



LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

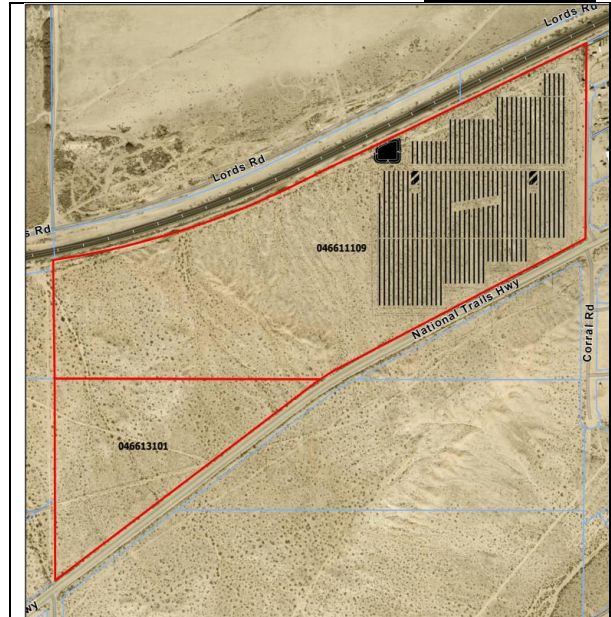
HEARING DATE: December 5, 2024

AGENDA ITEM 4

Project Description

Project No: PROJ-2019-00057
APNs: 0466-111-09
Applicant: Radiant BMT
Community: Helendale
Location: 29510 Corral Road, Helendale
County: Paul Cook; 1st District
Supervisor:
Staff: Luis Rodriguez, Contract Planner
Rep: Philip Stein
Proposal: A Conditional Use Permit to construct and operate a 3.0-megawatt community solar photovoltaic array on approximately 23-acre portion of a 58.51-acre vacant parcel

Vicinity Map



28 Hearing Notices Sent on : November 15, 2024

SITE INFORMATION:

Project Size: 23 Acres

Terrain: Flat

Vegetation: Mostly Creosote Clonal Rings and some Cactus Yucca Scrub.

TABLE 1 – SITE AND SURROUNDING LAND USES AND ZONING:

AREA	EXISTING LAND USE	LAND USE CATEGORY	ZONING DISTRICT
SITE	Vacant Land	Rural Living (RL)	Rural Living (RL)
North	Vacant Land	Resource Land Management (RLM)	Resource Conservation (RC)
South	Vacant Land	Rural Living (RL)	Rural Living (RL)
East	Single-Family Residential	Rural Living (RL)	Rural Living (RL)
West	Vacant Land	Rural Living (RL) / Resource Land Management (RLM)	Rural Living (RL) and Resource Conversation (RC)

	Agency	Comment
City Sphere of Influence:	N/A	No comments received
Water Service:	N/A	No comments received
Sewer Service:	N/A	No comments received

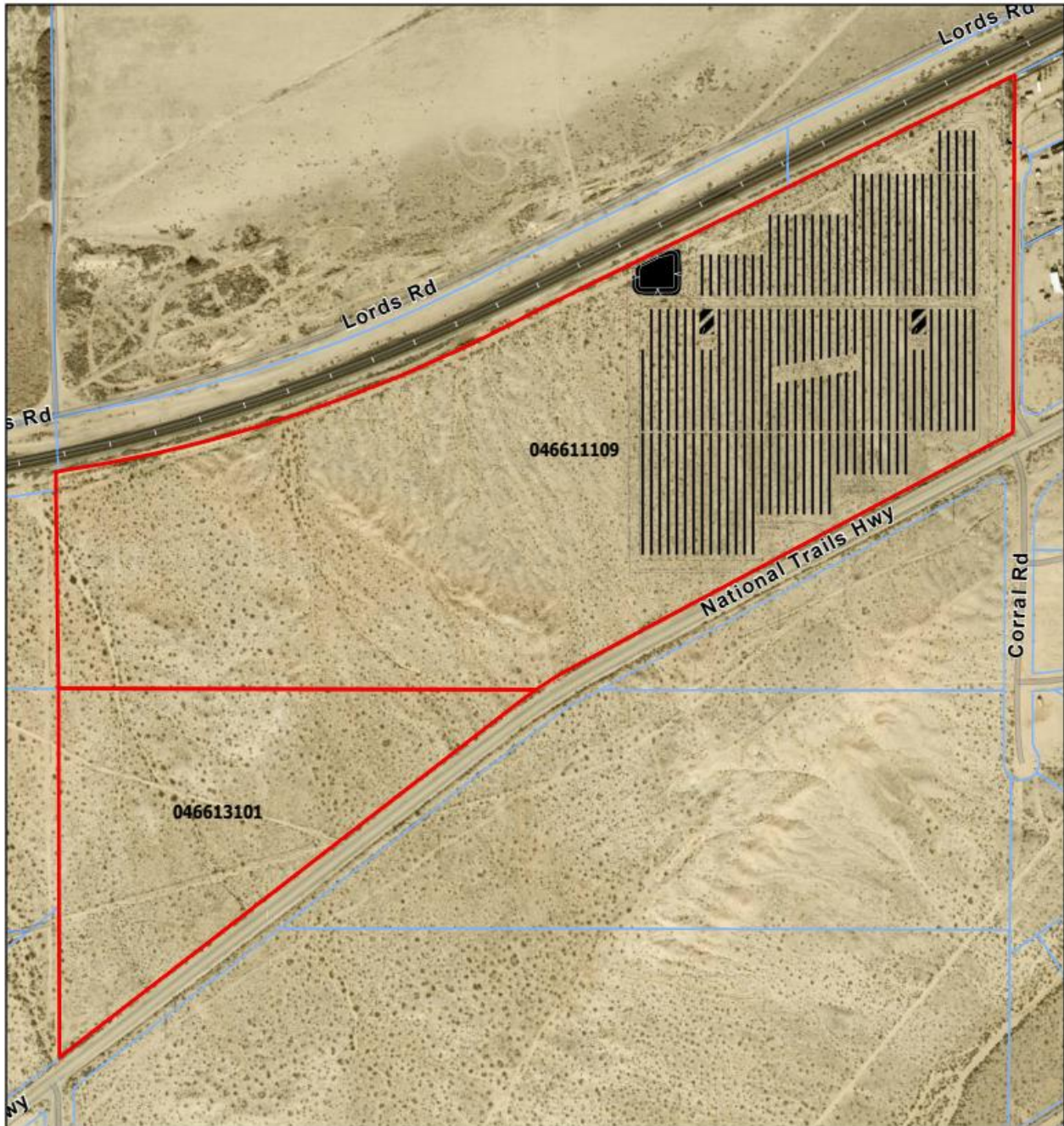
STAFF RECOMMENDS: That the Planning Commission **Adopt** the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; **ADOPT** the findings for the Conditional Use Permit; **APPROVE** the Conditional Use Permit, subject to the Conditions of Approval; and **DIRECT** staff to file the Notice of Determination.

¹ In accordance with Section 86.08.010 of the Development Code, the Planning Commission action may be appealed to the Board of Supervisors.

