due to the size, location, low emissions well below all applicable thresholds (Appendix C) and design that incorporates dust controls and suppressants, AQS-1 through 3 are unnecessary to apply.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

No. The Project is located in an area in attainment for PM-10. The Project will be in compliance with air quality standards, as the applicant is conditioned to obtain any required permits and to follow best management practices as set forth by GBUAPCD. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) Project construction and operations will generate emissions that are well below all applicable air quality thresholds and standards. (See Appendix C.)

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

The Project is not in an area that is in non-attainment under any applicable standard. The operation of the solar project is not anticipated to result in a substantial increase in vehicular or stationary emissions once installed. As a result, long-term emissions resulting from Project operation are anticipated to be well below all applicable thresholds. (See Appendix C.) The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) The Project would not contribute to a cumulatively considerable net increase in non-attainment pollutants during operation, and impacts would be less than significant.

d) Expose sensitive receptors to substantial pollutant concentrations?

No, the proposed Project will not expose sensitive receptors to any new substantial pollutant concentrations. The construction process is low impact, involving minor leveling and digging of shallow trenches for placing underground conduits, and installation of a single 20'x20' concrete pad for a transformer. There are no nearby schools or hospitals. Few houses are in proximity to the Project Area. During construction, windblown dust will be controlled by watering, the application of limestone, and the application of a dust suppressant. Vehicle emissions will be well below applicable thresholds of significance during construction and operations. (See Appendix C.) During Project operation, the solar facility will not produce pollutants.

e) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

The proposed Project will not produce objectionable odors during the life of the operation. The Project will use typical construction techniques and the odors would be typical of most construction sites and temporary in nature.

* * *

IV. BIOLOGICAL RESOURCES:

Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

No. The Project Area has been inspected by County planning staff and by a qualified biologist. No CDFW or USFWS designated special status species were found in Project Area. The Project Area is graded, cleared of any significant vegetation, and contains no native habitat. No impacts through habitat modification are anticipated.

*A Biological Resource Evaluation (BRE) was performed by qualified biologists. (Appendix B.) The BRE surveyed the Project Area and a 250-foot buffer. No significant biological resources (plant or wildlife) were found present in the Project Area or buffer. In particular, the BRE found no evidence of desert tortoise (*Gopherus agassizii*) or suitable foraging habitat or other habitat for desert tortoise. The BRE also found no evidence of Mohave ground squirrel (*Xerospermophilus mohavensis*) or associated burrows and noted that the nearest population of Mohave ground squirrel is 8.2 miles southwest, and the nearest core population is 25 miles northwest.*

*The BRE concluded that the desert kit fox (*Vulpes macrotis arsipus*) could potentially visit the Project Area as a transient forager, but the Project Area and surroundings lack optimal denning habitat due to existing ground disturbance. The BRE also found a potential for nesting birds or raptors to forage and/or nest in the Project Area or buffer, using utility poles, although no active or inactive nests were observed. Nesting migratory birds and other raptors species, protected by the Migratory Bird Treaty Species Act, were not observed but have a potential to occur in or near the Project Area and surrounding areas. (Appendix B.)*

To mitigate the potential for impacts to desert kit fox and protected bird species, the BRE recommended Best Management Practices and avoidance measures including: a pre-activity survey, a vehicle speed limit of 20mph, covering of trenches, and proper disposal of food items, as set forth more specifically in the BRE. With these measures, the Project is not expected to significantly impact candidate, sensitive, or special status species.

The Project is consistent with the PEIR. The biological resource mitigation measures identified in the PEIR apply to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under CEQA" and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.4-122-123.) If the planner determines, after review, that a proposed commercial-scale project has a potential to impact biological resources, the PEIR mitigation measures shall be implemented "as determined necessary" by the planner. (PEIR, p. 4.4-123.) Here, the Project has no potential to impact biological resources other than potential impacts to desert kit fox and bird species. The mitigation measures in the BRE will ensure that the potential impacts to desert kit fox and bird species are less than significant, and it is unnecessary to implement any additional mitigation measures from the PEIR.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

No, there is no identified riparian habitat or other sensitive natural community in the Project Area or in close proximity that would be affected by the Project. The USFWS National Wetlands Inventory (USFWS 2014b) shows no freshwater wetlands near the Project Area. No protected natural areas are located within the Trona SEDA.

c) Have a substantial adverse effect on state or federal protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No, there are no federally protected wetlands in or near the Project Area, nor would the nature of the Project cause fill material or Project contaminants to enter flowing water.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

No, although the Project Area could potentially have occurrences of wildlife species, the Project will not interfere with migratory fish or wildlife species. As stated in the BRE, there are no known wildlife movement corridors or habitat linkages that intersect the Project Area. The Project Area is within a highly disturbed area and provides minimal linkage between suitable natural habitats for most wildlife species. The BRE anticipates no substantial movement of wildlife onto or from the Project Area.

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

No, there are no local policies or ordinances in place protecting biological resources that pertain to the Project Area.

- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

No, there are no adopted habitat or conservation plans that affect the Project Area. The proposed Project is within an area specifically designated for solar energy development pursuant to the REGPA.

Mitigation Measures: *The applicant shall implement all Best Management Practices recommended in Section 6 of the BRE (i.e., pre-activity surveys; avoidance buffers for desert kit fox; Worker Environmental Awareness Training Program; speed limit of 20-mph; covering of trenches deeper than two feet at the close of work day; inspection of pipes and culverts greater than four inches before burial; trash and food items onsite must be discarded into closed containers; no pets should be permitted onsite).*

* * *

V. CULTURAL RESOURCES: Would the project:

- a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?

No, the Project will not cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5. The Project Area is vacant and undeveloped. It does not contain resources listed in, or determined to be eligible by, the State Historical Resources Commission for listing in, the California Register of Historical Resources, or any local register of historical resources. The Project Area also does not contain any known structures, features or sites that may be historically significant.

- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?

No, the Project does not contain any known archaeological resources, and will not cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5. Project construction requires limited ground-disturbance on land that is already flat, making the disturbance or discovery of unanticipated cultural, archaeological, or historical resources unlikely.

If any archaeological or cultural resources are inadvertently discovered in the Project Area, work shall immediately desist and County staff shall be immediately notified per Chapter 9.52, Disturbance of Archaeological, Paleontological and Historical Features of the Inyo County Code. The County will then work with the operator and local tribal members, including tribal THPOs, to develop a plan for preservation, protection, or relocation of the resource. With this mitigation measure, the Project will not cause an adverse change in the significance of an archaeological resource pursuant to Section 15064.5

c) Disturb any human remains, including those interred outside of dedicated cemeteries?

No, there are no known human remains or burial sites in the Project Area. Additionally, it is unlikely that such remains would be discovered due to the minimal nature of earth-disturbance on the Project site. However, if human remains are uncovered, the discovery would be treated in the same manner as an archeological resource described in (V b) above (i.e., work would cease immediately and remain stopped until a plan was developed for preservation, protection, or removal).

* * *

VI. ENERGY: Would the project:

a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

No, the Project is to construct a PV solar facility, totaling approximately 3.0 MW of generating capacity, that uses only a small amount of energy, and is required to meet California building standards including green and title 24 standards.

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

No, the Project is to construct a PV solar facility, totaling approximately 3 MW of generating capacity, located in one of the counties solar energy development areas (SEDAs), as identified by the General Plan. The project will generally advance state and local plans for renewable energy, rather than conflict with or obstruct such plans.

* * *

VII. GEOLOGY AND SOILS: Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

- i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

No, the Project is not in an Alquist-Priolo zone. The Project operates with little human intervention and would not expose people to significant risk of injury. In addition, the nature of the solar panels, and their low height, does not make them readily susceptible to adverse effects during seismic activity. Also, subsequent to the approval of the permit, the applicant shall work with the Inyo County Department of Building and Safety to ensure any building activities meet State and County Codes.

- ii) Strong seismic ground shaking?

No, the State Geologist has not mapped any faults in the Searles Valley in the vicinity of the Project. In addition, seismic activity and ground shaking can occur anywhere in the region, but compared to much of the rest of California, this is a less than average seismically active area. The California Building Code ensures that structures be constructed to required seismic standards in order to withstand such shaking.

- iii) Seismic-related ground failure, including liquefaction?

No, the Project is not within an area of soils known to be subject to liquefaction.

- iv) Landslides?

No, the Project Area is flat or gently sloping, and is not in an area prone to landslides.

- b) Result in substantial soil erosion or the loss of topsoil?

No, Project construction is limited to trenching for conduits, and minor grading to level the ground surface as needed. The limited scale of ground disturbance is not expected to result in a risk of substantial soil erosion or loss of topsoil, and in addition, the placement of limestone will stabilize the surface to protect against the low risk of erosion.

- c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or offsite landslide, lateral spreading, subsidence, liquefaction or collapse?

No, the proposed Project is not located in an area with a geologic unit or soil that is known to be unstable. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

No, the proposed Project is not located in an area with a known expansive soil type. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

No, the soils are compatible with septic tanks and other wastewater disposal systems, although the Project is not designed to have either septic tanks or wastewater disposal systems.

f) Directly or indirectly destroy a unique paleontological resource or site unique geologic feature?

No, the Project Area does not include any unique paleontological or geologic features.

* * *

VIII. GREENHOUSE GAS EMISSIONS: Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

No. GHGs generated during the construction phase would be minimal and below all applicable thresholds. (See Appendix C.) GHGs during Project operation would be virtually non-existent, and not present a significant impact, because the solar facilities do not generate any GHGs except for occasionally visits (estimated weekly) by the applicant in a light vehicle to monitor the facilities.

The Project is consistent with the PEIR. The PEIR identified mitigation measures applicable mainly to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under

CEQA” and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.7-12.) If the planner determines, after review, that a proposed commercial-scale project has a potential to generate a significant GHG impact, the PEIR mitigation measures shall be implemented “as determined necessary” by the planner. (PEIR, p. 4.7-12.) Here, the Project has no potentially significant GHG impacts, in light of the small scale of the Project and limited GHG emissions that would occur during construction. (Appendix C.)

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

No, the proposed Project will not conflict with any plan, policy or regulation adopted for the purpose of reducing GHG emissions. (Appendix C.)

* * *

IX. HAZARDS AND HAZARDOUS MATERIALS: Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

No. The proposed Project will produce a small amount of waste associated with operational maintenance activities. PV wastes include broken and rusted metal, defective or malfunctioning modules, electrical materials, empty containers, and other miscellaneous solid materials. These wastes will be generated infrequently. Most of this material will be collected and delivered back to the manufacturer for recycling or disposed of according to legal requirements. The presence of such wastes onsite would not pose a risk to surrounding properties and transporting it off site poses no threat or risk due to the inert nature of the waste materials.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

No. The proposed Project will not involve the use of a significant hazardous material. The operation of a PV solar facility does not involve the presence of any liquid wastes or hazardous materials readily capable of migrating to off-site properties. No battery storage will occur on site, or associated hazardous materials, as the solar facilities will connect directly to existing power lines operated by SCE. No significant hazard to the public or environment through a reasonably foreseeable upset or accident that could result in the release of hazardous materials is anticipated.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials,

substances, or waste within one-quarter mile of an existing or proposed school?

No. The proposed Project is not within one-quarter mile of an existing or proposed school, nor will it emit hazardous emissions, nor involve the handling of acutely hazardous materials, substances, or waste.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

No, the proposed Project is not located on a site included on a list of hazardous material sites compiled pursuant to Government Code section 65962.5.

e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the project area?

No. The Project operates passively and with little human intervention, and there will be no people typically working in the Project Area that could be affected by airport operations. The Project also does not pose a danger to Trona Airport maintenance workers because the airport is not a public use airport. Additionally, the airport is not used with enough frequency to pose a danger to anyone working in the Project Area.

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

No, the project will not physically interfere with an adopted emergency plan or emergency evacuation plan.

g) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

No, risk of loss, injury, and death involving wildland fires are not significant from this Project. Fire risks are identified as moderate at the Project Area, and no areas in proximity to it can be considered urbanized. Land surrounding the Project Area are not heavily vegetated and there are only a few residences in the proximity; therefore, the risk of loss, injury, or death involving

wildland fires is less than significant, and any potential risk is further mitigated by compliance with California Building Standards.

* * *

X. HYDROLOGY AND WATER QUALITY: Would the project:

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

No. The Project will not violate any water quality standards or waste discharge requirements. The Project Area is pre-disturbed. The Project Area is in a region characterized by a low level of precipitation. Project construction will involve some trenching and minor grading to level the land, which does not present a significant risk of violating any water quality standards or substantially degrading surface or groundwater quality. The applicant intends to use stabilized construction entrance and exits would be installed at driveways to reduce tracking of sediment onto adjacent public roadways. The Project is subject to regulation by the Lahontan Regional Water Quality Control Board and the Inyo County Environmental Health Department and will meet all applicable requirements.

b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

No. The Project will not have any effect on local groundwater. The project will not use local groundwater for its water needs, which are limited to dust control. All groundwater needs will be supplied by mobile trucks supplying water to the job site. Water demands are estimated at 40,000 gallons/week for dust control and site preparation and water will be trucked in from the Searles Domestic Water Company, located in Trona. The Project will not introduce any significant new areas of impervious surfaces that will prevent groundwater recharge.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

i) Result in substantial erosion or siltation on or off-site?

No. The Project proposes extremely minimal grading and no new impermeable or impervious surfaces. Other than installing a small concrete pad, no paving or other activities will increase the number of impermeable surfaces that could cause erosion or siltation. No drainage patterns

will be altered. Other than rare storm related overland run-off situations, no water passes over or through the Project Area.

- ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off-site?

No. The Project will not significantly change the landscape or existing runoff patterns or redirect or block flood flows. No drainage patterns or rates of runoff will be altered by the Project.

- iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

No. The Project is proposed in an area that is already disturbed and will have no substantial changes to runoff patterns. No increase in stormwater runoff will occur as a result of the Project.

- iv) impede or redirect flood flows?

No, the Project is in an area that is already disturbed and is not located in a flood hazard area.

- d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

No, the Project is in an area that is already disturbed, and is not located in a flood hazard, seiche or tsunami zone. Note that the BRE identified a potential surface water drainage based on prior mapping but no evidence of any such feature exists onsite and the mapping is therefore considered to be in error or outdated.

- e) Conflict with or obstruct implementation of a water quality control plan or sustainable ground water management plan?

No, the Project will not affect compliance with or implementation of the Lahontan Region water quality control plan and is not in an area included in a sustainable groundwater management plan.

* * *

XI. LAND USE AND PLANNING: Would the project:

a) Physically divide an established community?

No, there is no established community in the vicinity of the Project, and the Project would not physically divide such a community.

b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

No, the Project is consistent with the current zoning and advances the goals for renewable energy generation for the southern portion of the county, as described in the REGPA. This part of the Trona area also is explicitly called out and designated for solar energy generation as part of the southern Trona SEDA.

* * *

XII. MINERAL RESOURCES: Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

No. The Project Area has no known mineral resources of value to the region or state. The Project Area is not in a mapped area of regional or statewide significance by the State Mining and Geology Board. Development of the surface for solar generation would not in any event result in the permanent loss of mineral resources unexpectedly in this location.

b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

No, there are no known locally important mineral resources delineated in any land use plan that would be affected by the Project.

* * *

XIII. NOISE: Would the project:

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan

or noise ordinance, or other applicable standards of other agencies?

All potential noise impacts are within the scope of the PEIR analysis and will be subject to the PEIR mitigation measures. The PEIR evaluated the impacts of construction noise, including the use of construction equipment for grading, trenching, mast installation, installation of concrete footings, movement of heavy equipment and transportation of materials by truck. The PEIR also listed the individual equipment types that would be used to install a solar panel array, and the estimated noise levels associated with each item of equipment. (See PEIR, pp. 4.12-16 – 4.12-18.) The Project would use construction equipment of the types listed in the PEIR, and follow a construction process consistent with, or less impactful than, that anticipated in the PEIR. In this regard, the PEIR focused on utility-scale solar projects. The Project is a smaller, commercial-scale Project that will utilize a construction process that is comparatively light and short term in comparison to utility-scale projects. Trenching and grading will take two days using one grader, one backhoe and a water truck. Panel installation will occur over an estimated two months. No nighttime construction will occur. The Project does not present noise impacts that substantially differ from, or that are more impactful than, those analyzed in the PEIR. As such, the Project is within the scope of the PEIR pursuant to CEQA Guidelines section 15168(c)(2).

The PEIR adopted Mitigation Measure MM NOI-2 (“Implement construction noise reduction measures”) to ensure that construction noise impacts are avoided or reduced below a level of significance and would have no significant unavoidable adverse impacts. (PEIR, pp. 4.12-18.) The PEIR listed the following five mitigation measures:

If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT's Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:

- Whenever feasible, electrical power will be used to run air compressors and similar power tools.*
- Equipment staging areas will be located as far as feasible from occupied residences or schools.*
- All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.*
- Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.*
- Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings.*

NOI-2 incorporated certain best management practices (BMPs) from REAT's Best Management Practices and Guidance Manual (REAT 2010) for desert renewable energy projects. In regard to potential noise impacts, the manual lists 10 BMPs:

- 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.*
- 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.*
- 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.*
- 4) *Ensure all stationary construction equipment (i.e., compressors and generators) is located as far as practicable from nearby residences.*
- 5) *If blasting or other noisy activities are required during the construction period, notify nearby residents and the permitting agencies 24 hours in advance.*
- 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.*
- 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.*
- 8) *Install mufflers on air coolers and exhaust stacks of all diesel and gas-driven engines. Equip all emergency pressure relief valves and steam blow-down lines with silencers to limit noise levels.*
- 9) *Contain facilities within buildings or other types of effective noise enclosures.*
- 10) *Employ engineering controls, including sound-insulated equipment and control rooms, to reduce the average noise level in normal work areas.*

The western and northwestern edge of the Project Area is approximately 400 feet from two residential structures located westerly of the Project Area. Under CEQA Guidelines section 15168(c)(3), the Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of the residential structures.

Once the Project is constructed, operational noise sources will be limited to pad-mounted transformers and tracker array motors. Transformers will be located farther than 500 feet from a residence or other noise-sensitive land use and would not require further analysis under MM NOI-1 in the PEIR. Tracker motors generate low noise levels (see PEIR Table 4.12-4) and are sufficiently far from noise-sensitive land uses to have no potential noise-related impacts and to not require further noise study or mitigation. (See PEIR, p. 4.12-19.) As such, the operational impacts are expected to be less than significant.

b) Generation of excessive groundborne vibration or groundborne noise levels?

No, the Project involves relatively light ground disturbance with few vehicles. No excessive groundborne vibration or groundborne noise is expected. Considering the types of equipment that will be used, impacts associated with groundborne noise or vibration would be within the scope of the PEIR and less than significant. (See PEIR p. 4.12-15.)

c) For a project located within the vicinity of a private airstrip or, an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

No. Trona Airport is not public, nor is it used with frequency, and it is typically used by light aircraft only. The proposed Project will have minimal noise levels due to its nature and will not create excessive noise levels for personnel working near the Project Area. The Project Area is not immediately below any established flight path and persons working at the Project Area would not be exposed to any significant level of aircraft noise.

Mitigation Measures: *All potential impacts are within the scope of the PEIR analysis. The Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures.*

* * *

XIV. POPULATION AND HOUSING: Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

No. The Project is not likely to induce any population growth. The Project Area requires few maintenance personnel and will be monitored mostly remotely from offsite locations. No new residents are expected to result from the Project.

b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

No, the proposed Project will not displace existing housing or create a situation where replacement housing will be necessary. No housing currently exists in the Project Area. No existing housing will be removed to construct or operate the Project. The Project will have no effect on the level of housing in the Project Area or on surrounding properties.

* * *

XV. PUBLIC SERVICES: Would the project:

a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?

No. The Project is not considered to be located in a high-risk area for fire protection. The Project Area has no trees or established vegetation. The San Bernardino Fire Department (which provides fire protection services in the Trona community) was consulted on the Project. No concerns related to the Project Area were given.

Police protection?

No. No new police service will be required because of the Project. Offsite private security measures will mostly be used to monitor the Project Area.

Schools?

No, no new students or residents, or associated school services, will be required because of this Project.

Parks?

No, no new parks will be required because of the Project.

Other public facilities?

No, the proposed Project will not create substantial adverse physical impacts associated with a need for any other foreseeable public services.

* * *

XVI. RECREATION: Would the project:

a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

No, the proposed Project will not increase the use of existing recreational facilities. It is not anticipated that any portion of this Project will result in a change in the level of service required to provide parks or other recreational facilities.

b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

No, the proposed Project does not include recreational facilities, nor will it cause a need for an increase in parks or other recreational facilities that might have an adverse physical effect on the environment.

* * *

XVII. TRANSPORTATION:

a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?

No. The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.

b) Conflict or be inconsistent with CEQA Guidelines § 15064.3(b)?

No. The project will not result in an adverse change with respect to vehicle miles traveled (VMT). The Project will not significantly increase passenger vehicle traffic or commuter traffic in the region. Construction related traffic generally will be light. When construction is complete, the Project will be remotely monitored and have maintenance personnel on-site as needed during daytime hours. The Project is not within one-half mile of either an existing major transit stop or high-quality transit corridor. The Project will result in less than significant impacts to this resource.

c) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

No. The proposed Project will not result in any design features that increase transportation hazards. No changes will occur to public roads, including the Trona Wildrose Road. No curves or dangerous intersections will be added to the existing unpaved access road leading to the Project Area. Automobiles and trucks will be accommodated in the Project Area.

d) Result in inadequate emergency access?

No, the Project is proposed on properties that are directly adjacent to, and accessible from, Trona Wildrose Road and emergency access is and will continue to be available.

* * *

XVIII. TRIBAL CULTURAL RESOURCES: Would the project:

a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
-

No. The Project Area undeveloped and cleared of vegetation with no known tribal cultural resources. The proposed Project does not contain a resource eligible for listing in the California Register of Historical Resources, or in a local register for historical resources as defined in Public Resource Code section 5020.1(k). If any archeological or cultural resources are discovered on the site, work shall immediately stop, and Inyo County staff shall be immediately notified per Chapter 9.52 of the Inyo County Code.

- ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.
-

The Project Area is vacant and undeveloped. It does not contain any resource determined by the County to be significant pursuant to criteria set forth in subdivision (c) of the Public Resource Code section 5024.1 (i.e., is associated with events that made a significant contribution to the state's cultural patterns, is associated with the lives of persons important in our past, embodies the distinctive characteristics of a type or period, or has yielded or may yield information important in prehistory or history).

* * *

XIX. UTILITIES AND SERVICE SYSTEMS: Would the project:

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

No. The proposed Project is for the approval of a PV solar facility that will primarily be remotely monitored and involve no continuous human presence. The Project will not result in the construction or relocation of new or expanded utility, wastewater, or other utility service systems. The goal of the Project is to create a sustainable supply of electric power, and it will not increase demand for utilities whatsoever.

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

No impact. During operation, water needs will be no more than 1.0-acre feet per year and will be utilized primarily for panel washing 2-4 times annually. During active construction, light water consumption (relative to other construction uses) will be required for dust suppression. All water needs will be covered via trucking it in from Searles Domestic Water Company, located in Trona. No landscaping water will be required.

c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

No. The Project would not generate wastewater requiring disposal or contribute to demand for wastewater treatment.

d) Generate solid waste in excess of state or local standards, or in excess of the capacity of soil infrastructure, or otherwise impair the attainment of solid waste reduction goals?

No. The Project will not require changes to the current solid waste capacity to accommodate them. Solid waste needs for the project will be minimal. Most of the volume of solid waste (scrap metals, electrical equipment, and proprietary solar array features) will be collected and recycled.

e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

No impact. The Project and any future development will comply with Inyo County's solid waste standards, as required by the Inyo County Department of Environmental Health.

* * *

XX. WILDFIRE:

a) Substantially impact an adopted emergency response plan or emergency evacuation plan?

No. There is not an adopted emergency response or evacuation plan for the area in which the Project is proposed.

b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

No. The Project Area is on flat or gently-sloped land. It lacks vegetation and vegetation is sparse in the area, characterized mainly by desert scrub, making wildfire risks moderate to low. There will be no project occupants, and the project area is physically separated from surrounding structures. The proposed Project does little to add to the wildfire risk in the area. The risk of loss, injury or death involving wildland fires is less than significant at this site, and any potential risk is further mitigated by compliance with California Building Standards.

c) Require the installation or maintenance of associated infrastructure (such as roads, fuel break, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

No. The Project will not cause the need for additional wildfire associated infrastructure.

d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

No. The Project is on already graded and disturbed land. The addition of solar facilities will not create downslope or downstream flooding or landslides.

* * *

XXI. MANDATORY FINDINGS OF SIGNIFICANCE:

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number, or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

No, the Project will not impact or degrade the quality of the environment. The limited impact to resources in the Project Area can be mitigated to less than significant levels. Minimization measures have been written into the Mitigation Monitoring and Reporting Program for the permits and include: pre-activity surveys; avoidance buffers for desert kit fox; noise control measures subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures, dust mitigation measures to control air quality issues, and the monitoring efforts of a representative from local native American tribes in case native artifacts or human remains are uncovered.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a Project are considerable when viewed in connection with the effects of past Projects, the effects of other current Projects, and the effects of probable future Projects)?

No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note in the vicinity are PV solar projects within the Trona SEDA, but the overall number and size of these projects are likely to be less than analyzed in the PEIR. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

No, the Project has no known environmental effects that will cause substantial adverse effects on human beings either directly or indirectly.

APPENDIX A



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APPENDIX B

BIOLOGICAL RESOURCE EVALUATION

VALLEY WIDE CONSTRUCTION SERVICES TRONA 4 AND 7 SOLAR PROJECT



MAY 2023



BIOLOGICAL RESOURCE EVALUATION

TRONA 4 AND 7 SOLAR PROJECT

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May 2023

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EXECUTIVE SUMMARY

This Biological Resource Evaluation (BRE) report provides the results of a biological survey conducted by QK for the Trona 4 and 7 Solar Projects (collectively, the Project) proposed by Valley Wide Construction Services. In order to comply with the California Environmental Quality Act (CEQA) a biological evaluation was conducted to identify the potential for sensitive biological resources to occur on or near the Project site.

The Project is located north of the unincorporated town of Trona, California (Figure 1-1). It consists of two separate applications for renewable energy permits, one covering approximately 15 acres (Trona 4) and the other covering approximately 5 acres (Trona 7) of contiguous land, all situated on Assessor Parcel Numbers (APNs) 038-330-32, 038-330-33, 038-330-34, and 038-330-46. The Project site, which for the purposes of this BRE consists of both the Trona 4 and Trona 7 project sites, is highly disturbed, has been disked and exhibits little native vegetation re-growth. The Project site is bordered by an existing solar facility to the south, scattered residential homes, abandoned vehicles, local trash and debris.

A review of available literature and agency databases was conducted to obtain information of the occurrences of natural communities, special-status plant and wildlife species known or have the potential to occur in the vicinity of the Project site. QK conducted a biological reconnaissance survey on May 8, 2023, to determine the locations and extent of current land use, natural vegetation communities, determine the potential for occurrences of special-status plant and wildlife species, and verify the presence or absence of wetlands and State and or federal jurisdictional waters.

No special-status plant species or special-status wildlife species, or diagnostic sign thereof, were observed during the survey, and one water feature, that intersects the Project site, was identified by the National Hydrology Database and National Wetlands Inventory databases.

Based on the literature and database search and the results current conditions of the survey, it was deemed that there is a potential for two special-status wildlife species to occur on the Project site: the desert kit fox (*Vulpes macrotis arsipus*), and foraging and nesting birds and raptors. Desert kit fox were not observed to be inhabitants on the Project site but may pass through as transients. There is a potential for nesting migratory birds and other raptors species, protected by the Migratory Bird Treaty Species Act, to occur on or near the Project site and surrounding areas. With the implementation of Best Management Practices and recommended avoidance measures, impacts during the construction of the Project are not expected or will be limited to special-status wildlife species and migratory birds and raptors. There is expected to be no impact to special-status plant species, sensitive natural communities, wetlands or water features, or any other sensitive biological resources. No operational impacts would occur because operations are passive and involve no ongoing land disturbance.

SECTION 1 - INTRODUCTION

Valley Wide Construction Services proposes to construct and operate two solar facilities; Trona 4 is a 3 megawatt (MW) photovoltaic (PV) solar facility on approximately 15 acres; and Trona 7 is a 1 MW PV solar facility on approximately 5 acres located in Trona, Inyo County, California. For the analysis presented herein, the two contiguous sites have been combined into a single, 20-acre site for ease of discussion (Figures 1-1 and 1-2). The proposed solar project (Project) will include the vegetation removal, grading, trenching, and associated infrastructure to build the solar project. The Project would connect to the existing Southern California Edison (SCE) 33-kV transmission line that bisects the Project. To comply with the California Environmental Quality Act (CEQA), a biological evaluation was conducted to identify the potential for sensitive biological resources to occur on or near the Project site. This Biological Resource Evaluation (BRE) provides the basic biological information needed for the County of Inyo CEQA permitting process.

1.1 - Project Location

The Project is located north of the town of Trona, California (Figure 1-1). It covers approximately 20 acres and is situated on Assessor Parcel Numbers (APNs) 038-330-32, 038-330-33, 038-330-34 (Trona 4), and 038-330-46 (Trona 7). The unincorporated town of Trona is located on the east side of the Searles Valley and is between the Panamint Range and Southern Sierra Mountain Range, and approximately 28-miles northeast of the City of Ridgecrest. The Project site is west of Trona Wildrose Road and south of Moses Lane (Figure 1-2). It is in the northeast $\frac{1}{4}$ of Section 32, Township 24 South, Range 43 East, Mount Diablo Base and Meridian, and is within the *Trona East*, California U.S. Geological Survey (USGS) 7.5-minute quadrangle.

1.2 - Project Description

The proposed Trona 4 Project will construct and operate a 3 MW PV solar facility on approximately 15 acres. The Project would install approximately 4,835 single-axis tracker solar panels on the site. The layout of the single axis tracker solar panels will be in an east-west direction. The maximum height of the would be up to 12 feet above grade at the beginning and end of each day. Each solar panel would be attached to embedded piers using a support structure. Module layout and spacing is typically optimized to balance energy production versus peak capacity and depends on the sun angles and shading due to the surrounding horizon of the site.

The proposed Trona 7 Project will construct and operate a 1 MW PV solar facility on approximately 5 acres. The Project would install approximately 2,300 single-axis tracker solar panels on the site.

1.3 - Purpose, Goals, and Objectives for this Report

The BRE report includes the results of a biological reconnaissance survey and available biological and natural resource database search conducted by QK biologists at the Project

site. This report is consistent with the requirements for an analysis of impacts to biological resources.

The primary focus of this report is to provide information about the presence of sensitive biological resources on the Project and develop measures to avoid and minimize any potential impacts of the Project on those resources. To accomplish that goal, this BRE provides information on the condition and sensitivity of the sensitive biological resources potentially present on and adjacent to the Project site and evaluates Project impacts to those resources. This BRE focuses on providing information and sensitive natural communities, special-status species, wildlife movement corridors, and wetlands and waters by conducting a desktop analysis of site conditions and verifying those findings with an on-site biological survey.



Figure 1-1
Regional
Trona 4 and 7 Solar Project,
Inyo County, California

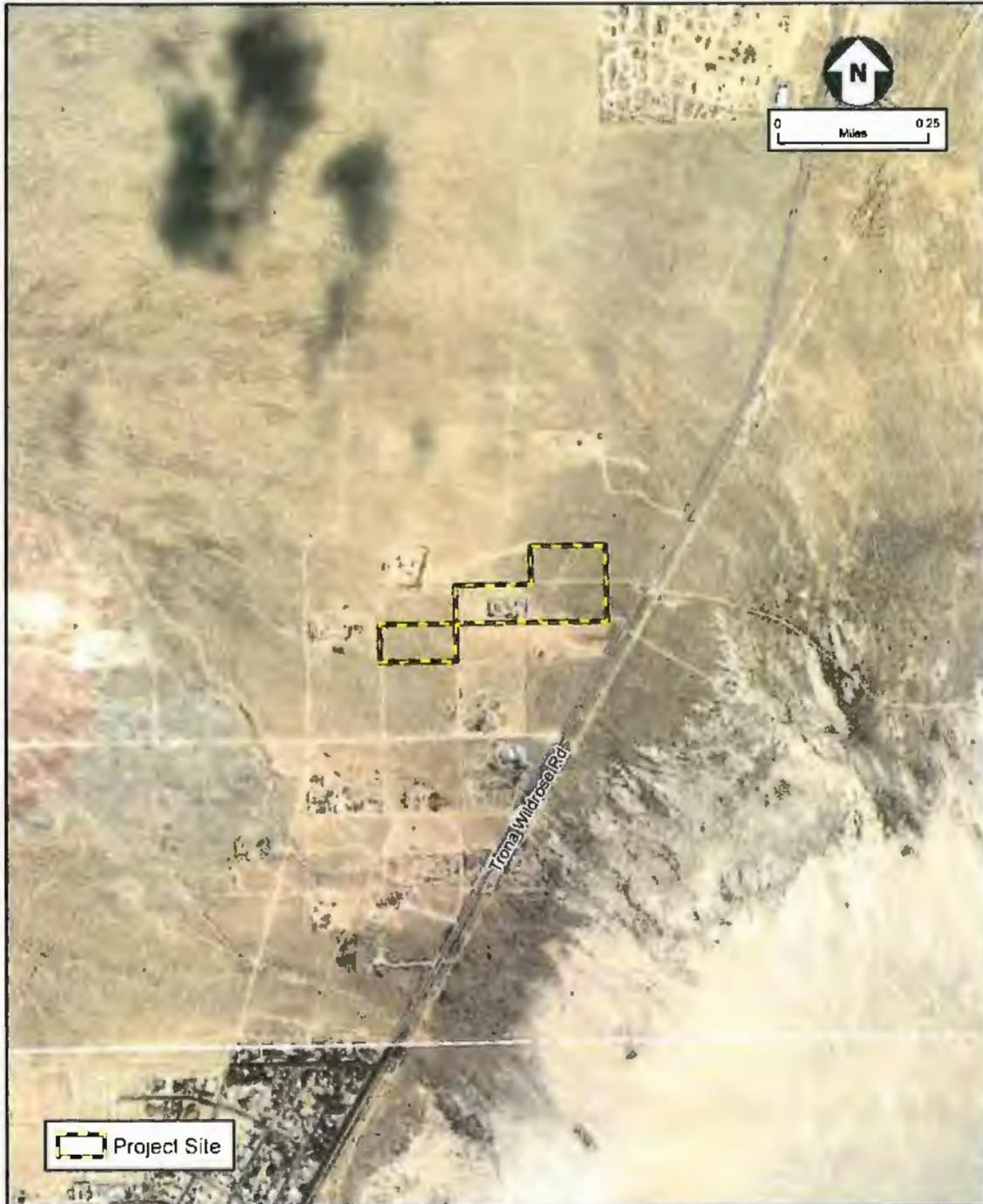


Figure 1-2
Project Location
Trona 4 and 7 Solar Project,
Inyo County, California

SECTION 2 - METHODS

2.1 - Definition of Biological Study Area

The Biological Study Area (BSA) includes the Project site and a 250-foot survey buffer surrounding the Project disturbance footprint (Figure 2-1).

2.2 - Literature Review and Database Analysis

The following sources were reviewed for information on special-status biological resources in the Project vicinity:

- California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB; CDFW 2023a).
- CDFW's Biogeographic Information and Observation System (BIOS; CDFW 2023b).
- CDFW's Special Animals List (CDFW 2023c).
- CDFW's California Wildlife Habitat Relationships (CWHR) System (Mayer and Laudenslayer 1988).
- California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants of California (CNPS 2023).
- United States Fish and Wildlife Service (USFWS) Information for Planning and Consultation System (IPaC; USFWS 2023a).
- USFWS Critical Habitat Mapper (USFWS 2023b).
- USFWS National Wetlands Inventory (NWI; USFWS 2023c).
- USGS National Hydrography Dataset (NHD; USGS 2023).
- Federal Emergency Management Agency (FEMA) flood zone maps (FEMA 2023).
- United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Web Soil Survey (NRCS 2023a)
- Current and historical aerial imagery (Google LLC 2023; Netroline 2023).

The CNDDDB and CNPS queries focused on the *Trona East* USGS 7.5-minute quadrangle in which the Project is located, plus the surrounding eight quadrangles: *Copper Queen Canyon*, *Homewood Canyon*, *Manly Fall*, *Slate Range Crossing*, *Westend*, *Layton Spring*, *Seales Lake*, and *Trona West*. To satisfy other standard search criteria, CNDDDB records within a 10-mile radius of the project site were queried separately from the broader database search.

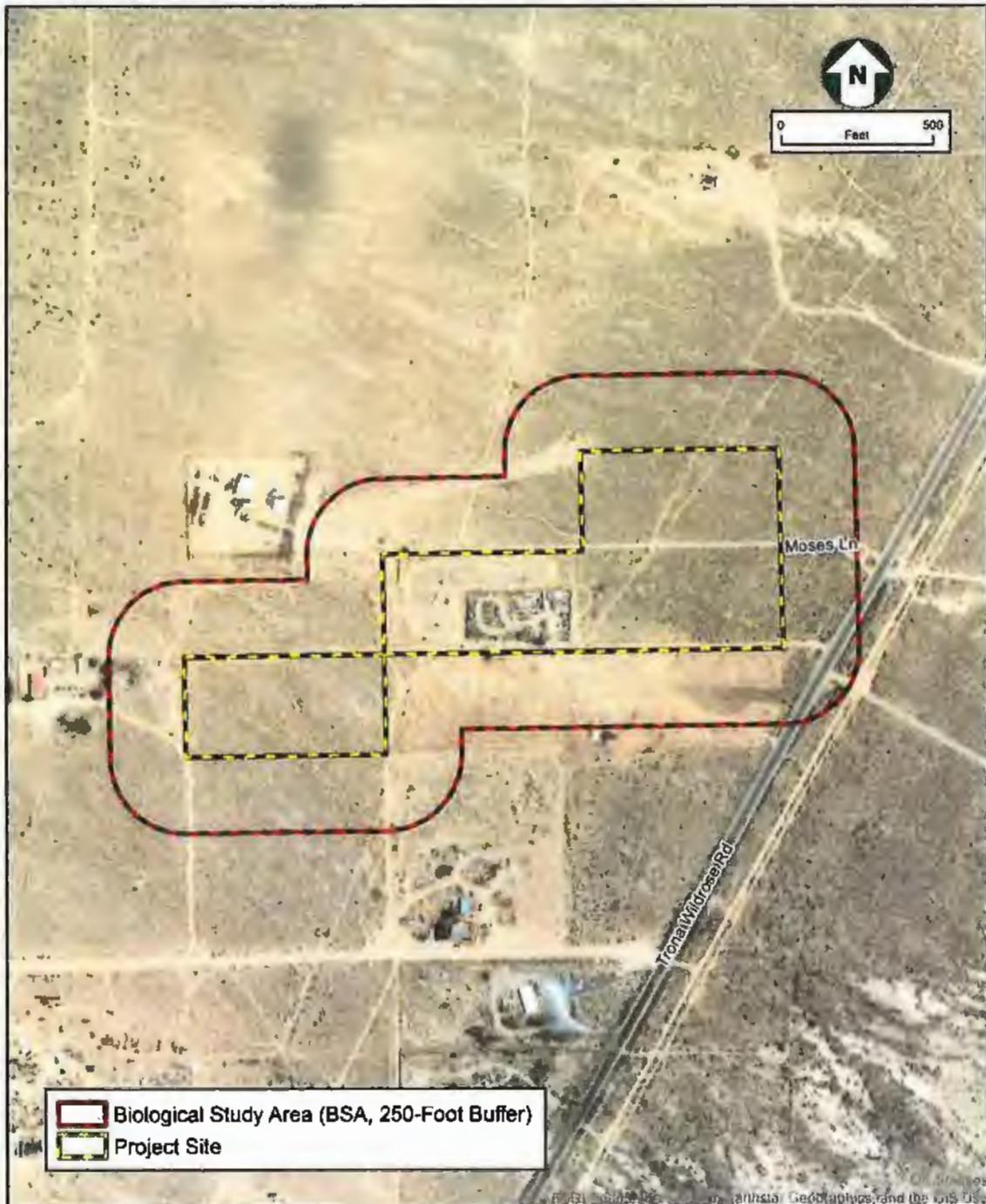


Figure 2-1
Biological Study Area
Trona 4 and 7 Solar Project,
Inyo County, California

The CNDDDB provides element-specific spatial information on individual documented occurrences of special-status species and sensitive natural vegetation communities. The CNPS database provides similar information, but at a much lower spatial resolution, for additional sensitive plant species tracked by the CNPS. The CDFW Special Animals List and USFWS IPaC provide no spatial data on wildlife occurrences and provide only lists of species potentially present. Wildlife species designated as “Fully Protected” by California Fish and Game Code Sections 5050 (Fully Protected reptiles and amphibians), 3511 (Fully Protected birds), and 4700 (Fully Protected mammals) are also included on the final list of evaluated species. The database search results can be found in Appendix A.

A review of the NWI was completed to identify whether wetlands have previously been documented on or adjacent to the Project site. The NWI, which is operated by the USFWS, is a collection of wetland and riparian maps that depicts graphic representations of the type, size, and location of wetland, deep water, and riparian habitats in the United States. In addition to the NWI, regional hydrologic information from the NHD was obtained from the USGS to evaluate the potential occurrence of blue-line streams within or near the Project site.

Soils data were obtained from the USDA NRCS Web Soil Survey, climate information was obtained from the Western Regional Climate Center, and land use information was obtained from available aerial imagery (NRCS 2023a; WRCC 2023; Google LLC 2023). Information about flood zones was obtained from the Federal Emergency Management Agency, Department of Homeland Security (FEMA 2023).

The results of the database inquiries were reviewed to extract pertinent information on site conditions and evaluate the potential for sensitive biological resources to occur within or near the proposed Project site. Only those resources with the potential to be present and affected by the Project were included and considered in this document. The potential presence of natural communities and special-status species was based on distributional ranges overlapping the Project site and the presence of habitat and/or primary constituent habitat elements.

2.3 - Reconnaissance-Level Field Surveys

A biological reconnaissance survey of the BSA was conducted by QK Environmental Scientists Jeff Erway and Eric Madueno on May 8, 2023. The survey consisted of walking meandering pedestrian transects spaced 50 to 100 feet apart throughout the BSA, where accessible. Areas with suitable habitat that could not be accessed were surveyed by use of high-power binoculars.

Tasks completed during the survey included determining and documenting current land use, developing an inventory of plant species, wildlife species, and wildlife sign (e.g., scat, burrows, nests, feathers, tracks, etc.), characterizing vegetation associations and habitat conditions within the BSA, assessing the potential for federally, State-listed and other special-status plant and wildlife species that may occur on and near the Project site based on existing conditions, and assessing the potential for migratory birds and raptors to nest on and near the Project site. In addition, all historical wetland and water features documented

by NWI and NHD were field verified. All spatial data were recorded using Environmental Systems Research Institute (ESRI) Collector for ArcGIS software installed on an iPad. Site conditions were documented with representative photographs (Appendix B).

SECTION 3 - ENVIRONMENTAL SETTING

This section identifies the regional and local environmental setting of the Project and describes existing baseline conditions. The environmental setting of the BSA was obtained from various sources of literature, databases, and aerial photographs. Site conditions were verified and updated during the site reconnaissance survey conducted by QK Environmental Scientists (Table 3-1).

**Table 3-1
Field Survey Personnel and Timing**

Date	Personnel	Time	Weather Conditions	Temperature
05/08/2023	Jeff Erway, and Eric Madueno	0947 - 1045	Sunny, Clear	61 - 67°F

3.1 - Topography

The BSA is in the southwestern portion of Inyo County. The BSA is relatively flat with little variation in topography and an elevation of about 1,690 feet above mean sea level.

3.2 - Climate

The BSA is within an area that has a Mediterranean climate of hot summers and mild, wet winters. Average high temperatures range from 58.2°F in January to 105.5°F in July, with daily temperatures often exceeding 100°F several days in the summer (WRCC 2023). Average low temperatures range from 33.2°F in December to 73.3°F in July. Precipitation occurs primarily as rain, most of which falls from November to April, with an average of 3.94 inches of rainfall per year. Rain rarely falls during the summer months.

3.3 - Land Use

The Project site is located approximately 0.8-miles north of the unincorporated town of Trona, California and adjacent to the major public road known as Trona Wildrose Road. Currently, the Project site is highly disturbed from urbanization, previous disking, illegal trash and debris dumping, and by abandoned vehicles. The Project site is situated among scattered residential properties to the north and west, an existing solar facility to the south, Trona Wildrose Road to the east, and an unpaved road identified as Moses Lane to the north.

3.4 - Soils

The United States Department of Agriculture, Natural Resources Conservation Service (NRCS) Web Soil Survey database contains no digital data for the region the BSA is located.

3.5 - Hydrology

There is one record of a jurisdictional wetland feature within the BSA, as defined by the NWI (USFWS 2023c) (Figure 3-1). The jurisdictional wetland bisects a portion of the BSA, known as Trona 4, starting in the middle of the northwest area flowing southeast towards Trona Wildrose Road. The feature is described as an intermittent riverine. Features under the Riverine system include all wetlands and deepwater habitats contained within a channel, with two exceptions: 1) wetlands dominated by trees, shrubs, persistent emergent, emergent mosses, or lichens, and 2) habitats with water containing ocean-derived salts of 0.5 ppt or greater.

According to FEMA, the BSA is within an Area of Minimal Flood Hazard (Figure 3-2).

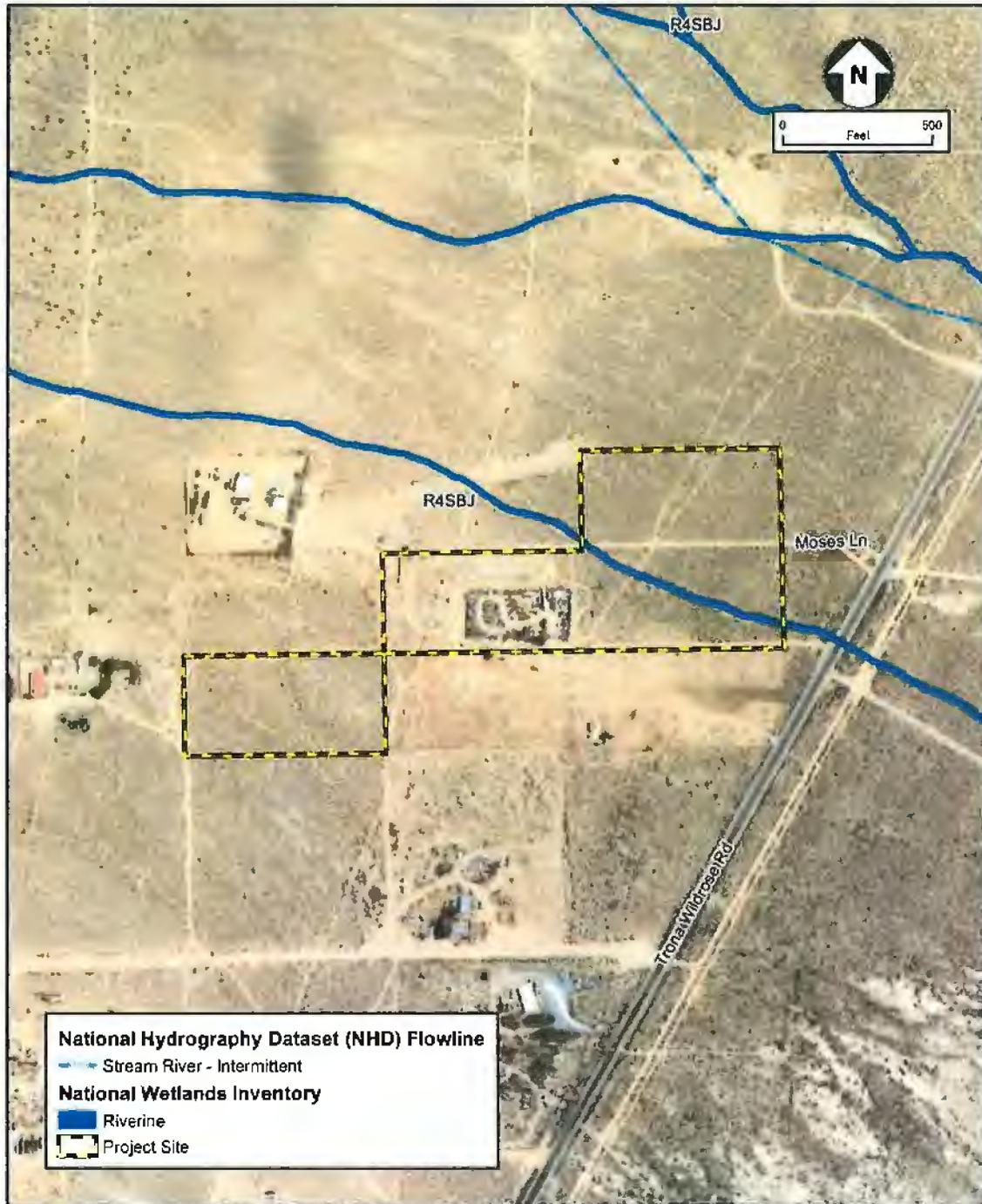


Figure 3-1
NWI and NHD Records of Aquatic Resources
Trona 4 and 7 Solar Project,
Inyo County, California

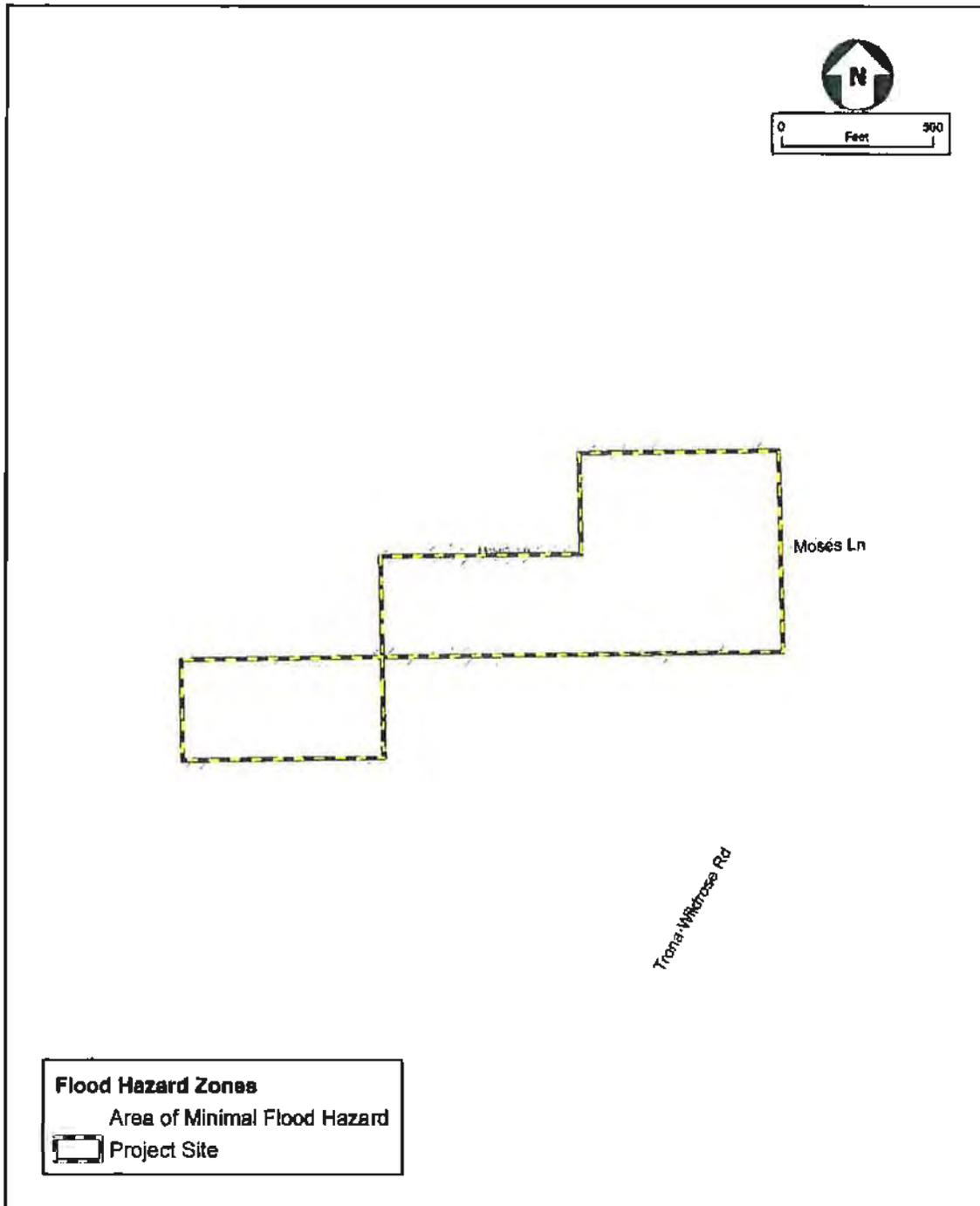


Figure 3-2
FEMA Flood Zone Map
Trona 4 and 7 Solar Project,
Inyo County, California



3.6 - General Biological Conditions

The entirety of the Project site consists of an open, previously disked desert and alkali desert scrub habitat that has been disturbed by urbanization and residential development. The Project site is bordered by scattered residential properties and Moses Lane to the north, and existing solar facility of the south, Trona Wildrose Road to the east, and scattered residential properties and open desert and alkali desert scrub habitat to the west.

No sensitive natural plant communities occur within the BSA. Vegetation observed included saltbush (*Atriplex polycarpa*), white bursage (*Ambrosia dumosa*), desert calico (*Loeseliastrum matthewsii*), desert five spot (*Eremalche rotundifolia*), and creosote (*Larrea tridentata*).

No avian nests were observed within the Project site, but the existing transmission and utility poles near the BSA could support nesting birds and/or raptors. A migratory bird species observed included common raven (*Corvus corax*).

No small mammal burrows, dens, or larger mammal dens that could be utilized by desert kit fox, Mohave ground squirrel (*Xerospermophilus mohavensis*) or desert tortoise (*Gopherus agassizii*) were observed within the BSA. A complete list of plant and wildlife species observed within the BSA during the biological reconnaissance survey is included in Appendix C.

SECTION 4 - FINDINGS

4.1 - Sensitive Natural Communities

4.1.1 - RESULTS OF LITERATURE REVIEW AND DATABASE SEARCHES

Literature results from the nine-quadrangle queries for the Project site were conducted and provide information for the potential of occurrence and verified during the field survey.

4.1.2 - PRESENCE OF SENSITIVE NATURAL COMMUNITIES

No sensitive natural vegetation communities were identified within the BSA. In addition, the BSA does not provide habitat that would support these communities.

4.2 - Special-Status Plants

4.2.1 - RESULTS OF LITERATURE REVIEW AND DATABASE SEARCHES

There were 7 special-status plant species identified in the literature and database review that are known or have the potential to occur within the nine-quadrangle queries centered on the Project site (Table 4-1). There are no CNDDDB records of special-status plant species that overlap the BSA.

**Table 4-1
Special-Status Plant Species Occurring in the Region of the BSA**

(Source: CNDDB 2023, CNPS 2023,	Common Name	Status
<i>Aliciella ripleyi</i>	Ripley's Aliciella	2B.3
<i>Astragalus atratus var. mensanus</i>	Darwin Mesa milk-vetch	1B.1
<i>Castela emoryi</i>	Emory's crucifixion-thorn	2B.2
<i>Cryptantha clokeyi</i>	Clokey's cryptantha	1B.2
<i>Eremothera boothii ssp. boothii</i>	Booth's evening-primrose	2B.3
<i>Penstemon fruticiformis var. amargosae</i>	Amargosa beardtongue	1B.3
<i>Yucca hrevifolia</i>	Joshua tree	SC

1A Presumed Extinct in California.

1B Rare, Threatened, or Endangered in California and elsewhere.

2A Plants presumed extirpated in California, but more common elsewhere.

2B Plants Rare, Threatened, or Endangered in California, but more common elsewhere.

CRPR Threat Code Extension:

.1 Seriously endangered in California (over 80% of occurrences threatened / high degree and immediacy of threat)

.2 Fairly endangered in California (20-80% occurrences threatened)

.3 Not very endangered in California (<20% of occurrences threatened) Abbreviations:

Abbreviations:

FC Federal Candidate

FE Federal Endangered Species

FT Federal Threatened Species

SFP Fully Protected Animal, CDFW

SE California Endangered Species

ST California Threatened Species

SC California Candidate Species

SSC California Department of Fish and Game Species of Special Concern

4.2.2 - PRESENCE OF SPECIAL-STATUS PLANTS

No special-status plant species were observed within the BSA. The surveys coincided with some, but not all of the plant species' optimal blooming periods; however, none of the species identified in the database queries are expected to occur on-site due to the lack of suitable habitat conditions (disturbed site conditions, plant associations and soil types) and/or because the BSA is located outside of the species' known range. The Project site has been highly disturbed with urbanization and disking; however, a few native plant species have revegetated on site.

A complete list of plant species observed during the biological reconnaissance survey is included in Appendix C.

4.3 - Special-Status Wildlife

4.3.1 - RESULTS OF LITERATURE REVIEW AND DATABASE SEARCHES

There were 15 special-status wildlife species identified in the literature and database review that are known or have the potential to occur within the nine-quad search area centered on

the Project (Table 4-2). There is one historical CNDDDB record for prairie falcon (*Falco mexicanus*) that overlaps with the BSA.

Table 4-2
Special-Status Wildlife Species Occurring in the Region of the BSA
 (Source: CNDDDB 2023, and USFWS 2023)

Scientific Name	Common Name	Status
Invertebrates		
<i>Danaus plexippus</i>	monarch butterfly	FC, -
Reptiles		
<i>Elgaria panamintina</i>	Panamint alligator lizard	-, SSC
<i>Gopherus agassizii</i>	desert tortoise	FT, ST
Birds		
<i>Asio otus</i>	long-eared owl	-, SSC
<i>Athene cunicularia</i>	burrowing owl	-, SSC
<i>Charadrius nivosus nivosus</i>	western snowy plover	FT, SSC
<i>Falco mexicanus</i>	prairie falcon	-, WL
<i>Gymnogyps californianus</i>	California condor	FE, SE
<i>Pipilo crissalis eremophilus</i>	Inyo California towhee	FT, SE
<i>Toxostoma lecontei</i>	Le Conte's thrasher	-, ST
Mammals		
<i>Antrozous pallidus</i>	pallid bat	-, SSC
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat	-, SSC
<i>Eumops perotis californicus</i>	western mastiff bat	-, SSC
<i>Ovis canadensis nelsoni</i>	desert bighorn sheep	-, FP
<i>Xerospermophilus mohavensis</i>	Mohave ground squirrel	-, FT
<i>Vulpes macrotis arsipus</i>	desert kit fox	-, FGC

Abbreviations:

- FC Federal Candidate
- FE Federal Endangered Species
- FGC Fish and Game Code
- FT Federal Threatened Species
- SFP Fully Protected Animal, CDFW
- SE California Endangered Species
- ST California Threatened Species
- SSC California Department of Fish and Game Species of Special Concern

4.3.2 - PRESENCE OF SPECIAL-STATUS WILDLIFE

There is no roosting habitat for monarch butterfly (*Danaus plexippus*) present within the BSA, although this species may travel through the BSA as a transient. Additionally, no milkweed (*Asclepias* sp.) was observed within the BSA, which is a required food source for larval monarch butterflies. No wetland, marsh, or riparian habitat exists within the BSA to support nesting or foraging Inyo California towhee (*Pipilo crissalis eremophilus*) or

Panamint alligator lizard (*Elgaria panamintina*) which inhabits riparian areas in the desert at the bottom of rocky canyons, near streams and springs.

No desert tortoise sign (e.g., scat, tracks, or burrows) were observed within the BSA. The nearest CNDDDB recorded occurrence (EONDX 110170) is approximately 1.2-miles north of the BSA (CDFW 2023a). The occurrence was for an adult desert tortoise crossing a dirt road in March 2017. The BSA is highly disturbed from disking, construction of an existing solar field, and urbanization (e.g., dirt roads and debris) from the residences in the vicinity. The disturbance in the vicinity has resulted in historical ground disturbance that results in no potential for foraging, or habitation of desert tortoise in the BSA.

There are no dense woodlands with coniferous or broadleaved trees near a water source that could provide suitable habitat for long-eared owl (*Asio otus*). Burrowing owl (*Athene cunicularia*) inhabit grassland, open bare ground, and utilize existing small mammal burrows, typically created by California ground squirrel, for breeding and shelter. There were no burrows or diagnostic sign (e.g., whitewash, tracks, prey remains) of burrowing owl observed within the BSA. Due to a lack of suitable burrows on site and highly disturbed condition of the site the likelihood of a resident burrowing owl on site is extremely unlikely.

No suitable foraging or nesting habitat is present within the BSA, due to the highly disturbed condition of the BSA, for western snowy plover (*Charadrius nivosus nivosus*), California condor (*Gymnogyps californianus*), prairie falcon, or Le Conte's thrasher (*Toxostoma lecontei*). The CNDDDB recorded occurrence (EONDX 26139), for prairie falcon, that overlaps with the BSA is from 1975 which is presumed extant. No additional data was recorded for this occurrence. There are no rocky outcroppings, mines or caves, cliff faces, tree hollows, buildings, or bridges within the BSA that would support the pallid bat (*Antrozous pallidus*), the western mastiff bat (*Eumops perotis californicus*), or the Townsend's big-eared bat (*Corynorhinus townsendii*).

The BSA is too low in elevation and does not provide suitable foraging habitat for desert bighorn sheep (*Ovis canadensis nelsoni*). There are no steep, rugged mountainous terrain within the BSA that would provide climbing habitat for the desert bighorn sheep to avoid predators. Desert bighorn sheep are known to cross valley floors to neighboring mountainous regions but due to the urbanization and highly disturbed condition of the BSA it is unlikely for desert bighorn sheep to cross within the BSA.

No small mammal burrows, with appropriate configuration in size and shape, or diagnostic sign for Mohave ground squirrel (*Xerospermophilus mohavensis*) were observed within the BSA. According to CDFW, the closest known population is located approximately 8.2-miles southwest of the BSA (CDFW 2023b). This area surrounds the town of Ridgecrest and moves east on State Route (SR) 178 towards the area known as Pinnacles Entrance. Additionally, the closest core population of Mohave ground squirrel is the Coso Range-Olancha core population approximately 25.0-miles northwest of the BSA.

The desert kit fox (*Vulpes macrotis arsipus*) could be present as a transient forager within the BSA. There are no CNDDDB records of this species because CNDDDB does not record

sightings due to the species not being listed State or federally listed as endangered, threatened, or species of special concern. However, the species is protected as a fur-bearing mammal under Fish and Game Code § 4000.

The Project site lacks optimal suitable denning habitat for the species due to the past and current level of disturbance and the surrounding BSA has been similarly degraded. However, kit foxes, in general, are highly adaptable and can forage from the nearby residential houses. No desert kit fox or diagnostic sign of the species (e.g., tracks, dens, scat, prey remains) were observed during the field survey, and the lack of small mammal burrows observed indicates the site does not support an adequate prey base. Surrounding land use and habitat conditions make it unlikely that the desert kit fox would be present, other than as a transient forager.

4.3.3 - NESTING MIGRATORY BIRDS AND RAPTORS

There were no active nests observed within the BSA during the survey. The transmission and utility poles outside the BSA could support a variety of nesting bird species, including larger species such as raptors and common raven.

4.4 - Critical Habitat, Movement Corridors, and Linkages

4.4.1 - PRESENCE OF CRITICAL HABITAT

No designated critical habitat occurs within the BSA. The nearest USFWS designated critical habitat is for Inyo California towhee located approximately 3.1 miles northwest of the BSA (Figure 4-1).

4.4.2 - PRESENCE OF MOVEMENT CORRIDORS AND LINKAGES

There are no known wildlife movement corridors or habitat linkages that intersect the BSA. The Project is situated within a highly disturbed area that is predominately used for urban development and provides minimal linkage between suitable natural habitats for most wildlife species. Due to the highly disturbed condition of the Project, there is no substantial movement of wildlife onto or off of the BSA.

4.5 - Wetlands and Other Waters

The feature identified by the NHD that bisects the portion of the BSA, known as Trona 4, through in the middle of the northwest area that flows southeast towards Trona Wildrose Road was not observed during the survey. No stream indicators such as mud cracks, bed, or bank were identified. No hydrologic, topographic features or aquatic plant species were observed to indicate an intermittent riverine feature. The feature described in the NHD data does not currently exist on the Project site.

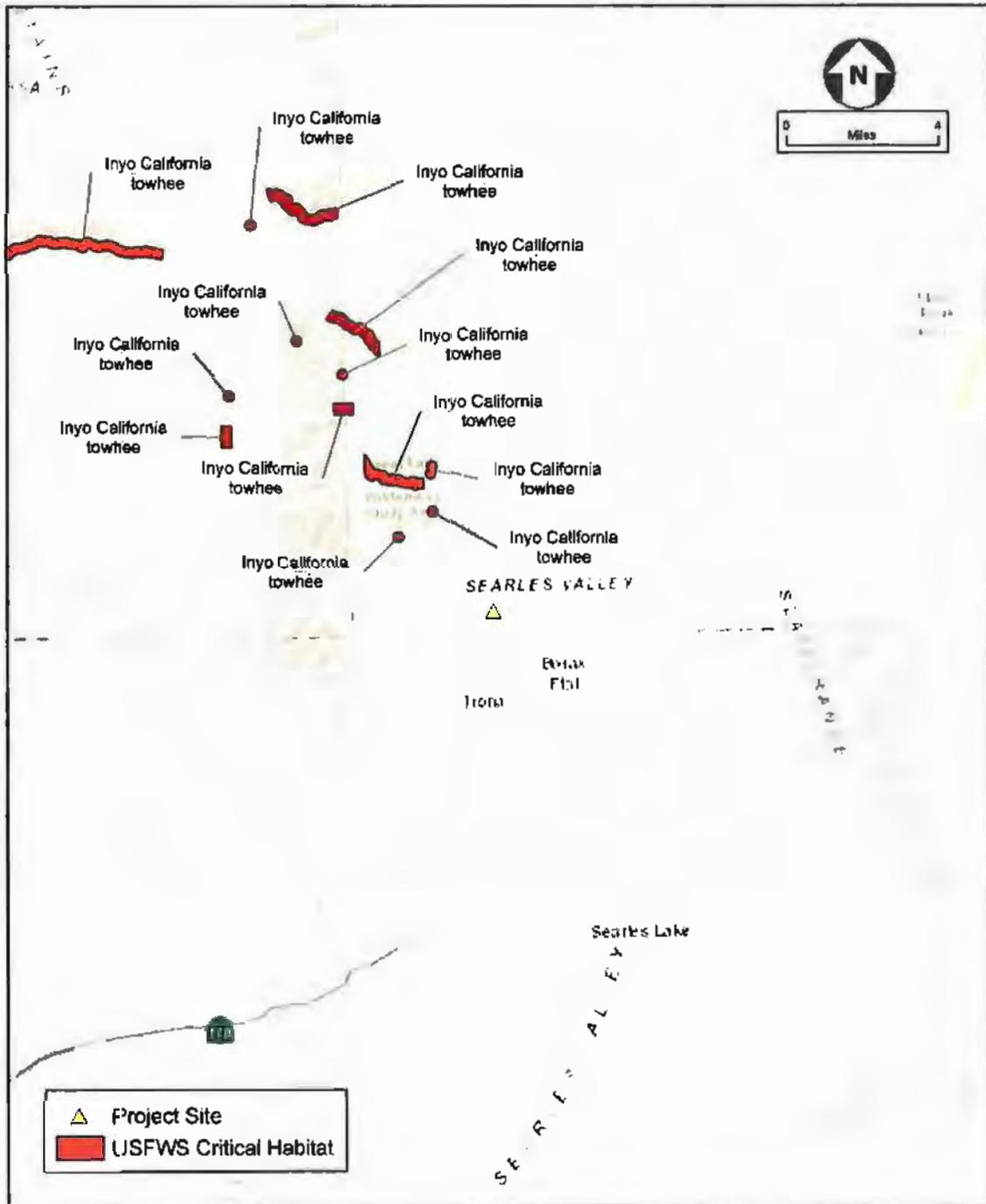


Figure 4-1
Mapped Critical Habitat in the Project Vicinity
Trona 4 and 7 Solar Project,
Inyo County, California

SECTION 5 - POTENTIAL PROJECT IMPACTS

The purpose of this section is to present an evaluation of the potential for Project-related impacts to sensitive biological resources to occur resulting from Project construction activities. Although the potential for impacts of the Project is anticipated to be minor because the Project site is highly disturbed, there are some risks of Project impacts. These are discussed below.

5.1 - Potential Impacts to Sensitive Vegetation Communities

No sensitive vegetation communities occur within the BSA. The Project would not impact sensitive natural communities.

5.2 - Potential Impacts to Special-Status Plant Species

No special-status plant species occur within the BSA and there is no suitable habitat for any special-status plant species on or near the BSA. The Project would not impact any special-status plant species.

5.3 - Potential Impacts to Special-Status Wildlife Species

Two special-status wildlife species, desert kit fox, and nesting birds were determined to have potential to occur within the BSA as transients. Available habitat within the BSA fulfilling the foraging requirements of these species is limited to none. No potential desert kit fox dens were observed within the BSA and the potential for future habitation by foxes is limited due to the highly disturbed condition of the site. There was no diagnostic sign of nesting birds or raptors during the survey; however, existing transmission and utility poles are located outside the BSA, which would not be affected by the Project, could provide suitable stick nest building structures for nesting birds.

Any special-status species that use the Project as a movement corridor could be indirectly impacted by Project activities, though little wildlife was observed in or near BSA during the reconnaissance survey conducted for the Project.

5.4 - Potential Impacts to Nesting Birds and Raptors

No nests were observed within the BSA. There is potential for birds to forage and nest within the BSA in existing structures, and in tress and utility poles in the surrounding urban areas. If there are active nests present during Project activities, nests could be destroyed, and Project activities could interfere with normal breeding behaviors, which could discourage breeding or lead to nest abandonment or failure.

5.5 - Potential Impacts to Critical Habitat, Movement Corridors and Linkages

5.5.1 - POTENTIAL IMPACTS TO CRITICAL HABITAT

The Project would not impact any designated critical habitat.

5.5.2 - POTENTIAL IMPACTS TO MOVEMENT CORRIDORS AND LINKAGES

Project activities would not impact any movement corridors or habitat linkages.

5.6 - Potential Impacts to Wetlands and Waters

As noted previously, there is one record of a jurisdictional wetland feature within the BSA, as defined by the NWI (USFWS 2023c). However, this feature was not observed during the survey, and it is not currently present on the Project site. There were no other visible signs of waters or wetland features within the BSA, and there would be no impacts to wetland resources.

SECTION 6 - RECOMMENDATIONS

The Project is anticipated to have no impacts to sensitive natural communities, special-status plants, wetlands and water features, Critical Habitat, or migratory corridors. There is a low potential for Project activities to desert kit fox and nesting and foraging birds and raptors. To avoid or minimize impacts to these species and incidental impacts to other common, non-sensitive wildlife species, we recommend that the following measures be implemented as Best Management Practices (BMPs) during Project construction activities:

- A pre-activity survey of the Project and a 250-foot buffer for desert kit fox and nesting migratory birds and a 500-foot buffer for nesting raptors surrounding the Project footprint should be conducted. The survey should occur no less than 14 days prior to the start of construction activities and no more than 30 days prior to the start of construction activities. If construction is delayed beyond 30 days from the time of the survey, then another survey would need to be conducted. The survey should be conducted by a qualified biologist with adequate training and experience conducting surveys for special-status wildlife species.
- If dens or burrows that could support desert kit fox are discovered during the pre-activity survey, appropriate avoidance buffers, as outline in Table 6-1, should be established. No work should occur within these buffers unless a qualified biologist approves and monitors the activity.

**Table 6-1
Disturbance Buffers for Desert Kit Fox Dens**

Sensitive Resource	Buffer Zone from Disturbance (feet)
Potential desert kit fox den	50
Known desert kit fox den	100
Natal desert kit fox den	500

- A Worker Environmental Awareness Training Program should be prepared and presented to all workers that will be on-site during construction activities to minimize or eliminate impacts to sensitive biological resources.
- Project-related vehicles should observe a 20-mph speed limit in all Project areas, except on county roads and state and federal highways; this is particularly important at night when kit foxes, and other animals are most active. To the extent possible, nighttime construction should be minimized. Off-road traffic outside of designated project areas should be prohibited.
- To prevent inadvertent entrapment of kit foxes, and other wildlife species during work activities, the contractor should cover all excavated, steep-walled holes or trenches more than 2 feet deep at the close of each working day with plywood or similar materials or provide one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, the contractor should thoroughly inspect them for trapped wildlife.

- Kit foxes and other wildlife species are attracted to den-like structures such as pipes and may enter stored pipes, becoming trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4 inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for wildlife before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the designated biologist has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved once to remove it from the path of construction activity until the fox has escaped.
- All trash and food items that attract wildlife should be discarded into closed containers and properly disposed of at the end of each workday.
- To prevent harassment or mortality of listed species, no pets should be permitted on the Project site.

To protect nesting migratory birds and raptors, it is recommended that:

- If Project activities are scheduled during the breeding bird season, from February 1 through September 15, then a preconstruction survey for nesting birds should be conducted within the Project site and within a 500-foot radius surrounding the Project site for active nesting sites. Construction activities should not be conducted within 250 feet of an active bird nest and within 500 feet of an active raptor nest. These avoidance distances may be reduced if the qualified biologist determines that activities are not affecting the breeding success of the nesting birds.

SECTION 7 - SUMMARY AND CONCLUSIONS

Land within the Project site is highly disturbed and contains no habitat that would support special-status plant species or sensitive natural communities. There are no designated Critical Habitats, movement corridors, wetlands, or water features that would be impacted by the Project.

Based on the literature and database searches and results of the site survey, there is potential for special-status species to occur on the site: desert kit fox and nesting birds. Due to the disturbed nature of the Project, surrounded by residential development, a main roadway and urban uses, and the lack of a suitable prey base, impacts to the desert kit fox are not anticipated to occur. Desert kit foxes would likely be only transient visitors to the Project site. If nesting birds were to nest in the vicinity of the Project, impacts to the species could occur. Implementation of the recommended BMPs and avoidance measures outlined in Section 6 would minimize any Project impacts to these species.

This BRE has been performed in accordance with professionally accepted biological investigation practices conducted at this time and in this geographic area. The findings and opinions conveyed in this report are based on findings derived from specified historical and literary sources and a biological survey of the Project site and surrounding area. The biological investigation was limited by the scope of work performed. The biological survey was also limited by the environmental conditions present at the time of the survey. In addition, general biological (or protocol) surveys do not guarantee that the organisms are not present and would not be discovered in the future within the site. Mobile wildlife species could occupy the site on a transient basis or re-establish populations in the future. No other guarantees or warranties, expressed or implied, are provided.

SECTION 8 - REFERENCES

- California Department of Fish and Wildlife (CDFW). 2023a. California Natural Diversity Database (CNDDDB), Accessed via: <https://map.dfg.ca.gov/rarefind/view/RareFind.aspx>.
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- United States Geological Survey (USGS). 2023. National Hydrography Dataset (NHD). Accessed via: <https://www.usgs.gov/core-science-systems/ngp/national-hydrography>.
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APPENDIX A

SPECIAL-STATUS SPECIES DATABASE SEARCH RESULTS

TRONA 4 AND 7 SOLAR PROJECT



Selected Elements by Common Name
 California Department of Fish and Wildlife
 California Natural Diversity Database



Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
Amargosa beardtongue <i>Penstemon fulvicornis</i> var. <i>amargosae</i>	PDSCR1L2F2	None	None	G4T3	S2	1B.3
Booth's evening-primrose <i>Eriogonum boothii</i> ssp. <i>boothii</i>	PDONA03052	None	None	G5T4	S3	2B.3
burrowing owl <i>Athene cunicularia</i>	ABNSB10010	None	None	G4	S3	SSC
Chesley's crysanthemum <i>Cryptantha chesleyi</i>	PDBOR0A3M0	None	None	G3	S3	1B.2
Darwin Mesa milk-vetch <i>Astragalus atratus</i> var. <i>menseusis</i>	PDFAB0F0Z3	None	None	G4G5T2	S2	1B.1
desert bighorn sheep <i>Ovis canadensis nelsoni</i>	AMALE04013	None	None	G4T4	S3	FP
desert tortoise <i>Gopherus agassizii</i>	ARAAP01012	Threatened	Threatened	G3	S2S3	
Emory's crucifixion-thorn <i>Castilleja emoryi</i>	PDSIM03030	None	None	G3G4	S2S3	2B.2
Inyo California towhee <i>Melospiza crissalis eremophilus</i>	ABPEX74071	Threatened	Endangered	G4C5T2	S2	
Le Conte's thrasher <i>Toxostoma lecontei</i>	ABPBK08100	None	None	G4	S3	SSC
long-eared owl <i>Aelo cyus</i>	ABNSB13010	None	None	G5	S3?	SSC
Mohave ground squirrel <i>Xerospemophilus mohavensis</i>	AMAFB05150	None	Threatened	G3	S2	
Morrison bumble bee <i>Bombus morrisoni</i>	IIHYM24460	None	None	G3	S1S2	
palmyr bat <i>Antrozous pallidus</i>	AMACC10010	None	None	G4	S3	SSC
Panamint alligator lizard <i>Elgaria panamintina</i>	ARACB01050	None	None	G3	S3	SSC
prairie falcon <i>Falco mexicanus</i>	ABNKD08080	None	None	G5	S4	WL
Ripley's screech owl <i>Alicia ripleyi</i>	PDPLM041E0	None	None	G3	S2	2B.3
Townsend's big-eared bat <i>Corynorhinus townsendi</i>	AMACC08010	None	None	G4	S2	SSC
western mastiff bat <i>Eumops perotis californicus</i>	AMACD02011	None	None	G4G5T4	S3S4	SSC
western small-footed myotis <i>Myotis californicus</i>	AMACC03230	None	None	G5	S3	
western snowy plover <i>Charadrius nivosus nivosus</i>	ABNNE03031	Threatened	None	G3T3	S3	SSC

Record Count: 21



Search Results

12 matches found. Click on scientific name for details

Search Criteria: 9-Quad Include [511773:3511772:3511784:3511782:3511783:3511764:3511762:3511763:3511774]

▲ SCIENTIFIC NAME	COMMON NAME	FAMILY	LIFEFORM	BLDMING PERIOD	FED LIST	STATE LIST	GLOBAL RANK	STATE RANK	CA RARE PLANT RANK	CA ENDEMIC	DATE ADDED	PHOTO
Alliella ricaloi	Ripley's alliella	Polemoniaceae	perennial herb	May-Jul	None	None	G3	S2	2B.3		1974-01-01	 © 2020 Joey Malone
Astragalus strabus var. metescus	Darwin Mesa milk-vetch	Fabaceae	perennial herb	Apr-Jun	None	None	G4G5T2	S2	1B.1	Yes	1980-01-01	No Photo Available
Astragalus ferruginosus var. horreyanus	Bonago milk-vetch	Fabaceae	annual herb	Feb-May	None	None	G5T67	S4	4.3		1974-01-01	No Photo Available
Ceanothus emoryi	Emory's ceanothion	Simaroubaceae	perennial deciduous shrub	(Apr)Jun-Jul(Sep-Oct)	None	None	G3G4	S2S3	2B.2		1974-01-01	No Photo Available
Coryphantha eremicus ssp. eremicus	desert birds-beak	Orobanchaceae	annual herb (hemiparasitic)	Jul-Oct	None	None	G3T9	S3	4.3	Yes	1980-01-01	No Photo Available
Cryptantha clokeyi	Clokey's cryptantha	Boraginaceae	annual herb	Apr	None	None	G3	S3	1B.2	Yes	1994-01-01	No Photo Available
Diplopous repens	Death Valley monkeyflower	Phymaceae	perennial herb	Feb-Jun	None	None	G4	S4	4.3	Yes	1974-01-01	 © 2015 James Moorefield
Eriophora boothii ssp. boothii	Booth's evening-primrose	Onagraceae	annual herb	Apr-Sep	None	None	G5T4	S3	2B.3		1980-01-01	No Photo Available
Lycium torreyi	Torrey's box-thorn	Solanaceae	perennial shrub	(Jan-Feb)Mar-Jun(Sep-Nov)	None	None	G4G6	S3	4.2		2015-05-05	No Photo Available
Penstemon barbatus var. amerigosae	Amergosa beardtongue	Plantaginaceae	perennial herb	Apr-Jun	None	None	G4T3	S2	1B.3		1980-01-01	 Steve Malcom 2017

<i>Bryum violaceum</i>	wine-colored tuft moss	Bryaceae	moss	None	None	Q3G4	S3S4	4 2	2014- 06-10	No Photo Available
<i>Funaria brevipila</i>				OC	GNR	SNR	CBR		2011- 12-13	No Photo Available

Showing 1 to 12 of 12 entries

Suggested Citation:

California Native Plant Society, Rare Plant Program. 2023. Rare Plant Inventory (online edition, v9.5). Website <https://www.careplants.org> [accessed 8 May 2023].



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Carlsbad Fish And Wildlife Office
2177 Salk Avenue - Suite 250
Carlsbad, C A 92008-7385
Phone: (760) 431-9440 Fax: (760) 431-5901



In Reply Refer To:
Project Code: 2023-0079069
Project Name: Trona

May 08, 2023

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A biological assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a biological assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a biological assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found at the Fish and Wildlife Service's Endangered Species Consultation website at:

<https://www.fws.gov/endangered/what-we-do/faq.html>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/eo-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

05/08/2023

3

Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

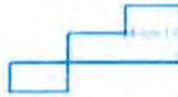
This species list is provided by:

Carlsbad Fish And Wildlife Office
2177 Salk Avenue - Suite 250
Carlsbad, CA 92008-7385
(760) 431-9440

PROJECT SUMMARY

Project Code: 2023-0079069
Project Name: Trona
Project Type: New Constr - Above Ground
Project Description: Trona Project
Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.80623905,-117.350854358784,14z>



Counties: Inyo County, California

ENDANGERED SPECIES ACT SPECIES

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

BIRDS

NAME	STATUS
California Condor <i>Gymnogyps californianus</i> Population: U.S.A. only, except where listed as an experimental population There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8193	Endangered
Inyo California Towhee <i>Pipilo crissalis eremophilus</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3912	Threatened

REPTILES

NAME	STATUS
Desert Tortoise <i>Gopherus agassizii</i> Population: Wherever found, except AZ south and east of Colorado R., and Mexico There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/4481	Threatened

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: QK, Inc.
Name: Karlssa Denney
Address: 5080 California Avenue
Address Line 2: Suite 220
City: Bakersfield
State: CA
Zip: 93309
Email: karlssa.denney@qkinc.com
Phone: 6616162600

APPENDIX B
REPRESENTATIVE PHOTOGRAPHS OF THE
TRONA 4 AND 7 SOLAR PROJECT



Photograph 1: Northeast corner of the Project site, facing south.
GPS Coordinates: 35.807173, -117.348633.
Photograph taken by Eric Madueno on May 8, 2023.



Photograph 2: Northwest corner of the Project site, facing east.
GPS Coordinates: 35.806347, -117.350748.
Photograph taken by Eric Madueno on May 8, 2023.



Photograph 3: Center of the Project site, facing south.
GPS Coordinates: 35.805690, -117.351008.
Photograph taken by Eric Madueno on May 8, 2023.



Photograph 4: Southeast corner of the Project site, facing west.
GPS Coordinates: 35.805503, -117.348542.
Photograph taken by Eric Madueno on May 8, 2023.



Photograph 5: Southwest corner of the Project site, facing east.
GPS Coordinates: 35.805426, -117.353007.
Photograph taken by Eric Madueno on May 8, 2023.



Photograph 6: Southwest portion of the Project site, facing north.
GPS Coordinates: 35.804793, -117.354196.
Photograph taken by Eric Madueno on May 8, 2023.



Photograph 7: Northern portion of the Project site, facing north.
GPS Coordinates: 35.807118, -117.349915.
Photograph taken by Eric Madueno on May 8, 2023.

APPENDIX C
PLANT AND WILDLIFE SPECIES OBSERVED
TRONA 4 AND 7 SOLAR PROJECT

**Table C - 1
Plant and Wildlife Species Observed within the BSA**

Scientific Name	Common Name	Status
Plants		
<i>Ambrosia salsola</i>	cheesebush	None
<i>Chaenactis</i> sp.	pincushion	None
<i>Chylisma claviformis</i>	brown eyes	None
<i>Cryptantha</i> sp.	cryptantha	None
<i>Descurainia pinnata</i>	western tansymustard	None
<i>Grayia spinosa</i>	spiny hopsage	None
<i>Larrea tridentata</i>	creosote	None
<i>Lepidium flavum</i>	yellow pepper grass	None
<i>Loesellastrum matthewsii</i>	desert calico	None
<i>Malacothrix glabrata</i>	desert dandelion	None
<i>Salsola</i> sp.	Russian thistle	None
<i>Suaeda nigra</i>	bush seepweed	None

APPENDIX C

374 Poli Street, Suite 200 • Ventura, California 93003
 Office (805) 275-1515 • Fax (805) 667-8104

Date: June 21, 2023

To: Valley Wide Engineering & Construction Services

From: Graham Stephens; and, Andre Almeida, P.E. – Sespe Consulting, Inc.

Re: CEQA Air Quality and Greenhouse Gas Analysis Memorandum for the Barker Photovoltaic Solar Project in Inyo County, California

Sespe Consulting, Inc. (“Sespe”) has prepared the following memorandum to evaluate the potential air quality and greenhouse gas impacts resulting from the construction and operation of two proposed photovoltaic (PV) solar facilities located in Inyo County, California. Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site (collectively referred to herein as the “Project”). See Figure 1 in Attachment A which shows the Project Area boundaries, and the surrounding environmental setting.

The California Environmental Quality Act (CEQA) requires an environmental analysis, including those related to air quality and greenhouse gases (GHG), for projects requiring discretionary approval by a local lead agency with land use authority, which in this case is Inyo County (the “County”). Therefore, pursuant to CEQA, this memorandum describes and analyzes the proposed Project’s estimated air and GHG emissions and associated impacts. Potential air toxics emissions and associated health risks are also evaluated. Table 1 below summarizes the applicable CEQA Appendix G – Environmental Checklist Form questions that are used as criteria against which to evaluate the significance of the Project impacts related air quality and GHG resources, as well as the corresponding significance thresholds determinations.

Table 1: Summary of CEQA Significance Determinations

CEQA Threshold	Impact Determination
AIR QUALITY-1: Would the Project conflict with or obstruct implementation of the applicable air quality plan?	Less Than Significant
AIR QUALITY-2: Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	Less Than Significant
AIR QUALITY-3: Would the Project expose sensitive receptors to substantial pollutant concentrations?	Less Than Significant
AIR QUALITY-4: Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	Less Than Significant

CEQA Threshold	Impact Determination
GREENHOUSE GAS EMISSIONS-1: Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	Less Than Significant
GREENHOUSE GAS EMISSIONS-2: Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	No Impact

PROJECT SUMMARY

The Project is located on contiguous County parcels (assessor’s parcel numbers [APNs] 038-330-32, 038-330-33, 038-330-34 and 038-330-46), located north of the unincorporated town of Trona, California. The Project consists of two separate applications for renewable energy permits, one covering approximately 15 acres (referred to as the Trona 4 site) and the other covering approximately 5 acres (referred to as the Trona 7 site). Both the Trona 4 and Trona 7 solar arrays will connect to the existing Southern California Edison (SCE) 33-kilovolt (kV) transmission line that passes through the Project area with separate connections.

The Trona 7 PV solar facility would consist of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The Trona 4 site would also generate approximately 3.0 MW of electricity utilizing approximately 6,000 single-axis tracker solar panels. Both sites are currently graded and highly disturbed with little to no natural vegetation, habitat, water features or structures. A private dirt track and a junk yard also existed within the western portion of the Trona 4 site, but both features have been recently removed.

The Project Area is located approximately 3.0 miles north of the unincorporated Trona community, and approximately 1.0 mile west of the Trona Airport. Surrounding areas are generally undeveloped, flat or gently sloped, graded and without significant vegetation. The Project Area is bordered by an existing solar facility to the south, scattered residential homes to the west, and miscellaneous abandoned vehicles, local trash and debris. Access to the site is provided by dirt roads connecting to Trona Wildrose Road to the east of the site. See Figure 1 (Attachment A) which shows the Project Area and adjacent land uses.

Project Construction

Project construction will involve minor land disturbance, consisting of minor leveling, digging of shallow trenches for placing underground conduits, and installation of a 20-foot by 20-foot concrete pad for a transformer. Site preparation will require approximately two days using a grader and a backhoe. Water trucks will also be utilized as needed to control dust throughout the construction phase. In addition to regular watering using the mobile water trucks, further dust controls will include the placement of crushed limestone on the ground, and the application of a non-toxic clay polymer compound, such as EarthGlue, to provide further dust suppression as needed. Stabilized construction entrance and exits will also be installed and maintained at driveways to reduce sediment track-out onto the adjacent public roadway.

Following the trenching and leveling, metal pole supports will be installed on which the solar panels will be mounted. Poles will be driven directly into the ground using a compact, lightweight pile driver. A forklift may also

be used onsite during this construction phase. Installation of the mounting poles, solar panels and related infrastructure (transformer, connection to adjacent SCE lines, etc.) will take approximately two months. Regular watering, limestone base, and chemical binders (e.g., EarthGlue) will continue to be used onsite to control dust during this phase of construction. Once operational, onsite control of fugitive dust is critical to solar operations, as solar panels coated by dust do not function at full capacity. As such, dust controls such the limestone base and/or EarthGlue binder will remain in place and be maintained post-construction.

Once installed, the solar panels will reach a maximum height of 12-feet above the ground surface (or less, as the panels change slightly in height as they rotate slowly throughout the day to track the sun). The solar panels will also feature anti-reflective coatings to minimize daytime glare and reflectivity. Both the Trona 4 and 7 sites will be fenced and gated to prevent unauthorized access.

Per information provided by the Applicant, Table 2 below summarizes the types of equipment that would operate onsite during the Project’s construction phase, as well as the activity levels. This information is utilized to quantify the Project’s air emissions resulting from onsite construction activities.

Table 2: Project Construction Equipment List and Activity Level

Equipment	Engine Tier	Total Duration of Operations		Onsite Location
		Total Weeks	Total Hours	
Grader	Tier 4	2	40	Trona 4 (former track area)
Bulldozer	Tier 4	2	40	Trona 4 (former track area)
Water truck (4,000 gal.)	Tier 4	8	150	Throughout Site
Water truck (4,000 gal.)	Tier 4	8	150	Throughout Site
Forklift (Reach)	Tier 4	8	150	Throughout Site
PD5 Pile Driver	Tier 4	8	150	Throughout Site
Light-Duty Pickups	Tier 4	8	150	Throughout Site
Light-Duty Pickups	Tier 4	8	150	Throughout Site

Project Operations

After construction is complete, the PV solar facilities will be placed into commercial operation. Unlike construction, operation of the PV Solar Facilities will not require permanent onsite personnel, as control of the solar array would be automated and/or controlled remotely. At times, operations staff would come to the site to conduct routine maintenance and inspections, but these activities would be infrequent, and would only require one light-duty work vehicle travelling to and from the site (assume approximately 15 vehicle miles travelled round trip per site inspection). At most, it’s assumed that up to one site inspection will occur per week during normal facility operations. Table 3 below summarizes the vehicle activity levels used to quantify operational emissions.

Table 3: Project Operations Vehicle Activity Level

Vehicle Type	Engine Tier	Roundtrips per Year	VMT's per Roundtrip	Notes / Assumptions
Light-Duty Pickup Truck	Tier 4	52	15	Assume vehicle would originate from nearby Ridgecrest (approximately 15 miles roundtrip). To conservatively estimate vehicle emissions, the analysis assumed up to one inspection/maintenance trip could occur per week (in reality, periodic inspections would most likely be far less).

Note that in addition to fuel combustion in off-road construction equipment and on-road vehicles, electricity consumption is also considered an indirect source of GHG emissions under CEQA. However, because the Project involves PV solar facilities, it would therefore be a net producer of renewable electricity, and the Project would therefore not produce indirect GHG's as a result of electricity consumption. See the discussion below for additional detail.

APPLICABLE CEQA METHODOLOGIES AND SIGNIFICANCE THRESHOLDS

The Project Area is located in the Great Basin Valleys Air Basin (GBVAB), and is within the jurisdictional boundaries of the Great Basin Unified Air Pollution Control District (GBUAPCD). While the GBUAPCD has regulatory authority over stationary air emissions sources and administers permits limiting emissions of criteria air pollutants and toxic air contaminants (TACs) within the GBVAB, they have yet to establish numerical significance thresholds or publish guidance for evaluating air quality and GHG impacts under CEQA. Similarly, Inyo County also has no established thresholds or CEQA guidance. Therefore, in lieu of appropriate local thresholds, numerical standards published by the Mojave Desert Air Quality Management District (MDAQMD) and the South Coast Air Quality Management District (SCAQMD) are utilized within this memorandum to determine the significance of Project impacts. Use of the MDAQMD and SCAQMD thresholds is also consistent with other CEQA documents certified by both the County and GBUAPCD, including the Environmental Impact Report (EIR) certified by the County in 2015 for their Renewable Energy General Plan Amendment (REGPA) (Inyo County, 2015).

MDAQMD's *California Environmental Quality Act (CEQA) and Federal Conformity Guidelines* (MDAQMD, 2020) contains various significance thresholds that can be applied to the Project. Specifically, MDAQMD guidance states that a project would have a potentially significant air quality impact under CEQA if it:

1. Generates total emissions (direct and indirect) in excess of the thresholds given in Table 4;
2. Generates a violation of any ambient air quality standard when added to the local background;
3. Does not conform with the applicable attainment or maintenance plan(s)¹;
4. Exposes sensitive receptors to substantial pollutant concentrations, including those resulting in a cancer risk greater than or equal to 10 in a million and/or a Hazard Index (HI) (non-cancerous) greater than or equal to 1.

¹ A project is deemed to not exceed this threshold, and hence not be significant, if it is consistent with the existing land use plan. Zoning changes, specific plans, general plan amendments and similar land use plan changes which do not increase dwelling unit density, do not increase vehicle trips, and do not increase vehicle miles traveled are also deemed to not exceed this threshold (MDAQMD, 2020).

Table 4: MDAQMD CEQA Numeric Emissions Thresholds

Criteria Pollutant	Annual Threshold (short tons)	Daily Threshold (pounds)
Greenhouse Gases (CO ₂ e)	100,000	548,000
Carbon Monoxide (CO)	100	548
Oxides of Nitrogen (NO _x)	25	137
Volatile Organic Compounds (VOC)	25	137
Oxides of Sulfur (SO _x)	25	137
Particulate Matter (PM ₁₀)	15	82
Particulate Matter (PM _{2.5})	12	65
Hydrogen Sulfide (H ₂ S)	10	54
Lead (Pb)	0.6	3

In addition to the MDAQMD thresholds summarized above, additional guidance and thresholds published by the SCAQMD are also utilized. Specifically, SCAQMD’s health risk screening tool is utilized to address CEQA Guidelines Appendix G, Air Quality Threshold Criteria (c) below.

With respect to GHG emissions, most requirements for sources and projects to reduce GHG emissions in California originate from the Assembly Bill (AB) 32 Scoping Plan (the “Scoping Plan”) and associated programs administered by the California Air Resources Control Board (CARB). The Scoping Plan is the State’s blueprint for how GHG reductions will be achieved. Local jurisdictions may have requirements as well, but the overall effort is centralized with CARB. Therefore, potential GHG impacts under CEQA can be determined based on whether a specific project may conflict with the current Scoping Plan.

In addition to the state-wide Scoping Plan, in 2008 the SCAQMD adopted the Interim GHG Significance Threshold which takes a tiered approach whereby individual projects can be “screened-out” and found to have less than significant CEQA GHG impacts by one of the following five methods: exemption from CEQA, GHG emissions already analyzed in GHG budgets from in approved regional plans, having emissions less than the 10,000 metric tons of CO₂ equivalent emissions per year (MT CO₂e/year) screening level for industrial projects, meeting best performance standards, or purchase GHG emissions offsets by funding projects or buying them outright. Projects with incremental increases less than these thresholds can be screened out of further analysis and are not cumulatively considerable.

In the decade since the SCAQMD adopted this Interim GHG Significance Threshold, several new laws and executive orders were adopted that require additional reductions in years after 2020. For instance, Senate Bill 32 (Lara, 2016) requires that GHG emissions be 40% less than 1990 levels by 2030. Senate Bill 100 (de Leon, 2018), which was signed by the Governor, requires 100% zero-carbon electricity by 2045. On the day SB 100 was signed into law, the Governor also signed Executive Order B-55-18 which commits California to total, economy-wide carbon neutrality by 2045.

