Additional Comments on Renewable Energy Permits 2022-01 and 2022-02

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1.) The scope of proposed solar projects in 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"*** Commerical 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 forn 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 there for has consistency with the General Plan."

"Utility scale and commerical 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 Commerical 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 easy 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 service be travelling an 85 minute drive from Olancha 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 PM_{10} 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 squirrelone 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 CNDDB. The CNDDB 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 grown 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 speciesBald 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 Bbirds 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 suc 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 CNDDB, 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 qualifiedCDFW-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 CNDDB, 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 Joaquindesert 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 qualifiedCDFW-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/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.*
- *A qualifiedCDFW-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 qualifiedCDFW-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 qualifiedCDFW- 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 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 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. ○ 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 signifigantly 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.