Figure 1
Vicinity Map



Figure 2
Aerial Map



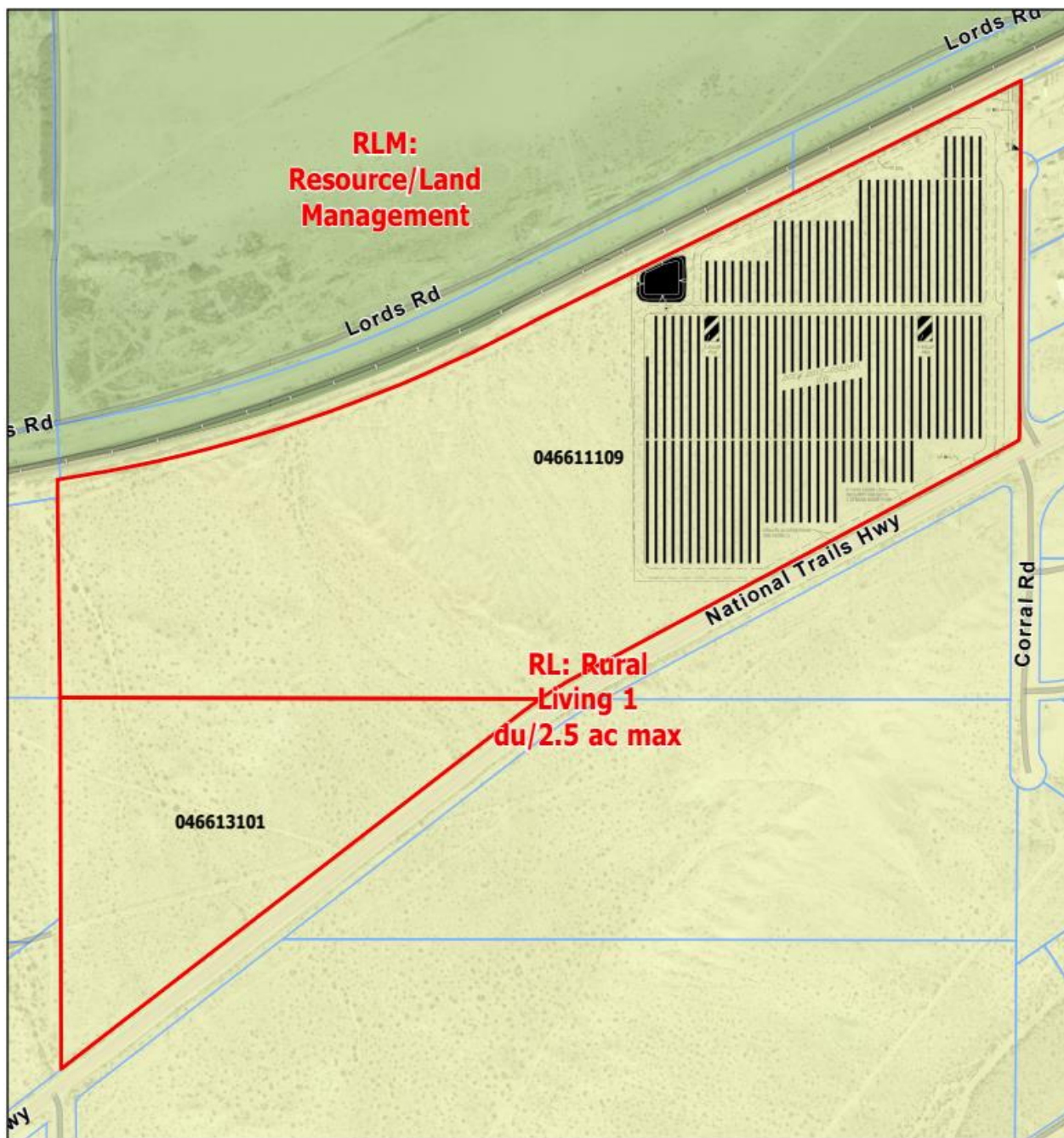
Vicinity Aerial Map



0 250 500 1,000 Feet

-  PROJ-2019-00057
-  Parcels

Figure 3
Land Use Map



Land Use Categories

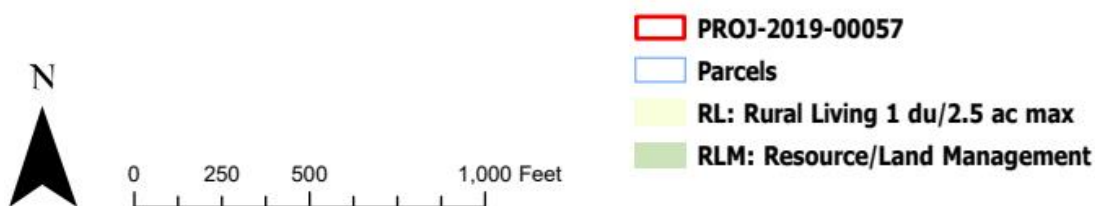
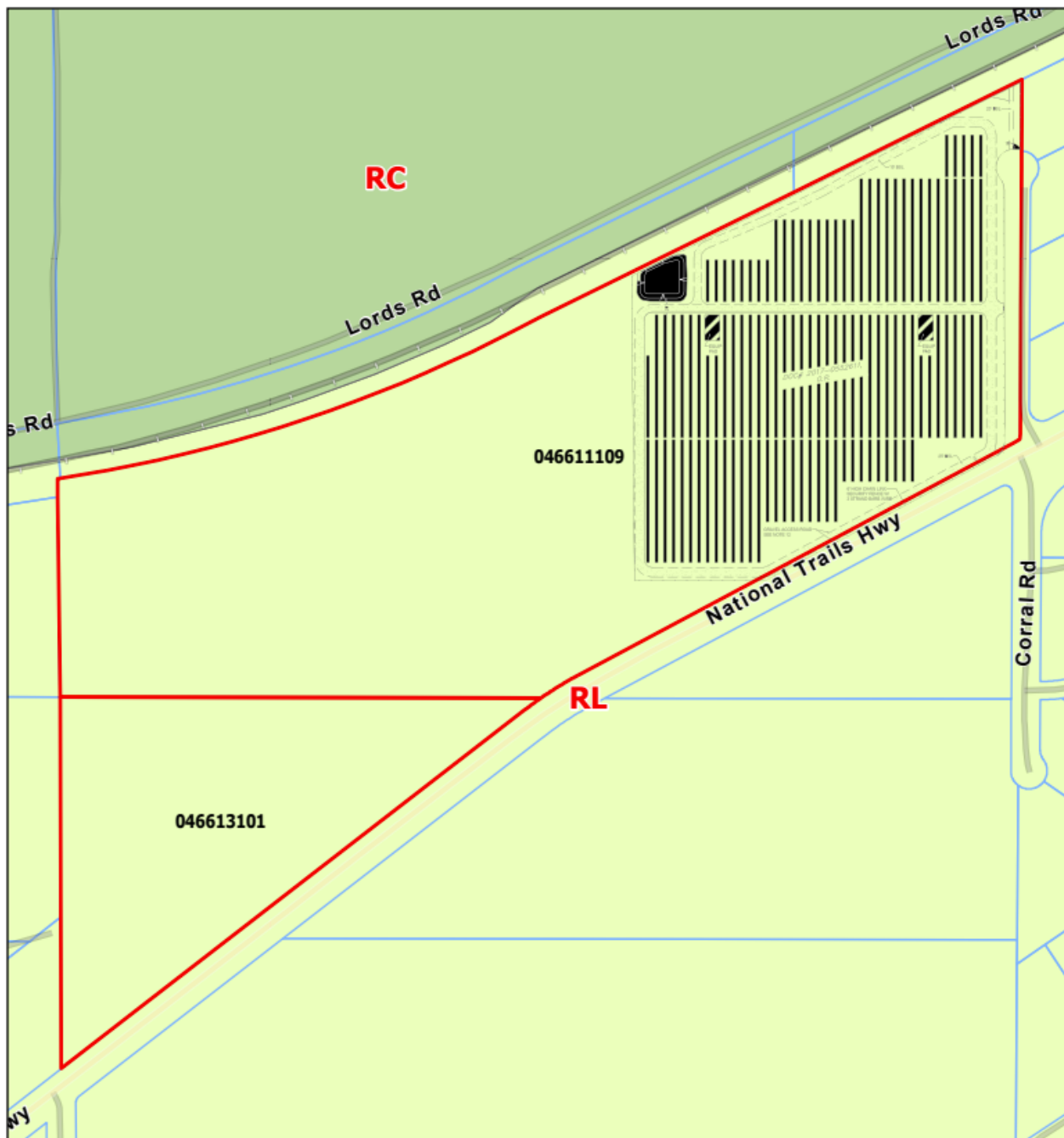
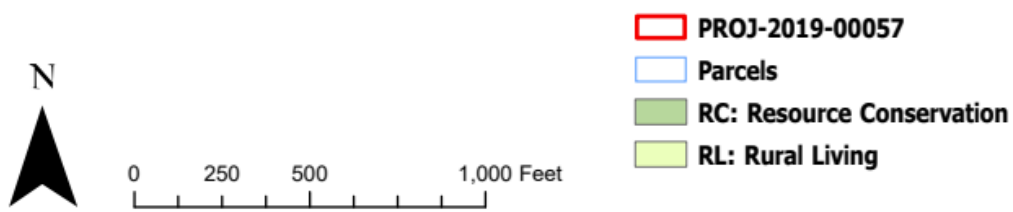


Figure 4
Zoning Map



Land Use Zoning Districts



Figures 6 Photos of Existing Site Conditions



Pic A: Subject site looking west from S/E corner of Corral Road and National Trails Highway (NTH)



Pic B: Subject site looking northwest from NTH showing native vegetation.



Pic C: Subject site at S/E corner entrance of Corral Road and NTH



Pic D: From inside of subject site looking southwest along NTH.



Pic E: Existing powerpole looking northwest on subject site near intersection of Corral Road and NTH



Pic F: Looking North from Corral Road and NTH intersection (powerpole across subject site)



Pic G: Adjacent single-family residences east of subject site.



Pic H: From subject site looking east along National Trails Highway



Pic I: Southeast from Corral Road towards vacant land and regional powerpole connection.



Pic J: Northern section of subject site nearest to the railroad ROW.



Pic K: Looking north on Corral Road towards terminus at railroad ROW.



Pic L: Looking along the eastside of the subject site along Corral Road showing existing vegetation.

PROJECT DESCRIPTION:

The applicant, Corral Solar Facility, is requesting a Conditional Use Permit (CUP) to construct and operate a 3.0-megawatt (MW) community solar photovoltaic (PV) solar electric facility (Project) on a 23-acre portion of a 58.81-acre parcel. The Project site is in the Helendale Community and is accessed from Corral Road to the east, which is connected to National Trails Highway (NTS) to the south, but no access from NTS. The site falls within the Rural Living (RL) Land Use Category designation and Rural Living (RL) zoning district. See Figures 1 through 4.

Surrounding land uses include a railroad right-of-way (ROW) and vacant land to the north, single-family residences to the east, and vacant land to the west and south. See Aerial Map Figure 2.

The intent of the Rural Living (RL) zone is to provide for residential uses and support ancillary uses that include electrical power generation facilities with a CUP. The Project was designed as a Community Oriented Renewable Energy (CORE) project as defined by the Renewable Energy and Conservation Element (RECE). It meets the general requirements of County CORE criteria, in that the Project size is under 10 MW-ac, Project area is less than 60 acres, and nearly 100% of production will serve local off-site use. The Project would have a capacity of 3 MW and would utilize approximately 7,000 PV solar module panels, which would be mounted on single axis trackers and use twelve (12) 250 kilowatt (kW) inverters. The number of modules and inverters is subject to change depending on the final design and equipment availability. The Project will be interconnected with a 33 kV distribution circuit that serves load in the local area, rather than interconnection to a transmission circuit that would primarily serve users outside of the region.

The Project infrastructure is also designed with consideration of industry standards that do not overwhelm the surrounding residential uses and structures. Access will be provided from Corral Road on the east entrance to the site across the street from existing residential uses.

At the end of the Project's operational term, the applicant may determine that the site should be decommissioned and deconstructed, or it may seek a revision to its CUP, as applicable. When the solar arrays, panels, fencing, etc. are removed after the Project's lifetime, the land will be largely restored to its pre-project condition as required as part of the decommissioning process. The Project would utilize Best Management Practices (BMPs) to ensure the collection and recycling of solar arrays, panels, fencing, and other associated materials, to the extent feasible. All decommissioning and restoration activities would adhere to the requirements of the appropriate governing authorities and in accordance with all applicable federal, State, and County regulations. A decommissioning condition of approval has been incorporated into Exhibit B.

Lot Line Adjustment:

The Project originally encompassed portions of two separate parcels, APNs 0466-111-09 (58.51 acres) and 0466-131-01 (15.3 acres), totaling 73.81 acres. However, the solar facility has been reconfigured to encompass land located on only one existing parcel (0466-111-09). One of the required conditions of approval for the Project requires a lot line adjustment to establish a new parcel line on an approximately 23-acre portion of the 58.81-acre parcel located north of the National Trails Highway, south of the Atchison Topeka & Santa Fe Railroad, and west of Corral Road, with the balance of the 58.51 acres parcel (35.51 acres) remaining undeveloped, as shown on Figure 4, and combined with APN 0466-131-01. In some instances, the Project analysis encompasses the entirety of the originally proposed site of 73.81 acres comprised of two (2)

parcels prior to the reduction in Project scope to the 23-acre site, such as indicated the biological analysis.

PROJECT ANALYSIS:

Countywide Plan Policies – Compliance with Relevant Policies

The Project has been determined to be compatible with the Countywide Plan, including, but not limited to, the following goals and policies:

Policy LU-2.1 Compatibility with existing uses

We require that new development is located, scaled, buffered, and designed to minimize negative impacts on existing conforming uses and adjacent neighborhoods.

Consistency Statement: The Project is a new solar power facility that introduces a new access from the established Corral Road. The designs of the new solar panels and equipment meet the development code and are designed to minimize impacts to scale, as the solar panels are lower in height from the existing residential structures adjacent to the east across Corral Road. The Project would only generate traffic of utility vehicles for periodic maintenance or emergency repairs while using the service roads on site, thereby managing the limited traffic without requiring parking on site. The proposed landscape plan is designed to buffer the solar facility activities from the adjacent residential neighborhood.

Policy LU-2.3 Compatibility with natural environment

We require that new development is located, scaled, buffered, and designed for compatibility with the surrounding natural environment and biodiversity.

Consistency Statement: The proposed electrical power generation facility has been designed to proper scale and to meet the development code for setbacks, and to provide a required buffer through fencing and landscaping to screen from the adjacent residential residences. Through environmental review and analysis, the Project has been evaluated and conditioned to be as minimally impactful to the existing natural environment and biodiversity.

Policy LU-2.4 Land Use Map consistency

We consider proposed development that is consistent with the Land Use Map (i.e., it does not require a change in Land Use Category), to be generally compatible and consistent with surrounding land uses and a community's identity. Additional site, building, and landscape design treatment, per other policies in the Policy Plan and development standards in the Development Code, may be required to maximize compatibility with surrounding land uses and community identity.

Consistency Statement: The Project is CUP for a 3.0 MW solar photovoltaic array on approximately 23 acres within a 58.51-acre parcel located west of corral road, and the design of the new solar panel facility are compatible in height (proposed panels are 8' in height), massing, and placement of the proposed equipment meet the required setbacks. The existing native landscaping at the perimeter of the project site will further screen from the adjacent residential neighborhood, and the hours of autonomous operation will not disrupt the quiet evening setting of the neighborhood, as regular maintenance would only occur during regular daytime hours. As a solar project there are few noise sources anticipated during operations.

Policy RE 2.1.1

Utilize renewable energy development standards in the Development Code to minimize impacts on surrounding properties.

Consistency Statement: The Project was designed as a CORE project. It meets the general requirements of County CORE criteria, in that the Project size is under 10 MW-ac, Project area is less than 60 acres, and nearly 100% of production will serve local off-site use. The Project has been condition to comply with solar energy development standards will deliver clean, emission-free renewable energy from the sun to the communities between and including Helendale and Barstow. The Project will deliver renewably generated electricity to the local distribution system through a new connection to the existing distribution circuit.

Policy RE-3.2.3:

CORE facilities shall be designed primarily to meet the needs of the local users, with an adequate overage margin to meet peak demands and defray the cost of the systems.

Consistency Statement: The Project was designed as a CORE project. It meets the general requirements of County CORE criteria, in that the Project size is under 10 MW-ac, Project area is less than 60 acres, and nearly 100% of production will serve local off-site use. The Project will interconnect to the local distribution system which serves primarily local, off-site loads

Policy CR-1.1 Tribal notification and coordination. We notify and coordinate with tribal representatives in accordance with state and federal laws to strengthen our working relationship with area tribes, avoid inadvertent discoveries of Native American archeological sites and burials, assist with the treatment and disposition of inadvertent discoveries, and explore options of avoidance of cultural resources early in the planning process.

Consistency Statement: Per AB 52, the County initiated tribal consultation on October 23, 2023, to offer an opportunity for the designated tribes to consult with the County on the proposed project. Upon the 30-day required notification period, the County received correspondence with recommended mitigation measures from the Yuhaaviatam of San Manuel Nation (formerly known as the San Manuel Band of Mission Indians).

Existing Site Conditions - The Project is located within an area where most of the surrounding parcels are vacant and undeveloped. The Project site is generally flat with slopes less than 5% with minimal native vegetation, with no known animal habitats or historical features. There are no defined watercourses on the site. Given the nature and proposed average height of eight (8) feet above grade for each solar panel, there would be minimal obstruction to the north and west from the surrounding parcels.

Site Planning: The Site Plan (see Exhibit E) provides adequate area to accommodate all proposed solar panels and equipment while meeting all the required setbacks. Because the facility is an autonomous facility with no regular daily employees on site, parking and loading areas are not applicable nor required, and access and circulation requirements needed for periodic maintenance comply with County requirements (See Table 2 herein).

