



Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

Phone: (760) 878-0263
FAX: (760) 872-2712
E-Mail: inyoplanning@inyocounty.us

AGENDA ITEM NO.: Action Item No. 6

PLANNING COMMISSION

MEETING DATE: October 25, 2023

SUBJECT: Renewable Energy Permit # 2022-02 /Barker

EXECUTIVE SUMMARY

The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on three private parcels, APN's 038-330-32;33;34, in Trona California. This permit would allow the applicant to construct a proposed 3-Megawatt (MW) commercial scale photovoltaic solar facility referred to as Trona 4. The project proposes approximately 6,000 single axis tracker solar panels encompassing 15-acres of pre-disturbed land. The project is a Mitigated Negative Declaration of Environmental Impact under the California Environmental Quality Act (CEQA)

PROJECT INFORMATION

Supervisory District: 5

Project Applicant: Robbie Barker

Site Address: Trona, CA 93592

Community: Trona, CA

A.P.N.: 038-330-32;33;34

General Plan: Residential Estate (RE); SEDA Overlay

Zoning: Rural Residential-5.0-acre minimum- RR-5.0-MH

Size of Parcel: 15 acres.

SURROUNDING LAND USE

Location:	Use:	Gen. Plan Designation	Zoning
North	Vacant	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)
South	Developed/ Solar	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)
East	Vacant/BLM	State and Federal Lands (SFL)/ Open space rec (OSR)	Open Space-40-acre min (OS-40)
West	Vacant/MS Misc Structure	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)

Staff Recommended Action: Approve the Renewable Energy Permit 2022-02/Barker

Alternatives:

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

Project Planner:

Cynthia Draper

STAFF ANALYSIS

Background

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

The REGPA designated seven different areas of the County, known as Solar Energy Development Areas (SEDAs), where solar photovoltaic facilities would be allowed. The REGPA allows for 600 acres of renewable energy development in Trona. (*See attached diagram 32 & 32f*)

When the County adopted the REGPA in 2015, it certified a Programmatic Environmental Impact Report (PEIR), pursuant to Section 16168 of CEQA guidelines. The PEIR analyzed environmental impacts of renewable energy solar development throughout the County. This document distinguishes all SEDAs that are the most environmentally suitable for solar projects, with the least amount of individual and cumulative impacts to land and resources (*2015 REGPA, 3-4*).*

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

Overview

The applicant has applied for a Renewable Energy Permit with the Inyo County Planning Department to construct a 3-Megawatt (MW) commercial scale photovoltaic solar energy facility, referred to as Trona 4, on three 5-acre parcels (APN's 038-330-32;33;34), owned by Robbie Barker. The project would construct roughly 6,000 single-axis tracker solar panels that will connect to the existing Southern California Edison (SCE) transmission line passing through the area. The project will enable income-qualified residential customers, who may be unable to install solar on their roof, to receive a discount on their electric bill through SCE's Community renewable Program. (*see vicinity map*)

The project site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The project area is surrounded by vacant land to the north. The land to the south is a developed commercial solar field, owned by the applicant, and the land to the east is vacant BLM land. The land to the west is both vacant and misc. structure. Approximately five residential structures are within 0.5 miles of the Project Area located mostly to the south and west. Two of these structures are approximately 400 feet from the edge of the Project Area. Other land uses within 0.5 mile of the Project Area include storage of equipment, vehicles, scrap yards and storage units. (*see vicinity Map-2*)

The proposed application for a Renewable Energy Permit aligns with Inyo County Code Section 21.16-*General Provisions for Renewable Energy Development**, which aims to "support and encourage the responsible development of its solar and wind resources to generate and transmit clean, renewable electric energy while protecting the health, safety and welfare of its citizens and its environment, including its public trust resources" (21.04.030)*. The application for this permit has met the requirements of Inyo County Code Section 21.16.060* and must now be approved by Inyo County Planning Commission for issuance of the Renewable Energy Permit.

General Plan Consistency

The goal of this review is to allow the applicant to develop a renewable solar project in compliance with the County's Renewable Energy General Plan Amendment (REGPA), as well as Title 21 of the Inyo County Code (ICC). The proposed project is consistent with the goals and policies of the Inyo County REGPA, as adopted by the Inyo County Board of Supervisors in 2015. The finalized Program Environmental Impact Report (EIR) of the 2015 REGPA defines commercial scale renewable energy facilities as having a 20-megawatt (MW) capacity or less. This project has a rated capacity of 3-Megawatts. Since the developer is planning a small-scale project, they have applied for a renewable energy permit, per the requirements of Title 21 of the Inyo County Code. Furthermore, County land use policy requires that commercial scale renewable energy projects be considered within Solar Energy Development Areas (SEDA) overlays. This project is within the County's Southern Solar Energy Group, in Trona, California (REGPA 2015, figure ES-1). *

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

Zoning Ordinance Consistency

The applicant's parcel is zoned Rural Residential-5.0-acre min (RR-5.0-MH). The *Final Errata to the Final Program Environmental Report* for the *Inyo County Renewable Energy General Plan Amendment* (REGPA), adopted in March 2015 by the Inyo Board of Supervisors, states: "...the County may consider utility scale and commercial scale renewable energy solar facilities within any zoning district under Title 18 of the Inyo County Code and pursuant to Inyo County Code Title 21" (REGPA, Errata, pg. 2).^{*} The REGPA created new land use policy that allows applicants to apply for photovoltaic renewable energy permits, regardless of zoning designation; however, approval of these projects is still reserved for the Planning Commission.