For these reasons, Project’s GHG emissions levels and the use of the MDAQMD and SCAQMD screening threshold presented below are for disclosure purposes as well as CEQA compliance, because this impact analysis for the Project follows the approach certified by SCAQMD for other projects. The approach used by SCAQMD to assess GHG impacts from those project recognized that consumers of electricity and transportation fuels are, in effect, regulated by requiring providers and importers of electricity and fuel to participate in the GHG Cap-and-Trade Program and other state/sector-wide programs (e.g., low carbon fuel standard, renewable portfolio standard, etc.). Each such sector-wide program exists within the framework of AB 32 and its descendant laws the purpose of which is to achieve GHG emissions reductions consistent with the AB 32 Scoping Plan.

EMISSIONS QUANTIFICATION METHODOLOGIES

This assessment incorporates the following methodologies in the quantification of criteria pollutant, toxic air contaminant (TAC) and GHG emissions during the Project’s construction and operation phases. Additionally, health risk screening was performed as outlined in this section. Detailed emissions calculations can be found in Attachment B, and documentation related to the health risk screening can be found in Attachment C.

Onsite Project construction phase emissions were determined using CARB’s California Emissions Estimator Model (CalEEMod®) and the equipment and activity levels summarized in Table 2 above. Attachment D contains the CalEEMod output results and documentation for the Project. Off-site construction phase vehicle exhaust emissions were calculated separately, assuming up to ten contractors would drive 15 miles round trip per day, for up to 25 total days of construction. Similarly, operation phase vehicle exhaust emissions were calculated assuming up to one employee trip per day, travelling a total of 1S miles to and from the site, as well as 1 mile within the site boundaries. Employee truck emissions were estimated using CARB’s Emissions Factors (EMFAC) 2021 model, assuming each employee would utilize a “light-duty truck (LDT2)” with a diesel engine vehicle. Lastly, road dust emissions from onsite vehicle traffic were calculated using the unpaved road emissions factor outlined in AP-42 Section 13.2.2 published by the Environmental Protection Agency (EPA). TACs from road dust emissions were quantified using San Diego Air Pollution Control District (SDAPCD) speciation profile R01 – *Haul Roads, General* (SDAPCD, 2021).

Health risk screening was performed using the SCAQMD Risk Tool V1.105 (the “Risk Tool”). A Tier 2 analysis was performed per SCAQMD Risk Assessment Procedures version 8.1. The analysis represents a highly conservative risk assessment used to determine if more complex assessment (i.e., modeling) is necessary. Per SCAQMD Risk Assessment Procedures version 8.1:

Tier 2 is a screening risk assessment, which includes procedures for determining the level of risk from a source for cancer risk, cancer burden, HIA, HIC8, and HIC. If the estimated risk from Tier 2 screening is below Rule 1401 limits, then a more detailed evaluation is not necessary.

In order to perform health risk screening for each risk type (e.g., cancer, chronic, and acute impacts) over the course of the Project, the screening analysis for the Project was divided into four phases as outlined in Table 5 below. Also see Attachment C for additional detail.

Table 5: Screening Health Risk Assessment Phases

Health Risk Screening Phase Title	Project Phase	Risk Type Assessed	Model Duration (Years)
Screen 1	Construction	Acute	2
Screen 2a	Construction	Cancer/Chronic	2
Screen 2b	Operation	Cancer/Chronic	30
Screen 3	Operation	Acute	2

Notes: Total Project cancer risk is determined by combining risk from Screen 2a and Screen 2b. Attachment B contains TAC emissions quantified by Project phase. Attachment C contains SCAQMD Risk Tool output documentation.

Model duration used in the health screening was conservatively chosen based on the available model duration options. Although onsite construction activities would not last longer than a single year (i.e., estimate to take approximately 2 months total), in the Risk Tool two years is the shortest duration available, and 30 years is the longest. Project health risk emissions were conservatively modeled using a point source in the Tier 2 analysis. Meteorological data from the “Desert Hot Springs Airport” was used in the risk tool, as the climate in Desert Hot

Springs area is similar to that of Inyo County. Residential receptor distance was set to 130 meters (i.e., 425-feet) and commercial distance was set to 1,000 meters (i.e., 3,280-feet).

CEQA IMPACT ANALYSIS

The following section summarizes the Project's potential impacts with respects to air quality and GHGs, which address the specific impact statements outlined in the current CEQA Guidelines Appendix G Environmental Checklist Form (California Code of Regulations, Title 14). As discussed above, this analysis primarily uses the MDAQMD approved methods and thresholds to quantify the impacts associated with the Project. Methods or guidance provided by the SCAQMD were also used in certain cases to supplement MDAQMD guidance when applicable.

Air Quality

Air Quality-1: *Would the Project conflict with or obstruct implementation of the applicable air quality plan? (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (a))*

The Project would be required to comply with regional air quality rules promulgated by the GBUAPCD and participate in reducing air pollutant emissions. As the local air district with jurisdiction over the Project, the GBUAPCD is the applicable agency tasked with implementing programs and regulations required by the Clean Air Act (CAA) and the California Clean Air Act (CCAA). In that capacity, the GBUAPCD has prepared plans to attain Federal and State ambient air quality standards. Pursuant to the CAA, the GBUAPCD is required to reduce emissions of criteria pollutants for which the GBVAB is in nonattainment. While portions of Inyo County are in nonattainment for particulate matter (i.e., PM₁₀), the Project Area is located within the Coso Junction PM₁₀ State Implementation Plan (SIP) (GBUAPCD, 2021), which was redesignated as in attainment by the EPA in 2010 per the National Ambient Air Quality Standards (NAAQS). While the Project is not located in a nonattainment area for PM₁₀, the GBUAPCD still maintains established thresholds of significance for criteria pollutant emissions for any new stationary source or modification of an existing stationary source as part of their "New Source Review Requirements for Determining Impact on Air Quality" (Rule 216).

As discussed above, the Project proposes to develop PV solar facilities on an approximately 20-acre Project Area, located north of the town of Trona. Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollutant emissions, including those required under their new source review requirements. Further, development of renewable solar projects in Inyo County was contemplated as part of the County's REGPA, and the Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.

The primary air emissions associated with the Project would be fugitive dust emissions during facility construction, and to a lesser extent fugitive dust due to vehicles travelling on unpaved roadways during facility operations. Fugitive dust is addressed under GBUAPCD Rules 401 and 402, and the Applicant would be required to comply with applicable provisions found therein. While some grading and clearing would be required to prepare the site for installation of the solar panels, because the site is already relatively flat, and because much of the site has already been prepared, only minimal grading would be required. In accordance with GBUAPCD rules, mobile water trucks will also be used onsite throughout the entirety of the construction phase to control fugitive dust. Limestone base materials and/or soil binders such as EarthGlue will also be used onsite to control dust emissions, and will remain on certain portions of the site to reduce dust once the facility is put into normal operation. Note,

implementation of these dust control measures is consistent with applicable GBUAPCD rules, as well as the standard mitigations measures described within the EIR prepared by Inyo County in support of the REGPA.

Through compliance with GBUAPCD's new source review for stationary sources, and through implementation of onsite fugitive dust control measures consistent with GBUAPCD's Rule 401 and 402 requirements, as well as the programmatic mitigations described within the EIR prepared by the County for their REGPA, the Project would be consistent with applicable air quality plans adopted by the GBUAPCD. Therefore, the Project would not obstruct implementation of applicable air quality plans, and impacts would therefore be less than significant with no mitigation required.

Air Quality-2: *Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard? (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (b))*

CEQA defines cumulative impacts as two or more individual effects which, when considered together, are either significant or "cumulatively considerable", meaning they add considerably to a significant environmental impact. An adequate cumulative impact analysis considers a project over time and in conjunction with other past, present, and reasonably foreseeable future projects whose impacts might compound those of the project being assessed.

By its very nature, air pollution is largely a cumulative impact, and is a result of past and present development. Similarly, the application of thresholds of significance for criteria pollutants, such as those promulgated by the MDAQMD, is also relevant to the determination of whether a project's individual emissions would have a cumulatively significant impact on air quality.

A CEQA lead agency, in this case Inyo County, may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program, including but not limited to an air quality attainment or maintenance plan that provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area in which the project is located (CCR §15064(h)(3)).

Thus, if project emissions (i.e., change from baseline) exceed the MDAQMD thresholds for carbon monoxide (CO), Oxides of Nitrogen (NOx), Volatile Organic Compounds (VOC), Oxides of Sulfur (SOx), and particulate matter (PM₁₀ or PM_{2.5}), hydrogen sulfide (H₂S), or lead (Pb), summarized previously in Table 4 above, then a project would potentially result in a cumulatively considerable net increase of a criteria pollutant. The applicable MDAQMD significance criteria as well as the Project's worst-case annual and daily emissions are presented in Table 6 and Table 7 below. Note that the Project year and day with the maximum amount of emissions were compared to the applicable thresholds to determine the potential significance of Project criteria pollutant emissions. See the emissions summaries in Attachment B, as well as the CalEEMod output files in Attachment D, for additional detail.

Table 6: Project Criteria Pollutant Increase (Annual Emissions)

Pollutant	Maximum Project Emissions (tons/year)	Significance Threshold (tons/year)	Exceeds Criteria?
Carbon Monoxide (CO)	0.4	100	No
Oxides of Nitrogen (NO _x)	0.2	25	No
Volatile Organic Compounds (VOC)	0.009	25	No
Oxides of Sulfur (SO _x)	0.001	25	No
Particulate Matter (PM ₁₀)	0.13	15	No
Particulate Matter (PM _{2.5})	0.028	12	No
Hydrogen Sulfide (H ₂ S)	0	10	No
Lead (Pb)	3.0E-06	0.6	No

Note, none of the Project's construction or operational emissions sources would emit Hydrogen Sulfide (H₂S).

Table 7: Project Criteria Pollutant Increase (Daily Emissions)

Pollutant	Maximum Project Emissions (pounds/day)	Significance Threshold (pounds/day)	Exceeds Criteria?
Carbon Monoxide (CO)	32	548	No
Oxides of Nitrogen (NO _x)	16	137	No
Volatile Organic Compounds (VOC)	0.8	137	No
Oxides of Sulfur (SO _x)	0.1	137	No
Particulate Matter (PM ₁₀)	0.001	82	No
Particulate Matter (PM _{2.5})	0.5	65	No
Hydrogen Sulfide (H ₂ S)	0	54	No
Lead (Pb)	0.0001	3	No

Note, none of the Project's construction or operational emissions sources would emit Hydrogen Sulfide (H₂S).

Table 6 and Table 7 above show that the Project's estimated daily and annual emissions are well below established MDAQMD thresholds. Therefore, the Project would not result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable Federal or State ambient air quality standard, and impacts would be less than significant with no mitigation required.

Air Quality-3: Would the Project expose sensitive receptors to substantial pollutant concentrations? (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (c))

Determination of whether project emissions would expose receptors to substantial pollutant concentrations is a function of assessing potential health risks. Sensitive receptors are facilities that house or attract children, the elderly, people with illnesses, or others who are especially sensitive to the effects of air pollutants. Hospitals, schools, convalescent facilities, and residential areas are examples of sensitive receptors. When evaluating whether a project has the potential to result in localized impacts, the nature of the air pollutant emissions, the proximity between the emitting facility and sensitive receptors, the direction of prevailing winds, and local topography must be considered.

A Health Risk Screening was performed to evaluate the effects of TACs, including diesel particulate matter (DPM) from vehicle engines, and various substances found in fugitive dust emissions (i.e., metals and respirable crystalline silica). Health risks associated with the Project are presented in Table 8, which shows impacts are well

below applicable SCAQMD screening thresholds. Therefore, there would be no new or significant health risk impacts from the Project, with no mitigation required. See the health risk screening results in Attachment C for additional detail.

Table 8: Project Health Risk Screening Results

Health Risk Screening Phase	Risk Type Assessed	Risk Units	Maximum Risk Value	Risk Threshold	Threshold Exceeded?
Screen 1	Acute	Hazard Index	0.0003	1.0	No
Screen 2a	Chronic	Hazard Index	0.0009	1.0	No
	Cancer	MICR Per Million Exposed	1.9	10	No
Screen 2b	Chronic	Hazard Index	0.0006	1.0	No
	Cancer	MICR Per Million Exposed	0.009	10	No
Screen 2 (Total)	Cancer	MICR Per Million Exposed	1.9	10	No
Screen 3	Acute	Hazard Index	0.0007	1.0	No

Notes: See Attachment C for the risk tool output files. Values in the table above may differ slightly from the attached values due to rounding. MICR = "Maximum Individual Cancer Risk".

Air Quality-4: *Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?* (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (d))

Due to the subjective nature of odor impacts, the number of variables that can influence the potential for an odor impact, and the variety of odor sources, there are no quantitative or formulaic methodologies to determine the presence of a significant odor impact. The intensity of an odor source's operations and its proximity to sensitive receptors influences the potential significance of odor emissions. Substantial odor-generating operations generally include wastewater treatment facilities, composting facilities, agricultural operations, and heavy industrial operations. Note, the Project would not involve any activities with the potential to generate odor impacts. While diesel exhaust from mobile equipment/vehicles, such as those that would be used onsite during construction, has a slight odor, odor intensity would decrease rapidly with distance and is not expected to be frequently (or at all) detectable at locations outside of the Project Area boundaries. No other potential source of odors are associated with the Project construction activities or ongoing operations. Further, the Project would comply with GBUAPCD's nuisance rules, including those related to odor. As such, the Project will not result in other emissions (such as those leading to odors) that could adversely affect a substantial number of people, and therefore the Project impacts were determined to be less than significant with no mitigation required.

Greenhouse Gases

Greenhouse Gas Emissions-1: *Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?* (CEQA Guidelines Appendix G, Greenhouse Gas Threshold Criteria (a))

In general, it is widely recognized that no single project could generate enough GHG emissions to noticeably change the global climate temperature; however, the combination of GHG emissions from past, present, and future projects could contribute substantially to global climate change. GHG emissions, and their associated contribution to climate change, are inherently a cumulative impact issue.

This concept is also reflected in California’s 2022 *Scoping Plan for Achieving Carbon Neutrality* (CARB, 2022). Specifically, regulations are implemented in order to reduce the cumulative impact of GHG emissions on a statewide level, and generally not at the project-level. Sources of GHG emission associated with the Project include fuel combustion within construction equipment and vehicles travelling to and from the site, and indirect GHG’s emitted through electricity consumption. Fuel is regulated at a level in the supply chain above an individual project, such that any project has no choice but to purchase and use fuel energy in California which is already regulated. The Project therefore is simply a location in which GHG emissions are emitted by consuming fuel that was already regulated through Cap-and-Trade, applicable Low-Carbon Fuel Standards (GHG) and other applicable regulations higher up the supply chain.

To comply with CEQA, GHG emissions impacts from implementing the Project were calculated at the Project-specific level for construction and operations, and compared to applicable significance thresholds published by the MDAQMD and the SCAQMD. Impact analysis for the Project follows the approach certified by SCAQMD for other projects, which takes into account the cumulative nature of the energy industry and recognizes that consumers of electricity and diesel fuel are, in effect, regulated by higher level emissions restrictions on the producers of these energy sources. As shown in Table 9 below, the Project’s worst case annual GHG emissions are well below the applicable MDAQMD and the SCAQMD screening thresholds.

Table 9: Project GHG Emissions

Source / Parameter	CO ₂ e (MT/year)
Total Project Emissions	63
MDAQMD Screening Threshold	100,000
Exceed?	No
SCAQMD Screening Threshold	10,000
Exceed?	No

For the reasons outlined above, the proposed Project would have a less than significant GHG impact, with no mitigation measures required.

Greenhouse Gas Emissions-2: *Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?* (CEQA Guidelines Appendix G, Greenhouse Gas Threshold Criteria (b))

Project emissions of GHGs are presented in Table 9 above. The Project would emit GHGs from fuel burned in mobile equipment and vehicle engines; however, the quantity of fuel consumed would be minimal. Specifically, onsite construction activities would be temporary in nature (take approximately two months to complete). Similarly, because the facility would be monitored remotely once placed into operation, operational fuel consumption would also be minimal (estimate a maximum of up to one inspection per week). Transportation fuel suppliers and importers, such as the ones the Applicant would use during both construction and operation, are required to report emissions under the Cap-and-Trade which is designed to reduce GHG emissions as needed to achieve emissions reductions described in related planning documents, which primarily consists of the AB 32 Scoping Plan(s), described previously. Thus, the emissions reductions will occur at a level in the supply chain above

the Project which will have no choice but to use fuels with GHG intensities that are consistent with the CARB's Scoping Plan.

Furthermore, because the Project involves renewable PV solar facilities, development of the Project would help California meet their state-wide climate change goals by producing clean renewable electricity within Inyo County. Energy generated by the Project likely would replace energy produced by the burning of fossil fuels elsewhere in the region, thereby resulting in a net reduction of GHG emissions. For example, based upon data described within the EIR published for the County's REGPA, a renewable solar project with a capacity of 900 MW could offset up to 1 million MT of CO₂e per year. As noted above, collectively the Project would have a total capacity of approximately 4.2 MW, which would result in significant GHG offsets per the REGPA methodology.

In summary, the GHGs associated with the Project would be consistent with the AB 32 Scoping Plan and applicable County and GBUAPCD policies. Conversely, by generating sustainable solar electricity, the Project is expected to offset GHG emissions that would otherwise result due to the burning of fossil fuels at other power generating facilities, which would therefore result in a beneficial impact. Therefore, the Project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases, and there would be no impact.

CONCLUSIONS

In summary, the Project would generate a small amount of air quality and GHG emissions due to fuel combustion within offroad construction equipment and on-road vehicles. These impacts will be less than significant per the applicable CEQA guidance and significance thresholds. Specifically, onsite equipment and offsite vehicles travelling to and from the site during the Project's construction phase would generate minimal and short-term air emissions over an approximately two month period, and onsite construction emissions were found to be below applicable numeric thresholds.

Once the facility is constructed and put into operation, long-term air emissions would also be minimal and well below applicable CEQA thresholds. Because the solar facilities would be monitored remotely and would generally operate without the need for a permanent onsite staff, at most is estimated that a single-light duty truck would travel to and from the site no more than once per week to conduct routine inspections and maintenance. As such, air emissions associated with ongoing operations were also found to be less than significant.

In addition to combustion emissions, fugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment track-out onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout the life of the Project, which will in turn ensure impacts remain less than significant.

Lastly, because the proposed facility is a renewable energy project, the Project would have a beneficial impact related to GHG emissions and climate change. The County, through adoption of their REGPA, is promoting

renewable solar development to reduce GHG emissions and help the region and state meet their aggressive climate change goals. Once operational, the Project would provide a renewable source of electricity that would offset existing electrical generating facilities that rely upon the combustion of fossil fuels. As such, the Project would be consistent with the County's REGPA and would have a beneficial effect related to GHG.

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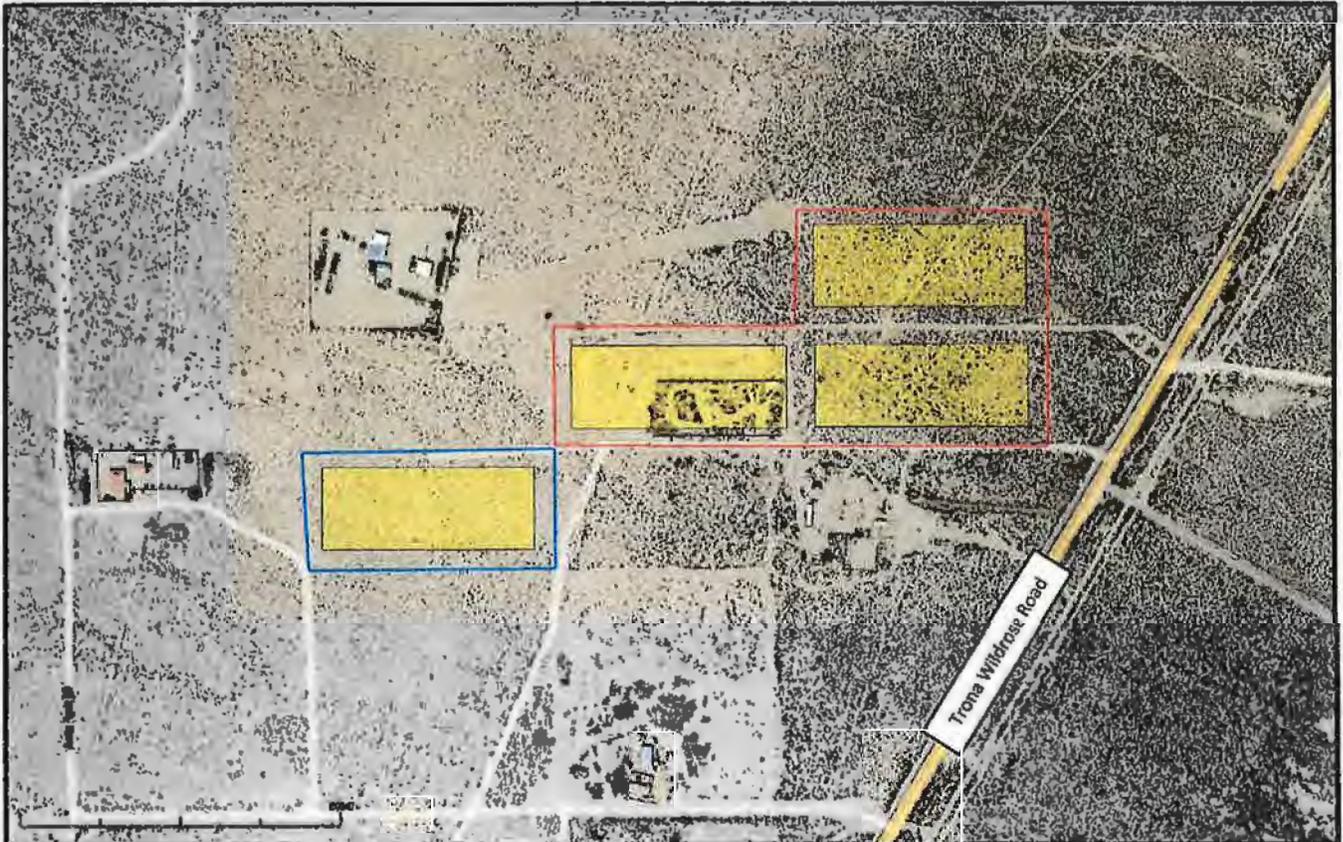
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ATTACHMENTS

- A. Figures
- B. Project Emissions Summary (Construction and Operations)
- C. SCAQMD's Health Risk Screening Tool Output File/Results
- D. CalEEMod Output File/Results

ATTACHMENT A

Figures



Source: Google Earth™ (2023)

- Project Site Boundary - Trona 4 (approx.)
- Project Site Boundary - Trona 7 (approx.)
- Proposed Solar Array Footprint/Construction Area (approx.)



SESPE
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FIGURE

1

PROJECT OVERVIEW

Inyo County Solar Project
Trona Wildrose Road
Inyo County, California

PROJECT #:	230510-0036	DATE:	6/5/23
SCALE:	See Above	DRAWN BY:	GPS

ATTACHMENT B

Project Emissions Summary (Construction and Operations)

Summary of Project Emissions						
Criteria Pollutant	Annual Threshold (short tons) ^A	Maximum Year Project Emissions (short tons)	Annual Threshold Exceeded?	Daily Threshold (pounds) ^A	Max Day Project Emissions (pounds)	Daily Threshold Exceeded?
Greenhouse Gases (CO ₂ e)	100,000	63	No	548,000	6,388	No
Carbon Monoxide (CO)	100	0.4	No	548	32	No
Oxides of Nitrogen (NO _x)	25	0.2	No	137	16	No
Volatile Organic Compounds (VOC)	25	0.009	No	137	0.8	No
Oxides of Sulfur (SO _x)	25	0.001	No	137	0.1	No
Particulate Matter (PM ₁₀)	15	0.130	No	82	0.001	No
Particulate Matter (PM _{2.5})	12	0.028	No	65	0.5	No
Hydrogen Sulfide (H ₂ S) ^B	10	0	No	54	0	No
Lead (Pb)	0.6	3.0E-06	No	3	0.0001	No

Footnotes:

A - Annual and daily thresholds taken from MDAQMD's *California Environmental Quality Act (CEQA) and Federal Conformity Guidelines* (February 2020).

B - Note, none of the Project's construction or operational emissions sources would emit Hydrogen Sulfide (H₂S).

Onsite Construction Phase Emissions (from CalEEMod)

2. Emissions Summary

2.1 Construction Emissions Compared Against Thresholds

	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	TOG	NOx	CO	SO ₂	CO ₂
Daily, Winter (Max) Unmit. (lbs)	0.1150	0.1493	0.2643	0.1150	0.0150	0.1500	0.3172	16.0921	32.2832	0.0562	6282.57
Average Daily (Max) Unmit. (lbs)	0.0068	0.0088	0.0156	0.0068	0.0021	0.0069	0.0479	0.9552	1.9178	0.0093	371.23
Annual (Max) Unmit. (tons)	0.0012	0.0016	0.0028	0.0012	0.0004	0.0016	0.0087	0.1743	0.3500	0.0006	61.46

Offsite Construction Phase Emissions (Calculated)

Construction Emissions	PM10 (total)	PM10 (Dust)	Exhaust Emissions								
			PM10	PM2.5	NOx	CO ₂	N ₂ O	ROG	TOG	CO	SO ₂
Offsite Emissions (lbs/day)	0.00665278	N/A	5.87E-03	0.00188557	0.01582079	109,879,352.4	0.000283472	0.016681332	0.006102966	0.006947864	0.0608884
Offsite Emissions (lbs/yr)	0.171631949	N/A	0.17163	0.007272	0.49702	2646.98331	0.00709	0.41709	0.15257	0.17970	1.52221

Off-site operation - LD12 Miles Per Day: 150 (Emissions based on 150 Miles Per Day)

Off-site operation - LD12 Miles Per Year: 3750 (Emissions based on 3750 Miles Per Year)

Onsite and Offsite Operation Phase Emissions (Calculated)

Operation Emissions	PM10 (total)	PM10 (Dust)	Exhaust Emissions								
			PM10	PM2.5	NOx	CO ₂	N ₂ O	ROG	TOG	CO	SO ₂
Onsite Emissions (lbs/hr)	2.6	2.6	4.58E-05	2.19E-05	1.06E-04	7.06E-01	1.89E-06	1.11E-04	4.07E-05	4.53E-05	4.06E-04
Onsite Emissions (lbs/day)	2.6	2.6	4.58E-05	2.12577E-05	0.00010587	0.705862216	1.88981E-06	0.000111209	4.06866E-05	4.6319E-05	0.0004056
Onsite Emissions (lbs/yr)	260	260	0.011899815	0.005527005	0.0275267	183.5241762	0.000491352	0.028934309	0.010578509	0.01204293	0.1058399
Offsite Emissions (lbs/day)	0.00069	N/A	5.87E-06	0.000318666	0.00156906	10.58793324	2.83472E-05	0.001668133	0.000610799	0.000694784	0.0068888
Offsite Emissions (lbs/yr)	0.11	N/A	0.17497227	0.002905075	0.41290054	2752.662643	0.007370273	0.43321463	0.15867764	0.18064984	1.5830921

Onsite operation - LD12 Miles Per Day Traveled: 1

Off-site operation - LD12 Miles Per Day Traveled: 15

Health Risk Screening Inputs

Onsite Pollutant Emissions	Construction Acute (Screen 1)	Cancer/Chronic (Screen 2a)	Cancer/Chronic (Screen 2b)	Operation Acute (Screen 3)
	Max Day Emissions Rate - Construction (lbs/hr)	Max Year Average Emissions Rate - Construction (lbs/hr)	Max Year Average Emissions Rate - Operation (lbs/hr)	Max Day Emissions Rate - Construction (lbs/hr)
Arsenic and Compounds (Inorganic)	3.73317E-07	7.34124E-09	2.73973E-07	3.16022E-05
Beryllium and Compounds	1.86658E-08	3.67062E-10	1.36986E-08	2.58011E-06
Cadmium and Compounds	1.86658E-06	3.67062E-10	1.36986E-08	2.58011E-05
Copper and Compounds	1.86658E-06	3.67062E-08	1.36986E-06	0.000758011
Lead and Compounds (Inorganic)	9.33292E-07	1.83531E-08	6.84932E-07	0.000129005
Manganese and Compounds	9.33292E-06	1.83531E-07	6.84932E-06	0.001290055
Nickel and Compounds	3.73317E-07	7.34124E-09	2.73973E-07	5.16022E-05
Selenium and Compounds	9.33292E-08	1.83531E-09	6.84932E-08	1.29005E-05
Total Particulate (PM)	0.014372816	0.000283404	1.35843E-06	4.58E-05

Screen 1 - Acute (1-hour) maximum 24-hour average daily construction activity from multiple nearby projects. 2 hours of operation.
 Screen 2a - Cancer/Chronic (44) - Maximum hourly emissions (lb/hr) based on annual total in the maximum 24-hour period of operation.
 Screen 2b - Cancer/Chronic (10) - Maximum hourly emissions (lb/hr) based on average annual operation emissions.
 Screen 3 - Acute (1-hour) maximum 24-hour average daily construction activity from multiple nearby projects. 2 hours of operation.

On-Road Vehicle Emissions Factors (EMFAC DATA):

Source: EMFAC2021 (v1.0.2) Emissions Inventory

Region Type: Sub-Area

Region: Inyo (GBV)

Calendar Year: 2024

Season: Annual

Vehicle Classification: EMFAC202x Categories

Units: miles/day for CVMT and EVMT, trips/day for Trips, kWh/day for Energy Consumption, tons/day for Emissions, 1000 gallons/day for Fuel Consumption

Region	Calendar Year	Vehicle Category	Model Year	Speed	Fuel	Population	Total VMT	CVMT	EVMT	Trips	Energy Consumption
Inyo (GBV)	2024	LDT2	Aggregate	Aggregate	Diesel	50,696,9863	2134,2364	2134,2364		0 241,24064	0

NOx_TOTEX	PM2.5_TOTAL	PM10_TOTAL	CO2_TOTEX	CH4_TOTEX	N2O_TOTEX	ROG_TOTAL	TOG_TOTAL	CO_RUNEX	CO_TOTEX	SOx_TOTEX	NH3_RUNEX
0.000112978	2.26845E-05	4.88404E-05	0.7532384	2.017E-06	0.00011867	4.3417E-05	4.943E-05	0.0004332	0.0004332	7.137E-06	7.29304E-06

Calculated Emissions Factors (lb/vmt)

PM10	PM2.5	NOx	CO2	N2O	ROG	TOG	CO	SOx
4.57685E-05	2.12577E-05	0.000105872	0.7058622	1.89E-06	0.00011121	4.0687E-05	4.632E-05	0.0004059

Haul Road Fugitive Dust Factors

Fugitive Dust Speciation Profile

Pollutant	Concentration (ppm)	Concentration
Arsenic	20	0.00002
Beryllium	1	0.000001
Cadmium	1	0.000001
Copper	100	0.0001
Lead	50	0.00005
Manganese	500	0.0005
Nickel	20	0.00002
Selenium	5	0.000005
Zinc	200	0.0002

Source: San Diego APCD Table R01 - HAUL ROADS, GENERAL PAVED & UNPAVED, WITH DEFAULT TRACE METAL COMPOSITION

Note: The table above includes toxic air contaminants presented in both the SDAPCD speciation profile, and the SCAQMD Risk Tool

Unpaved Road Emission Factors

Unpaved Road emissions factor from AP42 Section 13.2.2

$$EF \text{ (lb/VMT)} = 4.9 * (S/12)^{0.7} + (W/3)^{0.45}$$

S = silt content (%) =
W = avg truck weight

EF (lb/VMT) =

Control Efficiency =

Emission Factor (lb/VMT) =

Silt content based on green Sand and Gravel Processing from AP-42 Table 13.2.2-1.

PM2.5 emissions are 21.2% of PM10 for unpaved roads (SCAQMD Updated CEIDARS Table)

On-Road Light Truck	
PM10	PM2.5
4.8	
3	
2.58	0.55
0%	0%
2.58	0.55

ATTACHMENT C

SCAQMD's Health Risk Screening Tool Output

TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT

(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool V1.105

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

1. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wks/yr
Control Efficiency	0.000	
Does source have T-BACT?	NO	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
	5000	
Distance-Residential	130	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	2	years

Conversion Units (select unit)
 From feet
 To meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	3.73E-07	74.92	3.73E-07	0.00000	3.73317E-07
B8	Beryllium and Compounds	1.87E-08	9.012	1.87E-08	0.00000	1.86658E-08
C1	Cadmium and Compounds	1.87E-08	112.41	1.87E-08	0.00000	1.86658E-08
C23	Copper and Compounds	1.87E-06	63.55	1.87E-06	0.00000	1.86658E-06
L1	Lead and Compounds (Inorganic)	9.33E-07	207.2	9.33E-07	0.00000	9.33292E-07
M2	Manganese and Compounds	9.33E-06	54.938	9.33E-06	0.00000	9.33292E-06
N12	Nickel and Compounds	3.73E-07	58.71	3.73E-07	0.00000	3.73317E-07
S1	Selenium and Compounds	9.33E-08	78.96	9.33E-08	0.00000	9.33292E-08
P1	Particulate Emissions from Diesel-Fueled Engines	1.44E-02	350	1.44E-02	0.00000	0.014372816

6. Hazard Index Summary

A/N: N/A

Application deemed complete date: 06/08/21

HIA = $[Q(\text{hr}) * (X/Q)_{\text{acute}} * MWF] / \text{Acute REL}$

HIC = $[Q(\text{hr}) * (X/Q) * MP * MWF] / \text{Chronic REL}$

HIC 8-hr = $[Q(\text{hr}) * (X/Q) * WAF * MWF] / \text{8-hr Chronic REL}$

Target Organs	Acute	Chronic	8-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	8-hr Chronic Pass/Fail
Alimentary system (Intest) - AI		6.97E-05		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	2.53E-04	4.27E-02	4.85E-04	Pass	Pass	Pass
Developmental - DEV	1.53E-04	4.32E-02	4.85E-04	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eye				Pass	Pass	Pass
Hematopoietic system - HEM		5.19E-04		Pass	Pass	Pass
Immune system - IMM	2.53E-04	5.19E-05	1.21E-04	Pass	Pass	Pass
Kidney - KID		3.59E-05		Pass	Pass	Pass
Nervous system - NS	2.53E-04	4.47E-02	1.55E-03	Pass	Pass	Pass
Reproductive system - REP	2.53E-04	4.32E-02	4.85E-04	Pass	Pass	Pass
Respiratory system - RESP	2.53E-06	9.93E-02	6.06E-04	Pass	Pass	Pass
Skin		4.27E-02	4.85E-04	Pass	Pass	Pass

TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT

(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool V1.105

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

1. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wks/yr
Control Efficiency	0.000	
Does source have T-BACT?	YES	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
	5000	ft
Distance-Residential	130	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	2	years

Conversion Units (select units)
 From feet
 To meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	7.34E-09	74.92	7.34E-09	0.00000	7.34124E-09
B8	Beryllium and Compounds	3.67E-10	9.012	3.67E-10	0.00000	3.67062E-10
C1	Cadmium and Compounds	3.67E-10	112.41	3.67E-10	0.00000	3.67062E-10
C23	Copper and Compounds	3.67E-08	63.55	3.67E-08	0.00000	3.67062E-08
L1	Lead and Compounds (Inorganic)	1.84E-08	207.2	1.84E-08	0.00000	1.83531E-08
M2	Manganese and Compounds	1.84E-07	54.938	1.84E-07	0.00000	1.83531E-07
N12	Nickel and Compounds	7.34E-09	58.71	7.34E-09	0.00000	7.34124E-09
S1	Selenium and Compounds	1.84E-09	78.96	1.84E-09	0.00000	1.83531E-09
P1	Particulate Emissions from Diesel-Fueled Engines	2.83E-04	350	2.83E-04	0.00000	0.000283404

5a. MICR

MICR Resident = CP (mg/(kg-day))⁻¹ * Q (ton/yr) * (X/Q) Resident * CEF Resident * MF Resident * 1e-6 * MWAF

MICR Worker = CP (mg/(kg-day))⁻¹ * Q (ton/yr) * (X/Q) Worker * CEF Worker * MF Worker * WAF Worker * 1e-6 * MWAF

Compound	Residential	Commercial
Arsenic and Compounds (Inorganic)	6.99E-09	6.70E-13
Beryllium and Compounds	1.87E-11	5.42E-15
Cadmium and Compounds	3.34E-11	9.67E-15
Copper and Compounds		
Lead and Compounds (Inorganic)	7.12E-11	7.62E-15
Manganese and Compounds		
Nickel and Compounds	4.05E-11	1.17E-14
Selenium and Compounds		
Particulate Emissions from Diesel-Pooled En	1.89E-06	5.48E-10
Total	1.90E-06	5.48E-10
	PASS	PASS

5b. Is Cancer Burden Calculation Needed (MICR > 1E-07)

YES

New X/Q at which MICR_{90%} is one-in-a-million [(µg/m³)/(ton/yr)]:

9.54E-01

New Distance, interpolated from X/Q table using New X/Q (miles):

284.01

Zone Impact Area (km²):

2.53E-01

Zone of Impact Population (7000 person/km²):

1.77E+03

Cancer Burden:

8.29E-03

Cancer Burden is less than or equal to 0.5

PASS

6. Hazard Index Summary

HIA = $(C(\text{lb/hr}) * (D/Q)_{\text{air}} * MWAF) / \text{Acute REL}$

HIC = $(C(\text{ton/yr}) * (D/Q) * MF * MWAF) / \text{Chronic REL}$

HIC 3-hr = $(C(\text{ton/yr}) * (D/Q) * WAF * MWAF) / \text{3-hr Chronic REL}$

A/N: N/A

Application deemed complete date: 06/04/23

Target Organs	Acute	Chronic	3-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	3-hr Chronic Pass/Fail
Adipose system (liver) - AL		1.37E-06		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	4.98E-06	4.40E-04	9.53E-06	Pass	Pass	Pass
Developmental - DEV	4.98E-06	4.50E-04	9.53E-06	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eyes				Pass	Pass	Pass
Hematopoietic system - HEM		1.02E-05		Pass	Pass	Pass
Immune system - IMM	4.98E-06	1.02E-06	2.38E-06	Pass	Pass	Pass
Kidney - KID		2.05E-07		Pass	Pass	Pass
Nervous system - NS	4.98E-06	2.79E-04	3.06E-05	Pass	Pass	Pass
Reproductive system - REP	4.98E-06	8.50E-04	9.53E-06	Pass	Pass	Pass
Respiratory system - RESP	4.98E-06	1.96E-03	1.19E-05	Pass	Pass	Pass
Skin		1.30E-04	9.53E-06	Pass	Pass	Pass

TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT

(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool V1.105

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

I. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wks/yr
Control Efficiency	0.000	
Does source have T-BACT?	NO	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
Building Area		
Distance-Residential	1000	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	30	years

Conversion Units (select units)

From feet

To meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	2.74E-07	74.92	2.74E-07	0.00000	2.73973E-07
B8	Beryllium and Compounds	1.37E-08	9.012	1.37E-08	0.00000	1.36986E-08
C1	Cadmium and Compounds	1.37E-08	112.41	1.37E-08	0.00000	1.36986E-08
C23	Copper and Compounds	1.37E-06	63.55	1.37E-06	0.00000	1.36986E-06
L1	Lead and Compounds (Inorganic)	6.85E-07	207.2	6.85E-07	0.00000	6.84932E-07
M2	Manganese and Compounds	6.85E-06	54.938	6.85E-06	0.00000	6.84932E-06
N12	Nickel and Compounds	2.74E-07	58.71	2.74E-07	0.00000	2.73973E-07
S1	Selenium and Compounds	6.85E-08	78.96	6.85E-08	0.00000	6.84932E-08
P1	Particulate Emissions from Diesel-Fueled Engines	1.36E-06	350	1.36E-06	0.00000	1.35843E-06

6. Hazard Index Summary

A/N: N/A

Application derived complete date: 06/08/23

HIA = $[Q(\text{b/hr}) * (X/Q)_{\text{max}} * MWF] / \text{Acute REL}$

HIC = $[Q(\text{mg/yr}) * (X/Q) * MP * MWF] / \text{Chronic REL}$

HIC 8-hr = $[Q(\text{mg/yr}) * (X/Q) * WAF * MWF] / \text{8-hr Chronic REL}$

Target Organs	Acute	Chronic	8-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	8-hr Chronic Pass/Fail
Alimentary system (liver) - AL		1.03E-06		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	3.67E-06	6.37E-04	7.18E-06	Pass	Pass	Pass
Developmental - DEV	3.67E-06	6.40E-04	7.18E-06	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eye				Pass	Pass	Pass
Hematopoietic system - HEM		7.69E-06		Pass	Pass	Pass
Immune system - IMM	3.67E-06	7.69E-07	1.80E-06	Pass	Pass	Pass
Kidney - KID		3.37E-07		Pass	Pass	Pass
Nervous system - NS	3.67E-06	6.62E-04	2.30E-05	Pass	Pass	Pass
Reproductive system - REP	3.67E-06	6.40E-04	7.18E-06	Pass	Pass	Pass
Respiratory system - RESP	3.67E-06	6.41E-04	8.98E-06	Pass	Pass	Pass
Skin		6.32E-04	7.18E-06	Pass	Pass	Pass

TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT

(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool VI.105

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

1. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wka/yr
Control Efficiency	0.000	
Does source have T-BACT?	NO	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
Building Area		
Distance-Residential	1000	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	2	years

Conversion Units (select unit)

From feet

To meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	5.16E-05	74.92	5.16E-05	0.00000	5.16022E-05
B8	Beryllium and Compounds	2.58E-06	9.012	2.58E-06	0.00000	2.58011E-06
C1	Cadmium and Compounds	2.58E-06	112.41	2.58E-06	0.00000	2.58011E-06
C23	Copper and Compounds	2.58E-04	63.55	2.58E-04	0.00000	0.000258011
L1	Lead and Compounds (Inorganic)	1.29E-04	207.2	1.29E-04	0.00000	0.000129005
M2	Manganese and Compounds	1.29E-03	54.938	1.29E-03	0.00000	0.001290055
N12	Nickel and Compounds	5.16E-05	58.71	5.16E-05	0.00000	5.16022E-05
S1	Selenium and Compounds	1.29E-05	78.96	1.29E-05	0.00000	1.29005E-05
P1	Particulate Emissions from Diesel-Fueled Engines	4.58E-05	350	4.58E-05	0.00000	4.57685E-05

6. Hazard Index Summary

A/N: N/A

Application deemed complete date: 06/08/13

HIA = $[Q(\text{hr}) * (X/Q)_{\text{max}} * MWAF] / \text{Acute REL}$

HIC = $[Q(\text{month}) * (X/Q) * MP * MWAF] / \text{Chronic REL}$

HIC 8-hr = $[Q(\text{8-hr}) * (X/Q) * WAF * MWAF] / \text{8-hr Chronic REL}$

Target Organs	Acute	Chronic	8-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	8-hr Chronic Pass/Fail
Alimentary system - AL		1.94E-04		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	6.91E-04	1.19E-01	1.35E-03	Pass	Pass	Pass
Developmental - DEV	6.91E-04	1.20E-01	1.35E-03	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eye				Pass	Pass	Pass
Hematopoietic system - HEM		1.45E-03		Pass	Pass	Pass
Immune system - IMM	6.91E-04	1.45E-04	3.39E-04	Pass	Pass	Pass
Kidney - KD		1.00E-04		Pass	Pass	Pass
Nervous system - NS	6.91E-04	1.21E-01	4.34E-03	Pass	Pass	Pass
Reproductive system - RBP	6.91E-04	1.20E-01	1.35E-03	Pass	Pass	Pass
Respiratory system - RESP	6.91E-06	1.21E-01	1.62E-03	Pass	Pass	Pass
Skin		1.19E-01	1.35E-03	Pass	Pass	Pass

6a. Hazard Index Acute - Resident
 HIA = (Q/Tbhc) * (C/Q)max resident * M/WAF / Acute REL

A/N: N/A

Application deemed complete date: 2/6/2023

Compound	HIA - Residential									
	AL	CV	DEV	EYE	HBM	IMM	NS	REP	RESP	SKIN
Arsenic and Compounds (Inorganic)		6.91E-04	6.91E-04				6.91E-04	6.91E-04		
Beryllium and Compounds										
Cadmium and Compounds									6.91E-06	
Copper and Compounds										
Lead and Compounds (Inorganic)										
Manganese and Compounds						6.91E-04				
Nickel and Compounds										
Selenium and Compounds										
Particulate Emissions from Diesel-Fueled En										
Total		6.91E-04	6.91E-04			6.91E-04	6.91E-04	6.91E-04	6.91E-06	

ATTACHMENT D

CalEEMod Output Files

Inyo Solar Summary Report

Table of Contents

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1. Basic Project Information

1.1. Basic Project Information

Data Field	Value
Project Name	Inyo Solar
Construction Start Date	1/1/2024
Lead Agency	—
Land Use Scale	Project/site
Analysis Level for Defaults	County
Windspeed (m/s)	3.70
Precipitation (days)	9.60
Location	100 Moses Ln, Trona, CA 93562, USA
County	Inyo
City	Unincorporated
Air District	Great Basin UAPCD
Air Basin	Great Basin Valleys
TAZ	3013
EDFZ	10
Electric Utility	Southern California Edison
Gas Utility	—
App Version	2022.1.1.14

1.2. Land Use Types

Land Use Subtype	Size	Unit	Lot Acreage	Building Area (sq ft)	Landscape Area (sq ft)	Special Landscape Area (sq ft)	Population	Description
User Defined Industrial	20.0	User Defined Unit	20.0	0.00	0.00	—	—	—

1.3. User-Selected Emission Reduction Measures by Emissions Sector

No measures selected

2. Emissions Summary

2.1. Construction Emissions Compared Against Thresholds

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Un/Mit.	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e	
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.82	0.81	16.0	32.4	0.03	0.11	0.15	0.26	0.11	0.04	0.15	—	6,260	6,260	0.25	0.06	0.02	6,283	
Average Daily (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.05	0.05	0.98	1.92	< 0.005	0.01	0.01	0.02	0.01	< 0.005	0.01	—	370	370	0.02	< 0.005	0.02	371	
Annual (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.01	0.01	0.17	0.35	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	—	61.2	61.2	< 0.005	< 0.005	< 0.005	61.5	

6. Climate Risk Detailed Report

6.2. Initial Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	1	0	0	N/A
Sea Level Rise	N/A	N/A	N/A	N/A
Wildfire	1	0	0	N/A
Flooding	N/A	N/A	N/A	N/A

Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	0	0	0	N/A
Air Quality Degradation	N/A	N/A	N/A	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores do not include implementation of climate risk reduction measures.

6.3. Adjusted Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	1	1	1	2
Sea Level Rise	N/A	N/A	N/A	N/A
Wildfire	1	1	1	2
Flooding	N/A	N/A	N/A	N/A
Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	1	1	1	2
Air Quality Degradation	N/A	N/A	N/A	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores include implementation of climate risk reduction measures.

7. Health and Equity Details

7.3. Overall Health & Equity Scores

Metric	Result for Project Census Tract
CalEnviroScreen 4.0 Score for Project Location (a)	46.0

Healthy Places Index Score for Project Location (b)	51.0
Project Located In a Designated Disadvantaged Community (Senate Bill 635)	No
Project Located in a Low-Income Community (Assembly Bill 1550)	Yes
Project Located In a Community Air Protection Program Community (Assembly Bill 617)	No

a: The maximum CalEnviroScreen score is 100. A high score (i.e., greater than 50) reflects a higher pollution burden compared to other census tracts in the state.

b: The maximum Health Places Index score is 100. A high score (i.e., greater than 50) reflects healthier community conditions compared to other census tracts in the state.

7.5. Evaluation Scorecard

Health & Equity Evaluation Scorecard not completed.

EXHIBIT 3

**INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT
PROGRAM ENVIRONMENTAL IMPACT REPORT**

Mitigation Monitoring and Reporting Program

Prepared for:

County of Inyo
168 N. Edwards Street
Independence, CA 93526

Prepared by:

HELIX Environmental Planning, Inc.
11 Natoma Street, Suite 155
Folsom, CA 95630

March 2015

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The California Environmental Quality Act (CEQA), Public Resources Code Section 21081.6, requires that a Mitigation Monitoring and Reporting Program (MMRP) be established upon completing findings. CEQA stipulates that “the public agency shall adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation.”

This MMRP has been developed in compliance with Section 21081.6 of CEQA. The County of Inyo (County) is the lead agency for the project under CEQA and will administer and implement the MMRP. The County is responsible for review of all monitoring reports, enforcement actions, and document disposition. The County will rely on information provided by the project site observers/monitors (e.g., construction manager, project manager, biologist, archaeologist, etc.) as accurate and up-to-date and will provide personnel to field check mitigation measure status, as required.

The mitigation measures in this MMRP are derived from the Program Environmental Impact Report (PEIR) for the proposed Renewable Energy General Plan Amendment (REGPA) project (proposed project) dated November 2014. To sufficiently track and document the status of mitigation measures for the proposed project, a mitigation matrix (Table 1) has been prepared and includes the following items:

- Mitigation Measure Number
- Mitigation Measure (text)
- Phase of Implementation / Mitigation Timing
- Frequency and/or Duration of Required Monitoring
- Enforcement or Reporting Agency / Action Notes
- Record Document Location

Mitigation measure timing has been noted in several specific timing increments, the most common being:

- During the design phase
- Prior to permit issuance
- During construction
- At completion of construction

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Table 1
INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
AESTHETICS				
<p>AES-1: Prepare visual studies that include existing views, scenic vistas, and visual resources and evaluate the potential impacts to existing visual resources.</p> <p>Site-specific visual studies shall be prepared to assess potential visual impacts for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA. The visual study shall include assessment of the existing visual environment, including existing views, scenic vistas, and visual resources, and evaluate the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. The study shall include assessment of public views from key observation points, the locations of which shall be determined in consultation with County staff and, if applicable, other public agencies with jurisdiction over the project site (e.g., BLM). Visual simulations shall be prepared to conceptually depict post-development views from the identified key observation points.</p> <p>The analysis and results of the study shall be documented in a memorandum that will include: (1) an assessment of the existing visual environment, including existing views, scenic vistas, and visual resources and (2) an evaluation of the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. Applicable recommendations from the project-specific visual analysis shall be incorporated into the associated individual project design to address identified potential visual impacts.</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department, and/or other applicable agencies.</p>	

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Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
AESTHETICS (cont.)				
<p>AES-2: Reduce potential effects of glare by preparing site-specific glare studies that inform project design.</p> <p>Site-specific glare studies shall be prepared for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA to assess potential glare impacts. Applicable results and recommendations from the project specific glare study shall be incorporated into the associated individual project designs to address identified potential visual impacts.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department	
<p>AES-3: Minimize visual contrast using colors that blend with surrounding landscape and do not create excessive glare.</p> <p>For proposed solar energy projects that are greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources, the surfaces of structures and buildings that are visible from public viewpoints shall be treated so that (1) their colors minimize visual contrast by blending with the surrounding landscape and (2) their colors and finishes do not create excessive glare. Surface color treatments shall include painting or tinting in earth tone colors to blend in with the surroundings desert and mountains. Materials, coatings, or paints having little or no reflectivity shall be used.</p>	Prior to / during construction	Prior to construction	Inyo County Planning Department and/or other applicable agencies.	
<p>AES-4: Install natural screens to protect ground-level views into the project.</p> <p>For all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, and where existing screening topography and vegetation are absent or minimal, natural-looking earthwork landforms (such as berms or contour slopes), vegetative, or architectural screening shall be installed to screen ground-level views into the project site. The</p>	Prior to / during construction	Prior to construction	Inyo County Planning Department	

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shape and height of the earthwork landforms shall be context sensitive and consider distance and viewing angle from nearby public viewpoints.				
<p>AES-5: Prepare lighting plan using BMPs consistent with the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010) to reduce night lighting during construction and operation.</p> <p>The project applicant shall prepare a lighting plan for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA that documents how project lighting would be designed and installed to minimize night sky impacts during construction and operation. The lighting plan shall include, at minimum, the following lighting design parameters:</p> <ul style="list-style-type: none"> • Lighting shall be of the minimum necessary brightness consistent with operational safety and security requirements. • Lighting shall incorporate fixture hoods/shielding with light directed downward and toward the area to be illuminated. • Light fixtures that are visible from beyond the project boundary shall have cutoff angles that are sufficient to prevent lamps and reflectors from being visible beyond the project boundary, except where necessary for security. • Project lighting shall be kept off when not in use whenever feasible and consistent with safety and security requirements. 	Prior to construction	Prior to construction	Inyo County Planning Department	
<p>AES-6: Treat PV solar panel glass with anti-reflective coating.</p> <p>For proposed PV facilities greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, glass used to cover solar panels shall be treated with an anti-reflective coating to further decrease reflection and increase the transmission of light through the glass to the cells.</p>	Prior to / during construction	Prior to construction	Inyo County Planning Department	

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<p>AES-7: Coordinate with the Federal Aviation Administration when considering the use of audio visual warning systems.</p> <p>For projects requiring aircraft warning lights, the project applicant shall coordinate with the Federal Aviation Administration (FAA) to consider the use and installation of audio visual warning systems technology on tower structures. If the FAA denies a permit for the use of audio visual warning systems, the project applicant shall limit lighting to the minimum required to meet FAA safety requirements.</p>	Prior to / during construction	Prior to construction	Inyo County Planning Department and/or other applicable agencies.	
<p>AES-8: Projects on federal land will comply with the respective federal agency's visual guidelines and policies.</p> <p>Solar energy projects proposed on federal land within individual SEDAs and the OVSA shall be coordinated with the federal agency that is responsible for the management of the land and shall comply with the respective federal agency's visual guidelines and policies.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	
<p>AES-9: The project will implement BMPs and measures during construction to reduce the visual and aesthetic effects of the construction site.</p> <p>The following measures shall be implemented for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA during construction:</p> <ul style="list-style-type: none"> • Construction boundaries and staging areas shall be clearly delineated and where appropriate fenced to prevent encroachment onto adjacent natural areas. • Construction staging and laydown areas visible from nearby roads, residences, and recreational areas shall be visually screened using temporary fencing. Fencing shall be of an appropriate design and color to visually blend with the site's surroundings. • Existing native vegetation shall be preserved to the greatest extent possible. • Project grading shall utilize undulating surface edges and contours 	During construction	During construction	Inyo County Planning Department Inyo County Department of Public Works	

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<p>that repeat the natural shapes, forms, textures, and lines of the surrounding landscape.</p> <ul style="list-style-type: none"> • Exposed soils shall be restored to their original contour and vegetation. • Stockpiled topsoils shall be reapplied to disturbed surfaces. 				
<p>AES-10: Projects requiring overhead electrical transmission connections will consider design and installation techniques that reduce visual impacts.</p> <p>For projects that require overhead electrical transmission connections to existing transmission lines and for the potential off-site transmission corridor to serve the Trona, Chicago Valley, and Charleston View SEDAs, the following shall be considered in the design and alignment of the transmission line connections:</p> <ul style="list-style-type: none"> • Avoid placing transmission towers and structures along ridgelines, peaks, or other locations where skylining effects would occur such that they would silhouette against the sky. • Place transmission corridor connection alignments along edges of clearings or at transition areas (i.e., natural breaks in vegetation or topography). • To the extent practicable, treat transmission towers and structures with color and surfaces to reduce visual contrast with the surrounding visual landscape. Alternative methods to reduce visual impacts may be considered for structures that cannot use conventional methods of painting without impeding electrical conveyance or without causing long-term environmental impacts through the constant reapplication of paint. These methods may include, but shall not be limited to, galvanizing or similar factory-applied conductive non-paint treatments. • Use of appropriate and context-sensitive transmission tower types (i.e., lattice structures compared to monopoles) to reduce visual contrast with the surrounding visual landscape. 	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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AGRICULTURE AND FORESTRY RESOURCES				
<p>AG-1: Review development proposals for potential impacts to agricultural operations.</p> <p>The County Agricultural Commissioner shall be responsible for reviewing new development proposals adjacent to agricultural operations to ensure they do not significantly impact agricultural operations.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Agriculture Commissioner/ Planning Department/	
<p>AG-2: Conduct site-specific investigations for agricultural lands.</p> <p>Site-specific agricultural resource investigations shall be completed for proposed solar development projects within the individual SEDAs and the OVSA that are located on lands utilized for agricultural operations prior to final project design approval. If agricultural operations are identified within the project area, alternative designs should be implemented to avoid and/or minimize impacts to those resources. This may include mitigating conversion of agricultural lands based on the mitigation ratios identified in consultation with affected agencies at the cost of the project applicant to the satisfaction of the County. Mitigation ratios and impact fees assessed, if any, shall be outlined in the Renewable Energy Development Agreement, Renewable Energy Permit, or Renewable Energy Impact Determination.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department Inyo County Agriculture Commissioner	
<p>AG-3: Invasive plant species or noxious weeds.</p> <p>To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> • The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes. • Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site. • Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored. 	Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation	Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> • The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned. • Native vegetation shall be re-established as quickly as practicable on disturbed sites. • Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions. • Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations. 				
AIR QUALITY				
<p>AQ-1: Prepare site-specific air quality technical report.</p> <p>Prior to issuance of Major Use Permits for solar energy projects, a site-specific air quality technical report shall be prepared and approved by the County, which will verify compliance with County and Great Basin Unified Air Pollution Control District standards during construction and operation of the solar project.</p> <p>Mitigation Measures AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report, and will be implemented during construction and operation of future projects. These measures require implementation of dust control practices during construction activities and solar project operations.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	
<p>AQ-2: Reduce fugitive dust and particulate matter emissions during construction.</p> <p>To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rules 401 and 402 as well as applicable best management practices (BMP)s from the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010), solar projects shall implement fugitive dust and particulate matter emissions control measures including, but not limited to the following:</p> <ul style="list-style-type: none"> • Water and/or coarse rock all active construction areas as necessary and indicated by soil and air conditions; • Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard; 	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> • Pave or apply (non-toxic) soil stabilizers on all unpaved access roads; • Sweep daily (with water sweepers) all paved access roads; Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets; • Suspend excavation and grading activity when sustained winds make reasonable dust control difficult to implement, e.g., for winds over 25 miles per hour (mph). • Limit the speed of on-site vehicles to 15 mph. 				
<p>AQ-3: Implement dust control measures during operation.</p> <p>To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rule 401 and 402 as well as applicable BMPs from REAT’s Best Management Practices and Guidance Manual (REAT 2010), solar projects shall incorporate feasible dust control measures into the site design including, but not limited to, the following:</p> <ul style="list-style-type: none"> • Incorporate perimeter sand fencing into the overall design to prevent migration of exposed soils into the surrounding areas. The perimeter fence is intended to provide long-term protection around vulnerable portions of the site boundary; it is also intended to prevent off-road site access and sand migration across site boundaries and the associated impacts. • Incorporate wind deflectors intermittently across solar project sites. The solar panels themselves, especially where installed to transverse primary wind direction, will provide some measure of protection of the ground surface. Wind deflectors enhance this effect by lifting winds that may otherwise jet beneath panels, thereby disrupting long wind fetches, and reducing surface wind velocities and sand migration. • Orient infrastructure/solar panels perpendicular to primary wind directions. • Adjust panel operating angles to reduce wind speeds under panels. • Perform revegetation in areas temporarily denuded during construction. These areas would be replanted with native plant species that exist on the site presently. Irrigation would be applied temporarily during the plant establishment period (typically multiple 	During operation	During operation	Inyo County Planning Department and/or other applicable agencies.	

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<p>years), but after establishment it is expected that these areas would require little or no maintenance. Vegetation provides dust control by protecting and preventing threshold wind velocities at the soil surface. Studies have shown that an 11 to 54 percent vegetation cover on a site can provide up to 99 percent PM10 control efficiency (GBUAPCD 2008).</p> <ul style="list-style-type: none"> As the installation of solar panels and associated equipment progresses, each area that is completed (i.e. where no further soil disturbance is anticipated) will be treated with a dust palliative to prevent wind erosion. CARB certifications indicate that the application of dust suppressants can reduce PM10 emissions by 84 percent or more (CARB 2011). 				
BIOLOGICAL RESOURCES				
<p>BIO-1: Prepare project level biological resources evaluation and mitigation and monitoring plan.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact biological resources as determined by a qualified biologist (defined as a biologist with documented experience or training related to the subject species), a project level biological resource evaluation shall be prepared by a qualified biologist for the project. The biological resource evaluation shall include field reconnaissance and focused surveys as determined necessary by a qualified biologist to identify special status species and natural communities present or having the potential to occur on the site, an evaluation of the extent of those habitats, an evaluation of the potential for impacts to each special status species and/or habitat, and shall prescribe specific mitigation measures to avoid impacts to biological resources to the maximum extent practicable. The qualifications of any biologists conducting special status species surveys or focused habitat assessments will be submitted to CDFW prior to conducting fieldwork. The level of biological resource analysis will be based on factors such as the size of the proposed project, the extent of impacts to biological resources, and the sufficiency of existing data to determine impacts.</p> <p>An evaluation of the potential for off-site impacts to special status species and sensitive habitats will be included in the biological resources</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>evaluation, especially for projects involving groundwater pumping. Chapter 2 of the Basin Plan protects beneficial uses for groundwater with respect to groundwater recharge and freshwater replenishment and beneficial uses for wildlife habitats and flora and fauna including cold freshwater habitat, warm freshwater habitat, wildlife habitat, rare, threatened, or endangered species, spawning, reproduction, and development, preservation of biological habitats of special significance, and migration of aquatic organisms (RWQCB 1995). A project-specific evaluation of potential impacts to beneficial uses for groundwater as specified in the Basin Plan will be included in the biological resources evaluation.</p> <p>For projects in the Chicago Valley or Charleston View SEDAs, potential impacts to special status species and/or riparian and other groundwater dependent habitat in the Amargosa Watershed will be evaluated. If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch. USFWS and CDFW shall be contacted during preparation of the biological resources evaluation to obtain the best available scientific data on such potential impacts including existing hydrologic studies (e.g., the unpublished State of the Basin Report-2014 prepared by Zdon and Associates, Inc.).</p> <p>For projects with the potential to impact on- or off-site special status species or habitats as determined in the biological resources evaluation, a project-specific biological resources mitigation and monitoring plan shall be prepared that meets the approval of permitting agencies. The plan shall be implemented during all phases of the project and shall identify appropriate mitigation levels to compensate for significant direct, indirect, and cumulative impacts, including habitat, special status plant, and wildlife species losses as well as impacts to groundwater dependent vegetation or off-site impacts to special status species or sensitive habitats due to groundwater pumping. The plan shall address at a minimum:</p> <ul style="list-style-type: none"> • Biological resource avoidance and minimization measures and mitigation, monitoring and compliance measures required by federal, state, and local applicable permitting agencies. 				

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<ul style="list-style-type: none"> • Documentation (based on surveys) of sensitive plant and wildlife expected to be affected by all phases of the project (project construction, operation, abandonment, and decommissioning). Agencies may request additional surveying, based on the documentation or past experience working with the resources. Include measures to avoid or minimize impacts to species and habitat. • A detailed description of measures to minimize or mitigate permanent and temporary disturbances from construction activities. • All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction. • Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities. • Duration for each type of monitoring and a description of monitoring methodologies and frequency. • Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful. • All standards and remedial measures to be implemented if performance standards and criteria are not met. • A closure/decommissioning or abandonment plan, including a description of funding mechanism(s). • A process for proposing plan modifications to the County project manager. • All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction. • Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities. • Duration for each type of monitoring and a description of monitoring methodologies and frequency. • Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful. • All standards and remedial measures to be implemented if performance standards and criteria are not met. • A closure/decommissioning or abandonment plan, including a 				

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description of funding mechanism(s). <ul style="list-style-type: none"> A process for proposing plan modifications to the County project manager. 				
<p>BIO-2: Minimize impacts to special status plants.</p> <ul style="list-style-type: none"> Prior to the approval of any solar development projects or related infrastructure under the REGPA, a CDFW-approved botanist shall evaluate the potential for special status plant species to occur on the site and conduct surveys, if necessary, to determine presence or infer absence of special status plants on the site following the November 24, 2009 <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities</i> or the most current guidelines. When special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, to the maximum extent feasible, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs. <p>If special status plants are identified in the project area and complete avoidance of direct and indirect impacts is not feasible as determined by the County, the following measures shall be implemented to avoid and minimize impacts on special status plants:</p> <ul style="list-style-type: none"> If feasible, when special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs. For projects that are determined to have the potential to result in "take" of state or federally-listed plant species, consultation shall be conducted with CDFW or USFWS 	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	

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<p>respectively prior to project commencement, and appropriate mitigation measures developed if necessary.</p> <ul style="list-style-type: none"> When individuals of a special status species occur within an area proposed for construction and take cannot be avoided, mitigation shall be developed in coordination with USFWS and/or CDFW to reduce impacts on the local population of the special status species. Mitigation measures approved by USFWS and/or CDFW may include translocation under the direction of a CDFW-approved botanist if translocation of such species is deemed likely to succeed, or seed shall be collected prior to destruction of the plants and dispersed in suitable habitats not impacted by construction, if such habitats exist and seed collection is deemed likely to be successful by a CDFW-approved botanist with experience propagating the species in question. In all cases, CDFW will be notified at least 10 days prior to removal of any special status plant to allow translocation or collection of seed at their discretion. If transplanting is proposed, the botanist shall coordinate with the appropriate resource agencies and local experts to determine whether translocation is feasible. If the agencies concur that translocation is a feasible mitigation measure, the botanist shall develop and implement a translocation plan through coordination with the appropriate agencies. The special status plant translocation plan shall involve identifying a suitable transplant site; moving some or all of the plant material and seed bank to the transplant site; collecting seed material and propagating it in a nursery (in some cases it is appropriate to keep plants onsite as nursery plants and sources for seed material); and monitoring the transplant sites to document recruitment and survival rates. Monitoring shall be conducted for a period of five years and translocation shall be considered successful if an 80 percent survival rate has been achieved by the end of the five-year monitoring period. A mitigation and monitoring plan shall be developed by a qualified botanist/ restoration ecologist and submitted to CDFW for approval prior to approval of the proposed project. The mitigation and monitoring plan will dictate appropriate avoidance and minimization measures, compensatory mitigation, and monitoring requirements as 				

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<p>pertinent to the specific species and level of impact(s). Mitigation shall include, but is not limited to 1) protection of special status plant populations not directly impacted by construction or implementation of the project as stated above; 2) transplantaion and/or collection of seed from impacted plants if feasible, as stated above; and 3) the preservation in perpetuity of an equivalent or larger off-site population for every individual or population of special status plant impacted including sufficient land surrounding the preserved population to ensure its survival in perpetuity as determined by a qualified botanist/ restoration ecologist. The qualified botanist/ restoration ecologist shall include plans to restore and enhance the preserved populations to the extent feasible.</p> <ul style="list-style-type: none"> • If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch, pursuant to Mitigation Measure HYD-2 in Section 4.9, Hydrology and Water Quality. If any solar development projects are proposed in the Chicago Valley or Charleston View SEDAs that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for down-watershed impacts to the habitats for special status plants in the Amargosa Watershed including the portion of the Amargosa River that has been designated by Congress as "Wild and Scenic." If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status plant species (e.g., Fish Slough, marshes, riparian areas, alkaline flats in the Amargosa Watershed and the portion of the Amargosa River that has been designated by Congress as "Wild and Scenic"), a management plan will be prepared in coordination with the County and submitted to the appropriate resource agency with oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on off-site habitat for special status plants such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County. 				

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<p>BIO-3: Minimize impacts to special status wildlife.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact special status wildlife as determined by a qualified biologist, a CDFW-approved wildlife biologist shall conduct a survey to document the presence or absence of suitable habitat for special status wildlife in the project site. The following steps shall be implemented to document special status wildlife and their habitats for each project, as determined by the CDFW-approved wildlife biologist:</p> <ul style="list-style-type: none"> • Review Existing Information. The wildlife biologist shall review existing information to develop a list of special status wildlife species that could occur in the project area or be impacted by the proposed project, either directly or indirectly (e.g., groundwater pumping could result in indirect impacts to off-site habitats for special status wildlife). The following information shall be reviewed as part of this process: the USFWS special status species list for the project region, CDFW's CNDDDB, previously prepared environmental documents, and USFWS issued biological opinions for previous projects. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of special status wildlife from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned. • Coordinate with State and Federal Agencies. The wildlife biologist shall coordinate with the appropriate agencies (CDFW, USFWS, BLM) to discuss wildlife resource issues in the project region and determine the appropriate level of surveys necessary to document special status wildlife and their habitats. • Conduct Field Studies. The wildlife biologist shall evaluate existing habitat conditions and determine what level of biological surveys may be required. The type of survey required shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on the existing conditions in the project area and the proposed construction activity, one or a combination of the following 	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>levels of survey may be required:</p> <ul style="list-style-type: none"> • Habitat Assessment. A habitat assessment determines whether suitable habitat is present. The wildlife biologist shall conduct project-specific habitat assessments consistent with protocols and guidelines issued by responsible agencies for certain special status species (e.g., USFWS' 2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California). Habitat assessments are used to assess and characterize habitat conditions and to determine whether return surveys are necessary. If no suitable habitat is present for a given special status species, no additional species-focused or protocol surveys shall be required. • Species-Focused Surveys. Project-specific species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status wildlife and if it is necessary to determine the presence or absence of the species in the project area. The wildlife biologist shall conduct project-specific surveys focusing on special status wildlife species that have the potential to occur in the region. The surveys shall be conducted during a period when the target species are present and/or active. • Protocol-Level Wildlife Surveys. The wildlife biologist shall conduct project specific protocol level surveys for special status species with the potential to be impacted by the proposed project. The surveys shall comply with the appropriate protocols and guidelines issued by responsible agencies for the special status species. USFWS and CDFW have issued survey protocols and guidelines for several special- status wildlife species that could occur in the project region, including (but not limited to): bald eagle, burrowing owl, golden eagle, Swainson's hawk, least Bell's vireo, willow flycatcher, desert tortoise, and desert kit fox. The protocols and guidelines may require that surveys be conducted during a particular time of year and/or time of day when the species is present and active. Many survey protocols require that only a USFWS- or CDFW-approved biologist perform the surveys. The project proponent shall coordinate with the appropriate state or federal agency biologist before the initiation of protocol-level surveys to 				

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<p>ensure that the survey results would be valid. Because some species can be difficult to detect or observe, multiple field techniques may be used during a survey period and additional surveys may be required in subsequent seasons or years as outlined in the protocol or guidelines for each species.</p> <ul style="list-style-type: none"> • Habitat Mapping. The wildlife biologist shall map special status wildlife or suitable habitat identified during the project-specific field surveys. • A Scientific Collecting Permit is required to take, collect, capture, mark, or salvage, for scientific, educational, and non-commercial propagation purposes, mammals, birds and their nests and eggs, reptiles, amphibians, fishes and invertebrates (Fish and Game Code Section 1002 and Title 14 Sections 650 and 670.7). All biologists will be required to obtain a Scientific Collecting Permit that may be required to handle any live or dead animals during construction or operation of a project. <p>In addition, the following measures should be implemented to avoid and minimize impacts on special status species and their habitats if they occur within a site:</p> <ul style="list-style-type: none"> • For projects that are determined to have the potential to result in "take" of state or federally-listed animal species, consultation shall be conducted with CDFW or USFWS respectively and appropriate mitigation measures developed as necessary, and take authorization shall be obtained prior to project commencement, if relevant. • If ground disturbing activities are required prior to site mobilization, such as for geotechnical borings or hazardous waste evaluations, a CDFW-approved biologist shall be present to monitor any actions that could disturb soil, vegetation, or wildlife. • In areas that could support desert tortoise or any other sensitive wildlife species, a qualified biologist with the appropriate CDFW and/or USFWS approvals for the species being relocated shall be onsite and respond accordingly should an animal need to be relocated... 				

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<ul style="list-style-type: none"> • Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. Vehicles shall not exceed 25 mph on the project site. Vehicles shall abide by posted speed limits on paved roads. • A CDFW-approved biologist shall be designated to oversee compliance with biological resources avoidance and minimization measures during mobilization, ground disturbance, grading, construction, operation, and closure/decommissioning, or project abandonment, particularly in areas containing or known to have contained sensitive biological resources, such as special status species and unique plant assemblages. The CDFW-approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The boundaries of all areas to be disturbed (including staging areas, access roads, and sites for temporary placement of spoils) shall be delineated with stakes and flagging prior to construction activities in consultation with the biological monitor. Spoils shall be stockpiled in disturbed areas lacking native vegetation and which do not provide habitat for special status species. Parking areas, staging and disposal site locations shall also be located in areas without native vegetation or special status species habitat. All disturbances, vehicles, and equipment shall be confined to the flagged areas. The CDFW-approved biologist shall be responsible for actions including, but not limited to, the following: <ul style="list-style-type: none"> ○ Clearly marking sensitive biological resource areas and inspecting the areas at appropriate intervals for meeting regulatory terms and conditions. ○ Inspecting, daily, active construction areas where wildlife may have become trapped (for example, trenches, bores, and other excavation sites that constitute wildlife pitfalls outside the permanently fenced area) before beginning construction. At the end of the day, conducting wildlife inspections of installed structures that would entrap or not allow escape during periods of construction inactivity. Periodically inspecting areas with 				

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<p>high vehicle activity (such as parking lots) for wildlife in harm's way.</p> <ul style="list-style-type: none"> ○ Periodically inspect stockpiled material and other construction material and equipment (including within the fenced areas) throughout the day as some species such as desert kit fox may enter the project site at any time. ○ Overseeing special status plant salvage operations. ○ Immediately recording and reporting hazardous spills immediately as directed in the project hazardous materials management plan. ○ Coordinating directly and regularly with permitting agency representatives regarding biological resources issues, and implementation of the biological resource avoidance and minimization measures. ○ Maintaining written records regarding implementation of the biological resource avoidance and minimization measures, and providing a summary of these records periodically in a report to the appropriate agencies. ○ Notifying the project owner and appropriate agencies of non-compliance with biological resource avoidance and minimization measures. ○ At the end of each work day, the biological monitor shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled or if backfilling is not feasible, the biological monitor shall ensure that all trenches, bores, and other excavations are sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with desert tortoise-exclusion fencing. All trenches, bores, and other excavations outside the areas permanently fenced with desert tortoise exclusion fencing shall be inspected periodically, but no less than three times, throughout the day and at the end of each workday by the CDFW-approved biologist. Should a tortoise or other wildlife become trapped, the CDFW and USFWS-approved desert tortoise biologist shall remove and relocate the individual as described in the project's Desert Tortoise Relocation/Translocation Plan. Any wildlife encountered during 				

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<p>the course of construction shall be allowed to leave the construction area unharmed.</p> <ul style="list-style-type: none"> ○ Any construction pipe, culvert, or similar structure with a diameter greater than 1 inch, stored less than 8 inches aboveground, and within desert tortoise habitat (i.e., outside the permanently fenced area) for one or more nights, shall be inspected by the biological monitor for desert tortoises or other special status species such as fringe-toed lizard, before the material is moved, buried, or capped. As an alternative, all such structures may be capped before being stored outside the fenced area, or placed on pipe racks. These materials would not need to be inspected or capped if they are stored within the permanently fenced area after the clearance surveys have been completed. ● Access roads, pulling sites, storage and parking areas outside of the fenced solar facility area shall be designed, installed, and maintained with the goal of minimizing impacts to native plant communities and sensitive biological resources. Transmission lines and all electrical components shall be designed, installed, and maintained in accordance with the APLIC Suggested Practices for Avian Protection on Power Lines (APLIC 2006) and Mitigating Bird Collisions with Power Lines (APLIC 2004) to reduce the likelihood of bird electrocutions and collisions. ● Facility lighting shall be designed, installed, and maintained to direct light downwards towards the project site and avoid light spillover to wildlife habitat. ● Construction and operation related noise levels shall be minimized to minimize impacts to wildlife. ● All vertical pipes shall be capped to prevent the entrapment of birds and other wildlife. ● All vehicles and equipment shall be maintained in proper working condition to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials. The biological monitor shall be informed of any hazardous spills immediately. Hazardous spills shall be immediately cleaned up and 				

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<p>the contaminated soil properly disposed of at a licensed facility. Servicing of construction equipment shall take place only at a designated area. Service/maintenance vehicles shall carry a bucket and pads to absorb leaks or spills.</p> <ul style="list-style-type: none"> • Road surfacing and sealants as well as soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants. Anticoagulants shall not be used for rodent control. Pre-emergents and other herbicides with documented residual toxicity shall not be used. Herbicides shall be applied in conformance with federal, state, and local laws and according to the guidelines for wildlife- safe use of herbicides in BIO 24 (Weed Management Plan). • The following measures shall be implemented to minimize attractants to wildlife: <ul style="list-style-type: none"> ○ If the application of water is needed to abate dust in construction areas and on dirt roads, use the least amount needed to meet safety and air quality standards and prevent the formation of puddles, which could attract wildlife to construction sites. The biological monitor shall patrol these areas to ensure water does not puddle and attract desert tortoise, common ravens, and other wildlife to the site and shall take appropriate action to reduce water application where necessary. ○ Water shall be prohibited from collecting or pooling for more than 24 hours after a storm event within the project retention basin. Standing water within the retention basin shall be removed, pumped, raked, or covered. Alternative methods or the timeframe for allowing the water to pool may be modified with the approval of the biological monitor. ○ Dispose trash and food-related items in self-closing, sealable containers with lids that latch to prevent wind and wildlife from opening containers. Empty trash containers daily and remove from the project site those associated with construction when construction is complete. ○ To avoid attracting insectivorous birds and bats, prepare a facility vector (such as mosquitoes or rodents) control plan, as appropriate, that meets the permitting agency approval and 				

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<p>would be implemented during all phases of the project.</p> <ul style="list-style-type: none"> • Workers or visitors, while on project property, shall be prohibited from feeding wildlife, bringing domestic pets to the project site, collecting native plants, or harassing wildlife. • To reduce the potential for the transmission of fugitive dust the project proponent shall implement dust control measures. These shall include: <ul style="list-style-type: none"> ○ The project proponent shall apply non-toxic soil binders, equivalent or better in efficiencies than the CARB- approved soil binders, to active unpaved roadways, unpaved staging areas, and unpaved parking area(s) throughout construction to reduce fugitive dust emissions. ○ Water the disturbed areas of the active construction sites at least three times per day and more often if uncontrolled fugitive dust is noted. Enclose, cover, water twice daily, and/or apply non-toxic soil binders according to manufacturer's specifications to exposed piles with a 5 percent or greater silt content. Agents with known toxicity to wildlife shall not be used. ○ Establish a vegetative ground cover (in compliance with biological resources impact mitigation measures above) or otherwise create stabilized surfaces on all unpaved areas at each of the construction sites within 21 days after active construction operations have ceased. ○ Increase the frequency of watering, if water is used as a soil binder for disturbed surfaces, or implement other additional fugitive dust mitigation measures, to all active disturbed fugitive dust emission sources when wind speeds (as instantaneous wind gusts) exceed 25 mph. • A project-specific worker environmental awareness program (WEAP) shall be developed and carried out during all phases of the project (site mobilization, ground disturbance, grading, construction, operation, closure/decommissioning, or project abandonment, and restoration/reclamation activities). The WEAP shall include the biological resources present and the measures for minimizing impacts 				

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<p>to those resources. Interpretation for non-English speaking workers shall be provided, and all new workers shall be instructed in the WEAP. The project field construction office files will contain the names of onsite personnel (for example, surveyors, construction engineers, employees, contractors, contractor's employees/ subcontractors) who have participated in the education program. All employees and contractors shall be trained to carry out the WEAP and on their role in ensuring the effectiveness of implementing the Plan. At a minimum, the WEAP shall including the following:</p> <ul style="list-style-type: none"> ○ Photos and habitat descriptions for special status species that may occur on the project site and information on their distribution, general behavior, and ecology. ○ Species sensitivity to human activities. ○ Legal protections afforded the species. ○ Project measures for protecting species. ○ State and federal law violation penalties. ○ Worker responsibilities for trash disposal and safe/ humane treatment of special status species found on the project site, associated reporting requirements, and specific required measures to prevent taking of threatened or endangered species. ○ Handout materials summarizing the contractual obligations and protective requirements specified in project permits and approvals. ○ Project site speed limit requirements and penalties. <ul style="list-style-type: none"> ● A project specific restoration, re-vegetation, and reclamation plan that meets the approval of permitting agencies shall be prepared and carried out for all projects. The plan shall address at a minimum: <ul style="list-style-type: none"> ○ Minimizing natural vegetation removal and the consideration of cutting or mowing vegetation rather than total removal, whenever possible. ○ Salvage and relocation of cactus and yucca from the site before beginning construction. ○ Identification of protocols to be used for vegetation salvage. ○ Reclaiming areas of temporarily disturbed soil using certified weed free native vegetation and topsoil salvaged from 				

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<p>excavations and construction activities.</p> <ul style="list-style-type: none"> ○ Restoration and reclamation of temporarily disturbed areas, including pipelines, transmission lines, staging areas, and temporary construction-related roads as soon as possible after completion of construction activities. The actions are recommended to reduce the amount of habitat converted at any one time and promote recovery to natural habitats. ○ Specifying proper seasons and timing of restoration and reclamation activities to ensure success. <ul style="list-style-type: none"> ● If any solar development projects are proposed that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for indirect off-site impacts to special status wildlife species and/or their habitats. If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status wildlife species (e.g., Amargosa vole, Ash Meadows naucorid), a management plan will be prepared in coordination with the County and submitted for approval to the appropriate resource agency with regulatory oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on off-site habitat for special status wildlife such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County. 				
<p>BIO-4: Minimize impacts to special status fish.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status fish, a project-specific groundwater impact analysis will be conducted to address potential impacts to habitat for special status fish. In addition, consultation with USFWS shall be conducted for projects with the potential to impact federally listed species including Owens pupfish or Owens tui chub and coordination with CDFW will be conducted for projects with the potential to impact state listed species or CDFW species of special concern including Owens sucker and Owens</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>speckled dace. For projects that are determined to have the potential to result in “take” of state or federally listed fish species, consultation shall be conducted with CDFW or USFWS respectively and take authorization obtained prior to project commencement.</p> <p>For all projects proposed in the Charleston View and Chicago Valley SEDAs, an analysis of potential down-watershed impacts to special-status fish species in the Amargosa Watershed will be conducted prior to project approval, if the project involves impacts to groundwater and/or requires pumping of groundwater (e.g. solar thermal projects). If the project is determined to have the potential to result in down-watershed impacts that could alter the hydrology of habitats for special-status fish species, a mitigation and monitoring plan will be prepared by the applicant to address potential impacts to groundwater and down-watershed biological resources and submitted to USFWS and CDFW for approval prior to project implementation. Mitigation measures will be developed in coordination with USFWS and CDFW to offset these impacts. Mitigation measures should include but are not limited to 1) a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio; 2) hydrological and biological monitoring of the impacts of groundwater pumping on the groundwater system and the sensitive habitats down-watershed; and 3) adaptive management to increase the ratio of water rights purchased and retired and restore habitats down-watershed if hydrological and biological monitoring indicates that the projects groundwater pumping is having detrimental effects to sensitive biological resources (e.g., special status species or sensitive natural communities as designated by USFWS, CDFW, or CNPS) within the watershed as determined by a qualified hydrologist/hydrogeologist or biologist in coordination with USFWS and/or CDFW.</p>				
<p>BIO-5: Minimize impacts to amphibians.</p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status amphibians.</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<ul style="list-style-type: none"> • Surveys for special status amphibians including but not limited to northern leopard frog, Owens Valley web-toed salamander, and Inyo Mountains slender salamander shall be conducted by a CDFW-approved biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction. • If any of these species are found on a project site during the surveys, CDFW shall be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats. • If federal or state-listed amphibians not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project, consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species. For projects that are determined to have the potential to result in "take" of state or federally-listed amphibian species, consultation shall be conducted with CDFW or USFWS respectively and take authorization shall be obtained prior to project commencement. 				
<p>BIO-6: Minimize impacts to desert tortoise.</p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>BIO-1) to have the potential to affect desert tortoise in order to avoid, minimize, and mitigate for impacts:</p> <ul style="list-style-type: none"> • Consultation shall be conducted with CDFW and USFWS for any projects where desert tortoise or signs of their presence is found on the site and/or the project is determined by a CDFW-approved biologist to have the potential to impact desert tortoise. In such cases, permits under Section 2080 of the Fish and Game Code and Section 7/10 of FESA authorizing incidental take of desert tortoise will be obtained from CDFW and USFWS respectively prior to implementation of the project, including any project-related ground disturbing activities. All requirements of the 2081/2080.1 permit and the Biological Opinion shall be implemented. • The project proponent shall fully mitigate for habitat loss and potential take of desert tortoise. The project specific mitigation shall be developed in coordination with CDFW and USFWS, and would be reflective of the mitigation measures described in the Biological Opinion prepared by the USFWS for the project. • The project developer shall provide funds for regional management of common ravens through the payment of a per-acre fee as determined in consultation with the USFWS. The fee shall be commensurate with current per-acre fees (at the time of project approval) required by the BLM and the CEC for development projects in the desert with the potential to provide subsidies to common ravens such as shelter, perching sites, and food. The fee shall be used by the Desert Managers Group to manage common ravens in the California desert with the goal of reducing their predation on desert tortoises. • Projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, Areas of Critical Environmental Concern, Desert Wildlife Management Areas, Priority Connectivity Areas, and other areas or easements managed for desert tortoises). 				