Additionally, per Traffic Division comments (10/26/2024), a construction management plan is required to show construction truck routes, type of trucks (number of axles), number of trucks, truck turning radius, and the site plan has since incorporated driveway spacing according to Road Planning and Design Standards.

Development Code Compliance Summary: As noted above, the Project satisfies all applicable standards of the Development Code for the proposed Conditional Use Permit, as illustrated in Table 2:

TABLE 2: PROJECT CODE COMPLIANCE

Project Component	Helendale Planning Area (Development Code)		Project Plans
3.0-MW PV solar electric power generation facility	CUP		CUP
Parking	N/A		Plans indicate interior service maintenance roads only for the autonomous facility (no employees on site, except for maintenance from service roads)
Landscaping	Minimum Landscaping	20%	N/A
Setbacks	Front Street Side	25'	25'
		15' (Local Street)	25'
	Interior Side Rear	15'	15'
Building Height	35 feet maximum		8'
Maximum Lot Coverage	80%		N/A
Drive Aisles	Per Fire Department Consultation		20' for interior service road and 26' for perimeter service road

Landscaping: Existing native landscaping will be maintained along Corral Road and National Trails Highway in its natural state. Additionally, there is no water connection on-site to support any additional artificial landscaping, and this type of electrical power generation facility in an environmentally sensitive habitat area, as determined by the California Department of Fish and Wildlife (CDFW), does not require artificial landscaping and the preference is to maintain the existing natural vegetation.

Perimeter Walls/Fencing: As noted in a call-out in the Site Plan (Exhibit E), the applicant is proposing chain-link fencing with slats for buffering public views of the infrastructure/foundation pedestals for the support of the solar panels. Additionally, per the Development Code Section 84.29.050, special fencing standards may be applied without a variance in recognition of the capital costs of renewable energy facilities. Total fence heights allowed are inclusive of any height extension devices such as slanted razor-wire panels. The provision further states that chain-link fencing up to eight feet in height may be installed no closer than 15 feet from the right-of-way on streetside boundaries. Security devices such as razor-wire height extensions may only be directed inward to the property and may not extend beyond the property boundary to overhang the right-of-way. The Project has been conditioned to adhere to such standards.

Glare: Per Development Code Section 84.29.040 (b), solar energy facilities shall be designed to preclude daytime glare on any abutting residential land use zoning district, residential, parcel, or public right-of-way. The project has been designed and oriented to capture the solar rays from the south side of the project site. This will avoid any glare to impact any of the four (4) residential properties that exist to the east of the project site. Additionally, solar panels are designed to be highly absorptive of light that strikes the panel surfaces, generating electricity rather than reflecting light. PV panels have a lower index of refraction/reflectivity than common sources of glare in residential environments. The glare and reflectance levels of panels are further reduced with the application of anti-reflective coatings.

Night Lighting: Per Development Code Section 84.29.040 (c), Outdoor lighting within commercial solar energy facility shall comply with provisions of Chapter 83.07 of the Development Code. The Project proposes permanent motion sensitive directional security lights that will be installed to provide illumination into the site. Any proposed lighting must be shielded and directed downward to minimize the potential for glare or spillover onto adjacent properties. The project has been conditioned to submit a photometric study demonstrating that the project light does not spill onto adjacent properties, or public street.

Public Safety Service Impact Fees: Per Development Code Section 84.29.040 (d), the developer of an approved commercial solar energy generation facility shall pay on an annual basis according to the prescribed schedule of 15 acres or greater at a rate of \$157.00 per acre. The Project has been conditioned to pay this annual impact fee, which will be adjusted annually based on the Consumer Price Index for All Urban Consumers (CPI-U).

Existing and Proposed Hours of Operation: The PV solar electrical power generation facility will be a 24-7 operation as the facility is autonomous. Maintenance will occur from time to time for any problems and/or issue, including perimeter fencing issues, and regularly scheduled maintenance and/or minor panel or electrical upgrades.

California Environmental Quality Act Compliance:

An Initial Study and Mitigated Negative Declaration (IS/MND) has been completed in compliance with the California Environmental Quality Act (CEQA) (Exhibit C). The IS/MND concludes the Project will have a less than significant adverse impact on the environment with the implementation of recommended Mitigation Measures. In compliance with CEQA, a Mitigation Monitoring & Reporting Program (MMRP) has been prepared (Exhibit D) and is incorporated into the Project's conditions of approval.

A Notice of Availability/Notice of Intent (NOA/NOI) to adopt a Mitigated Negative Declaration (MND) was advertised and distributed to initiate a 30-day public comment period on June 17, 2024, which concluded on July 17, 2023. The NOA/NOI was sent to twenty-seven (27) surrounding property owners and all responsible and trustee agencies as part of the CEQA process. Only two (2) comment letters were received from the California Department of Fish & Wildlife (CDFW), dated, July 18, 2024, and from the Mojave Desert Air Quality Management district (MDAQMD), dated July 15, 2024, see Exhibit F.

All comments were addressed in Response to Comments (Exhibit G).

Following are summaries of topics resulting in Mitigation Measures in the IS/MND:

Air Quality: The proposed Project is expected to have a minimal impact on the air quality of the area and would produce relatively few emissions during the estimated three-month construction period and negligible emissions during operation. In addition, the development of renewable energy sources is expected to produce cumulative and regional environmental benefits. Therefore, impacts are considered less than significant.

AQ-1: Dust Control Plan to be submitted and approved by the County and Mojave Desert AQMD

Biological: No sensitive wildlife species were observed during the initial surveys of the 73.81-acre property. However, CDFW's recommended and update to the biological report with additional language to strengthen and clarify the mitigation measures in the MMRP within Exhibit D. These enhanced mitigation measures will not create any new significant impacts and are not necessary to mitigate any significant impacts, therefore re-circulation of the IS/MND is not necessary.

No wildlife species were observed on site, although the biological analysis did identify several burrows. Due to this finding, the construction area should be surveyed prior to any construction activities, including staging of equipment and clearing and grubbing of vegetation. The proposed Project is expected to impact no more than 23 acres of creosote scrub habitat for common desert wildlife and habitat for sensitive wildlife. However, impacts can be minimized with the following mitigation measures as summarized herein this report, but more fully detailed in the Initial Study (Exhibit C):

BIO-1: Change in Project Scope: If the project scope should change for any reason

BIO-2: Pre-Construction Meeting with biologist

BIO-3: Use of water onsite

BIO-4: Pre-construction surveys

BIO-5: Biological monitors

BIO-6: Equipment operators to check under motorized equipment & vehicles

BIO-7: Presence of desert tortoise

BIO-8: Required pre-construction clearance survey to avoid desert tortoise

BIO-9: Exclusionary fencing around the construction site approved by certified biologist

BIO-10: Exclusionary fence shall be regularly inspected

BIO-11: Mohave ground squirrel focused surveys by qualified biologist

BIO-12: Nesting Bird Surveys and Exclusionary Measures by a certified biologist

BIO-13: Stormwater and Erosion Control Best Management Practices (BMPs)

BIO-14: Installation of High-Visibility Fencing (Type ESA) supervised by certified biologist

BIO-15: Construction Staging Areas and Access Roads

BIO-16: Control of invasive plant species monitored by County Biologist and Landscape Architect

BIO-17: Pollution and Litter

Cultural: The Cultural Resources Assessment was conducted for the entire site of 73.81-acre property, which includes the 23-acre portion of the Project site. The study area included research and review of relevant historic maps, records search results from the South-Central Coastal Information Center (SCCIC), Sacred Land File (SLF) results from the Native American Heritage Commission (NAHC), and a pedestrian survey of the property.

As part of the pedestrian survey, BioCultural LLC archaeologists recorded, evaluated, and provided recommendations for one historic archaeological refuse scatter (Corral 01). No resources were collected. The historic archaeological refuse scatter site Corral 01 was evaluated using the California Register of Historical Resources (CRHR) eligibility criteria to determine whether it constitutes eligible historical resources under CRHR, as required under CEQA. BioCultural LLC concluded that the historical refuse scatter site Corral 01 is not eligible under any criteria for listing on the CRHR. Based on the review of archaeological materials present, this site is recommended not eligible for CRHR under any criteria.

Although the current study has not indicated sensitivity for cultural resources (historical or archaeological) within the Project boundaries, ground-disturbing activities have the potential to reveal buried deposits not observed on the surface during previous surveys. For this reason, the following summary of Mitigation Measures (MM) more fully detailed in the Conditions of Approval (Exhibit B) are applicable:

MM CUL-1: Monitoring and Treatment Plan by a qualified archaeological monitor

MM CUL-2: Archaeological Monitoring by a qualified archaeologist

MM CUL-3: Contacting the County Coroner in the event found unanticipated human remains

Geological: According to the Geologic Fault Investigation, the project site is not located in an Alquist-Priolo earthquake Fault Zone. Based on the information reviewed in preparation of this report, the nearest known active fault is the Helendale-South Lockhart Fault Zone, which is located approximately 6.0 miles southwest of the site. Accordingly, the potential for surface fault rupture at the site due to a known active fault is considered low.

While no faults are known to pass through the Project site, it is also not located on a geologic unit or on soil that has been identified as being unstable or having the potential to result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse, based upon a review of the San Bernardino Countywide Plan Hazards Policy Map, HZ-2 *Liquefaction and*

Landslides.

As a result, the Geotechnical Investigation includes recommendations to ensure that soils are made appropriate for development of the Project on the Project site. The proposed Project is within a High Erodibility zone according to the County of San Bernardino Countywide Plan Hazards Policy Map: HZ-11 *Wind Erosion Hazards 8*. Near surface sandy soils may be subject to water and wind erosion. Drainage should be provided around the perimeter of all structures and all foundations to guide water away from support posts or transformers and toward streets or approved drainage devices to minimize water infiltrating into the underlying natural and engineered fill soils. During grading, water will be used for dust control and in effect aid in controlling wind erosion. Erosion control plans and grading plans are required to be submitted, approved, and implemented for the proposed development. Therefore, a less than significant impact would occur, and no additional geological mitigation measures are required.

Tribal Cultural Resources: The Project site was researched and surveyed, and no previously recorded cultural resources were identified during the CHRIS records search within the Project Area and one previously recorded cultural resource was identified within the 0.25-mile radius of the Project Area. The NAHC's SLF search did not identify any site-specific information with respect to tribal lands or sites for the Project Area. However, the presence of deeply buried archaeological material below the disturbed sediments cannot be ruled out. Nonetheless, the presence of remains or unanticipated tribal cultural resources under the ground surface is possible.

Pursuant to AB52 tribal consultation, the Yuhaaviatam of San Manuel Nation (YSMN - formerly known as the San Manuel Band of Mission Indians) have requested the following summary of Mitigation Measures, more fully described in detail in Exhibit B, to mitigate potential impacts to Tribal Cultural Resources:

MM TCR-1: Treatment of tribal cultural resources by archeologist during project implementation

MM TCR-2: Inadvertent Discoveries of Human Remains/Funerary Objects

MM TCR-3: Daily monitoring and treatment by archaeological monitors

MM TCR-4: Additional monitoring during earthmoving activities by qualified archaeologist and/or tribal monitor

PUBLIC COMMENTS:

On June 17, 2024, twenty-seven (27) Notices of Availability/Notices of Intent (NOA/NOI) to adopt a Mitigated Negative Declaration (MND) was advertised and distributed to initiate a 30-day public comment period, were sent to surrounding property owners of the Project site, as required by Development Code Section 85.03.080. Only two (2) comment letters were received from the California Department of Fish & Wildlife (CDFW), dated, July 18, 2024, and the Mojave Desert AQMD, dated July 15, 2024. Responses to comments are attached as Exhibit G.

RECOMMENDATIONS: That the Planning Commission:

- 1) ADOPT** the Mitigated Negative Declaration (Exhibit C) and Monitoring and Reporting Program (Exhibit D).

- 2) **ADOPT** the recommended Findings for approval of the Conditional Use Permit (Exhibit A).
- 3) **APPROVE** the Conditional Use Permit to construct and operate a 3.0-megawatt community solar photovoltaic array on approximately 23-acre portion of a 58.51-acre parcel, subject to the Conditions of Approval (Exhibit B).
- 4) **DIRECT** the Land Use Services Department to file the Notice of Determination in accordance with the California Environmental Quality Act.