Environmental Review

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

In December 2022, An Initial Study with a Mitigated Negative Declaration (ISMND) was performed by staff to consider possible significant impacts to environmental resources for this project.

Based on the fact that the project site was devoid of natural habitat at the time the application was submitted, it was determined that a biological survey and a cultural report was not required.

The State review period for the ISMND ended on December 27, 2022 and no comments were received from local or state agencies.

Due to public comment regarding the first ISMND, the applicant, although it was not necessary or required, decided to have a biological survey and air quality report done and asked staff to revise and recirculate the ISMND through the CEQA State Clearinghouse. A public hearing for Renewable Energy Permit 2022-02/Barker was originally set before the Planning Commission on March 23, 2023 to approve the application, but due to noticing errors it was postponed to May 3, 2023 and once again to October 25, 2023 to provide time to recirculate the ISMND based on the comments received. The state review period for the recirculated ISMND ended on August 17, 2023. No comments were received from local or agencies. Public comments were received and sent to the Planning Commission for review. A copy of the recirculated ISNMD can be found at <https://www.inyocounty.us/services/planning-department/current-projects>.

NOTICING & REVIEW

In compliance with AB 52 and Public Resource Code Section 21080.3.1(b), tribes identified as being local to Inyo County, were notified via a certified letter about the project and the opportunity for consultation on this project. The tribes notified were as follows: the Cabazon Band of Mission Indians, the Torres Martinez Desert Cahuilla Indians, the Twenty-Nine Palms Band of Mission Indians, the Big Pine Paiute Tribe, the Bishop Paiute Tribe, the Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe. No comments have been received to date.

The application for Renewable energy permit 2022-02/Barker has been reviewed by the following County Departments: Environmental Health, Public Works, Road Dept., and Building & Safety. Information regarding the project was also sent to the San Bernardino Fire Department and China Lake Naval Air Weapons Station. No comments have been received to date.

Residents within 300 feet of the proposed project were notified that an application for a Renewable Energy Permit was being submitted, and staff noticed these residents regarding the public hearing date. The recirculated Notice of Availability of the Initial Study was published in the *Inyo Register* on July 25, 2023. Notification of the public hearing date for this permit was published in the *Inyo Register* on October 13, 2023. Public comments were received and sent to the Planning Commission for review.

RECOMMENDATION

Planning Department staff recommends the approval of Renewable Energy Permit 2022-02/Barker, with the following Findings and Conditions of Approval:

FINDINGS

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

[Evidence: The Inyo County 2015 REGPA, the Initial Study for this project (December 2022 & August 2023), and the addition of the Mitigation and Monitoring Program recommended for this permit, have eliminated the potential for adverse environmental impacts that will exceed thresholds of significance, either individually or cumulatively.]

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

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

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

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

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

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

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

[Evidence: The proposed Renewable Energy Permit is properly related to transportation and service facilities and will not adversely affect these facilities. The project is located in an area where it can

connect to Southern California Edison's electrical transmission lines. This project is secluded enough to avoid burdens to Inyo County maintained roads, in this case Trona Wildrose Road. Additionally, it is over a mile away from the Trona airport.]

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

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

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

CONDITIONS OF APPROVAL

1. Hold Harmless

The owner/developer shall defend, indemnify, and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Renewable Energy Permit No. 2022-02/Barker. The County reserves the right to prepare its own defense.

2. Compliance with County Code

The owner/developer shall conform to all applicable provisions of Inyo County General Plan, Zoning Code and County and State regulations, including the California Building and Health and Safety Codes. Failure to comply may result in the revocation of REP 2022-02/Barker. If the use provided by this REP is not established within one year of approval date it will become void.

3. Decommissioning Plan and Financial Assurance

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

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

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

4. Notification of local American Tribes

Per Inyo County Code, Title 9 chapter 9.52, Disturbance of Archaeological, Paleontological and Historical Features*, the owner/developer shall notify a representative from local native American tribes in the event native artifacts or human remains are uncovered.