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<ul style="list-style-type: none"> • On project sites containing desert tortoise, consultation shall be conducted with USFWS and CDFW to determine the need for and/or feasibility of conducting desert tortoise translocation (changing location or position) to minimize the taking of the tortoises, if they are observed within the proposed project area. See http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/ for federal translocation plan guidance. Translocation plan development and implementation may require, but not be limited to: additional surveys of potential recipient sites; translocated and resident tortoise disease testing and health assessments; monitoring protocols; and consideration of climatic conditions at the time of translocation. Due to the potential magnitude of proposed renewable energy project impacts on desert tortoises, USFWS and CDFW must evaluate translocation efforts on a project by project basis in the context of cumulative effects. • A desert tortoise authorized biologist approved by CDFW and USFWS shall be contracted to oversee and be responsible for ensuring compliance with desert tortoise avoidance and minimization measures before initiation of and during ground-disturbing activities. The desert tortoise biologist shall conduct clearance surveys, tortoise handling, artificial burrow construction, egg handling, and other procedures in accordance with the Guidelines for Handling Desert Tortoise During Construction Projects (Desert Tortoise Council 1999) or the most current USFWS guidance. The desert tortoise biologist shall be present on site from March 15 through October 31 (active season) during ground-disturbing activities in areas outside the tortoise exclusion fencing. It is recommended that the biologist be on call from November 1 to March 14 (inactive season) and checks such construction areas immediately before construction activities begin. • Refer to the Ventura Fish and Wildlife Office website <http://www.fws.gov/ventura/endangered/species/surveys-protocol.html> for desert tortoise authorized biologist and monitor responsibilities and qualifications, and survey and translocation guidance, and refer to the Nevada Fish and Wildlife Office (desert 				

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<p>tortoise recovery office) website <http://www.fws.gov/nevada/desert_tortoise/dtro/.html> for desert tortoise federal recovery plan documents. Methods for clearance surveys, fence specification and installation, tortoise handling, artificial burrow construction, egg handling and other procedures shall be consistent with those described in the 2013 USFWS Desert Tortoise Field Manual available at the Ventura Fish and Wildlife Office website listed above, or more current guidance provided by CDFW and USFWS. All terms and conditions described in the Biological Opinion for the project prepared by the USFWS shall be implemented.</p> <ul style="list-style-type: none"> • The project owner shall undertake appropriate measures to manage the construction site and related facilities in a manner to avoid or minimize impacts to desert tortoise. These measures include, but are not limited to, the following: <ul style="list-style-type: none"> ○ The project applicant shall notify the USFWS and CDFW prior to project commencement and prior to the commencement of any ground disturbing activities. ○ Before starting project ground disturbing activities, the project proponent shall avoid potential desert tortoise harm by incorporating desert tortoise exclusion fencing into permanent fencing surrounding the proposed facility, and installing desert tortoise exclusion fencing around temporary project construction areas such as staging area, storage yards, excavations, and linear facilities. The tortoise exclusion fencing shall be constructed consistent with the USFWS 2010 Desert Tortoise Exclusion Fence Specifications or the most current guidance provided by USFWS and CDFW, and should be constructed in late winter or early spring to minimize impacts to desert tortoise and accommodate subsequent tortoise surveys. ○ Within 24 hours before starting tortoise exclusion fence construction, the desert tortoise biologist shall survey the fence alignment and utility right-of-way alignments and clear desert tortoises from the area. The surveys and relocation methods shall be conducted using techniques approved by the CDFW and USFWS. Following construction of the tortoise exclusion fence, 				

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<p>the desert tortoise biologist shall conduct clearance surveys within the fenced area to ensure as many desert tortoises as possible have been removed from the site. Burrows and tortoises identified within the project area shall be handled according to the 2013 USFWS Desert Tortoise Field Manual, and tortoises requiring relocation shall be handled in accordance with the project Desert Tortoise Relocation/Translocation Plan.</p> <ul style="list-style-type: none"> ○ Heavy equipment may enter the project site following the completion of project area desert tortoise clearance surveys by the desert tortoise biologist. Monitoring initial clearing and grading activities by the biologist will help ensure that tortoises missed during the initial clearance survey are moved from harm's way. ○ The desert tortoise biologist shall be responsible for appropriate documentation and reporting to the permitting agencies for desert tortoises handled, in accordance with the project Desert Tortoise Relocation/Translocation Plan. ○ Security gates shall be designed with minimal ground clearance to deter ingress by tortoises. The gates shall be kept closed, except for the immediate passage of vehicles, to prevent desert tortoise passage into the project area. ○ Following installation of the desert tortoise exclusion fencing – both the permanent site fencing and temporary fencing in the utility corridors – the fencing shall be regularly inspected by the biological monitor. The biological monitor shall ensure that damage to the permanent or temporary fencing is immediately blocked to prevent tortoise access and permanently repaired within 72 hours between March 15 and October 31, and within 7 days between November 1 and March 14. The biological monitor shall inspect permanent fencing quarterly and after major rains to ensure fences are intact and there is no ground clearance under the fence that would allow tortoises to pass. The biologist shall inspect construction pipes, culverts, or similar structures: (a) with a diameter greater than 3 inches, (b) stored for one or more nights, (c) less than 8 inches aboveground, and (d) within desert tortoise habitat (outside the permanently fenced area), before the materials are moved, buried, or capped. As an 				

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<p>alternative, the materials may be capped before storing outside the fenced area or placing on pipe racks. Inspection or capping is not necessary if the materials are stored within the permanently fenced area after completing desert tortoise clearance surveys.</p> <ul style="list-style-type: none"> ○ The project proponent shall ensure vehicular traffic does not exceed 25 miles per hour within the delineated project areas or on access roads in desert tortoise habitat. On unpaved roads suppress dust and protect air quality by observing a 10-mile per hour speed limit. ○ To avoid vehicle impacts to desert tortoise, workers shall be responsible for inspecting the ground under the vehicle for the presence of desert tortoise any time a vehicle or construction equipment is parked in desert tortoise habitat outside the permanently fenced area. If a desert tortoise is seen, it may move on its own. If it does not move within 15 minutes, the desert tortoise biologist may remove and relocate the animal to a safe location. ● The project proponent shall develop and implement a Desert Tortoise Relocation/Translocation Plan that is consistent with current USFWS approved guidelines. The goal of the plan will be to safely exclude desert tortoises from within the fenced project area and relocate/translocate them to suitable habitat capable of supporting them, while minimizing stress and potential for disease transmission. The plan shall be developed in consultation with the USFWS to ensure the document does not conflict with conditions issued under an Incidental Take Statement. The plan will utilize the most recent USFWS guidance on translocation that includes siting criteria for the translocation site and control site, methods for translocation/relocation including the holding pen, and post translocation/relocation monitoring. Development and implementation of a translocation plan may require, but may not be limited to, additional surveys of potential recipient sites; disease testing and health assessments of translocated and resident tortoises; and consideration of climatic conditions at the time of translocation. The plan shall designate a relocation site as close as possible to the disturbance site that provides suitable conditions for long term 				

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<p>survival of the relocated desert tortoise and outline a method for monitoring the relocated tortoise.</p> <ul style="list-style-type: none"> • The Desert Tortoise Relocation/Translocation Plan must be approved by the County, CDFW and USFWS prior to any project-related ground disturbing activity. • Within 30 days after initiation of relocation and/or translocation activities, the Designated Biologist shall provide to the Project Manager for review and approval, a written report identifying which items of the plan have been completed, and a summary of all modifications to measures made during implementation of the plan. Written monthly progress reports shall be provided to the Project Manager for the duration of the plan implementation. • The project proponent shall design and implement a Raven Monitoring, Management, and Control Plan that is consistent with the most current USFWS raven management guidelines. The goal of the plan shall be to minimize predation on desert tortoises by minimizing project-related increases in raven abundance. The plan shall be approved by the County, CDFW and USFWS prior to the start of any project-related ground disturbing activities. 				
<p>BIO-7: Minimize impacts to special status reptiles (except desert tortoise).</p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status reptiles (with the exception of desert tortoise which has separate mitigation measures):</p> <ul style="list-style-type: none"> • Surveys for special status reptiles including but not limited to northern sagebrush lizard, Panamint alligator lizard, and Mojave fringe-toed lizard shall be conducted by a CDFW-approved biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If 	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction.</p> <ul style="list-style-type: none"> • If any of these species are found on a project site during the surveys, CDFW will be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats. • If federal or state-listed reptiles not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project, consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species. 				
<p>BIO-8: Minimize impacts to Swainson’s hawk.</p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect Swainson’s hawk:</p> <ul style="list-style-type: none"> • Surveys shall be conducted for Swainson’s hawk by a CDFW-approved biologist according to the 2010 Swainson’s Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (California Department of Fish and Game [CDFG] 2010) or more recent guidance, unless otherwise directed by CDFW. This guidance dictates survey methods for detecting Swainson’s hawk nesting in or in the vicinity of a project site and measure to avoid and/or reduce impacts to nesting Swainson’s hawk if they are found. The project applicant shall be 	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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responsible for coordinating with CDFW and ensuring that the CDFW guidance is implemented.				
<p>BIO-9: Minimize impacts to burrowing owl.</p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect burrowing owl, unless otherwise directed by CDFW:</p> <ul style="list-style-type: none"> • In the calendar year that construction is scheduled to commence, surveys will be conducted by a CDFW-approved biologist to determine presence/absence of burrowing owls and/or occupied burrows in the project site and accessible areas within 500 feet according to the <i>CDFW's Staff Report on Burrowing Owls</i> (CDFG 2012). A non-breeding season survey will be conducted between December 1 and January 31 and a breeding season survey will be conducted between April 15 and July 15 according to established protocols (CDFG 2012). Pre-construction surveys will also be conducted within 30 days prior to construction to ensure that no additional burrowing owls have established territories since the initial surveys. If no burrowing owls are found during any of the surveys, no further mitigation will be necessary. If burrowing owls are found, then the following measures shall be implemented prior to the commencement of construction: <ul style="list-style-type: none"> ○ During the non-breeding season (September 1 through January 31) burrowing owls should be evicted by passive relocation as described in the Staff Report on Burrowing Owls (CDFG 2012). ○ Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) occupied burrows shall not be disturbed and shall be provided with a 75-meter protective buffer unless a qualified biologist approved by CDFW verifies through non-invasive means that either: (1) the birds have not begun egg laying or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. 	Prior to approval and/or issuance of Major Use Permits / prior to construction	Prior to approval and/or issuance of Major Use Permits / prior to construction	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> ○ If on-site avoidance is required, the location of the buffer zone will be determined by a qualified biologist. The developer shall mark the limit of the 75-meter buffer zone with yellow caution tape, stakes, or temporary fencing. The buffer will be maintained throughout the construction period. ○ Where on-site avoidance is not possible, CDFW should be consulted regarding the appropriate avoidance and minimization measures to avoid impacts to this species. 				
<p>BIO-10: Minimize impacts to western snowy plover, western yellow-billed cuckoo, Inyo California towhee, and bank swallow.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect federally-listed bird species for which survey protocols have not been published, including the western snowy plover, Inyo California towhee, and bank swallow, the USFWS shall be contacted to develop project specific measures to determine the potential for presence/absence of the species in the project area and appropriate avoidance and mitigation measures. For projects in the desert portions of the County, contact the Palm Springs Fish and Wildlife Office. For projects in the forested portions of the County or the Owens Valley, contact the Nevada Fish and Wildlife Office. Mitigation measures shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take” of federally-listed bird species, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. Western yellow-billed cuckoo, Inyo California towhee, and bank swallow are also state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of these species (as</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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defined by the Fish and Game Code).				
<p>BIO-11: Minimize impacts to southwestern willow flycatcher.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect southwestern willow flycatcher, surveys shall be conducted according to Southwestern Willow Flycatcher Protocol Revision 2010 (http://www.fws.gov/mountain-prairie/endspp/protocols/SWWFReport.pdf) following the guidelines for the revised protocol for project-related surveys or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office. For projects that are determined to have the potential to result in “take” of southwestern willow flycatcher, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. Southwestern willow flycatcher is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as defined by the Fish and Game Code). Mitigation measures shall be implemented and shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	
<p>BIO-12: Minimize impacts to bald and golden eagle.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect bald and golden eagles, the project proponent shall implement the following measures to avoid and offset impacts:</p> <ul style="list-style-type: none"> • Site specific surveys and monitoring of known or suspected eagle nesting and foraging habitat in areas where eagles occur (i.e., all of California) shall be conducted to provide background information 	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	

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<p>related to bald eagle take permits (golden eagle is fully protected pursuant to Fish and Game Code and no permits may be issued for their take). Surveys shall be conducted using (at least) methods and qualified personnel as recommended by CDFW and USFWS. Surveys shall be conducted according to the USFWS 2010 Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations (available online at http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/usfws_interim_goea_monitoring_protocol_10march2010.pdf), the USFWS's 2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California and CDFW's 2010 Bald Eagle Breeding Survey Instructions (both documents are available online at http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html) or the most recent guidance regarding non-breeding season surveys for winter, migratory, and floating populations of eagles determined in coordination with CDFW and USFWS.</p> <ul style="list-style-type: none"> • Where proposed projects may result in take of bald eagles, the USFWS shall be consulted to determine the standards and requirements for the permit titled "Eagle Take - Necessary to Protect Interests in a Particular Locality." Bald eagle take permits are performance based and will hinge on the merits of the application. The permit application form and related information are on the USFWS website: http://www.fws.gov/migratorybirds/baldeagle.htm. The final rule (Federal Register / Vol. 74, No. 175, September 11, 2009), Environmental Assessment (http://www.fws.gov/migratorybirds/CurrentBirdIssues/BaldEagle/EA_EagleTakePermit_Final.pdf), implementation and protocol documents, and consultations with USFWS will provide additional guidance. • Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas 				

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<p>used by eagles for thermal or orographic lift.</p> <ul style="list-style-type: none"> Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas used by eagles for thermal or orographic lift. Projects shall incorporate actions to avoid eagle disturbance (refer to the USFWS National Bald Eagle Management Guidelines, May 2007 and Interim Golden Eagle Technical Guidance: Inventory and Monitoring Protocols; and Other Recommendations in Support of Golden Eagle Management and Permit Issuance, Attachment II) in consultation with the USFWS to obtain the most current guidance and measures. 				
<p>BIO-13: Minimize impacts to least Bell’s vireo.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to contain habitat for least Bell’s vireo on or adjacent to the site, surveys shall be conducted according to the USFWS’s Least Bell’s Vireo Survey Guidelines (http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/LBVireo.2001.protocol.pdf) or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office.</p> <p>For projects that are determined to have the potential to result in “take” of least Bell’s vireo, either on or off-site due to direct or indirect impacts, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. Least Bell’s vireo is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>defined by the Fish and Game Code).</p> <p>For projects with the potential to result in direct or indirect impacts to least Bell’s vireo or its habitat, mitigation measures shall be developed in consultation with USFWS and CDFW and shall be implemented prior to project implementation. Such measures shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, habitat restoration, and compensatory mitigation for loss of habitat that may include implementation of captive breeding programs</p>				
<p>BIO-14: Minimize impacts to bighorn sheep.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect bighorn sheep, the project applicant shall retain a qualified biologist, approved by the USFWS and CDFW, to conduct preconstruction surveys for Sierra Nevada bighorn sheep and/or Peninsular and Mojave bighorn sheep depending on the location of the project. Due to low detection probabilities, the following data shall be used when evaluating potential projects impacts to the species: data relative to historic ranges of bighorn sheep; known and potential wildlife corridors (such as, those identified in the BLM Mojave and Colorado deserts land use plans); point location data; and existing literature. If bighorn sheep or their migration routes exist, are known or likely to occur on or in the vicinity of the project site, and may be affected by project-related activities, consultation shall be conducted with USFWS, CDFW, and other stakeholders, as appropriate, regarding avoidance, minimization, compensatory mitigation, or site abandonment.</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	
<p>BIO-15: Minimize impacts to Sierra Nevada red fox.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect Sierra Nevada red fox, CDFW shall be contacted to</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>develop project specific measures to determine the potential for presence/absence of this species in the project area and appropriate avoidance and mitigation measures. Mitigation measures shall include, but are not limited to, a species specific habitat assessment and/or focused surveys to determine whether Sierra Nevada red fox or its habitat is present in or adjacent to the project site, measures to avoid or minimize impacts to this species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take,” consultation will be conducted with CDFW under the California Endangered Species Act and incidental take authorization will be obtained prior to project commencement.</p>				
<p>BIO-16: Minimize impacts to Mohave ground squirrel.</p> <p>Protocol Mohave ground squirrel surveys shall be required for projects that propose impacts to habitat with potential to support Mohave ground squirrel or are within or adjacent to the species’ known range. Mohave ground squirrel surveys consist of a visual survey followed by 3 trapping sessions of 5 nights each (CDFW 2003). Each trapping session must be conducted during a specific time frame. The first session must be conducted between March 15 and April 30; the second between May 1 and May 31; and the third between June 15 and July 15. Trapping can be discontinued if a Mohave ground squirrel is trapped or observed, in which case the survey area is deemed to be occupied. If survey results are negative, the survey area will be deemed to be unoccupied for one year during which pre-construction surveys are not required. If survey results are positive, the project shall obtain an incidental take permit from CDFW under CESA Section 2081.</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	
<p>BIO-17: Minimize impacts to American badger and kit fox.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect American badger and/or kit fox, the following measures shall be implemented to avoid, minimize, and mitigate for impacts to these species:</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<ul style="list-style-type: none"> • The project proponent shall prepare and implement an American badger and/or kit fox management plan. The plan shall be prepared in accordance with the most current CDFW guidelines for these species. The plan shall be approved by CDFW prior to implementation. The plan shall include the following components: <ul style="list-style-type: none"> ○ Preconstruction surveys and mapping efforts: biological monitors shall perform pre- construction surveys for badger and kit fox dens in the project area, including areas within 250 feet of all project facilities, utility corridors, and access roads. If dens are detected, each den shall be classified as inactive, potentially active, or definitely active, including characterization of den type for kit fox (natal, pupping, likely satellite, atypical) per CDFW guidance, and mapped along with major project design elements. ○ Inactive dens that would be directly impacted by construction activities shall be excavated by hand and backfilled to prevent reuse by badgers or kit fox. Excavation and filling activities shall be performed by a CDFW-approved biologist. Potentially and confirmed active dens shall not be disturbed during the whelping/pupping season (February 1 to September 30). ○ Monitoring requirements. Potentially and definitely active dens that would be directly impacted by construction activities shall be monitored by the CDFW-approved biologist for three consecutive nights (during weather conditions favorable for detection) using a tracking medium (such as diatomaceous earth or fire clay) and/or infrared camera stations at the entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand. If tracks are observed, the den shall be progressively blocked with natural materials (rocks, dirt, sticks, and vegetation piled in front of the entrance) for the next three to five nights to discourage the badger or kit fox from continued use. After verification that the den is unoccupied it shall then be excavated and backfilled by hand to ensure that no badgers or kit fox are trapped in the den. ○ Passive relocation strategies. The management plan shall contain, at a minimum, several strategies to passively relocate 				

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<p>animals from the site. These methods may entail strategic mowing, fencing, or other feasible construction methods to assist in moving animals offsite toward desirable land. The plan shall address location of preferred offsite movement of animals, based on CDFW data and land ownership. Even with permission from the landowner, private land is to be avoided to the maximum extent practicable.</p> <ul style="list-style-type: none"> ○ Escape dens shall be installed along the perimeter fencing to reduce predation risk. ○ Kit fox disease prevention measures. The CDFW-approved biologist shall notify the County project manager and CDFW within 24 hours if a dead kit fox is found or appears sick. The plan must also detail a response to a kit fox injury, including a necropsy plan, reporting methods, and scope of adaptive methods in the event of a known or suspected outbreak. The project owner will pay for any necropsy work. 				
<p>BIO-18: Minimize impacts to other special status birds, raptors, migratory birds, nesting birds and bats.</p> <p>The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact nesting birds and/or bats and shall be implemented to avoid, minimize, and mitigate for impacts to birds and bats. These measures are for bird species without established protocols and non-listed bird species that lack species-specific mitigation measures (not applicable to the common raven). For future development proposed to be located on or near land with old mines, specific survey protocols and mine closure considerations shall be developed.</p> <p>Pre-Construction Bird Surveys and Avoidance Measures If project construction occurs between roughly February 1 and August 31, a CDFW-approved biologist shall conduct preconstruction surveys for nesting birds. The biologist(s) conducting the surveys shall be experienced bird surveyors and familiar with standard nest-locating techniques. Surveys shall be conducted in accordance with the following guidelines:</p> <ul style="list-style-type: none"> • CDFW and/or USFWS (depending on the avian species in question) 	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction / during operation</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction / during operation</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>shall be contacted to obtain approval of pre-construction survey methodology prior to commencement of the surveys.</p> <ul style="list-style-type: none"> • Surveys shall cover all potential nesting habitat in the project site and within 500 feet of the project site and linear facilities boundaries - inaccessible areas outside of the project boundary may be surveyed from within the project site or publicly accessible land with the aid of binoculars. • Vegetation removal or other ground disturbing activities should be avoided between February 1 and August 31; however if it cannot be avoided, the CDFW-approved biologist shall survey breeding/nesting habitat within the survey radius described within one week prior to the start of project activities. • CDFW and/or USFWS must provide concurrence with the survey findings prior to the start of construction. Site preparation and construction activities may begin after receiving the concurrence and if no breeding/nesting birds are observed. Additional follow up surveys shall be conducted if periods of construction inactivity exceed one week in any given area, an interval during which birds may establish a nesting territory and initiate egg laying and incubation. <p>If active nests are detected during the survey, a no-disturbance buffer zone (protected area surrounding the nest, the size of which is to be determined by the project biologist in consultation with CDFW and/or USFWS) and a monitoring plan shall be developed. The nesting bird plan shall identify the types of birds that may nest in the project area, the proposed buffers, monitoring requirements, and reporting standards that will be implemented to ensure compliance with the MBTA and Fish and Game Codes 3505 and 3505.3. The CDFW-approved biologist shall monitor the nest until he or she determines that nestlings have fledged and dispersed.</p> <p>Pre-Construction Bat Surveys and Avoidance Measures Preconstruction bat surveys shall be conducted by a CDFW-approved biologist(s) familiar with standard bat survey techniques. If night or day roosting bats are identified in project structures they shall not be disturbed and a 100 foot non-disturbance buffer shall be placed between the roost and</p>				

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<p>the construction activities until a determination is made whether the roost is a maternity roost or a non-breeding roost. Maternity colonies shall not be disturbed until coordination with CDFW is conducted to determine appropriate measures including an appropriate no-disturbance buffer. If the CDFW-approved bat biologist determines roosting bats consist of a non-breeding roost, the individuals shall be safely evicted under the direction of a CDFW-approved bat biologist. CDFW shall be notified of any bat evictions within 48 hours.</p> <p>Bat and Avian Protection Plan A bird and bat conservation strategy (BBCS) shall be prepared to reduce potential project impacts on migratory birds. The BBCS shall describe proposed actions to avoid, minimize, and mitigate adverse effects to migratory birds protected under the MBTA during construction and operations of the proposed project. The BBCS shall be submitted to USFWS and CDFW for approval prior to the start of ground disturbing activities. The BBCS shall address buffer distances for specific bird species and include a robust, systematic monitoring protocol to document mortality and habitat effects to birds. The monitoring protocol should incorporate the following objectives at a minimum: (1) a minimum of weekly monitoring for mortality and immediate necropsy to determine cause of death, both during construction and throughout the life of the project; (2) systematic data collection and reporting of bird mortality including data on the following: species, date, time, how the animal died (e.g., exhaustion, trauma), as well as any information on what might be attracting animals to the photovoltaic cells (light, insects, etc.); (3) a method to estimate the overall annual avian mortality rate associated with the facility, including mortality associated with all the features of the project that are likely to result in injury and mortality (e.g., fences, ponds, solar panels); and (4) methods to determine whether there is spatial differentiation within the solar field in the rates of mortality (i.e., panels on the edge of the field versus interior of the field). Biologists performing this work would be required to have a Scientific Collecting Permit from CDFW. Standardized and systematic data on bird and bat mortalities will be collected to contribute to the improvement of the scientific communities' understanding of both baseline and photovoltaic related mortality that occurs in solar projects in the desert and is needed in order to identify improved methods</p>				

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<p>to minimize adverse effects on migrating birds and bats.</p> <p>In the absence of a permit from the USFWS, the temporary or permanent possession of protected migratory birds and their carcasses is a violation of the MBTA. Because of the need for carcass collection to adequately monitor avian impacts during BBCS implementation and to reduce the food subsidy that carcasses may provide to common ravens (<i>Corvus corax</i>) and other predators, developers shall be required to obtain a special purpose utility permit from the USFWS allowing the collection of migratory birds and/or their carcasses prior to implementation of the monitoring protocol.</p> <p>General Bird Mortality Avoidance Measures The following measures shall be implemented to minimize bird mortality from birds attracted to solar facilities:</p> <ul style="list-style-type: none"> • All potential nesting vegetation (e.g., trees, shrubs) shall be removed within the fenced area of the facility to decrease attractive habitat. • The most current science regarding visual cues to birds that the solar panel is a solid structure shall be implemented. This may include but is not limited to UV-reflective or solid, contrasting bands spaced no further than 28 centimeters from each other. An adaptive management approach for reducing bird collisions with solar panels shall be implemented in coordination with the USFWS so that measures used are systematically tested and modified as appropriate. • Projects with documented avian mortality shall work with the USFWS to conduct additional research to test measures for reducing avian mortality. Such measures could include, but are not limited to, experimental lighting within the solar field and use of detection and deterrent technologies. • Developers of power tower operations shall implement adaptive management in consultation with the USFWS should mortality monitoring indicate that suspension of power tower operations during certain periods is necessary to reduce impacts on local or regional bird populations. Such measures may include, but are not limited to, suspending or reducing project operations during peak migration 				

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<p>seasons.</p> <ul style="list-style-type: none"> Vertical orientation of mirrors shall be avoided whenever possible (for example, mirrors shall be tilted during washing). Perch deterrent devices shall be placed on tower railings. Exclusionary measures shall be employed to prevent bats from roosting in and around the facility. <p>Minimize Impacts from Solar Flux The following mitigation measures shall be implemented in order to minimize avian impacts from solar flux:</p> <ul style="list-style-type: none"> Solar thermal developments utilizing solar power tower technologies shall be sited a minimum of 1,000 feet from Important Bird Areas, the OVSA, or riparian or other aquatic habitats including lakes, ponds, rivers, streams, and perennial wetland habitats unless potentially significant impacts are avoided, although the appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies. This requirement generally does not apply to seasonal or ephemeral wetland habitats unless deemed necessary by a qualified biologist in light of the wetland’s specific habitat value for bird species. The County shall require developers proposing solar power tower technology to coordinate with the USFWS during project planning. As part of that coordination process, and in conjunction with the project’s next tier of CEQA review, the USFWS will advise the County whether a Bird and Bat Conservation Strategy would be necessary for the project, and if required, would adequately reduce the effects of the project on migratory birds and bats. <p>Minimize Impacts from Open Evaporation Ponds The following mitigation measures shall be implemented for projects that require the use of open evaporation ponds:</p> <ul style="list-style-type: none"> An evaporation pond management plan shall be prepared and submitted to CDFW for approval prior to project approval. 				

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<ul style="list-style-type: none"> • If the use of open evaporation ponds is permitted for the project and especially if the water would be considered toxic to wildlife, ponds shall be designed to discourage bird and other wildlife use by properly netting or otherwise covering the pond. <p>Avoid Impacts from Electric Lines and Lights The following design measures shall be implemented for applicable projects to minimize impacts to bats and birds:</p> <ul style="list-style-type: none"> • Transmission lines and electrical components shall be installed and maintained in accordance with the Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006 (APLIC 2006) or the most recent guidance to reduce the likelihood of electrocutions of raptors and other large birds, . • Transmission lines and electrical components shall be installed and maintained in accordance with the APLIC's <i>Reducing Avian Collisions with Power Lines: The State of the Art in 2012</i> (Edison Electric Institute 2012) or the most recent guidance to reduce the likelihood of bird collisions. • Low and medium voltage connecting power lines shall be placed underground, if feasible. If burial of the lines is not feasible due to cost or other logistical reasons (for example in shallow bedrock areas) or may cause unacceptable impacts to biological habitats and their dependent species, overhead lines may be installed in compliance with the following requirements: <ul style="list-style-type: none"> ○ low and medium voltage overhead lines shall be sited away from high bird crossing locations, such as between roosting and feeding areas or between lakes, rivers, and nesting areas; and/or ○ low and medium voltage overhead lines shall be installed parallel to tree lines or be otherwise screened so that collision risk is reduced. • Permanent communication towers and permanent meteorological towers shall not be constructed with guy wires, if feasible. If guy wires are necessary for permanent or temporary towers, bird flight diverters or high visibility marking devices shall be used. In such 				

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<p>cases a monitoring plan shall be developed and carried out to determine the diverters'/devices' effectiveness in reducing bird and bat mortality.</p> <ul style="list-style-type: none"> • Facility lighting shall be installed and maintained to prevent upward and side casting of light towards wildlife habitat and motion sensors shall be used. If the FAA requires turbine or tower lighting to alert aircraft, red or white strobe lights shall be used on the structures to minimize avian collision risks. The strobes shall be on for as brief of a period as possible and the time between strobe or flashes shall be the longest allowable. Strobes shall be synchronized so that a strobe effect is achieved and towers are not constantly illuminated. • Lights with sensors and switches shall be used to keep lights off when not required. • The use of high-intensity lighting, steady-burning, or bright lights such as sodium vapor or spotlights shall be minimized. <p>Compensatory Mitigation for the Cumulative Loss of Migratory Bird Habitat along the Pacific Flyway The County shall require solar development projects implemented under the REGPA to mitigate for the loss of habitat by funding activities to restore, enhance, or conserve important habitat for migratory birds or to remove other mortality sources from the Pacific Flyway. Such funding may be directed to the Sonoran Joint Venture (http://sonoranjv.org), Central Valley Joint Venture (http://www.centralvalleyjointventure.org), or Intermountain West Joint Venture (http://iwjv.org), or other groups able to implement conservation of migratory birds within the Pacific Flyway. The amount of funding will be determined by the County in coordination with USFWS and shall be commensurate with the level of impact.</p>				
<p>BIO-19: Minimize impacts to special status natural communities and protected natural areas.</p> <p>Solar development authorized under the REGPA will not be sited within any special status natural communities or protected natural areas. If solar development is sited adjacent to any special status natural communities or protected natural areas or is determined to have the potential to impact any</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>off-site special status natural communities or protected natural areas during the project level biological resources evaluation (e.g., projects in the Laws SEDA could impact the hydrology of critical habitat for Fish Slough milk-vetch; projects in the Chicago Valley SEDA could negatively impact off-site mesquite bosque by altering drainage patterns or altering groundwater levels; projects in the Charleston View and Chicago Valley SEDAs could impact down-watershed habitats in the Amargosa Watershed (including habitats within the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic.”), a management plan will be developed in consultation with CDFW and/or USFWS. The management plan will address the potential offsite effects of the construction and on-going operations of the facility on special status species including but not limited to the effects of human disturbance, noise, nighttime maintenance activities, increased lighting, increased traffic on desert roads, and barriers to movement for special status species. The management plan will also address potential mechanisms of offsite habitat degradation such as introduction of invasive weeds, introduction or attraction of feral animals or other species attracted to areas with anthropogenic disturbance, hydrologic disruption due to groundwater impacts or alteration of surface drainage patterns, and increased risk of wildfires. The management plan will also outline the specific measures to be undertaken to avoid and/or minimize indirect effects of the solar development on the adjacent sensitive habitat and special status species and include a plan for long term monitoring of the adjacent habitat as well as an adaptive management plan.</p> <p>If riparian communities (other than water birch riparian scrub – a special status natural community that must be avoided) are present in a project area, impacts to riparian communities shall be avoided or minimized by implementing the following measures:</p> <ul style="list-style-type: none"> • The project shall be redesigned or modified to avoid direct and indirect impacts on riparian communities, if feasible. • Riparian communities adjacent to the project site shall be protected by installing environmentally sensitive area fencing, if necessary, in coordination with the project biologist. • The potential for long term loss of riparian vegetation shall be 				

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<p>minimized by trimming vegetation rather than removing the entire shrub. Shrub vegetation shall be cut at least 1 foot above ground level to leave the root systems intact and allow for more rapid regeneration of the species. Cutting shall be limited to a minimum area necessary within the construction zone. This type of removal shall be allowed only for shrub species (all trees shall be avoided) in areas that do not provide habitat for sensitive species (e.g., willow flycatcher).</p> <ul style="list-style-type: none"> If riparian vegetation is removed as part of a project, the loss of riparian vegetation shall be mitigated to ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW and USFWS). Compensation shall be provided at a minimum 1:1 ratio (1 acre restored or created for every 1 acre removed) and may be a combination of on-site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented that describes how riparian habitat shall be enhanced or recreated and monitored over a minimum period of time, as determined by the appropriate state and federal agencies. 				
<p>BIO-20: Minimize impacts to waters of the US/State, including wetlands.</p> <p>The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact waters of the US or waters of the State, including wetlands, and shall be implemented to avoid, minimize, and mitigate for such impacts. These measures shall be incorporated into contract specifications and implemented by the construction contractor. In addition, the project proponent shall ensure that the contractor incorporates all state and federal permit conditions into construction specifications.</p> <ul style="list-style-type: none"> Wetlands and other waters of the US/state shall be delineated on the project site using both USACE and CDFW definitions of wetlands. USACE jurisdictional wetlands shall be delineated using the methods outlined in the USACE 1987 Wetlands Delineation Manual and the 	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>Arid West Manual, or the most recent guidance. This information shall be mapped and documented as part of the CEQA documentation, as applicable, and in wetland delineation reports. All applicable permits shall be obtained prior to impacting waters of the US/State including CWA Section 404 and 401 permits from the USACE and the RWQCB respectively and a Streambed Alteration Agreement from CDFW.</p> <ul style="list-style-type: none"> • The project shall be redesigned or modified to avoid direct and indirect impacts on waters of the U.S./State, if feasible. • Standard erosion control measures shall be implemented for all phases of construction and operation where sediment runoff from exposed slopes threatens to enter waters of the State and/or waters of the US. Sediment and other flow-restricting materials shall be moved to a location where they shall not be washed back into the stream. All disturbed soils and roads within the project site shall be stabilized to reduce erosion potential, both during and following construction. Areas of disturbed soils (access and staging areas) with slopes trending towards a drainage shall be stabilized to reduce erosion potential. • Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing, if necessary, in coordination with the project biologist. • All construction vehicles and equipment shall use existing roadways to the extent feasible to avoid or reduce impacts to waters of the U.S./State. • Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used. • Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing at least 20 feet from the edge of the wetland. Depending on site-specific conditions and 				

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<p>permit requirements, this buffer may be wider than 20 feet in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within the fenced environmentally sensitive area.</p> <ul style="list-style-type: none"> • Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used. • Where determined necessary by resource specialists, geotextile cushions and other materials (e.g., timber pads, prefabricated equipment pads, or geotextile fabric) shall be used in saturated conditions to minimize damage to the substrate and vegetation. • Exposed slopes and stream banks shall be stabilized immediately on completion of installation activities. Other waters of the US shall be restored in a manner that encourages vegetation to reestablish to its pre-project condition and reduces the effects of erosion on the drainage system. • In highly erodible stream systems, banks shall be stabilized using a non-vegetative material that will bind the soil initially and break down within a few years. If the project engineers determine that more aggressive erosion control treatments are needed, geotextile mats, excelsior blankets, or other soil stabilization products shall be used. • During construction, trees, shrubs, debris, or soils that are inadvertently deposited below the ordinary high-water mark of drainages shall be removed in a manner that minimizes disturbance of the drainage bed and bank. • If wetlands are filled or disturbed as part of the solar project, compensation will be implemented for the loss of wetland habitat to 				

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<p>ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW, USFWS, and USACE). The compensation shall be at a minimum 1:1 ratio (1 acre restored or created for every 1 acre filled) and may be a combination of on site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented if onsite or offsite restoration or creation is chosen. The plan shall describe how wetlands shall be created and monitored for the duration established by the regulatory agency.</p> <ul style="list-style-type: none"> For solar projects proposing groundwater pumping, hydrological studies shall be performed to assess the potential for off-site impacts to jurisdictional waters that depend on groundwater. Projects shall be designed to avoid and/or minimize impacts to groundwater-dependent jurisdictional resources off-site, and all proposed impacts to such resources shall be reviewed by the agencies with jurisdiction over the affected resources, and mitigated according to those agencies' requirements. 				
<p>BIO-21: Minimize impacts to movement or migratory corridors or native wildlife nursery sites.</p> <p>The following mitigation measures will be implemented to minimize impacts to movement or migratory corridors or native wildlife nursery sites:</p> <ul style="list-style-type: none"> Solar development authorized under the REGPA shall not be sited in or within 1,000 feet of any areas determined by the County in consultation with responsible and trustee agencies to be Important Bird Areas, essential connectivity areas or linkages identified in the 2001 Missing Links in California's Landscape Project (Penrod et al. 2001), or tule elk and mule deer movement corridors unless potentially significant impacts are avoided. The appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies. Any proposed solar development projects in the OVSA shall be 	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>required to study the potential impact of the project on tule elk and mule deer movement corridors prior to project approval. If a proposed project is determined to be located within an important tule elk and mule deer movement corridor, the applicant shall be responsible for the preparation of a plan to avoid and/or minimize impacts to such corridors in coordination with CDFW.</p> <ul style="list-style-type: none"> As stated in Mitigation Measure BIO-6, projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Draft Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, ACECs, DWMAs, priority connectivity areas, and other areas or easements managed for desert tortoises) 				
<p>BIO-22: Minimize impacts to invasive plant species or noxious weeds.</p> <p>For projects implemented under the REGPA that are determined during the project level biological resource evaluation to have the potential to result in the spread of invasive plant species or noxious weeds, the following mitigation measures shall be implemented.</p> <p>To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes. Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site. Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored. 	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<ul style="list-style-type: none"> • The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned. • Native vegetation shall be re-established quickly on disturbed sites. • Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions. • Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations. 				
<p>BIO-23: Implement general design guidelines to minimize impacts to biological resources.</p> <p>All projects authorized under the REGPA will incorporate the following design guidelines as applicable in coordination with the County:</p> <ul style="list-style-type: none"> • Design and site the project, in consultation with the permitting agencies, to avoid or minimize impacts to sensitive and unique habitats and wildlife species. Locate energy generation facilities, roads, transmission lines, and ancillary facilities in the least environmentally sensitive areas (such as away from riparian habitats, streams, wetlands, vernal pools, drainages, sand dunes, critical wildlife habitats, wildlife conservation, management, other protected areas, or unique plant assemblages). <ul style="list-style-type: none"> ○ Design facilities to use existing roads and utility corridors as much as possible to minimize the number and length/size of new roads, laydown, and borrow areas. ○ Design transmission line poles, access roads, pulling sites, storage, and parking areas to avoid special status species or unique plant assemblages adjacent to linear facilities. ○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions. ○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions. ○ Design facilities to discourage their use as bird perching, drinking, or nesting sites. ○ Design facility lighting to prevent side casting of light toward wildlife habitat and skyward protection of light that may 	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>disorient night-migrating birds.</p> <ul style="list-style-type: none"> ○ Avoid using or degrading high value or large intact habitat areas, such as areas identified as sensitive natural habitat, Wilderness Areas, Areas of Critical Environmental Concern, critical habitat; riparian, sand dunes. ○ Avoid severing movement and connectivity corridors. Consider existing conservation investments such as protected areas and lands held in trust for conservation purposes. ○ Locate facilities so they do not disrupt sand transport processes nor remove some or all of a sand source that contributes to sand dune systems harboring listed or otherwise sensitive species. Avoid armoring nearby dune system. 				
<p>BIO-24: Minimize impacts to groundwater dependent vegetation.</p> <p>Any solar development projects or related infrastructure implemented under the REGPA which are located on City of Los Angeles-owned land or which could affect City of Los Angeles-owned land shall comply with the terms of the Agreement. A qualified biologist/botanist with experience in Inyo County shall evaluate the potential for any project implemented under the REGPA to impact groundwater dependent vegetation or ecosystems located on City of Los Angeles-owned land. If the qualified biologist/botanist determines that the project has the potential to impact groundwater dependent vegetation or ecosystems, a groundwater dependent vegetation management plan will be prepared. The plan will include an evaluation of the potential impacts to groundwater dependent vegetation or ecosystems and appropriate measures to avoid or reduce the impacts to the extent feasible. The plan shall be prepared in coordination with the County and LADWP and should describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on groundwater dependent vegetation or ecosystems as deemed appropriate by the qualified biologist in coordination with the County and LADWP. Projects that are likely to affect groundwater resources in a manner that would result in a substantial loss of riparian or wetland natural communities and/or habitat for sensitive flora and fauna associated with such habitats shall be avoided to the extent feasible and impacts shall be mitigated to a level determined to be acceptable by the County. The project and vegetation management plan</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department Inyo County Water Department and/or other applicable agencies.</p>	

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shall be approved by both the County and LADWP prior to implementation.				
<p>MM BIO-25: Minimize potential indirect impacts due to groundwater pumping.</p> <p>Mitigation measures for potential indirect impacts due to groundwater pumping are included in Mitigation Measure BIO-1, Mitigation Measure BIO-2, Mitigation Measure BIO-3, and Mitigation Measure BIO-4. Prior to approval of any project under the REGPA requiring groundwater pumping, the potential effects of the groundwater pumping on biological resources will be evaluated during preparation of the project-specific biological resources evaluation and will be based on the results of the hydrologic study conducted as a requirement of Mitigation Measure HYD-2 in Section 4.9, Hydrology and Water Quality. If groundwater pumping is determined to have the potential to result in off-site impacts to biological resources, measures will be included in the project-specific biological resources mitigation and monitoring plan to avoid, minimize, and mitigate for any such impacts. The measures will be commensurate with the resource and level of impact and may include but are not limited to vegetation and/or water table monitoring, preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County, and a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department Inyo County Water Department and/or other applicable agencies.	
CULTURAL RESOURCES				
<p>CUL-1: Minimize impacts to cultural resources.</p> <p>Adverse effects to historical resources (CRHP-eligible cultural resources) would be resolved on a project-specific level. As part of this process, resource identification efforts including pedestrian surveys, formal government-to-government tribal consultation with state lead agencies, and engagement with Native American communities would be necessary. Examples of ways to resolve adverse effects include:</p> <ul style="list-style-type: none"> • Plan ground disturbance to avoid cultural resources. • Deed cultural resources into permanent conservation easements. • Cap or cover archaeological resources with a layer of soil before building on the location. 	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> • Plan parks, greenspace, or other open space to incorporate cultural resources. • Write synthetic documents summarizing the current understanding of the history and prehistory of the project area and vicinity. • Recover data for archaeological resources. • Develop interpretive material to correspond with recreational uses to educate the public about protecting cultural resources and avoiding disturbance of sensitive resources. • Develop partnerships to assist in the training of groups and individuals to participate in site stewardship programs. • Coordinate with visual resources staff to ensure visual management standards consider cultural resources and tribal consultation to include landmarks of cultural significance to Native Americans (e.g., TCPs, trails). • Measures to address visual impacts to the setting of built-environment resources include: <ul style="list-style-type: none"> ○ Existing mature plant specimens shall be used for screening during construction, operation, and decommissioning phases. The identification of plant specimens that are determined to be mature and retained shall occur as part of the design phase and mapped/identified by a qualified plant ecologist or biologist and integrated into the final design and project implementation. ○ Revegetation of disturbed areas within the project area shall occur as various activities are completed. Plans and specifications for revegetation shall be developed by a qualified plant ecologist or biologist before any extant vegetation is disturbed. The revegetation plan shall include specification of maintenance and monitoring requirements, which shall be implemented for a period of 5 years after project construction or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist. Plant material shall be consistent with surrounding native vegetation. ○ The color of the wells, pipelines, storage tanks, control structures, and utilities shall consist of muted, earth-tone colors that are consistent with the surrounding natural color palette. Matte finishes shall be used to prevent reflectivity. For example, 				

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<p>integral color concrete should be used in place of standard gray concrete.</p> <ul style="list-style-type: none"> ○ The final revegetation and painting plans and specifications shall be reviewed and approved by an architect, landscape architect, or allied design professional licensed in the State of California to ensure that the design objectives and criteria are being met. ○ Specific impact identification and adjustments to finish specifications shall occur during project design. Implementation of the revegetation and coloration plans shall occur during oilfield development. Maintenance and monitoring requirements shall be implemented after initial project construction for a period of 5 years, or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist. <ul style="list-style-type: none"> ● Protective measures and monitoring protocols can be implemented for built environment resources located in close proximity to a project but that are not anticipated to be directly impacted by demolition or development but which may be subject to other direct impacts such as change in historic setting, vibration, noise, or inadvertent damage include: <ul style="list-style-type: none"> ○ Historic Structures Reports (HSR) shall be prepared for buildings and structures adjacent to the project area for which detailed information is required to develop protection measures. Reports shall be completed for buildings and structures that appear to be in poor condition and, therefore, potentially sensitive to development-related activities such as vibration. These reports shall determine if predevelopment stabilization through temporary shoring and bracing of these buildings is warranted. ○ Predevelopment condition assessments shall be prepared for buildings and structures that qualify as historical resources that are adjacent to the project area and are structurally stable, but could be unintentionally damaged during development. Should there be any question as to whether the project caused damage, these condition assessments will provide confirmation of the predevelopment condition. 				

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<ul style="list-style-type: none"> ○ Precautions to protect built environment historical resources from construction vehicles, debris, and dust may include fencing or debris meshing. Temporary mothballing, and fire and intrusion protection may be needed if the buildings are unoccupied during oil and gas field development. ○ Protective measures shall be field checked as needed during development by a qualified architectural historian with demonstrated experience conducting monitoring of this nature. Vibration monitoring may be required for buildings determined susceptible to vibration damage located in close proximity to development activities or machinery that cause vibration. ○ These measures are designed to avoid direct impacts such as vibration that may result in structural damage or inadvertent direct impacts. Structural damage or demolition would otherwise potentially result in a significant impact because character-defining features and aspects of historic integrity that convey the resource’s significance could be materially impaired. ○ Redesign of relevant facilities shall be used to avoid destruction or damage where feasible. ● For built resources that will be directly and significantly impacted, mitigation typically includes: <ul style="list-style-type: none"> ○ Historic American Building Survey (HABS), Historic American Engineering Record (HAER), and Historic American Landscape Survey (HALS) records will be prepared for historical resources that will be demolished. The HABS/HAER/HALS documentation will be prepared as appropriate for the impacted historical resource with HABS normally completed at Level II. These reports will include written and photographic documentation of the significant and character-defining features of these properties. While this documentation will not reduce impacts to a less than a significant level, it is needed to capture and preserve a description of the significant information and characteristics associated with the resource. ○ All HABS/HAER/HALS reports are subject to review and approval by the NPS. Following approval, the lead agencies will produce sufficient copies for distribution to identified 				

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<p>repositories, including the Library of Congress, the California State Library, the University of California Water Resources Center Archives, and any local repositories, as appropriate and agreed upon with the County Planning Department and interested parties. Distribution will ensure the formal documentation is retained and conveyed to a wide audience.</p> <ul style="list-style-type: none"> ○ Deconstruction and salvage of materials from demolished buildings will be performed to the extent feasible to enable the restoration of similar buildings and structures outside of the area of direct impact. Deconstruction and salvage will not reduce impacts to a less than significant level, but will help to ensure that similar resources are restored and maintained in manner that will ensure that examples of the resource type are preserved. ○ Relocate historically significant resources for which demolition cannot be feasibly avoided by development. In such circumstances, relocation must meet the requirements for the Special Criteria Consideration for Moved Buildings, Structures, and Objects to ensure the significance of the building is retained. ○ Require that the preservation or reuse of an eligible structure follow Department of the Interior (DOI) Standards and Guidelines for Archeology and Historic Preservation. If the building is considered a historic resource under CEQA, the local building inspector must grant code alternatives under the State Historic Building Code. ○ In a case where HABS/HAER documentation does not provide adequate mitigation to reduce impacts to a less than significant level, projects would normally be required to take additional steps to capture the history and memory of the resource and share this information with the public using various methods such as Web media, static displays, interpretive signs, use of on-site volunteer docents, or informational brochures. <ul style="list-style-type: none"> ● Avoidance and minimization are the preferred means by which the County would prevent potential impacts to cultural resources, including cultural landscapes. Preservation in place is the preferred manner to avoid and minimize impacts to historical and archaeological resources. All impacts to cultural resources that are 				

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<p>eligible or potentially eligible for listing on the CRHR shall be avoided, to the greatest extent possible. Preservation in place may be accomplished by, but is not limited to, the following: Avoidance of significant or potentially significant cultural resources through project redesign and the relocation of project element.</p> <ul style="list-style-type: none"> • Following avoidance and minimization, measures to address impacts to cultural resources at a landscape scale should follow the guidance in <i>A Strategy for Improving Mitigation Policies and Practices of the Department of the Interior</i> (DOI 2014) and the National Park Service Preservation Brief 36 - Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes, including but not limited to: <ul style="list-style-type: none"> ○ Document the individual landscape characteristics and features in the context of the landscape as a whole in a Cultural Landscape Report, including contributing and non-contributing features. ○ Develop compensatory mitigation. ○ Coordinate with other agencies. ○ Monitor and evaluate the progress of long-term mitigation. ○ Develop and maintain geospatial information systems for use in identifying existing and potential conservation strategies and development opportunities. 				
<p>CUL-1a: Designate project Cultural Resources Staff.</p> <p><u>Project Cultural Resources Specialist.</u> Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County Planning Department, a cultural resources specialist whose training and background conforms to the US Secretary of Interior’s Professional Qualifications Standards, as published in Code of Federal Regulations Title 36, part 61 shall be retained by the project owner to conduct a cultural resources inventory, evaluate any resources, produce a Cultural Resources Management and Treatment Plan and other related plans for the approved project and to implement any required plans and mitigation, as necessary as determined by the cultural resource specialist. Their qualifications shall be appropriate to the needs of</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>the project, and shall include local knowledge. If the project primarily impacts resources archaeological in nature, the cultural resources specialist shall have a background in archaeology, anthropology or cultural resource management. If the project impacts primarily built environment resources, the cultural resources specialist shall have a background in architectural history. Resumes of the proposed cultural resources staff shall be submitted to the County Planning Department or other CEQA lead agency for review and approval. The Monitoring and Treatment Plan (mitigation measure CUL-1c) shall be prepared and implemented under the direction of the cultural resources specialist and shall address and incorporate CUL-1a through CUL 1g.</p> <p><u>Additional Cultural Resources Staff.</u> The project’s cultural resources specialist may obtain the services of specialists, cultural resources monitors and field crew if needed, to assist in identification, evaluation, mitigation, monitoring, and curation activities. Cultural Resources Staff shall have a Bachelor’s degree in anthropology, archaeology, history, architectural history or related field, and demonstrated field experience. These individuals must also meet local lead agency qualifications and their resumes must be reviewed and approved by local lead agency staff prior to beginning work.</p>				
<p>CUL-1b: Draft a Historical Resources Treatment Plan.</p> <p>To mitigate the potential impacts on historical resources identified during inventory of the project area, a treatment plan for historical resources shall be developed by, depending on the nature of the resources identified, an archaeologist and/or architectural historian who meets the Secretary of Interior’s Professional Qualifications Standards. This treatment plan would include data recovery plans that would address National Register of Historic Places/California Register for Historic Resources-eligible cultural resources that would be impacted by the project by requiring some level of extracting the scientific value and analysis of the resources prior to development.</p>	Prior to construction	Prior to construction / during inventory of the project area	Inyo County Planning Department and/or other applicable agencies.	

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<p>CUL-1c: Draft a Monitoring and Treatment Plan.</p> <p>To mitigate the potential impacts related to inadvertent discovery of archaeological resources during construction, the project proponents shall have a Secretary of the Interior-qualified archaeologist implement a monitoring program and an unanticipated archaeological resource treatment plan. The qualified archaeologist will evaluate any resources uncovered during ground disturbing activities implement appropriate treatment as specified in the archaeological resource treatment plan. During all phases of the project that include ground disturbance, these ground-disturbing activities will be observed by an archaeological monitor, as determined necessary by the archaeologist.</p> <ol style="list-style-type: none"> a. If, during the course of monitoring, a potentially significant resource is discovered, the qualified archaeologist will have the authority to stop or redirect ground disturbing activities away from the resource until it can be evaluated. b. If previously unknown cultural deposits are discovered during the course of construction, such as previously undiscovered stratified cultural deposits, a testing program will be implemented to evaluate the stratified cultural deposit. c. A separate Native American monitor shall be retained by the project proponent to monitor ground disturbing activities in and around archaeological resources. The Native American monitor shall be selected through consultation with Native American tribal groups. The Native American monitor shall work in conjunction with the qualified archaeologist. 	Prior to / during construction	Prior to / during construction	Inyo County Planning Department and/or other applicable agencies.	
<p>CUL-1d: Authority to halt project activities.</p> <p>Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County or the relevant CEQA lead agency, the project owner shall submit a written document granting authority to halt project related activities to the project's cultural resources specialist (as defined in mitigation measure CUL-1a) and cultural resources monitors in the event of a discovery or possible damage to a cultural resource. Redirection of project related activities shall be accomplished under the direction of the project supervisor in consultation with the cultural resources specialist. The details of this</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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<p>agreement shall be stipulated in the Cultural Resources Management and Treatment Plan as required in mitigation measure CUL-1b.</p>				
<p>CUL-1e: Cultural Resources Worker Environmental Awareness Program.</p> <p>Prior to and for the duration of project activities, the project owner shall provide WEAP training to all new workers within their first week of employment at the project site. The training shall be prepared by the Project cultural resources specialist (as defined in CUL-1) in consultation with local Native Americans and shall incorporate the traditions and beliefs of local Native American groups into the presentation. The presentation may be conducted by any qualified cultural resources specialist and a Native American, if possible, and may be presented in the form of a video. A consulting fee or honorarium shall be negotiated with the local Native American consultants and presenter and paid to them for their participation. The training may be discontinued when project activities are completed or suspended, but must be resumed when project activities resume.</p> <p>The training shall include:</p> <ol style="list-style-type: none"> 1. A discussion of applicable laws and penalties under the law; 2. Samples or visuals of artifacts that might be found in the project vicinity; 3. A discussion of what such artifacts may look like when partially buried, or wholly buried and then freshly exposed; 4. A discussion of what prehistoric and historical archaeological deposits look like at the surface and when exposed during ground-disturbance, and the range of variation in the appearance of such deposits; 5. A discussion of what local Native American beliefs are, how those beliefs are related to cultural resources that may be found in the area, and the appropriate respectful behavior towards sacred places and objects; 6. Instruction that all cultural resources specialists have the authority to halt ground disturbance in the area of a discovery to an extent sufficient to ensure that the resource is protected from further impacts, as determined by the project cultural resources specialist (as defined in CUL-1); 	<p>Prior to / during construction</p>	<p>Prior to / during construction / for the duration of project activities</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>7. Instruction that employees are to avoid areas flagged as sensitive for cultural resources;</p> <p>8. Instruction that employees are to halt work on their own in the vicinity of a potential cultural resources discovery and shall contact their supervisor and the project cultural resources specialist (as defined in CUL-1), and that redirection of work would be determined by the project supervisor and the project cultural resources specialist;</p> <p>9. An informational brochure that identifies reporting procedures in the event of a discovery;</p> <p>10. An acknowledgement form signed by each worker indicating that they have received the training which shall be submitted to the County Planning Department and any other CEQA lead agency; and</p> <p>11. A sticker that shall be placed on hard hats indicating that environmental training has been completed.</p>				
<p>CUL-1f: Conduct cultural resources reporting.</p> <p>The project cultural resources specialist shall document results in interim and final reports as necessary. The contents and timing of these reports shall be stipulated in the Cultural Resources Management and Treatment Plan (CUL-1b).</p> <p>Final reports for archaeological resources, human remains, and some landscapes, shall be written by or under the direction of a Secretary of the Interior qualified archaeologist or architectural historian as appropriate for the project. Reports shall be provided in the California Office of Historic Preservation’s Archaeological Resource Management Reports: Recommended Contents and Format and local agency formats. Final documents shall report on all field activities including dates, times and locations, results, samplings, and analyses. All survey reports, Department of Parks and Recreation 523 series forms, data recovery reports, and any additional research reports not previously submitted to the California Historical Resource Information System and the State Historic Preservation Officer shall be included as appendices.</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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<p>CUL-1g: Proper curation of cultural resources collections.</p> <p>All archaeological materials retained as a result of the cultural resources investigations (survey, testing, data recovery) shall be curated in accordance the California State Historical Resources Commission’s <i>Guidelines for the Curation of Archaeological Collections</i>, into a retrievable storage collection in a public repository or museum. Additionally, all collection and retention of archaeological materials as a result of cultural resources investigations must comply with the regulations and policies of the land managing agency or property owner.</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	
<p>CUL-2: Implement proper actions in the event of the incidental discovery of human remains.</p> <p>In accordance with Section 7050.5 of the California Health and Safety Code, if human remains are found, the County Coroner shall be notified within 24 hours of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie potential remains shall occur until the County Coroner has determined, within two working days of notification of the discovery, the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains are or are believed to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with Section 5097.98 of the California Public Resources Code, the NAHC must immediately notify those persons it believes to be the most likely descendant of the deceased Native American. The descendants shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the County, the disposition of the human remains.</p> <p>Should human remains be discovered at any time during construction of the project, construction in the vicinity would halt and the County Coroner would be contacted immediately. If the Coroner determines that the remains do not require an assessment of cause of death and are probably Native American, then the NAHC would be contacted to identify the Most Likely Descendant.</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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<p>PALEO-1a: Protect paleontological resources.</p> <p>Project developers shall document in a paleontological resources assessment report whether paleontological resources exist in a project area on the basis of the following: the geologic context of the region and site and its potential to contain paleontological resources (including the fossil yield potential), a records search of institutions holding paleontological collections from California desert regions, a review of published and unpublished literature for past paleontological finds in the area, and coordination with paleontological researchers working locally in potentially affected geographic areas (or studying similar geologic strata).</p> <p>If paleontological resources are present at the site or if the geologic units to be encountered by the project (at the surface or the subsurface) have a high/very high or moderate/unknown fossil yield, a Paleontological Resources Management Plan shall be developed.</p> <p>The plan shall include the following types of requirements:</p> <ol style="list-style-type: none"> 1. The qualifications of the principal investigator and monitoring personnel 2. Construction crew awareness training content, procedures, and requirements 3. Any measures to prevent potential looting, vandalism, or erosion impacts 4. The location, frequency, and schedule for on-site monitoring activities 5. Criteria for identifying and evaluating potential fossil specimens or localities 6. A plan for the use of protective barriers and signs, or implementation of other physical or administrative protection measures 7. Collection and salvage procedures 8. Identification of an institution or museum willing and able to accept any fossils discovered 9. Compliance monitoring and reporting procedures <p>If the geologic units that would be affected by the project have been determined to have low fossil yield potential, paleontological resources shall</p>	<p>Prior to / during construction</p>	<p>Prior to / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>be included as an element in construction worker awareness training. The training shall include measures to be followed in the event of unanticipated discoveries, including suspension of construction activities in the vicinity.</p> <p>The Paleontological Resources Management Plan shall evaluate all of the construction methods proposed, including destructive excavation techniques. Where applicable, the principal investigator shall include in the plan an evaluation of the potential for such techniques to disturb or destroy paleontological resources, an evaluation of whether loss of such fossils would represent a significant impact, and discussion of mitigation or compensatory measures (such as recordation/recovery of similar resources elsewhere on the site) that are necessary to avoid or substantially reduce the impact.</p>				
GEOLOGY AND SOILS				
<p>GEO-1: Conduct site-specific geotechnical investigations.</p> <p>Site-specific geotechnical investigations will be completed for all applicable proposed development within the individual SEDAs and the OVSA, and the potential off-site transmission corridors associated with the Charleston View, Chicago Valley, and Trona SEDAs (if applicable), prior to final project design approval. These investigations will identify site-specific criteria related to considerations such as grading, excavation, fill, and structure/facility design. All applicable results and recommendations from the geotechnical investigations will be incorporated into the associated individual project design documents to address identified potential geologic and soil hazards, including but not necessarily limited to: ground rupture; ground acceleration (ground shaking); soil liquefaction (and related issues such as dynamic settlement and lateral spreading); landslides/slope instability; geologic and soil instability (including compressible/collapsible soils, subsidence, and corrosive soils); and expansive soils. The final project design documents will also encompass applicable standard design and construction practices from sources including the California Building Code (CBC), International Building Code (IBC), and County standards, as well as the results/recommendations of County plan review and on-the-ground geotechnical observations and testing to be conducted during project excavation, grading and construction activities (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of remedial measures</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>typically associated with identified potential geologic and soil hazards, pursuant to applicable regulatory and industry standards (as noted), is provided below. The remedial measures identified/recommended as part of the described site-specific geotechnical investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p>				
<ul style="list-style-type: none"> • <u>Ground Rupture</u>: (1) locate (or relocate) applicable facilities away from known active (or potentially active) faults and outside of associated CGS Earthquake Fault Zones; and (2) require appropriate (typically 50-foot) building exclusion buffers on either side of applicable fault traces. • <u>Ground Acceleration (Ground Shaking)</u>: (1) incorporate applicable seismic loading factors (e.g., IBC/CBC criteria) into the design of facilities such as structures, foundations/slabs, pavement, utilities, manufactured slopes, retaining walls and drainage facilities; (2) use remedial grading techniques where appropriate (e.g., removing/replacing and/or reconditioning unsuitable soils); and (3) use properly engineered fill per applicable industry/regulatory standards (e.g., IBC/CBC), including criteria such as appropriate fill composition, placement methodology, compaction levels, and moisture content. • <u>Liquefaction and Related Effects</u>: 1) remove unsuitable soils and replace with engineered fill (as previously described), per applicable regulatory/industry standards (e.g., IBC/CBC); (2) employ measures such as deep soil mixing (i.e., introducing cement to consolidate loose soils) or use of subsurface structures (e.g., stone columns or piles) to provide support (i.e., by extending structures into competent underlying units); (3) use subdrains in appropriate areas to avoid or reduce near-surface saturation; and (4) design for potential settlement of liquefiable materials through means such as use of post-tensioned foundations and/or flexible couplings for utility connections. • <u>Landslides/Slope Instability</u>: (1) construct properly drained shear keys and/or replace susceptible deposits with manufactured buttress fills where appropriate; (2) employ applicable slope laybacks (i.e., shallower slopes) and/or structural setbacks; (3) incorporate structures such as retaining walls and stability fills where appropriate 				

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<p>to provide support; and (4) implement proper slope drainage and landscaping where applicable per established regulatory/industry standards (e.g., IBC/CBC).</p> <ul style="list-style-type: none"> • Geologic and Soil Instability: (1) use standard efforts such as over-excavation and recompaction or replacement of unsuitable soils with engineered fill, and enhanced foundation design in applicable areas (e.g., post-tensioned or mat slab foundations); (2) use engineered fill, subdrains, surcharging (i.e., loading prior to construction to induce settlement) and/or settlement monitoring (e.g., through the use of settlement monuments) in appropriate areas; (3) implement groundwater withdrawal monitoring/restrictions per established legal/regulatory/industry standards (if applicable); and (4) remove unsuitable deposits and replace with non-corrosive fill, use corrosion-resistant construction materials (e.g., corrosion-resistant concrete and coated or non-metallic facilities), and install cathodic protection devices (e.g., use of a more easily corroded “sacrificial metal” to serve as an anode and draw current away from the structure to be protected) per established regulatory/industry standards (e.g., IBC/CBC). • Expansive Soils: (1) replace and/or mix expansive materials with non-expansive fill; and (2) cap expansive soils in place with an appropriate thickness of non-expansive fill per established regulatory/industry standards (e.g., IBC/CBC). 				
GREENHOUSE GAS EMISSIONS				
<p>GHG-1: Prepare site-specific Greenhouse Gas Report.</p> <p>Prior to approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination for a solar energy project, a site-specific greenhouse gas technical report will be prepared and approved by the County. The site-specific technical report will identify project-specific emissions to ensure compliance with the interim SCAQMD GHG thresholds, as well as measures to reduce operational greenhouse gas emissions. The technical report will be completed and approved by the County prior to the County’s action.</p>	<p>Prior to approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination</p>	<p>Prior to approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination</p>	<p>Inyo County Planning Department</p>	

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HAZARDS AND HAZARDOUS MATERIALS				
<p>HAZ-1: Conduct site-specific Phase I ESA.</p> <p>Site-specific Phase I Environmental Site Assessments (ESAs) shall be completed for all proposed development projects within the nine individual SEDAs and the OVSA, as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. Specifically, Phase I ESA investigations shall be conducted for the noted areas to identify the potential occurrence of hazardous materials and Recognized Environmental Conditions, (RECs, as defined in ASTM International E1527-05, Section 1.1.1), potentially involving the presence of contaminated soil or groundwater, and/or structures or facilities containing hazardous materials such as asbestos insulation, lead-based paint and polychlorinated biphenyls. Phase I investigations shall include: (1) appropriate regulatory database records review; (2) site reconnaissance; (3) review of appropriate maps, aerial photographs and other pertinent documents; (4) interviews with current/previous property owners, local government/industry officials, and other individuals with knowledge of the property and/or local environmental conditions; (5) documentation of known or potential RECs; and (6) identification of recommendations to address RECs or other concerns, if applicable (including Phase II ESA investigations, as outlined below).</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department and/or other applicable agencies.	
<p>Depending on the results of the described Phase I ESAs, one or more Phase II ESA investigations shall be conducted if identified as part of the Phase I recommendations. Phase II ESAs consist of “intrusive” investigations, in which original samples of soil, groundwater and/or building materials are collected and submitted for laboratory analysis to identify applicable contaminants. Based on the results of this testing, the Phase II ESAs shall identify the type and extent of REC (or other) contamination, and provide appropriate remedial measures to address associated hazards. Typical remedial measures may include efforts such as removal and proper disposal of contaminated materials (or on-site treatment and reuse, if applicable), or in situ treatments such as oxidation (use of aerobic bacteria to accelerate natural attenuation of organic contaminants) or bioremediation (e.g., using bacteria to remove contaminants from groundwater).</p> <p>All ESAs conducted for the proposed project shall be prepared in</p>				

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<p>conformance with applicable regulatory and industry standards, including ASTM International E1527-05 Standard Practice for Environmental Site Assessments, and Code of Federal Regulations Part 312, Standards and Practices for All Appropriate Inquiries. Applicable results and recommendations from the described Phase I and Phase II investigations shall be incorporated into the associated individual final project design documents to address identified potential hazardous material concerns.</p>				
<p>HAZ-2: Conduct site-specific Airport Safety Investigations. Site-specific Airport Safety Investigations shall be completed for all proposed development projects in the Laws, Trona, Charleston View, and Sandy Valley SEDAs, the OVSA, and related potential off-site transmission line corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs that are within two miles of a public or private airport prior to final project design approval. These investigations will assess the site-specific design and location of proposed facilities to determine if they are compatible with existing and planned future activities at nearby airports. The Airport Safety Investigations shall utilize applicable criteria from proposed project design information (e.g., facility locations and heights), airport comprehensive land use plans and/or management plans (if applicable), the Inyo County Airport Hazard Overlay Ordinance, and/or other pertinent information related to considerations such as airport hazard zones and traffic patterns, to identify potential safety conflicts. If such conflicts are identified, the Airport Safety Investigations shall provide remedial measures to address these concerns, potentially including efforts such as relocating and/or redesigning proposed facilities to avoid potential hazards. Applicable results and recommendations from the described Airport Safety Investigations shall be incorporated into the associated individual final project design documents to address identified potential airport-related concerns.</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	
<p>HAZ-3: Conduct site-specific School Safety Investigations. Site-specific School Safety Investigations shall be completed for all proposed development projects in the OVSA that are within one-quarter mile of an existing or proposed school, prior to final project design approval. These investigations will assess the site-specific design and location of proposed facilities to determine if they are compatible with</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department</p>	

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<p>existing and planned future activities at schools located within one-quarter mile. The School Safety Investigations shall utilize applicable criteria from proposed project design information, such as proposed hazardous material use/storage, associated facility locations, and required measures in Hazardous Materials Business Emergency/Contingency Plans and/or Risk Management Plans (e.g., proper inventory documentation, storage/containment, transport, employee training, and spill response/clean-up measures) to assess potential hazards to local schools from the use or emission of hazardous materials or wastes. If such hazards are identified, the School Safety Investigations shall provide remedial measures to address these concerns, potentially including efforts such as relocating (i.e., outside of the one quarter mile boundary) and/or redesigning proposed facilities (e.g., providing enclosures or secondary containment) to avoid potential hazards. Applicable results and recommendations from the described School Safety Investigations shall be incorporated into the associated individual final project design documents to address identified potential school-related concerns.</p>				
<p>HAZ-4: Conduct site-specific Wildfire Safety Investigations.</p> <p>Site-specific Wildfire Safety Investigations shall be completed for all proposed projects within the nine individual SEDAs and the OVSA, as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), that are in areas rated as moderate or high for wildfire hazards by California Department of Forestry and Fire Protection prior to final project design approval. Specifically, the Wildfire Safety Investigations shall be conducted for the noted areas to identify site-specific fire hazard ratings and associated risks to people and structures at proposed development sites. The Wildfire Safety Investigations shall include assessment of the following criteria for the noted areas and surrounding environments: (1) fire history; (2) fuel (vegetation) types; (3) climatic conditions (including wind patterns); (4) projected fire behavior (including flame lengths) from computer modeling (e.g., BehavePlus Fire Modeling System 5.0.4); (5) documentation of known or potential wildfire hazards to on-site people and structures; and (6) identification of remedial measures, if applicable (per applicable regulatory standards such as the California Building, Fire, and Residential Codes), potentially including efforts such as the use of fuel</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>modification, structural features (e.g., non-combustible materials and fire/ember/smoke barriers), alarm systems, and/or automatic sprinklers. Applicable results and recommendations from the described Wildfire Safety Investigations shall be incorporated into the associated individual final project design documents to address identified potential wildfire-related concerns.</p>				
HYDROLOGY AND WATER QUALITY				
<p>HYD-1: Conduct site-specific hydrologic investigations.</p> <p>Site-specific hydrologic investigations will be completed for proposed utility scale solar facility development projects within the individual SEDAs and the OVSA (i.e., those with grading, excavation or other activities potentially affecting hydrologic conditions, as determined by the County), as well as the potential off site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential hydrologic concerns, including but not necessarily limited to: drainage alteration, runoff rates and amounts, flood hazards, and existing/planned storm drain system capacity. The final project design documents will also encompass applicable standard design and construction practices from sources including NPDES, Basin Plan and County standards, as well as the results/recommendations of County plan review (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of remedial measures typically associated with identified potential hydrologic concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The remedial measures identified/recommended as part of the described site-specific hydrologic investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> • Drainage Alteration: (1) locate applicable facilities and activities (e.g., staging areas and soil/material stockpiles) outside of surface drainage courses and drainage channels; (2) re-route surface around applicable facilities, with such rerouting to be limited to the smallest 	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department Inyo County Department of Public Works Inyo County Water Department Inyo County Department of Environmental Health and/or other applicable agencies.</p>	

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<p>area feasible and re-routed drainage to be directed back to the original drainage course at the closest feasible location (i.e., the closest location to the point of diversion); and (3) use drainage structures to convey flows within/through development areas and maintain existing drainage patterns.</p> <ul style="list-style-type: none"> • Runoff Rates and Amounts: (1) minimize the installation of new impervious surfaces (e.g., by surfacing with pervious pavement, gravel or decomposed granite); and (2) use flow regulation facilities (e.g., detention/retention basins) and velocity control structures (e.g., riprap dissipation aprons at drainage outlets), to maintain pre-development runoff rates and amounts. • Flood Hazards: (1) work to locate proposed facilities and activities outside of mapped 100 year floodplain boundaries; (2) based on technical analyses such as Hydrologic Engineering Center-River Analysis System (HEC-RAS) studies, restrict facility locations to avoid adverse impacts related to impeding or redirecting flood waters; and (3) based on HEC RAS studies, use measures such as raised fill pads to elevate proposed structures above calculated flood levels, and/or utilize protection/containment structures (e.g., berms, barriers or waterproof doors) to avoid flood damage. • Storm Drain System Capacity: (1) implement similar measures as noted above for runoff rates and amounts; and (2) utilize additional and/or enlarged facilities to ensure adequate on- and off-site storm drain system capacity. 				
<p>HYD-2: Conduct site-specific groundwater investigations.</p> <p>Site-specific groundwater investigations will be completed for all proposed solar facility development projects within the individual SEDAs and the OVSA proposing to utilize groundwater resources, prior to final project design approval. These investigations will identify site-specific criteria related to considerations such as local aquifer volumes and hydrogeologic characteristics, current/proposed withdrawals, inflow/recharge capacity, and potential effects to local aquifer and well levels from proposed project withdrawals. All applicable results and recommendations from these investigations will be incorporated into the associated individual project design documents to address identified potential impacts to groundwater</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department</p> <p>Inyo County Water Department and/or other applicable agencies.</p>	

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<p>resources (per applicable regulatory standards), with all related requirements to be included in associated engineering/design drawings and construction contract specifications. A summary of the types of remedial measures typically associated with identified potential effects to groundwater resources is provided below. The remedial measures identified/recommended as part of the described site-specific groundwater investigations will take priority over the more general types of standard measures listed below.</p> <ul style="list-style-type: none"> • Aquifer/Well drawdown: (1) monitor local aquifer and private/production well levels to verify the presence or absence of project-related effects during pre-construction, construction, and operation periods (based on a methodology and monitoring schedule approved by the RWQCB and County); (2) document background and pre-construction groundwater conditions and comparable project-related construction and operation trends, along with related factors such as precipitation levels and groundwater budgets; (3) prepare scaled maps depicting the associated site(s), existing and proposed monitoring well locations, relevant natural (e.g., springs and groundwater-dependent vegetation) and other features (e.g., reservoirs), and pre- post-project groundwater contours, along with a description of cumulative water level changes; (4) restrict project-related groundwater withdrawals to appropriate levels to avoid significant adverse effects to local aquifers/wells and/or other groundwater-dependent uses (e.g., vegetation, springs or other related surface water features), based on thresholds approved by the RWQCB and County; and (5) provide mitigation for affected wells or other uses where applicable, potentially including well modifications (e.g., deepening pumps or wells) and/or financial compensation. • Groundwater Recharge Capacity: (1) reduce the area of on-site impervious surface if appropriate, through increased use of surfacing materials such as gravel, decomposed granite, or pervious pavement; and (2) use facilities such as retention/percolation basins and unlined drainage facilities to increase local infiltration and groundwater recharge. The County may employ water injection as a method of groundwater recharge 				

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as deemed appropriate on a case by case basis. This decision would be made during project specific CEQA analysis for a given solar energy development proposal.				
<p>HYD-3: Conduct site-specific water quality investigations.</p> <p>Site-specific water quality investigations will be completed for long-term solar facility operations associated with applicable proposed development projects within the individual SEDAs and the OVSA (i.e., those with activities potentially affecting water quality conditions, as determined by the County), as well as the potential off site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential long-term water quality issues related to conditions such as: anticipated and potential pollutants to be used, stored or generated on-site; the location and nature (e.g., impaired status) of on-site and downstream receiving waters; and project design features to avoid/address potential pollutant discharges. The final project design documents will also encompass applicable standard design practices from sources including NPDES, Basin Plan and County standards, as well as the results/recommendations of project-related hazardous materials investigations and regulatory standards (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of BMPs typically associated with identified potential water concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The BMPs identified/recommended as part of the described site-specific water quality investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> • Low Impact Development (LID)/Site Design BMPs: LID/site design BMPs are intended to avoid, minimize and/or control post development runoff, erosion potential and pollutant generation to the maximum extent practicable by mimicking the natural hydrologic regime. The LID process employs design practices and techniques to effectively capture, filter, store, evaporate, detain and infiltrate runoff 	Prior to final project design approval	Prior to final project design approval	<p>Inyo County Planning Department</p> <p>Inyo County Water Department Inyo County Department of Environmental Health and/or other applicable agencies.</p>	

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<p>close to its source through efforts such as: (1) minimizing developed/disturbed areas to the maximum extent feasible; (2) utilizing natural and/or unlined drainage features in on-site storm water systems; (3) disconnecting impervious pervious to slow concentration times, and directing flows from impervious surfaces into landscaped or vegetated areas; and (4) using pervious surfaces in developed areas to the maximum extent feasible.</p> <ul style="list-style-type: none"> • Source Control BMPs: Source control BMPs are intended to avoid or minimize the introduction of pollutants into storm drains and natural drainages to the maximum extent practicable by reducing on-site pollutant generation and off-site pollutant transport through measures such as: (1) installing no dumping” stencils/tiles and/or signs with prohibitive language (per current County guidelines) at applicable locations such as drainages and storm drain inlets to discourage illegal dumping; (2) designing trash storage areas to reduce litter/pollutant discharge through methods such as paving with impervious surfaces, installing screens or walls to prevent trash dispersal, and providing attached lids and/or roofs for trash containers; (3) designing site landscaping (if applicable) to maximize the retention of native vegetation and use of appropriate native, pest-resistant and/or drought-tolerant varieties to reduce irrigation and pesticide application requirements; and (4) providing secondary containment (e.g., enclosed structures, walls or berms) for applicable areas such as trash or hazardous material use/storage. • Treatment Control/LID BMPs: Treatment control (or structural) BMPs are designed to remove pollutants from runoff to the maximum extent practicable through means such as filtering, treatment or infiltration. Treatment control and/or LID BMPs are required to address applicable pollutants, and must provide medium or high levels of removal efficiency for these pollutants (per applicable regulatory requirements). Based on the anticipated pollutants of concern, potential LID and treatment control BMPs may include (1) providing water quality treatment and related facilities such as sediment basins, vegetated swales, infiltration basins, filtration devices and velocity dissipators to treat appropriate runoff flows and reduce volumes prior to off-site discharge (per applicable regulatory requirements); and (2) conducting 				

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regular inspection, maintenance and as-needed repairs of pertinent facilities and structures.				
LAND USE AND PLANNING				
No mitigation measures are required.				
MINERAL RESOURCES				
<p>MIN-1: Conduct site-specific mineral resource investigations.</p> <p>Site-specific mineral resource investigations will be completed for proposed development projects within the individual SEDAs, the OVSA, and the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. These investigations will include the following elements: (1) descriptions of regional and on-site geologic environments; (2) identification of site-specific potential for the occurrence of mineral resources; (3) assessment of estimated mineral resource quantities and extents (as applicable); (4) evaluation of associated potential for economic resource recovery, including considerations such as supply and demand, and production, processing and transportation costs; (5) determination of the presence of mineral entries such as mining claims and mineral leases, including descriptions of individual mineral entry types, issuing agencies and status; (6) assessment of potential impacts from project implementation to identified regionally- or locally-important mineral resources, associated exploration/recovery efforts, and valid mineral entries; and (7) development of remedial measures to address identified impacts to mineral resources, operations and entries, as feasible, potentially including efforts such as avoidance, use of proposed project development timing or phasing to accommodate mineral operations, or locating proposed project facilities to accommodate multiple use operations (e.g., through shared use of access or infrastructure). All applicable results and recommendations from the described investigations identifying identified potential mineral resource impacts and remedial measures will be incorporated into the associated individual project design documents.</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department	
NOISE				
<p>NOI-1: Prepare technical noise report for solar facilities proposed within 500 feet of noise sensitive land uses.</p>	Prior to approval and/or issuance of	Prior to approval and/or issuance of	Inyo County Planning Department	

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<p>If a proposed utility scale solar energy project resulting from implementation of the REGPA is within 500 feet of a residence or other noise sensitive land use, prior to issuance of a Major Use Permit, a site-specific noise technical report will be prepared and approved by the County. The technical report will verify compliance with all applicable County laws, regulations, and policies during operation of the solar project, including that noise levels would not exceed the relevant thresholds described in the General Plan Noise Element (60 dBA LDN for noise sensitive land uses such as residences, schools, transient lodging and medical facilities). The site specific noise technical report will include project specifications, applicable noise calculations, project design features, applicable BMPs and related information from the REAT’s Best Management Practices and Guidance Manual (REAT 2010), and mitigation measures applicable to the project. The technical noise report will address operational related noise sources, as well as noise from the use of generators during an emergency. The technical report will calculate specific anticipated noise and vibration levels from operations in accordance with County standards and provide specific mitigation when noise levels are expected to exceed County standards.</p>	Major Use Permits	Major Use Permits	Building and Safety Department	
<p>NOI-2: Implement construction noise reduction measures.</p> <p>If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT’s Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:</p> <ul style="list-style-type: none"> • Whenever feasible, electrical power will be used to run air compressors and similar power tools. • Equipment staging areas will be located as far as feasible from occupied residences or schools. • All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers. • Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors. • Stockpiling and vehicle staging areas shall be located as far as 	During construction	During construction	Inyo County Planning Department	

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 INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR
 MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
practical from occupied dwellings.				
<p>NOI-3: Helicopter Noise Control Plan.</p> <p>In the event that a utility scale solar project site would have limited access and would require the use of helicopters during operation or maintenance of a facility, the County shall prepare a Helicopter Noise Control Plan that indicates where helicopters would be used and the frequency and duration for such use. The plan shall demonstrate compliance with the noise level limits within the County Noise Element for helicopter noise to properties within 1,600 feet of proposed helicopter use locations.</p>	During construction	During construction	Inyo County Planning Department	
POPULATION AND HOUSING				
No mitigation measures are required.				
PUBLIC SERVICES				
<p>PUB-1: Analyze public safety and protection response times and staff levels for each project.</p> <p>Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project's impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department and/or other applicable agencies.	
<p>PUB-2: Provide onsite security during the construction and long-term operation of the project.</p> <p>For project sites associated with proposed future solar development projects that are determined through Mitigation Measure PUB-1 to have insufficient law enforcement protection services or significant impacts to law enforcement services, project proponents shall be required to provide adequate, onsite private security for the duration of construction activities and during the long-term operation of the project to the satisfaction of the County. The actual size and configuration of the security detail shall be determined by the County during preparation of the Development</p>	During construction and operations	During construction and operations	Inyo County Planning Department	

Table 1
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Agreement for the future solar energy project.				
<p>PUB-3: Pay mitigation fees for public safety and protection services.</p> <p>The County shall require project proponents to pay established County development mitigation fees for fire and police protection services. Said fees shall be used to maintain proper staffing levels for fire, police protection, and emergency services and to sustain adequate response times as required by the County.</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department and/or other applicable agencies.	
RECREATION				
No mitigation measures are required.				
SOCIOECONOMICS				
<p>SOC-1: Minimize Impacts on transient housing.</p> <p>To further offset potential negative effects and increased demand on transient housing, General Plan Policy ED-4.5, Employ and Train Local Labor, shall be supplemented with the following:</p> <ul style="list-style-type: none"> • For renewable energy projects where the construction schedule exceeds one-year, community monitoring programs shall be developed that would identify and evaluate transient housing demand and other socioeconomic effects utilizing economic models such as JEDI. Measures developed for monitoring may include the collection of data reflecting the workforce demands and social effects (such as tracking any demonstrable drop in recreational usership) as a result of increased transient housing demand from construction workers at the local and County level. • Project developers shall work with the County, local chambers of commerce, and/or other applicable local groups to assist transient workers in finding temporary lodging. If temporary lodging is not available, developers of utility scale projects shall consider the feasibility of providing on-site temporary housing accommodations for all projects. 	During construction	During construction	Inyo County Planning Department	
<p>SOC-2: Minimize Impacts on County Public Services.</p> <p>To further off-set potential negative effects on County public services, General Plan Policy ED 4.4, Offset the Cost to the County for Service</p>	Prior to issuance of building permit	Prior to issuance of building permit	Inyo County Planning Department	

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<p>Provision, shall be supplemented with the following:</p> <ul style="list-style-type: none"> • Cooperative agreements between project applicants and the County shall be secured prior to issuance of a building permit or project-specific entitlement to ensure the following: • Unless property taxation of a renewable energy installation is deemed sufficient by the County, project applicants shall pay a fair-share public service impact fee. A potential method for estimating a fair-share contribution could be calculated by: • [annual service budget] X [estimated number of temporary workers temporarily in-migrating ÷ County population served]. • The public service fee (and formula used for calculating fair-share) shall be adjusted based on the duration of project construction (e.g., a project only lasting 9 months would utilize 75 percent of the annual budget, one lasting 1.5 years would utilize 150 percent of the annual budget, etc.); and • Project applicants shall maximize the County's receipt of sales and use taxes paid in connection with construction of the project by methods such as including language in construction contracts identifying jobsites to be located within the County and requiring construction contractors to attribute sales and use taxes to the County in their Board of Equalization filings and permits. 				
TRANSPORTATION AND CIRCULATION				
<p>TRA-1: Prepare site-specific traffic control plans for individual projects.</p> <p>Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.</p>	Prior to / during construction	Prior to / during construction	Inyo County Planning Department and/or other applicable agencies.	
<p>TRA-2: Implement recommendations from traffic impact analysis on surrounding roadways and intersections.</p>	During construction	During construction	Inyo County Planning Department	

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<p>Site-specific construction traffic impact analyses shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to evaluate potential traffic impacts on surrounding roadways and intersections during the construction period. Applicable results and recommendations from the project-specific construction traffic impact analysis shall be implemented during the appropriate construction phase to address identified potential construction traffic impacts.</p>			<p>and/or other applicable agencies.</p>	
UTILITIES AND SERVICE SYSTEMS				
<p>UTIL-1: Projects within the western solar energy group will not exceed a combined maximum of 250 MW or 1,500 acres.</p> <p>Future projects within the Western Solar Energy Group shall be limited to a combined maximum of 250 MW or 1,500 acres of development area). The County shall implement a tracking program to ensure all future solar development projects within the Western Solar Energy Group do not exceed 250 MW. Once the 250 MW (or 1,500 acres of development area) is reached, the County shall not approve further projects within the Western Solar Energy Group unless project applicants can provide proof of adequate and existing transmission capabilities for the project.</p>	<p>Prior to issuance of building permit</p>	<p>At the beginning and completion of each project</p>	<p>Inyo County Planning Department</p>	
<p>UTIL-2: Projects within the Southern and Eastern Solar Energy Groups will be required have necessary and/or adequate transmission lines.</p> <p>Future development within the Southern and Eastern Solar Energy Groups shall be required to include the necessary transmission lines or provide proof of adequate transmission capabilities for the project.</p>	<p>Prior to issuance of building permit</p>	<p>Prior to issuance of building permit</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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August 25, 2023

FROM: John Mays

85517 12th St. (P.O. Box 583)

Trona, CA 93592

TO: Inyo County Planning Department via email inyoplanning@inyocounty.us

Attn: Cynthia Draper cdraper@inyocounty.us

CC: Patrick Soluri patrick@semlawyers.com, Tom Kidder tkidder85@gmail.com, Amanda Mcnamara-Ball akmcmamara80@gmail.com, Brian McNamara b.mcnamara1951@gmail.com

RE: Comments on Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Study (Initial Study) dated July 19, 2023, for REP 2022-01 and REP 2022-02

1.) The new documents fail to sufficiently address any comments previously submitted on REP 2022-01 and REP 2022-02 by myself, the others included on this email, or by my legal representation. All of these comments are resubmitted here by reference including those by Tom Kidder, Amanda, McNamara-Ball, and Brian McNamara. The additional comments herein are also being submitted on their behalf. Also, we wish to incorporate all our complaints sent to Inyo County regarding these projects since 2021 by reference.

2.) The Initial Study shows Inyo County Planning Departments repeated reluctance to perform the necessary CEQA analysis as guided by the Renewable Energy General Plan Amendment Final Programmatic Environmental Impact Report dated March 2015 (PEIR). Inyo County has failed to comply with CEQA requirements and effectively bypassed CEQA requirements by not performing the necessary environmental analyses that are enumerated by the PEIR. Compounded by the lack of enforcement and the repeated disregard for permitting procedures, destruction of environmental resources and endangerment of human health has occurred. The Inyo County Planning Department should not be allowed to conduct any such approval for solar permits until it can demonstrate proper compliance with CEQA requirements and its own regulations.

3.) The new biological evaluation as provided with the new Initial Study is a grossly insufficient analysis designed only to advance the project. It represents a token glance done in only 58 minutes at the project site. The necessary biological evaluation that is needed to accurately assess biological impacts is described in detail by the PEIR and has been mentioned at length in previous comments. A representative evaluation would require multiple visits over the full year to account for seasonal variations of wildlife and plant species and multiple observations to substantiate the presence of or lack of any species. The authors' own comments confirm that the study is insufficient, stating it is "limited by the scope of work performed" and "limited by conditions present at the time of the study." The US FWS

letter appears to be a form letter automatically generated on the same day of the study and represents no actual consultation with US FWS. All of this is typical of the methods of cursory review repeatedly applied by the Inyo County Planning Department. This has nothing to do with accurately assessing impacts but purely designed to avoid substantial review by understating the impacts on the ecology of the project.

4.) The biological evaluation does, however, strongly document the destruction of wildlife habitat and plant life caused by the illegal and repeated pre-permit construction efforts. Despite numerous reports and documentation provided, Inyo County has continued to allow this site destruction repeatedly throughout the permit process. This directly subverts the environmental laws of the State of California and requirements of CEQA. Clearly, the lack of concern for wildlife being present at the project and minimal impacts on wildlife and plants within the biological evaluation resides primarily on the fact that the project “has been disked and exhibits little vegetation regrowth” and is thus devoid of habitat. In fact, the site has been graded with vegetation removed so extensively that it represents an intentional farming practice that completely turns the soil. Such disking destroys any animal burrows which would be evidence of food sources or homes for species. It also destroys the vegetation on which such Endangered or Special Status Species live upon or within.

5.) The eye-blink biological evaluation is essentially certain to have overlooked species which may have been just simply missed, transient, or seasonal to the site including Mojave Ground Squirrel, Burrowing Owl, Desert Tortoise, and other Endangered and Special Status Species as listed by US FWS as potentially occurring in the area. These are all typical in the region, have been reported by the observations of residents, and not addressed by the Initial study or mitigation provided.

6.) The new biological evaluation states that more detailed additional studies be done before construction. However, realistic, comprehensive biological studies need to be done before permit approval to ensure proper mitigation has been put in place before the permit can be issued.

As proposed by the approach in the biological evaluation, a vast number of species with potential to be present but that were not observed in this single 58-minute survey would not be protected. The biological evaluation recommends only surveying and mitigation for the desert kit fox and migratory birds but does not detail surveys or mitigation for numerous other wildlife and vegetation species which US FWS say could be present. This grossly avoids substantial mitigations required to protect wildlife and vegetation and thus increases the potential for a take. For this reason, complete biological studies must be completed in advance of a permit approval so that proper mitigation is in place.

7.) A report with analysis on dust generated provided by the new Initial Study is insufficient. It does not account for:

- dust generated from bare grounds during high winds
- actual conditions where dust control is not implemented
- a realistic construction period which is much greater than the assumed overall period of 2 months and 2 weeks of “minor” grading. This is especially overly optimistic as no grading or drainage plan has been envisioned. There is no provision for removal of large boulders which are prevalent through the subsurface and cause major difficulties in drilling the panel supports.

- dust generated from accumulated sand dune deposits at project fencing as evidenced in examples of California City solar plants as provided with previous comments. Does not account for fence construction and maintenance for windblown sand accumulations.
- does not account for heavy truck traffic on local roads to deliver project construction materials and operating supplies. Does not provide location of roads to be traveled as no access or road plan is provided. If using local dirt roads, this could be within a few feet of residences.
- does not assess the long-term and short-term effects on several nearby receptors which are residences within less than 500 ft, especially during wind events
- incorrectly steps the facility footprint substantial back from parcel boundaries although this is not the design, and no permit conditions require this. (fig.1). This improper mechanism to avoid dust and pollutants traveling across the project boundary.
- does not include the existing operating facility in its assessment of long-term and short-term impacts, REP 2021-01

The current solar facility, REP 2021-01, which is less than half the size of these proposed permits, has taken at least a couple of years to be constructed. Even now apparently, construction is still not finished. The project currently has stockpiled earthen materials and construction equipment on site. There has been grading of the site and placement of gravel during recent months.

As documented to Inyo County Planning Department, as reported January 13, 2022, all the surface of REP 2022-01 and REP 2022-02 was graded without dust control methods being applied and has been left that way since that date. Additional construction work with no dust control has been documented and reported in the last few months. Video was provided to Inyo County officials documenting extreme dust generation during high wind events.

An evaluation of impacts from dust generation and resulting health and equity impacts have not been sufficiently addressed by the new Initial Study and are grossly understated by the new analysis.

7.) The Initial Study does not address the fact that Inyo County is unable and unwilling to enforce dust control at the current operating solar facility and the proposed sites. It has been demonstrated by numerous reports that dust control procedures are not being followed and other unlawful construction practices are being allowed by the Inyo County without recourse. This negates any mitigation provided in the Initial Study proclaiming that dust control measures will be implemented and negates the determinations made by Inyo County in the Initial Study on impacts from dust.

8.) Attached is evidence of other complaints on Facebook regarding another solar site in Inyokern. This site is owned and being developed by the same owner/developer as REP 2022-01 and REP 2022-02 on July 22, 2023. This was during the same time when complaints were made regarding the Trona facility. The developer's repeated lack of compliance must be enforced otherwise there is no substance to mitigation that the Initial study is based upon. Inyo County cannot proceed with these permits until it can demonstrate proper management of its solar facilities, it has set a precedent to the contrary. Otherwise, substantial impacts to public health can occur.



WTF IS HAPPENING IN RIDGECREST · ...

Follow

Russ Lester · Jun 22 at 17:45 · 🌐

To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that...

See more 🗨️

To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that everyone has to drive thru. Just sayin

👍👎🗨️ 41

25 comments

👍 Like

🗨️ Comment

➤ Send

👍👎🗨️ 23

15 comments

👍 Like

🗨️ Comment

👍 23 >

Top comments

Kady Buckholz
I was just talking about this.
1h Like Reply

Jamie Weston
😂😂😂 I saw that the other day when I was doing a delivery.
1h Like Reply

Maria Jordan
Lamooo that's dumb lol like we can control when the wind blows
49m Like Reply

Donald Hitt
Solar field going in
39m Like Reply

Sharon Boyer
Drove through it!!
1h Like Reply

Mindy Spivey
HA HA HA HA HA
1h Like Reply

Ginger Brown

40m Like Reply

Amanda McNamara
Call Kern County Planning Commission and complain. It's an air permit violation. They are supposed to keep a water truck on it all the time.
2m Like Reply

Tina Flanigan
Solar power.
1h Like Reply

Tamy Rice
Agreed
1h Like Reply

Ginger Brown
Call the county...valley fever because of clearing land like this ...o the county forgot to tell us ... U have to request the test if u have symptoms....and they need to water truck this to keep the dust down...they also must have a permit....people need to call...here is your info...

40m Like Reply

Anthony Levesque
No
10m Like Reply

Robbie Harper
Or at least plow the north 40 at less than 60!
1h Like Reply

Write a comment...

9:02 [status icons] [Login]

LLC (202130910556)		
M&S INYOKERN CORP. (4661667)	> 11/05/2020	Active
RB INYOKERN SOLAR LLC (201615410405)	> 05/25/2016	Suspended - FTB
RB INYOKERN SOLAR WDAT 1203 LLC (202206311083)	> 03/02/2022	Active
RB INYOKERN SOLAR WDAT 1281 LLC (202206311152)	> 03/02/2022	Active
RIDGECREST INYOKERN RD, LLC (201623510120)	> 08/15/2016	Active
SIERRA PACIFIC INDUSTRIES, INYOKERN DIVISION (375961)	> 05/25/1959	Suspended - FTB
TA - INYOKERN, LLC (200932310149)	> 11/13/2009	Terminated

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9.) A full EIR is prescribed by CEQA for these projects and is required for these projects to advance. This was required by Kern County Planning for the owner/developer's solar facility in Inyokern. That study may be found here and serves as an example of the more extensive impact evaluation and coordination on biological evaluation necessary. This permitting action required incidental take permits for the Desert

Tortoise and Mojave ground squirrel. Since Inyo County allowed pre-permit construction this take may have already occurred.

<https://kernplanning.com/environmental-doc/rb-inyokern-solar-project/>



California Program Office

P.O. Box 401, Folsom, California 95763 | 916-313-5800

www.defenders.org

August 25, 2023

Cynthia M. Draper, Assistant Planner
Inyo County Planning Department
168 N. Edwards Street
Independence, CA 93526
Delivered via email to: cdraper@inyocounty.us

RE: Renewable Energy Permit – Barker-Trona 4 (SCH 2022110323) and
Renewable Energy Permit – Barker-Trona 7 (SCH 2022110344)

Dear Ms. Draper:

Thank you for the opportunity to provide comments in response to the Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Studies (DMND) for the proposed Barker-Trona 4 Solar and Barker-Trona 7 Solar Farms (collectively, the “Projects”). Defenders of Wildlife (Defenders) is dedicated to protecting all wild animals and plants in their natural communities and has nearly 2.1 million members and supporters in the United States, with more than 316,000 residing in California. We strongly support renewable energy development that will help meet California’s emission reduction goals and avoids destruction of important wildlife habitat and the loss of at-risk species. Achieving a low-carbon energy future is critical for protecting California’s internationally treasured wildlife, landscapes and diverse habitats.

The proposed Projects are solar photovoltaic PV electricity generating facilities and associated infrastructure: Barker-Trona 4 would generate 3.0 MW of renewable energy on a 15-acre parcel and Barker-Trona 7 would generate 1.2 MW on an adjacent 5-acre parcel, located in Inyo County west of Trona Wildrose Road, between the Trona Airport and the border of San Bernardino County. The Projects were submitted under separate applications due to their separate interconnections to the existing Southern California Edison 33kV transmission line that passes through the area. The Project site is zoned as rural residential, and the area of both Projects is described as graded and “highly disturbed,” with “no natural vegetation, habitat, water features, or structures.” Portions of the Barker-Trona 4 site were previously used as “a private dirt track and a junk yard.” Additionally, the Projects are located within a designated Inyo County Solar Energy Development Area,¹ and are not located within Natural Landscape Blocks,²

¹ See <https://databasin.org/maps/new/#datasets=d035971f69f84ba9b3fdb2ed551a442>

² See <https://databasin.org/maps/new/#datasets=e1bb8c9a9631413f97b28cc72a5efe93>

Essential Connectivity Areas,³ mapped critical habitat,⁴ or state or global Important Bird Areas.⁵ While the site lies partially in areas designated as modeled predicted occupied habitat for the desert tortoise,⁶ Defenders concurs with the Projects' Biological Resource Evaluation, which concluded that neither tortoises nor suitable habitat are present on the site.

As we transition toward a clean energy future, it is imperative that we consider the near-term impact of solar development on our biodiversity, fish and wildlife habitat, and natural landscapes while addressing the long-term impacts of climate change. Therefore, renewable energy projects must be planned, sited, developed and operated to avoid, minimize and mitigate adverse impacts on wildlife and lands with known high-resource values. Defenders finds the Projects are fully consistent with these criteria through being sited on previously distributed lands and applying appropriate mitigation measures to reduce the impact on special-status species in the region, including desert kit fox and birds protected by the Migratory Bird Treaty Act, as outlined on page 6-18 of the Biological Resource Evaluation. These measures include conducting pre-activity surveys and equipment inspections, avoidance buffers, worker training, speed limits, covering of holes and trenches, and proper waste management processes. We encourage the County to continue siting renewable energy projects in low-conflict areas in order to avoid or minimize impacts on sensitive species.

Thank you once again for the opportunity to provide comments on the DMND for the Barker-Trona 4 and 7 projects and for considering our comments. We look forward to reviewing the Final Environmental Documents for the Projects and request to be notified when they are available. Please feel free to contact us with any questions.

Respectfully submitted,



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202-682-9400 x271
ADelach@defenders.org



Sophia Markowska
Senior California Representative
408-603-4694
SMarkowska@defenders.org

³ See <https://databasin.org/maps/new/#datasets=c57212b3aa1243d28216a1b7db18a1ca>

⁴ Per Figure 4-1, Trona 4 and 7 Solar Project Biological Resource Evaluation, at <https://ceqanet.opr.ca.gov/2022110323/2>

⁵ See <https://databasin.org/maps/new/#datasets=1180b50bafce4871a019245da1c8b6b2>

⁶ See <https://databasin.org/maps/new/#datasets=a1f5e25b9b944f9fa6aa3be8f54f8a2e>

October 10, 2023

Via Electronic Mail

Planning Department, County of Inyo
168 North Edwards Street
Post Office Drawer L
Independence, CA 93526
Inyoplanning@inyocounty.us

Re: Response to Comments on Renewal Energy Permit Nos. 2022-01/2022-02

Dear Ms. Draper,

This law firm represents Robbie Barker and Valley Wide Engineering & Construction, Inc. (collectively, the “applicant”) regarding applications for two renewable energy permits, Nos. 2022-01 and 2022-02, (the “Projects”) set to be heard by the Inyo County Planning Commission on October 25, 2023. This letter responds to an August 24, 2023 comment letter submitted by the Soluri Meserve law firm on behalf of its client, John Mays.

By way of overview, the comment letter fails to demonstrate any procedural or substantive defect in the County’s decision to prepare Mitigated Negative Declarations (MNDs). These are small solar energy facilities, to be installed on a total of 20 acres in a sparsely populated area located north of the Trona community, within a Solar Energy Development Area (“SEDA”) designated by the Board of Supervisors in 2015. The single-axis tracker panels will be placed on flat land without special scenic or habitat value, using accepted best management practices for dust control. No significant adverse environmental impacts whatsoever are expected.

Of particular note, the Projects have a combined generating output of only 4.2 megawatts (“MW”). This makes these Projects far smaller than the “utility-scale” solar projects (i.e., more than 20 MW) that were the main focus of the Renewable Energy General Plan Amendment (“REGPA”) adopted by the Board of Supervisors in 2015. We raise this because the Board also certified a Programmatic EIR (“PEIR”) for the REGPA, and the PEIR contained several mitigation measures which the comment letter demands to be applied to these Projects. As we explain below, however, most of the PEIR’s mitigation measures apply to utility-scale projects, not to small projects like this. Thus, the County did not err by deciding that many of those mitigations were inappropriate for these Projects.

Below, we have set forth each of the August 24, 2023 comments in italics, then provided the applicant’s response. As our responses show, the County’s treatment of the Projects, and the County’s decision to adopt MNDs, is correct and well supported by the record.

RESPONSES TO COMMENTS

A. Failure to Include Mitigation Monitoring and Reporting Plan

Although clearly identifying each document as an “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeatedly checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County fails to prepare Mitigation Monitoring and Reporting Program(s) (“MMRP”(s)). This violates CEQA (CEQA Guidelines, § 15097) and also the Inyo County Code. (County Code, Ch. 15.44.) To wit:

15.44.005 General.

The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)

15.44.010 Application.

A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)

15.44.020 Timing.

Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment.
The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)

15.44.030 Contents.

The monitoring plan shall contain, at a minimum, the following:

- A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;*
- B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);*

C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;

D. Identification of the person or entity responsible for monitoring and verification;

*E. The method of reporting monitoring results to the county.
(Ord. 957 § 1 (part), 1995.)*

15.44.040 Enforcement.

Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)

Setting aside the RMND's practice of not identifying mitigation measures required to reduce Project impacts, the RMND's expressly identify mitigation measures in Sections IV(a), XIII(a) and XXI(a). Thus, the RMND's require a draft MMRP that is circulated for public comment. The RMND's are therefore procedurally invalid. A new RMND or EIR must be recirculated for public review along with the required MMRP.

Response:

The commenter contends that it was error for the County not to circulate a Mitigation, Monitoring and Reporting Plan (MMRP) along with the MND. The commenter appears, however, to have misread the applicable requirements. The County's ordinances permit a MMRP to be adopted by the County at the time of project approval and adoption of a MND, which has not yet occurred. Section 15.44.020 requires that a draft MMRP "be subject to public review and comment," but does not require that it be circulated (or recirculated) with a MND. Similarly, nothing in the CEQA Guidelines requires that a MMRP be circulated with an MND. (See CEQA Guidelines, §§ 15073 [public review of MNDs], 15073.5 [recirculation of MNDs], 15097 [rules for MMRPs].) To the contrary, section 15097 indicates that a MMRP is formulated after the public review process, not before. Here, therefore, the County may comply with its ordinances and CEQA by ensuring that the MMRP is made available for public review before it adopts a MND.

B. Project Piecemealing

CEQA's conception of the term "project" is broad to maximize protection of the environment. (Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist. (2007) 147 Cal.App.4th 643, 653; San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27

Cal.App.4th 713, 730. “This big picture approach to the definition of a project (i.e., including “the whole of an action”) prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project into smaller components which, when considered separately, may not have a significant environmental effect.” (Nelson v. County of Kern (2010) 190 Cal.App.4th 252, 270-271.)

The County is dividing a project into smaller components. The Project consists of two REPs for photovoltaic solar power generation on adjacent parcels owned by the same person, Robbie Barker. The RMNDs explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)

Notwithstanding this, the County has prepared two separate RMNDs for the Project. These RMNDs include:

- *“RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-01/Barker- Trona 7” (See Exhibit 1.)*
- *“RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-02/Barker- Trona 4” (See Exhibit 2.)*

Dividing a single project into two CEQA documents violates CEQA. The relevant test is whether the activities have “substantial independent utility.” (Del Mar Terrace Conservancy, Inc. v. City Council (1992) 10 Cal.App.4th 712, 736.) It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by preparing two separate RMNDs for what it concedes is a single project under CEQA. A reviewing court would exercise its independent judgment on this issue with no deference to the agency. (Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)

We previously commented on this issue, and the RMNDs provided make the case for piecemealed review even stronger. Both RMND’s technical reports analyze the two REPs as a single project. The air quality report explains, “Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site

(collectively referred to herein as the ‘Project’).” Similarly, the biological resources report states, “Biological Resource Evaluation – Trona 4 and 7 Solar Project.” The RMNDs themselves explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)

It appears that the County now recognizes the two REPs constitute a single CEQA project. If so, the County must prepare a single CEQA document for that single project. The County’s continued reliance on two separate CEQA documents for a single CEQA project violates CEQA.

Response:

The commenter asserts that the County analyzed the Projects in a “piecemeal” manner that is generally prohibited by CEQA. Precisely the opposite took place.

Piecemealing occurs if a lead agency “split[s] one large project into smaller ones, resulting in piecemeal environmental review that obscures the project’s full environmental consequences.” (*Make UC a Good Neighbor v. Regents of Univ. of California* (2023) 88 Cal.App.5th 656, 683, citing *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1222; see also CEQA Guidelines § 15378 [“project” means “the whole of the action...”].)

No piecemealing occurred here. Mr. Barker filed two separate solar applications with the County, one for each of the connections that Mr. Barker needs to make to the utility grid. Rather than analyze the applications separately, the County analyzed both as a single project in the Initial Study and throughout all of the supporting documents (photographs, biological evaluation, air emissions analysis). Thus, there was no piecemealing at all, because the County analyzed both applications together as a single project.

The commenter’s confusion appears to stem from the fact that the County has prepared two separate MNDs. The commenter has not shown that this was error. The County organized its MNDs in this way for the obvious reason that the applicant submitted two separate applications for approval. The County thus prepared two separate approvals to fulfill the County’s procedural need to render a decision on each application. The commenter offers no legal authority prohibiting a lead agency from preparing multiple approvals, each supported by a separate MND, for multiple applications supported by a single, combined environmental review.

Finally, the commenter appears to believe that the County’s treatment of the applications requires consideration of the issue of “independent utility.” (See *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 108; *Planning & Conserv. League v. Castaic Lake Wat. Agency* (2009) 180 Cal.App.4th 210, 235.) The question of “independent utility” arises if a lead agency performs separate environmental reviews for related projects. Here, in contrast, the County analyzed the applications together, as a single project, in a single environmental review. Thus, the independent utility doctrine has no application here.

C. Failure to Adequately Analyze Cumulative Impacts

A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an environmental impact report (“EIR”). (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1184, 1214.)

Despite this mandate, the two RMNDs’ cumulative impacts analyses continue to be impermissibly cursory. Each RMND’s cumulative impact analysis provide in full:

*No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note **in the vicinity are PV solar projects within the Trona SEDA**, but the overall number and size of these projects are **likely to be less than analyzed in the PEIR**. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.*

(RMND, § XXI(b), emphasis added.)

This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) Here, the RMNDs appear to limit the scope of cumulative projects to those “within the Trona SEDA.” The RMNDs fail to explain this limitation, which violates CEQA. (CEQA Guidelines, § 15130, subd. (b)(3) [“Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used”].) The EIR for the Inyo County Renewable General Plan Amendment (“REGPA”) provided a reasonably expansive list of cumulative projects. (REGPA EIR, Table 5-1.) The County could have relied on that list of projects so long as

it complied with CEQA's requirements for tiering/incorporation by reference as well as updating a cumulative project list, but the County did not follow that procedure. (CEQA Guidelines, § 15130, subd. (b)(1); § 15150, subd. (c); § 15152.)