ATTACHMENTS:

- EXHIBIT A: Findings
- EXHIBIT B: Conditions of Approval
- EXHIBIT C: Initial Study/Mitigated Negative Declaration ([BMT Corral Solar ISMND PROJ-2019-00057 Final exe.pdf](#))
- EXHIBIT D: Mitigation Monitoring & Reporting Program
- EXHIBIT E: Site Plan
- EXHIBIT F: Comment Letters
- EXHIBIT G: Responses to Comments

FINDINGS: CONDITIONAL USE PERMIT

A CONDITIONAL USE PERMIT (CUP) AND LOT LINE ADJUSTMENT TO CONSTRUCT AND OPERATE A 3.0-MEGAWATT (MW) COMMUNITY SOLAR PHOTOVOLTAIC ARRAY ON APPROXIMATELY 23-ACRE PORTION OF A 58.51-ACRE VACANT PARCEL ZONED RL (RURAL LIVING) AND POLICY PLANNED FOR RL (RURAL LIVING); LOCATED WEST OF CORRAL ROAD AND NORTH OF NATIONAL TRAILS HIGHWAY; 1ST SUPERVISORIAL DISTRICT; APNS: 0466-111-09 AND 0466-131-01; PROJECT NUMBER PROJ-2019-00057

The following are the required findings, per the San Bernardino County Development Code (Development Code) Section 85.06.040, and supporting facts for approval of the Conditional Use Permit:

- 1. The site for the proposed use is adequate in terms of shape and size to accommodate the proposed use and all landscaping, open space, setbacks, walls and fences, yards, and other required features pertaining to the application.**

The Project Site is 23 acres in size and is of adequate size and shape to accommodate the proposed energy generating facility. Ingress and egress circulation, native landscaping, lot coverage, all setbacks, buffering fences meet the requirements of the Development Code for the proposed project's property land use and zoning designations..

- 2. The site for the proposed use has adequate access, which means that the site design incorporates appropriate street and highway characteristics to serve the proposed use.**

The site design and final Conditions of Approval for the Project ensure adequate legal and physical access to the site. Because the proposal is an energy generating facility on vacant unimproved land, new access or external street improvements were required. The Project's site plan has been reviewed by the County's Land Use Services and Public Works departments and determined to have the applicant provide adequate access to the abutting local street with a proposed driveway and roadway improvements which must be constructed in connection with Project development. The Project site proposes a commercial driveway located along Corral Road, which will provide legal and physical access to the site. Corral Road intersects at the southeast corner of the subject site to National Trails Highway (Route 66), which provides regional connection to the region. On-site circulation drive aisles meet San Bernardino County Fire Protection District Standards.

- 3. The proposed use will not have a substantial adverse effect on abutting property or the allowed use of the abutting property, which means the use will**

not generate excessive noise, traffic, vibration, lighting, glare, or other disturbance.

The Project, as designed and conditioned, is consistent with the land uses and development standards allowed within the Rural Living (RL) Zoning District and as such should not have adverse effects on abutting properties. The project is adjacent to a single family residential neighborhood to the east. There are vacant undeveloped parcels/lots to the west, south and to the north which is divided by an AT&SF railroad right-of-way.

Project Conditions of Approval address Development Code allowances and thresholds for noise, traffic, vibrations, lighting, glare, or other disturbance, as well as for off-site and onsite driveway and street improvements. The proposed project is a community-oriented renewable energy (CORE) project that will deliver clean, emission-free renewable energy from the sun to the communities between and including Helendale and Barstow. The Project will consist of a 3.0-megawatt (MW) alternating current (AC) solar photovoltaic (PV) array on approximately 23 acres on one Rural Living parcel in the Helendale area, San Bernardino County, California. Project improvements have been designed to incorporate development performance standards and setbacks.

In particular, the spacing and layout of the energy generation facility is designed to be in compliance with the San Bernardino County Development Code Section 83.01.0807, the anticipated noise levels at the nearest sensitive residential receptors located approximately 94 feet (50 feet measured from property lines) east of the project site will not exceed 55 db(A).

4. The proposed use and manner of development are consistent with the goals, maps, policies, and standards of the county general plan and any applicable community or specific plan.

The proposed Conditional Use Permit, together with the provisions for its design and improvement are consistent with the Countywide Policy Plan. The proposed Project as designed specifically is consistent with the goals, policies, standards and maps of the Policy Plan. The project specifically implements the following San Bernardino Policy Plan goals and policies:

- **Policy LU-2.1 Compatibility with existing uses.**

We require that new development is located, scaled, buffered, and designed to minimize negative impacts on existing conforming uses and adjacent neighborhoods.

Consistency: *The Project is appropriate because the use is allowed subject to a land use entitlement of a Conditional Use Permit (CUP) and compatible with the size and scale of the surrounding residential/commercial characteristics. The*

height of the solar panels will be installed at eight (8) feet high, making them lower than the existing residential structures and accessory structures east of the proposed Project. The Project Site is required and conditioned to provide a buffer/fense to screen the energy generating facility from public view and designed to be sensitive to surrounding properties.

- **Policy LU-2.3 Compatibility with natural environment**

We require that new development is located, scaled, buffered, and designed for compatibility with the surrounding natural environment and biodiversity.

Consistency: *The Project was reviewed for environmental impacts and a technical biological report was submitted that identified potential species that needed protection, and mitigation measures were incorporated to minimize impacts and protect said species in place and ensure the construction activities do not interfere with natural drainage of the property so that the project can be compatible with the surrounding natural environment and biodiversity. The Project Site is required and conditioned to provide a buffer/fense to screen the energy generating facility from public view and designed to be sensitive to surrounding properties.*

- **Policy LU-2.4 Land Use Map consistency.**

We consider proposed development that is consistent with the Land Use Map (i.e., it does not require a change in Land Use Category), to be generally compatible and consistent with surrounding land uses and a community's identity. Additional site, building, and landscape design treatment, per other policies in the Policy Plan and development standards in the Development Code, may be required to maximize compatibility with surrounding land uses and community identity.

Consistency: *The Project is consistent with the Land Use Map and does not propose a change in the Land Use Category. As designed, the proposed use is generally compatible and consistent with surrounding land uses and community's identity.*

- **Policy RE-2.1: Renewable Energy Systems**

We support solar energy generation, solar water heating, wind energy and bioenergy systems that are consistent with the orientation, siting and environmental compatibility policies of the General Plan. Additionally, Policy RE 2.1.1, states that projects shall "utilize renewable energy development standards in the Development Code to minimize impacts on surrounding properties."

Consistency: *The Project) is a community-oriented renewable energy (CORE) project that will deliver clean, emission-free renewable energy from the sun to the communities between and including Helendale and Barstow. The project will*

deliver renewably generated electricity to the local distribution system through a new connection to the existing distribution circuit..

- **Policy RE-3.2: Community-Oriented Renewable Energy**

We encourage community-oriented renewable energy (CORE) generation that primarily serves local uses in the county, and Policy RE-3.2.3: CORE facilities shall be designed primarily to meet the needs of the local users, with an adequate overage margin to meet peak demands and defray the cost of the systems.

Consistency: *Per SB County Renewable Energy and Conservation Element issued Aug 2017 and updated Feb 2019, the Project is a Community Oriented Renewable (CORE) project. The Project will be sited on less than 60 acres, is substantially smaller than county's 10 MW-ac threshold for utility-scale projects, and will interconnect to the local distribution system which serves primarily local, off-site loads.*

- **Policy RE-4.5: Decommissioning Plans**

Require RE generation facility developers to provide and implement a decommissioning plan that provides for reclamation of the site to a condition at least as good as that which existed before the lands were disturbed or another appropriate end use that is stable i.e. with interim vegetative cover), prevents nuisance, and is readily adaptable for alternative land uses.

Consistency: *The project has been conditioned pursuant to Development Code Section 84.29.070 within the Conditions of Approval to submit a decommissioning plan to the County when the project has been deemed decommissioned for deconstruction, which includes all required aspects, including cost estimates, work required, and removal of structures and equipment.*

- **Policy RE 4.7: Site Selection and Design**

RE project site selection and site design shall be guided by the following priorities relative to habitat conservation and mitigation:

1. Avoid sensitive habitat, including wildlife corridors, during site selection and project design;
2. Where necessary and feasible, conduct mitigation on-site.
3. When on-site habitat mitigation is not possible or adequate, establish mitigation off-site in an area designed for habitat conservation.

Consistency: A Biological Assessment has been prepared for the proposed Project. No wildlife species were observed, although general site conditions do permit the establishment of habitat areas. Measures have been recommended to ensure species are not adversely affected by the development of the site, including pre-construction surveys, worker training, and avoidance of species when possible.

- **Policy RE 5.1.1: CORE Siting**

Community-oriented RE generation facility sites may be less disturbed or degraded, but should contribute direct benefits to the communities they are intended to serve.

- **Policy RE 5.1.2: Conformance to Development Code**

Siting of community-oriented and utility-oriented RE generation facilities will conform to applicable standards set forth in the Development Code.

Consistency: The project site is located in an area with relevant proximity to other existing solar facilities and away from large scale residential development. There is four existing residences located approximately 100 feet east of the site. The project is also located adjacent to and will connect with an existing Southern-California Edison (SCE) electrical line. SCE has established procedures to ensure their Community Renewables program, which SCE defines as solar projects generating 0.5 to 20 MW of power, are provided to local areas through the completion of both a Customer Developer Agreement and a Power Purchase Agreement. This provision has been included as a Condition of Approval.

5. There is supporting infrastructure, existing or available, consistent with the intensity of the development, to accommodate the proposed project without significantly lowering service levels.

There is supporting infrastructure by way of the existing National Trails Highway (NTS) and the existing electrical transmission connections along this major arterial. The project is conditioned to provide improvements to Corral Road intersecting from NTS to its terminus cul-de-sac, as well as designing and constructing a main access driveway per San Bernardino design standards. The energy generating facility is an autonomous operation that does not require water, sewer, or gas. The facility will connect to the existing electrical distribution system along NTS to deliver the electrical energy captured and converted by the solar panels, thus providing energy that increases service levels.

6. The lawful conditions stated in the approval are deemed reasonable and necessary to protect the overall public health, safety and general welfare.

The conditions of approval include measures that require the applicant/developer to comply with the performance measures outlined in the County Development Code. Therefore, the conditions stated in the approval are deemed necessary to protect the public health, safety and general welfare.

7. The design of the site has considered the potential for the use of solar energy systems and passive or natural heating and cooling opportunities.

The proposed energy generating facility is a solar energy system and designed to maximize the amount of solar panels can be placed on site while meeting all oof the San Bernardino's Development Code Standards, thereby meeting the intent and purpose of the required finding.

FINDINGS: COMMERCIAL SOLAR ENERGY FACILITY

The following are the required findings, per the San Bernardino County Development Code (Development Code) Section 84.29.035, and supporting facts for approval of the Commercial Solar Energy Facility:

8. Finding (c)(1): The proposed commercial solar energy facility(ies) is either (A) sufficiently separated from existing communities and existing/developing rural residential areas so as to avoid adverse effects, or (B) of a sufficiently small size, provided with adequate setbacks, designed to be lower profile than otherwise permitted, and sufficiently screened from public view so as to not adversely affect the desirability and future development of communities, neighborhoods, and rural residential use.

***Consistency:** The Project is adjacent to Corral Road and National Trails Highway (State Route 66), and is across the street from existing single-family residential dwellings and vacant land. The project covers 24 acres of the an 58 acre parcel. The project has been designed to be of relatively small size limited to a 3.0-megawatt facility. The project site has four residential developments adjacent to the subject site, with the closest residences being approximately 100 feet east of the site, across Corral Road.*

9. Finding (c)(2): Proposed fencing, walls, landscaping, and other perimeter features of the proposed commercial solar energy generation facility(ies) will minimize the visual impact of the Project so as to blend with and be subordinate to the environment and character of the area where the facility is to be located.

***Consistency:** Fencing will be provided around the proposed solar facility. Permanent motion sensitive directional security lights will be installed to provide illumination into the site. Any proposed lighting must be shielded and directed downward to minimize the potential for glare or spillover onto adjacent properties. The project includes the installation of a buffer fence around the perimeter of the project site to diminish views from the adjacent right-of-ways (Corral Road and National Trails Highway). Generally, solar panels are designed to be highly absorptive of light that strikes the panel surfaces, generating electricity rather than reflecting light. PV panels have a lower index of refraction/reflectivity than common*

sources of glare in residential environments. The glare and reflectance levels of panels are further reduced with the application of anti-reflective coatings.