4. Air Quality

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

6. Desert kit fox and nesting birds

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

7. Noise

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

*The following are links to the REGPA, PEIR, Chapter 21.16 General Provisions, Title 9-Chapter 9.52, Chapter 21.04.030, Chapter 21.16.060 and PRC 21080.3.1(b)

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

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

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

[Chapter 9.52 DISTURBANCE OF ARCHAEOLOGICAL, PALEONTOLOGICAL AND HISTORICAL FEATURES \(qcode.us\)](#)

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

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

[https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC§ionNum=21080.3.1.](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC§ionNum=21080.3.1)

ATTACHMENTS:

Vicinity map

Vicinity map – 2

Vicinity map- Proposed and existing solar fields

Public Resource Code Section 21166

Site Plan

Diagram 32: Solar Energy Development area and Owens Valley Study Area

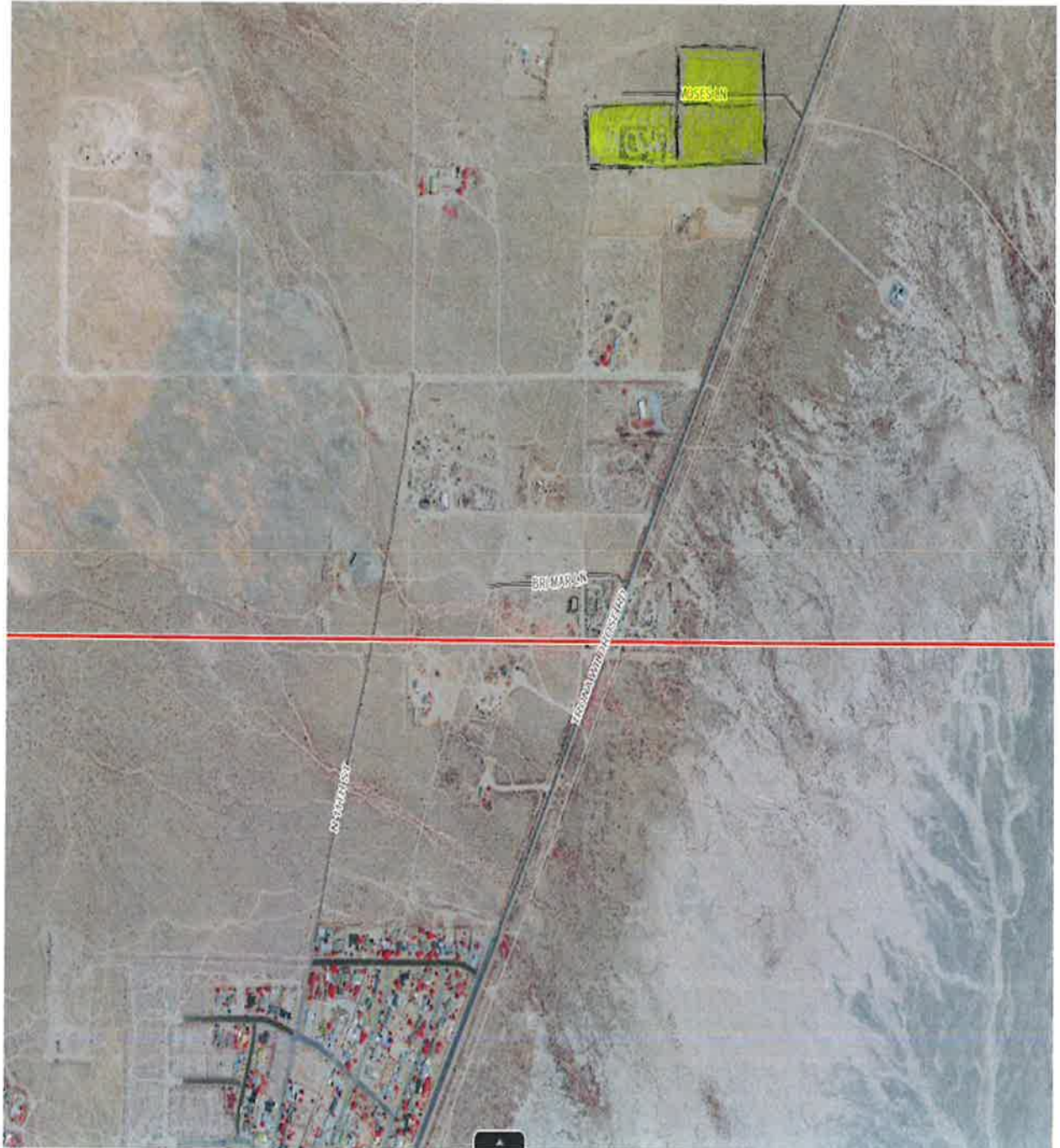
Diagram 32f: Solar Energy Development area- Trona