Similarly, the RMNDs appear to limit the scope of cumulative projects by stating that PV solar projects are the only projects "of note." The RMNDs fails to explain what is meant by limiting cumulative projects to only those "of note." CEQA includes no such limitation, and instead requires a CEQA document to set forth "[a] list of past, present, and probably future projects producing related or cumulative impacts." (CEQA Guidelines, § 15130, subd. (b)(1)(A).) For example, the Project will unquestionably result in dust generation. Projects other than PV solar projects may also generate dust and therefore must be identified as cumulative projects.

Response:

The comment letter fails to recognize the difference between the "cumulative" analysis that CEQA requires for an EIR versus that required for an initial study supporting a negative declaration. As one court observed:

Substantial confusion exists about the scope of analysis of cumulative impacts required in an initial study. Many practitioners treat the question of whether impacts are "cumulatively considerable" under 14 Cal Code Regs § 15065(c) as equivalent to "significant cumulative effects" under 14 Cal Code Regs § 15130 and 15355, which govern the cumulative impacts analysis in an EIR... There appears to be a difference between the "cumulative impacts" analysis required in an EIR and the question of whether a project's impacts are "cumulatively considerable" for purposes of determining whether an EIR must be prepared at all.

(San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1996) 42 Cal.App.4th 608, 623 [citations and some internal quotations omitted].)

The comment letter exhibits this confusion. The letter relies on CEQA Guidelines sections 15130 and 15355, which govern the cumulative impacts analysis in an EIR. Similarly, its reliance upon *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184 is misplaced because the case involved an EIR, not an initial study. For the same reason, the commenter mistakenly relies on the discussion of cumulative impacts in the PEIR as a template for the Initial Study.

The correct method for assessing – in an initial study – whether impacts are cumulatively considerable is described in Section 15065(a)(3) of the CEQA Guidelines, as interpreted and applied by *San Joaquin Raptor/Wildlife Rescue Center* and related cases. The question is whether the "incremental effects" of a project are "considerable" when evaluated against the backdrop of environmental effects of other projects. (*San Joaquin Raptor*, 42 Cal.App.4th at pp. 623-624.) Where the initial study concludes

that these effects are absent, a challenger must point to some substantial evidence that a cumulatively considerable incremental effect exists.

Here, the comment letter attacks the Initial Study’s conclusions with respect to potential dust generation. The letter does not, however, provide evidence of any existing cumulative impact involving dust, or that an incremental effect of the Projects on that impact is considerable. Without such evidence, the challenge fails. (See *San Joaquin Raptor*, 42 Cal.App.4th at pp. 624-625 [rejecting unsubstantiated claim of cumulatively considerable effects]; *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1358 [no evidence that projects would have cumulative effects or that any such effects would be considerable]; see also Kostka & Zischke, *Practice Under The California Environmental Quality Act* (C.E.B. 2023) § 6.34, p. 6-33.)

The comment letter also fails to acknowledge that the Initial Study and its attachments affirmatively provide evidence that no cumulatively considerable dust effect will occur. As explained in the Initial Study, the Trona area is in “attainment” for PM-10 and only one other small project is planned for the area. The Appendix C air quality memorandum stated that particular matter (PM-10 and PM-2.5) will be orders of magnitude below significance thresholds, and in addition, the projects would be subject to dust control mitigation measures. (See IS, pp. 2-3, Sec. III, Exhibit C, p. 9.) In sum, the Initial Study is supported by substantial evidence showing that the Projects will have no considerable incremental dust effects requiring study in an EIR.

D. RMNDs Failed to Adequately Analyze And Mitigate Project Impacts

The RMNDs failed to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 74 (No Oil I).) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (Citizens Action to Serve All Students v. Thornley (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (No Oil I, supra, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (Id. At p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.

In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This

is assured by incorporation into an MMRP. (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (Federation of Hillside & Canyon v. City of Los Angeles (2000) 83 Cal.App.4th 1252, 1261 (Federation).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See San Bernardino Valley Audubon Society v. Metropolitan Water District (1999) 71 Cal.App.4th 382, 392.)

Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, 311 (Sundstrom).) For example, in Sundstrom the court held that the absence of information explaining why no alternative sludge disposal site is available “permits the reasonable inference that sludge disposal presents a material environmental impact.” (Ibid.) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.

Response:

This commenter recites various legal principles to conclude that an EIR is necessary, but does not offer facts to explain why. In this regard, “substantial evidence” is “facts, reasonable assumptions predicated upon facts, expert opinion supported by facts...” (CEQA Guidelines, § 15384.) It does not include “argument, speculation, [or] unsubstantiated opinion or narrative...” (Id.) As the comment is nothing more than argument and unsubstantiated opinion, it fails to show any error in the County’s treatment of the Projects.

D.1. RMNDs Impermissibly Conflate Analysis of Impacts and Mitigation

For every resource area, the RMNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (Lotus v. Department of Transportation (2014) 223

Cal.App.4th 645, 658 (Lotus) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.

For example, with respect to whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the RMNDs assert, “No . . . The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) CEQA requires the RMNDs to disclose the significance of the impact without regard for mitigation, separately identify all feasible mitigation measures and assess their effectiveness at reducing the impact. (Lotus, supra, 223 Cal.App.4th at 655-656 [“Caltrans compounds this omission by incorporating the proposed mitigation measures into its description of the project and then concluding that any potential impacts from the project will be less than significant. . . . By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA”].) The RMNDs follow this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.

Response:

The commenter errs in two basic ways.

First, the commenter attempts to apply EIR-level standards to an initial study. The commenter cites *Lotus v. Department of Transp.* (2014) 223 Cal.App.4th 645, where an EIR failed to consider the impact of placing a roadway in proximity to the roots of old growth trees. The commenter also cites *San Joaquin Raptor Rescue Center v. Cnty. of Merced* (2007) 149 Cal.App.4th 645, 663-664, where the EIR failed to adequately disclose certain groundwater impacts. Both courts applied the CEQA requirement that EIRs have a “detailed statement” of a project’s significant effects. (CEQA, § 21100, subd. (b); CEQA Guidelines, § 15126(a).)

An initial study, in contrast, is subject to different standards. “[A]n initial study is neither intended nor required to include the level of detail included in an EIR.” (CEQA Guidelines, § 15063(a)(3); *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1192-

1194 [an initial study should be “brief” and is not subject to EIR standards]; see also Kostka & Zischke, supra, § 6.18, p. 6-19 (“[a]n initial study need not be a mini EIR...”). The commenter applies the wrong standards.

Second, and more importantly, the commenter fails to show that the Initial Study neglected to analyze any significant adverse effect. The only specific complaint raised by the letter is that the Initial Study did not analyze if the Projects would “[c]onflict with or obstruct implementation of the applicable air quality plan... (IS, § III.a.) The commenter’s analysis, however, omitted critical language when it quoted the Initial Study. This language omitted by is in bold below:

No. There is no applicable air quality plan for the area in which the project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards. The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. **(See Appendix C, Air Quality and Greenhouse Gas Memorandum.) The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.**

(IS, III.a.)

In short, the commenter omitted that part of the passage which explained that the Projects will not obstruct the implementation of any applicable air quality plan because there is no applicable plan for the area. By only partially quoting the Initial Study, the comment obscured the impact analysis set forth within the Initial Study. In any event, the commenter does not challenge the conclusion that the Projects will not conflict with any applicable air quality plan. In sum, the comment does not demonstrate any error by the County.

D.2.a. Mitigation Measures are not Adequately Defined

CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See Sierra Club v. County of San Diego (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; Gray v. County of Madera (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (Federation, supra, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (Preserve Wild Santee v. City of Santee (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the

formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. Sacramento Old City Association v. City Council of Sacramento (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound in the RMNDs. Just a few representative examples are provided.

Response:

This comment cites various legal authorities, without offering any facts or analysis, to support the conclusory statement that the MNDs are defective. As such, the commenter does not provide any substantial evidence showing error. (CEQA Guidelines, § 15384.) Also, every case and regulation cited in this comment involves mitigation requirements for an EIR, not an initial study or mitigated negative declaration. As such, the comment is of questionable value.

D.2.b. Mitigation Measures are not Adequately Defined

The RMNDs claim that construction air quality will be less than significant because “[t]he applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) The RMNDs fail to adequately define these “standard techniques.” Are the “standard techniques” limited to the three identified techniques? If so, why are the RMNDs excluding other techniques disclosed in mitigation measure AQ-2 of the REGPA EIR? Further, the RMNDs fail to adequately describe the mere three techniques mentioned that would allow an assessment of their effectiveness. For example, how frequently will water trucks be used? Is there a standard for when water trucks will be required during construction? How is limestone used effectively to reduce dust? How are dust suppressants used? Are there other possible dust suppressants other than EarthGlue? If so, are any of these other dust suppressants more effective than EarthGlue? What are the tests or triggers for application of limestone or dust suppressants?

Response:

The comment is correct that the “standard techniques” that would be used for dust control include: (1) wetting down areas, (2) applying limestone to stabilize the ground surface and (3) applying dust suppressants such as EarthGlue. These three control measures are identified in the Initial Study in section III.a, and in the air quality memorandum in Appendix C, at pages 7-8.

The comment also questions why the MNDs have not incorporated all of the dust control techniques listed in Mitigation Measure AQ-2 of the PEIR. The answer is in the PEIR itself. The PEIR

states that AQ-2 was developed for “utility scale” solar projects (i.e., over 20 MW generating capacity). (PEIR, p. 4.3-17.) For smaller-scale projects like these, which total 4.2 MW of generating capacity, “the need for implementation of [MM AQ-2] shall be determined based on the professional judgment of a qualified County planner...” (PEIR, p. 4.3-17.) Thus, the County had the discretion to determine that “utility-scale” mitigation is unnecessary here due to the small scale of the Projects.

The commenter also questions whether the dust controls are sufficiently detailed and seeks additional data regarding their efficacy and alternatives. This depth of analysis is not necessary due to the scale of the impact. According to Appendix C, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the thresholds of significance for PM-10 and PM-2.5 emissions. This is orders of magnitude below the threshold. Considering the miniscule impact, it is unnecessary to conduct a comparative analysis of dust control techniques to determine that MNDs are proper.

Finally, it should be noted that dust control measures are not, in practice, as specific as the commenter appears to desire. For example, MM AQ-2 from the PEIR is “[w]ater and/or coarse rock all active construction areas as necessary and as indicated by soil and air conditions.” (PEIR, p. 4.3-18.) In addition, the PEIR refers to REAT Best Management Practices (2010), which includes the following provision for dust control:

Use dust suppressant applications or other suppressant techniques to control dust emissions from onsite unpaved roads and unpaved parking areas, as well as to mitigate fugitive dust emissions from wind erosion on areas disturbed by construction activities. When considering the use of water or chemical dust suppressants take into account water supply and chemical dust suppressant issues.

(REAT, p. 29.) Such measures leave the details of implementation to the discretion of the approving agency. The dust control measures followed by the applicant here allow the same flexibility.

D.2.c. Mitigation Measures are not Adequately Defined

Addressing some or all of these questions is necessary for the RMNDs to adequately inform the public and decision-makers that mitigation is effective to reduce the impact to less than significant on sensitive receptors such as the adjacent residential properties. An MND cannot rely on a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (King & Gardiner Farms, supra, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 511.) The RMNDs have failed to provide evidence that its vague mitigation will be effective.

Response:

As an initial matter, the cases cited in the comment (*King & Gardiner Farms* and *Sierra Club*) analyzed EIRs rather than initial studies or negative declarations, and therefore are of questionable value here.

In any event, the comment incorrectly assumes that the dust controls listed in the Initial Study are required to reduce dust impacts to a less-than-significant level. The record does not support such an assumption. As documented in the Appendix C memo, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the typical thresholds of significance for PM-10 and PM-2.5 particulate emissions. This is before the application of dust controls. As such, the Initial Study did not need to rely upon these controls to find that fugitive dust impacts are less-than-significant. Such dust controls would only further reduce an already small and insignificant effect.

D.2.d. Mitigation Measures are not Adequately Defined

Further, the RMNDs also failed to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant's REP 2018-01 that was issued in 2018.

Response:

Statements by non-expert members of the public may, in limited circumstances, constitute substantial evidence that merits consideration by a CEQA lead agency. Generally, these are limited to personal observations on non-technical subjects. (See *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.) Neighbors' observations of noise and traffic conditions, in particular, are often accepted by courts as substantial evidence because no special expertise is needed to render those observations. (See, e.g., *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 730 [noise]; *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1152 [traffic congestion].)

In contrast, when the subject matter requires technical expertise, neighbors' opinions or observations do not qualify as substantial evidence. For example, in *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, non-expert residents performed their own noise calculations and tried to submit them as substantial evidence of a noise impact. The court held: "[a]lthough they present their numbers as scientific fact, we find appellants' calculations are essentially opinions rendered by nonexperts, which do not amount to substantial evidence." (*Id.*, at p. 894.) Similarly, in *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, neighbors challenged the decision to adopt a mitigated negative declaration, arguing that data showing groundwater contamination raised a fair argument of a hazardous material impact that required study in an EIR. The court held:

Statements of area residents who are not environmental experts may qualify as substantial evidence if they are based on relevant personal observations or involve "nontechnical" issues... However, a complex scientific issue such as the migration of chemicals through land calls for

expert evaluation, and the Neighbors do not profess any expertise that would qualify them to opine on that subject... Accordingly, ACC’s conclusion that there was a “low” potential for contamination from hazardous materials from the adjacent property stands unrefuted, and an EIR is not required to address the subject.

(Bowman, at p. 583.)

Here, the comment suffers from two problems. First, the question of air quality impacts is inherently technical in nature and the opinions of non-expert neighbors are not substantial evidence. The questions analyzed in the Initial Study – such as, would the project “violate any air quality standard,” or “expose sensitive receptors to substantial pollutant concentrations” – are technical in nature. The Appendix C air quality memorandum, for instance, answered these questions through computer modeling prepared by expert consultants. In this setting, opinions by non-expert members of the public are not substantial evidence.

Second, the neighbors’ reported concerns¹ involve a different project. Generalized concerns stemming from neighbors’ observations of different projects are not substantial evidence relative to the specific project at issue. In *Lucas Valley Homeowners Assn. v. County of Marin* (1991) 233 Cal.App.3d 130, neighbors attacked a negative declaration a use permit granted to an orthodox Jewish congregation that applied to turn a house into a synagogue. The neighbors offered testimony of “generalized concerns and fears about traffic and parking impacts, or relate anecdotes of parking problems generated by [the applicant] at a different site.” According to the court, such evidence “does not rise to the level of a fair argument” of a significant adverse impact. (*Id.*, at p. 163.) Similarly, the testimony of neighbors in this case regarding the applicant’s purported actions in regard to a separate project are not substantial evidence here.

D.2.e. Mitigation Measures are not Adequately Defined

The RMNDs also improperly assume, without adequate project-specific analysis, that regulatory compliance will mitigate impacts. Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the RMNDs assert, “No . . . The applicant will be conditioned to obtain any required permits, and follow best management practices required by the GBUAPCD.” (RMND, § III(a).) This is inadequate under CEQA because a determination that regulatory compliance is adequate must be based on project-specific analysis. (Californians for Alternatives to Toxics v. Dept. of Food and Agriculture (2005) 136 Cal.App.4th 1.) Here, the RMNDs do not even identify what is required by the Great Basin Unified Air Pollution Control District (“GBUAPCD”), much less provide a project-specific analysis of how those requirements would be effective here. While the County may be inclined to point to an Air Quality Memorandum as supplying that missing analysis, this effort fails for two reasons. First, the

¹ The commenter does not identify exactly what the neighbors’ opinions are, or where those opinions are expressed.

analysis does not provide the missing information, explaining only, “Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollution emissions, including those required under their new source review requirements.” (AQ Memorandum, p. 7.) Thus discussion fails to describe applicable requirements, much less how those requirements applied here would effectively mitigate impacts. Second, even if the Air Quality Memorandum did provide some additional information, CEQA caselaw explains that such information cannot be buried in an appendix. (Vineyard Area Citizens, supra, 40 Cal.4th at 442. [information “buried in an appendix is not a substitute for good faith reasoned analysis”].)

Response:

The commenter takes issue with the County’s proposed condition to require the applicant to obtain any required permits from the Great Basin Unified Air Pollution Control District (GBUAPDC) and to follow any of GBUAPDC’s best management practices. This condition is entirely appropriate and typical and does not reflect any error by the County.

“A condition requiring compliance with environmental regulations is a common and reasonable mitigation measure.” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308, citing *Perley v. Board of Supervisors* (1982) 137 Cal.App.3d 424, 430; see also *Gentry v. City of Murrieta* (1995) 36 Cal.App.3d 1359, 1396 [approval of habitat conservation plan]; *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236-237 [mitigation measure requiring applicant to secure wetlands permits from Army Corps and Cal. Department of Fish & Wildlife].)

The commenter correctly notes that problems can arise when a lead agency employs such a condition to defer the environmental review to another agency. (See *Sundstrom*, 202 Cal.App.3d at pp. 308-309 [rather than studying issue of sewage sludge disposal, county attempted to defer analysis to the water board permit process]; *Californians for Alternatives to Toxics v. Dept. of Food and Agric.* (2005) 136 Cal.App.4th 1 [Dept. Food & Agric. evaded duty to prepare a complete EIR for an pest-control proposal by deferring issue to a separate review by Dept. of Pesticide Regulation].)

It is apparent from the record that the County conducted (and did not defer) the air quality analysis. The Initial Study explained that these are small projects, involving low impact and short-term construction, in an “attainment” area with few residents and no nearby schools or hospitals. The Initial Study appended a technical analysis of the air emissions, which were all well below accepted thresholds of significance. (IS, Appendix C, p. 9.) In short, there is no evidence that the County deferred any part of its analysis to the GBUAPDC.

D.2.f. Mitigation Measures are not Adequately Defined

The RMNDs then attempts to cite to the REGPA programmatic EIR (“PEIR”) and its MMRP in an attempt to dismiss significance of these

impacts. (RMND, §III(a).) The plain language of the PEIR refutes this effort:

*The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. However, since the air basin is within the Owens Valley PM10 Planning Area, **fugitive dust emissions from construction must be mitigated.***

(PEIR, p. 4.3-10, emphasis added.) Here, however, there is no such mitigation. For example, the AQ-2 includes such measures as “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph.” The RMNDs conspicuously fail to mention these additional mitigation measures, much less identify them as such in an enforceable MMRP for the Project.

Response:

The commenter incorrectly states that the Projects are in the Owens Valley PM-10 Planning Area. As stated on page 3 of the Initial Study, and page 7 of the Appendix C memorandum, the Projects are in the Coso Junction PM-10 Planning Area which (unlike Owens Valley) is “in attainment” for PM-10. The comment also incorrectly assumes that, even if the Projects were located in the Owens Valley, dust controls in Mitigation Measure AQ-2 are mandatory. As noted above, the PEIR gave County staff discretion to determine whether the PEIR’s mitigation measures should be applied to projects smaller than utility scale. (PEIR, p. 4.3-17.)

D.2.g. Mitigation Measures are not Adequately Defined

Finally, the RMNDs claim that PEIR mitigation measures AQ-1 through -3 “applied to utility-scale projects of greater than 20 MW and did not apply to smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner.” This is inexcusably false. The plain language of AQ-1 through -3 as revised and approved does not include such limitations. (Exhibit 3, March 2015 MMRP.)

PEIR AQ-1 states, “AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report.” The RMNDs violate this mandate because the Air Quality report does not incorporate the specific requirements of AQ-2 and AQ-3. It merely states, “[T]he Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.” PEIR mitigation measures AQ-1, -2 and -3 are not “goals and policies” of the REGPA; they are mitigation measures under CEQA. The Air Quality report does not even identify these mitigation measures, much

less “incorporate” them into its “site-specific technical report.” At best, the Air Quality Memo states:

[F]ugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment trackout onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout the life of the Project, which will in turn ensure impacts remain less than significant.

(Air Quality Memo, p. 12.0.)

While this provides a general discussion of some mitigation measures that could be used to address dust emissions, this discussion fails to comply with CEQA. This discussion fails to correlate the identified measures to the requirements of the GBUAPCD or the PEIR. Are these measures the only ones that will be used to satisfy the requirements of the PEIR and GBUAPCD? If so, why does this discussion omit any reference to “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph” as set forth in AQ-2. Further, this discussion in the Air Quality Memo does not explain how this discussion is enforceable against the project. This is precisely the function of mitigation measures and an MMRP.

Response:

The commenter first asserts that the language of Mitigation Measures AQ-1 – AQ-3 does not provide County staff with the discretion to determine which, if any, of those mitigations are appropriate for projects smaller than utility scale. The comment overlooks language in the PEIR that does exactly that. Section 4.3.5 of the PEIR provides, in relevant part:

Air quality mitigation measures have been developed for solar energy development projects producing more than 20 MW of electricity for off-site use (utility scale) and would be implemented to mitigate adverse impacts to air quality. As previously mentioned, small scale solar energy projects are considered to result in no impacts under CEQA; however, all individual solar energy facility projects applications (including small scale, community scale, and ~~distributed generation~~ commercial scale) shall

be reviewed by the county **and the need for implementation of the following mitigation measures shall be determined based on the professional judgment of a qualified county planner...**

If a proposed ~~distribution-generation~~ commercial scale or community scale solar development project is determined by the county to have the potential to impact air quality, then the following mitigation measures shall be implemented **as determined necessary by the qualified county planner...**

(PEIR, p. 4.3-17 [underlines and strikethroughs in original; bold emphasis added].)

Plainly, the PEIR gave County staff the flexibility to determine whether the PEIR mitigation measures should be applied to solar projects generating less than 20 MW. Given that the output for the Projects is 4.2 MW, and the Projects will occupy far less land than a 20 MW solar array, the County is within its discretion to determine that some or all of the mitigation applicable to 20 MW+ projects are inappropriate here.

We suspect that the comment reflects some confusion between the relationship between a MMRP and an EIR. A MMRP is designed to: “ensure that the mitigation measures and project revisions identified in the negative declaration of are implemented.” (CEQA Guidelines, § 15097; see also CEQA, § 21081.6(a)(1).) Said differently, a MMRP only implements measures contained in an EIR or negative declaration. If an MMRP does not do so faithfully, the EIR or negative declaration control. Here, to the extent that the 2015 MMRP did not fully capture the PEIR’s mitigation, the language in the PEIR itself still controls.

D.2.h. Mitigation Measures are not Adequately Defined

Finally, regulatory compliance is only permissible when it is reasonable to assume that they will actually be complied with. “[C]ompliance with regulations is a common and reasonable mitigation measure, and may be proper where it is reasonable to expect compliance.” (Oakland Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884, 906.) Here, the project applicant has repeatedly violated County and air district rules and permits with respect to this Project and earlier projects. These repeated violations have been documented by County staff and establish that it is not reasonable to simply assume that the project applicant will comply with such permit terms in the future.

Response:

The commenter asserts, without supporting facts, that the applicant violated County and air district rules. However, unsubstantiated narrative is not substantial evidence. (See CEQA Guidelines, § 15384.) Further, CEQA requires a lead agency to accept existing “baseline” conditions when preparing a CEQA review, even if those conditions result from an alleged violation of law. (See *Communities for a Better Environmental v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 321, fn. 7;

Eureka Citizens for Responsible Gov. v. City of Eureka (2007) 147 Cal.App.4th 357, 370-371 [baseline for school playground project was existing playground, even though past construction may have violated city code]; *Fat v. Cnty. of Sacramento* (2002) 97 Cal.App.4th 1270, 1278-1281 [existing airport activity part of baseline, even if it occurred previously without permit]; *Riverwatch v. Cnty. of San Diego* (1999) 76 Cal.App.4th 1428, 1453 [improper to extend baseline into past to capture illegal mining activity]; see also *Bottini v. City of San Diego* (2018) 27 Cal.App.5th 281, 303 [noting caselaw.] Thus, the comment has not identified any flaw in the County's treatment of the Projects.

D.2.i. Mitigation Measures are not Adequately Defined

In short, the RMNDs improperly rely on mitigation to avoid analysis of project impacts and fail to provide adequate information in order to determine whether mitigation is effective and enforceable. Without this necessary information, the RMND's significance determinations are not supported by substantial evidence.

Response:

For the reasons stated above, the commenter has not shown that the County erred in any way. The impacts of these small solar Projects are uniformly less than significant. The dust controls and other measures adopted here are in the nature of best management practices that are applied without regard to the scale or significance of impacts. The applicant should not be penalized for committing to do more than is strictly required to mitigate non-existent impacts.

D.3. RMNDs Inconsistently apply the PEIR's Mitigation Measures

Our prior comment letter explains that the original MNDs appeared to have ignored literally dozens of mitigation measures adopted pursuant to the PEIR. The RMNDs now appear to incorporate the PEIR's mitigation measures but have done so inconsistently and in violation of CEQA. For example, sections IV(a) (Biological Resources) and XIII(a) (Noise) appear to incorporate mitigation measures set forth in the PEIR in order to address the Project's potentially significant impacts in those resource areas. Setting aside the procedural deficiency of not circulating an MMRP including these mitigation measures, the RMNDs fail to explain why the same procedure was not followed in other resource areas [fn: Examples include air quality, agricultural impacts, transportation, water quality and visual resources] where the PEIR requires mitigation in order to support a less-than-significant determination. The leading CEQA treatise explains, "As activities within the program are approved, the agency must incorporate, if feasible, the mitigation measures and alternatives developed in the program EIR in its action approving the activity." (I Kostka and Zischke, Practice Under the Cal. Environmental Quality Act (2nd ed. 2023) § 10.16, p. 10-20.)

Response:

The commenter has not shown any inconsistency in application of the PEIR's mitigation measures. The comment fails to appreciate that the PEIR applied mainly to large solar projects (20 MW or greater generating capacity), and that the PEIR left it to County staff's discretion to apply the PEIR's mitigation measures to smaller-scale projects. The biological resources and noise analysis are examples in which the County exercised its discretion in appropriate ways.

With respect to biological resources, the PEIR provided County staff the discretion, for small-scale projects, whether to require a biological resource evaluation or implement the biological resource mitigation measures in the PEIR. (PEIR, p. 4.4-123.) Here, County staff examined the sites and found no species or habitat that would be affected. (IS, IV.a.) The record also contains a biological resource evaluation prepared on the applicant's behalf which corroborates staff's observations but also noted that certain species (desert kit fox, protected birds) could unexpectedly visit, and listed mitigation measures to ensure the risks to these species are less than significant. The Initial Study stated that these measures were "consistent with" the PEIR, but the Initial Study did not incorporate the PEIR's mitigation measures, which County staff had the discretion not to do.

With respect to noise, the PEIR gave County staff similar discretion to determine whether to impose the PEIR mitigation measures on projects less than utility-scale. (PEIR, p. 4.12-19.) However, the PEIR also noted that the General Plan Noise Element requires noise mitigation for construction that is within 500 feet of a residential receptor. (PEIR, p. 4.12-9.) Portions of the Projects are approximately 400 feet from two residential structures. (See IS, XIII.a.) Thus, the County reasonably imposed PEIR Mitigation Measure NOI-2 to mitigate construction noise within that 500-foot area. That decision gives effect to the General Plan and implements the PEIR mitigations to the extent needed, which the County has the discretion to do.

The County also had discretion to impose, or not to impose, the PEIR's mitigation for the other resource areas cited by the commenter (air quality, agricultural impacts, transportation, water quality and visual resources). (See PEIR, pp. 4.3-17 [air quality], 4.2-14 [agriculture], 4.17-12 [transportation]; 4.9-44-45 [water quality]; 4.1-25-26 [visual; resources].) The County was not obligated to incorporate any of them given the small size of the Projects. The commenter has not shown that the County's proposed exercise of discretion is contrary to the record.

E. The County Does Not Explain the Lack of Visual Simulations

The RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR. AES-1 requires "site-specific visual studies . . . to assess potential visual impacts." "Visual simulations shall be prepared to conceptually depict-post development views from the identified key observation points." No such studies were prepared. Instead, Appendix A consists solely of low-quality "representative photographs" of apparently existing conditions.

The RMND states, "Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a

qualified planner to not have a potential to impact visual resources, including a scenic vista.” The RMNDs conspicuously fails to provide any substantial evidence supporting this conclusion. The RMNDs fail to set forth any analysis, much less written report, supporting this conclusion. The RMNDs fail to identify the County planner purportedly making this determination, the date of the determination, the criteria followed by the County planner or any specific facts supporting this determination. There is no evidence, much less substantial evidence, supporting the MND’s conclusory assertion that an unspecified “qualified County planner” determined that the Project would not have the potential to impact visual resources.

Response:

The comment errs in a number of ways.

First, the commenter states, incorrectly, that “[t]he RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR.” The Initial Study stated only that the Projects were “consistent with” the PEIR which did not require site-specific visual studies for projects with less than 20 MW generating capacity. This comment thus mischaracterizes the Initial Study.

Second, the commenter asserts that no substantial evidence supports the conclusion that the Projects would not have a significant impact on a scenic vista. Such evidence is clear from the record. The Initial Study states that the Projects are not located near a scenic vista (IS, I.a.), and the comment provides no contrary evidence. Moreover, the Initial Study explains that the Projects are located on the valley floor, on a site without scenic resources, near junk and scrap yards, in an area removed from any scenic highways or recognized scenic resources. (IS, pp. 3-4, I.a.) These observations were buttressed by corroborative photographs. (IS, Appendix A.) Thus, the County had a factual basis for its determination and was clear in its rationale.

Third, the commenter states that the record fails to identify the planner making the visual resources determination. This also is not accurate. The Initial Study was signed by Cynthia Draper, an Assistant Planner with the Inyo County Planning Department, on July 19, 2023. The commenter must presume that this planner made the determinations in the initial study.

Fourth and finally, the comment incorrectly assumes that there is substantial evidence in the record giving rise to the need for a visual study. Such evidence does not exist, nor has the commenter offered any. (CEQA Guidelines, § 15384 [substantial evidence not include “argument, speculation, [or] unsubstantiated opinion or narrative...”].) Rather, the evidence shows that these are small projects, in a sparsely populated area and few residents, in an area without recognized scenic resources. There is no error in the County’s analysis.

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F. The RMNDs Fail to Include a Traffic Control Plan:

PEIR mitigation measure TRA-1 provides:

Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.

The RMNDs do not include the required traffic control plan, nor even mention mitigation measure TRA-1. While the RMNDs state that the Project “will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase,” there is no attempt to explain why these “few” construction vehicles do not require a traffic control plan to avoid conflicts with adjacent and nearby residents.

Response:

The commenter again overlooks language in the PEIR that makes the transportation mitigation measures (including TRA-1) applicable only to utility-scale solar projects, and which gives County staff discretion to determine whether the PEIR mitigation measures are appropriate for a smaller-scale project like this. (PEIR, p. 4.17-12.) Here, the Initial Study documented that the Projects would generate only a small amount of traffic on a lightly-used road:

The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.

(IS, XVII.a.) The Appendix C air memorandum, similarly, conservatively assumed that approximately ten contractors would visit per day for 25 days during construction, and almost no traffic (one daily trip) would occur in operations. (IS, Appendix C, p. 6.) These are small traffic volumes on a lightly-traveled road. The record does not suggest that a site-specific traffic control plan is necessary. The County’s treatment of the Projects is supported by substantial evidence.

G. The MNDs Fail to Address Impacts Associated with Noxious Weeds:

Mitigation measure AG-3 provides, “To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed.” In violation of this mitigation measure, no weed-abatement plan appears to have been prepared, and the RMNDs make no reference to such a plan.

Response:

Again, the commenter overlooks language in the PEIR that makes the agricultural mitigation measures (including AG-3) applicable only to utility-scale solar projects, and which gives County staff discretion to determine if they are appropriate for smaller-scale projects. (PEIR, p. 4.2-14.) As stated in the initial study, agriculture and farming are not significant land uses in the area, the Projects would not result in the conversion of agricultural land. (IS, pp. 3, II.) Thus, the Projects are not expected to have any impacts to agriculture that warrant a weed management program, and the County was within its discretion to determine that such a mitigation measure was unnecessary.

CONCLUSION

On behalf of Mr. Barker, we appreciate the County’s work on the Projects, and the opportunity to respond to the comments. If you have any questions, please do not hesitate to contact me at (916) 501-2395 or shungerford@hthglaw.com.

Very truly yours,
HARRISON, TEMBLADOR, HUNGERFORD & GUERNSEY



By
Sean Hungerford

cc: Client

October 10, 2023

Via Electronic Mail

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Re: Response to Comments on Renewal Energy Permit Nos. 2022-01/2022-02

Dear Ms. Draper,

This law firm represents Robbie Barker and Valley Wide Engineering & Construction, Inc. (collectively, the “applicant”) regarding applications for two renewable energy permits, Nos. 2022-01 and 2022-02, (the “Projects”) set to be heard by the Inyo County Planning Commission on October 25, 2023. This letter responds to an August 24, 2023 comment letter submitted by the Soluri Meserve law firm on behalf of its client, John Mays.

By way of overview, the comment letter fails to demonstrate any procedural or substantive defect in the County’s decision to prepare Mitigated Negative Declarations (MNDs). These are small solar energy facilities, to be installed on a total of 20 acres in a sparsely populated area located north of the Trona community, within a Solar Energy Development Area (“SEDA”) designated by the Board of Supervisors in 2015. The single-axis tracker panels will be placed on flat land without special scenic or habitat value, using accepted best management practices for dust control. No significant adverse environmental impacts whatsoever are expected.

Of particular note, the Projects have a combined generating output of only 4.2 megawatts (“MW”). This makes these Projects far smaller than the “utility-scale” solar projects (i.e., more than 20 MW) that were the main focus of the Renewable Energy General Plan Amendment (“REGPA”) adopted by the Board of Supervisors in 2015. We raise this because the Board also certified a Programmatic EIR (“PEIR”) for the REGPA, and the PEIR contained several mitigation measures which the comment letter demands to be applied to these Projects. As we explain below, however, most of the PEIR’s mitigation measures apply to utility-scale projects, not to small projects like this. Thus, the County did not err by deciding that many of those mitigations were inappropriate for these Projects.

Below, we have set forth each of the August 24, 2023 comments in italics, then provided the applicant’s response. As our responses show, the County’s treatment of the Projects, and the County’s decision to adopt MNDs, is correct and well supported by the record.

RESPONSES TO COMMENTS

A. Failure to Include Mitigation Monitoring and Reporting Plan

Although clearly identifying each document as an “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeatedly checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County fails to prepare Mitigation Monitoring and Reporting Program(s) (“MMRP”(s)). This violates CEQA (CEQA Guidelines, § 15097) and also the Inyo County Code. (County Code, Ch. 15.44.) To wit:

15.44.005 General.

The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)

15.44.010 Application.

A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)

15.44.020 Timing.

Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment.
The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)

15.44.030 Contents.

The monitoring plan shall contain, at a minimum, the following:

- A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;*
- B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);*

C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;

D. Identification of the person or entity responsible for monitoring and verification;

*E. The method of reporting monitoring results to the county.
(Ord. 957 § 1 (part), 1995.)*

15.44.040 Enforcement.

Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)

Setting aside the RMND's practice of not identifying mitigation measures required to reduce Project impacts, the RMND's expressly identify mitigation measures in Sections IV(a), XIII(a) and XXI(a). Thus, the RMND's require a draft MMRP that is circulated for public comment. The RMND's are therefore procedurally invalid. A new RMND or EIR must be recirculated for public review along with the required MMRP.

Response:

The commenter contends that it was error for the County not to circulate a Mitigation, Monitoring and Reporting Plan (MMRP) along with the MND. The commenter appears, however, to have misread the applicable requirements. The County's ordinances permit a MMRP to be adopted by the County at the time of project approval and adoption of a MND, which has not yet occurred. Section 15.44.020 requires that a draft MMRP "be subject to public review and comment," but does not require that it be circulated (or recirculated) with a MND. Similarly, nothing in the CEQA Guidelines requires that a MMRP be circulated with an MND. (See CEQA Guidelines, §§ 15073 [public review of MNDs], 15073.5 [recirculation of MNDs], 15097 [rules for MMRPs].) To the contrary, section 15097 indicates that a MMRP is formulated after the public review process, not before. Here, therefore, the County may comply with its ordinances and CEQA by ensuring that the MMRP is made available for public review before it adopts a MND.

B. Project Piecemealing

CEQA's conception of the term "project" is broad to maximize protection of the environment. (Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist. (2007) 147 Cal.App.4th 643, 653; San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27

Cal.App.4th 713, 730. “This big picture approach to the definition of a project (i.e., including “the whole of an action”) prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project into smaller components which, when considered separately, may not have a significant environmental effect.” (Nelson v. County of Kern (2010) 190 Cal.App.4th 252, 270-271.)

The County is dividing a project into smaller components. The Project consists of two REPs for photovoltaic solar power generation on adjacent parcels owned by the same person, Robbie Barker. The RMNDs explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)

Notwithstanding this, the County has prepared two separate RMNDs for the Project. These RMNDs include:

- *“RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-01/Barker- Trona 7” (See Exhibit 1.)*
- *“RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-02/Barker- Trona 4” (See Exhibit 2.)*

Dividing a single project into two CEQA documents violates CEQA. The relevant test is whether the activities have “substantial independent utility.” (Del Mar Terrace Conservancy, Inc. v. City Council (1992) 10 Cal.App.4th 712, 736.) It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by preparing two separate RMNDs for what it concedes is a single project under CEQA. A reviewing court would exercise its independent judgment on this issue with no deference to the agency. (Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)

We previously commented on this issue, and the RMNDs provided make the case for piecemealed review even stronger. Both RMND’s technical reports analyze the two REPs as a single project. The air quality report explains, “Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site

(collectively referred to herein as the ‘Project’).” Similarly, the biological resources report states, “Biological Resource Evaluation – Trona 4 and 7 Solar Project.” The RMNDs themselves explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)

It appears that the County now recognizes the two REPs constitute a single CEQA project. If so, the County must prepare a single CEQA document for that single project. The County’s continued reliance on two separate CEQA documents for a single CEQA project violates CEQA.

Response:

The commenter asserts that the County analyzed the Projects in a “piecemeal” manner that is generally prohibited by CEQA. Precisely the opposite took place.

Piecemealing occurs if a lead agency “split[s] one large project into smaller ones, resulting in piecemeal environmental review that obscures the project’s full environmental consequences.” (*Make UC a Good Neighbor v. Regents of Univ. of California* (2023) 88 Cal.App.5th 656, 683, citing *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1222; see also CEQA Guidelines § 15378 [“project” means “the whole of the action...”].)

No piecemealing occurred here. Mr. Barker filed two separate solar applications with the County, one for each of the connections that Mr. Barker needs to make to the utility grid. Rather than analyze the applications separately, the County analyzed both as a single project in the Initial Study and throughout all of the supporting documents (photographs, biological evaluation, air emissions analysis). Thus, there was no piecemealing at all, because the County analyzed both applications together as a single project.

The commenter’s confusion appears to stem from the fact that the County has prepared two separate MNDs. The commenter has not shown that this was error. The County organized its MNDs in this way for the obvious reason that the applicant submitted two separate applications for approval. The County thus prepared two separate approvals to fulfill the County’s procedural need to render a decision on each application. The commenter offers no legal authority prohibiting a lead agency from preparing multiple approvals, each supported by a separate MND, for multiple applications supported by a single, combined environmental review.

Finally, the commenter appears to believe that the County’s treatment of the applications requires consideration of the issue of “independent utility.” (See *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 108; *Planning & Conserv. League v. Castaic Lake Wat. Agency* (2009) 180 Cal.App.4th 210, 235.) The question of “independent utility” arises if a lead agency performs separate environmental reviews for related projects. Here, in contrast, the County analyzed the applications together, as a single project, in a single environmental review. Thus, the independent utility doctrine has no application here.

C. Failure to Adequately Analyze Cumulative Impacts

A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an environmental impact report (“EIR”). (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1184, 1214.)

Despite this mandate, the two RMNDs’ cumulative impacts analyses continue to be impermissibly cursory. Each RMND’s cumulative impact analysis provide in full:

*No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note **in the vicinity are PV solar projects within the Trona SEDA**, but the overall number and size of these projects are **likely to be less than analyzed in the PEIR**. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.*

(RMND, § XXI(b), emphasis added.)

This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) Here, the RMNDs appear to limit the scope of cumulative projects to those “within the Trona SEDA.” The RMNDs fail to explain this limitation, which violates CEQA. (CEQA Guidelines, § 15130, subd. (b)(3) [“Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used”].) The EIR for the Inyo County Renewable General Plan Amendment (“REGPA”) provided a reasonably expansive list of cumulative projects. (REGPA EIR, Table 5-1.) The County could have relied on that list of projects so long as

it complied with CEQA’s requirements for tiering/incorporation by reference as well as updating a cumulative project list, but the County did not follow that procedure. (CEQA Guidelines, § 15130, subd. (b)(1); § 15150, subd. (c); § 15152.)

Similarly, the RMNDs appear to limit the scope of cumulative projects by stating that PV solar projects are the only projects “of note.” The RMNDs fails to explain what is meant by limiting cumulative projects to only those “of note.” CEQA includes no such limitation, and instead requires a CEQA document to set forth “[a] list of past, present, and probably future projects producing related or cumulative impacts.” (CEQA Guidelines, § 15130, subd. (b)(1)(A).) For example, the Project will unquestionably result in dust generation. Projects other than PV solar projects may also generate dust and therefore must be identified as cumulative projects.

Response:

The comment letter fails to recognize the difference between the “cumulative” analysis that CEQA requires for an EIR versus that required for an initial study supporting a negative declaration. As one court observed:

Substantial confusion exists about the scope of analysis of cumulative impacts required in an initial study. Many practitioners treat the question of whether impacts are “cumulatively considerable” under 14 Cal Code Regs § 15065(c) as equivalent to “significant cumulative effects” under 14 Cal Code Regs § 15130 and 15355, which govern the cumulative impacts analysis in an EIR... There appears to be a difference between the “cumulative impacts” analysis required in an EIR and the question of whether a project’s impacts are “cumulatively considerable” for purposes of determining whether an EIR must be prepared at all.

(San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1996) 42 Cal.App.4th 608, 623 [citations and some internal quotations omitted].)

The comment letter exhibits this confusion. The letter relies on CEQA Guidelines sections 15130 and 15355, which govern the cumulative impacts analysis in an EIR. Similarly, its reliance upon *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184 is misplaced because the case involved an EIR, not an initial study. For the same reason, the commenter mistakenly relies on the discussion of cumulative impacts in the PEIR as a template for the Initial Study.

The correct method for assessing – in an initial study – whether impacts are cumulatively considerable is described in Section 15065(a)(3) of the CEQA Guidelines, as interpreted and applied by *San Joaquin Raptor/Wildlife Rescue Center* and related cases. The question is whether the “incremental effects” of a project are “considerable” when evaluated against the backdrop of environmental effects of other projects. (*San Joaquin Raptor*, 42 Cal.App.4th at pp. 623-624.) Where the initial study concludes

that these effects are absent, a challenger must point to some substantial evidence that a cumulatively considerable incremental effect exists.

Here, the comment letter attacks the Initial Study’s conclusions with respect to potential dust generation. The letter does not, however, provide evidence of any existing cumulative impact involving dust, or that an incremental effect of the Projects on that impact is considerable. Without such evidence, the challenge fails. (See *San Joaquin Raptor*, 42 Cal.App.4th at pp. 624-625 [rejecting unsubstantiated claim of cumulatively considerable effects]; *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1358 [no evidence that projects would have cumulative effects or that any such effects would be considerable]; see also Kostka & Zischke, *Practice Under The California Environmental Quality Act* (C.E.B. 2023) § 6.34, p. 6-33.)

The comment letter also fails to acknowledge that the Initial Study and its attachments affirmatively provide evidence that no cumulatively considerable dust effect will occur. As explained in the Initial Study, the Trona area is in “attainment” for PM-10 and only one other small project is planned for the area. The Appendix C air quality memorandum stated that particular matter (PM-10 and PM-2.5) will be orders of magnitude below significance thresholds, and in addition, the projects would be subject to dust control mitigation measures. (See IS, pp. 2-3, Sec. III, Exhibit C, p. 9.) In sum, the Initial Study is supported by substantial evidence showing that the Projects will have no considerable incremental dust effects requiring study in an EIR.

D. RMNDs Failed to Adequately Analyze And Mitigate Project Impacts

The RMNDs failed to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 74 (No Oil I).) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (Citizens Action to Serve All Students v. Thornley (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (No Oil I, supra, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (Id. At p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.

In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This

is assured by incorporation into an MMRP. (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (Federation of Hillside & Canyon v. City of Los Angeles (2000) 83 Cal.App.4th 1252, 1261 (Federation).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See San Bernardino Valley Audubon Society v. Metropolitan Water District (1999) 71 Cal.App.4th 382, 392.)

Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, 311 (Sundstrom).) For example, in Sundstrom the court held that the absence of information explaining why no alternative sludge disposal site is available “permits the reasonable inference that sludge disposal presents a material environmental impact.” (Ibid.) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.

Response:

This commenter recites various legal principles to conclude that an EIR is necessary, but does not offer facts to explain why. In this regard, “substantial evidence” is “facts, reasonable assumptions predicated upon facts, expert opinion supported by facts...” (CEQA Guidelines, § 15384.) It does not include “argument, speculation, [or] unsubstantiated opinion or narrative...” (Id.) As the comment is nothing more than argument and unsubstantiated opinion, it fails to show any error in the County’s treatment of the Projects.

D.1. RMNDs Impermissibly Conflate Analysis of Impacts and Mitigation

For every resource area, the RMNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (Lotus v. Department of Transportation (2014) 223

Cal.App.4th 645, 658 (Lotus) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.

For example, with respect to whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the RMNDs assert, “No . . . The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) CEQA requires the RMNDs to disclose the significance of the impact without regard for mitigation, separately identify all feasible mitigation measures and assess their effectiveness at reducing the impact. (Lotus, supra, 223 Cal.App.4th at 655-656 [“Caltrans compounds this omission by incorporating the proposed mitigation measures into its description of the project and then concluding that any potential impacts from the project will be less than significant. . . . By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA”].) The RMNDs follow this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.

Response:

The commenter errs in two basic ways.

First, the commenter attempts to apply EIR-level standards to an initial study. The commenter cites *Lotus v. Department of Transp.* (2014) 223 Cal.App.4th 645, where an EIR failed to consider the impact of placing a roadway in proximity to the roots of old growth trees. The commenter also cites *San Joaquin Raptor Rescue Center v. Cnty. of Merced* (2007) 149 Cal.App.4th 645, 663-664, where the EIR failed to adequately disclose certain groundwater impacts. Both courts applied the CEQA requirement that EIRs have a “detailed statement” of a project’s significant effects. (CEQA, § 21100, subd. (b); CEQA Guidelines, § 15126(a).)

An initial study, in contrast, is subject to different standards. “[A]n initial study is neither intended nor required to include the level of detail included in an EIR.” (CEQA Guidelines, § 15063(a)(3); *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1192-

1194 [an initial study should be “brief” and is not subject to EIR standards]; see also Kostka & Zischke, supra, § 6.18, p. 6-19 (“[a]n initial study need not be a mini EIR...”). The commenter applies the wrong standards.

Second, and more importantly, the commenter fails to show that the Initial Study neglected to analyze any significant adverse effect. The only specific complaint raised by the letter is that the Initial Study did not analyze if the Projects would “[c]onflict with or obstruct implementation of the applicable air quality plan... (IS, § III.a.) The commenter’s analysis, however, omitted critical language when it quoted the Initial Study. This language omitted by is in bold below:

No. There is no applicable air quality plan for the area in which the project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards. The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. **(See Appendix C, Air Quality and Greenhouse Gas Memorandum.) The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.**

(IS, III.a.)

In short, the commenter omitted that part of the passage which explained that the Projects will not obstruct the implementation of any applicable air quality plan because there is no applicable plan for the area. By only partially quoting the Initial Study, the comment obscured the impact analysis set forth within the Initial Study. In any event, the commenter does not challenge the conclusion that the Projects will not conflict with any applicable air quality plan. In sum, the comment does not demonstrate any error by the County.

D.2.a. Mitigation Measures are not Adequately Defined

CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See Sierra Club v. County of San Diego (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; Gray v. County of Madera (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (Federation, supra, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (Preserve Wild Santee v. City of Santee (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the

formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. Sacramento Old City Association v. City Council of Sacramento (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound in the RMNDs. Just a few representative examples are provided.

Response:

This comment cites various legal authorities, without offering any facts or analysis, to support the conclusory statement that the MNDs are defective. As such, the commenter does not provide any substantial evidence showing error. (CEQA Guidelines, § 15384.) Also, every case and regulation cited in this comment involves mitigation requirements for an EIR, not an initial study or mitigated negative declaration. As such, the comment is of questionable value.

D.2.b. Mitigation Measures are not Adequately Defined

The RMNDs claim that construction air quality will be less than significant because “[t]he applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) The RMNDs fail to adequately define these “standard techniques.” Are the “standard techniques” limited to the three identified techniques? If so, why are the RMNDs excluding other techniques disclosed in mitigation measure AQ-2 of the REGPA EIR? Further, the RMNDs fail to adequately describe the mere three techniques mentioned that would allow an assessment of their effectiveness. For example, how frequently will water trucks be used? Is there a standard for when water trucks will be required during construction? How is limestone used effectively to reduce dust? How are dust suppressants used? Are there other possible dust suppressants other than EarthGlue? If so, are any of these other dust suppressants more effective than EarthGlue? What are the tests or triggers for application of limestone or dust suppressants?

Response:

The comment is correct that the “standard techniques” that would be used for dust control include: (1) wetting down areas, (2) applying limestone to stabilize the ground surface and (3) applying dust suppressants such as EarthGlue. These three control measures are identified in the Initial Study in section III.a, and in the air quality memorandum in Appendix C, at pages 7-8.

The comment also questions why the MNDs have not incorporated all of the dust control techniques listed in Mitigation Measure AQ-2 of the PEIR. The answer is in the PEIR itself. The PEIR

states that AQ-2 was developed for “utility scale” solar projects (i.e., over 20 MW generating capacity). (PEIR, p. 4.3-17.) For smaller-scale projects like these, which total 4.2 MW of generating capacity, “the need for implementation of [MM AQ-2] shall be determined based on the professional judgment of a qualified County planner...” (PEIR, p. 4.3-17.) Thus, the County had the discretion to determine that “utility-scale” mitigation is unnecessary here due to the small scale of the Projects.

The commenter also questions whether the dust controls are sufficiently detailed and seeks additional data regarding their efficacy and alternatives. This depth of analysis is not necessary due to the scale of the impact. According to Appendix C, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the thresholds of significance for PM-10 and PM-2.5 emissions. This is orders of magnitude below the threshold. Considering the miniscule impact, it is unnecessary to conduct a comparative analysis of dust control techniques to determine that MNDs are proper.

Finally, it should be noted that dust control measures are not, in practice, as specific as the commenter appears to desire. For example, MM AQ-2 from the PEIR is “[w]ater and/or coarse rock all active construction areas as necessary and as indicated by soil and air conditions.” (PEIR, p. 4.3-18.) In addition, the PEIR refers to REAT Best Management Practices (2010), which includes the following provision for dust control:

Use dust suppressant applications or other suppressant techniques to control dust emissions from onsite unpaved roads and unpaved parking areas, as well as to mitigate fugitive dust emissions from wind erosion on areas disturbed by construction activities. When considering the use of water or chemical dust suppressants take into account water supply and chemical dust suppressant issues.

(REAT, p. 29.) Such measures leave the details of implementation to the discretion of the approving agency. The dust control measures followed by the applicant here allow the same flexibility.

D.2.c. Mitigation Measures are not Adequately Defined

Addressing some or all of these questions is necessary for the RMNDs to adequately inform the public and decision-makers that mitigation is effective to reduce the impact to less than significant on sensitive receptors such as the adjacent residential properties. An MND cannot rely on a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (King & Gardiner Farms, supra, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 511.) The RMNDs have failed to provide evidence that its vague mitigation will be effective.

Response:

As an initial matter, the cases cited in the comment (*King & Gardiner Farms* and *Sierra Club*) analyzed EIRs rather than initial studies or negative declarations, and therefore are of questionable value here.

In any event, the comment incorrectly assumes that the dust controls listed in the Initial Study are required to reduce dust impacts to a less-than-significant level. The record does not support such an assumption. As documented in the Appendix C memo, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the typical thresholds of significance for PM-10 and PM-2.5 particulate emissions. This is before the application of dust controls. As such, the Initial Study did not need to rely upon these controls to find that fugitive dust impacts are less-than-significant. Such dust controls would only further reduce an already small and insignificant effect.

D.2.d. Mitigation Measures are not Adequately Defined

Further, the RMNDs also failed to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant's REP 2018-01 that was issued in 2018.

Response:

Statements by non-expert members of the public may, in limited circumstances, constitute substantial evidence that merits consideration by a CEQA lead agency. Generally, these are limited to personal observations on non-technical subjects. (See *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.) Neighbors' observations of noise and traffic conditions, in particular, are often accepted by courts as substantial evidence because no special expertise is needed to render those observations. (See, e.g., *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 730 [noise]; *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1152 [traffic congestion].)

In contrast, when the subject matter requires technical expertise, neighbors' opinions or observations do not qualify as substantial evidence. For example, in *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, non-expert residents performed their own noise calculations and tried to submit them as substantial evidence of a noise impact. The court held: "[a]lthough they present their numbers as scientific fact, we find appellants' calculations are essentially opinions rendered by nonexperts, which do not amount to substantial evidence." (*Id.*, at p. 894.) Similarly, in *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, neighbors challenged the decision to adopt a mitigated negative declaration, arguing that data showing groundwater contamination raised a fair argument of a hazardous material impact that required study in an EIR. The court held:

Statements of area residents who are not environmental experts may qualify as substantial evidence if they are based on relevant personal observations or involve "nontechnical" issues... However, a complex scientific issue such as the migration of chemicals through land calls for

expert evaluation, and the Neighbors do not profess any expertise that would qualify them to opine on that subject... Accordingly, ACC’s conclusion that there was a “low” potential for contamination from hazardous materials from the adjacent property stands unrefuted, and an EIR is not required to address the subject.

(Bowman, at p. 583.)

Here, the comment suffers from two problems. First, the question of air quality impacts is inherently technical in nature and the opinions of non-expert neighbors are not substantial evidence. The questions analyzed in the Initial Study – such as, would the project “violate any air quality standard,” or “expose sensitive receptors to substantial pollutant concentrations” – are technical in nature. The Appendix C air quality memorandum, for instance, answered these questions through computer modeling prepared by expert consultants. In this setting, opinions by non-expert members of the public are not substantial evidence.

Second, the neighbors’ reported concerns¹ involve a different project. Generalized concerns stemming from neighbors’ observations of different projects are not substantial evidence relative to the specific project at issue. In *Lucas Valley Homeowners Assn. v. County of Marin* (1991) 233 Cal.App.3d 130, neighbors attacked a negative declaration a use permit granted to an orthodox Jewish congregation that applied to turn a house into a synagogue. The neighbors offered testimony of “generalized concerns and fears about traffic and parking impacts, or relate anecdotes of parking problems generated by [the applicant] at a different site.” According to the court, such evidence “does not rise to the level of a fair argument” of a significant adverse impact. (*Id.*, at p. 163.) Similarly, the testimony of neighbors in this case regarding the applicant’s purported actions in regard to a separate project are not substantial evidence here.

D.2.e. Mitigation Measures are not Adequately Defined

The RMNDs also improperly assume, without adequate project-specific analysis, that regulatory compliance will mitigate impacts. Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the RMNDs assert, “No . . . The applicant will be conditioned to obtain any required permits, and follow best management practices required by the GBUAPCD.” (RMND, § III(a).) This is inadequate under CEQA because a determination that regulatory compliance is adequate must be based on project-specific analysis. (Californians for Alternatives to Toxics v. Dept. of Food and Agriculture (2005) 136 Cal.App.4th 1.) Here, the RMNDs do not even identify what is required by the Great Basin Unified Air Pollution Control District (“GBUAPCD”), much less provide a project-specific analysis of how those requirements would be effective here. While the County may be inclined to point to an Air Quality Memorandum as supplying that missing analysis, this effort fails for two reasons. First, the

¹ The commenter does not identify exactly what the neighbors’ opinions are, or where those opinions are expressed.

analysis does not provide the missing information, explaining only, “Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollution emissions, including those required under their new source review requirements.” (AQ Memorandum, p. 7.) Thus discussion fails to describe applicable requirements, much less how those requirements applied here would effectively mitigate impacts. Second, even if the Air Quality Memorandum did provide some additional information, CEQA caselaw explains that such information cannot be buried in an appendix. (Vineyard Area Citizens, supra, 40 Cal.4th at 442. [information “buried in an appendix is not a substitute for good faith reasoned analysis”].)

Response:

The commenter takes issue with the County’s proposed condition to require the applicant to obtain any required permits from the Great Basin Unified Air Pollution Control District (GBUAPDC) and to follow any of GBUAPDC’s best management practices. This condition is entirely appropriate and typical and does not reflect any error by the County.

“A condition requiring compliance with environmental regulations is a common and reasonable mitigation measure.” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308, citing *Perley v. Board of Supervisors* (1982) 137 Cal.App.3d 424, 430; see also *Gentry v. City of Murrieta* (1995) 36 Cal.App.3d 1359, 1396 [approval of habitat conservation plan]; *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236-237 [mitigation measure requiring applicant to secure wetlands permits from Army Corps and Cal. Department of Fish & Wildlife].)

The commenter correctly notes that problems can arise when a lead agency employs such a condition to defer the environmental review to another agency. (See *Sundstrom*, 202 Cal.App.3d at pp. 308-309 [rather than studying issue of sewage sludge disposal, county attempted to defer analysis to the water board permit process]; *Californians for Alternatives to Toxics v. Dept. of Food and Agric.* (2005) 136 Cal.App.4th 1 [Dept. Food & Agric. evaded duty to prepare a complete EIR for an pest-control proposal by deferring issue to a separate review by Dept. of Pesticide Regulation].)

It is apparent from the record that the County conducted (and did not defer) the air quality analysis. The Initial Study explained that these are small projects, involving low impact and short-term construction, in an “attainment” area with few residents and no nearby schools or hospitals. The Initial Study appended a technical analysis of the air emissions, which were all well below accepted thresholds of significance. (IS, Appendix C, p. 9.) In short, there is no evidence that the County deferred any part of its analysis to the GBUAPDC.

D.2.f. Mitigation Measures are not Adequately Defined

The RMNDs then attempts to cite to the REGPA programmatic EIR (“PEIR”) and its MMRP in an attempt to dismiss significance of these

impacts. (RMND, §III(a).) The plain language of the PEIR refutes this effort:

*The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. However, since the air basin is within the Owens Valley PM10 Planning Area, **fugitive dust emissions from construction must be mitigated.***

(PEIR, p. 4.3-10, emphasis added.) Here, however, there is no such mitigation. For example, the AQ-2 includes such measures as “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph.” The RMNDs conspicuously fail to mention these additional mitigation measures, much less identify them as such in an enforceable MMRP for the Project.

Response:

The commenter incorrectly states that the Projects are in the Owens Valley PM-10 Planning Area. As stated on page 3 of the Initial Study, and page 7 of the Appendix C memorandum, the Projects are in the Coso Junction PM-10 Planning Area which (unlike Owens Valley) is “in attainment” for PM-10. The comment also incorrectly assumes that, even if the Projects were located in the Owens Valley, dust controls in Mitigation Measure AQ-2 are mandatory. As noted above, the PEIR gave County staff discretion to determine whether the PEIR’s mitigation measures should be applied to projects smaller than utility scale. (PEIR, p. 4.3-17.)

D.2.g. Mitigation Measures are not Adequately Defined

Finally, the RMNDs claim that PEIR mitigation measures AQ-1 through -3 “applied to utility-scale projects of greater than 20 MW and did not apply to smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner.” This is inexcusably false. The plain language of AQ-1 through -3 as revised and approved does not include such limitations. (Exhibit 3, March 2015 MMRP.)

PEIR AQ-1 states, “AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report.” The RMNDs violate this mandate because the Air Quality report does not incorporate the specific requirements of AQ-2 and AQ-3. It merely states, “[T]he Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.” PEIR mitigation measures AQ-1, -2 and -3 are not “goals and policies” of the REGPA; they are mitigation measures under CEQA. The Air Quality report does not even identify these mitigation measures, much

less “incorporate” them into its “site-specific technical report.” At best, the Air Quality Memo states:

[F]ugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment trackout onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout the life of the Project, which will in turn ensure impacts remain less than significant.

(Air Quality Memo, p. 12.0.)

While this provides a general discussion of some mitigation measures that could be used to address dust emissions, this discussion fails to comply with CEQA. This discussion fails to correlate the identified measures to the requirements of the GBUAPCD or the PEIR. Are these measures the only ones that will be used to satisfy the requirements of the PEIR and GBUAPCD? If so, why does this discussion omit any reference to “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph” as set forth in AQ-2. Further, this discussion in the Air Quality Memo does not explain how this discussion is enforceable against the project. This is precisely the function of mitigation measures and an MMRP.

Response:

The commenter first asserts that the language of Mitigation Measures AQ-1 – AQ-3 does not provide County staff with the discretion to determine which, if any, of those mitigations are appropriate for projects smaller than utility scale. The comment overlooks language in the PEIR that does exactly that. Section 4.3.5 of the PEIR provides, in relevant part:

Air quality mitigation measures have been developed for solar energy development projects producing more than 20 MW of electricity for off-site use (utility scale) and would be implemented to mitigate adverse impacts to air quality. As previously mentioned, small scale solar energy projects are considered to result in no impacts under CEQA; however, all individual solar energy facility projects applications (including small scale, community scale, and ~~distributed generation~~ commercial scale) shall

be reviewed by the county **and the need for implementation of the following mitigation measures shall be determined based on the professional judgment of a qualified county planner...**

If a proposed ~~distribution-generation~~ commercial scale or community scale solar development project is determined by the county to have the potential to impact air quality, then the following mitigation measures shall be implemented **as determined necessary by the qualified county planner...**

(PEIR, p. 4.3-17 [underlines and strikethroughs in original; bold emphasis added].)

Plainly, the PEIR gave County staff the flexibility to determine whether the PEIR mitigation measures should be applied to solar projects generating less than 20 MW. Given that the output for the Projects is 4.2 MW, and the Projects will occupy far less land than a 20 MW solar array, the County is within its discretion to determine that some or all of the mitigation applicable to 20 MW+ projects are inappropriate here.

We suspect that the comment reflects some confusion between the relationship between a MMRP and an EIR. A MMRP is designed to: “ensure that the mitigation measures and project revisions identified in the negative declaration of are implemented.” (CEQA Guidelines, § 15097; see also CEQA, § 21081.6(a)(1).) Said differently, a MMRP only implements measures contained in an EIR or negative declaration. If an MMRP does not do so faithfully, the EIR or negative declaration control. Here, to the extent that the 2015 MMRP did not fully capture the PEIR’s mitigation, the language in the PEIR itself still controls.

D.2.h. Mitigation Measures are not Adequately Defined

Finally, regulatory compliance is only permissible when it is reasonable to assume that they will actually be complied with. “[C]ompliance with regulations is a common and reasonable mitigation measure, and may be proper where it is reasonable to expect compliance.” (Oakland Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884, 906.) Here, the project applicant has repeatedly violated County and air district rules and permits with respect to this Project and earlier projects. These repeated violations have been documented by County staff and establish that it is not reasonable to simply assume that the project applicant will comply with such permit terms in the future.

Response:

The commenter asserts, without supporting facts, that the applicant violated County and air district rules. However, unsubstantiated narrative is not substantial evidence. (See CEQA Guidelines, § 15384.) Further, CEQA requires a lead agency to accept existing “baseline” conditions when preparing a CEQA review, even if those conditions result from an alleged violation of law. (See *Communities for a Better Environmental v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 321, fn. 7;

Eureka Citizens for Responsible Gov. v. City of Eureka (2007) 147 Cal.App.4th 357, 370-371 [baseline for school playground project was existing playground, even though past construction may have violated city code]; *Fat v. Cnty. of Sacramento* (2002) 97 Cal.App.4th 1270, 1278-1281 [existing airport activity part of baseline, even if it occurred previously without permit]; *Riverwatch v. Cnty. of San Diego* (1999) 76 Cal.App.4th 1428, 1453 [improper to extend baseline into past to capture illegal mining activity]; see also *Bottini v. City of San Diego* (2018) 27 Cal.App.5th 281, 303 [noting caselaw.] Thus, the comment has not identified any flaw in the County's treatment of the Projects.

D.2.i. Mitigation Measures are not Adequately Defined

In short, the RMNDs improperly rely on mitigation to avoid analysis of project impacts and fail to provide adequate information in order to determine whether mitigation is effective and enforceable. Without this necessary information, the RMND's significance determinations are not supported by substantial evidence.

Response:

For the reasons stated above, the commenter has not shown that the County erred in any way. The impacts of these small solar Projects are uniformly less than significant. The dust controls and other measures adopted here are in the nature of best management practices that are applied without regard to the scale or significance of impacts. The applicant should not be penalized for committing to do more than is strictly required to mitigate non-existent impacts.

D.3. RMNDs Inconsistently apply the PEIR's Mitigation Measures

Our prior comment letter explains that the original MNDs appeared to have ignored literally dozens of mitigation measures adopted pursuant to the PEIR. The RMNDs now appear to incorporate the PEIR's mitigation measures but have done so inconsistently and in violation of CEQA. For example, sections IV(a) (Biological Resources) and XIII(a) (Noise) appear to incorporate mitigation measures set forth in the PEIR in order to address the Project's potentially significant impacts in those resource areas. Setting aside the procedural deficiency of not circulating an MMRP including these mitigation measures, the RMNDs fail to explain why the same procedure was not followed in other resource areas [fn: Examples include air quality, agricultural impacts, transportation, water quality and visual resources] where the PEIR requires mitigation in order to support a less-than-significant determination. The leading CEQA treatise explains, "As activities within the program are approved, the agency must incorporate, if feasible, the mitigation measures and alternatives developed in the program EIR in its action approving the activity." (I Kostka and Zischke, Practice Under the Cal. Environmental Quality Act (2nd ed. 2023) § 10.16, p. 10-20.)

Response:

The commenter has not shown any inconsistency in application of the PEIR’s mitigation measures. The comment fails to appreciate that the PEIR applied mainly to large solar projects (20 MW or greater generating capacity), and that the PEIR left it to County staff’s discretion to apply the PEIR’s mitigation measures to smaller-scale projects. The biological resources and noise analysis are examples in which the County exercised its discretion in appropriate ways.

With respect to biological resources, the PEIR provided County staff the discretion, for small-scale projects, whether to require a biological resource evaluation or implement the biological resource mitigation measures in the PEIR. (PEIR, p. 4.4-123.) Here, County staff examined the sites and found no species or habitat that would be affected. (IS, IV.a.) The record also contains a biological resource evaluation prepared on the applicant’s behalf which corroborates staff’s observations but also noted that certain species (desert kit fox, protected birds) could unexpectedly visit, and listed mitigation measures to ensure the risks to these species are less than significant. The Initial Study stated that these measures were “consistent with” the PEIR, but the Initial Study did not incorporate the PEIR’s mitigation measures, which County staff had the discretion not to do.

With respect to noise, the PEIR gave County staff similar discretion to determine whether to impose the PEIR mitigation measures on projects less than utility-scale. (PEIR, p. 4.12-19.) However, the PEIR also noted that the General Plan Noise Element requires noise mitigation for construction that is within 500 feet of a residential receptor. (PEIR, p. 4.12-9.) Portions of the Projects are approximately 400 feet from two residential structures. (See IS, XIII.a.) Thus, the County reasonably imposed PEIR Mitigation Measure NOI-2 to mitigate construction noise within that 500-foot area. That decision gives effect to the General Plan and implements the PEIR mitigations to the extent needed, which the County has the discretion to do.

The County also had discretion to impose, or not to impose, the PEIR’s mitigation for the other resource areas cited by the commenter (air quality, agricultural impacts, transportation, water quality and visual resources). (See PEIR, pp. 4.3-17 [air quality], 4.2-14 [agriculture], 4.17-12 [transportation]; 4.9-44-45 [water quality]; 4.1-25-26 [visual; resources].) The County was not obligated to incorporate any of them given the small size of the Projects. The commenter has not shown that the County’s proposed exercise of discretion is contrary to the record.

E. The County Does Not Explain the Lack of Visual Simulations

The RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR. AES-1 requires “site-specific visual studies . . . to assess potential visual impacts.” “Visual simulations shall be prepared to conceptually depict-post development views from the identified key observation points.” No such studies were prepared. Instead, Appendix A consists solely of low-quality “representative photographs” of apparently existing conditions.

The RMND states, “Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a

qualified planner to not have a potential to impact visual resources, including a scenic vista.” The RMNDs conspicuously fails to provide any substantial evidence supporting this conclusion. The RMNDs fail to set forth any analysis, much less written report, supporting this conclusion. The RMNDs fail to identify the County planner purportedly making this determination, the date of the determination, the criteria followed by the County planner or any specific facts supporting this determination. There is no evidence, much less substantial evidence, supporting the MND’s conclusory assertion that an unspecified “qualified County planner” determined that the Project would not have the potential to impact visual resources.

Response:

The comment errs in a number of ways.

First, the commenter states, incorrectly, that “[t]he RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR.” The Initial Study stated only that the Projects were “consistent with” the PEIR which did not require site-specific visual studies for projects with less than 20 MW generating capacity. This comment thus mischaracterizes the Initial Study.

Second, the commenter asserts that no substantial evidence supports the conclusion that the Projects would not have a significant impact on a scenic vista. Such evidence is clear from the record. The Initial Study states that the Projects are not located near a scenic vista (IS, I.a.), and the comment provides no contrary evidence. Moreover, the Initial Study explains that the Projects are located on the valley floor, on a site without scenic resources, near junk and scrap yards, in an area removed from any scenic highways or recognized scenic resources. (IS, pp. 3-4, I.a.) These observations were buttressed by corroborative photographs. (IS, Appendix A.) Thus, the County had a factual basis for its determination and was clear in its rationale.

Third, the commenter states that the record fails to identify the planner making the visual resources determination. This also is not accurate. The Initial Study was signed by Cynthia Draper, an Assistant Planner with the Inyo County Planning Department, on July 19, 2023. The commenter must presume that this planner made the determinations in the initial study.

Fourth and finally, the comment incorrectly assumes that there is substantial evidence in the record giving rise to the need for a visual study. Such evidence does not exist, nor has the commenter offered any. (CEQA Guidelines, § 15384 [substantial evidence not include “argument, speculation, [or] unsubstantiated opinion or narrative...”].) Rather, the evidence shows that these are small projects, in a sparsely populated area and few residents, in an area without recognized scenic resources. There is no error in the County’s analysis.

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F. The RMNDs Fail to Include a Traffic Control Plan:

PEIR mitigation measure TRA-1 provides:

Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.

The RMNDs do not include the required traffic control plan, nor even mention mitigation measure TRA-1. While the RMNDs state that the Project “will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase,” there is no attempt to explain why these “few” construction vehicles do not require a traffic control plan to avoid conflicts with adjacent and nearby residents.

Response:

The commenter again overlooks language in the PEIR that makes the transportation mitigation measures (including TRA-1) applicable only to utility-scale solar projects, and which gives County staff discretion to determine whether the PEIR mitigation measures are appropriate for a smaller-scale project like this. (PEIR, p. 4.17-12.) Here, the Initial Study documented that the Projects would generate only a small amount of traffic on a lightly-used road:

The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.

(IS, XVII.a.) The Appendix C air memorandum, similarly, conservatively assumed that approximately ten contractors would visit per day for 25 days during construction, and almost no traffic (one daily trip) would occur in operations. (IS, Appendix C, p. 6.) These are small traffic volumes on a lightly-traveled road. The record does not suggest that a site-specific traffic control plan is necessary. The County’s treatment of the Projects is supported by substantial evidence.

G. The MNDs Fail to Address Impacts Associated with Noxious Weeds:

Mitigation measure AG-3 provides, “To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed.” In violation of this mitigation measure, no weed-abatement plan appears to have been prepared, and the RMNDs make no reference to such a plan.

Response:

Again, the commenter overlooks language in the PEIR that makes the agricultural mitigation measures (including AG-3) applicable only to utility-scale solar projects, and which gives County staff discretion to determine if they are appropriate for smaller-scale projects. (PEIR, p. 4.2-14.) As stated in the initial study, agriculture and farming are not significant land uses in the area, the Projects would not result in the conversion of agricultural land. (IS, pp. 3, II.) Thus, the Projects are not expected to have any impacts to agriculture that warrant a weed management program, and the County was within its discretion to determine that such a mitigation measure was unnecessary.

CONCLUSION

On behalf of Mr. Barker, we appreciate the County’s work on the Projects, and the opportunity to respond to the comments. If you have any questions, please do not hesitate to contact me at (916) 501-2395 or shungerford@hthglaw.com.

Very truly yours,
HARRISON, TEMBLADOR, HUNGERFORD & GUERNSEY



By
Sean Hungerford

cc: Client

ATTACHMENT- D
PLANNING COMMISSION
STAFF REPORT PACKET



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AGENDA ITEM NO.: Action Item No. 6
PLANNING COMMISSION MEETING DATE: October 25, 2023
SUBJECT: Renewable Energy Permit # 2022-02 /Barker

EXECUTIVE SUMMARY

The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on three private parcels, APN's 038-330-32;33;34, in Trona California. This permit would allow the applicant to construct a proposed 3-Megawatt (MW) commercial scale photovoltaic solar facility referred to as Trona 4. The project proposes approximately 6,000 single axis tracker solar panels encompassing 15-acres of pre-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: Robbie Barker

Site Address: Trona, CA 93592

Community: Trona, CA

A.P.N.: 038-330-32;33;34

General Plan: Residential Estate (RE); SEDA Overlay

Zoning: Rural Residential-5.0-acre minimum- RR-5.0-MH

Size of Parcel: 15 acres.

SURROUNDING LAND USE

Location:	Use:	Gen. Plan Designation	Zoning
North	Vacant	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)
South	Developed/ Solar	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)
East	Vacant/BLM	State and Federal Lands (SFL)/ Open space rec (OSR)	Open Space-40-acre min (OS-40)
West	Vacant/MS Misc Structure	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)

Staff Recommended Action: Approve the Renewable Energy Permit 2022-02/Barker

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). 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. (*See attached diagram 32 & 32f*)

When the County adopted the REGPA in 2015, it certified a Programmatic Environmental Impact Report (PEIR), 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, with the least amount of individual and cumulative impacts to land and resources (*2015 REGPA, 3-4*).*

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

Overview

The applicant has applied for a Renewable Energy Permit with the Inyo County Planning Department to construct a 3-Megawatt (MW) commercial scale photovoltaic solar energy facility, referred to as Trona 4, on three 5-acre parcels (APN's 038-330-32;33;34), owned by Robbie Barker. The project would construct roughly 6,000 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 electric bill through SCE's Community renewable Program. (*see vicinity map*)

The project site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The project area is surrounded by vacant land to the north. The land to the south is a developed commercial solar field, owned by the applicant, and the land to the east is vacant BLM land. The land to the west is both vacant and misc. structure. Approximately five residential structures are within 0.5 miles of the Project Area located mostly to the south and west. Two of these structures are approximately 400 feet from the edge of the Project Area. Other land uses within 0.5 mile of the Project Area include storage of equipment, vehicles, scrap yards and storage units. (*see vicinity Map-2*)

The proposed application for a Renewable Energy Permit aligns with Inyo County Code Section 21.16-*General Provisions for Renewable Energy Development**, 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)*. The application for this permit has met the requirements of Inyo County Code Section 21.16.060* 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 Program Environmental Impact Report (EIR) 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 3-Megawatts. 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 Code. 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 ES-1). *

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 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). 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 new land use policy that allows applicants to apply for photovoltaic 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. However, staff made the decision to do an initial study to cover all bases.

In December 2022, An Initial Study with a Mitigated Negative Declaration (ISMND) was performed by staff to consider possible significant impacts to environmental resources for this project.

Based on the fact that the project site was devoid of natural habitat at the time the application was submitted, it was determined that a biological survey and a cultural report was not required.

The State review period for the ISMND ended on December 27, 2022 and no comments were received from local or state agencies.

Due to public comment regarding the first ISMND, the applicant, although it was not necessary or required, decided to have a biological survey and air quality report done and asked staff to revise and recirculate the ISMND through the CEQA State Clearinghouse. A public hearing for Renewable Energy Permit 2022-02/Barker was originally set before the Planning Commission on March 23, 2023 to approve the application, but due to noticing errors it was postponed to May 3, 2023 and once again to October 25, 2023 to provide time to recirculate the ISMND based on the comments received. The state review period for the recirculated ISMND ended on August 17, 2023. No comments were received from local or agencies. Public comments were received and sent to the Planning Commission for review. A copy of the recirculated ISMND can be found at <https://www.inyocounty.us/services/planning-department/current-projects>.

NOTICING & REVIEW

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. No comments have been received to date.

The application for Renewable energy permit 2022-02/Barker has been reviewed by the following County Departments: Environmental Health, Public Works, Road Dept., and Building & Safety. Information regarding the project was also sent to the San Bernardino Fire Department and China Lake Naval Air Weapons Station. No 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 recirculated Notice of Availability of the Initial Study was published in the *Inyo Register* on July 25, 2023. Notification of the public hearing date for this permit was published in the *Inyo Register* on October 13, 2023. Public comments were received and sent to the Planning Commission for review.

RECOMMENDATION

Planning Department staff recommends the approval of Renewable Energy Permit 2022-02/Barker, 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 (December 2022 & August 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. 2022-02/Barker. 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 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 2022-02/Barker. 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 reclamation plan and updated financial assurance/surety bond to the Inyo County Planning Department every 5 years

4. Notification of local American Tribes

Per Inyo County Code, Title 9 chapter 9.52, Disturbance of Archaeological, Paleontological and Historical Features*, the owner/developer shall notify a representative from local native American tribes in the event native artifacts or human remains are uncovered.

4. Air Quality

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

6. Desert kit fox and nesting birds

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

7. Noise

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

*The following are links to the REGPA, PEIR, Chapter 21.16 General Provisions, Title 9-Chapter 9.52, Chapter 21.04.030, Chapter 21.16.060 and PRC 21080.3.1(b)

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

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

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

[Chapter 9.52 DISTURBANCE OF ARCHAEOLOGICAL, PALEONTOLOGICAL AND HISTORICAL FEATURES \(qcode.us\)](https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_21-chapter_21_16-21_16_060)

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

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

[https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC§ionNum=21080.3.1.](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC§ionNum=21080.3.1)

ATTACHMENTS:

Vicinity map

Vicinity map – 2

Vicinity map- Proposed and existing solar fields

Public Resource Code Section 21166

Site Plan

Diagram 32: Solar Energy Development area and Owens Valley Study Area

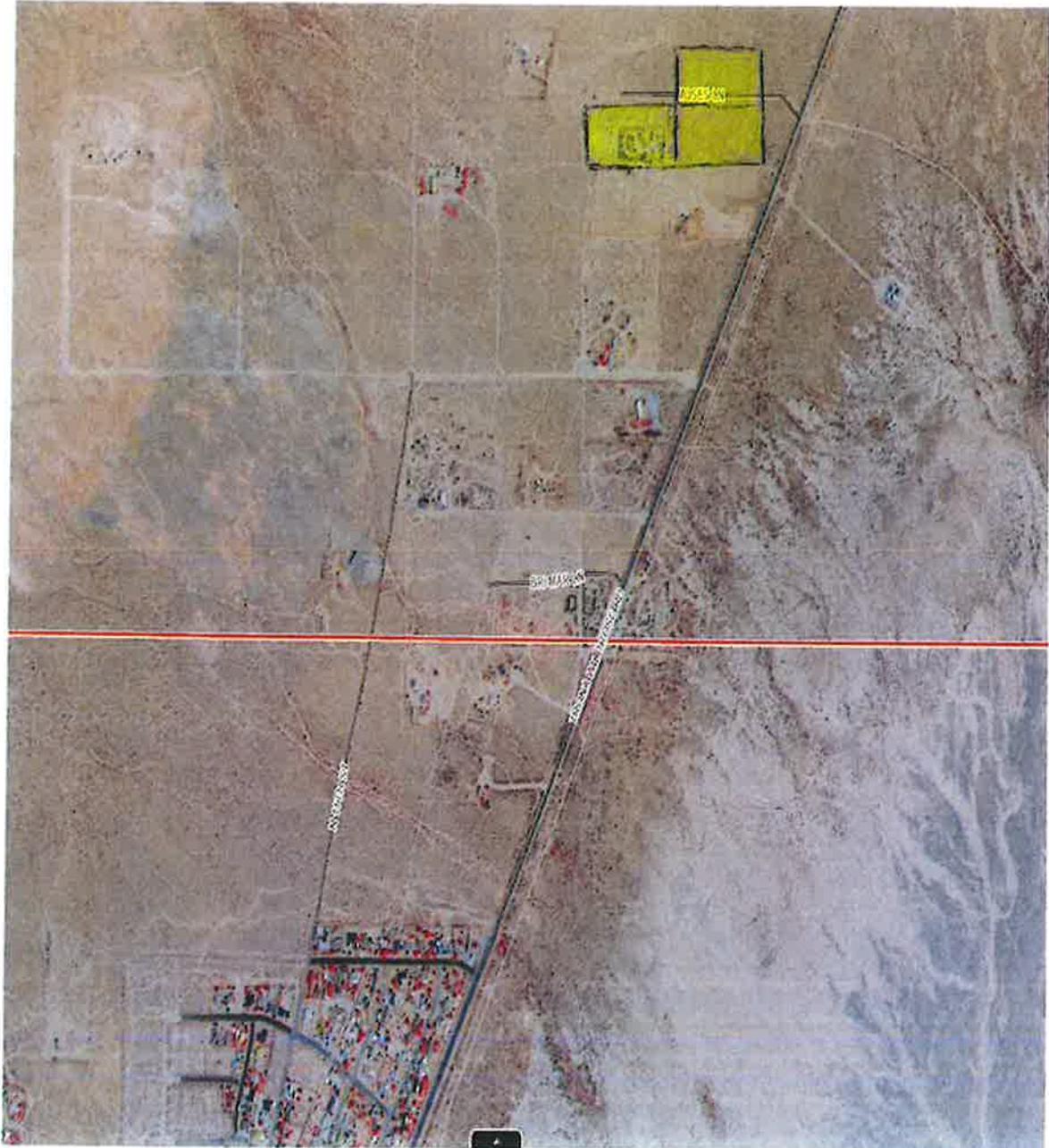
Diagram 32f: Solar Energy Development area- Trona

Mitigation and Monitoring Program

VICINITY MAP

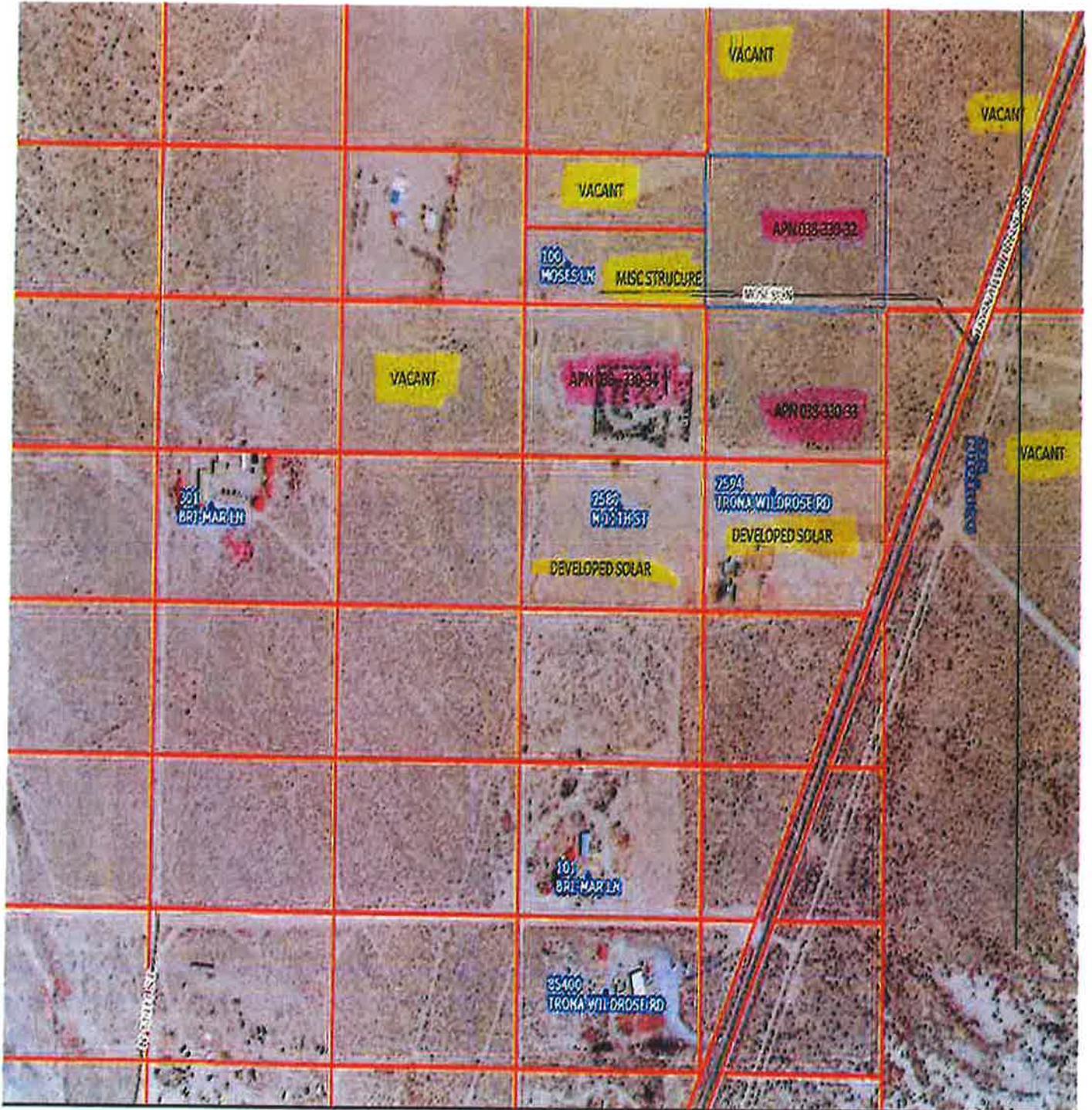
REP 2022-02/BARKER

APN 038-330-32;33;34

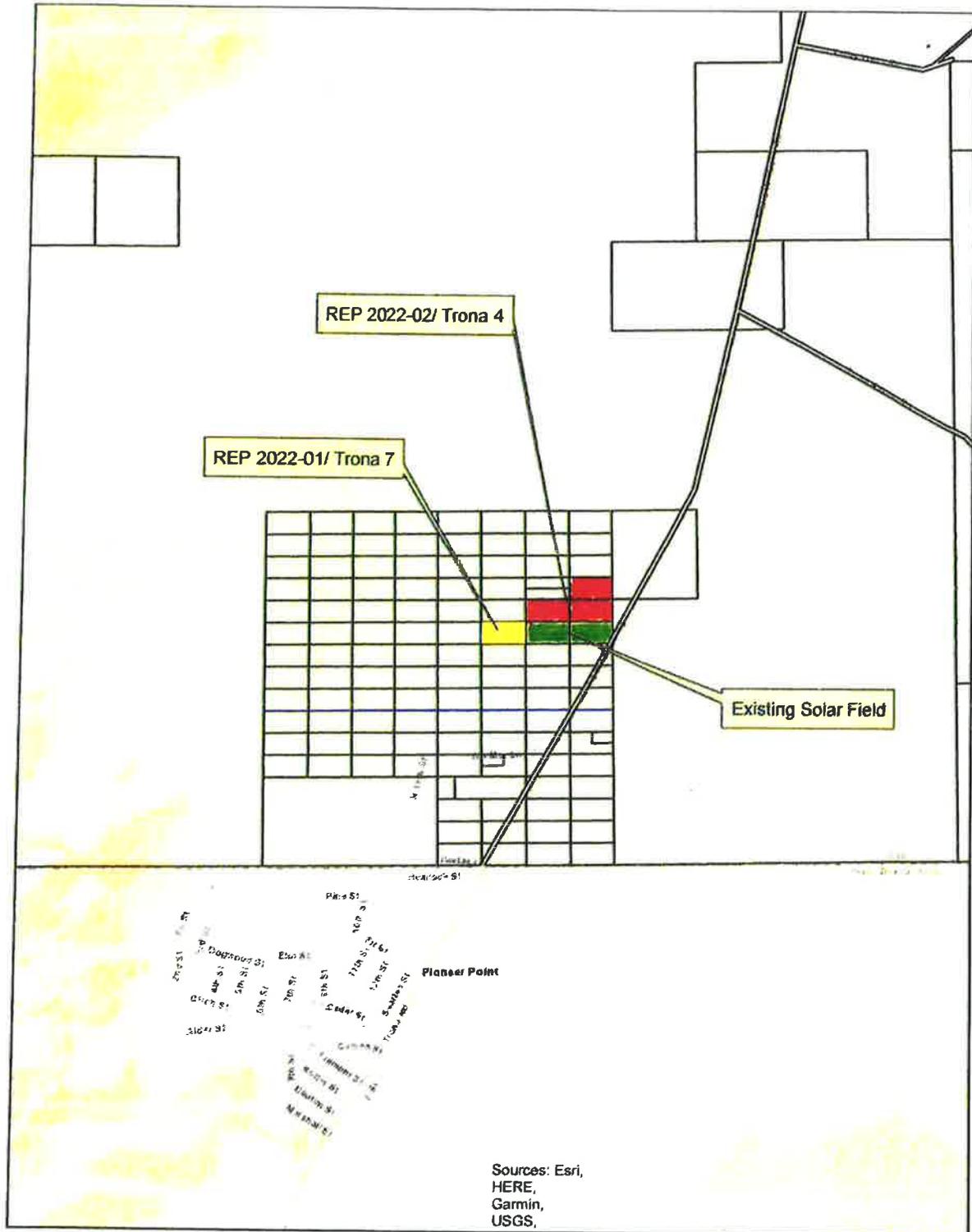


VICINITY MAP- 2

REP 2022-02/ BARKER



Vicinity Map- Proposed and existing solar fields



Cal. Pub. Resources Code § 21166

[Download PDF](#)

Current through the 2023 Legislative Session.