- 10. Finding (c)(3): The siting and design of the proposed commercial solar energy generation facility(ies) will be either: (A) unobtrusive and not detract from the natural features, open space and visual qualities of the area as viewed from communities, rural residential uses, and major roadways and highways or (B) located in such proximity to already disturbed lands, such as electrical substations, surface mining operations, landfills, wastewater treatment facilities, etc., that it will not further detract from the natural features, open space and visual qualities of the area as viewed from communities, rural residential uses, and major roadways and highways.**

***Consistency:** The Project site is located on a generally undisturbed parcel that is located within a broader area that has a gradual slope rising from south to north. No unique features exist on the property that the development would detract from. Distant views surrounding the site would be maintained due to the limited height of the solar panels, thereby not detracting from any natural features, open space or unique visual qualities of the area.*

- 11. Finding (c)(4): The siting and design of Project site access and maintenance roads have been incorporated in the visual analysis for the Project and shall minimize visibility from public view points while providing needed access to the development site.**

***Consistency:** The subject property and proposed solar facility have existing access from Corral Road. A 26-foot-wide access road and 20-foot-wide interior drives would be constructed through the solar facility. Due to the relatively low trajectory of the panels, the gradual downward slope extending south-north for properties in the area will minimize visibility of the site. The project has been designed to have minimal visual impacts on adjacent existing residential uses, as the solar panels are no higher than eight (8) feet, and visually buffered with a fence with slats.*

- 12. Finding (c)(5): The proposed commercial solar energy generation facility(ies) will not adversely affect the feasibility of financing infrastructure development in areas planned for infrastructure development or will be located within an area not planned for future infrastructure development (e.g., areas outside of water agency jurisdiction).**

***Consistency:** Other than paving, driveway, and turning radius requirements to an existing dirt road, project will not require additional infrastructure (private or public) to be installed or extended to the site. The facility will connect to existing overhead lines and the existing electrical grid. The project does not require the provision of*

water or sewer. The installation of a solar facility would provide power to be utilized for future development as a beneficial impact.

- 13. Finding (c)(6): The proposed commercial solar energy generation facility(ies) will not adversely affect to a significant degree the availability of groundwater supplies for existing communities and existing and developing rural residential areas.**

***Consistency:** The applicant has indicated the Project will not use any water, other than the need to minimize any potential construction related water needs. Any need during construction can be met through the use of off-site trucking of water to the property.*

- 14. Finding (c)(7): The proposed commercial energy generation facility(ies) will minimize site grading, excavating, and filling activities by being located on land where the existing grade does not exceed an average of five (5) percent across the developed portion of the Project site, and by utilizing construction methods that minimize ground disturbance.**

***Consistency:** The project will require minimal grading for the service road conditioning and for the two (2) power pads on site for the 24-acre parcel. The site does not exceed average slope of 5% across the entire site, and proposed solar arrays will be installed on the existing topographic land pattern.*

- 15. Finding (c)(8): The proposed commercial solar energy generation facility(ies) will be located in proximity to existing electrical infrastructure, such as transmission lines, utility corridors, and roads, so that: (A) minimal ground disturbance and above ground infrastructure will be required to connect to the existing transmission grid, considering the location of the Project site and the location and capacity of the transmission grid, (B) new electrical generation tie lines will be co-located on existing power poles whenever possible, and (C) existing rights-of-way and designated utility corridors will be utilized to the extent practicable.**

***Consistency:** As a community-oriented solar facility, the Project is designed to include access an existing transmission line at the southeasterly corner of the property.*

- 16. Finding (c)(9): The proposed commercial solar energy generation facility(ies) will be sited so as to avoid or minimize impacts to the habitat of special status species, including threatened, endangered, or rare species, Critical Habitat Areas as designated by the U.S. Fish and Wildlife Service, important**

habitat/wildlife linkages or areas of connectivity designated by County, state or federal agencies, and areas of Habitat Conservation Plans or Natural Community Conservation Plans that discourage or preclude development.

***Consistency:** A Biological Resources Assessment (BRA) was prepared for the Project Site that involved literature research and field surveys to document all biological resources identified within the survey area and included a floral/fauna inventory, vegetation/land use mapping, and habitat suitability assessments to determine the potential for special-status plant and wildlife species and vegetation communities to occur within the survey area. During field surveys, no special-status plant or wildlife species or vegetation communities were observed within the Project site. However, the site does contain habitat suitable for Desert Tortoise, Mojave Ground Squirrels, Burrowing Owl, and various avian species; therefore mitigation measures requiring worker training and pre-construction surveys prior to land disturbance have been applied to the project. No wildlife linkages or wildlife corridors are known to traverse the subject property.*

17. Finding (c)(10): Adequate provision has been made to maintain and promote native vegetation and avoid the proliferation of invasive weeds during and following construction.

***Consistency:** The Project includes annual maintenance and operational measures to minimize the potential growth of invasive weeds during and following construction.*

18. Finding (c)(11): The proposed commercial solar energy generation facility(ies) will be located so as to avoid or mitigate impacts to significant cultural and historic resources, as well as sacred landscapes.

***Consistency:** A Cultural Resources Assessment (CRA) was prepared for the project. The CRA did not identify any resources that would qualify as a historical resource resource under CEQA Section 15064.5, and therefore would not result in a significant impact to cultural or historic resources.*

19. Finding (c)(12): The proposed commercial solar energy generation facility(ies) will be designed in a manner that does not impede flood flows, avoids substantial modification of natural water courses, and will not result in erosion or substantially affect area water quality.

***Consistency:** The project site includes a historical natural drainage area in the north-western part of the subject parcel. That area of the parcel is not proposed for development and will not be impacted by the development of the proposed facility. The proposed project is designed to avoid the historical drainage area, and has been conditioned to submit a lot line adjustment application to further*

establish a new boundary that would avoid this area. Implementation of the project will not result in substantially increased run off or flow and is not anticipated to result in increased erosion. Required construction and erosion control plans are required to be submitted to the County for review and approval prior to construction activities.

- 20. Finding (c)(13): The proposed commercial solar energy generation facility(ies) will not be located within a floodway designated by the Federal Emergency Management Agency (FEMA), has been evaluated for flood hazard impacts pursuant to Chapter 82.14 of the Development Code, and will not result in increased flood hazards to upstream or downstream properties.**

***Consistency:** The Project is located within Flood Zone D according to FEMA Panel Number 06071C4500J dated 9/2/2016. Flood Hazards are defined as low to moderate risk in this Flood Zone. A Drainage/Hydrology Study was prepared and accepted by the Land Development Division. A Final Study must be prepared and approved prior to issuance of a Grading Permit and the requirements contained in that document may modify the final recommendations accepted by the Land Development Division.*

- 21. Finding (c)(14): All on-site solar panels, switches, inverters, transformers, and substations shall be located at least one foot above the base flood elevation as shown on the Flood Insurance Rate Maps.**

***Consistency:** Based on the National Flood Hazard Map, the entire Project site is within Zone D, which indicates flooding hazards for the site are considered to be low to moderate risk. Mitigation measures to be implemented by the Developer will minimize impacts.*

- 22. Finding (c)(15): For development sites proposed on or adjacent to undeveloped alluvial fans, the commercial solar energy generation facility has been designed to avoid potential channel migration zones as demonstrated by a geomorphic assessment of the risk of existing channels migrating into the proposed development footprint, resulting in erosion impacts.**

***Consistency:** The proposed development is designed to avoid these drainage courses and a jurisdictional analysis of these courses has been undertaken. Potential flows have been documented on the site, in the north-west corner. This area has been avoided and is not proposed to be part of the project area.*

- 23. Finding (c)(16): For proposed facilities located on prime agricultural soils or land designated by the California Farmland Mapping and Monitoring Program**

as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, where use of the land for agricultural purposes is feasible, the proposed commercial solar energy generation facility will not substantially affect the agricultural viability of surrounding lands.

***Consistency:** The proposed Project site does not contain agricultural land or land designated by the State for farmland and, therefore, would not have an adverse effect on the agricultural viability of surrounding lands.*

- 24. Finding (c)(17): If the proposed site is subject to a Williamson Act contract, the proposed commercial solar energy generation facility(ies) is consistent with the principals of compatibility set forth in California Government Code Section 51238.1.**

***Consistency:** The Project site is not subject to any Williamson Act contracts.*

- 25. Finding (c)(18): The proposed commercial solar energy generation facility(ies) will not preclude access to significant mineral resources.**

***Consistency:** The Project site is not located in an area of known, significant mineral resources,, based upon a review of Policy Map NR-4 of the San Bernardino Countywide Plan. Additionally, solar energy generation is considered an interim land use (with a limited-term contract with a utility) and is expected to be removed after its contractual lifetime.*

- 26. Finding (c)(19): The proposed commercial solar energy generation facility(ies) will avoid modification of scenic natural formations.**

***Consistency:** The Project would avoid any modification of scenic natural formations, as no designated scenic natural formations, as identified by the County, are located at the Project site.*

- 27. Finding (c)(20): The proposed commercial solar energy generation facility(ies) will be designed, constructed, and operated so as to minimize dust generation, including provision of sufficient watering of excavated or graded soil during construction to prevent excessive dust. Watering will occur at a minimum of three (3) times daily on disturbed soil areas with active operations, unless dust is otherwise controlled by rainfall or use of a dust palliative, or other approved dust control measure.**

***Consistency:** The Project will apply dust control measures in compliance with permit conditions and Mojave Desert Air Quality Management District (MDAQMD) guidance. A Dust Control Plan is required to establish the specific measures to be implemented to control dust.*

- 28. Finding (c)(21): All clearing, grading, earth moving, and excavation activities will cease during period of winds greater than 20 miles per hour (averaged over one hour), or when dust plumes of 20 percent or greater opacity impact public roads, occupied structures, or neighboring property, and in conformance with Air Quality Management District (AQMD) regulations.**

Consistency: The Project will apply dust control measures in compliance with permit conditions and MDAQMD regulations.

- 29. Finding (c)(22): For sites where the boundary of a new commercial solar energy generation facility will be located within one-quarter mile of a primary residential structure, an adequate wind barrier will be provided to reduce potentially blowing dust in the direction of the residence during construction and ongoing operation of the commercial solar energy generation facility.**

Consistency: The project has four existing residential dwellings to the east, approximately 100 feet across Corral Road. The project also includes the installation of buffer fencing, and maintain existing native landscaping around the perimeter of the project site to serve as a wind and visual barrier.

- 30. Finding (c)(23): Any unpaved roads and access ways will be treated and maintained with a dust palliative or graveled or treated by another approved dust control method to prevent excessive dust, and paving requirements will be applied pursuant to Chapter 83.09 of the Development Code.**

Consistency: The applicant will prepare a Dust Control Plan for review and approval by the County and MDAQMD. Included in the plan will be treatments and measures designed to the specific conditions of the Project site so as to provide effective dust control.

- 31. Finding (c)(24): On-site vehicle speed will be limited to 15 miles per hour.**

Consistency: The applicant will post and enforce speed limit of 15 miles per hour for on-site vehicles.

- 32. Finding (c)(25): For proposed commercial solar energy generation facilities within two (2) miles of the Joshua Tree National Park boundaries, the location, design, and operation of the proposed commercial solar energy facility will not be a predominant visual feature along the main access roads to the park (Park Boulevard and Utah Trail), nor will it substantially impair views from hiking/nature trails, campgrounds, and backcountry camping areas within the National Park.**

Consistency: *The Project site is not located within two miles of Joshua Tree National Park. Joshua Tree National Park is located approximately 90 miles to the southeast.*

- 33. Finding (c)(26):** For proposed facilities within two (2) miles of the Mojave National Preserve boundaries, the location, design, and operation of the proposed commercial solar energy facility will not be a predominant visual feature of, nor substantially impair views from, hiking and backcountry camping areas within the National Preserve.

Consistency: *The Project site is not located within two miles of the Mojave National Preserve. The Mojave National Preserve is estimated to be approximately 60 miles to the northeast.*

- 34. Finding (c)(27):** For proposed facilities within two (2) miles of Death Valley National Park boundaries, the location, design, and operation of the proposed commercial solar energy facility will not be a predominant visual feature of, nor substantially impair views from, hiking and backcountry camping areas within the National Park.

Consistency: *The Project site is not located within two miles of Death Valley National Park. Death Valley National Park is estimated to be 65 miles to the north.*

- 35. Finding (c)(28):** For proposed facilities within two (2) miles of the boundaries of a County, state or federal agency designated wilderness area, the location, design, and operation of the proposed commercial solar energy facility will not be a predominant visual feature of, nor substantially impair views from, the designated wilderness area.

Consistency: *The Project is not located near the boundaries of a designated County, State, or Federal agency designated wilderness area. The closest wilderness area is about 25 miles from Newberry Mountains wilderness to the east*

- 36. Finding (c)(29):** For proposed facilities within two (2) miles of the boundaries of any active military base, the location, design, and operation of the proposed commercial solar energy facility will not substantially impair the mission of the facility.