Mitigation and Monitoring Program

VICINITY MAP

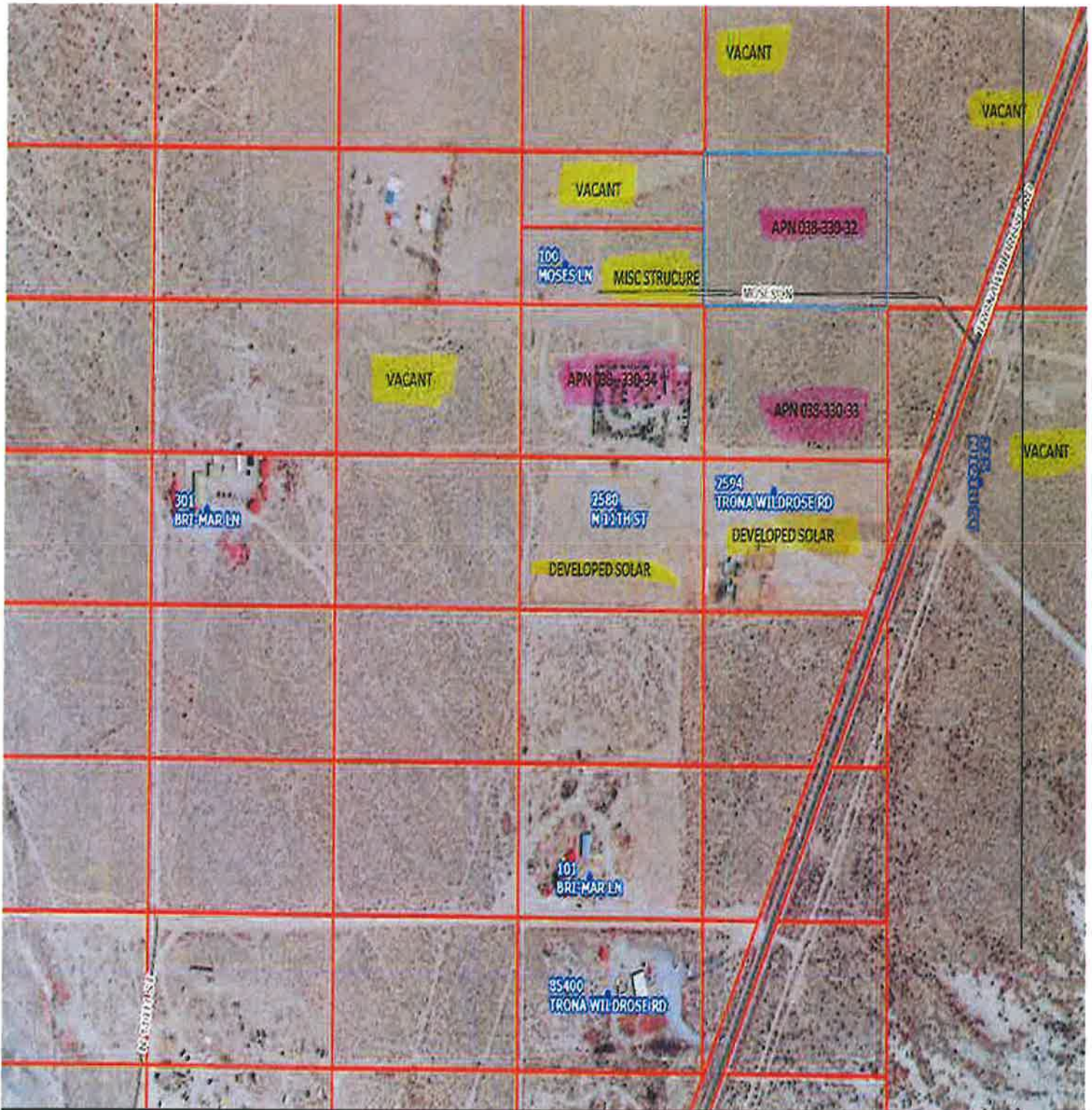
REP 2022-02/BARKER

APN 038-330-32;33;34

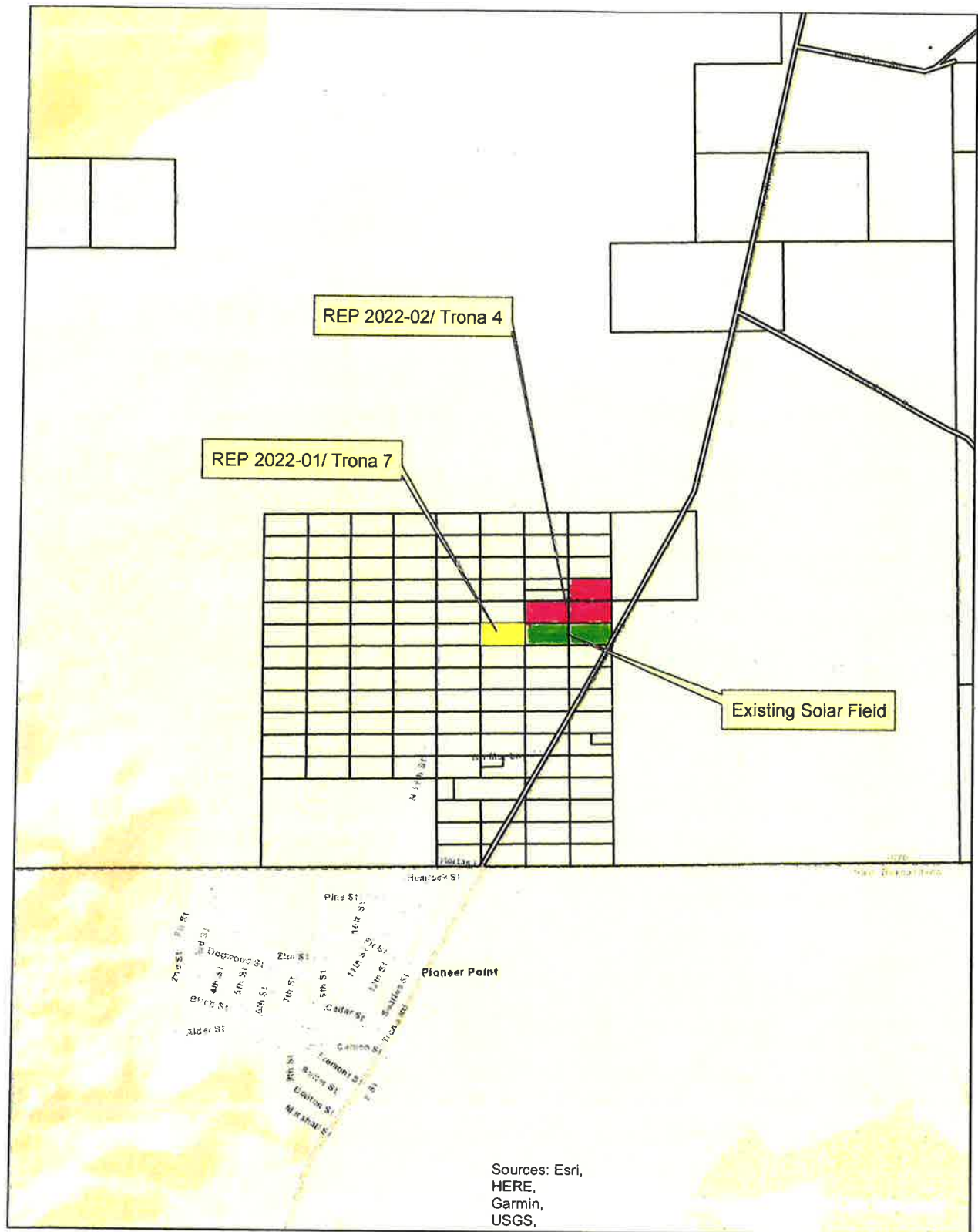


VICINITY MAP- 2

REP 2022-02/ BARKER



Vicinity Map- Proposed and existing solar fields



Cal. Pub. Resources Code § 21166

[Download PDF](#)

Current through the 2023 Legislative Session.