[Section 21166 - Subsequent or supplemental report required](#)

When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

- (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

Ca. Pub. Res. Code § 21166

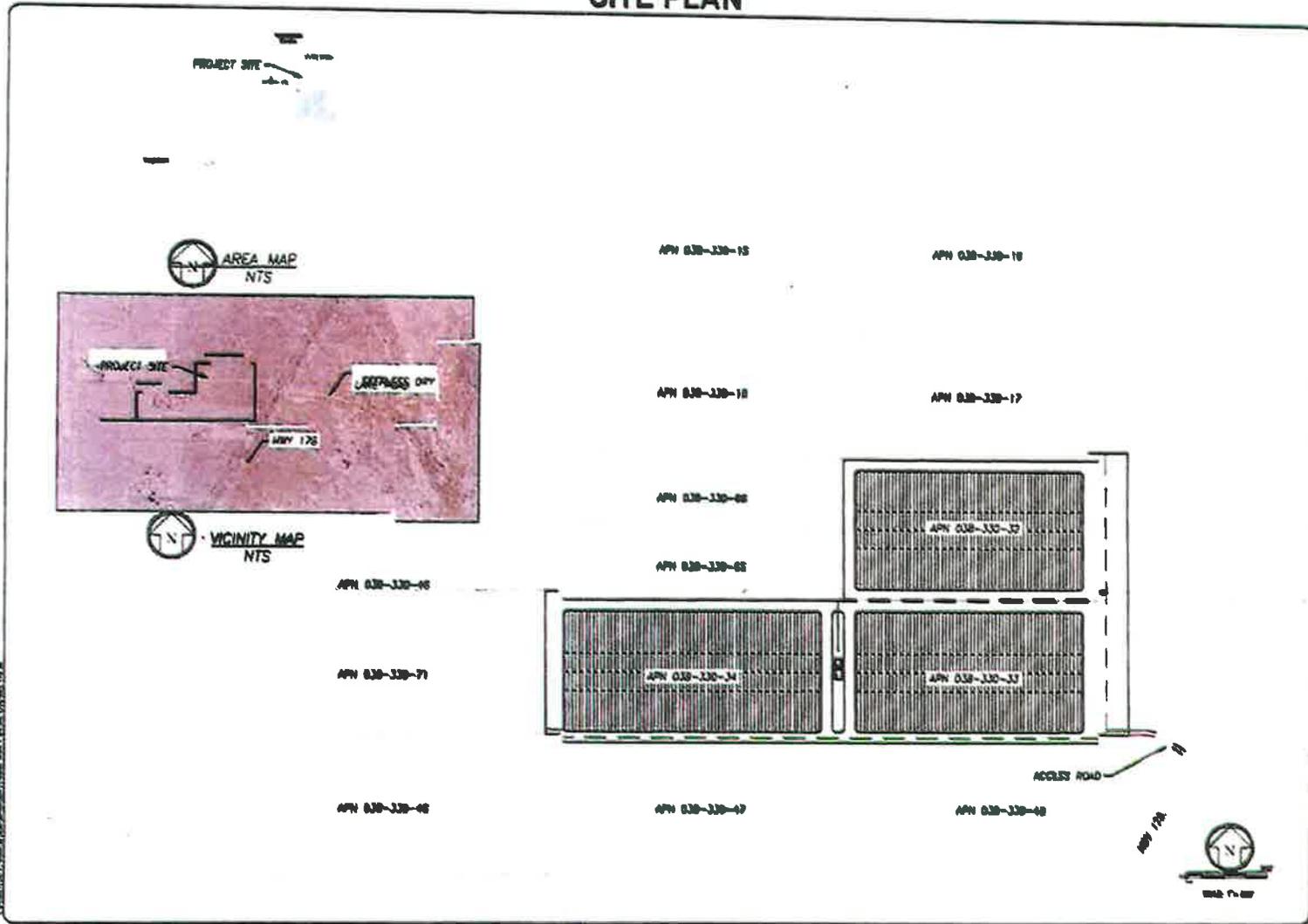
[Previous Section](#)

[Section 21165 - Project carried out by two or more public agencies](#)

[Next Section](#)

[Section 21166.1 - Effect of decision to prepare report with respect to impacts within geographic area or group of projects on document prepared for individual project](#)

REP 2022-02/BARKER SITE PLAN



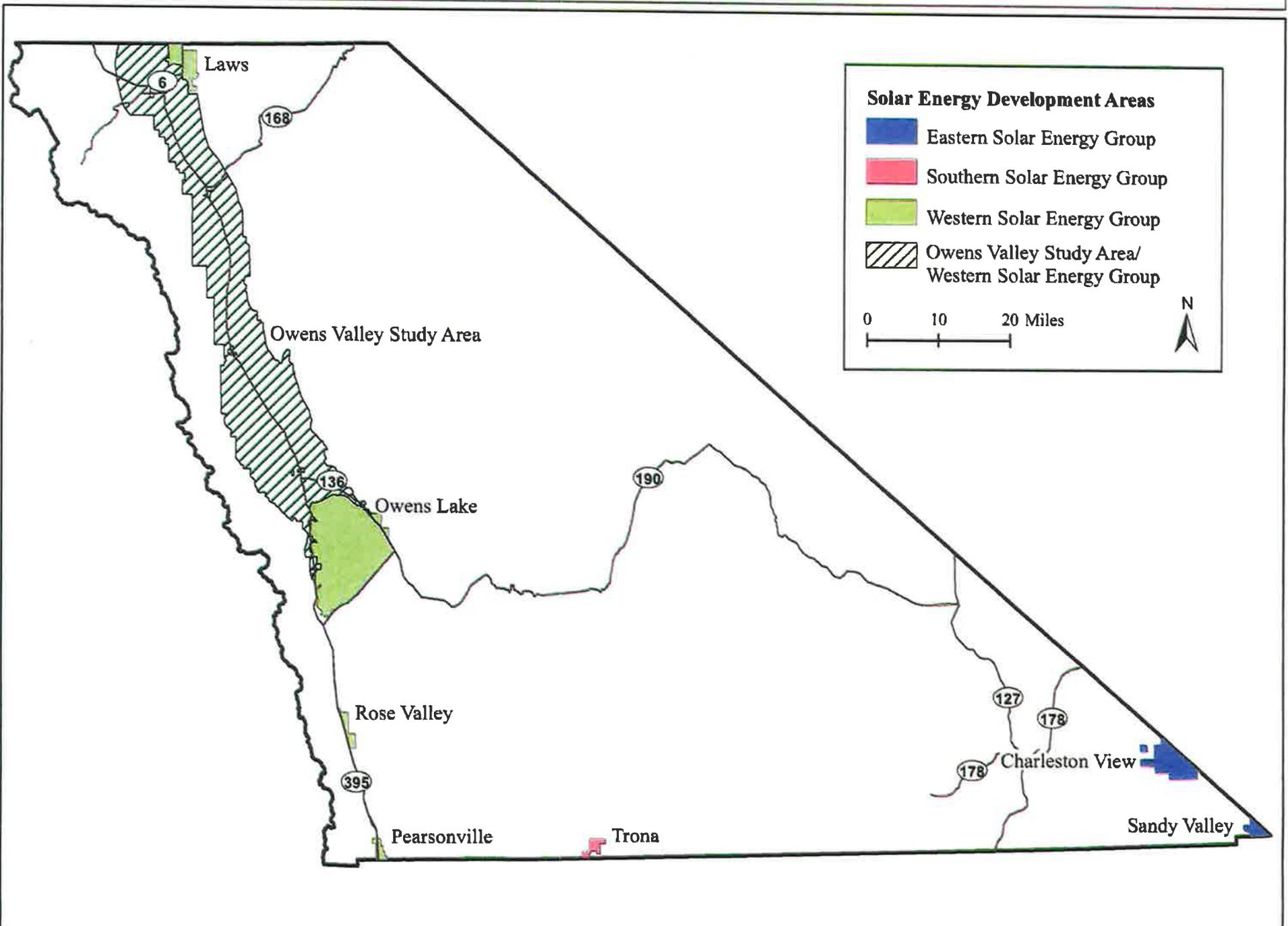
VALLEY WIDE CONSTRUCTION SERVICES
 PROJECT & REGULAR PROJECT
 PREPARED

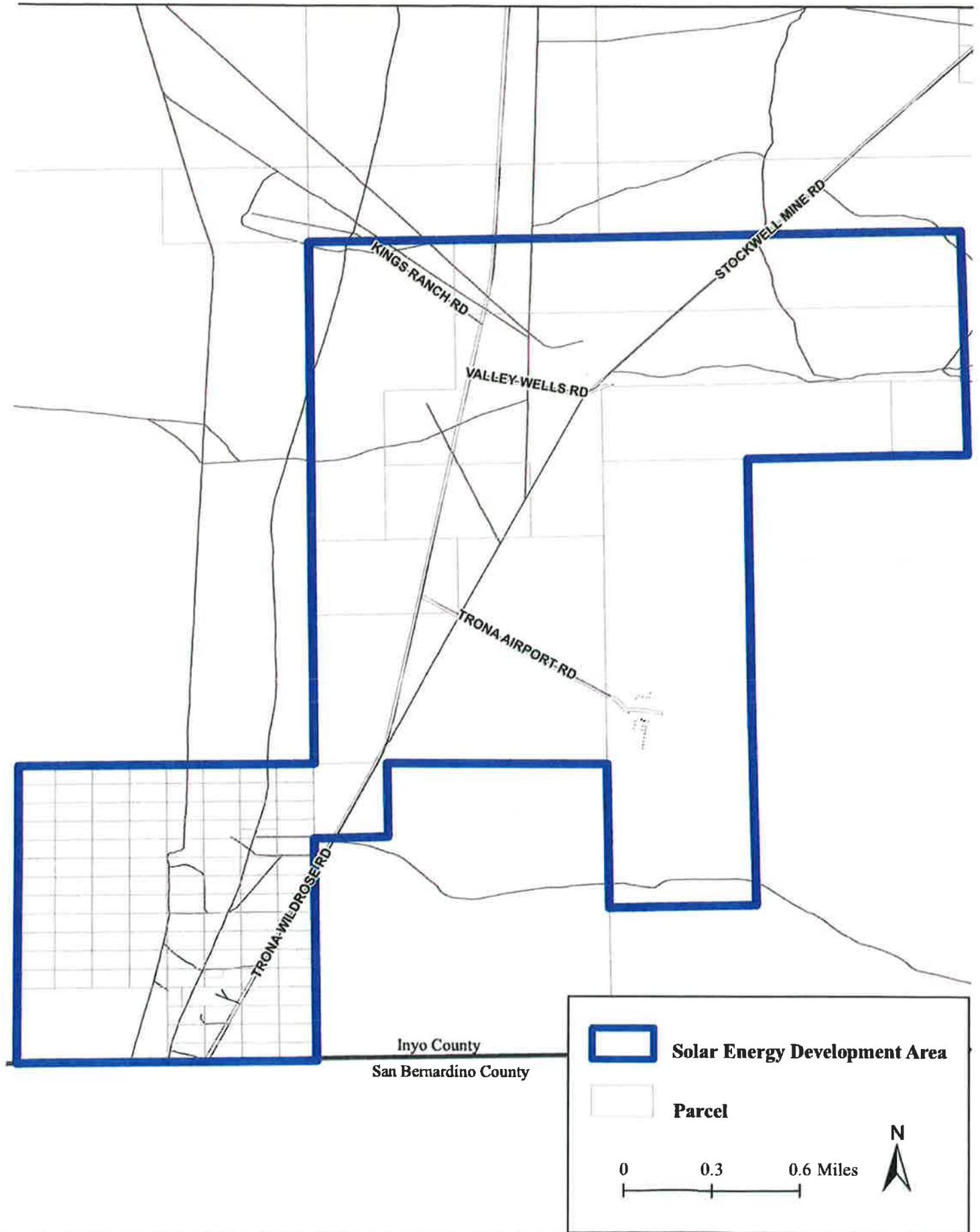


A:\Projects\2022\REP 2022-02\BARKER\Site Plan.dwg

Diagram 32: Solar Energy Development Areas and Owens Valley Study Area

GPA #2013-02, March 24, 2015





MITIGATION & MONITORING PROGRAM

Renewable Energy Permit 2022-2/ BARKER

INTRODUCTION

This Mitigation and Monitoring Program (MMP) has been developed for Renewable Energy Permit/2202-02/Barker, 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
Air Quality		
<p>IIIa) During construction the following measures to control fugitive dust and emissions of particles shall be employed:</p> <ul style="list-style-type: none"> • Provision of equipment and staffing for watering of all exposed or disturbed soil surfaces or use of an appropriate dust palliative or suppressant. • Watering or treating of all disturbed but inactive portions of the site with appropriate dust suppressant. • Watering or treating of all disturbed but inactive portions of 	<p>On-site contractor(s)</p> <p>Great Basin Unified Air Pollution Control District (GBUAPCD)</p> <p>Public Works (Building and Safety)</p> <p>Planning Department</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>

<p>the site with an appropriate dust suppressant.</p> <ul style="list-style-type: none"> • Covering of materials transported by truck to control dust. • Daily clean-up of mud and dirt carried onto paved streets from the site. • 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. 		
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<p>Biological Resources</p>		
<p>IVa) A Pre-activity survey of the Project and a 250-foot buffer for desert kit fox and nesting migratory birds and a 500-foot buffer for nesting raptors surrounding the Project footprint shall be conducted.</p> <p>The survey should occur no less than 14 days prior to the start of construction activities and no more than 30 days prior to the start of construction activities.</p> <p>If construction is delayed beyond 30 days from the time of the survey, then another survey will need to be conducted.</p> <p>The survey shall be conducted by a qualified biologist.</p>	<p>Developer</p> <p>Inyo County Planning Department.</p>	<p>Preconstruction survey documents shall be presented to the Inyo County Planning Department prior to issuance of a building permit.</p> <p>Workers' Environmental Awareness training program documents shall be presented to the Inyo County Planning Department prior to issuance of a building permit.</p> <p>20MPH speed limit signs shall be posted on the project site prior to construction and maintained throughout the life of the project.</p> <p>Inyo County Planning Department will inspect the project site yearly.</p>

Nesting migratory birds and raptors:

- If project activities are scheduled during the breeding bird season, from February 1 through September 15, then a preconstruction survey for nesting birds shall be conducted within the Project site and within a 500-foot radius surrounding the Project site for active nesting sites.
- Construction activities should not be conducted within 250 feet of an active bird nest and within 500 feet of an active raptor nest. These avoidance distances may be reduced if the qualified biologist determines that activities are not affecting the breeding success of the nesting birds.

Desert Kit Fox:

- If dens or burrows that could support desert kit fox are discovered during the pre-activity survey, avoidance buffers shall be established, and no work shall occur within these buffers unless a qualified biologist

<p>approves and monitors the activity.</p> <ul style="list-style-type: none">• A Worker Environmental Awareness Training Program shall be prepared and presented to all workers that will be on-site during construction activities to minimize or eliminate impacts to sensitive biological resources.• Project-related vehicles shall observe a 20-mph speed limit in all Project areas except on County roads and state and federal highways• During work activities, the contractor shall cover all excavated , steep-walled holes or trenches more than 2 feet deep at the close of each working day. Before such holes are filled, the contractor shall thoroughly inspect them for trapped wildlife.• All construction pipes, culverts or similar structures with a diameter of 4 inches or greater that are stored at the construction site for one or more overnight periods shall be inspected for wildlife before the pipe is		
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<p>buried, capped, or otherwise moved or used. If a kit fox is discovered inside a pipe, the section of pipe shall not be moved until the designated biologist has been consulted.</p> <ul style="list-style-type: none"> • All trash and food items that attract wildlife shall be discarded into closed containers and properly disposed of each workday. • To prevent harassment or mortality of listed species, no pets shall be permitted on the project site. 		
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>	<p>Inyo County Public works (Building and safety) 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>

- Whenever feasible, electrical power will be used to run air compressors and similar power tools.

- Equipment staging areas will be located as far as feasible from occupied residences or schools.

- All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.

- Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.

- Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings.

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.

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>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 muzzled 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> <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>		
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8) Install mufflers on air coolers and exhaust stacks of all diesel and gas-driven engines. Equip all emergency pressure relief valves and steam blow-down lines with silencers to limit noise levels.

9) Contain facilities within buildings or other types of effective noise enclosures.

10) Employ engineering controls, including sound-insulated equipment and control rooms, to reduce the average noise level in normal work areas.

ATTACHMENT- E
NOTICE OF DECISION
AND DETERMINATION



**Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526**

**Phone: (760) 878-0263
FAX: (760) 878-0382
E-Mail: [inyoplanning@
inyocounty.us](mailto:inyoplanning@inyocounty.us)**

NOTICE OF DECISION

October 25, 2023

Robbie Barker
82740 Trona Rd
Trona, CA 93562

SUBJECT: Approval of Renewable Energy Permit (REP) 2022-02/Barker

On October 25, 2023, the Inyo County Planning Commission considered the above action, which would allow for a Renewable Energy Permit to construct a 3-Megawatt photovoltaic solar facility that uses approximately 6,000 single axis tracker solar panels. The property is zoned Rural Residential-5.0-acre min and is located on APN's 038-330-32;33;34, in the community of Trona. The project is a Mitigated Negative Declaration of Environmental Impact under the California Environmental Quality Act (CEQA)

After deliberation, the Planning Commission voted 4-0 to approve the project 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 (December 2022 & August 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. 2022-02/ Barker. 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 Renewable Energy Permit No. 2022-02/Barker. 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. Notification of local American Tribes

Per Inyo County Code, Title 9 chapter 9.52, Disturbance of Archaeological, Paleontological and Historical Features, the owner/developer shall notify a representative from local native American tribes in the event native artifacts or human remains are uncovered.

5. Air Quality

The owner/developer shall implement and follow the Mitigation and Monitoring Program. Failure to do so will result in the revocation of Renewable Energy Permit No. 2022-02/Barker

6. Desert kit fox and nesting birds

The owner/developer shall implement and follow the Mitigation and Monitoring Program. Failure to do so will result in the revocation of Renewable Energy Permit No. 2022-02/Barker

7. Noise

The owner/developer shall implement and follow the Mitigation and Monitoring Program. Failure to do so will result in the revocation of Renewable Energy Permit No. 2022-02/Barker

If there are any questions regarding the above information, please contact the Inyo County Planning office at (760) 878-0263.

Respectfully,

Cynthia Draper, Inyo County Assistant Planner

Notice of Determination

Appendix D

To:

Office of Planning and Research
U.S. Mail: Street Address:
P.O. Box 3044 1400 Tenth St., Rm 113
Sacramento, CA 95812-3044 Sacramento, CA 95814

County Clerk
County of: Inyo
Address: P.O. Box F
Independence, CA 93526

From:

Public Agency: Inyo County Planning
Address: P.O. Drawer L
Independence CA 93528

Contact: Cynthia Draper
Phone: 760-878-0265

Lead Agency (if different from above):

Address: OCT 25 2023

Contact: INYO CO. CLERK
Phone: DANIELLE SEXTON, CLERK

FILED

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (if submitted to State Clearinghouse): 20022110323

Project Title: Renewable Energy Permit 2022-02/Barker

Project Applicant: Robbie Barker- 82740 Trona Road, Trona California 93562/ 760-372-4734

Project Location (include county): APN's 038-330-32;33;34, Trona California - Inyo County

Project Description:

Renewable Energy Permit located on three private parcels (APN:038-330-32;33;34) in Trona, California. This permit will allow the applicant to construct a 3-megawatt (MW) commercial scale photovoltaic solar facility, referred to as Trona 7. The project proposes approximately 6,000 single axis tracker solar panels, encompassing 15-acres of pre-disturbed land. The project is a Mitigated Negative Declaration of Environmental Impact under the California Environmental Quality Act (CEQA).

This is to advise that the Inyo County Planning Commission has approved the above
(Lead Agency or Responsible Agency)

described project on October 25, 2023 and has made the following determinations regarding the above
(date)
described project.

1. The project [will will not] have a significant effect on the environment.
2. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [were were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [was was not] adopted for this project.
5. A statement of Overriding Considerations [was was not] adopted for this project.
6. Findings [were were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

<https://www.inyocounty.us/services/planning-department/current-projects>

Signature (Public Agency) Cynthia Draper Title: Assistant Planner

Date: October 25, 2023 Date Received for filing at OPR: October 26, 2023

Authority cited: Sections 21083, Public Resources Code.
Reference Section 21000-21174, Public Resources Code.

Revised 2011

23-00036

ATTACHMENT- F
PLANNING
COMMISSION MEETING
MINUTES- OCTOBER 25,
2023

COUNTY OF INYO PLANNING COMMISSION

MINUTES OF October 25, 2023 MEETING

COMMISSIONERS:

HOWARD LEHWALD
CAITLIN (KATE) J. MORLEY
TODD VOGEL
CALLIE PEEK
SCOTT KEMP

FIRST DISTRICT
SECOND DISTRICT
THIRD DISTRICT (CHAIR)
FOURTH DISTRICT (VICE)
FIFTH DISTRICT

Inyo County Planning Commission
Post Office Drawer L
Independence, CA 93526
(760) 878-0263
(760) 872-0712 FAX

STAFF:

CATHREEN RICHARDS
CHRISTIAN MILOVICH
RYAN STANDRIDGE
SALLY FAIRCLOTH
NATE GREENBERG
MIKE ERRANTE

PLANNING DIRECTOR
ASSISTANT COUNTY COUNSEL
ASSOCIATE PLANNER
PROJECT COORDINATOR
COUNTY ADMINISTRATOR
PUBLIC WORKS DIRECTOR

The Inyo County Planning Commission met in regular session on Wednesday, October 25, 2023. Commissioner Vogel opened the meeting at 10:02 a.m. These minutes are to be considered for approval by the Planning Commission at their next scheduled meeting.

ITEM 1: **PLEDGE OF ALLEGIANCE** – All recited the Pledge of Allegiance at 10:03 a.m.

ITEM 2: **ROLL CALL** - Commissioners, Todd Vogel, Kate Morley, Callie Peek, and Howard Lehwald were present.

Staff present: Cathreen Richards, Planning Director, Ryan Standridge, Associate Planner, Cynthia Draper, Assistant Planner, and Christian Milovich, Assistant County Counsel.

Staff absent: Nate Greenberg, County Administrator; Michael Errante, Public Works Director.

ITEM 3: **PUBLIC COMMENT PERIOD** – This item provides the opportunity for the public to address the Planning Commission on any planning subject that is not scheduled on the agenda.

Commissioner Vogel opened the Public Comment Period at 10:03 a.m.
No comments were made.

ITEM 4: **APPROVAL OF MINUTES (Action Item)** – Approval of the Minutes from the August 23, 2023, meeting of the Planning Commission.

MOTION: Commissioner Morley made the motion to approve the minutes. The motion was seconded by Commissioner Peek.

The Motion passed 4-0-1 with commissioner Kemp absent.

ITEM 5: RENEWABLE ENERGY PERMIT-2022-01/BARKER - The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on one parcel (APN: 038-330-46), in Trona, California. This permit would allow the applicant to construct a proposed 1.2 megawatt (MW) photovoltaic solar facility that uses approximately 2,300 single axis tracker solar panels. The project encompasses 5-acres of pre-disturbed land. This project is a Mitigated Negative Declaration pursuant to CEQA.

Cynthia Draper, Assistant Planner, notified the Commissioners that a revision to the mitigation and monitoring program was being submitted for Commissions review prior to presenting the staff report. Once the revision was submitted for record, she presented the project.

Commissioner Morley acknowledged that the SCE Renewable Energy Program is not a county run program but asked if the county had additional information.

Cynthia Draper, Assistant Planner answered that the county does not have much information and stated that the program is an application process with Southern California Edison (SCE) and is based on qualifications.

Commissioner Morley asked Cynthia to summarize the revisions to the mitigation monitoring program.

Cynthia Draper, Assistant Planner stated that the revision was an expansion of the current monitoring program that included fifteen additional mitigations pertaining to noise.

Commissioner Lehwald had concerns about who would be doing the monitoring and how the conditions would be reported.

Cynthia Draper, Assistant planner clarified that the monitoring and reporting concerns were specific to the noise. She also explained that policing would be the responsibility of the neighboring parcels. They would need to contact the Planning Department or the Sheriff's Department to report the disturbance. She explained that if the developer did not comply with the conditions, it could lead to revocation of the permit.

Commissioner Morley requested clarification on the reporting requirements for dust.

Cynthia Draper, Assistant Planner stated that according to the mitigation and monitoring program, the Great Basin Unified Air Pollution Control District would be contacted directly for dust mitigation issues.

Cathreen Richards, Director provided a follow-up statement explaining to the commissioners that Great Basin is the regulatory and enforcement agency for dust control. However, the county would also go out to verify the complaint because it is part of the condition of approval. Any violation to the conditions of approval, are subject to possible revocation of the renewable energy permit.

Commissioner Lehwald had concerns about fire suppression at the site and wanted to confirm that the county had done its due diligence.

Cynthia Draper, Assistant planner confirmed with the applicant that in addition to the San Bernardino County fire department there was a volunteer fire department that would respond. She

said that she informed the San Bernardino County fire department of the project, and no issue or comments were received.

Commissioner Lehwald had concerns with setbacks based on comments received and asked for clarification.

Cynthia Draper, Assistant Planner explained that there are residences within 400 feet of the project site and that the project meets the required setbacks.

Commissioner Lehwald expressed concerns about the visual aspects of the project.

Cathreen Richards, Director explained that the visual resources were considered and addressed in the CEQA document for the Renewal Energy General Plan Amendment. No mitigation was required.

Public Comment- Commissioner Vogel opened the Public Hearing at 10:31 a.m.

Sean Hungerford, the attorney representing Robbie Barker explained that he came on board with the project when CEQA questions arose. His firm submitted a written response to public comments that was included in the staff report. He stated he was available to answer any questions after he clarified the new noise mitigations. The source of the changes to the new mitigations came directly out of the program EIR for the SEDA approved in 2015. The mitigations related to the construction noise within 500 feet of a residence and other sensitive receptors were added to the monitoring program.

Commissioner Vogel asked how long construction will take.

Sean Hungerford answered that it would take two weeks for trenching and grading and eight weeks to do poles and paneling.

Commissioner Vogel asked what kind of noise the facility will emit post construction.

Sean Hungerford said no impact based off the REGPA baseline study. The inverters are centrally located within the project and are not within the 500 feet of any structures.

Commissioner Peek asked how much traffic will impact the area once construction is finished.

Sean Hungerford answered that once construction was complete not much traffic would occur except for the occasional routine maintenance and checking for vandalism.

Robbie Barker of Valley Wide Construction commented that he was available to answer any questions the Commissioner may have.

Commissioner Vogel asked Robbie Barker what type of hazardous or combustible materials are on site after construction is complete.

Robbie Barker answered that there would be none. He went on to say that the only potential hazard material would be the inverter but when built to specs and tests are passed it removes the hazard. The solar array has an automatic monitoring system that also mitigates issues that arise.

Commissioner Vogel asked Planning staff if the project could create a larger buffer between the residences by moving the project west within the setback and closer to the existing Solar Array.

Cathreen Richards, Director explained that it could not be done without a setback variance.

Commissioner Lehwald asked if future expansion of solar arrays in this area is anticipated in the future.

Robbie Barker of Valley Wide engineering stated that based on SCE existing infrastructure the system may allow for two more.

Commissioner Peek asked if dust mitigation was used on his previous solar array project.

Robbie Barker answered that no dust mitigation was used, but it is now, and this project will have dust mitigation

Tom Kidder, property owner to the west of the solar project addressed the commissioners explaining that his family has owned the property for sixty years and that the project parcels are residential and not commercial and believes the solar should not be allowed. Mr. Kidder expressed concern on how CEQA was completed and has concerns for dust mitigation during the upcoming construction.

Mr. Kidder also had a fencing complaint, but it pertained to project REP 2022-02 and was tabled until the following agenda item because they are different projects.

Commissioner Vogel asked Mr. Kidder if adding security screening would help eliminate some of his visual concerns. Mr. Kidder Replied no, then the view would be of a fence.

Commissioner Lehwald initiated a discussion about Visual Resources based on concerns he received prior to the hearing. Staff explained that visual resources were addressed in the program

EIR and in the mitigated negative declaration documents. It was determined that no mitigation was required.

Commissioner Vogel closed the Public Hearing at 10:57 a.m.

Commissioner Discussion- Commissioner Vogel opened the Commissioner Discussion

A brief discussion ensued to clarify which public comments pertained to 2022-01/Barker. One of Commissioner Morley's questions pertained to this project. A written comment had alleged that the applicant had graded in preparation for the solar installation.

Cathreen Richards, Director explained that staff does not work off supposition, once the permit application was received, the planner went to the site and witnessed that the parcel were devoid of vegetation.

MOTION: Commissioner Vogel made a motion to approve renewable energy permit-2022-01/Barker as presented by Cynthia Draper

Commissioner Peek seconded the motion.

The Motion passed 4-0-1 with commissioner Kemp absent.

ITEM 6: RENEWABLE ENERGY PERMIT 2022-02/BARKER- The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on three parcels (038-330-32, 33, 34), in Trona California. This permit would allow the applicant to construct a proposed 3 megawatt (MW) photovoltaic solar facility that uses approximately 6,000 single axis tracker solar panels. The project encompasses 15-acres of pre-disturbed land. This project is a Mitigated Negative Declaration pursuant to CEQA.

Cynthia Draper, Assistant Planner gave the staff report.

Commissioner Morley inquired about the Moses Lane jurisdiction with regard to public comment.

Cynthia Draper, Assistant Planner explained that Moses Lane is on private property and is termed as a prescriptive right of way. The prescriptive right of way is a civil matter between the two property owners and does not pertain to the solar project being approved.

Christian Milovich, Assistant County counsel, assured the planning commissioners that the prescriptive right of way is not under the purview of the planning commission, and it is a civil matter.

Public Comment- Commissioner Vogel opened the Public Hearing at 11:23 a.m.

Tom Kidder, property owner to the west of the solar project provided a brief statement that reiterated his concerns mentioned in the previous project. Mr. Ritter expressed his disagreement with the county's view of the prescriptive right of way as it will block access to his driveway. He stated that the prescriptive right of way should be considered by the commission prior to issuance

of the permit. Mr. Kidder also disagreed with the staff's analysis of the property during CEQA review because he alleged that the applicant graded during the previously permitted solar project. Mr. Kidder said he believes that the SEDA, allowing commercial use in a residential zone, will affect future development and solar projects should be done on BLM land.

Sean Hungerford, attorney representing Robbie Barker of Valley Wide Construction, reassured the commissioners that the prescriptive right of way is a title issue that will be worked out, but it does not require Planning Commission deliberation. He informed the Commission that he advised his client not to talk about the right of way issue because it is a civil matter that has not been resolved.

Commissioner Lehwald asked if the applicant was aware of Mr. Kidder's application to install the mobile home. On the parcel next to the project.

Sean Hungerford, the attorney representing Robbie Barker of Valley Wide Construction, explained to the Commissioners that Mr. Ritter has property rights and can also build to standards governed by Inyo County.

MOTION: Commissioner Vogel made a motion to approve renewable energy permit 2022-02/Barker. Commissioner Peek made the second.

The Motion passed 4-0-1 with commissioner Kemp absent.

COMMISSIONERS' REPORT/COMMENTS

No comments were made.

DIRECTOR'S REPORT

Director Richards announced that Sally Faircloth was present and will be taking over as Planning Commission Secretary. The Commissioners all welcomed her and congratulated her. Director Richards went on to announce that a Special meeting will need to be held for an appeal for a revocation of a hosted short-term rental. After a brief discussion about availability, it was decided that the next scheduled meeting would be on November 15, 2023, at 10:00 a.m.

ADJOURNMENT

Commissioner Vogel adjourned the meeting at 11:45 a.m.

Prepared by:
Ryan Standridge
Planning Department

From: Howard Smith <hsmotorsports@msn.com>
Sent: Monday, May 1, 2023 7:47 PM
To: Cynthia Draper <cdraper@inyocounty.us>
Subject: Comments on Renewal Barker Solar and Renewable Energy Permit.

You don't often get email from hsmotorsports@msn.com. [Learn why this is important](#)

May 1,
2023

To whom it may
concern.

My name is Howard D. Smith. I live at 2021 Homewood Canyon Road Homewood Canyon. Ca. 93592. I support the proposed Solar and Renewable Energy project near Trona. I have lived in the Trona area since 1977. I owned a 5- acre parcel of land next to the newly finished Barker Solar and Renewable Energy facility since 1980. My 5 acres were mostly fenced & used to store junk cars & scrap metal. I have spent much time on the property & did not experience any inconvenience while the present facility was being built. One big reason I support this project is I own 6 rental properties in Trona. Trona has two very large coal fired boilers. I can go to my properties on any given day & find coal dust lying on the cars. I know that Solar and Renewable Energies are clean & safe. Trona is a small town so news travels fast. I hear there maybe one or two people objecting to this project. One of the persons objecting had concerns about the area being rural residential and not industrial development is not appropriate for the area and will damage property rights and the health and lifestyle of families living in the area. It will introduce industrial activities that will create additional safety concerns for residents and children who live and play in the area. This is a ridiculous statement! Not many years ago the Inyo board of supervisors had a very good meeting at the golf course near Trona. The meeting was well posted in advance. My wife & I attended along with about 50 other local residents. The future plans for the area we are talking about were talked about, inc. solar, wind and pot cultivation at that time. NO ONE voted no to any of this. I would like to address another concern. One person in opposition is saying that, 1. Inyo County has allowed the operator to destroy existing vegetation and wildlife habitat just months prior to the permits being submitted despite the use being clearly for solar development. 2. At a minimum the public is unaware the project area is actually home to the largest habitat of the endangered Mojave Ground Squirrel in California, and likely other species of concern as Inyo County says there are none present such as the Desert Tortoise, and Burrowing Owl which are mentioned in the permit documents. This is not true. I worked for Mojave pistachio relocating the Mojave Ground Squirrel. It lives 45 miles to our north & cannot live in this heat. I also relocated the Desert Tortoise, and Burrowing Owl. Because of my previous experience I took great time & effort searching for Desert Tortoise, Burrowing Owl and snakes. I have spent over 6 months clearing my 5 acres looking for all the above. I did not find any birds, snakes or tortoise! Not one in all that time. Thank you, Howard Smith

Permit 2022-01/Barker Solar Permit 2022-02/Barker Solar and Renewable Energy Permit

Tom Kidder
100 Moses Lane
P. O. Box 1045
Trona, CA 93592

My name is Tom Kidder Property owner bordering on two sides of the project site. I am a retired Facilities Manager for California State Parks. While employed by CSP I was a project manager/consultant for multiple solar projects state wide. I say this so it is known that I am an advocate of solar and not against solar in the appropriate locations following the law and proper procedures. In addition to my comments, I would like it to be known that I concur with all comments and finding made by my neighbor John Mays P.O. Box 583 Trona, CA 93502

No notification from County or Applicant – REGPA 2015 General Plan Revision Gov-2.3 County shall provide the opportunity for the public to engage in the planning process at the onset. and 2.4 Developer must notify residents and/or land owners.

Applicant has stated his intent to block my driveway (Moses Ln.) Moses Ln. has been maintain by my family and has been the access to my home for more that 60 yrs.

Staff report states “Located on land that is highly disturbed with no natural habitat and has been previously graded” Applicant circumvented CEQA law by clearing the land just months before submitting project applications and with total disregard for the law or health and welfare of the nearby residents. Three of the four lots purposed in these two projects where unspoiled desert fauna with the same vegetation and wildlife habitat as the adjacent protected BLM lands. Inyo county is complicit in this action by their own admission as stated in the staff report “Has been previously graded”. The evidence is also readily available on Google Earth. In addition, work on these projects continues to move forward even though there is not a permit to do so. Crush rock has been delivered to the project site for months and continues to be delivered a recent as today 4/28/2023. There is several hundred yards of crushed rock now onsite and zero dust control measures have been taken. (Attached photos taken 4/27/2023)

The now damaged project site was habitat for the listed and endangered desert tortious and Mojave ground squirrel and potentially others. In fact, I have seen both of these species on and near my property. Because proper surveys were not completed, we do not know if there has been any take and therefore should assume there was.

Environmental Review - Mitigated Negative Declaration is the improper environmental review process for the above reasons just stated.

Staff Report states - Vacant land to the north, south and west? My home shares borders to the north and east of the project. The project is 350 feet from my front porch and directly in my viewshed. There is also a home site 30 feet from the project site. The permitted manufactured

home was removed in the 80's and the infrastructure is still there I intend on placing a new home in this location. This property value will plummet if this project moves forward.

This community is zoned Rural Residential, Residential being the word to emphasize. It is completely improper to put a purely commercial operation in a residential community. The county and the applicant are attempting to take advantage of a disadvantaged community. I have personally spoke with many of my neighbors about these solar projects. Every person I've spoken with is upset about it but not willing to speak up. Many are afraid of the county and the applicant. The county and the applicant are attempting to take advantage of an underserved low-income community. Inyo County Code clearly states the purpose for rural residential properties are "to provide suitable areas and appropriate environments for low density, single family rural estate type uses"

I have health concerns from the dust that the barren land is now producing this affects not only the residents in our Inyo County community but the residents in Trona as well.

These projects will bring increased traffic, road impacts to our unpaved roads and safety concerns in our community.

These solar projects set a bad precedent for future development. I am a 3rd generation owner of this property my daughter and grandchildren (4th and 5th generations) live in Trona and will own our little piece a paradise someday. It will be a sad day if we are over taken and surrounded by solar panels.

The REGPA 2015 General plan amendment needs to be revisited. It is inappropriate and unacceptable that all of the 5-acre rural residential parcels are included in the Trona SEDA. These purely commercial uses are a detriment and have many negative impacts to the natural environment and residents of our small community. Ultimately, I would like to see these 5-acre RR parcels removed from the Trona SEDA and returned to the Residential Estate designation.

I ask that these projects be denied and the REGPA 2015 General plan amendment be revisited and adjusted with the wildlife, environment, health wellbeing and quality of life of the residents in consideration.

**Comments on Renewal Energy Permit 2022-01/Barker Solar and Renewable Energy Permit
2022-02/Barker Solar**

March 21, 2023

Due to anticipated potential retaliation and nature of my highly specific comments within I would request that my comments be kept strictly confidential.

My name is John Mays. I am a licensed professional engineer in California, Colorado, and South Dakota. I live directly adjacent or very close to both proposed permits in question and have observed first-hand the activities of the proposed and existing projects and its developer/operator over about 2 years now. I have worked in the mining industry, often as a leading corporate executive or manager, for over 30 years working during much of this time supervising and implementing regulatory efforts, environmental compliance, regulatory litigation, and project development across several states in the US.

Never in 30 years of being a participant of many similar regulatory actions have I ever seen such apparent negligence and lack of involvement by a regulatory agency. The proposals here are a violation of existing rights and not in the public's best interest. The number of procedural errors and incorrect statements make the current proposals technically unsound and legally indefensible. Review of these proposals show Inyo County unqualified to perform such evaluations and their recent actions demonstrate they are incapable of properly enforcing compliance at this remote location. Inyo County's own procedures as found in the REGPA, have been fundamentally violated to a great extent, and federal state, and local laws and regulations have likely been violated as well. The magnitude and number of these violations support a legal challenge should it be necessary. This could include pursuit of relief from the properly approved Renewable Energy Permit 2021-01 which has been allowed to operate in violation of requirements for several months.

I request that the Board immediately deny the proposal for Renewal Energy Permit 22-01/Barker and Renewable Energy Permit 22-02/Barker. As well, the County needs to update the 2015 REGPA and remove all the rural residential parcels from the Trona SEDA. These areas are clearly not suitable for solar development as this is an active residential community which has been lived in many decades, it is home to families right at the edge of this development who will have their lives, health, and property rights seriously diminished by such improper industrial development. Additionally, these two new proposals set a precedent for a future that expands and exacerbates impacts across this private residential area paving the way for expansive unregulated solar development. The following reasons are why these permits must be denied:

- 1.) The area is rural residential and not industrial development is not appropriate for the area and will damage property rights and the health and lifestyle of families living in the area. It will introduce industrial activities that will create additional safety concerns for residents and children who live and play in the area. My son is an autistic teenager with severe development display that leaves him unable to verbally communicate and unable to comprehend the dangers involved by industrial traffic, nor dangers associated with the project. We moved here to specifically here to avoid such danger. The proposals here will increase use of roads and lands in very close proximity to my home that is not appropriate for a residential area. A substantial buffer zone of a half mile should be in place between

residences and this solar activity to avoid impacts to residents. Additionally, Inyo County has misinterpreted and not properly assessed impacts to several parcels adjacent to the proposals as “vacant” because these are contiguous with our residences and are an active part of our homes.

2.) Inyo County has repeatedly mischaracterized and improperly announced the project as heavily disturbed and with no natural vegetation in public statements. The developer purchased the properties soon after he received permits for Renewable Energy Permit 2021-01 and has commenced removal of all vegetation and topsoil just a few months before submitting permits completely contrary to Inyo Counties regulations.

3.) Inyo County did not properly follow its own requirements found in the REGPA to provide an meaningful opportunity to landowners and the community to “engage”. Such requirements need to occur at the onset of the project, meaning when an application is submitted. This did not occur. Despite the obtuse wording of their regulations placing the burden on the uninformed local party, it is realistically should be Inyo Counties responsibility to try to meaningfully engage with those immediately impacted by the project upfront to avoid a giant mess and legal issues in the aftermath. Given the nature of Inyo Counties actions here appears that it is trying as much as possible to avoid this communication so that the permits will be resolved without anyone’s knowledge. This is completely contrary to the intent of any permit process as well as the REGPA.

4.) Inyo County has allowed the operator to destroy existing vegetation and wildlife habitat just months prior to the permits being submitted despite the use being clearly for solar development. This is specifically not allowed in the Inyo County regulations. By these actions, it allows developers to escape reclamation requirements and eliminate environmental aspects of concern. This is made possible by purchasing private land and destroying vegetation prior to permit submittal and should not be allowed.

5.) Inyo County has not conducted a proper assessment of impacts to biological resources including a wildlife survey with on-site identification of species of concern prior to issuance of permits. No protection is given to avian species of concern in including raptors and migratory birds as well as their food sources such as lagomorphs which reside in local vegetation. Proper avoidance buffers of nesting locations need to be identified. Wildlife habitat and food sources of species of concern were destroyed by the developer/operator prior to the permit issuance. The presence of wildlife and protective measures were not discussed or evaluated, except to be handled later. This does not give comfort and does not inform the public properly. It also puts this wildlife at risk. Indeed, at a minimum the public is unaware the project area is actually home to the largest habitat of the endangered Mojave Ground Squirrel in California, and likely other species of concern as Inyo County says there are none present such as the Desert Tortoise, and Burrowing Owl which are mentioned in the permit documents. The need to be evaluated prior to permit issuance in consultation with the proper agencies.

6.) Inyo County has not properly managed the existing project REP 2021-01 and allowed violations for many months of its own requirements (REGPA, MER-2.7) for minimizing dust emissions and has thus endangered the public health,

7.) Inyo County has not properly assessed visual impacts and aesthetics which would be greatly altered by the projects. Solar is a drastic change to the landscape including the “desert kitsch” in the immediate community. This old and dilapidated aesthetic has been used extensively in dozens of films, commercials, TV shows, music videos, video games, and other cultural media and is of a recognizable

character worldwide. Such filming occurred in the recent year. The movie “Just Add Water” filmed in Trona is set in this very setting. It is suggested the Inyo County may learn more of this from the Ridgecrest Regional Film Society. Junk yards make up this aesthetic, but modern solar cells do not. This existing solar facility has already had a substantial impact on the viewshed from my home and other residents which has not been properly mitigated. Further expansion of this facility as proposed here will destroy this viewshed for myself, residents, and tourists.

8.) Inyo County has not properly assessed impacts to tourism in area well known as one of the main routes of tourism into Death Valley and onward into Inyo County. This is industrial development immediately adjacent to the highway used to enter Death Valley National Park and is within a few miles of the park boundary. These solar cells constitute negative visual impacts detrimental to the attraction of the National Park.

9.) Inyo County has disproportionately affected disadvantaged communities by the design of its REGPA and the proposal which disproportionately impacts ethnic groups and those living in poverty. Inyo County has not performed the necessary outreach for these communities, who are likely fearful and unable to properly respond. Diagram 32 in the REGPA suspiciously lacks Solar Energy Development Areas near the main population centers of Inyo County where electricity would mostly be needed. Instead, the REGPA locates the SEDA’s far away in small, disadvantaged communities who were likely without knowledge of Inyo County’s solar plan and not able to engage because the lack of meaningful outreach.

10.) Inyo County has not properly assessed hazardous chemicals to be stored at the project which potentially include highly flammable lithium batteries and fuel among others stating there will be none.

11.) Inyo County has not properly assessed fugitive dust, an EPA deemed pollutant. It is clear that this pollutant will be generated in substantial quantities yet Inyo County states there will be no pollutants. Inyo County needs to do dispersion modeling on fugitive dust to evaluate air impacts within miles of the project and also provide an analysis of its impact on public health prior to issuing permits.

12.) Inyo County has not provided documents allowing for proper review by the public including information that support its environmental assessments during the REGPA or regarding these proposals, the project applications, reclamation plans, grading plans, and maps and design information of the project. Nor have any of the documents been provided to the public in Spanish.

13.) The developer did not notify landowners and the public as required by REGPA, GOV-2.4

14.) The developer/operator is not suitable for the project based on violation of Inyo County regulations by conducting development without a permit. The operator has already shown general disregard and hostility to landowners in the area without performing any outreach on the project. The developer/operator is responsible for compliance with all applicable regulations including the very common practice of dust control and thus has committed willful violation of such regulations, despite the lack of an air permit. None of this complaint and violation history or the outcomes was provided for viewing by the public. Additionally, the developer/operator has already not shown a good stewardship in terms of other areas of concern including poor housekeeping and visual upkeep of the existing site, infringement of property owner’s rights by placement of refuse on these neighboring lands, a general

lack of security of the site, and untimely efforts to complete construction of the project. Additionally, the developer/operator has also constructed fencing within a right-of-way.

15.) Inyo County has not properly assessed impacts to agriculture despite the fact of subsistence agriculture is present within the Trona SEDA. This includes in the past immediately adjacent to the project and currently with a few hundred feet. The County has ignored the common use of rural residential property for this purpose and well as effects of dust on the existing agriculture.

16.) It appears Inyo County has not engaged in necessary agencies in the area who manage lands in the area which would be impacted by the development. Given that that impacts area from fugitive dust, vegetation and wildlife are far reaching this would be expected include BLM, US FWS, CA Department of Game and Fish, Trona Historical Society, Great Basin Unified Air Pollution District, as well as communities and agencies in San Bernadino County, and likely others. This needs to be done prior to making a staff recommendation so proper information can be provided to the public for review. Additionally, the staff commonly assume that “no response” is meaningful outreach when it may be likely no one ever received such information. This previously occurred with the Great Basin Unified Air Pollution District who did not respond to the request for comment. It was only long after permit issuance and after many months of construction that controls for protection of air quality were put into place. This failure was rectified too late, coming only after complaints were made and not preventing months of unregulated releases of fugitive dust.

17.) Inyo county needs to assess the cumulative effects of the proposals along with impacts that have been documented during the prior construction phase. It needs to account for the effect of other similar impacts found in similar existing solar facilities. The County needs to evaluate the cumulative impacts including an environmental justice assessment should development continue to expand into full 600 acres as allowed by the REGPA. This assessment should account for the greater likelihood that private rural residential parcels of the Trona SEA would likely be the sole property type utilized, therefore greatly impacting homeowners and residents, as this avoids a more complicated federal permitting process. This is a pattern already evident so far.

18.) Inyo County has not properly assessed effects caused by wind erosion, site grading, and protection of topsoil including during normal and extreme rainfall events. No information was provided on any plans for compliance with NPDES (National Pollutant Discharge Elimination System) requirements. There are no observable topsoil stockpiles in the previous and proposed project areas. Runoff channels are readily observable in the project areas.

19.) Inyo County needs to properly set a reclamation bond for the project and use a cash bond or other suitable financial instrument. This evidently is not required on Renewable Energy Permit 21-01 which uses solar cells on the project. This bond needs to set reclamation standards based on vegetation existing before the developer/operator destroyed it prior to submitting an application. Additionally, it is not acceptable to use resale of the projects’ solar cells as the reclamation bond. They would depreciate in value. Not requiring a bond before disturbance would allow the operator to highly disturb the project prior to purchasing the solar cells without a guarantee in place.

20.) Inyo County has not properly assessed impacts based on wind-blown accumulations of sand and the formation of sand dunes as result of the removal of vegetation on the project. It has not assessed how

these sand dunes will affect downwind communities and residents including increasing negative air quality impacts and the burial of structures.

21.) There is no apparent documented cost-benefit analysis of the proposed project and assessment of the benefit to the local community. Despite a clear emphasis on the importance of local benefits in the REGPA, including such things as lowered electric rates, it is unclear whether the project will result in any benefit to local residents. This includes what and how much they specifically they will be. As these comments expand upon there appears there will be substantial negative impacts to local homeowners and residents with nothing in return.

22.) Inyo County has not properly assessed archeological or tribal resources and historical preservation as required. by law. Tribal consultation may still be in progress since submittal of the previous permit application in 2018. The Planning Department in its 2021 staff recommendation for approval (Permit 2021-01) identified additional tribal consultation was necessary as the project lies within the Chemehuevi Traditional Use Area. This is not discussed in these new proposals. Ancestral homes are adjacent to the projects, one of which has been inhabited for five generations and another for three generations. The area is part of a substantial mining community over 100 years old. Apparently, Inyo County is proposing and has already allowed disturbance prior to an archeological field survey. This archeology survey would be not simply for tribal artifacts, and it should be conducted by qualified individuals to confirm the presence or lack thereof prior to disturbance. This would also serve to inform tribal interest at the site. Inyo County procedures for unanticipated discoveries rely on identification of tribal or cultural artifact by the operator who is not qualified to make such an assessment.

23.) It is unclear if Inyo County has done necessary evaluation of the flight path into the Trona Airport and supporting documentation to the FAA, in cooperation with airport management.

24.) Inyo County has not provided a road management plan on how the permit areas will be accessed for construction and operation. Due to the amount of activity, a turnaround to access the facility would be expected to be needed on Highway 178. The public and residents have not been advised on how they will be impacted on their private roads and right of ways by the project because the county apparently has not done the proper planning.

Extension of Comment Period

I received a informal letter announcing a public meeting on March 15, seven days prior to the hearing scheduled for March 22. Given the short notice, I already have commitments for that date and cannot attend. It is not possible to review the two proposals in such a sort time to obtain a full set of comments for legal standing in the permit process. Also, this is far too little time to prepare a proper response and fully document and support all issues of concern. This would include time necessary to retain legal counsel to potentially review the legality of the action and previous events. The technical nature of many of these concerns would potentially involve seeking input from technical experts and making additional contact with the surrounding public and agencies that manage the area. There are a large amount of relevant material not made available for reievw including permit applications and attachments with project details to the online documents that need to be provided. The REGPA requires that the operator make notification with landowners at the time of submittal and opportunity for local landowners and public to engage in the process, which has not been possible to date. I would request an extension of the time consistent with such a process and assuming a proper notification of

permit submission. **For that reason, I would request an extension of 120 days based on the estimated time to complete a full review.** That is unless Renewable Energy Permit 22-01 and 22-02 cannot be denied outright based on the comments provided herein.

Inyo County and the Operator Did Not Engage or provide the Proper Notification

From the *FINAL REGPA, AS ADOPTED BY THE BOARD OF SUPERVISORS PUBLIC HEARING MARCH 24, 2015.*

- Policy Gov-2.3: Public Involvement: The County shall provide the opportunity for the public to engage in the planning process at the onset of any renewable energy solar facility project and for all other large or potentially controversial projects applied for in the County.
- Policy GOV-2.4: The County shall require that renewable energy solar facility developers notify residents and/or landowners by direct mailings or other appropriate means announcing projects at the time an application is submitted.

“Engage” does not mean to simply notify. It means an opportunity to involve meaningfully, which includes meaningful communication between parties and efforts to ensure effected parties are fully informed and have proper ability to give feedback on the effects of the project. “At the onset” does not mean seven days prior to final approval. Inyo County has completely disregarded its obligation to provide an opportunity to engage in a timely fashion. This is also despite a request to be notified in my email of such permit applications being submitted on December 1, 2021, sent to Cathreen Richards, Planning Director. As well as extensive communication of concern on the proceeding dust emissions from the existing project.

I am the only person in the local community that I am aware of who has been notified about the proposed projects. This was done in an informal hand addressed letter, with no return confirmation receipt, see photo attached. Inyo County mentions no attempts to realistically notice within the local community, most of which is associated with the town of Trona and very remote from most of Inyo County. The Inyo Register is not a proper form of public notice in this case and is not associated with the demographics of this area which is 2 hours or more from away from the main communities of Inyo County such as Independence, Lone Pine, Mammoth, and Bishop. Its residents are commonly associated with San Bernadino County. I am not aware of this paper being for sale at any store in Trona and there is no circulation of any paper in the area. Regardless, the proposed actions effects multiple residents and landowners within the Trona REGPA and the community of Trona did not receive an opportunity to “engage” through a public notice in remote newspaper with no local visibility. Especially given the air impacts impact shown to effect Trona, San Bernadino County and other SEDA residents was documented in emails including photos and video dated November 30, 2021 and January 21, 2022 sent to the planning department.

I did not receive any notification of the Notice of Availability and Intent posted in the Inyo Register on November 14, 2022 for public comment. As discussed, this paper is not available in the area to any local person. Despite my prior request to be notified. Therefore, I was unreasonably denied an opportunity to engage and provide comments on the Initial Study Mitigated Negative Declaration.

I also did not receive any notification from the developer as required by Policy GOV-2.4. Nor any communication from Inyo County on this submittal of applications. Inyo County provides no evidence of this in documents online.

Additionally, I was also not notified or provided the opportunity to engage in the process during the development of the REGPA despite residing with the proposed SEDA.

The county planning department is aware that I previously submitted videos and pictures over a period of several months during the construction of the facility which showed a repeated disregard for dust control procedures and Inyo County regulations for development of Renewable Energy Projects. This correspondence resulted in the discovery that there was lack of an air quality assessment and air permit, which is crucial component to prevent health impacts to the public. Inyo county has again proposed issuance permits and public review without performing an air quality assessment or air quality permitting. Further, it has not included analysis including arising from the reported incidents in this documentation. This lack of information could change public involvement and concern regarding the project.

Communications and a photo documenting the start of scraping away of the topsoil and vegetation by the developer pre-permit was provided to the Inyo County Planning Department on January 13, 2022. This is about 10 months after permits were issued on Renewable Energy Permit 21-01 and appears to coincide with the recent acquisition of the properties by the developer. Regardless that these unpermitted properties were contiguous with Renewable Energy Permit 2021-01, had the same owner which was the developer of REP 2021-01, and that an air quality permit was pending, the County refused to stop this pre-permit development activity based on claim by the owner it was not for solar. A few months later during the same year and the developer applies for solar permits for these same fully stripped parcels. Unbelievably, Inyo County Planning Department is now recommending for approval despite full knowledge of this activity. The developer has violated Inyo County regulations for Renewable Energy Projects and substantially bypassed Inyo County ability evaluate impacts on the native state of the environment, eliminating potential issues of concern, and reduction reclamation requirements. Inyo County describes the two proposed project areas as "heavily disturbed" and "lacking vegetation". However, this was not true just a few months before the developer stripped the lands bare. Inyo County made its evaluations based on an environment following a complete destruction of topsoil, native habitat and vegetation. This is an incorrect and untrue basis. This has the been in turn been misrepresented to the public and the Board of Supervisors. For this reason, the two proposed permit areas must be denied approval.

From Inyo County Code:

21.16.010 Renewable energy permit.

Any person who proposes to construct a facility within the county or modify an existing facility within the county shall, prior to the commencement of construction or modification, first apply for and obtain from the county planning commission a renewable energy permit, unless specifically exempted from such requirements by this title or by state or federal law. (Ord. 1158 § 3, 2010.)

21.24.010 Prohibition.

No person shall construct a facility without first obtaining a renewable energy development agreement, a renewable energy permit or a renewable energy impact determination and no person shall operate a facility in violation of a renewable energy permit or renewable energy development agreement. (Ord. 1158 § 3, 2010.)

Vegetation Destruction

Photographic satellite evidence of the pre-existing vegetation on the proposed Renewal Energy Permit 2022-01 and 2022-02 can be found online. Images in 2020 prior to Barker ownership of the parcels clearly show identical vegetation to surrounding undisturbed areas. To be fully accurate, for REP 2022-02 there is a single parcel within #38-330-34 that was previously disturbed though the two other parcels 38-330-32 and 38-330-33 that are indistinguishable from undisturbed lands. For REP 2022-01 there was essentially no prior disturbance and health vegetation similar to undisturbed adjacent lands is readily visible in 2020. Additionally, 2018 satellite information shows the same pre-permit disturbance by the developer was true for the already permitted REP 2021-01 which was classified as heavily disturbed despite one parcel #38-330-47 showing quite the contrary. Satellite images are currently only available up to 2020.

Ground level photos taken March 19, 2023 as provided show the conditions following pre-permit stripping of the topsoil and vegetation.

Vegetation in the form of a hardly scrub brush that takes a considerable time to become established was destroyed on all of these parcels. These plants are about 1-3 feet in height and provide the most important primary stabilization and reduction of airborne topsoil transmission. Examples of this vegetation are provided with the attached photos.

Prior Issues with Renewable Energy Permit 21-01/Barker Solar and Dust

For many months perhaps even over more than a year dust was seen emanating from parcels 38-330-47 and 38-330-48 as clearing efforts were underway never was any dust controls measures observed and frequently dust inudating nearby residences particularly the McNamara residence. A complaint was only filed after repeated observations of this activity which also included clear of a considerable amount of material associated with a decaying old mobile home which was also observed being made airborne.

On November 30, 2021 photos showing a fugitive dust were provided to the Inyo County Planning Department. The photos showed a suspended cloud of dust covering a large area of the Searles Valley. This lead to Inyo County referring me to the Greater Basin Unified Air Pollution District. It was advised that no air permit was in place because the GBUAPD had not commented on REP 21-01. Not until Dec 17, 2021 was an air permit issued for the project by GBUAPD.

On December 6, 2021 following discussions by the Great Basin Unified Air Pollution District with the operator of Renewable Energy Project 21-01 additional plumes of dust traveling well outside to the permit area for Renewal Energy Permit 22-01 were provided as requested. Still at this time the operator was allowed to continue activities without a permit

On January 21, 2022 a massive airborne dust plume from the solar plant was filmed during a high wind occurrence and provided to the Inyo County Planning Department and Great Basin Unified Air Pollution

District. This video shows dust inundating and completely occluding from view houses all the way into Pioneer Point (a community of Trona). This plume likely resulted in removal of large amount of topsoil. This dust was observed blowing all the way through to the Trona school and heavily deposited further near the Trona post office which is 4 miles downwind. Video is attached.

For this reason, Inyo County needs to assess fugitive dust in much greater distances than the project boundary and needs to allow comment from those which may have or could be impacted by this project. Such an assessment should include dispersion modeling of construction and operations phases and an evaluation of potential health impacts including and not limited to silicosis and valley fever.

Wildlife Concerns

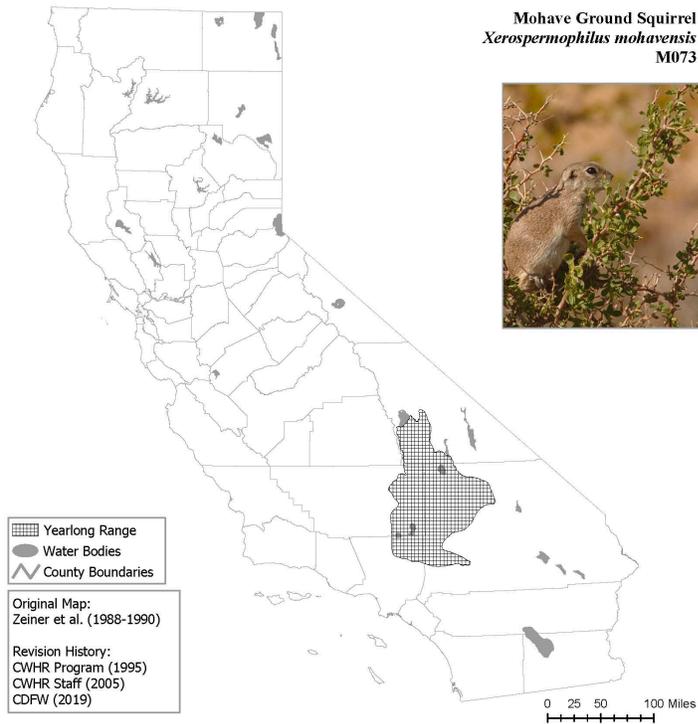
Due to the known presence of endangered species such as the Mojave ground squirrel, Inyo County needs to first perform a full biological assessment and inventory prior to issuing permits. Apparently, Inyo County also did not evaluate migratory birds and raptors which should also be afforded similar protection before permits are issued and may require avoidance buffers for protection. This would ensure critical habitat is not destroyed or negatively affected. Such an inventory needs to include not only the 15 acres within the proposals but a survey of the surrounding area sufficient to protect and prevent impacts to wildlife in the surrounding area. This survey also needs to be conducted over the period of a year to account for seasonal variation of wildlife populations and particularly their food sources. Inyo County needs to fully consult with wildlife agencies prior to permit issuance.

In a similar fashion needs to perform all these same actions before permits are issued for vegetation and identify species of concern. There is no analysis of this in the permit documents

All this information must be provided to the public for review prior to permit issuance. Indeed, without proper wildlife surveys and wildlife agency consultation Inyo County does not provide any protection nor allow any public involvement for plant and animal species as they have not been assessed. Given the documented actions pre-permit of the developer this is paramount.

Special care should be given to the Mojave ground squirrel which appear seasonally and regularly in the immediate area. I personally observe these in great numbers through the permit areas each year when they begin to appear in spring and during the summer. I believe they hibernate during the winter. The following map shows that these proposals are within the single largest habitat in California.

California Wildlife Habitat Relationships System
California Department of Fish and Wildlife
California Interagency Wildlife Task Group



Range maps are based on available occurrence data and professional knowledge. They represent current, but not historic or potential, range. Unless otherwise noted above, maps were originally published in Zeiner, D.C., W.F. Laudenslayer, Jr., K.E. Mayer, and M. White, eds. 1988-1990. California's Wildlife. Vol. I-III. California Depart. of Fish and Game, Sacramento, California. Updates are noted in maps that have been added or edited since original publication.

Photo by Yathin Krishnappa: <http://yathin.com/wordpress/about/>
License: <https://creativecommons.org/licenses/by-nc-nd/2.0>

View and download map in BIOS: <https://apps.wildlife.ca.gov/bios/?dslist=908>

Hawks have been regularly observed in and surrounding the permit areas which serve as hunting grounds for lagomorphs and other food sources. Nesting locations of such raptors in the larger area need to be identified to provide proper protection for the protected species. I have even seen at times hawks nesting in the largest tree in my yard which will be a few hundred feet from the project.

I have also heard a number of reports from locals that the Desert Tortoise occurs in the area. This includes the previous owners of home who told me that they lived at one time in rocks on the eastern side of the parcel with my house.

Other Solar Projects

I have been much more aware and observed numerous solar facilities elsewhere in Nevada and California in other counties. In particular, those nearby California City in the small communities of Ricardo and Cantil. I would like to provide the following observations:

- 1.) some facilities do not remove topsoil and readily build supporting structures for solar cells on top.
- 2.) all of these facilities are well removed from residential areas, completely unlike these Trona permits which are with a few hundred feet or less from inhabited residences. The one exception being the community of Ricardo/Cantil, CA which has suffered considerably.

3.) These facilities are clearly marked with messages allowing for immediately reporting excessive dust and warning people on the highway.

4.) In some, particularly those facilities near Cantil/Ricardo. Downwind of the prevailing wind direction there is significant accumulation of blowing and drifting sand. This sand is at times increasingly burying residential structures and is also easily mobilized in high winds creating a high concentration of fugitive dust that can expose the public to a health risk. This an environmental disaster in this community and we have one in the making with these proposals.

All these need to be accounted for and evaluated by Inyo County prior to permit issuance so that the public may be informed. Given the extreme proximity of these proposals, such downwind accumulations of blowing sand may prohibit the project.

Additional Comments and Photos and Other Information

A second document is being provided with many large file size information items. Please refer to this for additional information related to the above as well as additional comments. *It is requested that this document also be kept confidential.*

Cynthia Draper

From: John Mays <johnmmays1@gmail.com>
Sent: Wednesday, March 22, 2023 8:05 AM
To: Cynthia Draper
Subject: Re: Comments on REP 2022-01 and REP 2022-02 INYO COUNTY BOARD OF SUPERVISORS MEETING MARCH 22, 2023

Cynthia,

Thank you for following up on my request to keep my comments confidential. Given this I recind my request for confidentiality and you may may use all of my comments publically.

Thank you,

John

On Wed, Mar 22, 2023, 7:38 AM Cynthia Draper <cdraper@inyocounty.us> wrote:

Sorry about that. It was right before 5 and I was rushing to respond to you. I must have had that name in my head.

Thank you,

Cynthia

From: John Mays <johnmmays1@gmail.com>
Sent: Tuesday, March 21, 2023 5:03 PM
To: Cynthia Draper <cdraper@inyocounty.us>
Subject: Re: Comments on REP 2022-01 and REP 2022-02 INYO COUNTY BOARD OF SUPERVISORS MEETING MARCH 22, 2023

You don't often get email from johnmmays1@gmail.com. [Learn why this is important](#)

Thank you Cynthia.

My name is John by the way.

On Mar 21, 2023, at 4:58 PM, Cynthia Draper <cdraper@inyocounty.us> wrote:

Hello Dave,

I received your comment and attachment just fine. I have sent it to the Commissioners and your name will remain confidential at the meeting.

Thank you, Drive safe.

Cynthia

From: John Mays <johnmmays1@gmail.com>

Sent: Tuesday, March 21, 2023 4:41 PM

To: Cynthia Draper <cdraper@inyocounty.us>

Subject: Comments on REP 2022-01 and REP 2022-02 INYO COUNTY BOARD OF SUPERVISORS MEETING MARCH 22, 2023

You don't often get email from johnmmays1@gmail.com. [Learn why this is important](#)

Cynthia,

Please see attached my comments that I request be confidential.

Note that I was not properly notified about the submission of the permit applications and have not been given a reasonable opportunity to engage in these permits. As such I am requesting an extension of the time to review.

I have serious concerns regarding the two permits.

I also have a second document with many large file size items that I would like to deliver but will likely be too large for email. These have substantial information that I would like to have included.

I cannot attend the meeting because I have to travel to Arizona for business and have only a few days to respond to the notice that was mailed by the county announcing the hearing.

Thank you,

John

Additional Comments on Renewable Energy Permits 2022-01 and 2022-02

John Mays P.O. Box 583, Trona CA 93592

1.) The scope of proposed solar projects is not consistent with the zoning designation of the residential community in which it is proposed. This community consists of many long-term residents and subsistence agriculture use. The design of solar facilities precludes acceptable rural residential uses that are listed under Inyo County Code. Expansion of such facilities will create an increasing diminishment or such land available for Rural Residential uses. This use is scarce in the region surrounding Trona.

All of the parcels in the areas used by proposed projects are zoned Rural Residential. Nearly all of the surrounding community consists of parcels zoned as Rural Residential. Please see the map of the REGPA, Southern Solar Energy Group. (Referred to here as Trona SEDA)

Inyo County Code states the following as the purpose for the rural residential

18.21.010 Purpose.

It is the intent and purpose of this chapter to provide suitable areas and appropriate environments for low density, single family rural residential and estate type uses where certain agricultural activities can be successfully maintained in conjunction with residential uses on relatively large parcels. The RR (rural residential) zone is intended to be applied to the areas outside the urban communities of Inyo County which are without fully developed services and where individual residences are expected to be largely self-sustaining, particularly for water and sewage disposal. (Ord. 943 § 4, 1994.)

Furthermore, under 18.21.020, 18.21.30, and 18.21.04 none of these uses make any mention of commercial uses or solar plant development.

It is important to note that while the REGPA allows that Inyo County **“may consider”** Commercial and Utility scale solar projects within any zoning designation this does not mean that such proposals are automatically consistent with such use and must be approved. Indeed, in this case the proposals preclude and seriously deteriorate the available zoned use. There appears to be a large disconnect in the REGPA when one accounts for the number of available Rural Residential Parcels within the Trona SEDA and the total allowable use of 600 acres for solar development. While the Trona SEDA is much larger than the 600 acres because of a larger amount of BLM lands within it, these BLM lands are not likely to be used due to a more difficult permitting process. This creates the real possibility for complete decimation of the Rural Residential use where such activity is now currently focused with one existing and now three proposed new projects all in the RR zoned area. This is not consistent with the primary purpose of the zoning of these parcels, not to mention the proximity to the residential areas of Trona. As such, this error needs to be corrected and all of the Rural Residential parcels within the Trona SEDA should be removed for possible solar commercial and utility scale consideration by an update to the REGPA. In this way, ongoing future use for housing and agriculture can be preserved. Such housing that allows subsistence agriculture is an important and valuable resource for the county and not widely available in the Trona community.

It should be added that such a situation is not apparent near other more developed parts of Inyo County, where more detailed evaluation is apparently required. This double-standard shows that Trona has been overlooked.

As an alternative to use of rural residential parcels, there is a considerable quantity of other lands within the Trona SEDA at distance from residents that would serve to minimize impacts to residents much more favorably.

2.) Has the developer completed construction on REP 2021-01? This does not appear to be the case as the project continues to have construction equipment, large piles of limestone gravel, and chemical tanks being stored on-site. Also, such piles of gravel ave also been placed in the right of way on another recently announced solar project in the Trona SEDA owned by the developer's brother and blocking one resident's access to his property.



April 10, 2023 picture of REP 2021-01 showing number of piles of limestone gravel and earth, drilling rigs, some portable chemical tanks, refuse rolloff, etc.



April 10, 2023 Same limestone gravel deposited across the right of way and well-established existing access road. Gravel and equipment is on another solar project recently proposed for development by SBC Developments.

3.) Inyo County needs to consider effects beyond the boundaries of the parcels on which the proposed projects are being constructed and also seek input from landowners and the community well beyond a 300 ft limit. From the REGPA,

- *Policy MER-2.6: Avoid, Minimize, or Mitigate Impacts. The County shall work with renewable energy solar developers and other agencies to avoid, minimize, or mitigate impacts to the social, economic, visual, and environmental resources of the County from renewable energy solar facility development.*

Inyo County's limited engagement of the community and residents in this matter is recipe for disaster and will also result in a loss of social, visual, and environmental resources. Indeed, Inyo County has not done proper research into these matters. History includes a lack of improper environmental controls for the first permitted solar facility and the allowance of pre-permit construction on these projects. Inyo County's analysis on these projects indicates that such analysis stops with the parcel, yet many impacts here are far reaching. Such impacts include visual impacts, impacts to wildlife and vegetation, social and economic impacts, and environmental impacts including those on health and safety. Such long ranging impacts have already occurred with the massive amounts of unregulated fugitive dust emissions that were allowed for many months to harm residents immediately adjacent and miles down wind. Roads and power transmission lines are other effects outside of the parcel property lines not considered appropriately in the permit documents.

4.) Inyo County needs to prepare a project specific EIR based on new additional information or substantiate its conclusion that its Draft Mitigated Negative Declaration is appropriate under CEQA

regulations. It has not explained its rationale for not conducting an EIR. It has also not done the necessary environmental review to support the findings here. Given substantial incorrect information in the Draft Negative Declarations for REP 2022-01 and REP 2022-02, it is highly probable these assessments have been made by unqualified individuals with little to no project specific information. Inyo County needs to prepare a sufficient EIR to assess social, visual, and environmental impacts on this project before proceeding and has made no demonstration this has been previously completed or has otherwise obtained the necessary project specific additional analysis required. Outstanding analysis including obtaining an air permit and conducting wildlife studies after the permit is issued are inconsistent with the requirement to avoid and minimize impacts which cannot be done until the environment is first understood. This also means that staff findings have not been completed properly and improperly conveyed to the public for review.

No previous studies, documents, and sources are cited regarding environmental data to support the proposed permits nor in documents that were provided with the permits. Thus, no opportunity has been provided to the public to review any data supporting the conclusions made by staff on this project. Given the lack of information and its apparent inadequacy, it is believed that such information does not exist. In such a case, CEQA regulations require these investigations to be conducted before these permits can be issued.

The last study of the area was in 2015 under the Final Program Environmental Impact Report (EIR). This report is dated and as primary form of mitigation requires a multitude of site-specific field surveys and environmental assessment for each solar project before they are approved. The REGPA states that it should be regularly updated and now is the proper time given the large extent of issues of concern.

One aspect overlooked by Inyo County includes residents including children that are now living adjacent to the proposed facilities including myself and others. No assessment has been done from the point of view of local residents. How are we now going to be impacted? Does Inyo County even care?

5.) Land Compatibility Issues

Inyo County has not undertaken the necessary environmental review as required by the Inyo County Renewable Energy General Plan Amendment, Volume II – Final Program Environmental Impact Report, March 2015 (here after referred to as the EIR)

4.10.3.4 Land Use Compatibility

Future solar energy projects could result in potential land use compatibility issues, depending on the location of such projects and the presence of nearby uses that could perceive nuisances or incompatibilities. For example, noise or glare from a future solar energy project could be inconsistent with adjacent sensitive uses, such as residences or school uses. Based on existing land uses within the SEDAs, it is expected that future solar energy projects within the SEDAs would be relatively isolated from other uses; however, most of the SEDAs do contain some amount of residential uses or other uses that could be sensitive to activities associated with a solar development project, if it was located in close proximity. Future solar development projects would be subject to the applicable land use requirements of the County and additional environmental review. As part of this review, each project would be analyzed to determine impacts regarding the land use compatibility with adjacent uses. Future development of solar energy projects within the SEDAs would require appropriate siting and is subject to further review and approval from the County. As such, the REGPA would not result in significant impacts associated

with the land use compatibility. Impacts associated with the proposed REGPA would be less than significant.

Instead, Inyo County uses the REGPA as a basis for compatibility for land use but provides no additional analysis. Quoting the “Evidence” supporting Findings #2 and #3 from the Staff Report:

“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 therefor has consistency with the General Plan.”

“Utility scale and commercial scale renewable energy solar facilities are allowed within any zoning district under Title 18 of the Inyo County Code, 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.”

Statements of the Planning Department here conflict with the findings of the EIR which states that additional review is necessary when in proximity to residences which are sensitive to land use and approval is dictated by the results of this analysis not by simply the SEDA designation. Inyo County has not provided or performed this additional environmental analysis.

6.) Inyo County has not performed the necessary Noise Report as required by the EIR as applicable to Commercial scale facilities. Mitigation measure from the EIR:

MM NOI-1: Prepare technical noise report for solar facilities proposed within 500 feet of noise sensitive land uses.

If a proposed utility scale solar energy project resulting from implementation of the REGPA is within 500 feet of a residence or other noise sensitive land use, prior to issuance of a Major Use Permit, a site-specific noise technical report will be prepared and approved by the County. The technical report will verify compliance with all applicable County laws, regulations, and policies during operation of the solar project, including that noise levels would not exceed the relevant thresholds described in the General Plan Noise Element (60 dBA L_{DN} for noise sensitive land uses such as residences, schools, transient lodging and medical facilities). The site specific noise technical report will include project specifications, applicable noise calculations, project design

features, applicable BMPs and related information from the REAT’s Best Management Practices and Guidance Manual (REAT 2010), and mitigation measures applicable to the project. The technical noise report will address operational related noise sources, as well as noise from the use of generators during an emergency. The technical report will calculate specific anticipated noise and vibration levels from operations in accordance with County standards and provide specific mitigation when noise levels are expected to exceed County standards.

7.) Impacts on Housing

Table 4.13-6 estimates total housing of 18 within the Trona SEDA and determines impacts not to be significant. However, this analysis does not account for the fact and likelihood that solar development will be solely focused and within the much smaller residential portion of the Trona SEDA where these residents reside. Cumulative impact analysis of multiple solar projects solely located on the Rural

Residential should be undertaken to determine these now disproportionate effects on residents. It should also account for the likelihood that such residents may be of little to no income and not able to relocate, unlike the ease of relocation indicated by the EIR. It should also account for the displacement of future housing use away from rural residential parcels by solar development. This requires additional evaluation as it would be expected to change substantially the impact assessment.

8.) Fire Protection

From the Inyo County General Plan:

- *Policy PSU-8.1: Fire Protection for New Development. Prior to the approval of development projects, the County shall determine the need for fire protection services. New development in unincorporated areas of the County shall not be approved unless adequate fire protection facilities can be provided.*

Staff analysis in the Mitigated Negative Declaration leaves it unclear how sufficient fire protection was determined adequate for the projects or if a specific adequacy analysis here was even performed. The Draft Mitigated Declaration simply says “no concerns” from the San Bernadino Fire Department which is not comforting to a resident in a very remote area and is not sufficient analysis to meet the requirement.

There is no discussion of a fire protection plan or any forward thinking towards fire protection. No mitigation measures to prevent the occurrence of a fire in the proposed solar facility are discussed. This should be analyzed extensively due to the significant potential for loss of life and property. Will the project have fire-fighting services coming from San Bernadino County? Or would these services be travelling an 85 minute drive from Olancho or a 93 minute drive from Lone Pine as described by the EIR? Are the fire fighters sufficiently trained and equipped to fight a large-scale electrical fire? How fast would it spread to local vegetation and further spread before being extinguished?

There are limited resources of the tiny San Bernadino Fire station department in Trona. Is this sufficient to handle a large-scale fire of possibly 30 acres in size with unique electrical hazards? Given a large, concentrated quantity of combustible photovoltaic solar cells as fuel is this response time sufficient to protect residents living adjacent to the solar project from fire propagation and potentially toxic smoke inhalation? Our experiences here indicate absolutely not!

Nothing is discussed in the permit documents to address these concerns.

Mitigation measures from the EIR require greater analysis here,

MM PUB-1: Analyze public safety and protection response times and staff levels for each utility scale project.

Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project's impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.

9.) Private security

The Draft Mitigated Negative Declaration says private security will be relied upon. I have never once observed any private security personnel at the current solar project REP 2021-01 during construction or operation. Has this been enforced? It also mentions no new police service is required but does not describe how it reached this conclusion. There is insufficient analysis in the permit documents addressing the following mitigation as required by the EIR,

MM PUB-1: Analyze public safety and protection response times and staff levels for each utility scale project.

Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project's impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.

MM PUB-2: Provide onsite security during the construction and long-term operation of the utility scale project.

For project sites associated with proposed future solar development projects that are determined through mitigation measure PUB-1 to have insufficient law enforcement protection services or significant impacts to law enforcement services, project proponents shall be required to provide adequate, onsite private security for the duration of construction activities and during the long-term operation of the project to the satisfaction of the County. The actual size and configuration of the security detail shall be determined by the County during preparation of the Development Agreement for the future solar energy project.

10.) Agriculture use

Rural residential properties are deemed necessary for agriculture not just now but also in the future. This is currently taking place within the SEDA and near the proposed permits. Inyo County has not analyzed impacts to agriculture as required by the EIR. As follows:

MM AG-1: Review development proposals for potential impacts to agricultural operations.

The County Agricultural Commissioner shall be responsible for reviewing new development proposals adjacent to agricultural operations to ensure they do not significantly impact agricultural operations.

MM AG-2: Conduct site specific investigations for agricultural lands.

Site-specific agricultural resource investigations shall be completed for proposed solar development projects within the individual SEDAs and the OVSA that are located on lands utilized for agricultural operations prior to final project design approval. If agricultural operations are identified within the project area, alternative designs should be implemented to avoid and/or minimize impacts to those resources. This may include mitigating conversion of agricultural lands based on the mitigation ratios identified in consultation with affected agencies at the cost of the project applicant to the satisfaction of the County. Mitigation ratios and impact fees assessed, if any, shall be outlined in the Renewable Energy Development Agreement, Renewable Energy Permit, or Renewable Energy Impact Determination.

MM AG-3: Invasive plant species or noxious weeds.

To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all

phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:

- *The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes.*
- *Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site.*
- *Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored.*
- *The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned.*
- *Native vegetation shall be re-established as quickly as practicable on disturbed sites.*
- *Weed Monitor and quickly implement control measures to ensure early detection and*
- *eradication of weed invasions.*
- *Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations.*

No mitigation is described in the Mitigated Negative Declaration/Staff Report and agriculture is incorrectly described as non-existent.

11.) Fugitive Dust

As required by mitigating measures in the EIR, Inyo County has not revealed a site-specific air quality technical report. Instead, it places reliance on the Great Basin Unified Air Pollution Control District. Such an air permit is not subject to public comment. Inyo Counties approach is here is not consistent with the REGPA nor the EIR which requires Inyo County to follow through here before permits are issued. Again, this mistake has previously occurred and is now occurring again. Note these requirements are PRIOR TO ISSUANCE.

Mitigation from the EIR

MM AQ-1: Prepare site-specific air quality technical report.

Prior to issuance of Major Use Permits for solar energy projects, a site-specific air quality technical report shall be prepared and approved by the County, which will verify compliance with County and GBUAPCD standards during construction and operation of the solar project.

Mitigation Measures AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report, and will be implemented during construction and operation of future projects. These measures require implementation of dust control practices during construction activities and solar project operations.

MM AQ-2: Reduce fugitive dust and particulate matter emissions during construction.

To control emissions of particulate matter, and to ensure compliance with GBUAPCD Rules 401 and 402 as well as applicable BMPs from REAT's Best Management Practices and Guidance Manual (REAT 2010), solar projects shall implement fugitive dust and particulate matter emissions control measures including, but not limited to the following:

- *Water and/or coarse rock all active construction areas as necessary and indicated by soil and air conditions;*
- *Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;*
- *Pave or apply (non-toxic) soil stabilizers on all unpaved access roads;*
- *Sweep daily (with water sweepers) all paved access roads;*
- *Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;*
- *Suspend excavation and grading activity when sustained winds make reasonable dust control difficult to implement, e.g., for winds over 25 miles per hour (mph).*
- *Limit the speed of on-site vehicles to 15 mph.*

MM AQ-3: Implement dust control measures during operation.

- *To control emissions of particulate matter, and to ensure compliance with GBUAPCD Rules 401 and 402 as well as applicable BMPs from REAT's Best Management Practices and Guidance Manual (REAT 2010), solar projects shall incorporate feasible dust control measures into the site design including, but not limited to, the following:*
- *Incorporate perimeter sand fencing into the overall design to prevent migration of exposed soils into the surrounding areas. The perimeter fence is intended to provide long-term protection around vulnerable portions of the site boundary; it is also intended to prevent off-road site access and sand migration across site boundaries and the associated impacts.*
- *Incorporate wind deflectors intermittently across solar project sites. The solar panels themselves, especially where installed to transverse primary wind direction, will provide some measure of protection of the ground surface. Wind deflectors enhance this effect by lifting winds that may otherwise jet beneath panels, thereby disrupting long wind fetches, and reducing surface wind velocities and sand migration.;*
- *Orient infrastructure/solar panels perpendicular to primary wind directions; .and*
- *Adjust panel operating angles to reduce wind speeds under panels.*
- *Perform revegetation in areas temporarily denuded during construction. These areas would be replanted with native plant species that exist on the site presently. Irrigation would be applied temporarily during the plant establishment period (typically multiple years), but after establishment it is expected that these areas would require little or no maintenance. Vegetation provides dust control by protecting and preventing threshold wind velocities at the soil surface. Studies have shown that an 11 to 54 percent vegetation cover on a site can provide up to 99 percent PM10 control efficiency (GBUAPCD 2008).*
- *As the installation of solar panels and associated equipment progresses, each area that is completed (i.e., where no further soil disturbance is anticipated) will be treated with a dust palliative to prevent wind erosion. CARB certifications indicate that the application of dust suppressants can reduce PM₁₀ emissions by 84 percent or more (CARB 2011).*

None of these mitigations are described in the Mitigated Negative Declaration or Staff Report. The current orientation of the solar cells is parallel and not perpendicular to the primary wind direction. None of these operational mitigations are visually apparent on the currently operating solar site, REP 2021-01, and none were visibly used during construction either. Is Inyo County performing the necessary oversight of these projects? The answer is no.

12.) Biological Resources

The EIR lists the following special status species of concern in the Trona SEDA. “Desert tortoise, burrowing owl, golden eagle, prairie falcon, and Mohave ground squirrel,” and monarch butterfly have the potential to occur in the SEDA.

The Draft Mitigated Negative Declaration misleadingly states the following: “There are no CFW or USFW special status species found on the proposed project site. The project is graded, scraped and completely devoid of plants and native habitat.” This statement is incorrect and misleading because:

- Inyo County allowed the developer to grade the site and remove all vegetation pre-permit just a few months prior destroying all habitat and vegetation.
- Inyo County has yet to conduct the required biological inventories as these are a permit condition to be performed later.
- Inyo County is not considering avian and migratory species
- Inyo County is not considering presence of vegetation and wildlife species on adjacent lands and the overall environment that will be impacted.

Furthermore, the EIR indicates potential impacts to the Mojave Ground Squirrel. *“Habitat for Mohave ground squirrel occurs in the Owens Lake, Rose Valley, Pearsonville, and Trona SEDAs. Impacts to this species could occur as a result of implementation of the REGPA if solar development occurred within or adjacent to suitable habitat. Direct effects to this species could include disturbance of individuals from construction and operations activities. Once constructed, solar facilities could also potentially pose a barrier to movement for this species.”*

The EIR goes on to indicate many reasons to be concerned regarding biological resources. From the EIR:

“Trona Solar Energy Development Area

The total allowable developable area within the Trona SEDA is 600 acres, and utility scale or commercial scale projects in this SEDA may require construction of associated transmission infrastructure. Development of solar projects, including the associated infrastructure, within the Trona SEDA could potentially impact terrestrial habitats including alkali desert scrub and desert scrub. Aquatic habitats potentially containing waters of the US/State including freshwater ponds and freshwater wetland could also be impacted. There is no USFWS-designated critical habitat in the Trona SEDA; however, Inyo California towhee critical habitat is located in the Argus Mountains to the west of the SEDA although this species has been proposed for delisting and the USFWS has found that delisting this species is warranted. The SEDA does not contain essential connectivity areas, missing links, or Important Bird Areas.

Table 4.4-9 identifies one special status species of insect, desert tortoise, prairie falcon, and Mohave ground squirrel one reptile, one mammal, three birds, and one plant species as either being known to occur or having the potential to occur within or adjacent to the Trona SEDA and be impacted by development activities within the SEDA. Special status species may be directly or indirectly affected by future solar projects in the Trona SEDA if the development would encroach on that species habitat or movement corridors. Impacts to special status species would not be expected to be limited to those mapped by the CNDDDB. The CNDDDB relies on reported sightings of special status species, and is not a complete inventory of special status species habitat.

Special status species identified as having the potential to be impacted by development within alkali desert scrub and desert scrub of the Trona SEDA include desert tortoise, and Mohave ground squirrel, prairie falcon, golden eagle, and burrowing owl. No special status species were identified as having the potential to occur within aquatic habitats in the SEDA. Although no special status plant species were identified as having the potential to occur in the Trona SEDA, botanical inventories would need to be conducted to support this determination.

Project-specific impacts to special status species would depend on the location of the project, the suitability of the habitats present, construction timing, and the species likely to occur. Impacts on rare plants and special status wildlife species could result in a substantial reduction in local population size, lowered reproductive success, or habitat fragmentation.”

Again, these statements in the EIR indicate that no biological inventories were conducted as a part of the EIR and that these are crucial to a complete environmental assessment and need to be conducted prior to permit issuance. Such inventories could identify real biological concerns and significant impacts.

Additional detail on these impacts is described in the EIR as follows, included here at length to detail the number and magnitude of potential impacts involved:

4.4.3.1 Project Level Impacts to Biological Resources

Ground Disturbance or Vegetation Trimming or Removal

Future construction and maintenance of solar projects under the REGPA resulting in ground disturbance or vegetation trimming or removal would have the potential to impact special status species or sensitive natural communities. Direct or indirect impacts to special status species or loss/degradation of habitat would be a significant impact.

Impacts to Rare Plants

Future construction and maintenance of solar projects under the REGPA could result in the direct loss or indirect loss or disturbance of special status plant species individuals or populations occurring within or outside of the project area. Direct impacts could include trampling, clearing or grading of habitat occupied by special status plant species, or other activities that result in habitat removal. Indirect impacts could include spills or runoff of chemicals or other toxic substances from construction areas and/or equipment that enter areas occupied by populations of rare plants adjacent to construction areas, alteration of local drainage patterns, or adverse effects from dust or windborne contaminants. In addition, solar projects requiring groundwater pumping could result in indirect impacts to off-site populations of special status plants through alteration of the water table. Direct and indirect impacts on special status plant species could result in a substantial reduction in local population size, lowered reproductive success, or habitat fragmentation. In addition, construction-related disturbances may allow the introduction or spread of invasive plants which compete with native plants and degrade the habitat.

Direct or indirect impacts to special status plant species resulting in loss of individuals or loss/degradation of habitat would be a significant impact.

General Impacts to Special Status Wildlife

Impacts to special status wildlife species could occur during construction and/or operation of the future solar developments under the REGPA. General impacts to special status wildlife species are presented

here, and more detailed discussion is provided in following sections with considerations pertinent to certain species and/or life forms.

General Construction Impacts

Habitat Disturbance

Biological communities within the construction footprint of solar developments implemented under the REGPA would be reduced or altered through habitat modifications including clearing, trampling or grading vegetation, changes to hydrology, alterations to the existing soil conditions, and filling or removing wetlands or sensitive habitats. Habitat modifications can result in the loss or adverse constriction of migration and wildlife movement corridors. Although habitats adjacent to solar energy projects might remain unaffected, the nearby disturbance on the project site might deter special status species from using habitat near the proposed project. Habitat modifications may also provide increased opportunities to predators (e.g., increased litter or water may attract coyotes, ravens or feral dogs, and structures provide perch sites to raptors). Alternately, habitat modifications may also result in changes to abundance of prey or forage species as a result of ground disturbance and vegetation removal.

Wildlife Mortality, Injury or Displacement

Individuals of special status species occurring within the construction footprint during construction could be injured, killed, or disturbed by construction activities. Special status wildlife species occupying underground burrows (e.g., desert tortoise, kit fox, burrowing owl) could be killed or displaced from the collapse of their burrows resulting from soil compaction. Site clearing and grading can remove vegetation resulting in a loss of dispersal, breeding or foraging habitat, as well as the direct removal of active bird nests. The movement of equipment and vehicles through the project area could negatively affect wildlife by collisions, or increased noise and dust. The noise and disturbance associated with construction-related activities can negatively affect nesting birds and may lead to abandoned eggs or young and subsequent nest failure for nesting raptors and other special status nesting birds. Construction related activities and the associated human presence increase the risk of fire from igniting sources such as vehicles, cigarettes, welding, and increased fuels from invasive plant species.

Introduction or Spread of Invasive Species

Habitat modification also provides opportunities for the introduction or spread of non-native, invasive plant species resulting from soil disturbance, native vegetation removal, and introduction of the species from construction equipment or seed mixes. Invasive species may compete with native species, affecting the viability of native species populations, and may also alter the habitat by making it difficult for wildlife to negotiate the landscape. As previously mentioned, the spread of invasive plant species may also increase the risk of fire by providing an increased fuel source. In arid environments, invasive species of plants often grow more densely than native species and may burn hotter thereby increasing the risk and impacts of fire.

General Operational Impacts

Operation of future solar facilities under the REGPA could result in long term persistent impacts to special status wildlife species. These include disturbance to common and sensitive wildlife from vehicle traffic, increased human presence, facility maintenance (includes equipment repairs and washing panels and mirrors, weed and vegetation control, etc.), operational noises associated with daytime operations and nighttime maintenance activities, nighttime lighting and collisions. Death or injury to wildlife as a

result of operations would be potentially significant and mitigation would be necessary. Refer to specific wildlife impacts and considerations for additional operational impacts.

Construction of heliostat fields involves the placement of cylindrical pipes to support the structures. Vertically placed, open-topped pipes associated with future solar developments pose a threat to birds falling in from perching or nests placed at the opening, or entering in search of nesting cavities or food. Birds (and other animals such as bats, small reptiles, other small mammals) that have descended into vertical pipes may become entrapped and die from starvation and exposure (Brean 2011; American Bird Conservancy 2011; Audubon California 2013).

Death or injury to special status wildlife as a result of construction and/or operations would be a significant impact, and mitigation would be necessary.

Specific Wildlife Impacts and Considerations

Following are potential impacts to specific species or wildlife that could occur as a result of implementation of the REGPA based on their life form, status, known potential to occur in the project area, and regulatory considerations.

Impacts to Special Status Insects

*Monarch butterfly is known to migrate through western Inyo County during seasonal movements between the California coast and the Great Basin. This species relies on species of milkweeds (*Asclepias* spp.) as its obligate larval host plant, and migrations span multiple generations. Adult migrating monarchs require sheltered roost sites where temperatures remain cool but above freezing. Reductions in the extent and abundance of milkweeds would reduce larval host plant availability during migrations, and removal of trees could reduce suitable roosting sites if the affected trees were in suitable climatic microsites. In addition, solar thermal projects can promote butterfly mortality both through extreme heat and by attracting avian predators. The USFWS announced on December 29, 2014 that it has begun a review of monarch butterfly for listing under the Endangered Species Act. This listing might also include a designation of critical habitat, which could include habitats found within SEDAs.*

Impacts to Burrowing Owl

Nesting Potential nesting and foraging habitat for burrowing owl occurs within all SEDAs and the OVSA, and the species is known to occupy portions of the Laws, Owens Lake, and Rose Valley SEDAs and the OVSA (located within the Western Solar Energy Group) and this species is known to occupy portions of those locations. Impacts to burrowing owl could occur as a result of implementation of the REGPA if solar development occurred within nesting or foraging habitat for this species. Potential impacts to burrowing owls include nest disturbance, loss of nesting habitat, and loss of foraging habitat. Construction-related activities could potentially disturb nesting burrowing owls on or adjacent to construction sites as well as result in the loss of foraging habitat. Earth-moving activities could potentially trap or injure owls in their burrows, and disturbance near nests could potentially cause nest abandonment. Up to 1,500 acres of potential foraging habitat for burrowing owl could be lost in the Laws, Owens Lake, and Rose Valley SEDAs and the OVSA if all of the total allowable developable acres for the Western Solar Energy Group were developed within suitable foraging habitat for burrowing owl and were within close proximity to a nest. This is likely a significant over-estimation of the potential impacts to burrowing owl habitat because much of the land would not be suitable foraging habitat or within close proximity to a nest.

If solar development occurred in proximity to burrowing owl nest sites, human activity may cause owl nest abandonment or interfere with the incubation and feeding of young in a way that reduces reproductive success. Increased owl predation could also potentially occur in proximity to solar development, as a result of the typical increase in human-associated owl predators (Odell and Knight 2001). Mortality because of vehicle strikes may also increase on existing roads because of the increased traffic that would result from the solar development.

Loss of burrowing owl nesting or foraging habitat or nest disturbance would be a significant impact.

Impacts to Bald Eagle and Golden Eagle

Bald eagle has been reported nesting within the OVSA in the vicinity of Tinemaha Reservoir. Golden eagle has been reported nesting in the Rose Valley SEDA in the vicinity of the Haiwee Powerhouse. These species Bald eagle typically nests in tall trees away from human disturbances; golden eagle typically nests on cliffs. Golden eagle is considered to have potential to nest in the vicinity of all SEDAs and the OVSA. Impacts to bald and golden eagle could occur as a result of implementation of the REGPA if solar development occurred within or adjacent to nesting or foraging habitat for these species. Potential impacts to eagles could include nest disturbance and loss of nesting habitat.

If solar development occurred in proximity to eagle nest sites, human activity may cause nest abandonment or interfere with the incubation and feeding of young in a way that reduces reproductive success. If a suitable nest tree was removed, it could potentially result in the loss of nesting habitat.

Loss of bald or golden eagle nesting or foraging habitat or nest disturbance would be a significant impact.

Impacts to Inyo California Towhee

Inyo California towhee is not known to occur within any of the SEDAs or the OVSA. However, Inyo California towhee critical habitat is located in the Argus Mountains to the west of the Trona SEDA. If solar development occurred within or adjacent to nesting or foraging habitat for this species, construction activities and long term operations could result in nest disturbance and loss of nesting habitat.

Loss of Inyo California towhee nesting habitat or nest disturbance would be a significant impact.

Impacts to Mohave Ground Squirrel

Habitat for Mohave ground squirrel occurs in the Owens Lake, Rose Valley, Pearsonville, and Trona SEDAs. Impacts to this species could occur as a result of implementation of the REGPA if solar development occurred within or adjacent to suitable habitat. Direct effects to this species could include disturbance of individuals from construction and operations activities. Once constructed, solar facilities could also potentially pose a barrier to movement for this species.

Indirect impacts to this species could include habitat degradation due to introduction of invasive weeds, avoidance by this species of areas near manmade structures, increased traffic on desert roads, and increased risk of wildfires.

Up to 1,500 acres of suitable habitat for Mohave ground squirrel could be impacted by the proposed project if all of the total allowable developable area within the Western Solar Energy Group was developed within habitat for this species, and an additional 600 acres could be impacted in the Trona SEDA if all of the total allowable developable area within that SEDA was developed within habitat for

this species (see Table 3-1 for the total allowable maximum area for each Solar Energy Group). This is likely an over-estimation of the potential impacts to this species as it is unlikely that all of the developable acreage within the OVSA would be within this species habitat.

Disturbance of individuals or loss/degradation of habitat for this species would be a significant impact.

Impacts to Other Special Status Birds, Raptors, Migratory Birds and Bats

Special status birds and bats may occur in the SEDAs and the OVSA during project construction and operation and are subject to the general construction and operation impacts described above. Additional considerations specific to bats and birds are presented here.

Nesting and Roosting Sites

Construction and maintenance activities would exclude bird species less tolerant of anthropogenic disturbance. The introduction of structures (i.e., power towers, stacks of pallets, or construction materials) would provide potential roosting opportunities for bats and certain species of birds during construction and operation of the facility. Depending on the species, birds may actively nest on the ground near solar panels, vehicles, foundations, construction trailers, and other equipment left overnight or during a long weekend. Bats may roost in various structures. In areas with phased construction, or during long weekends or holidays with the facilities closed, birds or bats may quickly utilize potential nesting or roosting sites.

Impacts to roosting bats or nesting birds, or removal of nests during construction or operation would be considered a significant impact.

Collisions

Solar facilities may include relatively tall structures such as power towers (750 feet high), boilers, and air-cooled condenser units (120 feet high) that create a physical hazard to some wildlife. In particular, birds may collide with communication towers, transmission lines, and other elevated structures including buildings. Some birds species are at high risk for collision with power lines and guy wires that are difficult to see. Collision rates generally increase in low light conditions, during strong winds, and during panic flushes when birds are startled by a disturbance or are fleeing from danger. Bird collisions with power lines may occur for a variety of reasons, such as habitat, lighting, weather, bird species (body size, flight behavior, distribution and abundance, flocking behavior), and the power line configuration and location (Avian Power Line Interaction Committee [APLIC] 2012). Power lines located between feeding and roosting areas of flocking birds may present an increased collision risk, especially near rivers, lakes, or wetlands (APLIC 2014).

Lighting may result in increased collisions by attracting birds and bats to the area (lighting attracts insects), or disorienting them (birds). The lighting used may play an important role in preventing avian fatalities from night collisions with tall structures. Gehring et al. (2009) suggested that avian fatalities can be reduced, perhaps by 50 to 71 percent at guyed communication towers by removing steadily-burning red lights. Towers lit with strobe or flashing lights had less avian fatalities than non-flashing red lights (Gehring et al. 2009).

Since birds are prone to collisions with reflective surfaces, it could be expected that utility scale solar energy projects could cause bird mortality. Glare from the solar panels may confuse or disorient birds in flight, and cause it to collide with solar energy facilities or other objects. Glare may also attract birds confusing it as water, or attract insects, which attract insect eating birds, which attract predatory birds,

increasing the likeliness of collisions. Similarly, solar thermal facilities use water ponds which attract birds (and insects), thereby increasing the likeliness of collision. Operation of solar panels in PV systems could cause an increase in polarized light pollution which occurs from light reflecting off of dark colored structures. Polarized light pollution can compete with water bodies for attracting insects and birds, thereby putting birds at greater risk for collision. Further, polarized light pollution can alter the ability of wildlife to seek out suitable habitat and elude or detect the presence of predators (Horvath et al. 2009). It has also been documented that for a variety of birds and other species polarized light pollution can affect their ability to detect natural polarized light patterns in the sky which can lead to the effect on their navigation ability and ultimately effects on dispersal and reproduction (Horvath et al. 2009).

At the 10-MW Solar One facility (a 10-MW pilot thermal energy facility located in the Mojave Desert in San Bernardino County that operated from 1982 to 1988), the results of a 40-week long study indicated that much of the bird mortality consisted predominantly of collisions with the mirrored heliostats; however some were killed by burns received while flying between two standby points. The USFWS Forensics Laboratory conducted a review of bird carcasses from three solar energy facilities, and analysis of the causes of avian mortality at various types of solar facilities in 2013 (Kagan et al. unpub.). It was determined that the size and continuity of the panels may contribute to the likeliness for collisions from birds mistaking the facility for water, or affected by polarized light. Solar systems with vertically oriented, continuously placed solar panels would provide a more continuous sky/water appearance (Kagan et al. unpub.). Although bird response to glare or polarized light pollution from solar panel technology is not well understood, it is likely that large scale facilities will see an increase in birds colliding with mirrors and perish. Solar facilities containing ponds that are accessible to birds may attract birds. Birds attracted to water features become habituated to the presence of accessible aquatic environment, which may also lead to misinterpretation of the glare from the nearby solar facility (Kagan et al. unpub.).

The severity of the impact to birds from collisions would vary depending on the species and numbers of birds involved. Studies are currently being conducted to find ways to minimize collisions with solar panels by reducing the attractiveness of solar panels to polarotatic insects and/or installing visual variables to break up the reflective surface and provide a visual cue that the panel is a solid structure (Kagan et al. unpub.). Death or injury to special status birds, raptors, and other migratory birds due to collisions would be considered a significant impact.

Electrocution

Transmission tower and pole design is a major factor in the electrocution risks to birds. Electrocution occurs when a perching bird simultaneously contacts two energized phase conductors or an energized conductor and grounded hardware. This happens most frequently when a bird attempts to perch on a transmission tower/pole with insufficient clearance between these elements.

Electrocution can occur when horizontal separation is less than the distance of a bird's wingspan or where vertical separation is less than a bird's length from head-to-foot. Electrocution can also occur when birds perched side-by-side span the distance between these elements (APLIC 2006).

The majority of bird electrocutions are caused by lines that are energized at voltage levels between 1 and 60 kV, and "the likelihood of electrocutions occurring at voltages greater than 60 kV is low" because phase-to-phase and phase-to-ground clearances for lines greater than 60 kV are typically sufficient to prevent bird electrocution (APLIC 2006).

Impacts to special status birds, raptors, and other migratory birds resulting from electrocution would be considered to be a significant impact.”

The EIR describes many significant potential impacts to several protected species or those of special status.

Mitigation from the EIR and other regulations require a full project specific biological resource evaluation PRIOR TO APPROVAL. These mitigations also require evaluation for off-site impacts as well as the need to conduct the study over the course of the year to account for seasonal variations. The Draft Mitigated Negative Declaration and Staff Report contain no specific mitigation, other than a study post-permit, to prevent impacts to biological resources and protect vegetation and wildlife species. This is highly insufficient and dangerous to the protection of such resources.