Consistency: *The nearest active military base is the Marine Corps Base in Twentynine Palms, located approximately 65 miles to the southeast. Construction and/or operation of the Project would not preclude military operations from occurring within the Project area.*

- 37. Finding (c)(30): When located within a city’s sphere of influence, in addition to other County requirements, the proposed commercial solar energy facility(ies) will also be consistent with relevant city zoning requirements that would be applied to similar facilities within the city.**

Consistency: The Project site is not located within the Sphere of Influence of a city. The City of Barstow is located approximately 15 miles east of the Project site.

- 38. Finding (c)(31): On terms and in an amount acceptable to the Director, adequate surety is provided for reclamation of commercial solar energy generation facility(ies) sites should energy production cease for a continuous period of 180 days and/or if the site is abandoned.**

Consistency: Decommissioning of the site will occur in compliance with County Development Code Section 84.29.060, which requires removal of site facilities when operations cease. The requirement for a removal surety bond will be included in the Conditions of Approval to be adopted for the Project.

FINDINGS: CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

- 39. The project will not have a significant adverse impact on the environment, subject to implementation of the proposed conditions of approval and mitigation measures.**

The environmental findings, in accordance with Section 85.03.040 of the San Bernardino County Development Code, are as follows:

Pursuant to provisions of the California Environmental Quality Act (CEQA) and the San Bernardino County Environmental Review guidelines, the above referenced Project has been determined to not have a significant adverse impact on the environment with the implementation of all the required Conditions of Approval and mitigation measures. A Mitigated Negative Declaration (MND) will be adopted and a Notice of Determination (NOD) will be filed with the San Bernardino County Clerk’s office. The MND represents the independent judgment and analysis of the County acting as lead agency for the Project.



Conditions of Approval

Record:	PROJ-2019-00057	System Date:	11/26/2024
Record Type:	Project Application	Primary APN:	0466111090000
Record Status:	In Process	Application Name:	C/F-CUP & GPA
Effective Date:		Expiration Date:	
Description:	CONDITIONAL USE PERMIT FOR A 3.0 MEGAWATT (MW) COMMUNITY SOLAR PHOTOVOLTAIC ARRAY ON APPROXIMATELY 23 ACRES WITH INTERIOR DRIVES AND SURROUNDING CHAINLINK FENCE, ZONED RL (RURAL LIVING) AND POLICY PLANNED FOR RL (RURAL LIVING); LOCATED WEST OF CORRAL ROAD AND NORTH OF NATIONAL TRAILS HIGHWAY; APN: 0466-111-09; 1ST SUPERVISORIAL DISTRICT.		

This document does not signify project approval.

If the project has been approved, then an effective date and an expiration date for these conditions can be found below. This content reflects County records as at the System Date and time below.

The following conditions of approval have been imposed for the project identified below. The applicant/developer shall complete all conditions of approval stipulated in the approval letter.

Conditions of Approval are organized by project phase, then by status, and finally by department imposing the condition.

On-going conditions must be complied with at all times. For assistance interpreting the content of this document, please contact the Land Use Services Department Planning Division.

Contact information is provided at the end of this document for follow-up on individual conditions.

ON-GOING

Land Use Services - Planning

- 1 **Project Approval Description (CUP/MUP)** - Status: Outstanding
 This Conditional Use Permit is conditionally approved to allow an energy generating facility, in compliance with the San Bernardino County Code (SBCC), California Building Codes (CBC), the San Bernardino County Fire Code (SBCFC), the following Conditions of Approval, the approved site plan, and all other required and approved reports and displays (e.g. elevations). The developer shall provide a copy of the approved conditions and the approved site plan to every current and future project tenant, lessee, and property owner to facilitate compliance with these Conditions of Approval and continuous use requirements for the Project.

- 2 **Project Location** - Status: Outstanding
 The Project site is located at 29510 Corral Road in the Helendale Community, northeast of National Trails Highway and Corral Road.

3 **Revisions** - Status: Outstanding

Any proposed change to the approved Project and/or conditions of approval shall require that an additional land use application (e.g. Revision to an Approved Action) be submitted to County Land Use Services for review and approval.

4 **Indemnification** - Status: Outstanding

In compliance with SBCC §81.01.070, the developer shall agree, to defend, indemnify, and hold harmless the County or its "indemnitees" (herein collectively the County's elected officials, appointed officials (including Planning Commissioners), Zoning Administrator, agents, officers, employees, volunteers, advisory agencies or committees, appeal boards or legislative body) from any claim, action, or proceeding against the County or its indemnitees to attack, set aside, void, or annul an approval of the County by an indemnitee concerning a map or permit or any other action relating to or arising out of County approval, including the acts, errors or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim, except where such indemnification is prohibited by law. In the alternative, the developer may agree to relinquish such approval. Any condition of approval imposed in compliance with the County Development Code or County General Plan shall include a requirement that the County acts reasonably to promptly notify the developer of any claim, action, or proceeding and that the County cooperates fully in the defense. The developer shall reimburse the County and its indemnitees for all expenses resulting from such actions, including any court costs and attorney fees, which the County or its indemnitees may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the developer of their obligations under this condition to reimburse the County or its indemnitees for all such expenses. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The developer's indemnification obligation applies to the indemnitees' "passive" negligence but does not apply to the indemnitees' "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code Section 2782.

5 **Additional Permits** - Status: Outstanding

The developer shall ascertain compliance with all laws, ordinances, regulations and any other requirements of Federal, State, County and Local agencies that may apply for the development and operation of the approved land use. These may include but are not limited to: a. FEDERAL: b. STATE: c. COUNTY: d. LOCAL:

6 **Expiration** - Status: Outstanding

This project permit approval shall expire and become void if it is not "exercised" within thirty-six (36) months of the effective date of this approval, unless an extension of time is approved. The permit is deemed "exercised" when either: (a.) The permittee has commenced actual construction or alteration under a validly issued building permit, or (b.) The permittee has substantially commenced the approved land use or activity on the project site, for those portions of the project not requiring a building permit. (SBCC §86.06.060) (c.) Occupancy of approved land use, occupancy of completed structures and operation of the approved and exercised land use remains valid continuously for the life of the project and the approval runs with the land, unless one of the following occurs: - Construction permits for all or part of the project are not issued, or the construction permits expire before the structure is completed and the final inspection is approved. - The land use is determined by the County to be abandoned or non-conforming. - The land use is determined by the County to be not operating in compliance with these conditions of approval, the County Code, or other applicable laws, ordinances or regulations. In these cases, the land use may be subject to a revocation hearing and possible termination. PLEASE NOTE: This will be the ONLY notice given of this approval's expiration date. The developer is responsible to initiate any Extension of Time application.

7 **Continous Effect/Revocation** - Status: Outstanding

All of the conditions of this project approval are continuously in effect throughout the operative life of the project for all approved structures and approved land uses/activities. Failure of the property owner or developer to comply with any or all of the conditions at any time may result in a public hearing and possible revocation of the approved land use, provided adequate notice, time and opportunity is provided to the property owner, developer or other interested party to correct the non-complying situation.

8 **Extension of Time** - Status: Outstanding

Extensions of time to the expiration date (listed above or as otherwise extended) may be granted in increments each not to exceed an additional three years beyond the current expiration date. An application to request consideration of an extension of time may be filed with the appropriate fees no less than thirty days before the expiration date. Extensions of time may be granted based on a review of the application, which includes a justification of the delay in construction and a plan of action for completion. The granting of such an extension request is a discretionary action that may be subject to additional or revised conditions of approval or site plan modifications. (SBCC §86.06.060)

9 **Project Account** - Status: Outstanding

The Project account number is PROJ-2019-00057. This is an actual cost project with a deposit account to which hourly charges are assessed by various county agency staff (e.g. Land Use Services, Public Works, and County Counsel). Upon notice, the "developer" shall deposit additional funds to maintain or return the account to a positive balance. The "developer" is responsible for all expense charged to this account. Processing of the project shall cease, if it is determined that the account has a negative balance and that an additional deposit has not been made in a timely manner. A minimum balance of \$1,000.00 must be in the project account at the time the Condition Compliance Review is initiated. Sufficient funds must remain in the account to cover the charges during each compliance review. All fees required for processing shall be paid in full prior to final inspection, occupancy and operation of the approved use.

10 **Development Impact Fees** - Status: Outstanding

Per Development Code Section 84.29.040 (d), the developer of an approved commercial solar energy generation facility shall pay a Public Safety Services Impact Fee on an annual basis according to the prescribed schedule of 15 acres or greater at a rate of \$157.00 per acre. The total for this initial fee will be \$3,611.00 based on the project site of 23 acres. Additional fees may be required prior to issuance of development permits. Fees shall be paid as specified in adopted fee ordinances

11 **Condition Compliance** - Status: Outstanding

The project site, especially the solar panel structural undersides shall be adequately screened and buffered per § 83.02.060 Screening and Buffering. This Section provides standards for the screening and buffering of adjoining land uses, equipment, and outdoor storage areas, and surface parking areas. The project site shall comply with the following applicable requirements of this Section. (a) Screening Between Different Land Uses. (1) An opaque screen consisting of plant material, a minimum of ten feet in width, and six feet in height, shall be installed along parcel boundaries whenever a commercial, institutional or industrial development adjoins a residential land use zoning district. (2) The maximum height of fences shall comply with the provisions of Chapter 83.06 (Fences, Hedges, and Walls). (b) Mechanical Equipment, Loading Docks, and Refuse Areas. (1) Roof or ground mounted mechanical equipment (e.g., air conditioning, heating, ventilation ducts and exhaust, etc.), loading docks, refuse storage areas, and utility services shall be screened from public view from adjoining public streets and rights-of-way and surrounding area(s) zoned for residential or open space uses. (2) The method of screening shall be architecturally compatible with other on-site development in terms of colors, materials, and architectural style.

12 **Performance Standards** - Status: Outstanding

The approved land uses shall operate in compliance with the general performance standards listed in the County Development Code Chapter 83.01, regarding air quality, electrical disturbance, fire hazards (storage of flammable or other hazardous materials), heat, noise, vibration, and the disposal of liquid waste

13 **Performance Standards** - Status: Outstanding

On-site vehicle speed will be limited to 15 miles per hour.

14 **Continuous Maintenance** - Status: Outstanding

The Project property owner shall continually maintain the property so that it is visually attractive and not dangerous to the health, safety and general welfare of both on-site users (e.g. employees) and surrounding properties. The property owner shall ensure that all facets of the development are regularly inspected, maintained and that any defects are timely repaired. Among the elements to be maintained, include but are not limited to: a) Annual maintenance and repair: The developer shall conduct inspections for any structures, fencing/walls, driveways, and signs to assure proper structural, electrical, and mechanical safety. b) Graffiti and debris: The developer shall remove graffiti and debris immediately through weekly maintenance. c) Landscaping: The developer shall maintain landscaping in a continual healthy thriving manner at proper height for required screening. Drought-resistant, fire retardant vegetation shall be used where practicable. Where landscaped areas are irrigated it shall be done in a manner designed to conserve water, minimizing aerial spraying. d) Dust control: The developer shall maintain dust control measures on any undeveloped areas where landscaping has not been provided. e) Erosion control: The developer shall maintain erosion control measures to reduce water runoff, siltation, and promote slope stability. f) External Storage: The developer shall maintain external storage, loading, recycling and trash storage areas in a neat and orderly manner, and fully screened from public view. Outside storage shall not exceed the height of the screening walls. g) Metal Storage Containers: The developer shall NOT place metal storage containers in loading areas or other areas unless specifically approved by this or subsequent land use approvals. h) Screening: The developer shall maintain screening that is visually attractive. All trash areas, loading areas, mechanical equipment (including roof top) shall be screened from public view. i) Signage: The developer shall maintain all on-site signs, including posted area signs (e.g. "No Trespassing") in a clean readable condition at all times. The developer shall remove all graffiti and repair vandalism on a regular basis. Signs on the site shall be of the size and general location as shown on the approved site plan or subsequently a County-approved sign plan. j) Lighting: The developer shall maintain any lighting so that they operate properly for safety purposes and do not project onto adjoining properties or roadways. Lighting shall adhere to applicable glare and night light rules. k) Parking and on-site circulation: The developer shall maintain all parking and on-site circulation requirements, including surfaces, all markings and traffic/directional signs in an un-faded condition as identified on the approved site plan. Any modification to parking and access layout requires the Planning Division review and approval. The markings and signs shall be clearly defined, un-faded and legible; these include parking spaces, disabled space and access path of travel, directional designations and signs, stop signs, pedestrian crossing, speed humps and "No Parking", "Carpool", and "Fire Lane" designations. l) Fire Lanes: The developer shall clearly define and maintain in good condition at all times all markings required by the Fire Department, including "No Parking" designations and "Fire Lane" designations.