Section 21166 - Subsequent or supplemental report required

When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

- (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

Ca. Pub. Res. Code § 21166

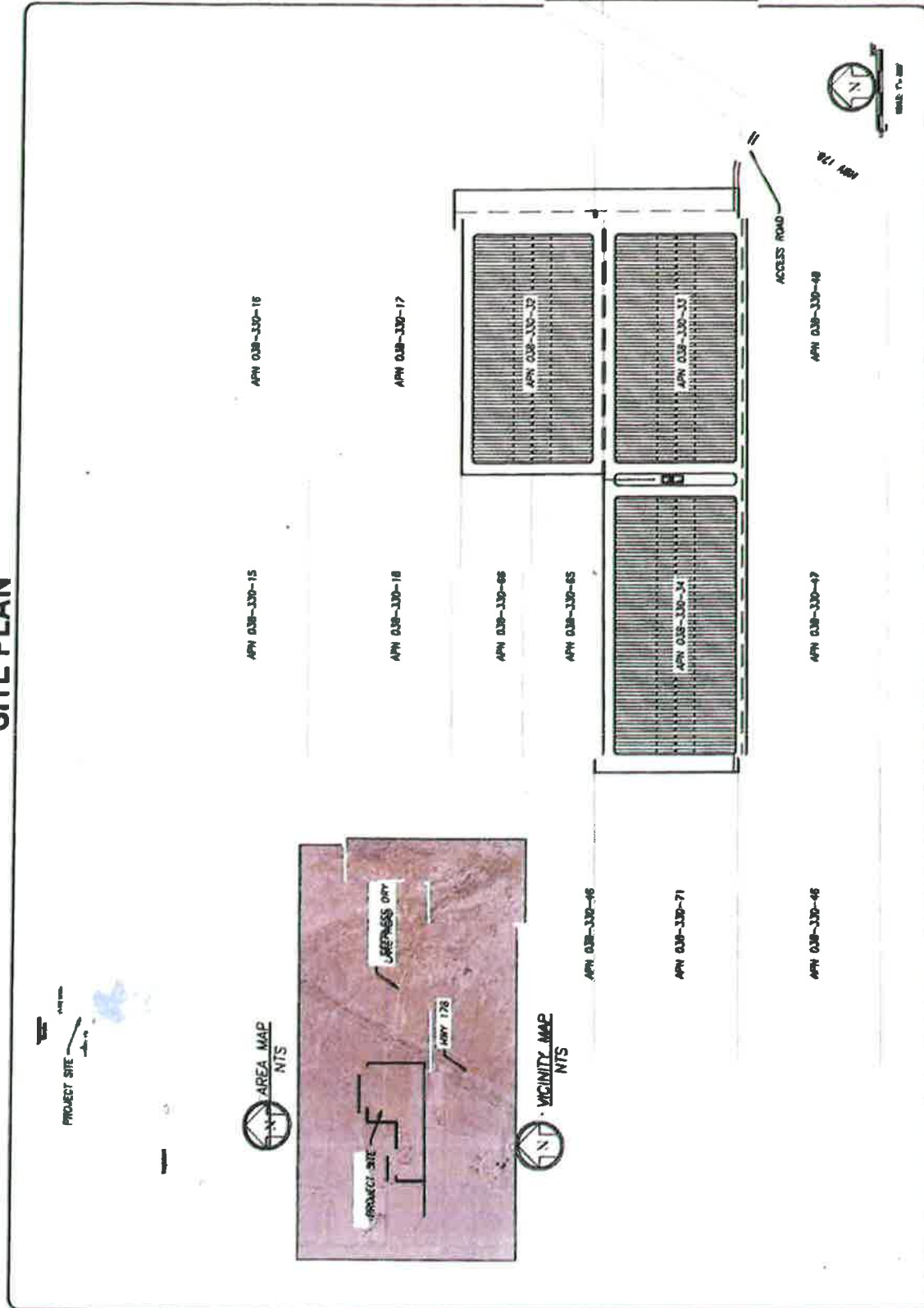
[Previous Section](#)

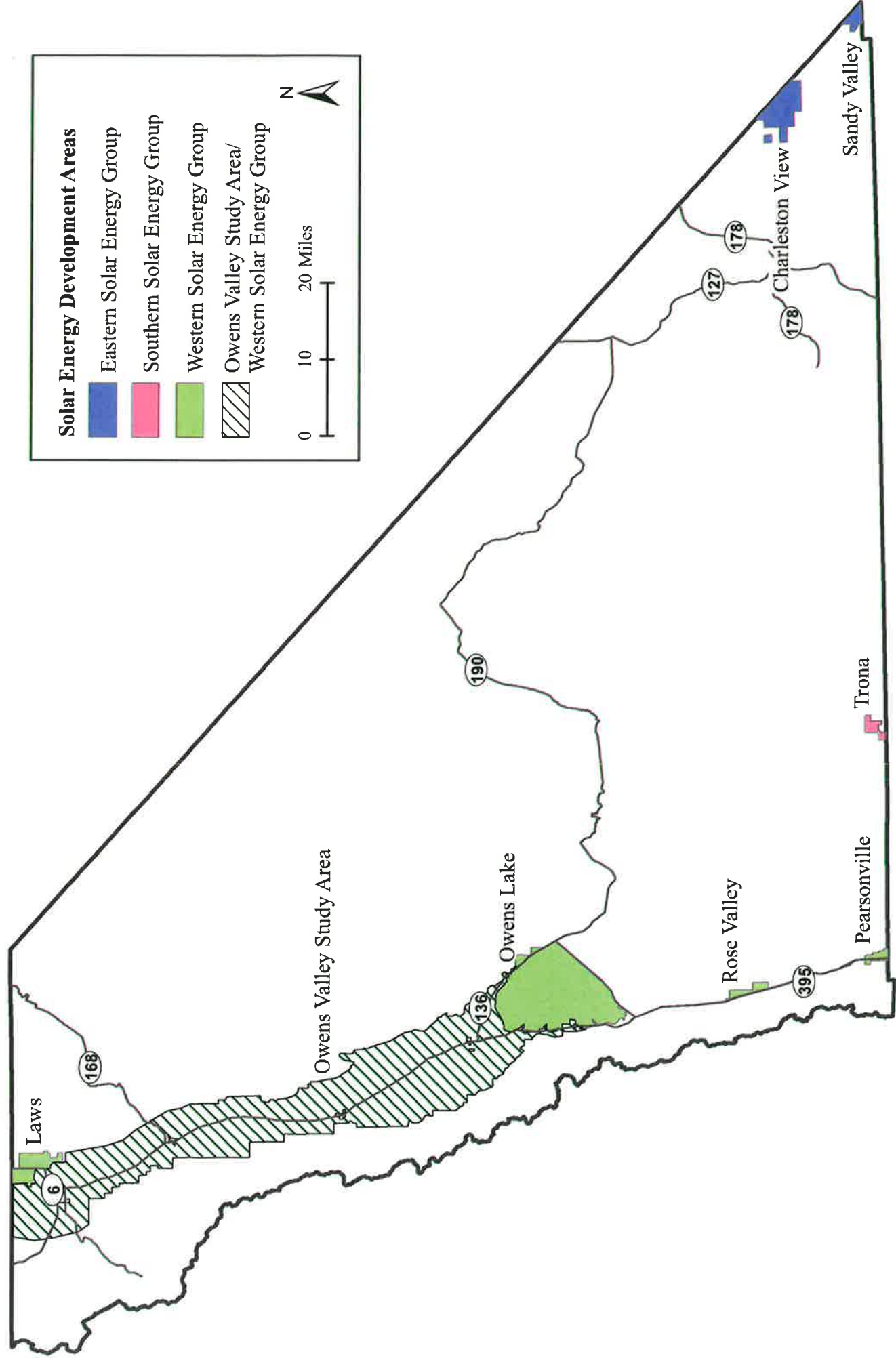
[Section 21165 - Project carried out by two or more public agencies](#)