The required mitigation is listed at length here to illustrate the magnitude of the lack of permit requirements that should be in place for these proposals. It is believed that Inyo County has also proceeded with REP 2021-01 without such mitigation.

MM BIO-1: Prepare project level biological resources evaluation and mitigation and monitoring plan.

Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact biological resources as determined by a qualified biologist (defined as a biologist with documented experience or training related to the subject species), a project level biological resource evaluation shall be prepared by a qualified biologist for the project. The biological resource evaluation shall include field reconnaissance and focused surveys as determined necessary by a qualified biologist to identify special status species and natural communities present or having the potential to occur on the site, an evaluation of the extent of those habitats, an evaluation of the potential for impacts to each special status species and/or habitat, and shall prescribe specific mitigation measures to avoid or reduce impacts to biological resources to the maximum extent practicable. The qualifications of any biologists conducting special status species surveys or focused habitat assessments will be submitted to CDFW prior to conducting fieldwork. The level of biological resource analysis will be based on factors such as the size of the proposed project, the and extent of impacts to biological resources, and the sufficiency of existing data to determine impacts.

An evaluation of the potential for off-site impacts to special status species and sensitive habitats will be included in the biological resources evaluation, especially for projects involving groundwater pumping. Chapter 2 of the Basin Plan protects beneficial uses for groundwater with respect to groundwater recharge and freshwater replenishment and beneficial uses for wildlife habitats and flora and fauna including cold freshwater habitat, warm freshwater habitat, wildlife habitat, rare, threatened, or endangered species, spawning, reproduction, and development, preservation of biological habitats of special significance, and migration of aquatic organisms (RWQCB 1995). A project-specific evaluation of potential impacts to beneficial uses for groundwater as specified in the Basin Plan will be included in the biological resources evaluation.

For projects with the potential to impact on- or off-site special status species or habitats as determined in the biological resources evaluation, a project-specific biological resources mitigation and monitoring plan shall be prepared in cooperation with and that meets the approval of permitting agencies. The plan shall be implemented during all phases of the project and shall identify appropriate mitigation levels to

compensate for significant direct, indirect, and cumulative impacts, including habitat, special status plant, and wildlife species losses as well as impacts to groundwater dependent vegetation or off-site impacts to special status species or sensitive habitats due to groundwater pumping. The plan shall address at a minimum:

- *Biological resource avoidance and minimization measures and mitigation, monitoring and compliance measures required by federal, state, and local applicable permitting agencies.*
- *Documentation (based on surveys) of sensitive plant and wildlife expected to be affected by all phases of the project (project construction, operation, abandonment, and decommissioning). Agencies may request additional surveying, based on the documentation or past experience working with the resources. Include measures to avoid or minimize impacts to species and habitat.*
- *A detailed description of measures to minimize or mitigate permanent and temporary disturbances from construction activities.*
- *All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction.*
- *Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities.*
- *Duration for each type of monitoring and a description of monitoring methodologies and frequency.*
- *Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful.*
- *All standards and remedial measures to be implemented if performance standards and criteria are not met.*
- *A closure/decommissioning or abandonment plan, including a description of funding mechanism(s).*
- *A process for proposing plan modifications to the County project manager.*

MM BIO-2: Minimize impacts to special status plants.

- *Prior to the approval of any solar development projects or related infrastructure under the REGPA, a CDFW-approved botanist shall evaluate the potential for special status plant species to occur on the site and conduct surveys, if necessary, to determine presence or infer absence of special status plants on the site following the November 24, 2009 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities or the most current guidelines. When special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, to the maximum extent feasible, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs. with the potential to impact special status plant species as determined by a qualified biologist/botanist, a qualified botanist shall determine the presence or absence of special status plants within the project site. The following steps shall be implemented to document special-status plants, as determined necessary by the botanist:*
- *Review Existing Information. The botanist shall review existing information to develop a list of special status plants that could grow in the specific project area. Sources of information*

consulted shall include CDFW's CNDDDB, the CNPS electronic inventory, and previously prepared environmental documents. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of sensitive plants from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.

- *Coordinate with Agencies. The botanist shall coordinate with the appropriate agencies (i.e., CDFW and USFWS) to discuss botanical resource issues and determine the appropriate level of surveys necessary to document special status plants*
- *Conduct Field Studies. The botanist shall evaluate existing habitat conditions for each project and determine what level of botanical surveys may be required. The type of botanical survey shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on these factors and the proposed construction activity, one or a combination of the following levels of survey may be required:*
 - *Habitat Assessment. A habitat assessment shall be conducted to determine whether suitable habitat is present. This type of assessment can be conducted at any time of year and is used to assess and characterize habitat conditions and determine whether return surveys are necessary. If no suitable habitat is present, no additional surveys shall be required.*
 - *Species-Focused Surveys. Species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status plants. The surveys shall focus on special status plants that could grow in the region, and would be conducted during a period when the target species are evident and identifiable.*
 - *Floristic Protocol-Level Surveys. Floristic surveys that follow the CNPS Botanical Survey Guidelines shall be conducted in areas that are relatively undisturbed and/or have a moderate to high potential to support special status plants. The CNPS Botanical Survey Guidelines require that all species be identified to the level necessary to determine whether they qualify as special status plants, or are plant species with unusual or significant range extensions. The guidelines also require that field surveys be conducted when special status plants that could occur in the area are evident and identifiable. To account for different special status plant identification periods, one or more series of field surveys may be required in spring and summer months.*
- *Map Special Status Plants. Special status plant populations identified during the field surveys shall be mapped and documented as part of the CEQA process, as applicable. Project development plans shall consider avoidance to the extent practicable. If avoidance is not practicable while otherwise obtaining the projects objectives, then other suitable measures and mitigation shall be implemented in coordination with the appropriate regulatory agency (i.e., USFWS, CDFW, BLM).*
- *If special status plants are identified in the project area and complete avoidance of direct and indirect impacts is not feasible as determined by the County, the following measures shall be implemented to avoid and minimize impacts on special status plants:*
 - *The project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, if feasible.*
 - *If feasible, when special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs.*

- *For projects that are determined to have the potential to result in “take” of state or federally-listed plant species, consultation shall be conducted with CDFW or USFWS respectively prior to project commencement, and appropriate mitigation measures developed if necessary..*
- *Special status plants near the project site shall be protected by installing environmentally sensitive area fencing (orange construction barrier fencing) around special status plant populations. The environmentally sensitive area fencing shall be installed at least 20 feet from the edge of the population. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within the fenced environmentally sensitive area.*
- *No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. If When individuals of a special status species occur within an area proposed for construction and take cannot be avoided, avoidance of special status plants is not feasible, mitigation shall be developed in coordination with USFWS and/or CDFW to reduce impacts on the local population of the special status species. No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. Mitigation measures approved by USFWS and/or CDFW may include transplantation If individuals of a special status species occur within an area proposed for construction and take cannot be avoided, the plants shall be transplanted under the direction of a qualifiedCDFW-approved botanist if transplantation of such species is deemed likely to succeed, or seed shall be collected prior to destruction of the plants and dispersed in suitable habitats not impacted by construction, if such habitats exist and seed collection is deemed likely to be successful by a qualifiedCDFW-approved botanist with experience propagating the species in question. In all cases, CDFW will be notified at least 10 days prior to removal of any special status plant to allow transplantation or collection of seed at their discretion.*
- *If transplanting is proposed, the botanist shall coordinate with the appropriate resource agencies and local experts to determine whether transplantation is feasible. If the agencies concur that transplantation is a feasible mitigation measure, the botanist shall develop and implement a transplantation plan through coordination with the appropriate agencies. The special status plant transplantation plan shall involve identifying a suitable transplant site; moving some or all of the plant material and seed bank to the transplant site; collecting seed material and propagating it in a nursery (in some cases it is appropriate to keep plants onsite as nursery plants and sources for seed material); and monitoring the transplant sites to document recruitment and survival rates. Monitoring shall be conducted for a period of five years and transplantation shall be considered successful if an 80 percent survival rate has been achieved by the end of the five-year monitoring period.*
- *A mitigation and monitoring plan shall be developed by a qualified botanist/ restoration ecologist and submitted to CDFW for approval prior to approval of the proposed project. The mitigation and monitoring plan will dictate appropriate avoidance and minimization measures, compensatory mitigation, and monitoring requirements as pertinent to the specific species and level of impact(s). Mitigation shall include, but is not limited to 1) protection of special status plant populations not directly impacted by construction or implementation of the project as stated above; 2) transplantation and/or collection of seed from impacted plants if feasible, as stated above; and 3) the preservation in perpetuity of an equivalent or larger off-site population for every individual or population of special status plant impacted including sufficient land surrounding the preserved population to ensure its survival in perpetuity as determined by a*

qualified botanist/ restoration ecologist. The qualified botanist/ restoration ecologist shall include plans to restore and enhance the preserved populations to the extent feasible.

MM BIO-3: Minimize impacts to special status wildlife.

- *Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact special status wildlife as determined by a qualified biologist, a qualified CDFW-approved wildlife biologist shall conduct a survey to document the presence or absence of suitable habitat for special status wildlife in the project site. The following steps shall be implemented to document special status wildlife and their habitats for each project, as determined by the CDFW-approved wildlife biologist:*
- *Review Existing Information. The wildlife biologist shall review existing information to develop a list of special status wildlife species that could occur in the project area or be impacted by the proposed project, either directly or indirectly (e.g., groundwater pumping could result in indirect impacts to off-site habitats for special status wildlife). The following information shall be reviewed as part of this process: the USFWS special status species list for the project region, CDFW's CNDDDB, previously prepared environmental documents, and USFWS issued biological opinions for previous projects. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of special status wildlife from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.*
- *Coordinate with State and Federal Agencies. The wildlife biologist shall coordinate with the appropriate agencies (CDFW, USFWS, BLM) to discuss wildlife resource issues in the project region and determine the appropriate level of surveys necessary to document special status wildlife and their habitats.*
- *Conduct Field Studies. The wildlife biologist shall evaluate existing habitat conditions and determine what level of biological surveys may be required. The type of survey required shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on the existing conditions in the project area and the proposed construction activity, one or a combination of the following levels of survey may be required:*
- *Habitat Assessment. A habitat assessment determines whether suitable habitat is present. The wildlife biologist shall conduct project-specific habitat assessments consistent with protocols and guidelines issued by responsible agencies for certain special status species. (e.g., USFWS' and CDFW have issued protocols for evaluating bald eagle habitat (2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California). Habitat assessments are used to assess and characterize habitat conditions and to determine whether return surveys are necessary. If no suitable habitat is present for a given special status species, no additional species-focused or protocol surveys shall be required.*
- *Species-Focused Surveys. Project-specific species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status wildlife and if it is necessary to determine the presence or absence of the species in the project area. The wildlife biologist shall conduct project-specific surveys focusing on special status wildlife species that have the potential to occur in the region. The surveys shall be conducted during a period when the target species are present and/or active.*
- *Protocol-Level Wildlife Surveys. The wildlife biologist shall conduct project specific protocol level surveys for special status species with the potential to be impacted by the proposed project.*

The surveys shall comply with the appropriate protocols and guidelines issued by responsible agencies for the special status species. USFWS and CDFW have issued survey protocols and guidelines for several special- status wildlife species that could occur in the project region, including (but not limited to): bald eagle, burrowing owl, golden eagle, Swainson's hawk, least Bell's vireo, willow flycatcher, desert tortoise, and San Joaquin desert kit fox. The protocols and guidelines may require that surveys be conducted during a particular time of year and/or time of day when the species is present and active. Many survey protocols require that only a USFWS- or CDFW-approved biologist perform the surveys. The project proponent shall coordinate with the appropriate state or federal agency biologist before the initiation of protocol-level surveys to ensure that the survey results would be valid. Because some species can be difficult to detect or observe, multiple field techniques may be used during a survey period and additional surveys may be required in subsequent seasons or years as outlined in the protocol or guidelines for each species.

- *Habitat Mapping. The wildlife biologist shall map special status wildlife or suitable habitat identified during the project-specific field surveys.*
- *A Scientific Collecting Permit is required to take, collect, capture, mark, or salvage, for scientific, educational, and non-commercial propagation purposes, mammals, birds and their nests and eggs, reptiles, amphibians, fishes and invertebrates (Fish and Game Code Section 1002 and Title 14 Sections 650 and 670.7). All biologists will be required to obtain a Scientific Collecting Permit that may be required to handle any live or dead animals during construction or operation of a project.*
- *In addition, the following measures should be implemented to avoid and minimize impacts on special status species and their habitats if they occur within a site:*
- *For projects that are determined to have the potential to result in "take" of state or federally-listed animal species, consultation shall be conducted with CDFW or USFWS respectively and appropriate mitigation measures developed as necessary, and take authorization shall be obtained prior to project commencement, if relevant.*
- *Any special status wildlife and/or their habitats identified within a project site outside of the work area will be protected by installing environmentally sensitive area fencing around habitat features, such as seasonal wetlands, burrows, and nest trees. The environmentally sensitive area fencing or staking shall be installed at a minimum distance from the edge of the resource as determined through coordination with state and federal agency biologists (USFWS and CDFW, BLM). The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction- related activities, vehicle operation, material and equipment storage, and other surface- disturbing activities within the fenced environmentally sensitive area.*
- *If ground disturbing activities are required prior to site mobilization, such as for geotechnical borings or hazardous waste evaluations, a qualified CDFW-approved biologist shall be present to monitor any actions that could disturb soil, vegetation, or wildlife.*
- *In areas that could support desert tortoise or any other sensitive wildlife species, a County-approved qualified biologist with the appropriate CDFW and/or USFWS approvals for the species being salvaged and relocated shall be onsite and respond accordingly should an animal need to be relocated. walk immediately ahead of equipment during the clearing and grading activities to salvage and relocate the wildlife in the path of the operations. The species shall be*

salvaged and relocated to off-site habitat when conditions will not jeopardize the health and safety of the biologist.

- *Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. Vehicles shall not exceed 25 mph on the project site. Vehicles shall abide by posted speed limits on paved roads.*
- *For projects with the potential to affect desert tortoise, parking and storage shall occur within the area enclosed by desert tortoise exclusion fencing to the extent feasible. No vehicles or construction equipment parked outside the fenced area shall be moved prior to an inspection of the ground beneath the vehicle for the presence of desert tortoise. If a desert tortoise is observed, it shall be left to move on its own. If it does not move within 15 minutes, a CDFW and USFWS approved desert tortoise biologist may remove and relocate the animal to a safe location if temperatures are within the range described in the Desert Tortoise Field Manual (USFWS 2013 or most recent version, available from the Ventura Fish and Wildlife Office website <http://www.fws.gov/ventura/angered/species/surveys-protocol.html>). All access roads outside of the fenced project footprint shall be delineated with temporary desert tortoise exclusion fencing on either side of the access road, unless otherwise authorized by the County project manager and County biologist.*
- *A qualified CDFW-approved biologist shall be designated to oversee compliance with biological resources avoidance and minimization measures during mobilization, ground disturbance, grading, construction, operation, and closure/decommissioning, or project abandonment, particularly in areas containing or known to have contained sensitive biological resources, such as special status species and unique plant assemblages. The qualified CDFW-approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The boundaries of all areas to be disturbed (including staging areas, access roads, and sites for temporary placement of spoils) shall be delineated with stakes and flagging prior to construction activities in consultation with the biological monitor. Spoils shall be stockpiled in disturbed areas lacking native vegetation and which do not provide habitat for special status species. Parking areas, staging and disposal site locations shall also be located in areas without native vegetation or special status species habitat. All disturbances, vehicles, and equipment shall be confined to the flagged areas. The qualified CDFW-approved biologist shall be responsible for actions including, but not limited to, the following:*
 - *Clearly marking sensitive biological resource areas and inspecting the areas at appropriate intervals for meeting regulatory terms and conditions.*
 - *Inspecting, daily, active construction areas where wildlife may have become trapped (for example, trenches, bores, and other excavation sites that constitute wildlife pitfalls outside the permanently fenced area) before beginning construction. At the end of the day, conducting wildlife inspections of installed structures that would entrap or not allow escape during periods of construction inactivity. Periodically inspecting areas with high vehicle activity (such as parking lots) for wildlife in harm's way.*
 - *Periodically inspect stockpiled material and other construction material and equipment (including within the fenced areas) throughout the day as some species such as desert kit fox may enter the project site at any time.*
 - *Overseeing special status plant salvage operations.*
 - *Immediately recording and reporting hazardous spills immediately as directed in the project hazardous materials management plan.*

- *Coordinating directly and regularly with permitting agency representatives regarding biological resources issues, and implementation of the biological resource avoidance and minimization measures.*
- *Maintaining written records regarding implementation of the biological resource avoidance and minimization measures, and providing a summary of these records periodically in a report to the appropriate agencies.*
- *Notifying the project owner and appropriate agencies of non-compliance with biological resource avoidance and minimization measures.*
- *At the end of each work day, the biological monitor shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled or if backfilling is not feasible, the biological monitor shall ensure that all trenches, bores, and other excavations are sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with desert tortoise-exclusion fencing. All trenches, bores, and other excavations outside the areas permanently fenced with desert tortoise exclusion fencing shall be inspected periodically, but no less than three times, throughout the day and at the end of each workday by the qualified CDFW-approved biologist. Should a tortoise or other wildlife become trapped, the CDFW and USFWS-approved desert tortoise biologist shall remove and relocate the individual as described in the project's Desert Tortoise Relocation/Translocation Plan. Any wildlife encountered during the course of construction shall be allowed to leave the construction area unharmed.*
- *Any construction pipe, culvert, or similar structure with a diameter greater than 3 1 inches, stored less than 8 inches aboveground, and within desert tortoise habitat (i.e., outside the permanently fenced area) for one or more nights, shall be inspected by the biological monitor for desert tortoises or other special status species such as fringe-toed lizard, before the material is moved, buried, or capped. As an alternative, all such structures may be capped before being stored outside the fenced area, or placed on pipe racks. These materials would not need to be inspected or capped if they are stored within the permanently fenced area after the clearance surveys have been completed.*
- *Access roads, pulling sites, storage and parking areas outside of the fenced solar facility area shall be designed, installed, and maintained with the goal of minimizing impacts to native plant communities and sensitive biological resources. Transmission lines and all electrical components shall be designed, installed, and maintained in accordance with the APLIC Suggested Practices for Avian Protection on Power Lines (APLIC 2006) and Mitigating Bird Collisions with Power Lines (APLIC 2004) to reduce the likelihood of bird electrocutions and collisions.*
- *Facility lighting shall be designed, installed, and maintained to direct light downwards towards the project site and avoid light spillover to wildlife habitat.*
- *Construction and operation related noise levels shall be minimized to minimize impacts to wildlife.*
- *All vertical pipes greater than 4 inches in diameter shall be capped to prevent the entrapment of birds and other wildlife.*
- *All vehicles and equipment shall be maintained in proper working condition to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials. The biological monitor shall be informed of any hazardous spills immediately. Hazardous spills shall be immediately cleaned up and the contaminated soil properly disposed of at a licensed facility. Servicing of construction equipment shall take place*

only at a designated area. Service/maintenance vehicles shall carry a bucket and pads to absorb leaks or spills.

- *Road surfacing and sealants as well as soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants. Anticoagulants shall not be used for rodent control. Pre-emergents and other herbicides with documented residual toxicity shall not be used. Herbicides shall be applied in conformance with federal, state, and local laws and according to the guidelines for wildlife- safe use of herbicides in BIO-24 (Weed Management Plan).*
- *The following measures shall be implemented to minimize attractants to wildlife:*
- *If the application of water is needed to abate dust in construction areas and on dirt roads, use the least amount needed to meet safety and air quality standards and prevent the formation of puddles, which could attract wildlife to construction sites. The biological monitor shall patrol these areas to ensure water does not puddle and attract desert tortoise, common ravens, and other wildlife to the site and shall take appropriate action to reduce water application where necessary.*
- *Water shall be prohibited from collecting or pooling for more than 24 hours after a storm event within the project retention basin. Standing water within the retention basin shall be removed, pumped, raked, or covered. Alternative methods or the timeframe for allowing the water to pool may be modified with the approval of the biological monitor.*
- *Dispose trash and food-related items in self-closing, sealable containers with lids that latch to prevent wind and wildlife from opening containers. Empty trash containers daily and remove from the project site those associated with construction when construction is complete*
- *To avoid attracting insectivorous birds and bats, prepare a facility vector (such as mosquitoes or rodents) control plan, as appropriate, that meets the permitting agency approval and would be implemented during all phases of the project.*
- *Workers or visitors, while on project property, shall be prohibited from feeding wildlife, bringing domestic pets to the project site, collecting native plants, or harassing wildlife.*
- *To reduce the potential for the transmission of fugitive dust the project proponent shall implement dust control measures. These shall include:*
- *The project proponent shall apply non-toxic soil binders, equivalent or better in efficiencies than the CARB- approved soil binders, to active unpaved roadways, unpaved staging areas, and unpaved parking area(s) throughout construction to reduce fugitive dust emissions.*
- *Water the disturbed areas of the active construction sites at least three times per day and more often if uncontrolled fugitive dust is noted. Enclose, cover, water twice daily, and/or apply non-toxic soil binders according to manufacturer's specifications to exposed piles with a 5 percent or greater silt content. Agents with known toxicity to wildlife shall not be used unless approved by the County biologist and County project manager.*
- *Establish a vegetative ground cover (in compliance with biological resources impact mitigation measures above) or otherwise create stabilized surfaces on all unpaved areas at each of the construction sites within 21 days after active construction operations have ceased.*
- *Increase the frequency of watering, if water is used as a soil binder for disturbed surfaces, or implement other additional fugitive dust mitigation measures, to all active disturbed fugitive dust emission sources when wind speeds (as instantaneous wind gusts) exceed 25 mph.*
- *A project-specific worker environmental awareness program (WEAP) shall be developed and carried out during all phases of the project (site mobilization, ground disturbance, grading, construction, operation, closure/decommissioning, or project abandonment, and restoration/reclamation activities). The WEAP shall include the biological resources present and*

the measures for minimizing impacts to those resources. Interpretation for non-English speaking workers shall be provided, and all new workers shall be instructed in the WEAP. The project field construction office files will contain the names of onsite personnel (for example, surveyors, construction engineers, employees, contractors, contractor's employees/ subcontractors) who have participated in the education program. All employees and contractors shall be trained to carry out the WEAP and on their role in ensuring the effectiveness of implementing the Plan. At a minimum, the WEAP shall including the following:

- *Photos and habitat descriptions for special status species that may occur on the project site and information on their distribution, general behavior, and ecology.*
- *Species sensitivity to human activities.*
- *Legal protections afforded the species. o Project measures for protecting species.*
- *State and federal law violation penalties.*
- *Worker responsibilities for trash disposal and safe/ humane treatment of special status species found on the project site, associated reporting requirements, and specific required measures to prevent taking of threatened or endangered species.*
- *Handout materials summarizing the contractual obligations and protective requirements specified in project permits and approvals.*
- *Project site speed limit requirements and penalties.*
- *A project specific restoration, re-vegetation, and reclamation plan that meets the approval of permitting agencies shall be prepared and carried out for all projects. The plan shall address at a minimum:*
- *Minimizing natural vegetation removal and the consideration of cutting or mowing vegetation rather than total removal, whenever possible.*
- *Salvage and relocation of cactus and yucca from the site before beginning construction.*
- *Identification of protocols to be used for vegetation salvage.*
- *Reclaiming areas of temporarily disturbed soil using certified weed free native vegetation and topsoil salvaged from excavations and construction activities.*
- *Restoration and reclamation of temporarily disturbed areas, including pipelines, transmission lines, staging areas, and temporary construction-related roads as soon as possible after completion of construction activities. The actions are recommended to reduce the amount of habitat converted at any one time and promote recovery to natural habitats.*
- *Specifying proper seasons and timing of restoration and reclamation activities to ensure success.*

BIOLOGICAL RESOURCES CONCLUSION

The EIR requires the Inyo County to prepare biological inventories and studies prior to permit approval. Further, it also requires extensive mitigation during construction and operation that is not apparent in the proposed permit documents. Based on daily observations of the site, it appears that much of the wildlife and vegetation mitigation described by the EIR has not been implemented during REP 2021-01 construction and operation. Such things as turtle fences, and other similarly observable mitigation have not been in apparent use. Inyo County's adherence to the mitigation listed in EIR for biological resources is highly in question.

The Inyo County allowance of pre-permit wildlife and vegetation destruction is in complete violation of its objectives to avoid and minimize environmental impacts, in violation of state and federal laws, and could include a take of a protected species. Such impacts that may have already been caused by this pre-permit activity are enumerated in the EIR analysis of impacts included above.

13.) Road Planning is not considered. Inyo County provides no support or analysis of road traffic changes that would result from the proposed projects. It is likely these roads will be the same as those used by adjacent residents. It is unclear how the developer will use these roads resulting in an increase in overall traffic and greater use by heavy equipment and large trucks. It is unclear if the developer/operator will have to comply with speed limits or other traffic control measures will be put in place to protect workers and the public. Of particular concern is access on and off the highway for which no planning is apparent. All three homes immediately adjacent to these projects are often occupied by children who use the area for play and recreation. How are they going to be protected?

Mitigation from the EIR requires development of traffic control plans. These would be especially useful and applicable for the proposed projects. This analysis should be done prior to issuance of permits.

MM TRA-1: Prepare site-specific traffic control plans for utility scale projects.

Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.

MM TRA-2: Implement recommendations from traffic impact analysis on surrounding roadways and intersections.

Site-specific construction traffic impact analyses shall be prepared for all proposed utility scale solar energy projects within the individual SEDAs and the OVSA to evaluate potential traffic impacts on surrounding roadways and intersections during the construction period, including wear and tear on County roads. Applicable results and recommendations from the project-specific construction traffic impact analysis shall be implemented during the appropriate construction phase to address identified potential construction traffic impacts.

14.) Impacts to Recreational Use are not fully considered and some are expected. I think it would be fair to say that OHV is one of the main recreation activities of the community and an important one for nearly all the local community, including Trona's youth who do not have a lot of other opportunities for sport and outdoor recreation. One of these is BLM trail, P105, that passes through the middle of both proposed projects. This trail is the only one following the existing right of way and is the main access to desert riding from Trona into the open riding areas in the north. Is this important trail now going to be blocked? Such a blockage would create a negative impact to OHV use and could in use of the highway.

15.) Cumulative Impacts

There are currently three new Renewable Energy permits proposed before Inyo County. This includes REP 2022-01 and REP 2022-02 of about 20 acres herein as well as a more recent 10 acres from SBC investments. These both expand significantly beyond the approximately 10 acres developed for REP 2021-01. This would create a total of about 40 acres spread across the area should these projects move forward. These projects clearly show an increasing impact to the Rural Residential parcels at the south end of the Trona SEDA. As a result, Inyo County has not performed the necessary assessment for this overall arrangement and cumulative impacts of all of these project areas that is now necessary. The current Draft Mitigated Negative Declarations/Staff Report are insufficient to cover assessment of all of

these projects as a whole. Impacts would expect to be greatly amplified by this piecemeal approach of the solar development. Reasons have been provided why the trend for use of rural residential would be expected to increase and assessment of a full 600 acre development focused on these RR parcels could be necessary. Such an updated assessment would need to account for the alternative of using other non-rural residential parcels in the Trona SEDA for solar.

What all this means is that this Rural Residential zoned area will be irrevocably damaged in a way that is not in the interest of the public and Inyo County. The approach being taken will destroy wildlife, vegetation, and any enjoyable use of rural housing in the area. This housing provides a unique lifestyle connected to the outdoors. Instead, Inyo County would be serving only the pocketbook of just one individual if it approves these permits. Trona is a uniquely rare and unusually wild place to live that should be preserved. Inyo County needs to deny the permits proposed for Renewable Energy Develop herein, rewrite its REGPA, and remove all rural residential parcels from the Trona SEDA.

16.) Inyo county needs to assess visual impacts from the visual perspective of residents living in proximity to the proposed projects. As such a resident, from my analysis these impacts would be severe and significantly detrimental to quality of life. From my home, there are impressive views of the Trona Pinnacles and several scenic surrounding mountain ranges including Telescope Peak which would be interrupted. Unlike what is required by the REGPA, there is no benefit provided by REP 2022-01 or REP 2022-02 offsetting this.

17.) Based on previous emails, I remove the confidentiality requirement included on previous comments such that these comments may be shared within the planning department and with the board of supervisors.

18.) The developer continues to do pre-permit construction efforts. This includes stockpiling of limestone gravel at the proposed project site. This should not be allowed given this permit is currently being considered. Inyo County has previously been notified of such activity which is not allowable under several laws and regulations and therefore is complicit in such activity. The attached pictures were taken on April 24, 2023.



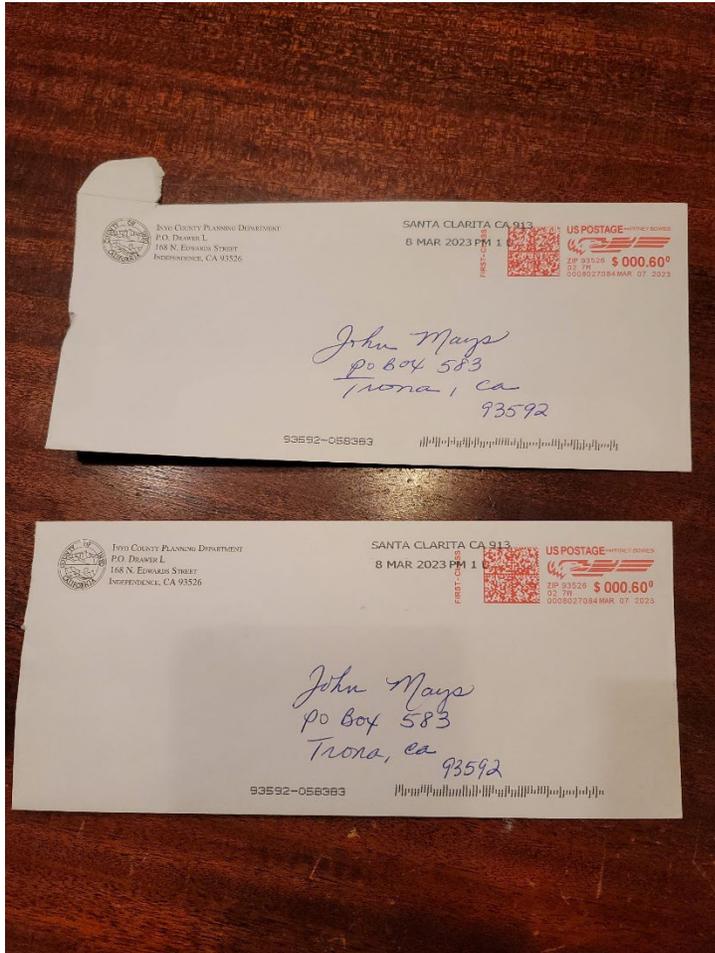
March 21, 2022

Attachments for John Mays Comments on REP 2022-01 and REP 2022-02

- 1.) Photo of delivery method of hearing notices
- 2.) Satellite Photo and Map of Local Project Area
- 3.) Satellite Photo showing relationship of the project areas and town of Trona
- 4.) 2016 satellite photo
- 5.) 2018 satellite photo
- 6.) 2020 satellite photo
- 7.) January 13, 2022 Photo of pre-permit site grading as delivered to Planning dept.
- 8.) March 19, 2023 set of 8 recent photos showing pre-permit vegetation destruction
- 9.) November 30, 2021 Photo of dust emissions as delivered to Planning dept.
- 10.) December 6, 2021 set of two photos showing repeated dust emissions and lack of dust control measures
- 11.) January 21, 2022 set of five photos showing dust plume impacting a number of local homes and Trona
- 12.) March 19, 2023 image of viewshed from Mays Residence towards existing and proposed solar development.
- 13.) Entrance to the REP 2021-01
- 14.) March 21, 2023 Photos of Solar Facilities in the California City Area
- 15.) March 21, 2023 Photos of Ricardo/Cantil CA
- 16.) Emails with Inyo County Planning and Great Basin Unified Air Pollution

Please note that the resolution here in a Word document is not as good as in the actual photos but meant to inform in short time frame that was available to prepare these comments. All photos and video can be provided including many additional ones on different days.

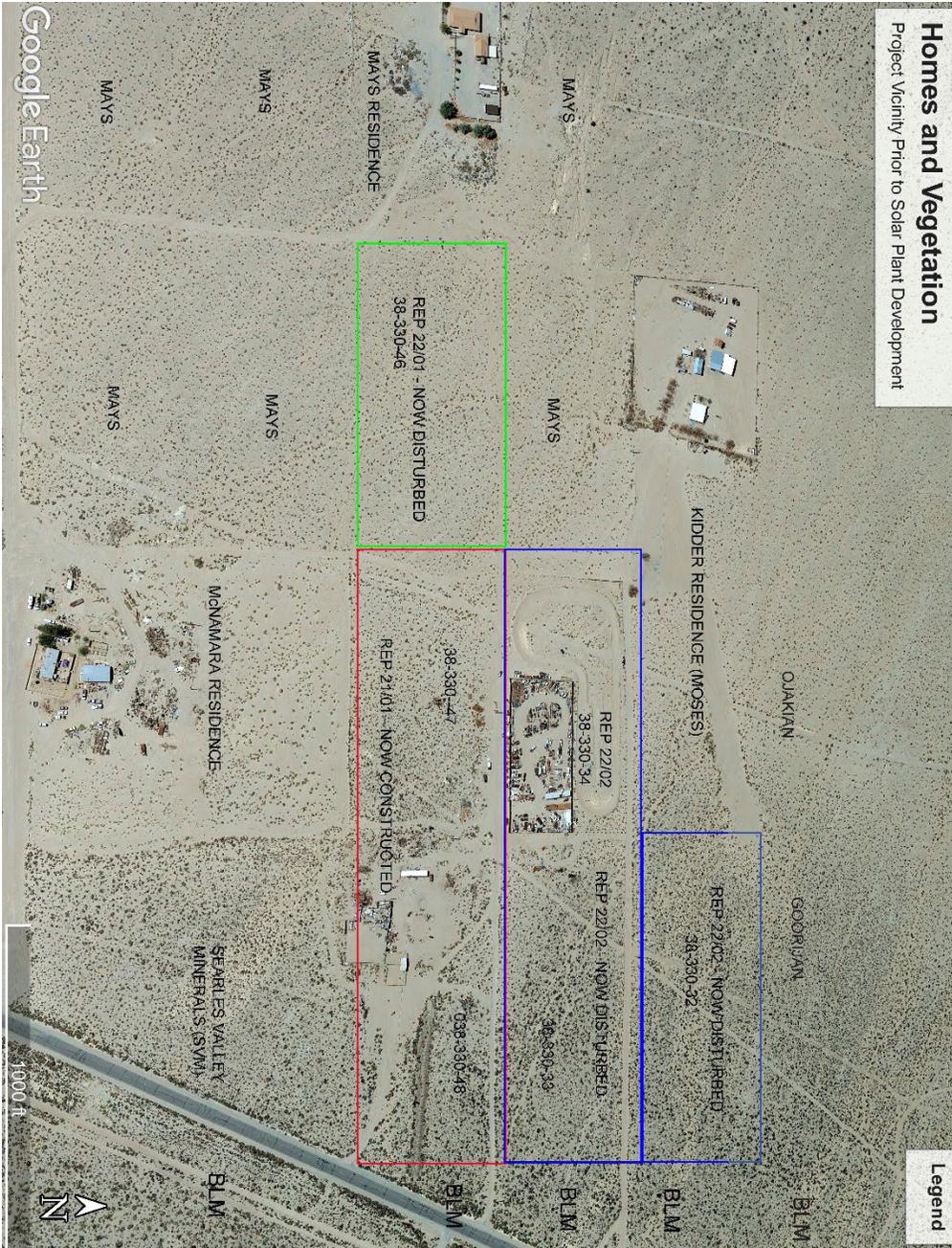
Hearing Notice Envelopes as delivered. How does Inyo County know these were even delivered? Note the date March 8, 2023. These were mailed just two weeks before the final hearing and could have easily been not received in time or lost. This is not proper notification.



Satellite Photo showing relationship of the homes in Trona and the Trona Airport. These homes are approximately 3300 ft from the proposed Renewable Energy Projects and in the primary down wind direction. There are also multiple residences between the REPs and the Pioneer Point (a community of Trona).



Local Map of Homes and Project area prior to all Disturbances for Renewable Energy development (1985) Boundary locations are very approximate for informative purposes.



2016 Satellite Photo – Note Parcel 38-330-47 is not disturbed as about half of 38-330-48 is not disturbed



2018 Satellite Photo – note that the developer has begun wholesale stripping of 38-330-47 and 38-330-48 prior to the permit which was issued in 2021 – no air permits in place. Also, small sand dune formation now that the properties are barren of vegetation.



2020 Satellite Photo – Note the complete lack of protective vegetation absent an air permit now two years later in the area of the REP 2021-01 and prior to its approval. Parcels for the 38-330-46, 38-330-32, 38-330-33 of REP 2022-01 and REP 2022-02 are undisturbed and indistinguishable from undisturbed land with clear presence of large scrub brush.



Photo of pre-permit scraping efforts underway sent to Inyo County Planning Department on Jan 13, 2022. View from Mays Residence. Note the new absence of the large brush which can be seen from aerial photos.



March 19 Photo at Ground Level looking East across Permit area of REP 2022-01 after stripping of land. Note the large depth at which the grading dug into the topsoil.



March 19, 2023 Photo looking west across permit area for REP 2022-01. Note extensive vegetation destruction. Note that the developer pushed soil onto the neighbor's land.



March 19, 2023 Photo looking north across permit area for REP 2022-01 with the Kidder (Moses) residence in the background



March 19, 2023 Photo construction of fence for REP 2021-01 within the right-away between 38-330-47 and 38-330-46. Fence sits right on property line shown by stakes in the foreground. Road moved to the west.



March 19, 2023 looking South across permit area for REP 2022-02. Note extensive vegetation destruction. And lack of scrub brush. The constructed REP 2021-01 in the background.



March 19, 2023 photo looking east across Permit Area for REP 22-02 with Kidder (Moses) residence in the background. This is along the access road to the Kidder residence which has been in place for 60 years and is a well-established road. Note the size of the brush in foreground which is located on BLM surface. This brush has been destroyed by pre-permit scraping and was present fully across 38-330-33 and 38-330-32 prior. Note materials left on the property.



Photo of Dust Emissions from REP 2021-01 Construction provided to Inyo County Planning Department on November 30, 2021. Note the inundated McNamara residence and plume spread at distance throughout the valley. Zoom provided.



Photos of Dust Emissions from REP 2021-01 Construction on December 6, 2021 provided to Inyo County Planning Department and Great Basin Unified Air Pollution District



Photos of Dust Emissions from REP 2021-01 Construction on December 6, 2021 provided to Inyo County Planning Department and Great Basin Unified Air Pollution District. This sort of activity occurred for many months prior to being reported.



January 21, 2022 Photo sequence from video sent to Inyo County Planning and Great Basin Unified Air Pollution District of massive dust emissions from the permit areas of REP 2022-01, 2022-02, and 21-01 during high winds. This is looking east from the Mays Residence and the dust has occluded the fence (see previous January 13, 2021 photo with scraper for reference)



Comparative photo from the same location (March 20, 2023)



Second Photo in the series note that the McNamara residence and another residence is not visible in the dust cloud. A tree by the residence can be seen.



Comparative Photo in from the same location (March 20, 2023). Zoom shows two residences.



Third Photo from video. There are two additional residences which cannot be seen because of the dust cloud. One of these has subsistence agriculture.



Comparative Photo (same as before) with Zoom of another residence on the right.



Fourth photo from the video. The dust hides another residence due south from the Mays residence. Homes in Trona would normally be visible here and are being inundated with dust.



Comparative Photo from the same location (March 20, 2023) Note number of structures and homes which are not visible due to the concentration of the dust cloud. Homes in the community of Trona area visible along the tree line though this is a little hard to see at this resolution.



Fifth photo from the video. This shows edge of the dust plume off in the distance. This dust was found blanketing the street in front of the Trona Post office 4 miles away and as well as the Trails Drive-In. Note this is only a brief clip of the entire video and one of several other days of other similar events that have been photographed and recorded.



Comparative photo taken in the same location (March 20,2023) Note there is a full-time resident in the “junk yard” that is the first structures from this direction.



Picture from Mays Residence west towards REP 2022-01 that is yet constructed and REP 2021-01 as built.



March 21, 2023 Photo Entrance to the REP 2021-01. Please note the material pushed on adjacent land as well as trash And destroyed culvert. Also, the gate allows people and animals to enter. My dog got through there once. This can trap wildlife.



March 21, 2023 Photo of Solar Facilities Near California City. Note the proper gates and hotline phone number. Neuralia Road



March 21, 2023 Photos of Solar Facilities near California City. Note the lighted warning signs for blowing dust and sand and there are many of them along Neuralia Road which passes by a large number of solar facilities.



March 21, 2023 Photos of windblown sand at solar facilities near California City right adjacent to Neuralia Road. Apparent mitigation measures here appear to include scaping away of the dust outside of the fence.



Another similar photo.



March 21, 2023 Photos Of Ricardo/Cantil CA. Note that this town has been buried by blowing dust often a few feet in depth and sometime several feet.. A solar plant is immediately adjacent to the community; however, these photos are at a good distance away at the far end of the community estimated about thousand feet or downwind. Solar facilities can be seen in the background.



Another Photo. The solar facility can be seen at the end of the road in the picture. Note massive sand accumulation.



Another photo with solar cells in the background. Trees indicate the direction of the wind as coming from solar facility.



Another Photo showing the position of the Solar Facility relative to the community.



Emails

Gmail - RE: [Contact Information] Trona Solar Plant Construction

3/21/23, 7:26 AM



John Mays <johnmays1@gmail.com>

RE: [Contact Information] Trona Solar Plant Construction

Matt Kingsley <mkingsley@inyocounty.us>
To: "johnmays1@gmail.com" <johnmays1@gmail.com>

Tue, Nov 30, 2021 at 3:27 PM

John, yes I remember you and thank you for contacting me. I am forwarding your questions and concerns to Cathreen Richards (Inyo Co. Planning Dept. Director) and Phill Kadoo (Great Basin Air Pollution Control Officer). I will encourage both to contact you directly. If you do not hear from them in the next couple of days, please call or email to follow up.

Matt

From: web.noreply
Sent: Tuesday, November 30, 2021 12:51 PM
To: Matt Kingsley
Subject: [Contact Information] Trona Solar Plant Construction

John Mays (not verified) (johnmays1@gmail.com) sent a message using the contact form at <https://www.inyo-county.us/contact-information>.

The sender's name
John Mays
The sender's email
johnmays1@gmail.com
Subject
Trona Solar Plant Construction
Comment or Question
Mr. Kingsley,

Good afternoon, I don't know if you remember me but I met you a meeting at the Trona airport last year.

I live very near a solar facility currently under construction just outside of Trona. The owner of the facility told me today that he recent purchased the property adjacent (parcel #036-330-46) to my home (parcel #036-330-45) and will begin striping and fencing the property for additional solar use. My question to you is the new property been permitted yet for this activity. My concern is that removing the vegetation on a large area will create a large amount of windblown dust, particularly on windy days and this also significantly change the appearance of the area where we live. There are several residential homes currently occupied by families immediately surrounding the project.

Additionally, we have already had significant amounts of dust coming from the current construction over the last several months. I have attached a picture of this activity from a couple months ago. They currently have a scraper in operation at the moment within the solar project.

I would sincerely appreciate your attention to this matter.

Sincerely,

John Mays
720-415-0426
Contact ID:
contact-522
Images
[looking east from my residence]

Cathreen Richards <crichards@inyocounty.us>
To: "johnmays1@gmail.com" <johnmays1@gmail.com>
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Good afternoon, Mr. Mays

The properties you are inquiring about, have a permit for a 2MW solar facility (it is for two lots). The permit was granted in late March of this year.

The dust issues will need to be reported to the Great Basin Unified Air Pollution Control District. I will forward your complaint to them as well.

If you have additional questions regarding the permit, please feel free to contact me at:

Cathreen Richards, Planning Director
Inyo County Planning Department
PO Drawer L, Independence, CA 93826
Phone: 760-878-0447
Email: crichards@inyocounty.us

From: web@nrc.org
Sent: Tuesday, November 30, 2021 2:51 PM
To: Matt Kingley
Subject: [Contact Information] Trona Solar Plant Construction

John Mays (not verified) (johnmays1@gmail.com) sent a message using the contact form at <https://www.innocounty.us/contact-information>.

The sender's name

John Mays

The sender's email

johnmays1@gmail.com

Subject

Trona Solar Plant Construction

Comment or Question

Mr. Kingley,

Good afternoon. I don't know if you remember me but I met you a meeting at the Trona airport last year.

I live very near a solar facility currently under construction just outside of Trona. The owner of the facility told me today that he recent purchased the property adjacent (parcel # 039-230-46) to my home (parcel #039-230-46). Additionally, we have already had significant amounts of dust coming from the current construction over the last several months. I have attached a picture of this activity from a couple months ago. They currently have I would sincerely appreciate your attention to this matter.

Sincerely,

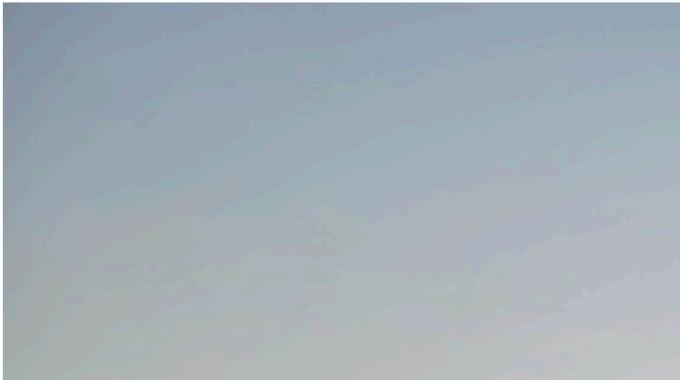
John Mays

730-415-0426

Contact ID

contact-522

Images







John Mays <johnmays1@gmail.com>
To: m.kingsley@inyocounty.us

Tue, Nov 30, 2021 at 4:51 PM

Thanks Matt. Much appreciated. Good to talk to you again.

John Mays <johnmays1@gmail.com>
To: Cathleen Richards, conchards@inyocounty.us
Cc: Matt Kingsley, mkingsley@inyocounty.us

Tue, Nov 30, 2021 at 6:14 PM

Cathleen,
Many thanks for the quick response. Just looking at Inyo county GIS it appears that parcels 038-330-47 and 03-330-48 make up the two parcels in the permit and the owner indicated expanding onto parcel 038-330-45 which is adjacent to my home is not in the permit. Is this correct? Would the owner be able to begin on ground preparations, such as stripping the vegetation prior to obtaining a permit on parcel 038-330-45?
Thanks,

John
(Unsubscribe)

Cathreen Richards <crichards@inyocounty.us> Wed, Dec 1, 2021 at 6:35 AM
To: John Mays <johnmays1@gmail.com>
Cc: Matt Kingsley <matk5th@gmail.com>

Good Morning,

The permit is only good for parcels 039-330-47 and 48. The owner may not expand onto 039-330-46 unless they also get a permit for that parcel. I did check in with the owner and they are not doing anything on that particular parcel.

Just to finish answering your question, though, since there is not a permit on 039-330-46 they cannot do anything in preparation for a solar facility, however, if they are clearing for another allowed use it would be fine.

Thank you,
Cathreen

From: John Mays [mailto:johnmays1@gmail.com]
Sent: Tuesday, November 30, 2021 6:14 PM
To: Cathreen Richards
Cc: Matt Kingsley
Subject: Re: Trona Solar Plant Construction

CAUTION: This email originated from outside of the Inyo County Network. DO NOT click links or open attachments unless you recognize and trust the sender. Contact Information Services with questions or concerns.

John Mays <johnmays1@gmail.com> Wed, Dec 1, 2021 at 9:47 AM
To: Cathreen Richards <crichards@inyocounty.us>
Cc: Matt Kingsley <matk5th@gmail.com>

Thanks Cathreen.

John Mays <johnmays1@gmail.com> Wed, Dec 1, 2021 at 10:06 AM
To: Cathreen Richards <crichards@inyocounty.us>
Cc: Matt Kingsley <matk5th@gmail.com>

Cathreen,

Thank you again for your attention to this. I just wanted to add that if a permit is requested that I be contacted at the proper time so I may participate in the process. I know that the County has already been very communicative on these things with us here and I very much appreciate it.

Sincerely,
John
(Unsubscribe)

John Mays <johnmays1@gmail.com> Thu, Jan 13, 2022 at 4:13 PM
To: Cathreen Richards <crichards@inyocounty.us>
Cc: Matt Kingsley <matk5th@gmail.com>

Cathreen,

Good afternoon.

Today we have clearing of the vegetation and scraping of the top soil off of two additional parcels (039-330-46 and 039-330-33) that are adjacent to the solar plant (see below). Is this construction approved? One of the parcels is directly adjacent to my home. The solar plant is currently within proximity to three homes with half a dozen children living in immediate vicinity. Looking online this entire area is zoned as rural residential, but this appears to be industrial activity. It was my understanding from below that there is no permit in place for such expansion. My neighbors and myself would like to be advised of any permitting or re-zoning activity here so that we may directly intervene in opposition. Previously the solar plant owner contacted me wanting to purchase my land to expand the solar project. Now we have a very large and unprotected bare spot which will undoubtedly increase the amount of dust generated during windy conditions substantially.

Thanks.

John

Sent from Mail for Windows

[\[Download picture\]](#)



20220112_145505.jpg
3441K

John Mays <johnmays1@gmail.com> Fri, Jan 21, 2022 at 12:41 PM
To: Catherine Richards <crichard@ingocounty.us>, Luke Eisenhardt <leisenhardt@gbuspcd.org>, Ann Logan <ann@gbuspcd.org>
Cc: Matt Kingdey <matk19@gmail.com>

Good morning. Please see the attached video filmed today of the blowing dust being generated by the solar plant and the adjacent stripped areas. This really emphasizes the concern about large areas of unprotected/bare ground. Note that the video begins looking at the solar plant area (and also three adjacent parcels recently stripped by the owner) and ends looking at the community of Pioneer Point. The community and nearby homes downwind are usually visible but are not in the video as they are being miserably inundated by dust. I would like to also bring your attention that no dust is generated where the vegetation is still in place. I would still like to get a response to my previous email. What has the county done to prevent this type of health hazard and what erosion control measures are in place here? There appears to be nothing being done differently since November.

[\[Download picture\]](#)

20220121_113459_1_1_1.mp4
1766K

Ann Logan <ann@gbuspcd.org> Fri, Jan 21, 2022 at 4:41 PM
To: John Mays <johnmays1@gmail.com>
Cc: Catherine Richards <crichard@ingocounty.us>, Luke Eisenhardt <leisenhardt@gbuspcd.org>, Matt Kingdey <matk19@gmail.com>

John,
We have received your photo and video and will be following up on it with the property owner.

[\[Download picture\]](#)

John Mays <johnmays1@gmail.com> Mon, Jan 24, 2022 at 11:21 AM
To: 1st665@gmail.com

Tom,
That follow is the latest email with video I sent on Friday. And their response. You might want to read the thread as well as it includes a few things.

[\[Download picture\]](#)



John Mays <johnmays1@gmail.com>

Trona Solar Plant - Renewable Energy Permit 2021-01

3 messages

John Mays <johnmays1@gmail.com> Fri, Jan 28, 2022 at 4:56 AM
To: Cathreen Richards <crichards@inyocounty.us>
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Cathreen,

I was reading through the documents online regarding Renewable Energy Permit 2021-01/Barker Solar and CEQA addendum both reference a previously lapsed 2018 permit that contains the basis for the staff analysis and mitigation for the project. This was not included in the documents available online and I would like to request a copy of Initial Study and any other relevant documents that were publicly available at that time so that I may understand the permit that has been issued here.

From the CEQA Addendum:

"The ND prepared for the original renewable energy permit application, certified in July 2018, evaluated the project through an Initial Study (IS). The ISND identified several avoidance and minimization measures that were incorporated into project design, as conditions of approval for issuance of the permit, to avoid potentially significant impacts."

The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,

John

Cathreen Richards <crichards@inyocounty.us> Fri, Jan 28, 2022 at 9:00 AM
To: John Mays <johnmays1@gmail.com>
Cc: Matt Kingsley <mkingsley@inyocounty.us>

John,

Attached is the original 2018 staff report and ISMND and the 2021 staff report. It was amended because the applicant increased the project area, but did not exceed the project footprint. The project also had to be amended because the applicant did not produce a reclamation plan in the required time. In other words, the 2021 project added solar panels into the area already evaluated by the original CEQA ISMND and provided the required reclamation plan.

So, a new ISMND was not required.

FYI, the Great Basin Unified Air Pollution Control District did not submit comments during the state agency review period; therefore, the planner who worked on the project had nothing from them to add as a mitigation.

Cathreen

From: John Mays [mailto:johnmays1@gmail.com]
Sent: Friday, January 28, 2022 4:56 AM
To: Cathreen Richards
Cc: Matt Kingsley
Subject: Trona Solar Plant - Renewable Energy Permit 2021-01

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Thanks,

John

3 attachments

 [Solar_Barker_Staff_Report.pdf](#)
524K

 [IS_ND_Trona_SEDA_signed.pdf](#)
1387K

 [2021-01_Barker_staff_report.pdf](#)
491K

John Mays <johnmays1@gmail.com>
To: Cathreen Richards <crichards@inyocounty.us>
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Mon, Jan 31, 2022 at 9:24 AM

Thank You Cathreen.

Sent from Mail for Windows

From: Cathreen Richards
Sent: Friday, January 28, 2022 9:00 AM
To: John Mays
Cc: Matt Kingsley
Subject: RE: Trona Solar Plant - Renewable Energy Permit 2021-01

John,

Attached is the original 2018 staff report and ISMND and the 2021 staff report. It was amended because the applicant increased the project area, but did not exceed the project footprint. The project also had to be amended because the applicant did not produce a reclamation plan in the required time. In other words, the 2021 project added solar panels into the area already evaluated by the original CEQA ISMND and provided the required reclamation plan.

So, a new ISMND was not required.

FYI, the Great Basin Unified Air Pollution Control District did not submit comments during

the state agency review period; therefore, the planner who worked on the project had nothing from them to add as a mitigation.

Cathreen

From: John Mays [mailto:johnmays1@gmail.com]
Sent: Friday, January 28, 2022 4:56 AM
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Cc: Matt Kingsley
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Thanks,

John



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Trona Solar Plant - Renewable Energy Permit 2021-01

3 messages

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Trona Solar Plant, which was forwarded to us by Matt Kingsley. Regarding the dust emissions, Luke Eisenhardt, one of our Air Quality Specialists, will be following up with the owner regarding the lack of dust mitigation measures, as well as a lack of the proper air district permit for the solar project. If you observe additional dust emissions impacting residences and/or crossing the property boundary please document them and let us know.

Regarding your inquiry about expansion onto additional parcels, we at the air district do not have any information about expansion at this time. Inyo County Planning, whom Matt also forwarded the email to, should be able to answer that question.

Please contact Luke at leisenhardt@gbuapcd.org or 760-872-8211 ext 228 if you observe additional dust emissions from the project or have any other questions.

Thank you,
Ann

Ann Logan
Deputy Air Pollution Control Officer
Great Basin Unified Air Pollution Control District
157 Short Street Bishop, California 93514
(760) 872-8211
www.gbuapcd.org

John Mays <johnmmays1@gmail.com> Mon, Dec 6, 2021 at 10:39 AM
To: Ann Logan <ann@gbuapcd.org>
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phill Kiddoo <pkiddoo@gbuapcd.org>, "mkingsley@inyocounty.us" <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

Ann,

Just from this morning. As per your request below, appears dust crossing the property line here.

Can you advise further on the situation regarding Air Quality for the solar plant? Your email below speaks about lack of proper air district permit. Is construction able to proceed without this permit? If the operator needs to obtain a permit, does this permit go to public comment? Was any enforcement action taken?

Thanks,

John

Sent from Mail for Windows

From: Ann Logan
Sent: Thursday, December 2, 2021 9:59 AM
To: johnmays1@gmail.com
Cc: Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards
Subject: Trona Solar Plant

John,

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2 attachments



20211206_072322.jpg
3267K



20211206_081048.jpg
2183K

Ann Logan <ann@gbuapcd.org> Mon, Dec 6, 2021 at 11:43 AM
To: John Mays <johnmays1@gmail.com>
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phill Kiddoo <pkiddoo@gbuapcd.org>, "mkingsley@inyocounty.us" <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

John,
Thank you for the email, photos, and information. We will be following up with the owner. Regarding your questions, it would be good to have a call. Could you please let us know the best number to reach you?

On Mon, Dec 6, 2021 at 10:39 AM John Mays <johnmays1@gmail.com> wrote:

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Thank you,

Ann

Ann Logan

Deputy Air Pollution Control Officer

Great Basin Unified Air Pollution Control District

157 Short Street Bishop, California 93514

(760) 872-8211

www.gbuapcd.org



John Mays <johnmays1@gmail.com>

Trona Solar Plant

7 messages

Ann Logan <ann@gbuapcd.org> Thu, Dec 2, 2021 at 9:58 AM
To: johnmays1@gmail.com
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, mkingsley@inyocounty.us, Cathreen Richards <crichards@inyocounty.us>

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Thank you,
Ann

Ann Logan
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Great Basin Unified Air Pollution Control District
157 Short Street Bishop, California 93514
(760) 872-8211
www.gbuapcd.org

John Mays <johnmays1@gmail.com> Thu, Dec 2, 2021 at 10:37 AM
To: Ann Logan <ann@gbuapcd.org>
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, mkingsley@inyocounty.us, Cathreen Richards <crichards@inyocounty.us>

Ann,
Thank you very much for looking into this. We will stay in touch if we see anything. Really appreciate your attention to this matter.

Sincerely,

John

On Thu, Dec 2, 2021 at 9:59 AM Ann Logan <ann@gbuapcd.org> wrote:
John,
Good morning. Great Basin Unified Air Pollution Control District received your complaint and inquiry regarding the

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Thank you,
Ann

Ann Logan
Deputy Air Pollution Control Officer
Great Basin Unified Air Pollution Control District
157 Short Street Bishop, California 93514
(760) 872-8211
www.gbuapcd.org

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Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phill Kiddoo <pkiddoo@gbuapcd.org>, "mkingsley@inyocounty.us" <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

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Thanks,

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To: johnmmays1@gmail.com
Cc: Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards
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2 attachments



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John,
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PHOTO

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Great Basin Unified Air Pollution Control District

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www.gbuapcd.org

John Mays <johnmays1@gmail.com> Mon, Dec 6, 2021 at 11:50 AM
To: Ann Logan <ann@gbuapcd.org>
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phill Kiddoo <pkiddoo@gbuapcd.org>, Matt Kingsley <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

My phone number is 720-415-0426.

Thanks,

John

On Mon, Dec 6, 2021, 11:44 AM Ann Logan <ann@gbuapcd.org> wrote:

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157 Short Street Bishop, California 93514

(760) 872-8211

www.gbuapcd.org

Luke Eisenhardt <leisenhardt@gbuapcd.org>
To: John Mays <johnmays1@gmail.com>
Cc: Ann Logan <ann@gbuapcd.org>

Tue, Dec 7, 2021 at 9:58 AM

Good morning John,

I just called you, but your voicemail box is full. Please call me if you have any questions. If you have any followup complaints, pictures, information, etc. regarding this project, please direct them to me or Ann Logan.

Thank you,

Luke Eisenhardt

Air Quality Specialist
Great Basin Unified Air Pollution Control District
157 Short Street
Bishop, California 93514
760-872-8211, ext. 228
760-258-9690, direct
760-920-0327, cell
www.gbuapcd.org

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John

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To: johnmmays1@gmail.com
Cc: Luke Eisenhardt; Phill Kiddoo; mkingstey@inyocounty.us; Cathreen Richards
Subject: Trona Solar Plant

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Please contact Luke at leisenhardt@gbuapcd.org or 760-872-8211 ext 228 if you observe additional dust emissions from the project or have any other questions.

Thank you,

Ann

Ann Logan

Deputy Air Pollution Control Officer

Great Basin Unified Air Pollution Control District

157 Short Street Bishop, California 93514

(760) 872-8211

www.gbuapcd.org

John Mays <johnmmays1@gmail.com>
Draft To: John Mays <johnmmays1@gmail.com>

Thu, Jan 13, 2022 at 2:31 PM

Sent from Mail for Windows

From: John Mays
Sent: Monday, December 6, 2021 10:39 AM
To: Ann Logan
Cc: Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards
Subject: RE: Trona Solar Plant

Ann,

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Can you advise further on the situation regarding Air Quality for the solar plant? Your email below speaks about lack of proper air district permit. Is construction able to proceed without this permit? If the operator needs to obtain a permit, does this permit go to public comment? Was any enforcement action taken?

Thanks,

John

Sent from Mail for Windows

From: Ann Logan
Sent: Thursday, December 2, 2021 9:59 AM
To: johnmays1@gmail.com
Cc: Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards
Subject: Trona Solar Plant

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157 Short Street Bishop, California 93514
(760) 872-8211
www.gbuapcd.org

the state agency review period; therefore, the planner who worked on the project had nothing from them to add as a mitigation.

Cathreen

From: John Mays [mailto:johnmays1@gmail.com]
Sent: Friday, January 28, 2022 4:56 AM
To: Cathreen Richards
Cc: Matt Kingsley
Subject: Trona Solar Plant - Renewable Energy Permit 2021-01

CAUTION: This email originated from outside of the Inyo County Network. DO NOT click links or open attachments unless you recognize and trust the sender. Contact Information Services with questions or concerns.

Cathreen,

I was reading through the documents online regarding Renewable Energy Permit 2021-01/Barker Solar and CEQA addendum both reference a previously lapsed 2018 permit that contains the basis for the staff analysis and mitigation for the project. This was not included in the documents available online and I would like to request a copy of Initial Study and any other relevant documents that were publicly available at that time so that I may understand the permit that has been issued here.

From the CEQA Addendum.

"The ND prepared for the original renewable energy permit application, certified in July 2018, evaluated the project through an Initial Study (IS). The ISND identified several avoidance and minimization measures that were incorporated into project design, as conditions of approval for issuance of the permit, to avoid potentially significant impacts."

The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,

John



John Mays <johnmays1@gmail.com>

Trona Solar Plant - Renewable Energy Permit 2021-01

John Mays <johnmays1@gmail.com>
To: Cathreen Richards <crichards@inyocounty.us>
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Fri, Jan 28, 2022 at 4:56 AM

Cathreen,

I was reading through the documents online regarding Renewable Energy Permit 2021-01/Baker Solar and CEQA addendum both reference a previously lapsed 2018 permit that contains the basis for the staff analysis and mitigation for the project. This was not included in the documents available online and I would like to request a copy of Initial Study and any other relevant documents that were publicly available at that time so that I may understand the permit that has been issued here.

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The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,

John

Cathreen Richards <crichards@inyocounty.us>
To: John Mays <johnmays1@gmail.com>
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Fri, Jan 28, 2022 at 9:00 AM

John,

Attached is the original 2018 staff report and ISMND and the 2021 staff report. It was amended because the applicant increased the project area, but did not exceed the project footprint. The project also had to be amended because the applicant did not produce a reclamation plan in the required time. In other words, the 2021 project added solar panels into the area already evaluated by the original CEQA ISMND and provided the required reclamation plan.

So, a new ISMND was not required.

Trona Solar Plant, which was forwarded to us by Matt Kingsley. Regarding the dust emissions, Luke Eisenhardt, one of our Air Quality Specialists, will be following up with the owner regarding the lack of dust mitigation measures, as well as a lack of the proper air district permit for the solar project. If you observe additional dust emissions impacting residences and/or crossing the property boundary please document them and let us know.

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Please contact Luke at leisenhardt@gbuapcd.org or 760-872-8211 ext 228 if you observe additional dust emissions from the project or have any other questions.

Thank you,
Ann

Ann Logan
Deputy Air Pollution Control Officer
Great Basin Unified Air Pollution Control District
157 Short Street Bishop, California 93514
(760) 872-8211
www.gbuapcd.org

John Mays <johnmays1@gmail.com> Mon, Dec 6, 2021 at 10:39 AM
To: Ann Logan <ann@gbuapcd.org>
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, "mtingsley@inyocounty.us" <mtingsley@inyocounty.us>, Cathleen Richards <crichards@inyocounty.us>

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Deputy Air Pollution Control Officer
Great Basin Unified Air Pollution Control District
157 Short Street Bishop, California 93514
(760) 872-8211
www.gbuapcd.org

John Maya <johnmaye1@gmail.com> Mon, Dec 6, 2021 at 10:39 AM
To: Ann Logan <ann@gbuapcd.org>
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, "mkingsey@inyocounty.us" <mkingsey@inyocounty.us>, Catherine Richards <crichards@inyocounty.us>

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Sent from Mail for Windows

From: Ann Logan
Sent: Thursday, December 2, 2021 9:59 AM
To: johnmmays1@gmail.com
Cc: Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards
Subject: Trona Solar Plant

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157 Short Street Bishop, California 93514
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2 attachments



20211206_072322.jpg
3.267K



20211206_061048.jpg
2.183K

Ann Logan <ann@gbuapcd.org> Mon, Dec 6, 2021 at 11:43 AM
To: John Mays <johnmays1@gmail.com>
Cc: Luke Eisenhardt <leise@hardi@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, "mkingsley@inyocounty.us" <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

John,
Thank you for the email, photos, and information. We will be following up with the owner. Regarding your questions, it would be good to have a call. Could you please let us know the best number to reach you?

On Mon, Dec 6, 2021 at 10:39 AM John Mays <johnmays1@gmail.com> wrote:

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Cc: Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards
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157 Short Street Bishop, California 93514
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John Mays <johnmays1@gmail.com> Mon, Dec 6, 2021 at 11:50 AM
 To: Ann Logan <ann@gbuapcd.org>
 Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, Matt Kingsley <mkingsley@nyocounty.us>, Cathreen Richards <crichards@nyocounty.us>

My phone number is 720-416-0426.

Thanks,

John

On Mon, Dec 6, 2021, 11:44 AM Ann Logan <ann@gbuapcd.org> wrote:

John,
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 To: johnmays1@gmail.com
 Cc: Luke Eisenhardt; Phil Kiddoo; mkingsley@nyocounty.us; Cathreen Richards

Air Quality Specialist
Great Basin Unified Air Pollution Control District
157 Short Street
Bishop, California 93514
760-872-8211, ext. 228
760-258-9690, direct
760-820-0327, cell
www.gbupcd.org

On Mon, Dec 6, 2021 at 11:50 AM John Mays <johnmays1@gmail.com> wrote:
My phone number is 720-415-0426.

Thanks,

John

On Mon, Dec 6, 2021, 11:44 AM Ann Logan <ann@gbupcd.org> wrote:

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From: Ann Logan

Sent: Thursday, December 2, 2021 8:58 AM
To: johnmays1@gmail.com
Cc: Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards
Subject: Trona Solar Plant

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Thank you,
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John Mays <johnmays1@gmail.com>
Draft To: John Mays <johnmays1@gmail.com>

Thu, Jan 13, 2022 at 2:31 PM

Sent from Mail for Windows

From: John Meys
Sent: Monday, December 8, 2021 10:39 AM
To: Ann Logan
Cc: Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards
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From: [Amanda McNamara-Ball](#)
To: [Cynthia Draper](#)
Subject: Public Comment -Hearing March 22, 2023
Date: Tuesday, March 21, 2023 7:04:54 PM
Attachments: [Resized_20230315_133336.jpeg](#)
[Resized_20230315_133343.jpeg](#)

You don't often get email from akmcnamara80@gmail.com. [Learn why this is important](#)

Hello,

I am a resident at 33063 Bri-Mar Ln (aka 100 Bri-Mar Ln - in process of getting changed). This residence is directly South and South-East of parcels mentioned in the attached notices. I would like it to be public record that I adopt the comments entered by Mr. John M. Mays and Mr. Thomas Kidder.

Thank you for your time,
Amanda K. Ball
760-382-4101

Sent Via Email (inyoplanning@inyocounty.us)

To: County of Inyo, Planning Commission
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

Re: May 3, 2023, County of Inyo Planning Commission Meeting, Agenda Item Nos. 7 (Renewable Energy Permit 2022-01/Barker) and 8 (Renewable Energy Permit 2022-02/Barker)

Dear Members of the Inyo County Planning Commission and Board of Supervisors:

My property is adjacent to the existing solar facility and adjacent to the proposed project expansion involving the two permits under consideration. I have lived with my family on my property since 1974. This includes three generations that currently live with me including my son, daughter, and granddaughter. I have experience with construction projects around Trona over the many years and retired from Caltrans several years ago.

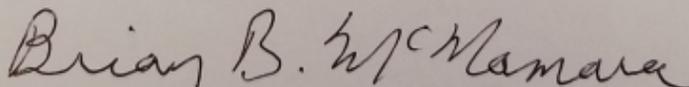
We have used the parcels on which we live for agriculture including raising animals for food including chickens, pigs, cows, and other livestock. We enjoy living in a natural area, with its wildlife and native vegetation as well as the beautiful vistas in every direction. Expansion of this project will destroy this natural area which I grew up in and ruin the quality of life for my family for generations to come. These solar plants eliminate all presence of the natural environment on the land which they are constructed and seriously degrade the surrounding native environment including wildlife, vegetation, air quality, roads, aesthetics, and human health. Inyo County has not evaluated these impacts correctly. The permit documents also do not discuss any impacts to or from power lines or corridors which will be used for transmission or other later projects.

My home is immediately downwind of the current solar plant and these associated proposed projects. We have been affected by blowing dust from them for at least a couple years now. We have repeatedly observed construction of these facilities without any dust control measures. We also have observed no protection for the desert tortoise during the construction. In my experience, it is well known that these measures need to be in place for any construction project in this area. Also, during the construction, a large amount of material was pushed onto my property and left there. We have never observed any security on the project which is unmanned. Overall, the project has been a sloppy, half-complete collection of material piles and unused equipment that shows no concern for visual appearance and protection of the public.

I oppose the construction and operation of these projects. It has been my experience that Inyo County is unable to manage anything in our remote part of the county. This area has been treated by the County for many years as: "Out of sight. Out of mind." This has been shown again with the recent construction and permitting. Also, the owner of the project shows little care for his neighbors or compliance with regulations. I was NOT notified by the owner regarding submittal of applications for the proposed projects as required by the REGPA. Since Inyo County lacks the resources to make any effort to supervise the project nor cares at all about enforcing rules and regulations, we expect even worse things to come if these permits are approved.

My family and I support the comments of John Mays, his legal counsel, and Tom Kidder. We urge the Planning Department and Board of Supervisors to deny these permits and remove all Rural Residential parcels in the area from the Trona REGPA. The solar use as proposed here is not the proper use for these areas.

Thank you,



Brian B. McNamara
101 Bri-Mar Lane
P.O.Box 592
Trona, California 93562



tel: 916.455.7300 · fax: 916.244.7300
510 8th Street · Sacramento, CA 95814

May 1, 2023

SENT VIA EMAIL

(inyoplanning@inyocounty.us;
Cynthia Draper, Assistant Planner, cdraper@inyocounty.us)

County of Inyo
Planning Commission
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

**Re: May 3, 2023, County of Inyo Planning Commission Meeting
Agenda Item Nos. 7 (Renewable Energy Permit 2022-01/Barker)
and 8 (Renewable Energy Permit 2022-02/Barker)**

Dear Members of the Inyo County Planning Commission:

On behalf of our client, John Mays, this letter provides comments regarding the May 3, 2023, Planning Commission meeting, agenda item numbers 7 (Renewable Energy Permit 2022-01/Barker) and 8 (Renewable Energy Permit 2022-02/Barker) (collectively, the “Projects”).

The County’s approval of the Project is riddled with both procedural and substantive violations of law as set forth more fully below. Further, this letter documents some of the applicable principles that authorize the Planning Commission to deny the Projects. Specifically, section I of this letter describes the County’s violation of the Brown Act that prevents the Planning Commission from taking action on the Project at the May 3, 2023 meeting. Section II describes several substantive and procedural violations of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq. [“CEQA”]) associated with the two mitigated negative declarations (“MNDs”) for the Project. Section III describes the proper framework for the Planning Commission’s discretionary action on the underlying Renewal Energy Permits (“REPs”).

I. Violations of the Brown Act

The County has violated the Brown Act by failing to properly disclose to the public that it intends to take action on (namely, adopt) two different MNDs as part of its actions regarding the Project. It is settled that the Brown Act requires agendas to identify

proposed CEQA actions. An agenda must specifically state the action that the body is proposing to take, including a proposed action under CEQA. (*San Joaquin Raptor Rescue Center v. County of Merced* (2013) 216 Cal.App.4th 1167, 1178 (*San Joaquin Raptor*) [agency violated Brown Act by failing to identify action on CEQA document in its posted agenda, reasoning that the Brown Act “mandates that each item of business be described on the agenda, not left to speculation or surmise”].) Neither the public hearing notice (See **Exhibit 1**) nor agenda for the May 3, 2023 Planning Commission meeting (**Exhibit 2**) identify any CEQA actions associated with the Project. This violates the Brown Act. (*San Joaquin Raptor, supra*, 216 Cal.App.4th at 1178.)

As a result of the inadequate public notice, the Planning Commission may not adopt the MNDs on May 3, 2023. Further, the Planning Commission may not approve the REPs subject to later consideration of the MNDs, since CEQA requires consideration of a project’s CEQA analysis prior to taking action on the underlying entitlements. (Cal. Code Regs., tit. 14, § 15000 et seq. [“CEQA Guidelines”]; CEQA Guidelines, § 15074, subd. (b) [“Prior to approving a project, the decision-making body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration”].) However, this does not prejudice either the County or the applicant because, as discussed in the next section, the County may not lawfully approve the Project based on the existing record.

II. Violations of CEQA

The Project, comprised of two separate REPs and MNDs, is riddled with substantive and procedural violations of CEQA. The record contains substantial evidence of a fair argument that the Project will result in significant environmental impacts, including human health impacts to nearby residents, triggering the need to prepare an Environmental Impact Report (“EIR”). (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) At minimum, the City will need to prepare a revised MND that complies with CEQA’s substantive and procedural mandates.

A. Project Piecemealing

CEQA’s conception of the term “project” is broad to maximize protection of the environment. (*Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist.* (2007) 147 Cal.App.4th 643, 653; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730 (*San Joaquin Raptor I*). “This big picture approach to the definition of a project (i.e., including “the whole of an action”) prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project

into smaller components which, when considered separately, may not have a significant environmental effect.” (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 270-271.)

Here, it appears that the County appears to be engaging in impermissible piecemealing by splitting apart a 4.2 megawatt photovoltaic solar facility located on 20 acres with the same operator seeking County approval at exactly the same time — and also happen to be adjacent to a previously approved 1 megawatt solar facility by that same operator. (See **Exhibit 3**, parcel map; **Exhibit 4**, Notice of Determination and Notice of Availability for 2018-01.) The relevant test is whether the activities have “substantial independent utility.” (*Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal.App.4th 712, 736 (*Del Mare Terrace*)). It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by apparently not even considering whether the two requested REPs have independent utility, much less elucidating facts on this issue one way or another. A court would review this issue exercising its independent judgment with no deference to the agency. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)

B. Failure to Analyze Cumulative Impacts

Even if it is determined that the two requested REPs have independent utility and therefore are properly considered separate projects for purposes of CEQA, the two MNDs violate CEQA by not analyzing their cumulative impacts.

A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an EIR. (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.)

Despite this mandate, the two MNDs' cumulative impacts analyses set forth in cursory fashion:

No, the proposed project does not have impacts that are individually limited but cumulatively considerable. Due to the sparseness of the natural environment and lack of plant or animal habitat, this location is well suited for solar development. More generation capacity may be added to the southern SEDA in Inyo County, but this cumulative effect would still be minimal given the lack of affected resources in the area.

This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) There is no attempt to do so. Incredibly, each MND's cumulative impact analysis omits any reference to the other concurrently requested REP by the same applicant located immediately adjacent and proposed for approval by the County on the very same day. Nor is there any discussion of the solar facility — also adjacent to each project — that was approved in 2018. (CEQA Guidelines, § 15130, subd. (b)(1)(A) [“A list of past, present, and probable future projects”].)

Neither MND includes any discussion of how each requested REP would interact with the other concurrently-requested REP or the existing REP located immediately adjacent to the two proposed REP sites. Thus, each MND fails to “determine[] whether the incremental impacts of the project are cumulatively considerable by evaluating them against the backdrop of the environmental effects of other projects. The question is . . . whether the effects of the individual project are considerable.” (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1996) 42 Cal.App.4th 608, 624 [internal quotations and emphasis omitted].)

Each MND's analysis of cumulative impacts is wholly inadequate. To the extent it is claimed that the MND's cumulative impact analysis tiers from (CEQA Guidelines, § 15152) or incorporates by reference (CEQA Guidelines, § 15150) the cumulative impact analysis set forth in the Renewable Energy General Plan Amendment Program Environmental Impact Report (SCH No. 2014061039) (“PEIR”), the MND's have failed to comply with CEQA's requirements for each procedure.

The CEQA Guidelines set forth specific requirements for tiering:

When tiering is used, the later EIRs or negative declarations shall refer to the prior EIR and state where a copy of the prior EIR may be examined.

The later EIR or negative declaration should state that the lead agency is using the tiering concept and that it is being tiered with the earlier EIR.

(CEQA Guidelines, § 15152, subd. (g).)

Similarly, the CEQA Guidelines set forth specific requirements for incorporation by reference:

(b) Where part of another document is incorporated by reference, such other document shall be made available to the public for inspection at a public place or public building. The EIR or negative declaration shall state where the incorporated documents will be available for inspection. At a minimum, the incorporated document shall be made available to the public in an office of the lead agency in the county where the project would be carried out or in one or more public buildings such as county offices or public libraries if the lead agency does not have an office in the county.

(c) Where an EIR or negative declaration uses incorporation by reference, the incorporated part of the referenced document shall be briefly summarized where possible or briefly described if the data or information cannot be summarized. The relationship between the incorporated part of the referenced document and the EIR shall be described.

(d) Where an agency incorporates information from an EIR that has previously been reviewed through the state review system, the state identification number of the incorporated document should be included in the summary or designation described in subdivision (c).

(CEQA Guidelines, § 15150.)

The MNDs failed to comply with the requirements for either tiering or incorporation by reference. The MNDs never mentioned the PEIR, much less summarized the relevant discussion[s] purportedly relied upon or identify where the PEIR was available for public inspection. Indeed, our office could only locate Volume II of II of the Final EIR, and not Volume I of the Final EIR or the Draft EIR. Thus, there is no credible claim that the MND's tiered or incorporated by reference the PEIR. Further, our comment letter addresses additional CEQA deficiencies related to the PEIR below.

C. The MND's Failed to Adequately Analyze and Mitigate Project Impacts

The MND fails to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 74 (*No Oil I*.) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (*Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (*No Oil I, supra*, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (*Id.* at p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.

In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This is assured by incorporation into a Mitigation Monitoring and Reporting Plan (“MMRP”). (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation of Hillside & Canyon v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 (*Federation*).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See *San Bernardino Valley Audubon Society v. Metropolitan Water District* (1999) 71 Cal.App.4th 382, 392.)

Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311 (*Sundstrom*).) For example, in *Sundstrom* the court held that the absence of information explaining why no alternative sludge disposal site is available

“permits the reasonable inference that sludge disposal presents a material environmental impact.” (*Ibid.*) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.

1. The MND Impermissibly Conflates Analysis of Impacts and Mitigation

For every resource area, the MNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 658 (*Lotus*) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.

For example, regarding whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the MNDs assert, “No, control of air quality issues during construction, primarily dust mitigation, will be managed with techniques utilizing, [sic] application of water, and application of dust suppressants.” (MND, § III(a).) Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the MNDs assert, “No, the proposed project will be in compliance with air quality standards as the applicant is conditioned with obtaining any required permits and following best management practices as set forth by the Great Basin Unified Air Pollution Control District.” This structure that conflates analysis of project impacts and mitigation violates CEQA. (*Lotus, supra*, 223 Cal.App.4th at 658.) The MND follows this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.

2. The MNDs Fail to adopt Mitigation Measures and Mitigation Monitoring and Reporting Plans

Although clearly identifying each document as a “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeated checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County incredibly fails to adopt any mitigation measures or incorporate such mitigation measures into an MMRP. This violates CEQA. (CEQA Guidelines, § 15097.) This also violates the Inyo County Code. (County Code, Ch. 15.44.) To wit:

15.44.005 General.

The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)

15.44.010 Application.

A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)

15.44.020 Timing.

Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment. The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)

15.44.030 Contents.

The monitoring plan shall contain, at a minimum, the following:

A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;

B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);

C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;

D. Identification of the person or entity responsible for monitoring and verification;

E. The method of reporting monitoring results to the county. (Ord. 957 § 1 (part), 1995.)

15.44.040 Enforcement.

Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)

The MNDs do not contain the required MMRPs. Further, the conditions of approval cannot credibly be construed as MMRPs because they do not contain the information required by CEQA or the County Code.

3. Mitigation Measures are not adequately defined or effective

CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (*Federation, supra*, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound. Just a few representative examples are provided.

The MNDs claim that construction air quality will be less than significant because “dust mitigation will be managed with techniques utilizing application of water, and application of dust suppression.” The MND fails to explain what specific “techniques” are proposed. Will the operator use water trucks? If so, how frequently? Will they come on a regular schedule or on call as needed? If on call as needed, what is the trigger for requiring the water trucks? What dust specific dust suppressants are proposed? How are they applied? Can dust suppressants be used along with water trucks? None of these questions, which related directly to the effectiveness of dust mitigation, are answered. An MND cannot use a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (*King & Gardiner Farms, supra*, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 511.) The MND has failed to provide evidence that its vague mitigation will be effective. Further, the MND also fails to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant’s REP 2018-01 that was issued in 2018.

The MNDs claim that construction noise will be less than significant without the need for any mitigation. The MND asserts that noise “will be well under OSHA standards” because noise “will be minimized with construction during daytime business hours.” The MND does not even identify the relevant noise standard, much less disclose the noise levels from construction equipment. Nor does limiting construction to daytime hours have any effect on the actual noise level during those daytime hours, which is completely undisclosed.

Regarding aesthetic impacts, the MNDs assert there will be less than significant impacts because “[t]he County applied a set of criteria that included avoidance of areas containing scenic resources when identifying the proposed SEDAs.” Does this mean that every property located within the SEDA Overlay area cannot be observed from a scenic vista? This is apparently not the case since the MND states further, “The boundaries and locations of the SEDAs have been sighted in areas where there is no abundance of scenic resources within the SEDA boundaries themselves.” The MND fails to explain what is meant by “abundance” of scenic resources, much less “within the SEDA boundaries themselves.” In short, there is no information suggesting that the undisclosed County “criteria” will effectively reduce aesthetic impacts.

Regarding water quality impacts, the MNDs conclude that the Project will not violate any water quality standards because “[t]he Project will be subject to regulation by

the Lahontan Regional Water Quality Control Board and the Inyo County Environmental Health Department.” The MNDs, however, fail to provide the required project-specific analysis of potential impacts and the effect of regulatory compliance. (*Californians for Alternatives to Toxic v. Dept. of Food & Agriculture* (2005) 136 Cal.App.4th 1.)

In short, the MNDs’ cursory analyses fail to provide adequate information about the effectiveness of proposed “mitigation” measures relied upon by the MNDs to find Project impacts less than significant.

4. The MNDs failed to apply the PEIR’s mitigation measures

The MNDs violate CEQA because they fail to address the PEIR that the County certified in 2015 along with its MMRP. With respect to the PEIR, the staff reports for the Project assert:

An Initial Study with a Mitigated Negative Declaration (ISMND) was performed and considered for possible significant impacts to environmental resources for Renewable Energy Permit 2022-02/Barker. The County of Inyo produced a program level EIR (2015 REGPA), pursuant to Section 15168 of CEQA Guidelines, to address environmental impacts from the planned solar development areas. This document distinguishes all SEDAs that are the most environmentally suitable for solar projects, with the least amount of individual and cumulative impacts to land and resources (2015 REGPA, 3-4). A copy of the ISMND can be found at <https://www.inyocounty.us/services/planning-department/current-projects>.¹

The staff reports are correct that the PEIR was prepared “to address environmental impacts from the planned solar development areas.” What the staff reports fail to address, however, is that the County adopted an MMRP for the PEIR that includes extensive mitigation measures for later subject project-level approvals in order to reduce environmental impacts. (See **Exhibit 5**, PEIR MMRP.)² “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation, supra*, 83 Cal.App.4th at 1261.) The County’s analysis of the

¹ The County violates CEQA Guidelines sections 15150, 15152 and 15168 by providing a link to the MNDs and not the referenced PEIR.

² Reinforcing the County’s violation of CEQA Guidelines sections 15150, 15152 and 15168, the adopted MMRP for the PEIR is not available on the County’s website. The attached **Exhibit 5** is taken from the Final EIR Volume II.

Project violates CEQA because its environmental review wholly ignores those mitigation measures. (CEQA Guidelines, § 15168, subd. (c)(3) [“An agency shall incorporate feasible mitigation measures and alternatives developed in the program EIR into later activities in the program”]; *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1186-1187 [“CEQA requires that feasible mitigation measures actually be implemented as a condition of development, and not merely be adopted and then neglected or disregarded”].)

It appears that the County literally ignored and disregarded the dozens of mitigation measures that are applicable to the Project through the County’s earlier adoption of the PEIR’s MMRP. These mitigation measures include, but are not limited to AES-1, AG-3, AQ-1 through -3, Bio-1 through -23, Bio-25, Cul-1, NOI-1.³

Any revised CEQA analysis, whether an EIR or revised and recirculated MND, will need to address these mitigation measures.

III. There is ample evidence in the record to deny the requested REPs

The analysis above documents the various ways in which the Project (comprised of REPs 2022-01 and 2022-02) may have significant impacts on the health and welfare of nearby residents and the environment. Our client and other residents have provided extensive documentation regarding the applicant’s flagrant disregard for nearby residents and the environment. There is little doubt that these actions will continue. In light of this, the Commission should exercise its broad discretionary authority to deny the requested Renewable Energy Permits.

The County Code grants the Planning Commission broad authority to approve or deny Renewable Energy Permits. For example, County Code section 21.320.070 provides:

21.20.070 Health, safety and welfare of the county’s citizens.

Prior to the issuance of a renewable energy impact determination or the granting of a renewable energy permit, the county planning commission

³ Certain PEIR mitigation measures such as AES-1 – 10 apply to projects greater than 20 MW and also “proposed solar energy projects that are distributed generation commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA.” The staff record provides no information indicating that the County made any such determination for the Project, much less support any such determination with analysis supported by substantial evidence.

must find that, through the imposition of mitigation measures, the approval of a reclamation plan, the receipt of adequate financial assurances, and by other conditions incorporated into the determination or imposed upon the permit, ***the health, safety and welfare of the county's citizens, the county's environment, including its public trust resources, and the county's financial well-being, have been adequately safeguarded.***

(Emphasis added.)

The highlighted language is commonly known as the “health and welfare” standard, which represents broad authority to deny a land use entitlement. (*SP Star Enterprises v. City of Los Angeles* (2009) 173 Cal.App.4th 459, 473.) Further, this language necessarily means that the requested Renewable Energy Permits are subject to denial by the Planning Commission. (*BreakZone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1224 (*BreakZone*) [“[a] CUP is discretionary by definition”].) The County’s decision to deny the Renewable Energy Permits would be afforded great deference by a reviewing court. (Code Civ. Proc., § 1094.5, subd. (b).) The County’s decision will be overturned only if no reasonable person would have reached the same conclusions. (*Harris v. City of Costa Mesa* (1994) 25 Cal.App.4th 963, 969 (*Harris*); *BreakZone, supra*, 81 Cal.App.4th at 1244.) A reviewing court presumes an agency’s decision is correct and will resolve all reasonable doubts in favor of the administrative findings and decision; the party challenging the decision bears the burden to demonstrate otherwise. (Evid. Code, § 664; see *Breneric Associates v. City of Del Mar* (1998) 69 Cal.App.4th 166, 175.)

Further, and importantly, the law is well settled that only one reason is required to deny a CUP. (*Desmond v. County of Contra Costa* (1993) 21 Cal.App.4th 330, 336-337 (*Desmond*)). *Desmond* explains with clarity:

Because we are reviewing a denial of a requested land use permit, it is not necessary to determine that each finding by the Board was supported by substantial evidence. As long as the Board made a finding that any one of the necessary elements enumerated in the ordinances was lacking, and this finding was itself supported by substantial evidence, the Board’s denial of appellant’s application must be upheld.

(*Id.* at 336-337 [italic in original]; see also *Saad v. City of Berkeley* (1994) 24 Cal.App.4th 1206, 1213 [inadequacy of a single finding does not undermine denial of permit when other adequate findings were made].) What is more, a single finding to

deny a CUP may be based solely on neighborhood opposition. The court in *Harris* explains:

“It is appropriate and even necessary for the [agency] to consider the interest of neighboring property owners in reaching a decision whether to grant or deny a land use entitlement, and the opinions of neighbors may constitute substantial evidence on this issue.”

(*Harris, supra*, 25 Cal.App.3d at 973, emphasis added; *Dore v. County of Ventura* (1994) 23 Cal.App.4th 320, 328-329.) We understand that nearby residents have already reached out to the County, explaining that the existing 10-acre solar project is contributing to unacceptable dust and resulting health impacts. These concerns will justify denial of the Renewable Energy Permits even if they are in “technical compliance” with the County’s zoning code, General Plan or other planning documents. The *Desmond* decision explains:

This finding of unsuitability to the character of the surrounding neighborhood is sufficient by itself to support the denial of appellants’ application for a land use permit. (*Guinnane v. San Francisco City Planning Com.*, *supra*, 209 Cal.App.3d at pp. 740-743 [local agency denied permit on basis of finding that large size of house was “not in character” with surrounding neighborhood even though in technical compliance with zoning and building codes; upheld].)

(*Desmond, supra*, 21 Cal.App.4th at 338.)

We encourage the Planning Commission to carefully consider the written comments from neighboring property owners that have already been submitted as well as the additional oral comments that you will no doubt hear at the hearing.

Finally, and importantly, the Planning Commission should not feel constrained to simply adopt the recommended findings prepared by staff since agencies are afforded considerable latitude with regard to the precision and formality of their findings denying a project. (*Young v. City of Coronado* (2017) 10 Cal.App.5th 408, 421.) Findings under Code of Civil Procedure section 1094.5 need not be “extensive or detailed.” (*Environmental Protection Information Center v. California Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 516.) Findings may incorporate matters by reference, or omissions may be filled by relevant references available in the record. (*Craik v. County of Santa Cruz* (2000) 81 Cal.App.4th 880, 884.) An agency may also memorialize its findings in writing after the quasi-adjudicatory decision itself. (See *Levi*

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Family Partnership, L.P. v. City of Los Angeles (2015) 241 Cal.App.4th 123 [upholding planning commission findings supporting the decision to deny a permit application given first orally at a public hearing and then memorializing the decision in writing nearly one year later].) The Planning Commission is well within its authority to reject staff's recommendation of approval in the staff report and instead vote to deny the permit along with instructions for staff to come back with written findings consistent with the Commission's reasoning and evidence elucidated at the hearing. Finally, it is not necessary to prepare any CEQA document in order to deny a project. (Pub. Resources Code, § 21080, subd. (b)(5); CEQA Guidelines, § 15270, subd. (a).)

In summary, the Planning Commission is vested with wide discretion to deny the requested Renewable Energy Permits based on broad considerations of public welfare. Only one reason is necessary to deny the Project, which can be supplied by public opposition and will be upheld by a reviewing court unless no reasonable person could reach the same conclusion.

* * *

We thank you for the opportunity to comment.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By:



Patrick M. Soluri

cc: John Mays (johnmmays1@gmail.com)

Attachments:

Exhibit 1, Public Hearing Notice

Exhibit 2, Agenda for the May 3, 2023 Planning Commission Meeting

Exhibit 3, Parcel Map

Exhibit 4, Notice of Availability and Notice of Determination for 2018-01

Exhibit 5, PEIR MMRP

EXHIBIT 1



**Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526**

Phone: (760) 878-0263
FAX: (760) 872-2712
E-Mail: inyoplanning@inyocounty.us

PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN the Inyo County Planning Commission will hold public hearings Wednesday, May 3, 2023, at 10:00 a.m. in the Board of Supervisors Room, County Administrative Center, at 224 North Edwards Street, Independence, to consider the following:

Renewable Energy Permit No. 2022-01/Barker

The applicant has applied for a Renewable Energy Permit, located on one private parcel (038-330-46) in Trona California. The proposed project will connect to Southern California Edison's transmission infrastructure to generate renewable energy for consumers. The property is zoned Rural Residential (RR)-5-acre minimum, with General Plan designations of Residential Estate (RE). The project area is also part of a Solar Energy Development Area (SEDA) overlay, as adopted by the Inyo County Board of Supervisors in 2015.

If you challenge any finding, determination, or decision made regarding this project in court, you may be limited to raising only the issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered prior to the hearing.

Comments can be made regarding these projects prior to the meeting via U.S. Mail: PO Drawer L, Independence, CA 93526, Fax [(760) 872-2712], or by email (inyoplanning@inyocounty.us)

All mailed, faxed, and emailed comments will become part of the official record, and the Planning Commission will take that feedback into consideration as it deliberates.

EXHIBIT 2

Agenda

County of Inyo Planning Commission

Board of Supervisors Room
Inyo County Administrative Center
Independence, California

HOWARD LEHWALD
CAITLIN (KATE) J. MORLEY
TODD VOGEL
CALLIE PEEK
SCOTT KEMP

CATHREEN RICHARDS
RYAN STANDRIDGE
CYNTHIA DRAPER
PAULA RIESEN
MICHAEL ERRANTE
NATE GREENBERG
CHRISTIAN MILOVICH

FIRST DISTRICT
SECOND DISTRICT
THIRD DISTRICT (CHAIR)
FOURTH DISTRICT (VICE CHAIR)
FIFTH DISTRICT

PLANNING DIRECTOR
ASSOCIATE PLANNER
ASSISTANT PLANNER
PROJECT COORDINATOR
PUBLIC WORKS DIRECTOR
COUNTY ADMINISTRATOR
COUNTY COUNSEL

Inyo County Planning Commission
Post Office Drawer L
Independence, CA 93526
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(760) 872-2712 FAX
inyoplanning@inyocounty.us

This meeting will be held in the Board of Supervisors Room located at 224 N. Edwards Street, in Independence California.

Items will be heard in the order listed on the agenda unless the Planning Commission rearranges the order or the items are continued. Estimated start times are indicated for each item. The times are approximate and no item will be discussed before its listed time.

Lunch Break will be given at the Planning Commission's convenience.

The Planning Commission Chairperson will announce when public testimony can be given for items on the Agenda. The Commission will consider testimony on both the project and related environmental documents.

The applicant or any interested person may appeal all final decisions of the Planning Commission to the Board of Supervisors. Appeals must be filed in writing to the Inyo County Board of Supervisors within 15 calendar days per ICC Chapter 15 [California Environmental Quality Act (CEQA) Procedures] and Chapter 18 (Zoning), and 10 calendar days per ICC Chapter 16 (Subdivisions), of the action by the Planning Commission. If an appeal is filed, there is a fee of \$300.00. Appeals and accompanying fees must be delivered to the Clerk of the Board Office at County Administrative Center Independence, California. If you challenge in court any finding, determination or decision made pursuant to a public hearing on a matter contained in this agenda, you may be limited to raising only those issues you or someone else raised at the public hearing, or in written correspondence delivered to the Inyo County Planning Commission at, or prior to, the public hearing.

Public Notice: In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Planning Department at (760) 878-0263 (28 CFR 35.102-3.104 ADA Title II). Notification 72 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Planning Department 2 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format (Government Code Section 54954.2).

May 3, 2023

10:00
A.M.

1. **PLEDGE OF ALLEGIANCE.**
2. **ROLL CALL** – Roll Call to be taken by staff.
3. **PUBLIC COMMENT PERIOD** – This is the opportunity for anyone in the audience to address the Planning Commission on any planning subject that is not scheduled on the Agenda.

Action
Item

4. **APPROVAL OF MINUTES** – Approval of minutes from the March 22, 2023 Planning Commission Meeting.