15 **Clear Sight Triangle** - Status: Outstanding

Adequate visibility for vehicular and pedestrian traffic shall be provided at clear sight triangles at all 90 degree angle intersections of public rights-of-way and private driveways. All signs, structures and landscaping located within any clear sight triangle shall comply with the height and location requirements specified by County Development Code (SBCC§ 83.02.030) or as otherwise required by County Traffic

16 **Lighting** - Status: Outstanding

Lighting shall comply with Table 83-7 "Shielding Requirements for Outdoor Lighting in the Mountain Region and Desert Region" of the County's Development Code (i.e. "Dark Sky" requirements). All lighting shall be limited to that necessary for maintenance activities and security purposes. This is to allow minimum obstruction of night sky remote area views. No light shall project onto adjacent roadways in a manner that interferes with on-coming traffic. All signs proposed by this project shall only be lit by steady, stationary, shielded light directed at the sign, by light inside the sign, by direct stationary neon lighting or in the case of an approved electronic message center sign, an alternating message no more than once every five seconds.

17 **Underground Utilities** - Status: Outstanding

No new above-ground power or communication lines shall be extended to the site. All required utilities shall be placed underground in a manner that complies with the California Public Utilities Commission General Order 128, and avoids disturbing any existing/natural vegetation or the site appearance.

- 18 **Construction Hours** - Status: Outstanding
Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday in accordance with the County of San Bernardino Development Code standards. No construction activities are permitted outside of these hours or on Sundays and Federal holidays.
- 19 **Construction Noise** - Status: Outstanding
The following measures shall be adhered to during the construction phase of the project: - All construction equipment shall be muffled in accordance with manufacturer's specifications. - All construction staging shall be performed as far as possible from occupied dwellings. The location of staging areas shall be subject to review and approval by the County prior to the issuance of grading and/or building permits. - All stationary construction equipment shall be placed in a manner so that emitted noise is directed away from sensitive receptors (e.g. residences and schools) nearest the project site.
- 20 **Cultural Resources** - Status: Outstanding
During grading or excavation operations, should any potential paleontological or archaeological artifacts be unearthed or otherwise discovered, the San Bernardino County Museum shall be notified and the uncovered items shall be preserved and curated, as required. For information, contact the County Museum, Community and Cultural Section, telephone (909) 798-8570.
- 21 **Occupancy Condition** - Status: Outstanding
The Applicant/Developer shall maintain in good standing a Generator Interconnection Agreement between Applicant/ Developer and Southern California Edison requiring interconnection of the Project to a local distribution circuit that primarily serves local off-site use.

Public Health– Environmental Health Services

- 22 **Noise Levels** - Status: Outstanding
Noise level shall be maintained at or below County Standards, Development Code Section 83.01.080.
- 23 **OWTS Maintenance** - Status: Outstanding
The onsite wastewater treatment system shall be maintained so as not to create a public nuisance and shall be serviced by an EHS permitted pumper.
- 24 **Refuse Storage and Disposal** - Status: Outstanding
All refuse generated at the premises shall at all times be stored in approved containers and shall be placed in a manner so that environmental public health nuisances are minimized. All refuse not containing garbage shall be removed from the premises at least 1 time per week, or as often as necessary to minimize public health nuisances. Refuse containing garbage shall be removed from the premises at least 2 times per week, or as often if necessary to minimize public health nuisances, by a permitted hauler to an approved solid waste facility in conformance with San Bernardino County Code Chapter 8, Section 33.0830 et. seq.

INFORMATIONAL

County Fire - Community Safety

- 25 **F01 Jurisdiction** - Status: Outstanding
The above referenced project is under the jurisdiction of the San Bernardino County Fire Department herein "Fire Department". Prior to any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances, and standards of the Fire Department.

26 **F04 Fire Permit Expiration** - Status: Outstanding

Construction permits shall automatically expire and become invalid unless the work authorized such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Suspension or abandonment shall mean that no inspection by the Department has occurred with 180 days of any previous inspection. After a construction permit becomes invalid and before such previously approved work recommences, a new permit shall be first obtained and the fee to recommence work shall be one-half the fee for the new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. A request to extend the permit may be made in writing PRIOR TO the expiration date justifying the reason that the permit should be extended.

27 **F60 Solar Plans** - Status: Outstanding

Solar/PV Plans shall be submitted to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal.

28 **F61 Solar Surface** - Status: Outstanding

Fire apparatus access roads for photovoltaic facilities without buildings can be designed with native soil compacted to 85% and hold the weight of Fire Apparatus at a minimum of 80K pounds.

29 **F62 Solar Access** - Status: Outstanding

The development shall have a minimum of two points of vehicular access. These are for fire/emergency equipment access and for evacuation routes. Photovoltaic solar facilities without buildings on the site shall have access provided by approved roads, alleys and private drives. Perimeter access roads shall have a minimum twenty (20) foot unobstructed width and vertically clearance of fourteen (14) feet six (6) inches. Interior access roads shall have a minimum fifteen (15) foot unobstructed width and vertical clearance of fourteen (14) feet six (6) inches. Access shall be provided within 300 feet of all solar panels.

30 **F70 Additional Requirements** - Status: Outstanding

In addition to the Fire requirements stated herein, other onsite and off-site improvements may be required which cannot be determined at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.

31 **F71 Proposal Changes** - Status: Outstanding

Any changes to this proposal shall require new Fire Department condition letter.

PRIOR TO LAND DISTURBANCE

Land Use Services - Planning

32 **Air Quality** - Status: Outstanding

Although the Project does not exceed the Mojave Desert Air Quality Management District thresholds, the Project proponent is required to comply with all applicable rules and regulations as the Mojave Desert Air Quality Management District is in non-attainment status for ozone and suspended particulates [PM10 and PM2.5 (State)]. To limit dust production, the Project proponent must comply with Rules 402 nuisance and 403 fugitive dust, which require the implementation of Best Available Control Measures for each fugitive dust source. This would include, but not be limited to, the following Best Available Control Measures. Compliance with Rules 402 and 403 are mandatory requirements and thus not considered mitigation measures: a. The Project proponent shall ensure that any portion of the site to be graded shall be pre-watered prior to the onset of grading activities. 1. The Project proponent shall ensure that watering of the site or other soil stabilization method shall be employed on an on-going basis after the initiation of any grading. Portions of the site that are actively being graded shall be watered to ensure that a crust is formed on the ground surface, and shall be watered at the end of each workday. 2. The Project proponent shall ensure that all disturbed areas are treated to prevent erosion. 3. The Project proponent shall ensure that all grading activities are suspended when winds exceed 25 miles per hour. b. Exhaust emissions from vehicles and equipment and fugitive dust generated by equipment traveling over exposed surfaces, will increase NOX and PM10 levels in the area. Although the Project will not exceed Mojave Desert Air Quality Management District thresholds during operations, the Project proponent will be required to implement the following requirements: 1. All equipment used for grading and construction must be tuned and maintained to the manufacturer's specification to maximize efficient burning of vehicle fuel. 2. The operator shall maintain and effectively utilize and schedule on-site equipment and on-site and off-site haul trucks in order to minimize exhaust emissions from truck idling.

33 **Diesel Regulations** - Status: Outstanding

The operator shall comply with all existing and future California Air Resources Board and Mojave Desert Air Quality Management District regulations related to diesel-fueled trucks, which among others may include: (1) meeting more stringent emission standards; (2) retrofitting existing engines with particulate traps; (3) use of low sulfur fuel; and (4) use of alternative fuels or equipment. Mojave Desert Air Quality Management District rules for diesel emissions from equipment and trucks are embedded in the compliance for all diesel fueled engines, trucks, and equipment with the statewide California Air Resources Board Diesel Reduction Plan. These measures will be implemented by the California Air Resources Board in phases with new rules imposed on existing and new diesel-fueled engines.

34 **GHG - Construction Standards** - Status: Outstanding

The developer shall submit for review and obtain approval from County Planning of a signed letter agreeing to include as a condition of all construction contracts/subcontracts requirements to reduce GHG emissions and submitting documentation of compliance. The developer/construction contractors shall do the following: a) Implement the approved Coating Restriction Plans. b) Select construction equipment based on low GHG emissions factors and high-energy efficiency. All diesel/gasoline-powered construction equipment shall be replaced, where possible, with equivalent electric or CNG equipment. c) Grading contractor shall provide and implement the following when possible: - training operators to use equipment more efficiently. - identifying the proper size equipment for a task can also provide fuel savings and associated reductions in GHG emissions. - replacing older, less fuel-efficient equipment with newer models. - use GPS for grading to maximize efficiency. d) Grading plans shall include the following statements: - "All construction equipment engines shall be properly tuned and maintained in accordance with the manufacturers specifications prior to arriving on site and throughout construction duration." - "All construction equipment (including electric generators) shall be shut off by work crews when not in use and shall not idle for more than 5 minutes." e) Schedule construction traffic ingress/egress to not interfere with peak-hour traffic and to minimize traffic obstructions. Queuing of trucks on and off site shall be firmly discouraged and not scheduled. A flagperson shall be retained to maintain efficient traffic flow and safety adjacent to existing roadways. f) Recycle and reuse construction and demolition waste (e.g. soil, vegetation, concrete, lumber, metal, and cardboard) per County Solid Waste procedures. g) The construction contractor shall support and encourage ridesharing and transit incentives for the construction crew and educate all construction workers about the required waste reduction and the availability of recycling services.

35 **Mitigation Measures** - Status: Outstanding

Please see Mitigation Monitoring and Reporting Program for mitigation measures to be completed prior to grading permit issuance.

Land Use Services - Building and Safety

36 **Geotechnical Report** - Status: Outstanding

A geotechnical (soil) report shall be submitted to the Building and Safety Division for review and approval prior to issuance of grading permits or land disturbance.

Public Health– Environmental Health Services

37 **Vector Control Requirement** - Status: Outstanding

The project area has a high probability of containing vectors. A vector survey shall be conducted to determine the need for any required control programs. A vector clearance application shall be submitted to the appropriate Mosquito & Vector Control Program. For information, contact EHS Mosquito & Vector Control Program at (800) 442-2283 or West Valley Mosquito & Vector at (909) 635-0307.

Public Works - Surveyor

38 **Monument Disturbed by Grading** - Status: Outstanding

If any activity on this project will disturb ANY land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying PRIOR to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor pursuant to Section 8771(b) Business and Professions Code.

PRIOR TO BUILDING PERMIT ISSUANCE

Land Use Services - Planning

39 **Lighting Plans** - Status: Outstanding

The developer shall submit for review and approval to County Planning a photometric study demonstrating that the project light does not spill onto the adjacent properties, or public streets. Lighting fixtures shall be oriented and focused to the onsite location intended for illumination (e.g. walkways). Lighting shall be shielded away from adjacent sensitive uses, including the adjacent residential development, to minimize light spillover. The glare from any luminous source, including on-site lighting, shall not exceed 0.5 foot-candle at the property line. This shall be done to the satisfaction of County Planning, in coordination with County Building and Safety.

40 **Mitigation Measures** - Status: Outstanding

Please see Mitigation Monitoring and Reporting Program for mitigation measures to be completed prior to building permit issuance

41 **Signs** - Status: Outstanding

All proposed on-site signs shall be shown on a separate plan, including location, scaled and dimensioned elevations of all signs with lettering type, size, and copy. Scaled and dimensioned elevations of buildings that propose signage shall also be shown. The applicant shall submit sign plans to County Planning for all existing and proposed signs on this site. The applicant shall submit for approval any additions or modifications to the previously approved signs. All signs shall comply with SBCC Chapter 83.13, Sign Regulations, SBCC §83.07.040, Glare and Outdoor Lighting Mountain and Desert Regions, and SBCC Chapter 82.19, Open Space Overlay as it relates to Scenic Highways (§82.19.040), in addition to the following minimum standards: a. All signs shall be lit only by steady, stationary shielded light; exposed neon is acceptable. b. All sign lighting shall not exceed 0.5 foot-candle. c. No sign or stationary light source shall interfere with a driver's or pedestrian's view of public right-of-way or in any other manner impair public safety. d. Monument signs shall not exceed four feet above ground elevation and shall be limited to one sign per street frontage.

County Fire - Community Safety

42 **F02 Fire Fee** - Status: Outstanding

The required fire fees shall be paid to the San Bernardino County Fire Department/Community Safety Division.

Land Use Services - Building and Safety

43 **Construction Plans** - Status: Outstanding

Any building, sign, or structure to be added to, altered (including change of occupancy/use), constructed, or located on site, will require professionally prepared plans based on the most current adopted County and California Building Codes, submitted for review and approval by the Building and Safety Division.