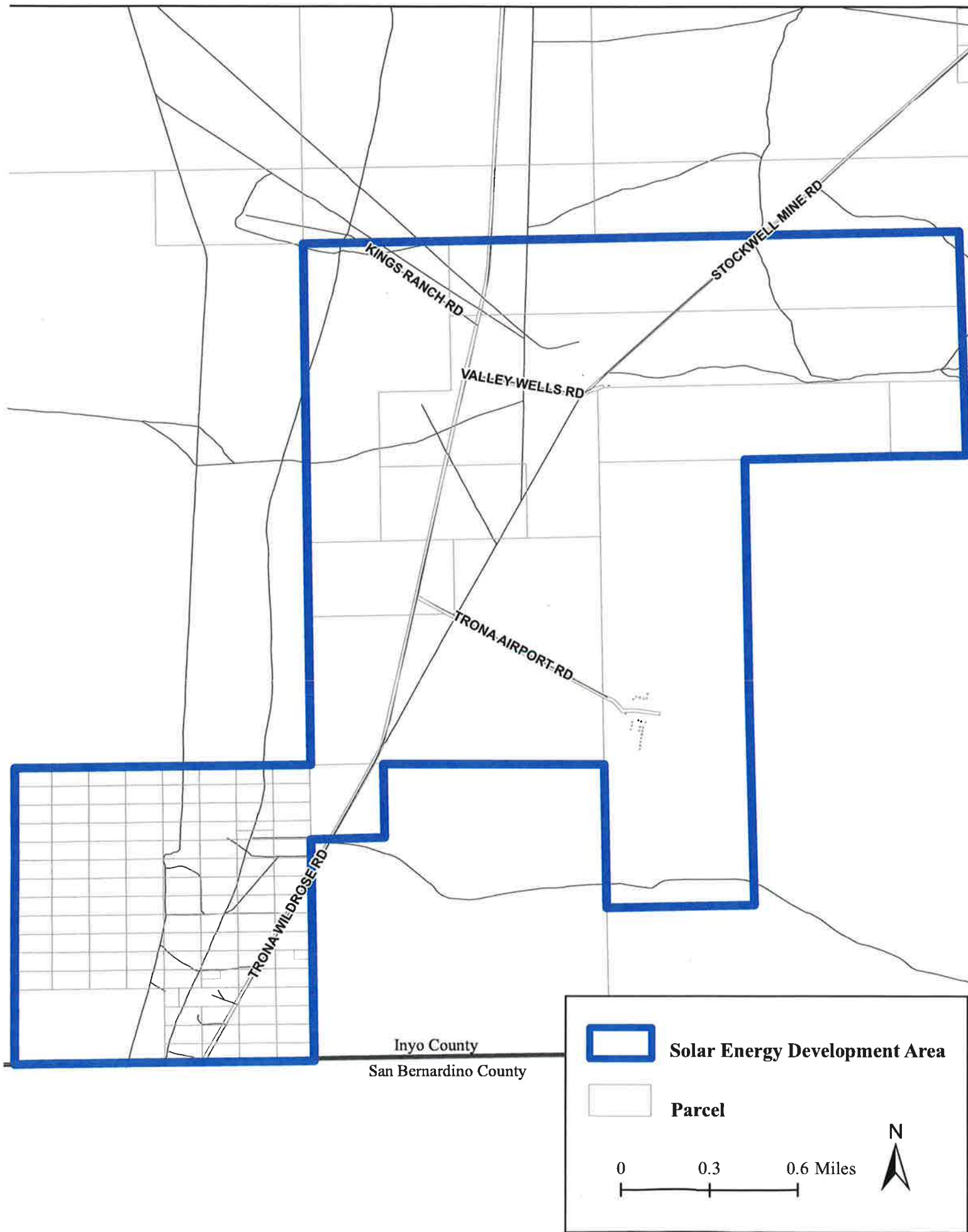
[Next Section](#)