- Action Item Public Hearing**
5. **AMENDMENT TO CONDITIONAL USE PERMIT 1994-2 BROWN’S SUPPLY; RECLAMATION PLAN 1994-2 BROWN’S SUPPLY**-The applicant has applied to amend Conditional Use Permit (CUP) 1994-2 and Reclamation Plan (REC) 1994-2, proposing to remove the east pit of 4.97 acres within the existing mining boundary and update both the CUP and REC to store foreign materials on site.
- Action Item Public Hearing**
6. **AMENDMENT TO RECLAMATION PLAN 1997-6 INDEPENDENCE MS#118 CALIFORNIA DEPARTMENT OF TRANSPORTATION**-The applicant has applied for an amendment to Reclamation Plan 97-6 with permission from the Bureau of Land Management (BLM). The California Department of Transportation proposing a minor revision of the condition of approval #20, abandoning the well, in the approved plan at the Independence Pit MS #118.
- Action Item Public Hearing**
7. **RENEWABLE ENERGY PERMIT 2022-01/BARKER**- The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on one privately owned parcel(APN:038-330-46), in Trona California. This permit would allow the applicant to construct a proposed 1-megawatt photovoltaic solar facility that uses approximately 2,300 single axis tracker solar panels. The project encompasses 5-acres of pre-disturbed land.
- Action Item Public Hearing**
8. **RENEWABLE ENERGY PERMIT 2022-02/BARKER**-The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on three privately owned parcels (APN:038-330-32,33,34), in Trona California. This permit would allow the applicant to construct a proposed 3-megawatt photovoltaic solar facility that uses approximately 6,000 single axis tracker solar panels. The project encompasses 15- acres of pre-disturbed land.
- Work shop**
9. **BROWN ACT REVIEW** – County Counsel will give a presentation to the Planning Commission about the Brown ACT and how it applies to the Planning Commission.

COMMISSIONERS’ REPORT/COMMENTS

Commissioners to give their report/comments to staff.

PLANNING DIRECTOR’S REPORT

Planning Director, Cathreen Richards, will update the Commission on various topics.

CORRESPONDENCE-INFORMAITONAL

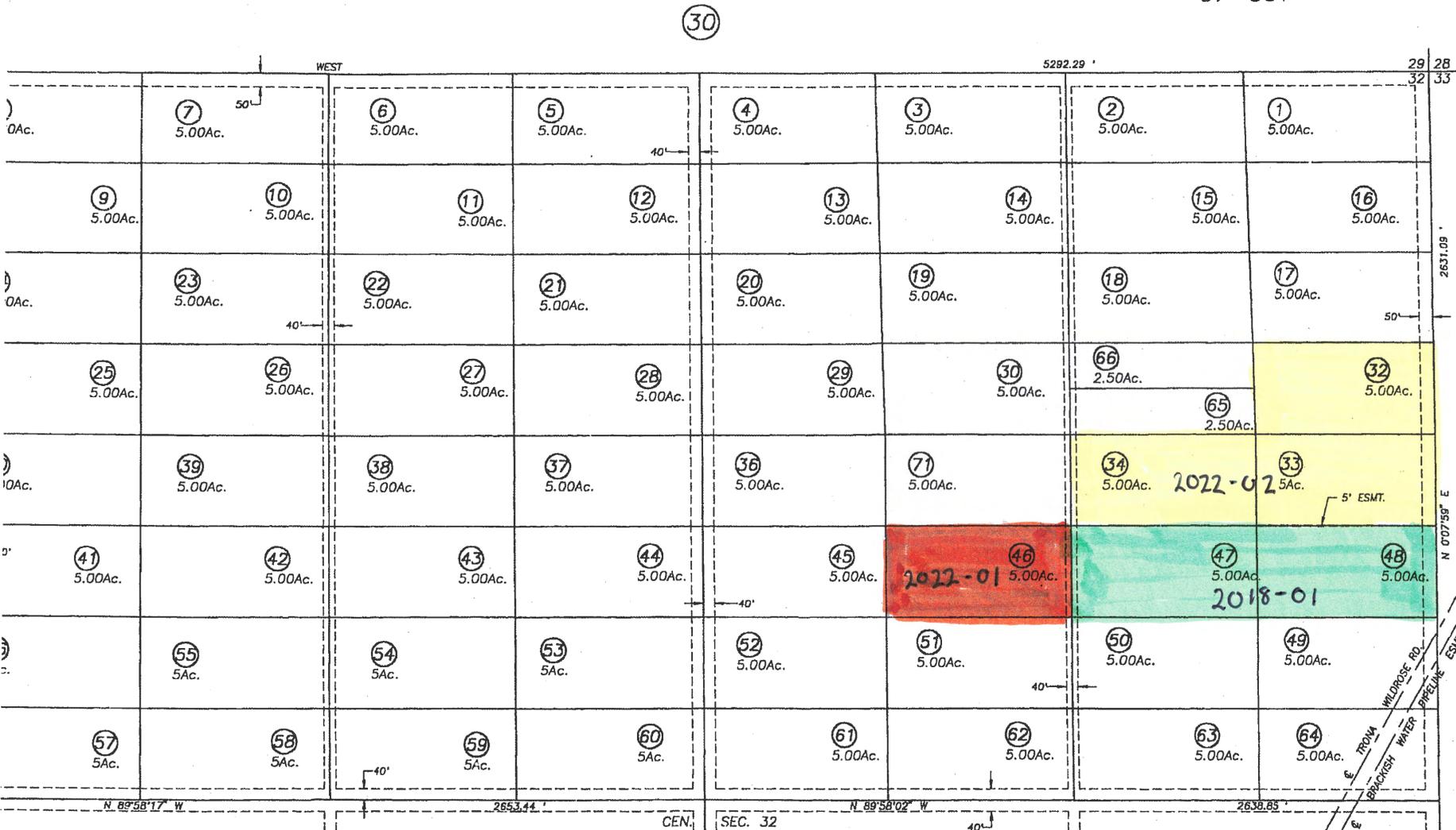
EXHIBIT 3

N1/2 SEC. 32 T.24S., R.43E., M.D.B. & M.

BLM SMALL TRACT CLASSIFICATION-CALIFORNIA NO. 128

TAX RATE AREA
67-001

38-33



r.S. Bk. 8 Pgs. 69 & 94

- NOTE:
1. THIS DOCUMENT WAS PREPARED FOR ASSESSMENT PURPOSES ONLY.
 2. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN.
 3. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.

Assessor's Map Bk. 38 Pg. 3
County of Inyo, Calif.
1963

11-17-97
08-22-96

EXHIBIT 4

FILED

JUN 05 2018

**INYO CO. CLERK
KAMMI FOOTE, CLERK**



**Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526**

**Phone: (760) 878-0263
FAX: (760) 872-2712
E-Mail: inyoplanning@inyocounty.us**

NOTICE OF AVAILABILITY AND INTENT

Notice is hereby given that an Initial Study and Draft Negative Declaration of Environmental Impact have been prepared pursuant to the California Environmental Quality Act (CEQA) and Inyo County CEQA Procedures, and are available for public review for the following application:

Renewable Energy Permit #2018-01/Barker

The applicant has applied for a renewable energy permit to construct a 1 megawatt (MW) photovoltaic solar facility, located on two privately owned parcels (038-330-47 & 038-330-48) in Trona, California. The project will be built on two parcels (5 acres each) with a total project area of 10 acres. The proposed project will connect to Southern California Edison's transmission infrastructure to generate renewable energy for consumers.

The 30-day review period for this Draft Negative Declaration of Environmental Impact begins on June 6, 2018 and expires on July 5, 2018. During this period comments may be submitted regarding the Initial Study and Negative Declaration. Inyo County is not required to respond to any comments received after this date. Written comments and all questions should be addressed to the Inyo County Planning Department at P.O. Drawer "L," Independence, CA 93526, faxed to (760) 878-0382, or emailed to inyoplanning@inyocounty.us.

Copies of the Initial Study and Draft Negative Declaration of Environmental Impact for this project are available for review at the Inyo County Planning Department (168 N. Edwards Street, Independence), County libraries, and the Inyo County Planning Department's website at www.inyoplanning.org.

18-00018

JUL 31 2018

INYO CO. CLERK
KAMMI FOOTE, CLERK

Notice of Determination

Appendix D

To:

Office of Planning and Research
U.S. Mail: Street Address:
P.O. Box 3044 1400 Tenth St., Rm 113
Sacramento, CA 95812-3044 Sacramento, CA 95814

County Clerk
County of: Inyo
Address: 168 N. Edwards St, PO Drawer F
Independence, CA 93526

From:

Public Agency: Inyo County Planning Department
Address: 168 N. Edwards Street
Independence, CA 93526
Contact: Cathreen Richards
Phone: 760-878-0447

Lead Agency (if different from above):
Address:
Contact:
Phone:

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (if submitted to State Clearinghouse): 2018061007

Project Title: Solar 2018-01/Barker

Project Applicant: Robbie Barker, PO Box 907, Trona CA 93592 #760-382-4111

Project Location (include county): Trona, CA / Inyo County

Project Description:

The proposed project would construct a 1 megawatt (MW) photovoltaic solar facility that uses approximately 3,500 fixed tilt or single axis tracker solar panels. The project encompasses 10 acres of pre-disturbed land, which is being used primarily for the storage of miscellaneous equipment. The project would connect to Southern California Edison's transmission and distribution infrastructure, helping the State meet its greenhouse gas emission reduction targets by producing carbon neutral electricity.

This is to advise that the County of Inyo has approved the above
(Lead Agency or Responsible Agency)

described project on 7/25/2018 and has made the following determinations regarding the above
(date)
described project.

1. The project [will will not] have a significant effect on the environment.
2. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [were were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [was was not] adopted for this project.
5. A statement of Overriding Considerations [was was not] adopted for this project.
6. Findings [were were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

<http://inyoplanning.org/projects.htm>

Signature (Public Agency):  Title: Planning Director

Date: 7/31/2018 Date Received for filing at OPR:

EXHIBIT 5

Table ES-1 IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
AESTHETICS		
<p>Future solar energy developments within the SEDAs and OVSA could result in potentially significant visual impacts related to: (1) scenic vistas and scenic resources; (2) degradation of the existing visual character or quality of the site and its surroundings; and (3) light and glare.</p>	<p>AES-1: Prepare visual studies that include existing views, scenic vistas, and visual resources and evaluate the potential impacts to existing visual resources. Site-specific visual studies shall be prepared to assess potential visual impacts for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are distributed generation <u>commercial scale</u> or community scale that have been determined by a <u>qualified</u> County qualified-planner to have the potential to impact visual resources within the individual SEDAs and the OVSA. The visual study shall include assessment of the existing visual environment, including existing views, scenic vistas, and visual resources, and evaluate the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. The study shall include assessment of public views from key observation points, the locations of which shall be determined in consultation with County staff and, if applicable, other public agencies with jurisdiction over the project site (e.g., BLM). Visual simulations shall be prepared to conceptually depict post-development views from the identified key observation points.</p> <p>The analysis and results of the study shall be documented in a memorandum that will include: (1) an assessment of the existing visual environment, including existing views, scenic vistas, and visual resources and (2) an evaluation of the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. Applicable recommendations from the project-specific visual analysis shall be incorporated into the associated individual project design to address identified potential visual impacts.</p> <p>AES-2: Reduce potential effects of glare by preparing site-specific glare studies that inform project design. Site-specific glare studies shall be prepared for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are distributed generation <u>commercial scale</u> or community scale that have been determined by a <u>qualified</u> County qualified-planner to have the potential to impact visual resources within the individual SEDAs and the OVSA to assess potential glare impacts. Applicable results and recommendations from the project-specific glare study shall be incorporated into the associated individual project designs to address identified potential visual impacts.</p>	<p>Significant and Unavoidable</p>

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
AESTHETICS (cont.)		
	<p>AES-3: Minimize visual contrast using colors that blend with surrounding landscape and do not create excessive glare. The project applicant For future proposed solar energy projects that are greater than 20 MW (utility scale) and for proposed solar energy <u>projects</u> that are distributed generation commercial scale or community scale that have been determined by a <u>qualified County qualified</u> planner to have the potential to impact visual resources, <u>shall treat</u> the surfaces of structures and buildings that are visible from public viewpoints <u>shall be treated</u> so that (1) their colors minimize visual contrast by blending with the surrounding landscape and (2) their colors and finishes do not create excessive glare. Surface color treatments shall include painting or tinting in earth tone colors to blend in with the surroundings desert and mountains. Materials, coatings, or paints having little or no reflectivity shall be used.</p> <p>AES-4: Install natural screens to protect ground-level views into the project. For all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are <u>commercial scale distributed generation</u> or community scale that have been determined by a <u>qualified County qualified</u> planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, <u>and</u> where existing screening topography and vegetation are absent or minimal, natural-looking earthwork landforms (such as berms or contour slopes), vegetative, or architectural screening shall be installed to screen ground-level views into the project site. The shape and height of the earthwork landforms shall be context sensitive and consider distance and viewing angle from nearby public viewpoints.</p> <p>AES-5: Prepare lighting plan using BMPs consistent with the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010) to reduce night lighting during construction and operation. The project applicant shall prepare a lighting plan for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are distributed generation commercial scale or community scale that have been determined by a <u>qualified County qualified</u> planner to have the potential to impact visual resources within the individual SEDAs and the OVSA that documents how project lighting would be designed and installed to</p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
AESTHETICS (cont.)		
	<p>minimize night sky impacts during construction and operation. The lighting plan shall include, at minimum, the following lighting design parameters:</p> <ul style="list-style-type: none"> • Lighting shall be of the minimum necessary brightness consistent with operational safety and security <u>requirements</u>. • Lighting shall incorporate fixture hoods/shielding with light directed downward <u>and</u> or toward the area to be illuminated. • Light fixtures that are visible from beyond the project boundary shall have cutoff angles that are sufficient to prevent lamps and reflectors from being visible beyond the project boundary, except where necessary for security. • Project lighting shall be kept off when not in use whenever feasible and consistent with safety and security <u>requirements</u>. • <p>AES-6: Treat PV solar panel glass with anti-reflective coating. For proposed PV facilities greater than 20 MW (utility scale) and for proposed solar energy projects that are distributed generation commercial scale or community scale that have been determined by a <u>qualified</u> County qualified planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, glass used to cover solar panels shall be treated with an anti-reflective coating to further decrease reflection and increase the transmission of light through the glass to the cells.</p> <p>AES-7: Coordinate with the Federal Aviation Administration when considering the use of audio visual warning systems. For projects requiring aircraft warning lights, the project applicant shall coordinate with the Federal Aviation Administration (FAA) to consider the use and installation of audio visual warning systems technology¹ on tower structures. If the FAA denies a permit for the use of audio visual warning systems, the project applicant shall limit lighting to the minimum required to meet FAA safety requirements.</p>	

¹ AVWS technology consists of all-weather, day and night, low-voltage, radar-based obstacle avoidance systems that activate lighting and audio signals to alert pilots of the presence of potential obstacles. The lights and audio warnings are inactive when there is no air traffic in the area of potential obstruction.

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
AESTHETICS (cont.)		
	<p>AES-8: Projects on federal land will comply with the respective federal agency’s visual guidelines and policies. Solar energy projects proposed on federal land within individual SEDAs and the OVSA shall be coordinated with the federal agency that is responsible for the management of the land and shall comply with the respective federal agency’s visual guidelines and policies.</p> <p>AES-9: The project will implement BMPs and measures during construction to reduce the visual and aesthetic effects of the construction site. The following measures shall be implemented for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are distributed generation-commercial scale or community scale that have been determined by a <u>qualified</u> County qualified-planner to have the potential to impact visual resources within the individual SEDAs and the OVSA during construction:</p> <ul style="list-style-type: none"> • Construction boundaries and staging areas shall be clearly delineated and where appropriate fenced to prevent encroachment onto adjacent natural areas. • Construction staging and laydown areas visible from nearby roads, residences, and recreational areas shall be visually screened using temporary fencing. Fencing shall be of an appropriate design and color to visually blend with the site’s surroundings. • Existing native vegetation shall be preserved to the greatest extent possible. • Project grading shall utilize undulating surface edges and contours that repeat the natural shapes, forms, textures, and lines of the surrounding landscape. • Exposed soils shall be restored to their original contour and vegetation. • Stockpiled topsoils shall be reapplied to disturbed surfaces. <p>AES-10: Projects requiring overhead electrical transmission connections will consider design and installation techniques that reduce visual impacts. For projects that require overhead electrical transmission connections to existing transmission lines and for the potential off-site transmission corridor to serve the Trona, Chicago Valley, and Charleston View SEDAs, the following shall be considered in the design and alignment of the transmission line connections:</p>	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
AESTHETICS (cont.)		
	<ul style="list-style-type: none"> • Avoid placing transmission towers and structures along ridgelines, peaks, or other locations where skylining effects would occur such that they would silhouette against the sky. • Place transmission corridor connection alignments along edges of clearings or at transition areas (i.e., natural breaks in vegetation or topography). • <u>To the extent practicable, treat transmission towers and structures with color and surfaces to reduce visual contrast with the surrounding visual landscape. Alternative methods to reduce visual impacts may be considered for structures that cannot use conventional methods of painting without impeding electrical conveyance or without causing long-term environmental impacts through the constant reapplication of paint. These methods may include, but shall not be limited to, galvanizing or similar factory-applied conductive non-paint treatments.</u> • Use of appropriate and context-sensitive transmission tower types (i.e., lattice structures compared to monopoles) to reduce visual contrast with the surrounding visual landscape. 	
AGRICULTURE AND FORESTRY RESOURCES		
<p>Implementation of the REGPA could result in potentially significant impacts to farmlands through the direct and indirect conversion of those resources.</p> <p>No significant impacts to forestry resources would occur with implementation of the REGPA.</p>	<p>AG-1: Review development proposals for potential impacts to agricultural operations. The County Agricultural Commissioner shall be responsible for reviewing new development proposals adjacent to agricultural operations to ensure they do not significantly impact agricultural operations.</p> <p>AG-2: Conduct site specific investigations for agricultural lands. Site-specific agricultural resource investigations shall be completed for proposed solar development projects within the individual SEDAs and the OVSA that are located on lands utilized for agricultural operations prior to final project design approval. If agricultural operations are identified within the project area, alternative designs should be implemented to avoid and/or minimize impacts to those resources. This may include mitigating conversion of agricultural lands based on the mitigation ratios identified in consultation with affected agencies at the cost of the project applicant to the satisfaction of the County. Mitigation ratios and impact fees assessed, if any, shall be outlined in the Renewable Energy Development Agreement, Renewable Energy Permit, or Renewable Energy Impact Determination.</p>	Less Than Significant

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
AGRICULTURE AND FORESTRY RESOURCES (cont.)		
	<p>AG-3: Invasive plant species or noxious weeds. To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> • The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes. • Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site. • Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored. • The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned. • Native vegetation shall be re-established as quickly as practicable on disturbed sites. • Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions. • Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations. 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
AIR QUALITY		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scaled distributed generation</u>, and/or community scale, and/or facilities) could result in potentially significant impacts related to: (1) daily threshold exceedances during construction activities; (2) daily threshold exceedances during operations; and (3) cumulatively considerable net increase in criteria pollutants during construction activities.</p>	<p>AQ-1: Prepare site-specific air quality technical report. Prior to issuance of Major Use Permits for solar energy projects, a site-specific air quality technical report shall be prepared and approved by the County, which will verify compliance with County and Great Basin Unified Air Pollution Control District standards during construction and operation of the solar project.</p> <p>Mitigation measures AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report, and will be implemented during construction and operation of future projects. These measures require implementation of dust control practices during construction activities and solar project operations.</p> <p>AQ-2: Reduce fugitive dust and particulate matter emissions during construction. To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rules 401 and 402 as well as applicable best management practices (BMP)s from the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010), solar projects shall implement fugitive dust and particulate matter emissions control measures including, but not limited to the following:</p> <ul style="list-style-type: none"> • Water and/or coarse rock all active construction areas as necessary and indicated by soil and air conditions; • Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard; • Pave or apply (non-toxic) soil stabilizers on all unpaved access roads; • Sweep daily (with water sweepers) all paved access roads; Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets; • Suspend excavation and grading activity when sustained winds make reasonable dust control difficult to implement, e.g., for winds over 25 miles per hour (mph). • Limit the speed of on-site vehicles to 15 mph. 	<p>Less Than Significant</p>

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
AIR QUALITY (cont.)		
	<p>AQ-3: Implement dust control measures during operation. To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rule 401 and 402 as well as applicable BMPs from REAT’s Best Management Practices and Guidance Manual (REAT 2010), solar projects shall incorporate feasible dust control measures into the site design including, but not limited to, the following:</p> <ul style="list-style-type: none"> • <u>Incorporate perimeter sand fencing into the overall design to prevent migration of exposed soils into the surrounding areas. The perimeter fence is intended to provide long-term protection around vulnerable portions of the site boundary; it is also intended to prevent off-road site access and sand migration across site boundaries and the associated impacts.</u> • <u>Incorporate wind deflectors intermittently across solar project sites. The solar panels themselves, especially where installed to transverse primary wind direction, will provide some measure of protection of the ground surface. Wind deflectors enhance this effect by lifting winds that may otherwise jet beneath panels, thereby disrupting long wind fetches, and reducing surface wind velocities and sand migration.</u> • <u>Orient infrastructure/solar panels perpendicular to primary wind directions; and</u> • <u>Adjust panel operating angles to reduce wind speeds under panels.</u> • <u>Perform revegetation in areas temporarily denuded during construction. These areas would be replanted with native plant species that exist on the site presently. Irrigation would be applied temporarily during the plant establishment period (typically multiple years), but after establishment it is expected that these areas would require little or no maintenance. Vegetation provides dust control by protecting and preventing threshold wind velocities at the soil surface. Studies have shown that an 11 to 54 percent vegetation cover on a site can provide up to 99 percent PM10 control efficiency (GBUAPCD 2008).</u> • <u>As the installation of solar panels and associated equipment progresses, each area that is completed (i.e. where no further soil disturbance is anticipated) will be treated with a dust palliative to prevent wind erosion. CARB certifications indicate that the application of dust suppressants can reduce PM10 emissions by 84 percent or more (CARB 2011).</u> 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scaled distributed generation, and/or community scale, and/or facilities</u>) could result in potentially significant impacts related to sensitive biological resources. Potential impacts to specific resource areas are described below.</p>	<p>BIO-1: Prepare project level biological resources evaluation and mitigation and monitoring plan. <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact biological resources as determined by a qualified biologist (defined as a biologist with documented experience or training related to the subject species), a project level biological resource evaluation shall be prepared by a qualified biologist for the project. The biological resource evaluation shall include field reconnaissance and focused surveys as determined necessary by a qualified biologist to identify special status species and natural communities present or having the potential to occur on the site, an evaluation of the extent of those habitats, an evaluation of the potential for impacts to each special status species and/or habitat, and shall prescribe specific mitigation measures to avoid or reduce impacts to biological resources to the maximum extent practicable. The qualifications of any biologists conducting special status species surveys or focused habitat assessments will be submitted to CDFW prior to conducting fieldwork. The level of biological resource analysis will be based on factors such as the size of the proposed project, the and extent of impacts to biological resources, and the sufficiency of existing data to determine impacts.</u></p> <p><u>An evaluation of the potential for off-site impacts to special status species and sensitive habitats will be included in the biological resources evaluation, especially for projects involving groundwater pumping. Chapter 2 of the Basin Plan protects beneficial uses for groundwater with respect to groundwater recharge and freshwater replenishment and beneficial uses for wildlife habitats and flora and fauna including cold freshwater habitat, warm freshwater habitat, wildlife habitat, rare, threatened, or endangered species, spawning, reproduction, and development, preservation of biological habitats of special significance, and migration of aquatic organisms (RWQCB 1995). A project-specific evaluation of potential impacts to beneficial uses for groundwater as specified in the Basin Plan will be included in the biological resources evaluation.</u></p>	<p>Significant and Unavoidable</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>For projects in the Chicago Valley or Charleston View SEDAs, potential impacts to special status species and/or riparian and other groundwater dependent habitat in the Amargosa Watershed will be evaluated. If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch. USFWS and CDFW shall be contacted during preparation of the biological resources evaluation to obtain the best available scientific data on such potential impacts including existing hydrologic studies (e.g., the unpublished State of the Basin Report-2014 prepared by Andy Zdon and Associates, Inc).</u></p> <p><u>For projects with the potential to impact on- or off-site special status species or habitats as determined in the biological resources evaluation, a project-specific biological resources mitigation and monitoring plan shall be prepared in cooperation with and that meets the approval of permitting agencies. The plan shall be implemented during all phases of the project and shall identify appropriate mitigation levels to compensate for significant direct, indirect, and cumulative impacts, including habitat, special status plant, and wildlife species losses as well as impacts to groundwater dependent vegetation or off-site impacts to special status species or sensitive habitats due to groundwater pumping. The plan shall address at a minimum:</u></p> <ul style="list-style-type: none"> • Biological resource avoidance and minimization measures and mitigation, monitoring and compliance measures required by federal, state, and local applicable permitting agencies. • Documentation (based on surveys) of sensitive plant and wildlife expected to be affected by all phases of the project (project construction, operation, abandonment, and decommissioning). Agencies may request additional surveying, based on the documentation or past experience working with the resources. Include measures to avoid or minimize impacts to species and habitat. • A detailed description of measures to minimize or mitigate permanent and temporary disturbances from construction activities. • 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> • 	
	<ul style="list-style-type: none"> • All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction. • Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities. • Duration for each type of monitoring and a description of monitoring methodologies and frequency. • Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful. • All standards and remedial measures to be implemented if performance standards and criteria are not met. • A closure/decommissioning or abandonment plan, including a description of funding mechanism(s). • A process for proposing plan modifications to the County project manager. • All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction. • Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities. • Duration for each type of monitoring and a description of monitoring methodologies and frequency. • Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful. • All standards and remedial measures to be implemented if performance standards and criteria are not met. • A closure/decommissioning or abandonment plan, including a description of funding mechanism(s). • A process for proposing plan modifications to the County project manager. 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
<p>Impacts to special status plant species could occur during construction and/or operation of the future solar developments under the REGPA.</p>	<p>BIO-2: Minimize impacts to special status plants. <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA, a CDFW-approved botanist shall evaluate the potential for special status plant species to occur on the site and conduct surveys, if necessary, to determine presence or infer absence of special status plants on the site following the November 24, 2009 <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities</i> or the most current guidelines. When special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, to the maximum extent feasible, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs, with the potential to impact special status plant species as determined by a qualified biologist/botanist, a qualified botanist shall determine the presence or absence of special status plants within the project site. The following steps shall be implemented to document special-status plants, as determined necessary by the botanist:</u></p> <ul style="list-style-type: none"> ● Review Existing Information. The botanist shall review existing information to develop a list of special status plants that could grow in the specific project area. Sources of information consulted shall include CDFW’s CNDDDB, the CNPS electronic inventory, and previously prepared environmental documents. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of sensitive plants from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned. ● Coordinate with Agencies. The botanist shall coordinate with the appropriate agencies (i.e., CDFW and USFWS) to discuss botanical resource issues and determine the appropriate level of surveys necessary to document special status plants. ● Conduct Field Studies. The botanist shall evaluate existing habitat conditions for each project and determine what level of botanical surveys may be required. The type of botanical survey shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on these factors and the proposed construction activity, one or a combination of the 	<p>Less Than Significant</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>following levels of survey may be required:</p> <ul style="list-style-type: none"> ● Habitat Assessment. A habitat assessment shall be conducted to determine whether suitable habitat is present. This type of assessment can be conducted at any time of year and is used to assess and characterize habitat conditions and determine whether return surveys are necessary. If no suitable habitat is present, no additional surveys shall be required. ● Species Focused Surveys. Species focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status plants. The surveys shall focus on special status plants that could grow in the region, and would be conducted during a period when the target species are evident and identifiable. ● Floristic Protocol Level Surveys. Floristic surveys that follow the CNPS Botanical Survey Guidelines shall be conducted in areas that are relatively undisturbed and/or have a moderate to high potential to support special status plants. The CNPS Botanical Survey Guidelines require that all species be identified to the level necessary to determine whether they qualify as special status plants, or are plant species with unusual or significant range extensions. The guidelines also require that field surveys be conducted when special status plants that could occur in the area are evident and identifiable. To account for different special status plant identification periods, one or more series of field surveys may be required in spring and summer months. ● Map Special Status Plants. Special status plant populations identified during the field surveys shall be mapped and documented as part of the CEQA process, as applicable. Project development plans shall consider avoidance to the extent practicable. If avoidance is not practicable while otherwise obtaining the projects objectives, then other suitable measures and mitigation shall be implemented in coordination with the appropriate regulatory agency (i.e., USEFWS, CDFW, BLM). <p>If special status plants are identified in the project area <u>and complete avoidance of direct and indirect impacts is not feasible as determined by the County</u>, the following measures shall be implemented to avoid and minimize impacts on special status plants:</p> <ul style="list-style-type: none"> ● The project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, if feasible. ● If feasible, when special status plants are found on a site, the project shall be 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>redesigned or modified to avoid direct and indirect impacts on special status plants, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs.</u></p> <ul style="list-style-type: none"> • <u>For projects that are determined to have the potential to result in “take” of state or federally-listed plant species, consultation shall be conducted with CDFW or USFWS respectively prior to project commencement, and appropriate mitigation measures developed if necessary.-</u> • Special status plants near the project site shall be protected by installing environmentally sensitive area fencing (orange construction barrier fencing) around special status plant populations. The environmentally sensitive area fencing shall be installed at least 20 feet from the edge of the population. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area. • No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. If When individuals of a special status species occur within an area proposed for construction and take cannot be avoided, avoidance of special status plants is not feasible, mitigation shall be developed in coordination with USFWS and/or CDFW to reduce impacts on the local population of the special status species. No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. Mitigation measures approved by USFWS and/or CDFW may include transplantation If individuals of a special status species occur within an area proposed for construction and take cannot be avoided, the plants shall be transplanted under the direction of a qualified CDFW-approved botanist if transplantation of such species is deemed likely to succeed, or seed shall be collected prior to destruction of the plants and dispersed in suitable habitats not impacted by construction, if such habitats exist and seed collection is deemed likely to be successful by a qualified CDFW-approved botanist with experience propagating the species in 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>question. In all cases, CDFW will be notified at least 10 days prior to removal of any special status plant to allow transplantation or collection of seed at their discretion.</p> <ul style="list-style-type: none"> • <u>If transplanting is proposed, the botanist shall coordinate with the appropriate resource agencies and local experts to determine whether transplantation is feasible. If the agencies concur that transplantation is a feasible mitigation measure, the botanist shall develop and implement a transplantation plan through coordination with the appropriate agencies. The special status plant transplantation plan shall involve identifying a suitable transplant site; moving <u>some or all of the plant material and seed bank to the transplant site; collecting seed material and propagating it in a nursery (in some cases it is appropriate to keep plants onsite as nursery plants and sources for seed material); and monitoring the transplant sites to document recruitment and survival rates. Monitoring shall be conducted for a period of five years and transplantation shall be considered successful if an 80 percent survival rate has been achieved by the end of the five-year monitoring period.</u></u> • <u>A mitigation and monitoring plan shall be developed by a qualified botanist/ restoration ecologist and submitted to CDFW for approval prior to approval of the proposed project. The mitigation and monitoring plan will dictate appropriate avoidance and minimization measures, compensatory mitigation, and monitoring requirements as pertinent to the specific species and level of impact(s). Mitigation shall include, but is not limited to 1) protection of special status plant populations not directly impacted by construction or implementation of the project as stated above; 2) transplantation and/or collection of seed from impacted plants if feasible, as stated above; and 3) the preservation in perpetuity of an equivalent or larger off-site population for every individual or population of special status plant impacted including sufficient land surrounding the preserved population to ensure its survival in perpetuity as determined by a qualified botanist/ restoration ecologist. The qualified botanist/ restoration ecologist shall include plans to restore and enhance the preserved populations to the extent feasible.</u> • <u>If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch, pursuant to Mitigation Measure HYD-2 in Section 4.9, Hydrology</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>and Water Quality. If any solar development projects are proposed in the Chicago Valley or Charleston View SEDAs that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for down-watershed impacts to the habitats for special status plants in the Amargosa Watershed including the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic.” If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status plant species (e.g., Fish Slough, marshes, riparian areas, alkaline flats in the Amargosa Watershed and the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic”), a management plan will be prepared in coordination with the County and submitted to the appropriate resource agency with oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on off-site habitat for special status plants such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County.</u></p>	
<p>Impacts to special status wildlife species could occur as a result of implementation of the REGPA if construction and/or operation of the future solar developments would occur within or adjacent to suitable habitat. This includes potential impacts to special status fish, amphibians, reptiles, birds, and mammals.</p>	<p>BIO-3: Minimize impacts to special status wildlife. <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact special status wildlife as determined by a qualified biologist, a qualified CDFW-approved wildlife biologist shall conduct a survey to document the presence or absence of suitable habitat for special status wildlife in the project site. The following steps shall be implemented to document special status wildlife and their habitats for each project, as determined by the CDFW-approved wildlife biologist:</u></p> <ul style="list-style-type: none"> • <u>Review Existing Information.</u> The wildlife biologist shall review existing information to develop a list of special status wildlife species that could occur in the project area or be impacted by the proposed project, either directly or indirectly (e.g., groundwater pumping could result in indirect impacts to off-site habitats for special status wildlife). The following information shall be reviewed as part of this process: the USFWS special status species list for the project region, CDFW’s CNDDDB, previously prepared environmental documents, and USFWS issued biological opinions for 	<p>Significant and Unavoidable</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>previous projects. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of special status wildlife from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.</p> <ul style="list-style-type: none"> • Coordinate with State and Federal Agencies. The wildlife biologist shall coordinate with the appropriate agencies (CDFW, USFWS, BLM) to discuss wildlife resource issues in the project region and determine the appropriate level of surveys necessary to document special status wildlife and their habitats. • Conduct Field Studies. The wildlife biologist shall evaluate existing habitat conditions and determine what level of biological surveys may be required. The type of survey required shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on the existing conditions in the project area and the proposed construction activity, one or a combination of the following levels of survey may be required: • Habitat Assessment. A habitat assessment determines whether suitable habitat is present. The wildlife biologist shall conduct project-specific habitat assessments consistent with protocols and guidelines issued by responsible agencies for certain special status species- (e.g., USFWS' and CDFW have issued protocols for evaluating bald eagle habitat (2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California). Habitat assessments are used to assess and characterize habitat conditions and to determine whether return surveys are necessary. If no suitable habitat is present for a given special status species, no additional species-focused or protocol surveys shall be required. • Species-Focused Surveys. Project-specific species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status wildlife and if it is necessary to determine the presence or absence of the species in the project area. The wildlife biologist shall conduct project-specific surveys focusing on special status wildlife species that have the potential to occur in the region. The surveys shall be conducted during a period when the target species are present and/or active. • Protocol-Level Wildlife Surveys. The wildlife biologist shall conduct project specific protocol level surveys for special status species with the potential to be impacted by the proposed project. The surveys shall comply with the appropriate protocols and 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>guidelines issued by responsible agencies for the special status species. USFWS and CDFW have issued survey protocols and guidelines for several special- status wildlife species that could occur in the project region, including (but not limited to): bald eagle, burrowing owl, golden eagle, Swainson’s hawk, least Bell’s vireo, willow flycatcher, desert tortoise, and San Joaquin desert kit fox. The protocols and guidelines may require that surveys be conducted during a particular time of year and/or time of day when the species is present and active. Many survey protocols require that only a USFWS- or CDFW-approved biologist perform the surveys. The project proponent shall coordinate with the appropriate state or federal agency biologist before the initiation of protocol-level surveys to ensure that the survey results would be valid. Because some species can be difficult to detect or observe, multiple field techniques may be used during a survey period and additional surveys may be required in subsequent seasons or years as outlined in the protocol or guidelines for each species.</p> <ul style="list-style-type: none"> • <u>Habitat Mapping.</u> The wildlife biologist shall map special status wildlife or suitable habitat identified during the project-specific field surveys. • <u>A Scientific Collecting Permit is required to take, collect, capture, mark, or salvage, for scientific, educational, and non-commercial propagation purposes, mammals, birds and their nests and eggs, reptiles, amphibians, fishes and invertebrates (Fish and Game Code Section 1002 and Title 14 Sections 650 and 670.7). All biologists will be required to obtain a Scientific Collecting Permit that may be required to handle any live or dead animals during construction or operation of a project.</u> <p>In addition, the following measures should be implemented to avoid and minimize impacts on special status species and their habitats if they occur within a site:</p> <ul style="list-style-type: none"> • For projects that are determined to have the potential to result in “take” of state or federally-listed animal species, consultation shall be conducted with CDFW or USFWS respectively <u>and appropriate mitigation measures developed as necessary, and take authorization shall be obtained prior to project commencement, if relevant.</u> • Any special status wildlife and/or their habitats identified within a project site outside of the work area will be protected by installing environmentally sensitive area fencing around habitat features, such as seasonal wetlands, burrows, and nest trees. The 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>environmentally sensitive area fencing or staking shall be installed at a minimum distance from the edge of the resource as determined through coordination with state and federal agency biologists (USFWS and CDFW, BLM). The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area.</p> <ul style="list-style-type: none"> • If ground disturbing activities are required prior to site mobilization, such as for geotechnical borings or hazardous waste evaluations, a <u>qualified CDFW-approved biologist</u> shall be present to monitor any actions that could disturb soil, vegetation, or wildlife. • <u>In areas that could support desert tortoise or any other sensitive wildlife species, a County-approved qualified biologist with the appropriate CDFW and/or USFWS approvals for the species being salvaged and relocated shall be onsite and respond accordingly should an animal need to be relocated.</u> walk immediately ahead of equipment during the clearing and grading activities to salvage and relocate the wildlife in the path of the operations. The species shall be salvaged and relocated to off-site habitat when conditions will not jeopardize the health and safety of the biologist. • Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. Vehicles shall not exceed 25 mph on the project site. Vehicles shall abide by posted speed limits on paved roads. • For projects with the potential to affect desert tortoise, parking and storage shall occur within the area enclosed by desert tortoise exclusion fencing to the extent feasible. No vehicles or construction equipment parked outside the fenced area shall be moved prior to an inspection of the ground beneath the vehicle for the presence of desert tortoise. If a desert tortoise is observed, it shall be left to move on its own. If it does not move within 15 minutes, a CDFW and USFWS approved desert tortoise biologist may remove and relocate the animal to a safe location if temperatures are within the range 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>described in the Desert Tortoise Field Manual (USFWS 2013 or most recent version, available from the Ventura Fish and Wildlife Office website http://www.fws.gov/ventura/endangered/species/surveys_protocol.html). All access roads outside of the fenced project footprint shall be delineated with temporary desert tortoise exclusion fencing on either side of the access road, unless otherwise authorized by the County project manager and County biologist.</p> <ul style="list-style-type: none"> • A qualified <u>CDFW-approved</u> biologist shall be designated to oversee compliance with biological resources avoidance and minimization measures during mobilization, ground disturbance, grading, construction, operation, and closure/decommissioning, or project abandonment, particularly in areas containing or known to have contained sensitive biological resources, such as special status species and unique plant assemblages. The qualified <u>CDFW-approved</u> biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The boundaries of all areas to be disturbed (including staging areas, access roads, and sites for temporary placement of spoils) shall be delineated with stakes and flagging prior to construction activities in consultation with the biological monitor. Spoils shall be stockpiled in disturbed areas lacking native vegetation and which do not provide habitat for special status species. Parking areas, staging and disposal site locations shall also be located in areas without native vegetation or special status species habitat. All disturbances, vehicles, and equipment shall be confined to the flagged areas. The qualified <u>CDFW-approved</u> biologist shall be responsible for actions including, but not limited to, the following: <ul style="list-style-type: none"> ○ Clearly marking sensitive biological resource areas and inspecting the areas at appropriate intervals for meeting regulatory terms and conditions. ○ <u>Inspecting, daily, active construction areas where wildlife may have become trapped (for example, trenches, bores, and other excavation sites that constitute wildlife pitfalls outside the permanently fenced area) before beginning construction. At the end of the day, conducting wildlife inspections of installed structures that would entrap or not allow escape during periods of construction inactivity. Periodically inspecting areas with high vehicle activity (such as parking lots) for wildlife in harm’s way.</u> ○ <u>Periodically inspect stockpiled material and other construction material and</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>equipment (including within the fenced areas) throughout the day as some species such as desert kit fox may enter the project site at any time.</u></p> <ul style="list-style-type: none"> ○ Overseeing special status plant salvage operations. ○ Immediately recording and reporting hazardous spills immediately as directed in the project hazardous materials management plan. ○ Coordinating directly and regularly with permitting agency representatives regarding biological resources issues, and implementation of the biological resource avoidance and minimization measures. ○ Maintaining written records regarding implementation of the biological resource avoidance and minimization measures, and providing a summary of these records periodically in a report to the appropriate agencies. ○ Notifying the project owner and appropriate agencies of non-compliance with biological resource avoidance and minimization measures. ○ At the end of each work day, the biological monitor shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled or if backfilling is not feasible, the biological monitor shall ensure that all trenches, bores, and other excavations are sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with desert tortoise-exclusion fencing. All trenches, bores, and other excavations outside the areas permanently fenced with desert tortoise exclusion fencing shall be inspected periodically, but no less than three times, throughout the day and at the end of each workday by the qualifiedCDFW-approved biologist. Should a tortoise or other wildlife become trapped, the CDFW and USFWS-approved desert tortoise biologist shall remove and relocate the individual as described in the project’s Desert Tortoise Relocation/Translocation Plan. Any wildlife encountered during the course of construction shall be allowed to leave the construction area unharmed. ○ Any construction pipe, culvert, or similar structure with a diameter greater than 3<u>1</u> inches, stored less than 8 inches aboveground, and within desert tortoise habitat (i.e., outside the permanently fenced area) for one or more nights, shall be inspected by the biological monitor for desert tortoises or other 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>special status species such as fringe-toed lizard, before the material is moved, buried, or capped. As an alternative, all such structures may be capped before being stored outside the fenced area, or placed on pipe racks. These materials would not need to be inspected or capped if they are stored within the permanently fenced area after the clearance surveys have been completed.</p> <ul style="list-style-type: none"> • Access roads, pulling sites, storage and parking areas outside of the fenced solar facility area shall be designed, installed, and maintained with the goal of minimizing impacts to native plant communities and sensitive biological resources. Transmission lines and all electrical components shall be designed, installed, and maintained in accordance with the APLIC Suggested Practices for Avian Protection on Power Lines (APLIC 2006) and Mitigating Bird Collisions with Power Lines (APLIC 2004) to reduce the likelihood of bird electrocutions and collisions. • Facility lighting shall be designed, installed, and maintained to direct light downwards towards the project site and avoid light spillover to wildlife habitat. • Construction and operation related noise levels shall be minimized to minimize impacts to wildlife. • All vertical pipes greater than 4 inches in diameter shall be capped to prevent the entrapment of birds and other wildlife. • All vehicles and equipment shall be maintained in proper working condition to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials. The biological monitor shall be informed of any hazardous spills immediately. Hazardous spills shall be immediately cleaned up and the contaminated soil properly disposed of at a licensed facility. Servicing of construction equipment shall take place only at a designated area. Service/maintenance vehicles shall carry a bucket and pads to absorb leaks or spills. • Road surfacing and sealants as well as soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants. Anticoagulants shall not be used for rodent control. Pre-emergents and other herbicides with documented residual toxicity shall not be used. Herbicides shall be applied in conformance with federal, state, and local laws and according to the guidelines for wildlife- safe use of herbicides in BIO-24 (Weed Management Plan). 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> • The following measures shall be implemented to minimize attractants to wildlife: <ul style="list-style-type: none"> ○ If the application of water is needed to abate dust in construction areas and on dirt roads, use the least amount needed to meet safety and air quality standards and prevent the formation of puddles, which could attract wildlife to construction sites. The biological monitor shall patrol these areas to ensure water does not puddle and attract desert tortoise, common ravens, and other wildlife to the site and shall take appropriate action to reduce water application where necessary. ○ Water shall be prohibited from collecting or pooling for more than 24 hours after a storm event within the project retention basin. Standing water within the retention basin shall be removed, pumped, raked, or covered. Alternative methods or the timeframe for allowing the water to pool may be modified with the approval of the biological monitor. ○ Dispose trash and food-related items in self-closing, sealable containers with lids that latch to prevent wind and wildlife from opening containers. Empty trash containers daily and remove from the project site those associated with construction when construction is complete. ○ To avoid attracting insectivorous birds and bats, prepare a facility vector (such as mosquitoes or rodents) control plan, as appropriate, that meets the permitting agency approval and would be implemented during all phases of the project. • Workers or visitors, while on project property, shall be prohibited from feeding wildlife, bringing domestic pets to the project site, collecting native plants, or harassing wildlife. • To reduce the potential for the transmission of fugitive dust the project proponent shall implement dust control measures. These shall include: <ul style="list-style-type: none"> ○ The project proponent shall apply non-toxic soil binders, equivalent or better in efficiencies than the CARB- approved soil binders, to active unpaved roadways, unpaved staging areas, and unpaved parking area(s) throughout construction to reduce fugitive dust emissions. ○ Water the disturbed areas of the active construction sites at least three times per day and more often if uncontrolled fugitive dust is noted. Enclose, cover, 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>water twice daily, and/or apply non-toxic soil binders according to manufacturer’s specifications to exposed piles with a 5 percent or greater silt content. Agents with known toxicity to wildlife shall not be used unless approved by the County biologist and County project manager.</p> <ul style="list-style-type: none"> ○ Establish a vegetative ground cover (in compliance with biological resources impact mitigation measures above) or otherwise create stabilized surfaces on all unpaved areas at each of the construction sites within 21 days after active construction operations have ceased. ○ Increase the frequency of watering, if water is used as a soil binder for disturbed surfaces, or implement other additional fugitive dust mitigation measures, to all active disturbed fugitive dust emission sources when wind speeds (as instantaneous wind gusts) exceed 25 mph. ● A project-specific worker environmental awareness program (WEAP) shall be developed and carried out during all phases of the project (site mobilization, ground disturbance, grading, construction, operation, closure/decommissioning, or project abandonment, and restoration/reclamation activities). The WEAP shall include the biological resources present and the measures for minimizing impacts to those resources. Interpretation for non-English speaking workers shall be provided, and all new workers shall be instructed in the WEAP. The project field construction office files will contain the names of onsite personnel (for example, surveyors, construction engineers, employees, contractors, contractor’s employees/ subcontractors) who have participated in the education program. All employees and contractors shall be trained to carry out the WEAP and on their role in ensuring the effectiveness of implementing the Plan. At a minimum, the WEAP shall including the following: <ul style="list-style-type: none"> ○ Photos and habitat descriptions for special status species that may occur on the project site and information on their distribution, general behavior, and ecology. ○ Species sensitivity to human activities. ○ Legal protections afforded the species. ○ Project measures for protecting species. ○ State and federal law violation penalties. ○ Worker responsibilities for trash disposal and safe/ humane treatment of 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>special status species found on the project site, associated reporting requirements, and specific required measures to prevent taking of threatened or endangered species.</p> <ul style="list-style-type: none"> ○ Handout materials summarizing the contractual obligations and protective requirements specified in project permits and approvals. ○ Project site speed limit requirements and penalties. ● A project specific restoration, re-vegetation, and reclamation plan that meets the approval of permitting agencies shall be prepared and carried out for all projects. The plan shall address at a minimum: <ul style="list-style-type: none"> ○ Minimizing natural vegetation removal and the consideration of cutting or mowing vegetation rather than total removal, whenever possible. ○ Salvage and relocation of cactus and yucca from the site before beginning construction. ○ Identification of protocols to be used for vegetation salvage. ○ Reclaiming areas of temporarily disturbed soil using certified weed free native vegetation and topsoil salvaged from excavations and construction activities. ○ Restoration and reclamation of temporarily disturbed areas, including pipelines, transmission lines, staging areas, and temporary construction-related roads as soon as possible after completion of construction activities. The actions are recommended to reduce the amount of habitat converted at any one time and promote recovery to natural habitats. ○ <u>Specifying proper seasons and timing of restoration and reclamation activities to ensure success.</u> ● <u>If any solar development projects are proposed that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for indirect off-site impacts to special status wildlife species and/or their habitats. If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status wildlife species (e.g., Amargosa vole, Ash Meadows naucorid), a management plan will be prepared in coordination with the County and submitted for approval to the appropriate resource agency with regulatory oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>prescribe mitigation to offset the impacts of the project on off-site habitat for special status wildlife such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County.</u></p>	
	<p>BIO-4: Minimize impacts to special status fish. <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status fish, a project-specific groundwater impact analysis will be conducted to address potential impacts to habitat for special status fish. In addition, consultation with USFWS shall be conducted for projects with the potential to impact federally listed species including Owens pupfish or Owens tui chub and coordination with CDFW will be conducted for projects with the potential to impact state listed species or CDFW species of special concern including Owens sucker and Owens speckled dace. For projects that are determined to have the potential to result in “take” of state or federally listed fish species, consultation shall be conducted with CDFW or USFWS respectively and take authorization obtained prior to project commencement.</u></p> <p><u>For all projects proposed in the Charleston View and Chicago Valley SEDAs, an analysis of potential down-watershed impacts to special-status fish species in the Amargosa Watershed will be conducted prior to project approval, if the project involves impacts to groundwater and/or requires pumping of groundwater (e.g. solar thermal projects). If the project is determined to have the potential to result in down-watershed impacts that could alter the hydrology of habitats for special-status fish species, a mitigation and monitoring plan will be prepared by the applicant to address potential impacts to groundwater and down-watershed biological resources and submitted to USFWS and CDFW for approval prior to project implementation. Mitigation measures will be developed in coordination with USFWS and CDFW to offset these impacts. Mitigation measures should include but are not limited to 1) a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio; 2) hydrological and biological monitoring of the impacts of groundwater pumping on the groundwater system and the sensitive habitats down-watershed; and 3) adaptive management to increase the ratio of water rights purchased and retired and restore habitats down-watershed if hydrological and biological monitoring indicates that the projects groundwater pumping is</u></p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>having detrimental effects to sensitive biological resources (e.g., special status species or sensitive natural communities as designated by USFWS, CDFW, or CNPS) within the watershed as determined by a qualified hydrologist/hydrogeologist or biologist in coordination with USFWS and/or CDFW. For projects that are determined to have the potential to result in “take” of state or federally listed fish species, consultation shall be conducted with CDFW or USFWS respectively and take authorization obtained prior to project commencement.</u></p> <p>BIO-5: Minimize impacts to amphibians. The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status amphibians.</p> <ul style="list-style-type: none"> • Surveys for special status amphibians including but not limited to northern leopard frog, Owens Valley web-toed salamander, and Inyo Mountains slender salamander shall be conducted by a <u>qualified CDFW-approved</u> biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction. • If any of these species are found on a project site during the surveys, CDFW shall be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats. • If federal or state-listed amphibians not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project, 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species. For projects that are determined to have the potential to result in “take” of state or federally-listed amphibian species, consultation shall be conducted with CDFW or USFWS respectively and take authorization shall be obtained prior to project commencement.</p>	
	<p>BIO-6: Minimize impacts to desert tortoise. The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect desert tortoise in order to avoid, minimize, and mitigate for impacts:</p> <ul style="list-style-type: none"> • Consultation shall be conducted with CDFW and USFWS for any projects where desert tortoise or <u>signs of their presence</u> is found on the site and/or the project is determined by a <u>qualified CDFW-approved</u> biologist to have the potential to impact desert tortoise. In such cases, permits under Section 2080 of the Fish and Game Code and Section 7/10 of FESA authorizing incidental take of desert tortoise will be obtained from CDFW and USFWS respectively prior to implementation of the project, including any project-related ground disturbing activities. All requirements of the 2081/2080.1 permit and the Biological Opinion shall be implemented. • The project proponent shall fully mitigate for habitat loss and potential take of desert tortoise. The project specific mitigation shall be developed in coordination with CDFW and USFWS, and would be reflective of the mitigation measures described in the Biological Opinion prepared by the USFWS for the project. • <u>The project developer shall provide funds for regional management of common ravens through the payment of a per-acre fee as determined in consultation with the USFWS. The fee shall be commensurate with current per-acre fees (at the time of project approval) required by the BLM and the CEC for development projects in the desert with the potential to provide subsidies to common ravens such as shelter, perching sites, and food. The fee shall be used by the Desert Managers Group to manage common ravens in the California desert with the goal of reducing their predation on desert tortoises.</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> • Projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, Areas of Critical Environmental Concern, Desert Wildlife Management Areas, Priority Connectivity Areas, and other areas or easements managed for desert tortoises). • On project sites containing desert tortoise, consultation shall be conducted with USFWS and CDFW to determine the need for and/or feasibility of conducting desert tortoise translocation (changing location or position) to minimize the taking of the tortoises, if they are observed within the proposed project area. See http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/ for federal translocation plan guidance. Translocation plan development and implementation may require, but not be limited to: additional surveys of potential recipient sites; translocated and resident tortoise disease testing and health assessments; monitoring protocols; and consideration of climatic conditions at the time of translocation. Due to the potential magnitude of proposed renewable energy project impacts on desert tortoises, USFWS and CDFW must evaluate translocation efforts on a project by project basis in the context of cumulative effects. • A desert tortoise authorized biologist approved by CDFW and USFWS shall be contracted to oversee and be responsible for ensuring compliance with desert tortoise avoidance and minimization measures before initiation of and during ground-disturbing activities. The desert tortoise biologist shall conduct clearance surveys, tortoise handling, artificial burrow construction, egg handling, and other procedures in accordance with the Guidelines for Handling Desert Tortoise During Construction Projects (Desert Tortoise Council 1999) or the most current USFWS guidance. The desert tortoise biologist shall be present on site from March 15 through October 31 (active season) during ground-disturbing activities in areas outside the tortoise exclusion fencing. It is recommended that the biologist be on call from November 1 to March 14 (inactive season) and checks such construction areas immediately before construction activities begin. • Refer to the Ventura Fish and Wildlife Office website <http://www.fws.gov/ventura/endangered/species/surveys-protocol.html> for desert 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>tortoise authorized biologist and monitor responsibilities and qualifications, and survey and translocation guidance, and refer to the Nevada Fish and Wildlife Office (desert tortoise recovery office) website <http://www.fws.gov/nevada/desert_tortoise/dtro/.html> for desert tortoise federal recovery plan documents. Methods for clearance surveys, fence specification and installation, tortoise handling, artificial burrow construction, egg handling and other procedures shall be consistent with those described in the 2013 USFWS Desert Tortoise Field Manual available at the Ventura Fish and Wildlife Office website listed above, or more current guidance provided by CDFW and USFWS. All terms and conditions described in the Biological Opinion for the project prepared by the USFWS shall be implemented.</p> <ul style="list-style-type: none"> • The project owner shall undertake appropriate measures to manage the construction site and related facilities in a manner to avoid or minimize impacts to desert tortoise. These measures include, but are not limited to, the following: <ul style="list-style-type: none"> ○ <u>The project applicant shall notify the USFWS and CDFW prior to project commencement and prior to the commencement of any ground disturbing activities.</u> ○ Before starting project ground disturbing activities, the project proponent shall avoid potential desert tortoise harm by incorporating desert tortoise exclusion fencing into permanent fencing surrounding the proposed facility, and installing desert tortoise exclusion fencing around temporary project construction areas such as staging area, storage yards, excavations, and linear facilities. The tortoise exclusion fencing shall be constructed consistent with the USFWS 2010 Desert Tortoise Exclusion Fence Specifications or the most current guidance provided by USFWS and CDFW, and should be constructed in late winter or early spring to minimize impacts to desert tortoise and accommodate subsequent tortoise surveys. ○ Within 24 hours before starting tortoise exclusion fence construction, the desert tortoise biologist shall survey the fence alignment and utility right-of-way alignments and clear desert tortoises from the area. The surveys and relocation methods shall be conducted using techniques approved by the CDFW and USFWS. Following construction of the tortoise exclusion fence, the desert tortoise biologist shall conduct clearance surveys within the fenced area to ensure as many 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>desert tortoises as possible have been removed from the site. Burrows and tortoises identified within the project area shall be handled according to the 2013 USFWS Desert Tortoise Field Manual, and tortoises requiring relocation shall be handled in accordance with the project Desert Tortoise Relocation/Translocation Plan.</p> <ul style="list-style-type: none"> ○ Heavy equipment may enter the project site following the completion of project area desert tortoise clearance surveys by the desert tortoise biologist. Monitoring initial clearing and grading activities by the biologist will help ensure that tortoises missed during the initial clearance survey are moved from harm’s way. ○ The desert tortoise biologist shall be responsible for appropriate documentation and reporting to the permitting agencies for desert tortoises handled, in accordance with the project Desert Tortoise Relocation/Translocation Plan. ○ Security gates shall be designed with minimal ground clearance to deter ingress by tortoises. The gates shall be kept closed, except for the immediate passage of vehicles, to prevent desert tortoise passage into the project area. ○ Following installation of the desert tortoise exclusion fencing, both the permanent site fencing and temporary fencing in the utility corridors, the fencing shall be regularly inspected by the biological monitor. The biological monitor shall ensure that damage to the permanent or temporary fencing is immediately blocked to prevent tortoise access and permanently repaired within 72 hours between March 15 and October 31, and within 7 days between November 1 and March 14. The biological monitor shall inspect permanent fencing quarterly and after major rains to ensure fences are intact and there is no ground clearance under the fence that would allow tortoises to pass. The biologist shall inspect construction pipes, culverts, or similar structures: (a) with a diameter greater than 3 inches <u>of one inch or greater</u>, (b) stored for one or more nights, (c) less than 8 inches aboveground, and (d) within desert tortoise habitat (outside the permanently fenced area), before the materials are moved, buried, or capped. As an alternative, the materials may be capped before storing outside the fenced area or placing on pipe racks. Inspection or capping is not necessary if the materials are stored within the permanently fenced area after completing desert tortoise clearance surveys. 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> ○ The project proponent shall ensure vehicular traffic does not exceed 25 miles per hour within the delineated project areas or on access roads in desert tortoise habitat. On unpaved roads suppress dust and protect air quality by observing a 10-mile per hour speed limit. ○ To avoid vehicle impacts to desert tortoise, workers shall be responsible for inspecting the ground under the vehicle for the presence of desert tortoise any time a vehicle or construction equipment is parked in desert tortoise habitat outside the permanently fenced area. If a desert tortoise is seen, it may move on its own. If it does not move within 15 minutes, the desert tortoise biologist may remove and relocate the animal to a safe location. ● The project proponent shall develop and implement a Desert Tortoise Relocation/Translocation Plan that is consistent with current USFWS approved guidelines. The goal of the plan will be to safely exclude desert tortoises from within the fenced project area and relocate/translocate them to suitable habitat capable of supporting them, while minimizing stress and potential for disease transmission. The plan shall be developed in consultation with the USFWS to ensure the document does not conflict with conditions issued under an Incidental Take Statement. The plan will utilize the most recent USFWS guidance on translocation that includes siting criteria for the translocation site and control site, methods for translocation/relocation including the holding pen, and post translocation/relocation monitoring. Development and implementation of a translocation plan may require, but may not be limited to, additional surveys of potential recipient sites; disease testing and health assessments of translocated and resident tortoises; and consideration of climatic conditions at the time of translocation. The plan shall designate a relocation site as close as possible to the disturbance site that provides suitable conditions for long term survival of the relocated desert tortoise and outline a method for monitoring the relocated tortoise. ● The Desert Tortoise Relocation/Translocation Plan must be approved by the County, CDFW and USFWS prior to any project-related ground disturbing activity. <u>Plans may also be subject to approval by the County as part of the conditions of approval for future projects.</u> ● Within 30 days after initiation of relocation and/or translocation activities, the Designated Biologist shall provide to the Project Manager for review and approval, a 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>written report identifying which items of the plan have been completed, and a summary of all modifications to measures made during implementation of the plan. Written monthly progress reports shall be provided to the Project Manager for the duration of the plan implementation.</p> <ul style="list-style-type: none"> The project proponent shall design and implement a Raven Monitoring, Management, and Control Plan that is consistent with the most current USFWS raven management guidelines. The goal of the plan shall be to minimize predation on desert tortoises by minimizing project-related increases in raven abundance. The plan shall be approved by the County, CDFW and USFWS prior to the start of any project-related ground disturbing activities. <u>Plans may also be subject to approval by the County as part of the conditions of approval for future projects.</u> 	
	<p>BIO-7: Minimize impacts to special status reptiles (except desert tortoise). The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status reptiles (with the exception of desert tortoise which has separate mitigation measures):</p> <ul style="list-style-type: none"> Surveys for special status reptiles including but not limited to northern sagebrush lizard, Panamint alligator lizard, and Mojave fringe-toed lizard shall be conducted by a qualified <u>CDFW-approved</u> biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction. If any of these species are found on a project site during the surveys, CDFW will be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats.</p> <ul style="list-style-type: none"> • If federal or state-listed reptiles not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project, consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species. 	
	<p>BIO-8: Minimize impacts to Swainson’s hawk. The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect Swainson’s hawk:</p> <ul style="list-style-type: none"> • Surveys shall be conducted for Swainson’s hawk by a <u>qualified CDFW-approved</u> biologist according to the 2010 Swainson’s Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (California Department of Fish and Game [CDFG] 2010) or more recent guidance, unless otherwise directed by CDFW. This guidance dictates survey methods for detecting Swainson’s hawk nesting in or in the vicinity of a project site and measure to avoid and/or reduce impacts to nesting Swainson’s hawk if they are found. The project applicant shall be responsible for coordinating with CDFW and ensuring that the CDFW guidance is implemented. 	
	<p>BIO-9: Minimize impacts to burrowing owl. The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect burrowing owl, unless otherwise directed by CDFW:</p> <ul style="list-style-type: none"> • In the calendar year that construction is scheduled to commence, surveys will be conducted by a <u>qualified CDFW-approved</u> biologist to determine presence/absence of 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>burrowing owls and/or occupied burrows in the project site and accessible areas within 500 feet according to the CDFW’s <i>Staff Report on Burrowing Owls</i> (CDFG 2012). A winter non-breeding season survey will be conducted between December 1 and January 31 and a nesting-breeding season survey will be conducted between April 15 and July 15 according to established protocols (CDFG 2012). Pre-construction surveys will also be conducted within 30 days prior to construction to ensure that no additional burrowing owls have established territories since the initial surveys. If no burrowing owls are found during any of the surveys, no further mitigation will be necessary. If burrowing owls are found, then the following measures shall be implemented prior to the commencement of construction:</p> <ul style="list-style-type: none"> ○ During the non-breeding season (September 1 through January 31) burrowing owls should be evicted by passive relocation as described in the <i>Staff Report on Burrowing Owl Mitigation</i>s (CDFG 2012). <u>A burrowing owl exclusion plan will be prepared and submitted to CDFW for approval prior to implementation of burrowing owl exclusion or relocation activities.</u> ○ Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31); occupied burrows shall not be disturbed and shall be provided with a 75-meter protective buffer <u>as stipulated in the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG 2012)</u>, unless a qualified biologist approved by CDFW verifies through non-invasive means that either: (1) the birds have not begun egg laying or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. ○ If on-site avoidance is required, the location of the buffer zone will be determined by a qualified <u>CDFW-approved</u> biologist. The developer shall mark the limit of the 75-meter buffer zone with yellow caution tape, stakes, or temporary fencing. The buffer will be maintained throughout the construction period. ● Where on-site avoidance is not possible, CDFW should be consulted regarding the appropriate avoidance and minimization measures to avoid impacts to this species. ○ <u>Impacts to occupied burrowing owl habitat as defined by CDFW will be mitigated in compliance with the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG 2012) including restoration of temporarily disturbed habitats to pre-</u> 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>project conditions and compensatory mitigation for permanent impacts. A</u></p> <ul style="list-style-type: none"> <u>burrowing owl mitigation plan will be prepared and submitted to CDFW for approval prior to commencement of any ground disturbing activities. The plan will describe potential impacts to burrowing owl resulting from the proposed project and prescribe mitigation measures in accordance with CDFW guidelines.</u> 	
	<p>BIO-10: Minimize impacts to western snowy plover, western yellow-billed cuckoo, Inyo California towhee, and bank swallow.</p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect federally-listed bird species (without published survey protocols)<u>for which survey protocols have not been published</u>, including the western snowy plover, western yellow-billed cuckoo, Inyo California towhee, and bank swallow, the USFWS shall be contacted to develop project specific measures to determine the potential for presence/absence of the species in the project area and appropriate avoidance and mitigation measures. For projects in the desert portions of the County, contact the Palm Springs Fish and Wildlife Office. For projects in the forested portions of the County or the Owens Valley, contact the Nevada Fish and Wildlife Office. Mitigation measures shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take” of federally-listed bird species, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. <u>Western yellow-billed cuckoo, Inyo California towhee, and bank swallow are also state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of these species (as defined by the Fish and Game Code).</u></p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>BIO-11: Minimize impacts to southwestern willow flycatcher. Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect southwestern willow flycatcher, surveys shall be conducted according to Southwestern Willow Flycatcher Protocol Revision 20010 (http://www.fws.gov/mountain-prairie/endspp/protocols/SWWFReport.pdfhttp://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/SWWFlycatcher.2000.protocol.pdf) following the guidelines for the revised protocol for project-related surveys or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office. For projects that are determined to have the potential to result in “take” of southwestern willow flycatcher, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. <u>Southwestern willow flycatcher is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as defined by the Fish and Game Code).</u> Mitigation measures shall be implemented and shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat.</p>	
	<p>BIO-12: Minimize impacts to bald and golden eagle. Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect bald and golden eagles, the project proponent shall implement the following measures to avoid and offset impacts:</p> <ul style="list-style-type: none"> • Site specific surveys and monitoring of known or suspected eagle nesting and foraging habitat in areas where eagles occur (i.e., all of California) shall be conducted to provide background information related to <u>bald eagle take permits (golden eagle is fully protected pursuant to Fish and Game Code and no permits may be issued for their</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>take). Surveys shall be conducted using (at least) methods and qualified personnel as recommended by CDFW and USFWS. Surveys shall be conducted according to the USFWS’s 2010 <i>Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations</i> (available online at http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/usfws_interim_goea_monitoring_protocol_10march2010.pdf), the USFWS’s 2004 <i>Protocol for Evaluating Bald Eagle Habitat and Populations in California</i> and CDFW’s 2010 <i>Bald Eagle Breeding Survey Instructions</i> (both documents are available online at http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html) or the most recent guidance regarding non-breeding season surveys for winter, migratory, and floating populations of eagles determined in coordination with CDFW and USFWS.</p> <ul style="list-style-type: none"> • Where proposed projects may result in take of bald or golden eagles, the USFWS shall be consulted to determine the standards and requirements for the permit titled “Eagle Take – Necessary to Protect Interests in a Particular Locality.” Bald Eagle take permits are performance based and will hinge on the merits of the application. The permit application form and related information are on the USFWS website: http://www.fws.gov/migratorybirds/baldeagle.htm. The final rule (Federal Register / Vol. 74, No. 175, September 11, 2009), Environmental Assessment (http://www.fws.gov/migratorybirds/CurrentBirdIssues/BaldEagle/FEA_EagleTakePermit_Final.pdf), implementation and protocol documents, and consultations with USFWS will provide additional guidance. • Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas used by eagles for thermal or orographic lift. • Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas used by eagles for thermal or orographic lift. 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> Projects shall incorporate actions to avoid eagle disturbance (refer to the USFWS National Bald Eagle Management Guidelines, May 2007 and Interim Golden Eagle Technical Guidance: Inventory and Monitoring Protocols; and Other Recommendations in Support of Golden Eagle Management and Permit Issuance, Attachment II) in consultation with the USFWS to obtain the most current guidance and measures. 	
	<p>BIO-13: Minimize impacts to least Bell’s vireo. Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to <u>contain habitat for least Bell’s vireo on or adjacent to the site, have the potential to affect least Bell’s vireo,</u> surveys shall be conducted according to the USFWS’s Least Bell’s Vireo Survey Guidelines (http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/LBVireo.2001.protocol.pdf) or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office.</p> <p>For projects that are determined to have the potential to result in “take” of least Bell’s vireo, <u>either on or off-site due to direct or indirect impacts,</u> consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. <u>Least Bell’s vireo is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as defined by the Fish and Game Code).</u></p> <p><u>For projects with the potential to result in direct or indirect impacts to least Bell’s vireo or its habitat, mitigation measures shall be developed in consultation with USFWS and CDFW and shall be implemented prior to project implementation. Such measures and shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, habitat restoration, and compensatory mitigation for loss of habitat</u></p>	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<u>that may include implementation of captive breeding programs.</u>	
	<p>BIO-14: Minimize impacts to bighorn sheep. Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect bighorn sheep, the project applicant shall retain a qualified biologist, approved by the USFWS and CDFW, to conduct preconstruction surveys for Sierra Nevada bighorn sheep and/or Peninsular and Mojave bighorn sheep depending on the location of the project. Due to low detection probabilities, the following data shall be used when evaluating potential projects impacts to the species: data relative to historic ranges of bighorn sheep; known and potential wildlife corridors (such as, those identified in the BLM Mojave and Colorado deserts land use plans); point location data; and existing literature. If bighorn sheep or their migration routes exist, are known or likely to occur on or in the vicinity of the project site, and may be affected by project-related activities, the consultation shall be conducted with USFWS, CDFW, and other stakeholders, as appropriate, regarding avoidance, minimization, compensatory mitigation, or site abandonment. For projects that are determined to have the potential to result in “take” of state or federally listed bighorn sheep, consultation shall be conducted with CDFW or USFWS respectively and take authorization shall be obtained prior to project commencement.</p> <p>BIO-15: Minimize impacts to Sierra Nevada red fox. Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect Sierra Nevada red fox, CDFW shall be contacted to develop project specific measures to determine the potential for presence/absence of this species in the project area and appropriate avoidance and mitigation measures. Mitigation measures shall include, but are not limited to, a species specific habitat assessment and/or focused surveys to determine whether Sierra Nevada red fox or its habitat is present in or adjacent to the project site, measures to avoid or minimize impacts to this species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take,” consultation will be conducted with CDFW under the California Endangered Species Act and incidental take authorization will be obtained prior to project commencement.</p>	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>BIO-16: Minimize impacts to Mohave ground squirrel. <u>Protocol Mohave ground squirrel surveys shall be required for projects that propose impacts to habitat with potential to support Mohave ground squirrel or are within or adjacent to the species’ known range. Mohave ground squirrel surveys consist of a visual survey followed by 3 trapping sessions of 5 nights each (CDFW 2003). Each trapping session must be conducted during a specific time frame. The first session must be conducted between March 15 and April 30; the second between May 1 and May 31; and the third between June 15 and July 15. Trapping can be discontinued if a Mohave ground squirrel is trapped or observed, in which case the survey area is deemed to be occupied. If survey results are negative, the survey area will be deemed to be unoccupied for one year during which pre-construction surveys are not required. If survey results are positive, the project shall obtain an incidental take permit from CDFW under CESA Section 2081.</u></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect Mohave ground squirrel, consultation shall be conducted with CDFW to determine the survey protocol and mitigation measures appropriate to the project. For projects that are determined to have the potential to result in “take” of Mohave ground squirrel, consultation shall be conducted with CDFW and take authorization shall be obtained prior to project commencement. Avoidance and mitigation measures shall include but are not limited to the following: The project applicant shall retain a CDFW approved Mohave ground squirrel biologist to oversee CDFW required measures including but not limited to tasks such as conducting clearance surveys, handling Mohave ground squirrels, artificial burrow construction, and other procedures in accordance with CDFW protocols.</p> <p>BIO-17: Minimize impacts to American badger and kit fox. Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect American badger and/or kit fox, the following measures shall be implemented to avoid, minimize, and mitigate for impacts to these species:</p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> • The project proponent shall prepare and implement an American badger and/or kit fox management plan. The plan shall be prepared in accordance with the most current CDFW guidelines for these species. The plan shall be approved by CDFW prior to implementation. The plan shall include the following components: <ul style="list-style-type: none"> ○ Preconstruction surveys and mapping efforts: biological monitors shall perform pre- construction surveys for badger and kit fox dens in the project area, including areas within 250 feet of all project facilities, utility corridors, and access roads. If dens are detected, each den shall be classified as inactive, potentially active, or definitely active, including characterization of den type for kit fox (natal, pupping, likely satellite, atypical) per CDFW guidance, and mapped along with major project design elements. ○ Inactive dens that would be directly impacted by construction activities shall be excavated by hand and backfilled to prevent reuse by badgers or kit fox. Excavation and filling activities shall be performed by the a qualified <u>CDFW-approved</u> biologist. Potentially and confirmed active dens shall not be disturbed during the whelping/pupping season (February 1 to September 30). ○ Monitoring requirements. Potentially and definitely active dens that would be directly impacted by construction activities shall be monitored by the qualified <u>CDFW-approved</u> biologist for three consecutive nights (during weather conditions favorable for detection) using a tracking medium (such as diatomaceous earth or fire clay) and/or infrared camera stations at the entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand. If tracks are observed, the den shall be progressively blocked with natural materials (rocks, dirt, sticks, and vegetation piled in front of the entrance) for the next three to five nights to discourage the badger or kit fox from continued use. After verification that the den is unoccupied it shall then be excavated and backfilled by hand to ensure that no badgers or kit fox are trapped in the den. ○ Passive relocation strategies. The management plan shall contain, at a minimum, several strategies to passively relocate animals from the site. These methods may entail strategic mowing, fencing, or other feasible construction methods to assist in moving animals offsite toward desirable land. The plan 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>shall address location of preferred offsite movement of animals, based on CDFW data and land ownership. Private <u>Even with permission from the landowner, private</u> land is to be avoided to the maximum extent practicable.</p> <ul style="list-style-type: none"> ○ Escape dens shall be installed along the perimeter fencing to reduce predation risk. ○ Kit fox disease prevention measures. The qualified <u>CDFW-approved</u> biologist shall notify the County project manager and CDFW within 24 hours if a dead kit fox is found or appears sick. The plan must also detail a response to a kit fox injury, including a necropsy plan, reporting methods, and scope of adaptive methods in the event of a known or suspected outbreak. The project owner will pay for any necropsy work. 	
	<p>BIO-18: Minimize impacts to other special status birds, raptors, migratory birds, nesting birds and bats.</p> <p>The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact nesting birds and/or bats and shall be implemented to avoid, minimize, and mitigate for impacts to birds and bats. These measures are for bird species without established protocols and non-listed bird species that lack species-specific mitigation measures (not applicable to the common raven). For future development proposed to be located on or near land with old mines, specific survey protocols and mine closure considerations shall be developed.</p> <p>Pre-Construction Bird Surveys and Avoidance Measures</p> <p>If project construction occurs between roughly February 1 and August 31, a County-approved <u>qualified biologist(s) CDFW-approved biologist</u> shall conduct preconstruction surveys for nesting birds. The biologist(s) conducting the surveys shall be experienced bird surveyors and familiar with standard nest-locating techniques. Surveys shall be conducted in accordance with the following guidelines:</p> <ul style="list-style-type: none"> ● <u>CDFW and/or USFWS (depending on the avian species in question) shall be contacted to obtain approval of pre-construction survey methodology prior to commencement of the surveys.</u> 	Significant and Unavoidable

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> • Surveys shall cover all potential nesting habitat in the project site and within 500 feet of the project site and linear facilities boundaries – inaccessible areas outside of the project boundary may be surveyed from within the project site or publicly accessible land with the aid of binoculars. • Vegetation removal or other ground disturbing activities should be avoided between February 1 and August 31; however if it cannot be avoided, the <u>CDFW-approved avian</u> biologist shall survey breeding/nesting habitat within the survey radius described within one week prior to the start of project activities. • CDFW and/or USFWS must provide concurrence with the survey findings prior to the start of construction. Site preparation and construction activities may begin after receiving the concurrence and if no breeding/nesting birds are observed. Additional follow up surveys shall be conducted if periods of construction inactivity exceed one week in any given area, an interval during which birds may establish a nesting territory and initiate egg laying and incubation. • If active nests are detected during the survey, a no-disturbance buffer zone (protected area surrounding the nest, the size of which is to be determined by the project biologist in consultation with CDFW and/or USFWS) and a monitoring plan shall be developed. The nesting bird plan shall identify the types of birds that may nest in the project area, the proposed buffers, monitoring requirements, and reporting standards that will be implemented to ensure compliance with the MBTA and Fish and Game Codes 3505 and 3505.3. The avian <u>CDFW-approved</u> biologist shall monitor the nest until he or she determines that nestlings have fledged and dispersed. <p>Pre-Construction Bat Surveys and Avoidance Measures</p> <p>Preconstruction bat surveys shall be conducted by a qualified <u>CDFW-approved</u> biologist(s) familiar with standard bat survey techniques. If night or day roosting bats are identified in project structures they shall not be disturbed and a 100-foot non-disturbance buffer shall be placed between the roost and the construction activities until a determination is made whether the roost is a maternity roost or a non-breeding roost. Maternity colonies shall not be disturbed until coordination with CDFW is conducted to determine appropriate measures including an appropriate no-disturbance buffer. If the qualified <u>CDFW-approved</u> bat biologist determines</p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>roosting bats consist of a non-breeding roost, the individuals shall be safely evicted under the direction of a <u>qualified CDFW-approved bat biologist</u>. CDFW shall be notified of any bat evictions within 48 hours.</p> <p><u>Bat and Avian Protection Plan</u> A bat and avian protection plan shall be developed to protect bats, migratory birds, and golden eagles while improving conservation, safety, and reliability for utility customers. The plan shall include measures to monitor the death and injury of birds from solar flux, radiance, and collisions with facility features such as reflective mirror-like surfaces. Guidance in the California Guidelines (Appendix D) and Avian Protection Plan Guidelines published by the APLIC and USFWS (2005) shall be consulted. The plan shall be approved by the County, CDFW, and USFWS prior to the start of project construction. The following monitoring/detection recommendations from the USFWS Forensics Laboratory (Kagan et al. unpub.) shall be considered:</p> <ul style="list-style-type: none"> • Install video cameras sufficient to provide 360 degree coverage around each tower to record birds (and bats) entering and exiting the flux. • For at least 2 years (and in addition to the planned monitoring protocol), conduct daily surveys for birds (at all 3 facilities), as well as insects and bats around each tower at the base of and immediately adjacent to the towers in the area cleared of vegetation. Timing of daily surveys can be adjusted to minimize scavenger removal of carcasses. Surveys in the late afternoon might be optimal for bird carcasses, and first light for bat carcasses. • Use dogs for monitoring surveys to detect dead and injured birds that have hidden themselves in the brush, both inside and outside the perimeter of the facility. <p>To decrease removal of carcasses, implement appropriate raven deterrent actions.</p> <p><u>Bird and Bat Conservation Strategy</u></p> <p><u>A bird and bat conservation strategy (BBCS) shall be prepared to reduce potential project impacts on migratory birds. The BBCS shall describe proposed actions to avoid, minimize, and mitigate adverse effects to migratory birds protected under the MBTA during construction and operations of the proposed project. The BBCS shall be submitted to USFWS and CDFW for approval prior to the start of ground disturbing activities. The BBCS shall address buffer</u></p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p><u>distances for specific bird species and include a robust, systematic monitoring protocol to document mortality and habitat effects to birds. The monitoring protocol should incorporate the following objectives at a minimum: (1) a minimum of weekly monitoring for mortality and immediate necropsy to determine cause of death, both during construction and throughout the life of the project; (2) systematic data collection and reporting of bird mortality including data on the following: species, date, time, how the animal died (e.g., exhaustion, trauma), as well as any information on what might be attracting animals to the photovoltaic cells (light, insects, etc.); (3) a method to estimate the overall annual avian mortality rate associated with the facility, including mortality associated with all the features of the project that are likely to result in injury and mortality (e.g., fences, ponds, solar panels); and (4) methods to determine whether there is spatial differentiation within the solar field in the rates of mortality (i.e., panels on the edge of the field versus interior of the field). Biologists performing this work would be required to have a Scientific Collecting Permit from CDFW. Standardized and systematic data on bird and bat mortalities will be collected to contribute to the improvement of the scientific communities’ understanding of both baseline and photovoltaic related mortality that occurs in solar projects in the desert and is needed in order to identify improved methods to minimize adverse effects on migrating birds and bats.</u></p> <p><u>In the absence of a permit from the USFWS, the temporary or permanent possession of protected migratory birds and their carcasses is a violation of the MBTA. Because of the need for carcass collection to adequately monitor avian impacts during BBCS implementation and to reduce the food subsidy that carcasses may provide to common ravens (<i>Corvus corax</i>) and other predators, developers shall be required to obtain a special purpose utility permit from the USFWS allowing the collection of migratory birds and/or their carcasses prior to implementation of the monitoring protocol.</u></p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>General Bird Mortality Avoidance Measures</p> <p>The following measures are recommended by the USFWS Forensics Laboratory and shall be implemented to minimize bird mortality from birds attracted to solar facilities:</p> <ul style="list-style-type: none"> • All potential nesting vegetation (e.g., trees, shrubs) shall be removed within the fenced area of the facility to decrease attractive habitat. • <u>The most current science regarding visual cues to birds that the solar panel is a solid structure shall be implemented. This may include but is not limited to UV-reflective or solid, contrasting bands spaced no further than 28 centimeters from each other. An adaptive management approach for reducing bird collisions with solar panels shall be implemented in coordination with the USFWS so that measures used are systematically tested and modified as appropriate. This may include but is not limited to UV reflective or solid, contrasting bands spaced no further than 28 centimeters from each other.</u> • <u>Projects with documented avian mortality shall work with the USFWS to conduct additional research to test measures for reducing avian mortality. Such measures could include, but are not limited to, experimental lighting within the solar field and use of detection and deterrent technologies.</u> • <u>Developers of Ppower tower operations shall be suspended during peak migration times for indicated species. implement adaptive management in consultation with the USFWS should mortality monitoring indicate that suspension of power tower operations during certain periods is necessary to reduce impacts on local or regional bird populations. Such measures may include, but are not limited to, suspending or reducing project operations during peak migration seasons.</u> • Vertical orientation of mirrors shall be avoided whenever possible (for example, mirrors shall be tilted during washing). • If the use of open evaporation ponds is permitted for the project and especially if the water would be considered toxic to wildlife, ponds shall be designed to discourage bird and other wildlife use by properly netting or otherwise covering the pond. • Perch deterrent devices shall be placed on tower railings. • Exclusionary measures shall be employed to prevent bats from roosting in and around the facility. 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>Minimize Impacts from Solar Flux</p> <p>The following mitigation measures shall be implemented in order to minimize <u>avian impacts from solar flux</u>:</p> <ul style="list-style-type: none"> • <u>Solar thermal developments utilizing solar power tower technologies shall not be sited in or within a minimum of 1,000 feet of from Important Bird Areas (as determined by the County in consultation with Responsible and Trustee agencies), the OVSA, or riparian or other aquatic habitats including lakes, ponds, rivers, streams, and perennial wetland habitats unless potentially significant impacts are avoided, although the appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies. This requirement generally does not apply to seasonal or ephemeral wetland habitats unless deemed necessary by a qualified biologist in light of the wetland’s specific habitat value for bird species.</u> • <u>The County shall require developers proposing solar power tower technology to coordinate with the USFWS during project planning. As part of that coordination process, and in conjunction with the project’s next tier of CEQA review, the USFWS will advise the County whether a Bird and Bat Conservation Strategy would be necessary for the project, and if required, would adequately reduce the effects of the project on migratory birds and bats.</u> <p>Minimize Impacts from Open Evaporation Ponds</p> <p>The following mitigation measures shall be implemented for projects that require the use of open evaporation ponds:</p> <ul style="list-style-type: none"> • <u>An evaporation pond management plan shall be prepared and submitted to CDFW for approval prior to project approval.</u> • <u>If the use of open evaporation ponds is permitted for the project and especially if the water would be considered toxic to wildlife, ponds shall be designed to discourage bird and other wildlife use by properly netting or otherwise covering the pond.</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>Avoid Impacts from Electric Lines and Lights</p> <p>The following design measures shall be implemented for applicable projects to minimize impacts to bats and birds:</p> <ul style="list-style-type: none"> • Transmission lines and electrical components shall be installed and maintained in accordance with the Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006 (APLIC 2006) or the most recent guidance to reduce the likelihood of electrocutions of raptors and other large birds, . • Transmission lines and electrical components shall be installed and maintained in accordance with the APLIC’s Mitigating Bird <u>Reducing Avian Collisions with Power Lines: The State of the Art in 1994-2012</u> (Edison Electric Institute 2004<u>2012</u>) or the most recent guidance to reduce the likelihood of bird collisions. • Low and medium voltage connecting power lines shall be placed underground, if feasible. If burial of the lines is not feasible due to cost or other logistical reasons (for example in shallow bedrock areas) or may cause unacceptable impacts to biological habitats and their dependent species, overhead lines may be installed in compliance with the following requirements: <ul style="list-style-type: none"> ○ low and medium voltage overhead lines shall be sited away from high bird crossing locations, such as between roosting and feeding areas or between lakes, rivers, and nesting areas; and/or ○ low and medium voltage overhead lines shall be installed parallel to tree lines or be otherwise screened so that collision risk is reduced. • Permanent communication towers and permanent meteorological towers shall not be constructed with guy wires, if feasible. If guy wires are necessary for permanent or temporary towers, bird flight diverters or high visibility marking devices shall be used. In such cases a monitoring plan shall be developed and carried out to determine the diverters’/devices’ effectiveness in reducing bird and bat mortality. • Facility lighting shall be installed and maintained to prevent upward and side casting of light towards wildlife habitat and motion sensors shall be used. If the FAA requires 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>turbine or tower lighting to alert aircraft, red or white strobe lights shall be used on the structures to minimize avian collision risks. The strobes shall be on for as brief of a period as possible and the time between strobe or flashes shall be the longest allowable. Strobes shall be synchronized so that a strobe effect is achieved and towers are not constantly illuminated.</p> <ul style="list-style-type: none"> • Lights with sensors and switches shall be used to keep lights off when not required. • The use of high-intensity lighting, steady-burning, or bright lights such as sodium vapor or spotlights shall be minimized. <p><u>Compensatory Mitigation for the Cumulative Loss of Migratory Bird Habitat along the Pacific Flyway</u></p> <p><u>The County shall require solar development projects implemented under the REGPA to mitigate for the loss of habitat by funding activities to restore, enhance, or conserve important habitat for migratory birds or to remove other mortality sources from the Pacific Flyway. Such funding may be directed to the Sonoran Joint Venture (http://sonoranjv.org), Central Valley Joint Venture (http://www.centralvalleyjointventure.org), or Intermountain West Joint Venture (http://iwjv.org), or other groups able to implement conservation of migratory birds within the Pacific Flyway. The amount of funding will be determined by the County in coordination with USFWS and shall be commensurate with the level of impact.</u></p>	
<p>Impacts to special status natural communities (i.e., vegetation communities of limited distribution statewide or within a county or region) could occur as a result of implementation of the REGPA if construction and/or operation of the future solar developments results in the disturbance or loss of</p>	<p>BIO-19: Minimize impacts to special status natural communities and protected natural areas.</p> <p>Solar development authorized under the REGPA will not be sited within any special status natural communities or protected natural areas. If solar development is sited adjacent to any special status natural communities or protected natural areas <u>or is determined to have the potential to impact any off-site special status natural communities or protected natural areas during the project level biological resources evaluation (e.g., projects in the Laws SEDA could impact the hydrology of critical habitat for Fish Slough milk-vetch; projects in the Chicago Valley SEDA could negatively impact off-site mesquite bosque by altering drainage patterns or altering groundwater levels; projects in the Charleston View and Chicago Valley SEDAs could impact down-watershed habitats in the Amargosa Watershed (including habitats within</u></p>	<p>Less Than Significant</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
protected natural communities.	<p>the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic.”), a management plan will be developed in consultation with CDFW and/or USFWS. The management plan will address the potential offsite effects of the construction and on-going operations of the facility on special status species including but not limited to the effects of human disturbance, noise, nighttime maintenance activities, increased lighting, increased traffic on desert roads, and barriers to movement for special status species. The management plan will also address potential mechanisms of offsite habitat degradation such as introduction of invasive weeds, introduction or attraction of feral animals or other species attracted to areas with anthropogenic disturbance, hydrologic disruption due to groundwater impacts or alteration of surface drainage patterns, and increased risk of wildfires. The management plan will also outline the specific measures to be undertaken to avoid and/or minimize indirect effects of the solar development on the adjacent sensitive habitat and special status species and include a plan for long term monitoring of the adjacent habitat as well as an adaptive management plan.</p> <p>If riparian communities (other than water birch riparian scrub – a special status natural community that must be avoided) are present in a project area, impacts to riparian communities shall be avoided or minimized by implementing the following measures:</p> <ul style="list-style-type: none"> • The project shall be redesigned or modified to avoid direct and indirect impacts on riparian communities, if feasible. • Riparian communities adjacent to the project site shall be protected by installing environmentally sensitive area fencing, at least 20 feet from the edge of the riparian vegetation. Depending on site specific conditions, this buffer may be narrower or wider than 20 feet if necessary, in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area. • The potential for long term loss of riparian vegetation shall be minimized by trimming vegetation rather than removing the entire shrub. Shrub vegetation shall be cut at least 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>1 foot above ground level to leave the root systems intact and allow for more rapid regeneration of the species. Cutting shall be limited to a minimum area necessary within the construction zone. This type of removal shall be allowed only for shrub species (all trees shall be avoided) in areas that do not provide habitat for sensitive species (e.g., willow flycatcher).</p> <ul style="list-style-type: none"> • If riparian vegetation is removed as part of a project, the loss of riparian vegetation shall be mitigated to ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW and USFWS). Compensation shall be provided at a minimum 1:1 ratio (1 acre restored or created for every 1 acre removed) and may be a combination of on-site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented that describes how riparian habitat shall be enhanced or recreated and monitored over a minimum period of time, as determined by the appropriate state and federal agencies. 	
<p>Construction and maintenance activities associated with future projects implemented under the REGPA could result in disturbance or loss of waters of the US and/or State. These wetlands or other waters of the US/State could be affected through direct removal, filling, hydrological interruption (including dewatering), alteration of bed and bank, and other construction related activities.</p>	<p>BIO-20: Minimize impacts to waters of the US/State, including wetlands. The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact waters of the US or waters of the State, including wetlands, and shall be implemented to avoid, minimize, and mitigate for such impacts. These measures shall be incorporated into contract specifications and implemented by the construction contractor. In addition, the project proponent shall ensure that the contractor incorporates all state and federal permit conditions into construction specifications.</p> <ul style="list-style-type: none"> • <u>Wetlands and other waters of the US/state shall be delineated on the project site using both USACE and CDFW definitions of wetlands. USACE jurisdictional wetlands shall be delineated using the methods outlined in the USACE 1987 Wetlands Delineation Manual and the Arid West Manual, or the most recent guidance.</u> This information shall be mapped and documented as part of the CEQA documentation, as applicable, and in wetland delineation reports. All applicable permits shall be obtained prior to impacting waters of the US/State including CWA Section 404 and 401 permits 	<p>Less Than Significant</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>from the USACE and the RWQCB respectively and a Streambed Alteration Agreement from CDFW.</p> <ul style="list-style-type: none"> • <u>The project shall be redesigned or modified to avoid direct and indirect impacts on waters of the U.S./State, if feasible.</u> • Standard erosion control measures shall be implemented for all phases of construction and operation where sediment runoff from exposed slopes threatens to enter waters of the State and/or waters of the US. Sediment and other flow-restricting materials shall be moved to a location where they shall not be washed back into the stream. All disturbed soils and roads within the project site shall be stabilized to reduce erosion potential, both during and following construction. Areas of disturbed soils (access and staging areas) with slopes trending towards a drainage shall be stabilized to reduce erosion potential. • Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing at least 20 feet from the edge of the wetland. Depending on site specific conditions and permit requirements, this buffer may be wider than 20 feet, if necessary, in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area. • <u>All construction vehicles and equipment shall use existing roadways to the extent feasible to avoid or reduce impacts to waters of the U.S./State.</u> • Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used. • Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing at least 20 feet from the edge of the wetland. Depending on site-specific conditions and permit requirements, this buffer may be wider than 20 feet in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<p>construction drawings. The construction specifications shall contain clear language that prohibits construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within the fenced environmentally sensitive area.</p> <ul style="list-style-type: none"> • Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used. • Where determined necessary by resource specialists, geotextile cushions and other materials (e.g., timber pads, prefabricated equipment pads, or geotextile fabric) shall be used in saturated conditions to minimize damage to the substrate and vegetation. • Exposed slopes and stream banks shall be stabilized immediately on completion of installation activities. Other waters of the US shall be restored in a manner that encourages vegetation to reestablish to its pre-project condition and reduces the effects of erosion on the drainage system. • In highly erodible stream systems, banks shall be stabilized using a non-vegetative material that will bind the soil initially and break down within a few years. If the project engineers determine that more aggressive erosion control treatments are needed, geotextile mats, excelsior blankets, or other soil stabilization products shall be used. • During construction, trees, shrubs, debris, or soils that are inadvertently deposited below the ordinary high-water mark of drainages shall be removed in a manner that minimizes disturbance of the drainage bed and bank. • If wetlands are filled or disturbed as part of the highway solar project, compensation will be implemented for the loss of wetland habitat to ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW, USFWS, and USACE). The compensation shall be at a minimum 1:1 ratio (1 acre restored or created for every 1 acre filled) and may be a combination of on site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented if onsite or offsite restoration or creation is chosen. The plan shall describe how wetlands shall be created and 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	monitored for the duration established by the regulatory agency.	
Impacts to wildlife movement or corridors may occur as a result of implementation of the. Project activities that would interfere with the movement of resident or migratory species or impede fish or wildlife corridors, or nursery habitat would be considered to be a potentially significant impact.	<p>BIO-21: Minimize impacts to movement or migratory corridors or native wildlife nursery sites. <u>The following mitigation measures will be implemented to minimize impacts to movement or migratory corridors or native wildlife nursery sites:</u></p> <ul style="list-style-type: none"> • <u>Solar development authorized under the REGPA should shall not be sited in or within 1,000 feet of any areas determined by the County in consultation with responsible and trustee agencies to be Important Bird Areas, essential connectivity areas or linkages identified in the 2001 Missing Links in California’s Landscape Project (Penrod et al. 2001), or USFWS identified desert tortoise priority connectivity areas or tule elk and mule deer movement corridors unless potentially significant impacts are avoided. The appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies.</u> • <u>Any proposed solar development projects in the OVSA shall be required to study the potential impact of the project on tule elk and mule deer movement corridors prior to project approval. If a proposed project is determined to be located within an important tule elk and mule deer movement corridor, the applicant shall be responsible for the preparation of a plan to avoid and/or minimize impacts to such corridors in coordination with CDFW.</u> • <u>As stated in Mitigation Measure BIO-6, projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Draft Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, ACECs, DWMAs, priority connectivity areas, and other areas or easements managed for desert tortoises).</u> 	Less Than Significant
The spread of invasive plant species or noxious weeds could occur as a result of implementation of the REGPA. Invasive species impacts would have the potential to cause an	<p>BIO-22: Minimize impacts spread of invasive plant species or noxious weeds. For projects implemented under the REGPA that are determined during the project level biological resource evaluation to have the potential to result in the spread of invasive plant species or noxious weeds, the following mitigation measures shall be implemented:</p> <p>To prevent the introduction and spread of noxious weeds, a project-specific integrated weed</p>	Less Than Significant

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
adverse affect on a variety of special status species and sensitive natural communities through alteration of a broad range of ecological interactions. This would be a potentially significant impact.	<p>management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> • The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes. • Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site. • Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored. • The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned. • Native vegetation shall be re-established quickly on disturbed sites. • Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions. • Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations. 	
Implementation of the REGPA has the potential to result in significant impacts to special status plants and wildlife, riparian habitats and other sensitive natural communities, and waters of the US, and/or state.	<p>BIO-23: Implement general design guidelines to minimize impacts to biological resources. All projects authorized under the REGPA will incorporate the following design guidelines as applicable in coordination with the County:</p> <ul style="list-style-type: none"> • Design and site the project, in consultation with the permitting agencies, to avoid or minimize impacts to sensitive and unique habitats and wildlife species. Locate energy generation facilities, roads, transmission lines, and ancillary facilities in the least environmentally sensitive areas (such as away from riparian habitats, streams, wetlands, vernal pools, drainages, sand dunes, critical wildlife habitats, wildlife conservation, management, other protected areas, or unique plant assemblages). <ul style="list-style-type: none"> ○ Design facilities to use existing roads and utility corridors as much as possible to minimize the number and length/size of new roads, laydown, and borrow areas. ○ Design transmission line poles, access roads, pulling sites, storage, and parking areas to avoid special status species or unique plant assemblages 	Significant and Unavoidable

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> adjacent to linear facilities. ○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions. ○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions. ○ Design facilities to discourage their use as bird perching, drinking, or nesting sites. ○ Design facility lighting to prevent side casting of light toward wildlife habitat and skyward protection of light that may disorient night-migrating birds. ○ Avoid using or degrading high value or large intact habitat areas, such as areas identified as sensitive natural habitat, Wilderness Areas, Areas of Critical Environmental Concern, critical habitat; riparian, sand dunes. ○ Avoid severing movement and connectivity corridors. Consider existing conservation investments such as protected areas and lands held in trust for conservation purposes. ○ Locate facilities so they do not disrupt sand transport processes nor remove some or all of a sand source that contributes to sand dune systems harboring listed or otherwise sensitive species. Avoid armoring nearby dune system sand sources. 	
Implementation of the REGPA has the potential to result in significant impacts to groundwater dependent vegetation primarily within the Owens Valley.	<p>BIO-24: Minimize impacts to groundwater dependent vegetation and ecosystems. Any solar development projects or related infrastructure implemented under the REGPA <u>which are located on City of Los Angeles-owned land or which could affect City of Los Angeles-owned land</u> shall comply with the terms of the Agreement. A qualified biologist/botanist <u>with experience in Inyo County</u> shall evaluate the potential for any project implemented under the REGPA to impact groundwater dependent vegetation <u>or ecosystems located on City of Los Angeles-owned land</u>. If the qualified biologist/botanist determines that the project has the potential to impact groundwater dependent vegetation <u>or ecosystems</u>, a groundwater dependent vegetation management plan will be prepared. The plan will include an evaluation of the potential impacts to groundwater dependent vegetation <u>or ecosystems</u> and appropriate measures to avoid or reduce the impacts to the extent feasible. The plan shall be prepared in coordination with the County <u>and LADWP</u> and should describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on groundwater dependent vegetation <u>or ecosystems</u> as deemed appropriate by</p>	Less Than Significant