[Section 21166.1 - Effect of decision to prepare report with respect to impacts within geographic area or group of projects on document prepared for individual project](#)

DATE: _____ BY: _____	PROJECT: _____	CLIENT: _____	LOCATION: _____	STATUS: _____
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MITIGATION & MONITORING PROGRAM

Renewable Energy Permit 2022-02/ BARKER

INTRODUCTION

This Mitigation and Monitoring Program (MMP) has been developed for Renewable Energy Permit/2022-02/Barker, pursuant to Inyo County Code ICC 15.44. The MMP describes changes to the project or conditions of approval that mitigate or avoid the project's potential significant effects on the environment. Based on the Initial Study and Mitigated Negative Declaration of Environmental Impact, and the administrative record, as a whole, there is no substantial evidence that the Project may have a significant impact on the environment. The IS/MND identifies potential significant environmental impacts of the Project, in accordance with CEQA, and incorporates mitigation measures to reduce impacts to a level below significant.

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

the site with an appropriate dust suppressant. • Covering of materials transported by truck to control dust. • Daily clean-up of mud and dirt carried onto paved streets from the site. • Suspension of dust-producing activities during periods of sustained high winds (gusts exceeding 25 mph) when dust control measures are unable to avoid visible dust plumes.		
Biological Resources		
IVa) A Pre-activity survey of the Project and a 250-foot buffer for desert kit fox and nesting migratory birds and a 500-foot buffer for nesting raptors surrounding the Project footprint shall be conducted. The survey should occur no less than 14 days prior to the start of construction activities and no more than 30 days prior to the start of construction activities. If construction is delayed beyond 30 days from the time of the survey, then another survey will need to be conducted. The survey shall be conducted by a qualified biologist.	Developer Inyo County Planning Department.	Preconstruction survey documents shall be presented to the Inyo County Planning Department prior to issuance of a building permit. Workers' Environmental Awareness training program documents shall be presented to the Inyo County Planning Department prior to issuance of a building permit. 20MPH speed limit signs shall be posted on the project site prior to construction and maintained throughout the life of the project. Inyo County Planning Department will inspect the project site yearly.

**Nesting migratory birds
and raptors:**

- If project activities are scheduled during the breeding bird season, from February 1 through September 15, then a preconstruction survey for nesting birds shall be conducted within the Project site and within a 500-foot radius surrounding the Project site for active nesting sites.
- Construction activities should not be conducted within 250 feet of an active bird nest and within 500 feet of an active raptor nest. These avoidance distances may be reduced if the qualified biologist determines that activities are not affecting the breeding success of the nesting birds.

Desert Kit Fox:

- If dens or burrows that could support desert kit fox are discovered during the pre-activity survey, avoidance buffers shall be established, and no work shall occur within these buffers unless a qualified biologist

approves and monitors the activity. • A Worker Environmental Awareness Training Program shall be prepared and presented to all workers that will be on-site during construction activities to minimize or eliminate impacts to sensitive biological resources. • Project-related vehicles shall observe a 20-mph speed limit in all Project areas except on County roads and state and federal highways • During work activities, the contractor shall cover all excavated , steep-walled holes or trenches more than 2 feet deep at the close of each working day. Before such holes are filled, the contractor shall thoroughly inspect them for trapped wildlife. • All construction pipes, culverts or similar structures with a diameter of 4 inches or greater that are stored at the construction site for one or more overnight periods shall be inspected for wildlife before the pipe is		
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buried, capped, or otherwise moved or used. If a kit fox is discovered inside a pipe, the section of pipe shall not be moved until the designated biologist has been consulted. • All trash and food items that attract wildlife shall be discarded into closed containers and properly disposed of each workday. • To prevent harassment or mortality of listed species, no pets shall be permitted on the project site.		
Noise		
XIII a) Noise generated by onsite construction activities: Contractor(s) shall implement Best Management Practices. The following measures shall be implemented during construction within 500 feet: • All construction vehicles and equipment (fixed or mobile, including generators) shall be equipped with properly operating and maintained mufflers. • All noise-generating construction activities shall be limited to weekdays, Monday through Friday,	Inyo County Public works (Building and safety) Sheriff's Department	The Inyo County Public Works (Building and Safety) Department will verify that noise related contract specifications are in place before issuing demolition, grading, or building permits. The Public Works (Building and Safety) and Sheriff's Departments will respond to any noise complaints received and adjust measures as appropriate

between the hours of 7:00 a.m. and 5:00 p.m. Construction activities shall not be performed on weekends or federal holidays • Properly maintain mufflers, brakes and all loose items on construction and operation related vehicles to minimize noise and ensure safe operations. Keep truck operations to the quietist operating speeds		
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