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
BIOLOGICAL RESOURCES (cont.)		
	the qualified biologist in coordination with the County and LADWP. <u>Projects that are likely to affect groundwater resources in a manner that would result in a substantial loss of riparian or wetland natural communities and/or habitat for sensitive flora and fauna associated with such habitats shall be avoided to the extent feasible and impacts shall be mitigated to a level determined to be acceptable by the County. The project and vegetation management plan shall be approved by both the County and LADWP prior to implementation.</u>	
<u>Implementation of the REGPA has the potential to result in indirect impacts to sensitive species and their habitats due to groundwater pumping.</u>	BIO-25: Minimize potential indirect impacts due to groundwater pumping <u>Mitigation measures for potential indirect impacts due to groundwater pumping are included in Mitigation Measure BIO-1, Mitigation Measure BIO-2, Mitigation Measure BIO-3, and Mitigation Measure BIO-4. Prior to approval of any project under the REGPA requiring groundwater pumping, the potential effects of the groundwater pumping on biological resources will be evaluated during preparation of the project-specific biological resources evaluation and will be based on the results of the hydrologic study conducted as a requirement of Mitigation Measure HYD-2 in Section 4.9, Hydrology and Water Quality. If groundwater pumping is determined to have the potential to result in off-site impacts to biological resources, measures will be included in the project-specific biological resources mitigation and monitoring plan to avoid, minimize, and mitigate for any such impacts. The measures will be commensurate with the resource and level of impact and may include but are not limited to vegetation and/or water table monitoring, preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County, and a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio.</u>	<u>Less Than Significant</u>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES		
<p>Implementation of future projects associated with the REGPA has the potential to cause a substantial adverse change in the significance of a historical or archaeological resources, and cultural landscapes, as defined in Section 15064.5 of the State CEQA Guidelines.</p>	<p><u>CUL-1: Minimize impacts to cultural resources.</u> <u>Adverse effects to historical resources (CRHP-eligible cultural resources) would be resolved on a project-specific level. As part of this process, resource identification efforts including pedestrian surveys, formal government-to-government tribal consultation with state lead agencies, and engagement with Native American communities would be necessary. Examples of ways to resolve adverse effects include:</u></p> <ul style="list-style-type: none"> • <u>Plan ground disturbance to avoid cultural resources.</u> • <u>Deed cultural resources into permanent conservation easements.</u> • <u>Cap or cover archaeological resources with a layer of soil before building on the location.</u> • <u>Plan parks, greenspace, or other open space to incorporate cultural resources.</u> • <u>Write synthetic documents summarizing the current understanding of the history and prehistory of the project area and vicinity.</u> • <u>Recover data for archaeological resources.</u> • <u>Develop interpretive material to correspond with recreational uses to educate the public about protecting cultural resources and avoiding disturbance of sensitive resources.</u> • <u>Develop partnerships to assist in the training of groups and individuals to participate in site stewardship programs.</u> • <u>Coordinate with visual resources staff to ensure visual management standards consider cultural resources and tribal consultation to include landmarks of cultural significance to Native Americans (e.g., TCPs, trails).</u> 	<p><u>Significant and Unavoidable</u></p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> • <u>Measures to address visual impacts to the setting of built-environment resources include:</u> <ul style="list-style-type: none"> ○ <u>Existing mature plant specimens shall be used for screening during construction, operation, and decommissioning phases. The identification of plant specimens that are determined to be mature and retained shall occur as part of the design phase and mapped/identified by a qualified plant ecologist or biologist and integrated into the final design and project implementation.</u> ○ <u>Revegetation of disturbed areas within the project area shall occur as various activities are completed. Plans and specifications for revegetation shall be developed by a qualified plant ecologist or biologist before any extant vegetation is disturbed. The revegetation plan shall include specification of maintenance and monitoring requirements, which shall be implemented for a period of 5 years after project construction or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist. Plant material shall be consistent with surrounding native vegetation.</u> ○ <u>The color of the wells, pipelines, storage tanks, control structures, and utilities shall consist of muted, earth-tone colors that are consistent with the surrounding natural color palette. Matte finishes shall be used to prevent reflectivity. For example, integral color concrete should be used in place of standard gray concrete.</u> ○ <u>The final revegetation and painting plans and specifications shall be reviewed and approved by an architect, landscape architect, or allied design professional licensed in the State of California to ensure that the design objectives and criteria are being met.</u> ○ <u>Specific impact identification and adjustments to finish specifications shall occur during project design. Implementation of the revegetation and coloration plans shall occur during oilfield development. Maintenance and monitoring requirements shall be implemented after initial project construction for a period of 5 years, or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist.</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> • <u>Protective measures and monitoring protocols can be implemented for built environment resources located in close proximity to a project but that are not anticipated to be directly impacted by demolition or development but which may be subject to other direct impacts such as change in historic setting, vibration, noise, or inadvertent damage include:</u> <ul style="list-style-type: none"> ○ <u>Historic Structures Reports (HSR) shall be prepared for buildings and structures adjacent to the project area for which detailed information is required to develop protection measures. Reports shall be completed for buildings and structures that appear to be in poor condition and, therefore, potentially sensitive to development-related activities such as vibration. These reports shall determine if predevelopment stabilization through temporary shoring and bracing of these buildings is warranted.</u> ○ <u>Predevelopment condition assessments shall be prepared for buildings and structures that qualify as historical resources that are adjacent to the project area and are structurally stable, but could be unintentionally damaged during development. Should there be any question as to whether the project caused damage, these condition assessments will provide confirmation of the predevelopment condition.</u> ○ <u>Precautions to protect built environment historical resources from construction vehicles, debris, and dust may include fencing or debris meshing. Temporary mothballing, and fire and intrusion protection may be needed if the buildings are unoccupied during oil and gas field development.</u> ○ <u>Protective measures shall be field checked as needed during development by a qualified architectural historian with demonstrated experience conducting monitoring of this nature. Vibration monitoring may be required for buildings determined susceptible to vibration damage located in close proximity to development activities or machinery that cause vibration.</u> ○ <u>These measures are designed to avoid direct impacts such as vibration that may result in structural damage or inadvertent direct impacts. Structural damage or demolition would otherwise potentially result in a significant impact because character-defining features and aspects of historic integrity that convey the resource’s significance could be materially impaired.</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> ○ <u>Redesign of relevant facilities shall be used to avoid destruction or damage where feasible.</u> ● <u>For built resources that will be directly and significantly impacted, mitigation typically includes:</u> <ul style="list-style-type: none"> ○ <u>Historic American Building Survey (HABS), Historic American Engineering Record (HAER), and Historic American Landscape Survey (HALS) records will be prepared for historical resources that will be demolished. The HABS/HAER/HALS documentation will be prepared as appropriate for the impacted historical resource with HABS normally completed at Level II. These reports will include written and photographic documentation of the significant and character-defining features of these properties. While this documentation will not reduce impacts to a less than a significant level, it is needed to capture and preserve a description of the significant information and characteristics associated with the resource.</u> ○ <u>All HABS/HAER/HALS reports are subject to review and approval by the NPS. Following approval, the lead agencies will produce sufficient copies for distribution to identified repositories, including the Library of Congress, the California State Library, the University of California Water Resources Center Archives, and any local repositories, as appropriate and agreed upon with the County Planning Department and interested parties. Distribution will ensure the formal documentation is retained and conveyed to a wide audience.</u> ○ <u>Deconstruction and salvage of materials from demolished buildings will be performed to the extent feasible to enable the restoration of similar buildings and structures outside of the area of direct impact. Deconstruction and salvage will not reduce impacts to a less than significant level, but will help to ensure that similar resources are restored and maintained in manner that will ensure that examples of the resource type are preserved.</u> ○ <u>Relocate historically significant resources for which demolition cannot be feasibly avoided by development. In such circumstances, relocation must meet the requirements for the Special Criteria Consideration for Moved Buildings, Structures, and Objects to ensure the significance of the building is retained.</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> ○ <u>Require that the preservation or reuse of an eligible structure follow Department of the Interior (DOI) Standards and Guidelines for Archeology and Historic Preservation. If the building is considered a historic resource under CEQA, the local building inspector must grant code alternatives under the State Historic Building Code.</u> ○ <u>In a case where HABS/HAER documentation does not provide adequate mitigation to reduce impacts to a less than significant level, projects would normally be required to take additional steps to capture the history and memory of the resource and share this information with the public using various methods such as Web media, static displays, interpretive signs, use of on-site volunteer docents, or informational brochures.</u> ● <u>Avoidance and minimization are the preferred means by which the County would prevent potential impacts to cultural resources, including cultural landscapes. Preservation in place is the preferred manner to avoid and minimize impacts to historical and archaeological resources. All impacts to cultural resources that are eligible or potentially eligible for listing on the CRHR shall be avoided, to the greatest extent possible. Preservation in place may be accomplished by, but is not limited to, the following: Avoidance of significant or potentially significant cultural resources through project redesign and the relocation of project element.</u> ● <u>Following avoidance and minimization, measures to address impacts to cultural resources at a landscape scale should follow the guidance in <i>A Strategy for Improving Mitigation Policies and Practices of the Department of the Interior</i> (DOI 2014) and the <i>National Park Service Preservation Brief 36 - Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes</i>, including but not limited to:</u> <ul style="list-style-type: none"> ○ <u>Document the individual landscape characteristics and features in the context of the landscape as a whole in a Cultural Landscape Report, including contributing and non-contributing features.</u> ○ <u>Develop compensatory mitigation.</u> ○ <u>Coordinate with other agencies.</u> ○ <u>Monitor and evaluate the progress of long-term mitigation.</u> ○ <u>Develop and maintain geospatial information systems for use in identifying existing and potential conservation strategies and development opportunities.</u> 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<p>• CUL-1a: Designate project Cultural Resources Staff. <u>Project Cultural Resources Specialist.</u> Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County Planning Department, a cultural resources specialist whose training and background conforms to the US Secretary of Interior’s Professional Qualifications Standards, as published in Code of Federal Regulations Title 36, part 61 shall be retained by the project owner to conduct a cultural resources inventory, evaluate any resources, produce a Cultural Resources Management and Treatment Plan and other related plans for the approved project and to implement any required plans and mitigation, as necessary as determined by the cultural resource specialist. Their qualifications shall be appropriate to the needs of the project, <u>and shall include local knowledge.</u> If the project primarily impacts resources archaeological in nature, the cultural resources specialist shall have a background in archaeology, anthropology or cultural resource management. If the project impacts primarily built environment resources, the cultural resources specialist shall have a background in architectural history. Resumes of the proposed cultural resources staff shall be submitted to the County Planning Department or other CEQA lead agency for review and approval. The Monitoring and Treatment Plan (Mitigation Measure CUL-1c) shall be prepared and implemented under the direction of the cultural resources specialist and shall address and incorporate CUL-1a through CUL-1g.</p> <p><u>Additional Cultural Resources Staff.</u> The project’s cultural resources specialist may obtain the services of specialists, cultural resources monitors and field crew if needed, to assist in identification, evaluation, mitigation, monitoring, and curation activities. Cultural Resources Staff shall have a Bachelor’s degree in anthropology, archaeology, history, architectural history or related field, and demonstrated field experience. These individuals must also meet local lead agency qualifications and their resumes must be reviewed and approved by local lead agency staff prior to beginning work.</p> <p>CUL-1b: Draft a Historical Resources Treatment Plan. To mitigate the potential impacts on historical resources identified during inventory of the project area, a treatment plan for historical resources shall be developed by, depending on the nature of the resources identified, an archaeologist and/or architectural historian who meets the</p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<p>Secretary of Interior’s Professional Qualifications Standards. This treatment plan would include data recovery plans that would address National Register of Historic Places/California Register for Historic Resources-eligible cultural resources that would be impacted by the project by requiring some level of extracting the scientific value and analysis of the resources prior to development.</p> <p>CUL-1c: Draft a Monitoring and Treatment Plan. To mitigate the potential impacts related to inadvertent discovery of archaeological resources during construction, the project proponents shall have a Secretary of the Interior-qualified archaeologist implement a monitoring program and an unanticipated archaeological resource treatment plan. The qualified archaeologist will evaluate any resources uncovered during ground disturbing activities implement appropriate treatment as specified in the archaeological resource treatment plan. During all phases of the project that include ground disturbance, these ground-disturbing activities will be observed by an archaeological monitor, as determined necessary by the archaeologist.</p> <ul style="list-style-type: none"> a. If, during the course of monitoring, a potentially significant resource is discovered, the qualified archaeologist will have the authority to stop or redirect ground disturbing activities away from the resource until it can be evaluated. b. If previously unknown cultural deposits are discovered during the course of construction, such as previously undiscovered stratified cultural deposits, a testing program will be implemented to evaluate the stratified cultural deposit. c. A separate Native American monitor shall be retained by the project proponent to monitor ground disturbing activities in and around archaeological resources. The Native American monitor shall be selected through consultation with Native American tribal groups. The Native American monitor shall work in conjunction with the qualified archaeologist. <p>CUL-1d: Grant authority to halt project activities. Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County or the relevant CEQA</p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<p>lead agency, the project owner shall submit a written document granting authority to halt project related activities to the project’s cultural resources specialist (as defined in mitigation measure CUL-1a) and cultural resources monitors in the event of a discovery or possible damage to a cultural resource. Redirection of project related activities shall be accomplished under the direction of the project supervisor in consultation with the cultural resources specialist. The details of this agreement shall be stipulated in the Cultural Resources Management and Treatment Plan as required in Mitigation Measure CUL-1b.</p> <p>CUL-1e: Develop a Cultural Resources Worker Environmental Awareness Program. Prior to and for the duration of project activities, the project owner shall provide WEAP training to all new workers within their first week of employment at the project site. The training shall be prepared by the Project cultural resources specialist (as defined in CUL-1) in consultation with local Native Americans and shall incorporate the traditions and beliefs of local Native American groups into the presentation. The presentation may be conducted by any qualified cultural resources specialist and a Native American, if possible, and may be presented in the form of a video. A consulting fee or honorarium shall be negotiated with the local Native American consultants and presenter and paid to them for their participation. The training may be discontinued when project activities are completed or suspended, but must be resumed when project activities resume.</p> <p>The training shall include:</p> <ol style="list-style-type: none"> 1. A discussion of applicable laws and penalties under the law; 2. Samples or visuals of artifacts that might be found in the project vicinity; 3. A discussion of what such artifacts may look like when partially buried, or wholly buried and then freshly exposed; 4. A discussion of what prehistoric and historical archaeological deposits look like at the surface and when exposed during ground-disturbance, and the range of variation in the appearance of such deposits; 5. A discussion of what local Native American beliefs are, how those beliefs are related to cultural resources that may be found in the area, and the appropriate respectful behavior towards sacred places and objects; 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<ul style="list-style-type: none"> 6. Instruction that all cultural resources specialists have the authority to halt ground disturbance in the area of a discovery to an extent sufficient to ensure that the resource is protected from further impacts, as determined by the project cultural resources specialist (as defined in CUL-1); 7. Instruction that employees are to avoid areas flagged as sensitive for cultural resources; 8. Instruction that employees are to halt work on their own in the vicinity of a potential cultural resources discovery and shall contact their supervisor and the project cultural resources specialist (as defined in CUL-1), and that redirection of work would be determined by the project supervisor and the project cultural resources specialist; 9. An informational brochure that identifies reporting procedures in the event of a discovery; 10. An acknowledgement form signed by each worker indicating that they have received the training which shall be submitted to the County Planning Department and any other CEQA lead agency; and 11. A sticker that shall be placed on hard hats indicating that environmental training has been completed. 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<p>CUL-1f: Conduct cultural resources reporting. The project cultural resources specialist shall document results in interim and final reports as necessary. The contents and timing of these reports shall be stipulated in the Cultural Resources Management and Treatment Plan (CUL-1b).</p> <p>Final reports for archaeological resources, human remains, and some landscapes, shall be written by or under the direction of a Secretary of the Interior qualified archaeologist or architectural historian as appropriate for the project. Reports shall be provided in the California Office of Historic Preservation’s Archaeological Resource Management Reports: Recommended Contents and Format and local agency formats. Final documents shall report on all field activities including dates, times and locations, results, samplings, and analyses. All survey reports, Department of Parks and Recreation 523 series forms, data recovery reports, and any additional research reports not previously submitted to the California Historical Resource Information System and the State Historic Preservation Officer shall be included as appendices.</p> <p>CUL-1g: Proper curation of cultural resources collections. All archaeological materials retained as a result of the cultural resources investigations (survey, testing, data recovery) shall be curated in accordance the California State Historical Resources Commission’s <i>Guidelines for the Curation of Archaeological Collections</i>, into a retrievable storage collection in a public repository or museum. <u>Additionally, all collection and retention of archaeological materials as a result of cultural resources investigations must comply with the regulations and policies of the land managing agency or property owner.</u></p>	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
<p>Implementation of future projects associated with the REGPA may disturb human remains, including those interred outside of formal cemeteries.</p>	<p>CUL-2: Implement proper actions in the event of the incidental discovery of human remains. In accordance with Section 7050.5 of the California Health and Safety Code, if human remains are found, the County Coroner shall be notified within 24 hours of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie potential remains shall occur until the County Coroner has determined, within two working days of notification of the discovery, the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains are or are believed to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with Section 5097.98 of the California Public Resources Code, the NAHC must immediately notify those persons it believes to be the most likely descendant of the deceased Native American. The descendants shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the County, the disposition of the human remains.</p> <p>Should human remains be discovered at any time during construction of the project, construction in the vicinity would halt and the County Coroner would be contacted immediately. If the Coroner determines that the remains do not require an assessment of cause of death and are probably Native American, then the NAHC would be contacted to identify the Most Likely Descendant.</p>	<p>Significant and Unavoidable</p>
<p>Implementation of future projects associated with the REGPA has the potential to directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.</p>	<p>PALEO-1a: Protect paleontological resources. Project developers shall document in a paleontological resources assessment report whether paleontological resources exist in a project area on the basis of the following: the geologic context of the region and site and its potential to contain paleontological resources (including the fossil yield potential), a records search of institutions holding paleontological collections from California desert regions, a review of published and unpublished literature for past paleontological finds in the area, and coordination with paleontological researchers working locally in potentially affected geographic areas (or studying similar geologic strata).</p> <p>If paleontological resources are present at the site or if the geologic units to be encountered by the project (at the surface or the subsurface) have a high/very high or moderate/unknown fossil</p>	<p>Significant and Unavoidable</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
	<p>yield, a Paleontological Resources Management Plan shall be developed.</p> <ol style="list-style-type: none"> 1. The plan shall include the following types of requirements: 2. The qualifications of the principal investigator and monitoring personnel 3. Construction crew awareness training content, procedures, and requirements 4. Any measures to prevent potential looting, vandalism, or erosion impacts 5. The location, frequency, and schedule for on-site monitoring activities 6. Criteria for identifying and evaluating potential fossil specimens or localities 7. A plan for the use of protective barriers and signs, or implementation of other physical or administrative protection measures 8. Collection and salvage procedures 9. Identification of an institution or museum willing and able to accept any fossils discovered 10. Compliance monitoring and reporting procedures <p>If the geologic units that would be affected by the project have been determined to have low fossil yield potential, paleontological resources shall be included as an element in construction worker awareness training. The training shall include measures to be followed in the event of unanticipated discoveries, including suspension of construction activities in the vicinity.</p> <p>The Paleontological Resources Management Plan shall evaluate all of the construction methods proposed, including destructive excavation techniques. Where applicable, the principal investigator shall include in the plan an evaluation of the potential for such techniques to disturb or destroy paleontological resources, an evaluation of whether loss of such fossils would represent a significant impact, and discussion of mitigation or compensatory measures (such as recordation/recovery of similar resources elsewhere on the site) that are necessary to avoid or substantially reduce the impact.</p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
CULTURAL RESOURCES (cont.)		
HYDROLOGY AND WATER QUALITY		
<p>Implementation of a solar facility project as part of the REGPA would result in potentially significant impacts related to hydrologic conditions (including drainage alteration, runoff rates and amounts, flood hazards, and existing/planned storm drain system capacity); groundwater resources; and long-term water quality.</p>	<p>HYD-1: Conduct site-specific hydrologic investigations. Site-specific hydrologic investigations will be completed for proposed utility scale solar facility development projects within the individual SEDAs and the OVSA (i.e., those with grading, excavation or other activities potentially affecting hydrologic conditions, as determined by the County), as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential hydrologic concerns, including but not necessarily limited to: drainage alteration, runoff rates and amounts, flood hazards, and existing/planned storm drain system capacity. The final project design documents will also encompass applicable standard design and construction practices from sources including NPDES, <u>Basin Plan</u> and County standards, as well as the results/recommendations of County plan review (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of remedial measures typically associated with identified potential hydrologic concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The remedial measures identified/recommended as part of the described site-specific hydrologic investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> • Drainage Alteration: (1) locate applicable facilities <u>and activities (e.g., staging areas and soil/material stockpiles)</u> outside of surface drainage courses and drainage channels; (2) re-route surface around applicable facilities, with such re-routing to be limited to the smallest area feasible and re-routed drainage to be directed back to the original drainage course at the closest feasible location (i.e., the closest location to the point of diversion); and (3) use drainage structures to convey flows within/through development areas and maintain existing drainage patterns. 	<p>Less Than Significant</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
HYDROLOGY AND WATER QUALITY (cont.)		
	<ul style="list-style-type: none"> • Runoff Rates and Amounts: (1) minimize the installation of new impervious surfaces (e.g., by surfacing with pervious pavement, gravel or decomposed granite); and (2) use flow regulation facilities (e.g., detention/retention basins) and velocity control structures (e.g., riprap dissipation aprons at drainage outlets), to maintain pre-development runoff rates and amounts. • Flood Hazards: (1) work to locate proposed facilities <u>and activities</u> outside of mapped 100-year floodplain boundaries; (2) based on technical analyses such as Hydrologic Engineering Center-River Analysis System (HEC-RAS) studies, restrict facility locations to avoid adverse impacts related to impeding or redirecting flood waters; and (3) based on HEC-RAS studies, use measures such as raised fill pads to elevate proposed structures above calculated flood levels, and/or utilize protection/containment structures (e.g., berms, barriers or waterproof doors) to avoid flood damage. • Storm Drain System Capacity: (1) implement similar measures as noted above for runoff rates and amounts; and (2) utilize additional and/or enlarged facilities to ensure adequate on- and off-site storm drain system capacity. • <p>HYD-2: Conduct site-specific groundwater investigations. Site-specific groundwater investigations will be completed for all proposed solar facility development projects within the individual SEDAs and the OVSA proposing to utilize groundwater resources, prior to final project design approval. These investigations will identify site-specific criteria related to considerations such as local aquifer volumes and hydrogeologic characteristics, current/proposed withdrawals, inflow/recharge capacity, and potential effects to local aquifer and well levels, <u>as well as effects to groundwater-dependent surface water features including springs, marshes and bosques</u>, from proposed project withdrawals. All applicable results and recommendations from these investigations will be incorporated into the associated individual project design documents to address identified potential impacts to groundwater resources (per applicable regulatory standards), with all related requirements to be included in associated engineering/design drawings and construction contract specifications. A summary of the types of remedial measures typically associated with identified potential effects to groundwater <u>and related surface water</u> resources is provided below. The remedial measures identified/recommended as part of the described site-specific</p>	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
HYDROLOGY AND WATER QUALITY (cont.)		
	<p>groundwater investigations will take priority over the more general types of standard measures listed below.</p> <ul style="list-style-type: none"> • Aquifer/Well drawdown: (1) monitor local aquifer and private/production well levels to verify the presence or absence of project-related effects during pre-construction, construction, and operation periods (based on a methodology and monitoring schedule approved by the RWQCB and County); (2) document background and pre-construction groundwater conditions and comparable project-related construction and operation trends, along with related factors such as precipitation levels and groundwater budgets; (3) prepare scaled maps depicting the associated site(s), existing and proposed monitoring well locations, relevant natural (e.g., springs and groundwater-dependent vegetation) and other features (e.g., reservoirs), and pre- post-project groundwater contours, along with a description of cumulative water level changes; (4) restrict project-related groundwater withdrawals to appropriate levels to avoid significant adverse effects to local aquifers/wells and/or other groundwater-dependent uses (e.g., vegetation, springs or other related surface water features), based on thresholds approved by the RWQCB and County; and (5) provide mitigation for affected wells or other uses/resources where applicable, potentially including well modifications (e.g., deepening pumps or wells), <u>and/or financial compensation, and compensatory mitigation for impacts to groundwater-dependent surface water features and habitats.</u> • Groundwater Recharge Capacity: (1) reduce the area of on-site impervious surface if appropriate, through increased use of surfacing materials such as gravel, decomposed granite, or pervious pavement; and (2) use facilities such as retention/percolation basins and unlined drainage facilities to increase local infiltration and groundwater recharge. <u>The County may employ water injection as a method of groundwater recharge as deemed appropriate on a case by case basis. This decision would be made during project specific CEQA analysis for a given solar energy development proposal.</u> <p>HYD-3: Conduct site-specific water quality investigations. Site-specific water quality investigations will be completed for long-term solar facility operations associated with applicable proposed development projects within the individual SEDAs and the OVSA (i.e., those with activities potentially affecting water quality conditions,</p>	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
HYDROLOGY AND WATER QUALITY (cont.)		
	<p>as determined by the County), as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential long-term water quality issues related to conditions such as: anticipated and potential pollutants to be used, stored or generated on-site; the location and nature (e.g., impaired status) of on-site and downstream receiving waters; and project design features to avoid/address potential pollutant discharges. The final project design documents will also encompass applicable standard design practices from sources including NPDES, <u>Basin Plan</u> and County standards, as well as the results/recommendations of project-related hazardous materials investigations and regulatory standards (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of BMPs typically associated with identified potential water concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The BMPs identified/recommended as part of the described site-specific water quality investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> • Low Impact Development (LID)/Site Design BMPs: LID/site design BMPs are intended to avoid, minimize and/or control post-development runoff, erosion potential and pollutant generation to the maximum extent practicable by mimicking the natural hydrologic regime. The LID process employs design practices and techniques to effectively capture, filter, store, evaporate, detain and infiltrate runoff close to its source through efforts such as: (1) minimizing developed/disturbed areas to the maximum extent feasible; (2) utilizing natural and/or unlined drainage features in on-site storm water systems; (3) disconnecting impervious pervious to slow concentration times, and directing flows from impervious surfaces into landscaped or vegetated areas; and (4) using pervious surfaces in developed areas to the maximum extent feasible. 	

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
HYDROLOGY AND WATER QUALITY (cont.)		
	<ul style="list-style-type: none"> • Source Control BMPs: Source control BMPs are intended to avoid or minimize the introduction of pollutants into storm drains and natural drainages to the maximum extent practicable by reducing on-site pollutant generation and off-site pollutant transport through measures such as: (1) installing no dumping” stencils/tiles and/or signs with prohibitive language (per current County guidelines) at applicable locations such as drainages and storm drain inlets to discourage illegal dumping; (2) designing trash storage areas to reduce litter/pollutant discharge through methods such as paving with impervious surfaces, installing screens or walls to prevent trash dispersal, and providing attached lids and/or roofs for trash containers; (3) designing site landscaping (if applicable) to maximize the retention of native vegetation and use of appropriate native, pest-resistant and/or drought-tolerant varieties to reduce irrigation and pesticide application requirements; and (4) providing secondary containment (e.g., enclosed structures, walls or berms) for applicable areas such as trash or hazardous material use/storage. • Treatment Control/LID BMPs: Treatment control (or structural) BMPs are designed to remove pollutants from runoff to the maximum extent practicable through means such as filtering, treatment or infiltration. Treatment control and/or LID BMPs are required to address applicable pollutants, and must provide medium or high levels of removal efficiency for these pollutants (per applicable regulatory requirements). Based on the anticipated pollutants of concern, potential LID and treatment control BMPs may include (1) providing water quality treatment and related facilities such as sediment basins, vegetated swales, infiltration basins, filtration devices and velocity dissipators to treat appropriate runoff flows and reduce volumes prior to off-site discharge (per applicable regulatory requirements); and (2) conducting regular inspection, maintenance and as-needed repairs of pertinent facilities and structures. 	
LAND USE AND PLANNING		
No significant, unavoidable adverse land use and planning impacts would result from implementation of the proposed REGPA.	No mitigation measures are required.	Less Than Significant

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
MINERAL RESOURCES		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scale distributed generation, and/or</u> community scale, and/or facilities) could result in potentially significant impacts to mineral resources related to the loss of regionally or locally important mineral resources, as well as associated potential conflicts with valid mineral entries.</p>	<p>MIN-1: Conduct site-specific mineral resource investigations. Site-specific mineral resource investigations will be completed for proposed development projects within the individual SEDAs, the OVSA, and the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. These investigations will include the following elements: (1) descriptions of regional and on-site geologic environments; (2) identification of site-specific potential for the occurrence of mineral resources; (3) assessment of estimated mineral resource quantities and extents (as applicable); (4) evaluation of associated potential for economic resource recovery, including considerations such as supply and demand, and production, processing and transportation costs; (5) determination of the presence of mineral entries such as mining claims and mineral leases, including descriptions of individual mineral entry types, issuing agencies and status; (6) assessment of potential impacts from project implementation to identified regionally- or locally-important mineral resources, associated exploration/recovery efforts, and valid mineral entries; and (7) development of remedial measures to address identified impacts to mineral resources, operations and entries, as feasible, potentially including efforts such as avoidance, use of proposed project development timing or phasing to accommodate mineral operations, or locating proposed project facilities to accommodate multiple use operations (e.g., through shared use of access or infrastructure). All applicable results and recommendations from the described investigations identifying identified potential mineral resource impacts and remedial measures will be incorporated into the associated individual project design documents.</p>	<p>Less Than Significant</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
NOISE		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scale distributed generation, and/or</u> community scale, and/or facilities) could result in potentially significant impacts related to: (1) exposure of persons to or generation of noise levels in excess of established standards during project operations; and (2) temporary or periodic increases in ambient noise levels during construction.</p>	<p>NOI-1: Prepare technical noise report for solar facilities proposed within 500 feet of noise sensitive land uses. If a proposed utility scale solar energy project resulting from implementation of the REGPA is within 500 feet of a residence or other noise sensitive land use, prior to issuance of a Major Use Permit, a site-specific noise technical report will be prepared and approved by the County. The technical report will verify compliance with all applicable County laws, regulations, and policies during operation of the solar project, including that noise levels would not exceed the relevant thresholds described in the General Plan Noise Element (60 dBA L_{DN} for noise sensitive land uses such as residences, schools, transient lodging and medical facilities). The site specific noise technical report will include project specifications, applicable noise calculations, project design features, applicable BMPs and related information from the REAT’s Best Management Practices and Guidance Manual (REAT 2010), and mitigation measures applicable to the project. The technical noise report will address operational related noise sources, as well as noise from the use of generators during an emergency. The technical report will calculate specific anticipated noise and vibration levels from operations in accordance with County standards and provide specific mitigation when noise levels are expected to exceed County standards.</p> <p>NOI-2: Implement construction noise reduction measures. If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT’s Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:</p> <ul style="list-style-type: none"> • Whenever feasible, electrical power will be used to run air compressors and similar power tools. • Equipment staging areas will be located as far as feasible from occupied residences or schools. • • • 	<p>Less Than Significant</p>

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
NOISE (cont.)		
	<ul style="list-style-type: none"> • All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers. • Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors. • Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings. • NOI-3: Prepare a Helicopter Noise Control Plan. In the event that a utility scale solar project site would have limited access and would require the use of helicopters during operation or maintenance of a facility, the County shall prepare a Helicopter Noise Control Plan that indicates where helicopters would be used and the frequency and duration for such use. The plan shall demonstrate compliance with the noise level limits within the County Noise Element for helicopter noise to properties within 1,600 feet of proposed helicopter use locations. 	
POPULATION AND HOUSING		
Implementation of the REGPA would result in less than significant impacts to population and housing.	No mitigation measures are required.	Less Than Significant

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
PUBLIC SERVICES		
<p>Implementation of the REGPA would result in potentially significant impacts associated with fire and police protection services.</p>	<p>PUB-1: Analyze public safety and protection response times and staff levels for each project. Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project’s impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.</p> <p>PUB-2: Provide onsite security during the construction and long-term operation of the project. For project sites associated with proposed future solar development projects that are determined through Mitigation Measure PUB-1 to have insufficient law enforcement protection services or significant impacts to law enforcement services, project proponents shall be required to provide adequate, onsite private security for the duration of construction activities and during the long-term operation of the project to the satisfaction of the County. The actual size and configuration of the security detail shall be determined by the County during preparation of the Development Agreement for the future solar energy project.</p> <p>PUB-3: Pay mitigation fees for public safety and protection services. The County shall require project proponents to pay established County development mitigation fees for fire and police protection services. Said fees shall be used to maintain proper staffing levels for fire and police protection, <u>and emergency</u> services and to sustain adequate response times as required by the County.</p>	<p>Less Than Significant</p>

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
RECREATION		
Implementation of the REGPA would result in less than significant impacts to recreational facilities.	No mitigation measures are required.	Less Than Significant
SOCIOECONOMICS		
Implementation of the REGPA would result in potentially adverse socioeconomic effects related to changes in the local economy, housing availability related to temporary construction workers, and levels of public service provision.	<p>SOC-1: Minimize impacts on transient housing. To further offset potential negative effects and increased demand on transient housing, General Plan Policy ED-4.5, Employ and Train Local Labor, shall be supplemented with the following:</p> <ul style="list-style-type: none"> • For renewable energy projects where the construction schedule exceeds one-year, community monitoring programs shall be developed that would identify and evaluate transient housing demand and other socioeconomic effects utilizing economic models such as JEDI. Measures developed for monitoring may include the collection of data reflecting the workforce demands and social effects (such as tracking any demonstrable drop in recreational usership) as a result of increased transient housing demand from construction workers at the local and County level. • Project developers shall work with the County, local chambers of commerce, and/or other applicable local groups to assist transient workers in finding temporary lodging. If temporary lodging is not available, developers of utility scale projects shall consider the feasibility of providing on-site temporary housing accommodations for all projects. 	Less Than Significant

**Table ES-1 (cont.)
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
SOCIOECONOMICS		
	<p>SOC-2: Minimize impacts on County public services. To further off-set potential negative effects on County public services, General Plan Policy ED-4.4, Offset the Cost to the County for Service Provision, shall be supplemented with the following:</p> <ul style="list-style-type: none"> • Cooperative agreements between project applicants and the County shall be secured prior to issuance of a building permit or project-specific entitlement to ensure the following: • Unless property taxation of a renewable energy installation is deemed sufficient by the County, project applicants shall pay a fair-share public service impact fee. A potential method for estimating a fair-share contribution could be calculated by: • [annual service budget] X [estimated number of temporary workers temporarily in-migrating ÷ County population served]. • The public service fee (and formula used for calculating fair-share) shall be adjusted based on the duration of project construction (e.g., a project only lasting 9 months would utilize 75 percent of the annual budget, one lasting 1.5 years would utilize 150 percent of the annual budget, etc.); and • Project applicants shall maximize the County’s receipt of sales and use taxes paid in connection with construction of the project by methods such as including language in construction contracts identifying jobsites to be located within the County and requiring construction contractors to attribute sales and use taxes to the County in their Board of Equalization filings and permits. 	

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
TRANSPORTATION AND CIRCULATION		
<p>Implementation of the REGPA could result in potentially significant traffic impacts related to: (1) construction traffic; (2) air traffic safety hazards; and, (3) design-related traffic hazards.</p>	<p>TRA-1: Prepare site-specific traffic control plans for individual projects. Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.</p> <p>TRA-2: Implement recommendations from traffic impact analysis on surrounding roadways and intersections. Site-specific construction traffic impact analyses shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to evaluate potential traffic impacts on surrounding roadways and intersections during the construction period. Applicable results and recommendations from the project-specific construction traffic impact analysis shall be implemented during the appropriate construction phase to address identified potential construction traffic impacts.</p>	<p>Less Than Significant</p>

Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION		
Impacts	Mitigation Measures	Significance After Mitigation
UTILITIES AND SERVICE SYSTEMS		
Utility impacts associated with wastewater, water, stormwater facilities, and solid waste disposal would be less than significant.	No mitigation measures are required.	Less Than Significant
Implementation of the REGPA would result in potentially significant impacts related to the need for new transmission lines to serve future solar development.	<p>UTIL-1: Projects within the western solar energy group will not exceed a combined maximum of 250 MW or 1,500 acres. Future projects within the Western Solar Energy Group shall be limited to a combined maximum of 250 MW or 1,500 acres of development area). The County shall implement a tracking program to ensure all future solar development projects within the Western Solar Energy Group do not exceed 250 MW. Once the 250 MW (or 1,500 acres of development area) is reached, the County shall not approve further projects within the Western Solar Energy Group unless project applicants can provide proof of adequate and existing transmission capabilities for the project.</p> <p>UTIL-2: Projects within the Southern and Eastern Solar Energy Groups will be required have necessary and/or adequate transmission lines. Future development within the Southern and Eastern Solar Energy Groups shall be required to include the necessary transmission lines or provide proof of adequate transmission capabilities for the project.</p>	Less Than Significant



INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-219

Resolution Establishing a Public Agencies Post-Employment Benefits Trust Administered by Public Agency Retirement Services (PARS)

Treasurer-Tax Collector

ACTION REQUIRED

ITEM SUBMITTED BY

Alisha McMurtrie, Treasurer

ITEM PRESENTED BY

Alisha McMurtrie, Treasurer

RECOMMENDED ACTION:

- A) Approve Resolution No. 2024-11 establishing a Public Agencies Post-Employment Benefits Trust that includes the Other Post-employee Benefits Trust and the Pension Rate Stabilization Trust, which is administered by PARS; and
- B) Designate the County Administrative Officer, his designee and/or successor, as the County Plan Administrator and to take actions necessary in that role to administer the PARS agreement; and
- C) Authorize the County Administrator and Auditor-Controller to initiate those financial transactions to make deposits with PARS (trust administrator).

BACKGROUND / SUMMARY / JUSTIFICATION:

On March 19, 2024, your Board approved moving forward with establishing a new Post-Employment Benefits Trust that will contain both our current Other Post-Employment Benefits Trust (OPEB) and a new Pension Rate Stabilization Trust (PRST). This item brings back the required Resolution for review and approval.

A brief history: on April 13, 2010, the Board approved establishing the OPEB Trust to provide an alternative method of mitigating our financial risks associated with our unfunded liability surrounding our negotiated post-employment benefits. Our 14-year relationship with Public Agency Retirement Services (PARS) has been a success story, even through the depths of the Great Recession. The opportunity to expand the relationship to include the PRST program to assist Inyo County responsibly address pre-funding our pension obligations has come at a timely moment. Post-Employment Benefits are the largest debt we carry on our balance sheets. The questions that should be at the forefront of any budget conversation should be how we fund these and how we mitigate our risk exposure.

This action combines our current OPEB Trust into a Combined Trust that includes the PRST. This allows for better oversight and management by both the County and PARS. While they are combined for administrative purposes, they remain individual Trusts defined for specific uses. OPEB remains dedicated to Post-Employment medical retiree costs and the PRST is dedicated to pension costs. All contributions to the Trusts are defined by the County and administered by PARS accordingly. Each trust earns their own interest and pays their own fees. Accounting is provided separately and assists the

Auditor-Controller with the County financial reporting requirements.

PARS maintains a wide range of investment strategies. A strategy suitable for the risk tolerance and future needs of the County will be determined. It is important to note that PARS invests in areas that the County Treasurer is prohibited under the California Code. This offers a unique opportunity for the funds placed with PARS to earn a higher rate of return than the treasury pool. It also runs a higher chance of monetary losses. This is the risk tolerance referred to earlier.

By establishing the irrevocable trust, the County would still maintain its discretion in determining annual contributions to the trust. The PARS plan does not obligate the County to a specific or fixed contribution. However, once contributions are made to an irrevocable trust, they are legally set aside solely for the payment of approved uses defined by the individual Trust.

Taking this action today, the County not only positions itself to respond to future unexpected monetary adjustments declared by CALPERS, we signal to the financial industry that we will continue to pursue financial stability in addressing our long-term debt obligations. Should the County ever need to secure financing in the future, this will have an impact on the borrowing costs and credit ratings.

FISCAL IMPACT:

Funding Source	Local Assistance and Tribal Consistency Fund	Budget Unit	
Budgeted?	Yes	Object Code	
Recurrence	Both		
Current Fiscal Year Impact			
\$1,000,000 contribution to the newly established trust.			
Future Fiscal Year Impacts			
Approximately \$400,000 annual contribution.			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

Your Board can choose not to establish the Pension Rate Stabilization Trust. This is not recommended as this is a component of steps initiated at the March 18, 2024, board meeting. Should you choose the alternative, your Board must still provide authorization for the County Administrator or the Auditor-Controller, as Plan Administrators, to amend the current Other Post Employment Benefits (OPEB) Plan Agreement and update the Bank Managed Account information, removing Union Bank as the Trustee and accepting US Bank as the new Trustee for Public Agency Retirement Services (PARS).

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

ATTACHMENTS:

- Resolution No. 2024-11

APPROVALS:

Alisha McMurtrie	Created/Initiated - 3/25/2024
Darcy Ellis	Approved - 3/26/2024
John Vallejo	Approved - 4/4/2024
Amy Shepherd	Approved - 4/4/2024
Nate Greenberg	Approved - 4/4/2024
Alisha McMurtrie	Final Approval - 4/4/2024

RESOLUTION NO. 2024-11

RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF INYO
APPROVING THE ADOPTION OF THE
PUBLIC AGENCIES POST-EMPLOYMENT BENEFITS TRUST
ADMINISTERED BY PUBLIC AGENCY RETIREMENT SERVICES (PARS)

WHEREAS the County of Inyo (the "County") is currently participating in the Public Agencies Post-Retirement Health Care Plan Trust for the pre-funding of its retiree health benefits and other post-employment benefits other than pension benefits ("OPEB"); and

WHEREAS the County desires to set aside funds for the purpose of pre-funding its CalPERS pension obligation that will be held in trust for the exclusive purpose of making future contributions of the County's required pension contributions and any employer contributions in excess of such required contributions at the discretion of the County; and

WHEREAS PARS has made available the Public Agencies Post-Employment Benefits Trust (the "Program") for the purpose of pre-funding both pension obligations and/or OPEB obligations as specified in the County's plans, policies and/or applicable collective bargaining agreements; and

WHEREAS the County is eligible to participate in the Program, a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Internal Revenue Code, as amended, and the Regulations issued there under, and is a tax-exempt trust under the relevant statutory provisions of the State of California; and

WHEREAS the County can manage the pre-funding of its pension and OPEB obligations in a single trust under this Program, thereby gaining administrative and cost efficiencies; and

WHEREAS the County's adoption and operation of the Program has no effect on any current or former employee's entitlement to post-employment benefits; and

WHEREAS the terms and conditions of post-employment benefit entitlement, if any, are governed by contracts separate from and independent of the Program; and

WHEREAS the County's funding of the Program does not, and is not intended to, create any new vested right to any benefit nor strengthen any existing vested right; and

WHEREAS the County reserves the right to make contributions, if any, to the Program.

NOW THEREFORE, BE IT RESOLVED THAT:

1. The Governing Board of Supervisors hereby adopts the Public Agencies Post-Employment Benefits Trust, effective April 9, 2024; and
2. The Governing Board of Supervisors hereby appoints the County Administrative Officer, or his/her successor or his/her designee as the County's Plan Administrator for the Program; and
3. The County's Plan Administrator is hereby authorized to execute the PARS legal and administrative documents on behalf of the County and to take whatever additional actions are necessary to maintain the County's participation in the Program and to maintain compliance of any relevant regulation issued or as may be issued; therefore, authorizing him/her to take whatever additional actions are required to administer the County's Program; and
4. The Governing Board of Supervisors, in accordance with Section 3.3 of the Public Agencies Post-Retirement Health Care Plan Trust adopted effective April 13, 2010, hereby authorizes the withdrawal from said trust and

directs the transfer of assets held in said trust to the OPEB Account established in the name of the County under the Public Agencies Post-Employment Benefits Trust, adopted herewith.

PASSED AND ADOPTED on this 9th day of April 2024, by the Inyo County Board of Supervisors, County of Inyo, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Matt Kingsley, Chairperson
Inyo County Board of Supervisors

ATTEST:

NATE GREENBERG
Clerk of the Board

By: _____
Darcy Ellis, Assistant



INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS
ASST. CLERK OF THE BOARD



AGENDA ITEM REQUEST FORM

April 9, 2024

Reference ID:
2024-146

Contract for Public Defender Services with Gerard Harvey

County Counsel/County Administrator

ACTION REQUIRED

ITEM SUBMITTED BY

John Vallejo, County Counsel

ITEM PRESENTED BY

Nate Greenberg, County Administrative Officer,
John Vallejo, County Counsel

RECOMMENDED ACTION:

Approve the agreement between the County of Inyo and Gerard Harvey for the provision of public defender services in an amount not to exceed \$615,000 for the period of April 1, 2024, through June 30, 2027, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

BACKGROUND / SUMMARY / JUSTIFICATION:

The government is mandated to provide public defender services to indigent criminal defendants and other individuals facing potentially serious restrictions to their fundamental rights. California delegated this responsibility to counties. Inyo County provides public defender services through contracts with private attorneys, but is experiencing, and has experienced for many years now, significant challenges retaining attorneys to fill the contracts needed to meet the public defender caseload. Inyo County staff and partner agencies identified at least two issues contributing to these challenges:

1. The unique contract structures; and
2. The level of compensation provided to our contracted public defenders.

This agenda item is brought before your Board with the goal of addressing those issues with the ultimate goal of more successfully recruiting and retaining public defenders.

After consulting with the Inyo County Superior Court, the District Attorney's Office, as well as current and former public defenders, Inyo County revised the scopes of work provided for in the public defender contracts. In summary, there will now be one contract that has an emphasis on felonies with significant exposure to incarceration and less emphasis on non-criminal assignments, but is otherwise general, and three contracts that are otherwise generic in scope. These scopes of work are broader than the current contract structures in order to allow for greater redundancy and coverage between the contracts in the case of temporary absences from one or more public defenders and/or vacancies in a contract(s), seek to avoid unnecessary creation of conflicts, and should assist in our recruitment efforts to better appeal to out-of-area attorneys. The agreement before you today with Mr. Harvey is for one of the three contracts that are otherwise generic in scope. Additionally, this agreement provides for an April 1 date to start this agreement to address the fact that Mr. Harvey is currently retaining clients out of contract and would otherwise bill for those cases accordingly. Instead of billing for those cases, this contract will replace that funding approach beginning April 1.

FISCAL IMPACT:

Funding Source	General Fund	Budget Unit	022600
Budgeted?	Yes	Object Code	5265
Recurrence	Ongoing Expenditure		
Current Fiscal Year Impact			
Approximately \$48,300 for the remainder of FY 2023-2024.			
Future Fiscal Year Impacts			
A total of up to approximately \$566,700 would be obligated to this contract in future fiscal years.			
Additional Information			

ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

Your Board could choose to not enter into this agreement and not have public defenders available on contract. This would lead to an unknown increase in overall costs to the County due to the Constitutional mandates for the County to provide public defender services to indigent defendants and having to hire out-of-contract attorneys for such services.

OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

Administration. Superior Court. District Attorney.

ATTACHMENTS:

1. Public Defender Contract - Harvey

APPROVALS:

John Vallejo	Created/Initiated - 2/9/2024
Darcy Ellis	Approved - 2/9/2024
Denelle Carrington	Approved - 2/9/2024
Nate Greenberg	Approved - 2/11/2024
John Vallejo	Approved - 4/4/2024
Denelle Carrington	Approved - 4/4/2024
Amy Shepherd	Final Approval - 4/4/2024

**AGREEMENT BETWEEN COUNTY OF INYO
AND GERARD HARVEY, ATTORNEY AT LAW,
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A PUBLIC DEFENDER**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") requires professional services for the purpose of providing legal representation before the various courts, for certain qualified indigent persons who fall within any of the following classifications:

1. Criminal defendants brought before the Superior Courts of Inyo County on felony charges (hereinafter referred to as "Felony cases");
2. Criminal defendants brought before the Superior Courts of Inyo County on misdemeanor charges (hereinafter referred to as "Misdemeanor cases");
3. Minors brought before the Juvenile Court of Inyo County for proceedings under Welfare and Institutions Code Sections 601 and 602 (hereinafter referred to as "Delinquency cases");
4. Minors and/or parents brought before the Superior Court of Inyo County and/or appropriate Courts of Appeal for proceedings under Welfare and Institutions Code section 300 (hereinafter referred to as "Dependency cases");
5. Persons ordered to show cause before the Superior Court of Inyo County re contempt for alleged failure to pay child support or before said court in proceedings to establish paternity and support (hereinafter referred to as "Child Support cases");
6. Persons involuntarily detained by Inyo County for treatment and evaluation pursuant to sections 5150 and 5170 of the Welfare and Institutions Code, or for prolonged subsequent detention pursuant to Welfare and Institutions Code sections 5250, 5260, 5300, 5304 or 6500; or proposed L.P.S Conservatees and L.P.S. Conservatees brought before the Inyo County Superior Court and/or appropriate Courts of Appeal pursuant to sections 5350 or 5352.1 of the Welfare and Institutions Code; or persons brought before the Inyo County Superior Court and/or appropriate Courts of Appeal for post adjudication of criminal mental health status proceeding under Penal Code 1026 et. seq.; Children in proceedings to declare child free from parental custody and control (Family Code section 7861); or indigent parents in proceedings to declare child free from parental custody and control (Family Code section 7860); or indigent non-custodial parents in proceedings to terminate the parent's rights for willful failure to communicate and support (Family Code section 7860); or conservatees, proposed conservatees, or persons alleged to lack legal capacity or unable to retain legal counsel and requesting the appointment of counsel in proceedings to establish a conservatorship or appoint a proposed conservator, terminate conservatorship, remove the conservator, or obtain an order authorizing removal of a temporary conservatee from the temporary conservatee's place of residence (Probate Code, section 1471), [hereinafter all referred to as "Mental Health cases"];
7. Patients for whom the Contractor is appointed the patients rights advocate pursuant to Welfare and Institutions Code Section 5520, by the Inyo County Mental Health Director (hereinafter referred to as "Patient Rights Advocate Cases");
8. Persons brought before the Inyo County Superior Court for determinations and commitments under Welfare and Institutions Code Section 6600 et seq. (hereinafter referred to as "Sexually Violent Predator cases");

9. Persons taking misdemeanor criminal appeals from the Inyo County Superior Court to the Appellate Division of the Superior Court of Inyo County (hereinafter referred to as "Misdemeanor Appeal cases");
10. Persons requiring Public Defender representation under the provisions of AB 109; and
11. Any other persons for whom the County is statutorily required to fund Public Defender services.

WHEREAS, the County has by contract divided performance of the required professional services described above between private attorneys retained as independent contractors ("Contract Public Defenders") to perform public defender services for the County. The purpose of said contracts for public defender services is to provide competent and effective legal representation to qualified indigent persons appearing before the various courts and to minimize the expenditure of County funds for the payment of court appointed private attorneys appearing *pro tempore* as public defenders, in cases where the Contract Public Defenders are unable to appear due to attorney-client and/or time conflicts of interest.

WHEREAS, the County has the need for **Gerard Harvey** (hereinafter referred to as "Contractor") to provide professional legal services as a Contract Public Defender for Inyo County (North and South).

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms, and conditions hereinafter set forth, the County and Contractor agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK.

The Contractor shall furnish to the County, upon its request, all of those services and work set forth in the Scope of Work, Attachment A, attached hereto and by reference incorporated herein. Requests by the County to the Contractor to perform under this Agreement will be made by the judges of the Superior Court of Inyo County. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the County's need for such services. The County makes no guarantee or warranty, of any nature, as to the level or amount of services or work which will be requested or required of the Contractor by the County under this Agreement. County by this Agreement incurs no obligation or requirement to compensate Contractor, over and above that provided for in this Agreement, for the performance of any services or work required to be performed by Contractor under this Agreement.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and professional standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

2. TERM.

The term of this Agreement is for the period from April 1, 2024 to June 30, 2027.

3. CONSIDERATION.

A. Compensation. County shall pay Contractor in accordance with the Schedule of Fees, Attachment B, attached hereto and by reference incorporated herein, for the performance of the services and work described in Attachment A.

B. Travel and Per Diem. Contractor will not be paid or reimbursed travel expenses or per diem for any in-county travel performed by Contractor in providing services and work under this Agreement.

County shall reimburse Contractor for Court authorized out-of-county travel expenses and per diem which Contractor incurs in providing work and services under this Agreement. Contractor shall on a case by case basis, and prior to incurring any out-of-County travel expenses or per diem, receive written authorization for Contractor to travel out-of-county on the case from the assigned judge. Properly authorized out-of-county travel and per diem expenses will be reimbursed in the same amount and to the same extent as County reimburses its permanent status employees for such expenses. County reserves the right to deny reimbursement to Contractor for out-of-county travel or per diem expenses which are either in excess of the amounts that may be paid to County's permanent status employees, or which are incurred by Contractor without the prior authorization of the assigned judge.

C. Incidental Expenses. County shall reimburse Contractor in accordance with the Schedule of Fees, Attachment B, for those incidental expenses which are specifically identified in the Schedule of Fees and which are necessarily incurred by the Contractor in providing the services and work under this Agreement. Reimbursement by County for such incidental expenses will be limited to Contractor's actual cost without regard to any administrative or overhead expenses incurred by Contractor in obtaining or utilizing such incidental services or supplies. Reimbursement for actual costs will not exceed the amounts set forth in the Schedule of Fees.

D. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for any public defender services provided. In addition, Contractor shall not, by virtue of this Agreement, be entitled to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

E. Billing and payment. County shall pay to Contractor the monthly payments set forth in the Schedule of Fees, Attachment B, without any billing or statement from Contractor. Within 30 days of Contractor incurring any authorized incidental, travel, or per diem expenses, Contractor shall submit a statement to the County. The statement will itemize each incidental, travel, or per diem expense and identify the date and case in which the expense was incurred. The statement will include a conformed copy of the court authorization for travel and/or incidental expenses and receipts for lodging, meals, and other incidental expenses in accordance with the County's accounting procedures and rules. County will make payment to Contractor for all authorized reimbursable expenses for which a statement is properly submitted, within 30 days of the County's receipt of such statement.

F. Federal and State taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety nine dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board.

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment A. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with the courts of Inyo County, other Inyo County Contract Public Defenders, other counsel, and parties, as necessary, to ensure that all services and work under this Agreement will be performed in a timely manner.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, municipal governments, for contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement or as otherwise may be required. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.sam.gov>.

6. COUNTY PROVIDED SERVICES AND SUPPLIES.

County will provide Contractor with those services and supplies which are specifically identified in the Schedule of County Provided Services and Supplies, Attachment C, attached hereto and by reference incorporated herein. County incurs no obligation or requirement to reimburse or compensate Contractor if he/she for any reason either does not use the County provided services and supplies, or procures similar services and supplies from other sources.

7. COUNTY PROPERTY.

Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc., provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

8. PRODUCTS OF CONTRACTOR'S WORK AND SERVICES.

Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the Contractor.

9. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Except for the County Provided Services and Supplies provided for in Section 6 above, Contractor shall provide all such office space, supplies, equipment, vehicles, reference materials and books, postage, letterhead, stationery, secretarial services, receptionist services, legal assistant services, telephone services, duplicating services, and case storage facilities as are necessary to provide the work and services required of Contractor by this Agreement. Except for those incidental expenses specifically identified in the Schedule of Fees, Attachment B, County is not obligated to reimburse or pay Contractor for any expense or cost incurred by Contractor in procuring or maintaining such items or services. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining items or services not specifically set forth in the Schedule of Fees (Attachment B) as Incidental Expenses, is the sole responsibility and obligation of Contractor.

10. INSURANCE.

For the duration of this Agreement, Contractor shall procure and maintain insurance of the scope and amount specified in Attachment E and with the provisions specified in that attachment.

11. STATUS OF CONTRACTOR.

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the Contractor is to be considered an employee of County. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

12. DEFENSE AND INDEMNIFICATION.

Contractor shall defend, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the performance of this Agreement by Contractor, or Contractor's agents, officers, or employees. Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Contractor's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other cost which is caused in whole or in part by any act or omission of the Contractor, his/her agents, employees, supplier, or any one directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Contractor, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

13. RECORDS AND AUDIT.

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, county, municipal, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to files and records directly related to this Agreement, which are not otherwise legally privileged information, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor.

C. Workload Data. Contractor shall promptly provide to County any and all workload or case data, which is not otherwise legally privileged information upon the written request of either the County Administrator or the County Board of Supervisors.

14. NONDISCRIMINATION.

During the performance of this Agreement, Contractor, his/her agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and his/her agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

15. CANCELLATION.

This Agreement may be canceled by County without cause, and at will, for any reason by giving to Contractor sixty (60) days written notice of such intent to cancel. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving sixty (60) days written notice of such intent to cancel to County.

16. TERMINATION OF THIS AGREEMENT.

Upon the termination of this Agreement or any extension thereof, County shall pay Contractor such compensation due, if any, prorated to the date of termination; and Contractor shall deliver all active and inactive case files to the attorney or law office as the County Administrator shall designate in writing.

17. TERMINATION OF PREVIOUS AGREEMENT.

Contractor agrees that upon the execution of this Agreement by the parties hereto, any prior written Agreement for the provision of professional services as a Contract Public Defender for the County of Inyo

shall be terminated, and the consideration for the continued representation of clients in the courts of the County of Inyo shall be subject to the terms and conditions of this Agreement as of the effective date of this Agreement. It is further understood between the parties hereto that there are no oral agreements or representations between the parties affecting this Agreement and that this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, and none thereof shall be used to interpret or construe this Agreement.

18. ASSIGNMENT.

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

19. DEFAULT.

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor.

20. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-eight (29) below.

21. CONFIDENTIALITY.

Contractor further agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Any disclosure of confidential information by Contractor without the County's written consent is solely and exclusively the legal responsibility of Contractor in all respects.

Notwithstanding anything in the Agreement to the contrary, names of persons receiving public social services are confidential and are to be protected from unauthorized disclosure in accordance with Title 45, Code of Federal Regulations Section 205.50, the Health Insurance Portability and Accountability Act of 1996, and Sections 10850 and 14100.2 of the Welfare and Institutions Code, and regulations adopted pursuant thereto. For the purpose of this Agreement, all information, records, and data elements pertaining to beneficiaries shall be protected by the provider from unauthorized disclosure.

22. CONFLICTS.

Contractor agrees that he/she has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with Contractor's performance of the work and services under this Agreement. Specifically, Contractor agrees not to engage in any private legal representations of any matter which would conflict or interfere with Contractor's ability to represent clients under this Agreement. Additionally, Contractor, during the term of this Agreement agrees not to advise or represent any person, corporation or entity with a claim or cause of action against the County of Inyo, its officers, agents, or employees.

23. POST AGREEMENT COVENANT.

Contractor agrees not to use any confidential, protected, or privileged information which is gained in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement.

24. SEVERABILITY.

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

25. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-seven (27) (Amendment).

26. RENEGOTIATION.

Either the County or the Contractor may, upon sixty (60) days written notice, initiate renegotiation of the Scope of Work (Attachment A) and Schedule of Fees (Attachment B). If as a result of renegotiations, both parties agree to modify the Scope of Work and Schedule of Fees, such modification must comply with the requirements of paragraph twenty-seven (27) (Amendment).

27. AMENDMENT.

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

28. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

COUNTY OF INYO:	
<u>County Administrator</u>	Department
<u>224 North Edwards</u>	Street
<u>P.O. Drawer N</u>	
<u>Independence, CA 93526</u>	City and State

CONTRACTOR:	
<u>Gerard Harvey</u>	Name
<u>P.O. Box 1701</u>	Street
<u>Bishop, CA 93515</u>	City and State

29. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

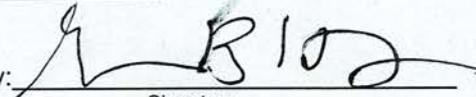
IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS 1ST DAY OF APRIL, 2024.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: 
Signature

GERARA HARVEY

Dated: APRIL 1, 2024

APPROVED AS TO FORM AND LEGALITY:

John-Carl Vallejo
John-Carl Vallejo (Apr 2, 2024 10:33 PDT)
County Counsel

APPROVED AS TO ACCOUNTING FORM:

Amy Shepherd
County Auditor

APPROVED AS TO INSURANCE REQUIREMENTS:


County Risk Manager

**AGREEMENT BETWEEN COUNTY OF INYO
AND GERARD HARVEY
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A CONTRACT PUBLIC DEFENDER**

TERM:

FROM: APRIL 1, 2024 TO: JUNE 30, 2027

SCOPE OF WORK:

1. PRIMARY RESPONSIBILITIES.

A. **WARRANTY.** Contractor warrants that he/she has read and reviewed the contracts of all the other attorneys engaged by the County to provide professional services as public defenders (hereinafter referred to as "Contract Public Defenders") during the term of this Agreement. Such Agreements are by reference incorporated herein as though set forth in full. Contractor agrees and understands that he/she shall consult, confer, and agree with all the other Contract Public Defenders to, and shall provide legal representation and substitute handling and coverage of Contract Public Defender cases as required by the provisions below. Contractor agrees and understands that these provisions are of mutual benefit to Contractor and each of the other Contract Public Defenders, and does not entitle Contractor to any additional compensation under this Agreement.

B. DEFINITIONS.

1. "Attorney-Conflict of Interest" cases are those that would be within the primary responsibilities of another Contract Public Defender but for an attorney-client conflict of interest of that public defender. Attorney-client conflicts are those that are defined and recognized by applicable law.
2. "Time Conflict" cases are those that are within the primary responsibilities of another Contract Public Defender who is unable to fulfill his/her contractual duties to attend the courts and represent the clients in such cases for whatever reason including, but not limited to vacations, temporary illnesses, conflicting court calendars, or attendance at attorney education courses.

C. **ATTORNEY-CLIENT CONFLICT OF INTEREST CASES.** Except as may be provided in F. below, or where Contractor's own attorney-client conflict of interest or time conflict prohibits such, Contractor shall provide legal representation for attorney-client conflict of interest cases in accordance with the Scope of Work, Attachment A to this Agreement, attached hereto and by referenced incorporated herein.

D. **TIME CONFLICT CASES.** Except as may be provided in E and F below, or where Contractor's own attorney-client conflict of interest or time conflict prohibits such, Contractor shall provide substitute handling and coverage of court calendars and legal representation in time conflict cases in accordance with the Scope of Work, Attachment A, to this Agreement.

E. **TIME CONFLICT CASES LIMITATION.** This contract contemplates a total of four Public Defender Contracts to generally handle the total public defender caseload of Inyo County except where conflicts of interest make that an impossibility. Should one or more of those other contracts not be filled, the County will ensure that the Superior Court is informed of such fact, and that a roughly equivalent percentage of the cases that would otherwise be handled by those unfilled contracts are assigned to attorneys out of contract. For example, if one of the four contracts is not filled, on average every fourth assignment should be assigned to an attorney out of contract. Upon 30 days of any such vacancy(s), Contractor shall have the right to decline any appointments in excess of Contractor's relative share of case assignments. Alternatively, Contractor may voluntarily accept the additional workload for the added compensation set forth in Attachment B.

ATTACHMENT A - Continued

**AGREEMENT BETWEEN COUNTY OF INYO
AND GERARD HARVEY
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A CONTRACT PUBLIC DEFENDER**

TERM:

FROM: APRIL 1, 2024 TO: JUNE 30, 2027

SCOPE OF WORK:

During the period of this Agreement, Contractor, together with other indigent defense counsel under direct contract with County shall provide representational services to all eligible clients in Inyo County trial court actions or proceedings.

Contractor shall have a subordinate priority assignment for any cases which includes a of a felony that can be punished by the low term of confinement, as defined by the California Penal Code, of two years or greater, and/or any sexually violent predator cases.

Contractor shall handle conflict case assignments to dependency, delinquency, child support, mental health and conservatorship cases, patient rights advocate cases, AB 109 revocation hearings and any other matter in which the County is obligated to provide public defender services.

Contractor's lower priority assignments do not apply to clients that the Contractor previously represented for which an assignment would best avoid current or future conflicts of interest.

Note: The Coverage Table set forth above will be followed for the majority of the cases assigned to this Public Defender. However, a Judge, when assigning a case, will consider the experience, caseload, complexity of the case and prior representation of the same client, which may result in a Public Defender assigned a case out of the listed sequence. In addition, the County reserves the right to modify the conflicts coverage table as necessary to make consistent with other Public Defender contracts as they may be amended and as necessary to address legislative changes which may impact the County's obligation to provide Public Defender services.

Contractor may informally coordinate with other contracted Inyo County Public Defenders to arrange for more efficient coverage of criminal calendars between the two Inyo County court locations.

DECLARATIONS FOR REIMBURSEMENT FOR PUBLIC DEFENDER FEES AND COSTS.

1. In the event Contractor seeks reimbursement for costs spent in defense pursuant to court Order, each invoice submitted for payment shall be accompanied by a declaration affirming the invoice represents a service provided in the defense of the matter from which the Order issued and shall be signed by the attorney seeking payment of the invoice. [See Attachment B "Schedule of Fees" paragraph 3.A.]
2. Pursuant to Penal Code section 987.8 Contractor shall prior to disposition or the final hearing file with the appointing court in each and every case in which Contractor appeared as a Contract Public Defender, the requisite form or forms declaring the amount of time expended on the case by Contractor and any costs incurred in connection with Contractor's representation of the client, including but not limited to any expert or investigative fees and costs, to facilitate reimbursement hearings.

3. Contractor shall provide needed documentation required by the reviewing court to support the value of all public defender services for which reimbursement is sought pursuant to Penal Code section 987.8 or any other provision of law providing for the reimbursement to the County for the cost of public defender services.
4. Contractor shall provide the County copies of any forms or declarations provided to the court under this section in electronic format and at intervals specified by the County.

H. MONTHLY CASE REPORTING OF HOURS AND COSTS. Contractor shall provide monthly reports specifying the total hours and costs expended by Contractor for each specific category of cases on which the Contractor provides services under the terms of this Agreement. [See Introduction paragraphs 1-11.] County may provide Contractor the format for such reports, which shall be transmitted in electronic format. County is not requesting, nor shall Contractor provide, information which is protected by the attorney/client privilege or other confidentiality laws.

[ATTACHMENT B FOLLOWS]

ATTACHMENT B

**AGREEMENT BETWEEN COUNTY OF INYO
AND GERARD HARVEY
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A CONTRACT PUBLIC DEFENDER**

TERM:

FROM: APRIL 1, 2024 TO: JUNE 30, 2027

SCHEDULE OF FEES:

1. COMPENSATION:

County shall pay to Contractor on or before the first (1st) day of each month during the term of the Agreement, the amount set forth below as full and complete compensation for Contractor's performance of all of the work and services required to be performed during that month by Contractor:

- A. A stipend of five thousand dollars (\$5,000) for the purpose of establishing and maintaining a physical office within Inyo County where Contractor will regularly work and meet with clients in the performance of this Agreement, payable together with or concurrent with the first payment made under this Agreement after which Contractor informs the County in writing of the establishment of and intention to maintain said office.
- B. An annual reimbursement per calendar year of up to one thousand dollars (\$1,000) for continuing legal education and trainings, public defender association and/or other memberships directly relevant to the scope of services provided for in this Agreement.
- C. From April 1, 2024 through June 30, 2027: \$169,200 annual / \$14,100 per month, provided, however, that Contractor shall receive the same cost of living adjustments provided to Inyo County Senior Deputy District Attorney employees. The first payment under this Agreement shall be made as soon as reasonably possible after all parties have executed this Agreement.

For a total amount not to exceed six hundred fifteen thousand dollars (\$615,000).

The compensation provided for in this Agreement shall supplant any and all out-of-contract public defender assignments and billing Contractor would otherwise be reimbursed for by Inyo County and/or the Inyo County Superior Court beginning April 1, 2024. In other words, Contractor has been taking public defender assignments from the Inyo County Superior Court without a contract with Inyo County for such services, and Contractor will waive payment for those assignments and billings and will be paid for such work via this Agreement instead beginning April 1, 2024.

2. TIME CONFLICT LIMITATION AND COMPENSATION:

A. In addition to the compensation set out in Section 1 above, if Contractor is required to provide coverage for time conflict cases for which another Contract Public Defender is primarily responsible, but for whatever reason the duties of such other Contract Public Defender have not been performed or provided for more than thirty (30) consecutive calendar days, the Contractor is entitled to the rate of \$150.00 per hour for those time conflict cases.

B. Any requests for compensation under this section shall be submitted monthly to the County Administrative Officer for review and payment. The request shall include the case name and number, the hours worked, a brief description of services provided, the Contract Public Defender or former Contract Public Defender subject to the time conflict, and any other information requested by the County. Contractor shall be paid within 30 days of receipt of the request for payment.

3. INCIDENTAL EXPENSES:

A. County will reimburse Contractor in accordance with the provisions of Section 3. "Consideration," paragraphs C and F of this Agreement, for the actual cost of authorized professional services required to provide an adequate and competent defense and representation of a person which Contractor is required by this Agreement to represent. Professional services shall include, but not be limited to, investigators, photographers, accident reconstruction experts, chemists, criminalists, psychologists, psychiatrists, physicians, and other legal counsel with specialized expertise. Contractor shall on a case by case basis, and prior to incurring any expense for professional services, received written authorization for Contractor to engage the providers of specific professional services from the Judge assigned to the case. Such authorization shall specifically approve engaging each provider of professional services as well as the amount of any fees, costs, and other expenses for such services. County reserves the right to deny reimbursement to Contractor for the expenses of professional services which are either in excess of Contractor's actual costs, or the amount authorized by the Judge, or which were incurred by Contractor without the prior authorization of the assigned Judge. [See Attachment A "Scope of Work" paragraph G.1.]

B. County will reimburse Contractor in accordance with the provisions of Terms and Conditions, "Consideration," Sections 3C. and 3F. of this Agreement, for the actual cost of authorized document photocopying which is in excess of 5,000 pages in any single case, and which is required to provide an adequate and competent defense and representation of a person whom Contractor is required by this Agreement to represent. Contractor shall on a case by case basis, and prior to incurring any expense for reimbursable photocopying, provide documentation to the County that Contractor has at his/her own expense made 5,000 copies of documents in a single case, and received written authorization for Contractor to incur reimbursable photocopying expenses from the Judge assigned to the case. Such authorization shall specifically approve incurring expenses for photocopies in excess of 5,000 pages, shall set forth the number of additional pages authorized to be copied, and the authorized cost of such copying. County reserves the right to deny reimbursement to Contractor for copying expenses which are in excess of Contractor's actual costs, or the amount authorized by the Judge, or which were incurred by Contractor without the prior authorization of the assigned Judge, or which were incurred by the Contractor in making the first 5,000 photocopy pages in any single case.

C. Contractors providing public defender services for cases arising under WIC section 300 ("dependency" cases), will have their compensation set forth in this Attachment B Section 1 reduced in the event the Court reduces or eliminates its contribution toward the cost of such public defender services, or either the Court or County otherwise terminates its agreement regarding the provision of these services:

- i. The reduction will be calculated based on the Contractor's ratio of dependency related cases to the total number of dependency related cases for which public defender services were provided as reported on the Contract Public Defender's immediate prior Monthly Case Report submitted under Section H of Attachment A, and applied to the amount that dependency funding is reduced by the Court.
- ii. In the event of termination of representation in dependency related cases, Contractor shall continue to be responsible for performing all other services set forth in this Agreement in Attachment A, with the exception of the representation of parties in matters arising under WIC section 300.

ATTACHMENT C

**AGREEMENT BETWEEN COUNTY OF INYO
AND GERARD HARVEY
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A CONTRACT PUBLIC DEFENDER**

TERM:

FROM: APRIL 1, 2024 TO: JUNE 30, 2027

SCHEDULE OF COUNTY PROVIDED SERVICES AND SUPPLIES:

1. Upon Contractor's written request, County will set up a Centrix phone line in Contractor's office for Contractor's use in providing the services and work required under this Agreement. County will pay the reasonable cost of installing this phone line in Contractor's Office. However, Contractor will pay the monthly cost of this phone line plus the cost of any calls or other services billed to this line.
2. County will provide Contractor with reasonable access to County's copying facilities for duplicating documents, and FAX facilities for transmitting documents necessary to perform the work and services required under this Agreement. Contractor will promptly pay to County the County's actual cost of providing such copying and FAX services and facilities to Contractor.
3. It is Contractor's obligation to maintain his/her files arising from the provision of public defender services under this Agreement for such time as required by law, the California Rules of Court or local rule. In keeping with this obligation Contractor shall maintain an electronic record retention program for each case in which the Contractor appears under this contract identifying for each case file the type of case (i.e. misdemeanor, felony, juvenile dependency, juvenile delinquency, conservatorship etc.), and the year when the individual case is closed by Contractor.
4. In the event of termination of this Agreement, Contractor agrees to direct all active pending files to that attorney or law firm which has agreed to assume representation of the client in each case and to retain any electronic records of closed files for such time as is set by law. It is the Contractor's obligation to personally maintain any closed files or to arrange for the proper handling of those files, in the event Contractor is no longer able to do so.

ATTACHMENT D

**AGREEMENT BETWEEN COUNTY OF INYO
AND GERARD HARVEY
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A CONTRACT PUBLIC DEFENDER**

TERM:

FROM: APRIL 1, 2024 TO: JUNE 30, 2027

FORM W-9

Request for Taxpayer
Identification Number and Certification
(Please submit W-9 form with Contract, available on-line or by County)

ATTACHMENT E

**AGREEMENT BETWEEN COUNTY OF INYO
AND GERARD HARVEY
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A CONTRACT PUBLIC DEFENDER**

TERM:

FROM: APRIL 1, 2024 TO: JUNE 30, 2027

SEE ATTACHED INSURANCE PROVISIONS

HARVEYSIGNEDPDCONTRACT01APRIL2024

Final Audit Report

2024-04-04

Created:	2024-04-02
By:	John-Carl Vallejo (jcvallejo@inyocounty.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAcejagCEGMz4J5zlySY9MHUK9MnTtm4GR

"HARVEYSIGNEDPDCONTRACT01APRIL2024" History

-  Document created by John-Carl Vallejo (jcvallejo@inyocounty.us)
2024-04-02 - 5:31:23 PM GMT
-  Document emailed to Nate Greenberg (ngreenberg@inyocounty.us) for signature
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-  Document emailed to Amy Shepherd (ashepherd@inyocounty.us) for signature
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-  Document emailed to John-Carl Vallejo (jcvallejo@inyocounty.us) for signature
2024-04-02 - 5:32:56 PM GMT
-  Document e-signed by John-Carl Vallejo (jcvallejo@inyocounty.us)
Signature Date: 2024-04-02 - 5:33:12 PM GMT - Time Source: server
-  Email viewed by Nate Greenberg (ngreenberg@inyocounty.us)
2024-04-02 - 5:33:15 PM GMT
-  Document e-signed by Nate Greenberg (ngreenberg@inyocounty.us)
Signature Date: 2024-04-02 - 5:33:26 PM GMT - Time Source: server
-  Email viewed by Amy Shepherd (ashepherd@inyocounty.us)
2024-04-04 - 5:57:13 PM GMT
-  Document e-signed by Amy Shepherd (ashepherd@inyocounty.us)
Signature Date: 2024-04-04 - 6:01:50 PM GMT - Time Source: server
-  Agreement completed.
2024-04-04 - 6:01:50 PM GMT



COUNTY OF INYO
CALIFORNIA

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Samantha Murray, President
La Jolla
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Kenwood

STATE OF CALIFORNIA
Gavin Newsom, Governor

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Executive Director
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www.fgc.ca.gov

Fish and Game Commission



*Wildlife Heritage and Conservation
Since 1870*

Meeting Agenda April 17-18, 2024

Participate in Person

San Jose Scottish Rite Center
2455 Masonic Drive
San Jose, CA 95125

or

Participate via Webinar/Phone

The meeting will be live streamed; visit www.fgc.ca.gov the day of the meeting to watch or listen. To provide public comment during the meeting, please join at the in-person location, via Zoom, or by telephone; you may join the webinar directly at <https://us02web.zoom.us/j/85095560390>. For complete instructions on how to join via Zoom or telephone, [click here](#) or visit fgc.ca.gov/meetings/2024.

- Notes: (1) See important meeting deadlines and procedures, including written public comment deadlines, starting on page 11.
- (2) Unless otherwise indicated, the California Department of Fish and Wildlife is identified as Department.
- (3) All section and subsection references are to Title 14 of the California Code of Regulations, unless otherwise noted.

Invitation: The Commission invites members of the public to join commissioners and staff for a field trip currently under development for Wednesday, April 17. Details will be available in advance of the Commission meeting. Members of the public are welcome to join but must provide their own transportation.

Day 1 – April 17, 2024; 10:00 AM

Call to Order and Roll Call to Establish a Quorum

1. Consider approving agenda and order of items

Discussion and Action Items

2. Commission executive director and Department reports

(A) *Commission executive director's report*

- I. Justice, equity, diversity and inclusion (JEDI) plan update

(B) *Department director and Law Enforcement Division*

3. Commercial California halibut and white seabass gill net

Consider authorizing publication of notice of intent to amend regulations regarding California halibut and white seabass gillnet fisheries management measures.

(Add Section 174.1)

4. Fisheries logbook forms and fishing block charts

Consider authorizing publication of notice of intent to amend regulations regarding fisheries logbook forms and fishing block charts.

(Amend sections 120.7, 122, 165, 180, 190, 197 and 705.1)

5. Experimental Fishing Permit (EFP) Program Major Amendment Request

Consider approving a major amendment to the permit for EFP Application 2023-02 related to pop-up gear testing in the Dungeness and rock crab fisheries.

(Pursuant to Section 91)

6. Commission policies

Discuss potential amendments to five Commission policies currently under review.
(Pursuant to Section 703, California Fish and Game Code)

(A) *Code of Conduct*

(B) *Planting Fish in Youth Camps*

(C) *Youth Fishing Programs*

(D) *Research*

(E) *Naming Installations*

7. Regulation change petitions (marine, wildlife, and inland fisheries)

(A) *New petitions*

Receive new petitions for regulation change.

(Pursuant to Section 662)

Consideration of whether to grant, deny, or refer for additional review is expected to be scheduled for the June 19-20, 2024 meeting.

(B) *Previously received petitions*

Consider whether to grant, deny, or refer for additional review, petitions for regulation change received at previous meetings.

(Pursuant to Section 662)

- I. *Petition 2023-12*: Request to amend recreational groundfish regulations to require use of descending devices to protect groundfish stocks

- II. *Petition 2024-01*: Request to amend sport fishing regulations to allow increased take and reduce size limitations of trout in Stony Creek in Colusa County
- III. *Petition 2018-016(a)*: Request to remove Hope Valley Wildlife Area from the Department Lands Pass Program

8. Non-regulatory requests from previous meetings (marine, wildlife and inland fisheries)

Consider and potentially act on requests for non-regulatory action received from members of the public at previous meetings.

9. Committee and Department reports

Receive updates on items of note since the previous Commission meeting from Commission committees and Department divisions.

(A) ***Tribal Committee***

Receive summary and consider approving recommendations from the April 16, 2024 Committee meeting. Discuss referred topics and consider revisions to topics and timing.

(B) ***Marine Resources Committee***

Receive summary and consider approving recommendations from the March 19, 2024 Committee meeting. Discuss referred topics and consider revisions to topics and timing.

(C) ***Department Marine Region***

- I. Update on annual recreational ocean salmon and Pacific halibut regulations, and automatic conformance to federal regulations

General Public Comment

10. General public comment for items not on the agenda

Receive public comment regarding topics within the Commission's authority that are not included on the agenda. Agenda item 28 on day 2 is an extension of this general public comment agenda item; as such, speakers may comment on one day or the other.

Note: The Commission may not discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting (sections 11125 and 11125.7(a), Government Code).

Call to Order and Roll Call to Establish a Quorum

Consent Items

Note: Items on the consent calendar are expected to be routine and non-controversial. After public comment, the Commission will consider approving items on the consent calendar in a single vote without discussion. The presiding commissioner may choose to remove any item from the consent calendar and allow a separate discussion and potential action on that item in response to a request by a Commission member, staff, or an interested person.

11. Initial private lands wildlife habitat enhancement and management area (PLM) plan and licence (consent)

Consider approving initial PLM plan and 2024-2028 license for:
(Pursuant to Section 601)

- (A) Merced
 - I. Stevinson Ranch

12. Five- year PLM plans (consent)

Consider approving five-year PLM plans and 2024-2028 licenses for:
(Pursuant to Section 601)

- | | |
|------------------------|---------------------|
| (A) Del Norte | (D) Monterey |
| I. Smith River PLM | I. Gabilan Ranch |
| (B) Humboldt | (E) San Luis Obispo |
| I. Redwood House Ranch | I. Carrizo Ranch |
| (C) Mendocino | II. Herst Ranch |
| I. Capistran Ranch | (F) Tehama |
| II. Four Pines Ranch | I. Bell Ranch |
| III. Schneider Ranch | |

13. Annual PLM plans (consent)

Consider approving annual PLM plans for:
(Pursuant to Section 601)

- | | |
|--------------------------|------------------------------|
| (A) Del Norte | (C) Humboldt and Trinity |
| I. Alexandre Dairy | I. Wilkinson Hunting Club |
| (B) Humboldt | (D) Kern and San Luis Obispo |
| I. Big Lagoon | I. Temblor Ranch |
| II. Diamond C Outfitters | |
| III. Hunter Ranch | |
| IV. Klamath PLM | |
| V. Rainbow Ridge PLM | |
| VI. Stover Ranch | |
| VII. Wiggins Ranch | |

- (E) Mendocino
 - I. Ackerman-Southy Daughtery WMA
 - II. Amann Ranch
 - III. Antler Hill Ranch
 - IV. Bridges Ranch
 - V. Carley Ranch
 - VI. Christensen Ranch
 - VII. Eden Velley Ranch
 - VIII. Miller-Eriksen Ranch
 - IX. R-R Ranch
 - X. Seven Springs Ranch
 - XI. Shamrock Ranch
 - XII. Six Point Ranch
 - XIII. Spring Valley Ranch
 - XIV. Summer Camp Ranch
- (F) Merced
 - I. DeFrancesco / Eaton Ranch
- (G) Monterey
 - I. Alexander Ranch
 - II. Bardin Ranch
 - III. Hartnell Ranch
 - IV. Indian Valley Cattle Company – Lombardo Ranch
 - V. Peachtree Ranch
 - VI. San Bartolome Ranch
 - VII. Sky Rose Ranch
- (H) Monterey and San Benito
 - I. Morisoli Ranch
- (I) Monterey and San Luis Obispo
 - I. Camp 5 Outfitters - Roth Ranch
- (J) San Benito
 - I. Lewis Ranch
 - II. Lone Ranch
 - III. Pine Mountain Ranch
 - IV. Rancho Le Cuesta
 - V. Trincherro Ranch
- (K) San Joaquin
 - I. Corral Hollow Ranch
- (L) San Luis Obispo
 - I. Avenales Ranch
 - II. Carnaza Ranch
 - III. Chimney Rock Ranch
 - IV. Clark & White Ranch
 - V. D-Rafter L Ranch
- (M) Santa Clara
 - I. Coon Creek Ranch
- (N) Shasta
 - I. Stackhouse Ranch
- (O) Stanislaus
 - I. Rooster Comb Ranch
- (P) Tehama
 - I. 3D Ranch
 - II. R Wild Horse Ranch
- (Q) Trinity
 - I. Stewart Ranch
 - II. Travis Ranch

14. Readoption of white sturgeon emergency regulation (consent)

Consider adopting a 90-day extension of emergency regulations concerning recreational take of white sturgeon (*Acipenser transmontanus*) to support recovery populations and to track fishing pressure and success.

(Amend sections 5.79, 5.80, 27.90 and 27.92)

15. Greater sage-grouse (consent)

Consider approving the Department’s request for a six-month extension to deliver the one-year status review report on the petition to list greater sage-grouse (*Centrocercus urophasianus*) as threatened or endangered under CESA.

(Pursuant to Section 2074.6 Fish and Game Code)

Discussion and Action Items

16. Inland sport fishing

Consider authorizing publication of notice of intent to amend regulations for freshwater sport fishing bag limits, gear, and low-flow information.
(Amend sections 2.30, 5.50, 7.50, 8.00, and 703)

17. White sturgeon sport fishing regular rulemaking

Consider authorizing publication of notice of intent to amend regulations through a regular rulemaking to adopt the emergency rules for the recreational take of white sturgeon.
(Amend sections 5.79, 5.80, 27.90 and 27.92)

18. Central Valley sport fishing

Discuss proposed amendments to Central Valley sport fishing regulations.
(Amend subsections 7.40(b)(4), (43), (66) and (80))

19. Klamath River Basin sport fishing

Discuss proposed amendments to Klamath River Basin sport fishing regulations.
(Amend subsection 7.40(b)(50))

20. Waterfowl hunting

Consider adopting proposed amendments to waterfowl hunting regulations and taking final action under the California Environmental Quality Act (CEQA).
(Amend Section 502)

21. Mammal hunting

Consider adopting proposed amendments to mammal hunting regulations and taking final action under CEQA.
(Amend sections 362, 363, 364, 364.1, 554, 555 and 708.14 and add Section 555.1)

22. Southern California steelhead

Consider the petition, Department's status review report, and comments received to determine whether listing southern California steelhead (*Oncorhynchus mykiss*) as endangered under the California Endangered Species Act (CESA) is warranted.
(Pursuant to sections 2075 and 2075.5, Fish and Game Code)

23. Mohave desert tortoise

Consider the petition, Department's status review report, and comments received to determine whether changing the status of Mohave desert tortoise (also known as Agassiz's desert tortoise) (*Gopherus agassizii*) from threatened to endangered under CESA is warranted.
(Pursuant to sections 2075 and 2075.5, Fish and Game Code)

24. Ballona Wetlands Ecological Reserve

Ballona Wetlands Ecological Reserve consistency determination as to whether the visitor uses associated with the parking lots in Area A and the baseball fields in Area C are compatible with the purposes of the reserve.

25. California grizzly bear

Recognize the 100-year anniversary of the extirpation of California’s state animal, grizzly bear (*Ursus arctos californicus*).

26. Committee and Department reports

Receive updates on items of note since the previous Commission meeting from Commission committees and Department divisions.

(A) ***Wildlife Resources Committee***

Discuss referred topics and consider revisions to topics and timing. Consider approving draft agenda topics and changing the meeting location for the next committee meeting on May 16, 2024.

(B) ***Department Wildlife and Fisheries Division, and Department Ecosystem Conservation Division***

27. Commission administrative items

(A) ***Legislation***

Receive updates on legislative activity and consider providing direction to staff on potential actions.

(B) ***Rulemaking timetable updates***

Review and potentially approve changes to the perpetual timetable for anticipated regulatory actions.

(C) ***Future meetings and new business – May 15, 2024 and June 19-20, 2024***

Review logistics and approve draft agenda items for the next Commission meetings, consider any changes to approved meeting dates or locations, or introduce new business for a future meeting agenda.

General Public Comment

28. General public comment for items not on the agenda

Receive public comment regarding topics within the Commission’s authority that are not included on the agenda. This item is an extension of the “general public comment for items not on the agenda (Agenda Item 9); as such, speakers may comment on one day or the other.

Note: The Commission may not discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting (sections 11125 and 11125.7(a), Government Code).

Adjourn

Public Receipt of Documents

This section of the agenda highlights reports or other documents received by the Commission since the previous meeting. Any Commission discussion or action on these documents will be noticed and placed on the agenda of a future meeting. Since February 15, 2024, the Commission received two documents:

1. The Department's evaluation report on the petition to list white sturgeon (*Acipenser transmontanus*) as threatened under California Endangered Species Act. Additional information about the petition is available at <https://fgc.ca.gov/CESA#ws>.
2. A petition from the Center for Biological Diversity, Defenders of Wildlife, Burrowing Owl Preservation Society, Santa Clara Valley Audubon Society, Urban Bird Foundation, Central Valley Bird Club, and San Bernardino Valley Audubon Society to list western burrowing owl (*Athene cunicularia hypugaea*) as threatened or endangered under the California Endangered Species Act. The petition is available at <https://fgc.ca.gov/CESA#wbo>.

Executive Session

(Not open to the public)

At a convenient time during the regular agenda of the meeting listed above, the Commission will recess from the public portion of the agenda and conduct a closed session on the agenda items below. The Commission is authorized to discuss these matters in a closed session pursuant to Government Code Section 11126, subdivisions (a)(1), (c)(3), and (e)(1), and Fish and Game Code Section 309. After closed session, the Commission will reconvene in public session, which may include announcements about actions taken during closed session.

- (A) Pending litigation to which the Commission is a Party
- I. The Ballona Wetlands Land Trust v. California Fish and Game Commission (Ballona Wetlands Ecological Reserve petition for regulation change)
 - II. Fall River Conservancy and California Trout v. California Fish and Game Commission and California Department of Fish and Wildlife (California Environmental Quality Act determination regarding amendments to inland trout regulations)
 - III. United Water Conservation District v. California Fish and Game Commission (southern California steelhead "may be warranted" determination under the California Endangered Species Act and regulation authorizing limited take under Fish and Game Code Section 2084)
- (B) Possible litigation involving the Commission
- (C) Staffing
- (D) Deliberation and action on license and permit items
- I. Consider the proposed decision in FGC Case No. 21ALJ02-FGC, regarding revocation of Attila Molnar's application to renew a restricted species exhibiting permit.

California Fish and Game Commission Meeting Schedule

Note: As meeting dates and locations can change, please visit www.fgc.ca.gov for the most current list of meeting dates and locations. All Commission meetings will include a webinar/teleconference option for attendance and every effort will be made to ensure that committee meetings include the same.

Meeting Date	Commission Meeting	Committee Meeting
May 15, 2024	Teleconference Trinidad, Fairfield, Sacramento, Santa Cruz and La Jolla (see website for facility details)	
May 16, 2024		Wildlife Resources Yreka
June 19-20, 2024	Mammoth Lakes	
July 18, 2024		Marine Resources Santa Rosa area
August 13, 2024		Tribal River Lodge Conference Center 1800 Riverwalk Drive Fortuna, CA 95540
August 14-15, 2024	River Lodge Conference Center 1800 Riverwalk Drive Fortuna, CA 95540	
September 12, 2024		Wildlife Resources San Jose
October 9-10, 2024	California Natural Resources Headquarters Building Auditorium, 1 st Floor 715 P Street Sacramento, CA 95814	
November 7, 2024		Marine Resources California Natural Resources Headquarters Building 715 P Street, 2 nd Floor Sacramento, CA 95814
December 10, 2024		Tribal San Diego area
December 11-12, 2024	San Diego area	

Other Meetings of Interest

Association of Fish and Wildlife Agencies

- September 22-25, 2024 – Madison, WI

Pacific Fishery Management Council

- June 6-13, 2024 – San Diego, CA
- September 18-24, 2024 – Spokane, WA
- November 13-19, 2024 – Costa Mesa, CA
- March 5-11, 2025 – Vancouver, WA
- April 9-15, 2025 – San Jose, CA

Pacific Flyway Council

- August 30, 2024 – Jackson, WY

Western Association of Fish and Wildlife Agencies

- June 3-7, 2024 – Stevenson, WA

Wildlife Conservation Board

- May 23, 2024 – Sacramento, CA
- August 22, 2024 – Sacramento, CA
- November 21, 2024 – Sacramento, CA

Important Commission Meeting Procedures Information

Welcome to a Meeting of the California Fish and Game Commission

This year marks the 155th year of operation of the Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making; Commission meetings are vital in achieving that goal and we provide this information to be as effective and efficient toward that end. Welcome, and please let us know if you have any questions.

Persons with Disabilities

Persons with disabilities needing reasonable accommodation to participate in public meetings or other Commission activities are invited to contact the Department's Civil Rights Office (CRO) at civilrights@wildlife.ca.gov. Accommodation requests for facility and/or meeting accessibility and requests for American Sign Language interpreters should be submitted at least two weeks prior to the event. Requests for real-time captioners should be submitted at least four weeks prior to the event. These timeframes are to help ensure that the requested accommodation is met. If a request for an accommodation has been submitted but is no longer needed, please contact the CRO immediately.

Stay Informed

To receive meeting agendas and regulatory notices about those subjects of interest to you, visit the Commission's website, www.fgc.ca.gov, to sign up on our electronic mailing lists.

Submitting Written Comments

The public is encouraged to comment on any agenda item. Submit written comments by one of the following methods: E-mail to fgc@fgc.ca.gov; mail to California Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090; deliver to California Fish and Game Commission, 715 P Street, 16th Floor, Sacramento, CA 95814 (you must call at least one business day in advance to arrange delivery); or hand-deliver to a Commission meeting. Materials provided to the Commission will be available to the general public.

Comment Deadlines

The **Comment Deadline** for this meeting is **5:00 p.m. on April 4, 2024**. Written comments received at the Commission office by this deadline will be made available to Commissioners prior to the meeting.

The **Supplemental Comment Deadline** for this meeting is **noon on April 12, 2024**. Comments received by this deadline will be made available to Commissioners at the meeting.

After these deadlines, written comments may be delivered in person to the meeting. Please bring 12 copies of written comments to the meeting and give them to the designated staff member just prior to speaking.

Petitions for Regulation Change

Any person requesting that the Commission adopt, amend, or repeal a regulation must complete and submit form FGC 1, *Petition to the California Fish and Game Commission for Regulation Change*, available at <https://fgc.ca.gov/Regulations/Petition-for-Regulation-Change>. To be received by the Commission at this meeting, petition forms must be delivered by the

Supplemental Comment Deadline (or delivered in person at the meeting during the regulation change petitions agenda item). Petitions received at this meeting will be scheduled for consideration at the next regularly scheduled business meeting, unless the petition is rejected under staff review pursuant to subsection 662(b).

Non-Regulatory Requests

All non-regulatory requests follow a two-meeting cycle to ensure proper review and thorough consideration of each item. All requests submitted by the **Supplemental Comment Deadline** (or heard during general public comment at the meeting) will be scheduled for receipt at this meeting and scheduled for consideration at the next regularly scheduled business meeting.

Speaking at the Meeting

To speak on an agenda item in-person, please complete a “speaker card” and provide it to the designated staff member before the agenda item is announced. Please complete one speaker card per item. Cards will be available near the entrance of the meeting room.

To speak on an agenda item by webinar/phone, please “raise” your hand either through the Zoom function or by pressing *9 once on your phone when prompted at the beginning of the agenda item.

In-person and Webinar

1. In-person speakers will be identified in groups; please line up when your name is called. Speakers by webinar/phone will be identified by your Zoom display name or last three digits of your phone number; please pay attention to when your name or number is called.
2. When addressing the Commission, please give your name and the name of any organization you represent before providing your comments on the item under consideration.
3. If there are several speakers with the same concerns, please appoint a spokesperson and avoid repetitive testimony.
4. The presiding commissioner will allot between one and three minutes per speaker per agenda item, subject to the following exceptions:
 - a. The presiding commissioner may allow up to five minutes to an individual speaker if a minimum of three individuals who are present when the agenda item is called have ceded their time to the designated spokesperson, and the individuals ceding time forfeit their right to speak to the agenda item.
 - b. In-person participants ceding their time shall complete a speaker card and approach the staff table with the spokesperson so that staff may confirm the presence of those ceding their time. If you are participating via Zoom and ceding your time to another speaker, please notify the Commission at fgc@fgc.ca.gov prior to the start of the agenda item, including to whom you are ceding your time, and be present on Zoom during the agenda item.
 - c. Individuals may receive advance approval for additional time to speak if such requests are received by email or delivery to the Commission office by the **Supplemental Comment Deadline**. The president or designee will approve or deny the request no later than 5:00 p.m. two days prior to the meeting.

- d. An individual requiring an interpreter is entitled to at least twice the allotted speaking time pursuant to Government Code Section 11125.7(c).
- e. An individual may receive additional time to speak to an agenda item at the request of any commissioner.

Agenda items may be heard in any order and on either day pursuant to the discretion of the presiding commissioner.

Visual Presentations and Associated Materials

All electronic presentations must be submitted by the ***Supplemental Comment Deadline*** and approved by the Commission executive director before the meeting.

1. Electronic presentations must be provided by email to fgc@fgc.ca.gov. If the presentation file is too large to send via email, contact staff to identify an alternative method for submitting the file.
2. All electronic formats must be Windows PC compatible.
3. If presenting at the in-person meeting location, it is recommended that you bring a print copy of your presentation in case of technical difficulties.
4. If you have written materials to accompany your presentation, please bring 12 copies to the meeting and give them to the designated staff member just prior to presenting.