44 **Temporary Use Permit** - Status: Outstanding

A Temporary Structures (TS) permit for non-residential structures for use as office, retail, meeting, assembly, wholesale, manufacturing, and/ or storage space will be required. A Temporary Use Permit (PTUP) for the proposed structure by the Planning Division must be approved prior to the TS Permit approval. A TS permit is renewed annually and is only valid for a maximum of five (5) years.

Public Health– Environmental Health Services

- 45 **California Regional Water Quality Control Board Clearance** - Status: Outstanding
Written clearance shall be obtained from the designated California Regional Water Quality Control Board (listed below) and a copy forwarded to the Division of Environmental Health Services for projects with design flows greater than 10,000 gallons per day. Santa Ana Region, 3737 Main St., Suite 500, Riverside, CA 92501-3339, 951-782-4130. Colorado River Basin Region, 73-720 Fred Waring Dr., Suite 100, Palm Desert, CA 92260, 760-346-7491. Lahontan Region, 15095 Amargosa Road Bldg 2 Suite 210 Victorville, CA 92392.
- 46 **Demolition Inspection Required** - Status: Outstanding
All demolition of structures shall have a vector inspection prior to the issuance of any permits pertaining to demolition or destruction of any premises. For information, contact EHS Mosquito & Vector Control Program at (800) 442-2283 or West Valley Mosquito & Vector at (909) 635-0307.
- 47 **Existing OWTS** - Status: Outstanding
Existing onsite wastewater treatment system can be used if applicant provides an EHS approved certification that indicates the system functions properly, meets code, has the capacity required for the proposed project, and meets LAMP requirements.
- 48 **Existing Wells** - Status: Outstanding
If wells are found on-site, evidence shall be provided that all wells are: (1) properly destroyed, by an approved C57 contractor and under permit from the County OR (2) constructed to EHS standards, properly sealed and certified as inactive OR (3) constructed to EHS standards and meet the quality standards for the proposed use of the water (industrial and/or domestic). Evidence, such as a well certification, shall be submitted to EHS for approval.
- 49 **New OWTS** - Status: Outstanding
If sewer connection and/or service are unavailable, onsite wastewater treatment system(s) may then be allowed under the following conditions: a. A soil percolation report shall be submitted to EHS for review and approval. For information, please contact the Wastewater Section at (800) 442-2283. b. An Alternative Treatment System, if applicable, shall be required.
- 50 **Preliminary Acoustical Information** - Status: Outstanding
Submit preliminary acoustical information demonstrating that the proposed project maintains noise levels at or below San Bernardino County Noise Standard(s), San Bernardino Development Code Section 83.01.080. The purpose is to evaluate potential future on-site and/or adjacent off-site noise sources. If the preliminary information cannot demonstrate compliance to noise standards, a project specific acoustical analysis shall be required. Submit information/analysis to the EHS for review and approval. For information and acoustical checklist, contact EHS at (800) 442-2283.
- 51 **Sewage Disposal** - Status: Outstanding
Method of sewage disposal shall be sewer service provided by Helendale CSD or an EHS approved onsite wastewater treatment system (OWTS) that conforms to the Local Agency Management Program (LAMP).
- 52 **Sewer Service Verification Letter** - Status: Outstanding
Applicant shall procure a verification letter from the sewer service provider identified. This letter shall state whether or not sewer connection and service shall be made available to the project by the sewer provider. The letter shall reference the Assessor's Parcel Number(s).

53 **Water and Sewer - LAFCO** - Status: Outstanding

Water and/or Sewer Service Provider Verification. Please provide verification that the parcel(s) associated with the project is/are within the jurisdiction of the water and/or sewer service provider. If the parcel(s) associated with the project is/are not within the boundaries of the water and/or sewer service provider, submit to EHS verification of Local Agency Formation Commission (LAFCO) approval of either: 1. Annexation of parcels into the jurisdiction of the water and/or sewer service provider; or, 2. Out-of-agency service agreement for service outside a water and/or sewer service provider's boundaries. Such agreement/contract is required to be reviewed and authorized by LAFCO pursuant to the provisions of Government Code Section 56133.

54 **Water Purveyor** - Status: Outstanding

Water purveyor shall be Helendale CSD or EHS approved.

55 **Water Service Verification Letter** - Status: Outstanding

Applicant shall procure a verification letter from the water service provider. This letter shall state whether or not water connection and service shall be made available to the project by the water provider. This letter shall reference the File Index Number and Assessor's Parcel Number(s). For projects with current active water connections, a copy of water bill with project address may suffice.

56 **Water System Permit** - Status: Outstanding

A water system permit will be required and concurrently approved by the State Water Resources Control Board – Division of Drinking Water. Applicant shall submit preliminary technical report in accordance with California Health and Safety Code §116527(c) to EHS and the State Water Resources Control Board. Application must be approved prior to initiating construction of any water-related development. Source of water shall meet water quality and quantity standards. Test results, which show source meets water quality and quantity standards shall be submitted to the Division of Environmental Health Services (EHS). For information, contact the Water Section at (800) 442-2283 and SWRCB-DDW at (916) 449-5577.

PRIOR TO OCCUPANCY

Land Use Services - Planning

57 **Fees Paid** - Status: Outstanding

Prior to final inspection by Building and Safety Division and/or issuance of a Certificate of Conditional Use by the Planning Division, the applicant shall pay in full all fees required under actual cost job number PROJ-2019-00057.

58 **Installation of Improvements** - Status: Outstanding

All required on-site improvements shall be installed per approved plans.

59 **Landscaping/Irrigation** - Status: Outstanding

All landscaping, dust control measures, all fences, etc. as delineated on the approved Landscape Plan shall be installed. The developer shall submit the Landscape Certificate of Completion verification as required in SBCC Section 83.10.100. Supplemental verification should include photographs of the site and installed landscaping.

60 **Mitigation Measures** - Status: Outstanding

Please see Mitigation Monitoring and Reporting Program for mitigation measures to be completed prior to occupancy permit issuance

61 **Shield Lights** - Status: Outstanding

Any lights used to illuminate the site shall include appropriate fixture lamp types as listed in SBCC Table 83-7 and be hooded and designed so as to reflect away from adjoining properties and public thoroughfares and in compliance with SBCC Chapter 83.07, "Glare and Outdoor Lighting" (i.e. "Dark Sky Ordinance).

62 **Condition Compliance** - Status: Outstanding

Prior to occupancy/use, all conditions shall be completed to the satisfaction of County Planning with appropriate authorizing approvals from each reviewing agency.

County Fire - Community Safety

63 **F06 Inspection by Fire Department** - Status: Outstanding

Permission to occupy or use the building (Certification of Occupancy or Shell Release) will not be granted until the Fire Department inspects, approves and signs off on the Building and Safety job card for "fire final".

Land Use Services - Building and Safety

64 **Condition Compliance Release Form Sign-off** - Status: Outstanding

Prior to occupancy all Department/Division requirements and sign-offs shall be completed.

PRIOR TO RECORDATION

Land Use Services - Planning

65 **Mitigation Measures** - Status: Outstanding

Please see Mitigation Monitoring and Reporting Program for mitigation measures to be completed prior to recordation.

66 **Subdivision - CDP/Planning Division** - Status: Outstanding

The following shall be delineated or noted on the CDP (Statements in quotations shall be verbatim): A Lot Line Adjustment shall be filed by the applicant in accordance with the approved site plan for the Conditional Use Permit that depicts the energy generating facility on a 23-acre portion of the 58.51-acre project site and adjusting the remainder lot to an estimated 35.51 acres to the satisfaction of the San Bernardino County Surveyor.

67 **Subdivision - Composite Development Plan (CDP)** - Status: Outstanding

A Composite development plan ("CDP"), complying with the County Development Code, shall be submitted for review and approval by the County Surveyor for the Lot Line Adjustment and filed with Land Use Services prior to recordation of the amended Parcel Map.

68 **Subdivision - Funds** - Status: Outstanding

Sufficient funds shall remain in PROJ-2019-00057 to verify compliance with the conditions of approval for the Parcel Map.

Public Health– Environmental Health Services

69 **Individual Wells** - Status: Outstanding

If an approved water company cannot serve the project, individual wells are authorized for each daughter parcel providing that County Development Code infrastructure requirements can be met. Conceptual plans, showing that wells and septic system locations meet setback requirements, may be required (§ 83.09.060). If wells are approved, the following notes shall be placed on the Composite Development Plan (CDP), "An individual well shall be utilized as the domestic water source for each lot. The well shall be installed and approved by EHS prior to the issuance of building permits for each lot."



Land Use Services - Planning

70 **Grading/Land Disturbance Condition** - Status: Outstanding

A Dust Control Plan shall be submitted and accepted by the County and Mojave Desert AQMD prior issuance of any construction related permits. The Plan shall include methods to stabilize and/or bind the soil as part of construction and operational activities, along with screening to reduce potential dust to the east and south consistent with Development Code Findings 84.29.035(22).

71 **Grading/Land Disturbance Condition** - Status: Outstanding

Prior to ground disturbance activities, the Applicant must prepare a Valley Fever Management Plan (VFMP), including a Valley Fever training program, to be implemented during construction to address potential risks from CI by minimizing the potential for unsafe dust exposure during construction. The VFMP will identify best management practices, including: - Development of an educational Valley Fever Training Handout for distribution to onsite workers, which should include general information about the causes, symptoms, and treatment instructions regarding Valley Fever, including contact information of local health departments and clinics knowledgeable about Valley Fever. - Conducting Valley Fever training sessions to educate all Project construction workers regarding appropriate dust management and safety procedures, symptoms of Valley Fever, testing and treatment options. This training must be completed by all workers and visitors (expected to be on site for more than 2 days) prior to participating in or working in proximity to any ground-disturbing activities. Signed documentation of successful completion of the training is to be kept on-site for the duration of construction. - Develop a job-specific Job Hazard Analysis (JHA), in accordance with Cal/OSHA regulations, to analyze the risk of worker exposure to dust and maintain and manage safety supplies identified by the JHA. - Provide and/or require, if determined to be needed based on the applicable JHA, OSHA-approved half-face respirators equipped with a minimum N-95 protection factor for use during collocation with surface disturbance activities, following completion of medical evaluations, fit-testing, and proper training on use of respirators.

72 **Informational Condition** - Status: Outstanding

Per Development Code Section, 84.29.070 Decommissioning Requirements. (a) Closure Plan. Following the operational life of the project, the project owner shall perform site closure activities to meet federal, state, and local requirements for the rehabilitation and revegetation of the project site after decommissioning. The project owner shall prepare a Closure, Revegetation, and Rehabilitation Plan and submit it to the Planning Division for review and approval prior to building permit issuance. Under this plan, all aboveground structures and facilities shall be removed to a depth of three feet below grade and removed offsite for recycling or disposal. Concrete, piping, and other materials existing below three feet in depth may be left in place. Areas that had been graded shall be restored to original contours unless it can be shown that there is a community benefit for the grading to remain as altered. Succulent plant species native to the area shall be salvaged prior to construction, transplanted into windrows, and maintained for later transplanting following decommissioning. Shrubs and other plant species shall be revegetated by the collection of seeds and re-seeding following decommissioning

73 **Issuance/Building Permit Condition** - Status: Outstanding

Fencing. Install a 6 to 8-foot fence with slats for buffering along the property perimeter boundary for screening of the foundation structures that support the solar panels. Additionally, per Development Code Section 84.29.050 Special Fence Standards, "chain-link fencing up to eight feet in height may be installed no closer than 15 feet from the right-of-way on streetside boundaries. Security devices such as razor-wire height extensions may only be directed inward to the property, and may not extend beyond the property boundary to overhang the right-of-way."

74 **Occupancy Condition** - Status: Outstanding

Applicant/Developer shall enter into a Generator Interconnection Agreement between Applicant/Developer and Southern California Edison requiring interconnection of the Project to a local distribution circuit that primarily serves local off-site use. This is to ensure the Project's conformance to the County's Renewable Energy Conservation Element and policy regarding Community Oriented Renewable Energy (CORE) projects. The Applicant/Developer shall submit an executed copy of the Generator Interconnecting Agreement to the Planning Division.

PRIOR TO FINAL INSPECTION

County Fire - Community Safety

75 **F11 Combustible Vegetation** - Status: Outstanding

Combustible vegetation shall be removed as follows: a. Where the average slope of the site is less than 15% - Combustible vegetation shall be removed a minimum distance of thirty (30) feet from all structures or to the property line, whichever is less. b. Where the average slope of the site is 15% or greater - Combustible vegetation shall be removed a minimum one hundred (100) feet from all structures or to the property line, whichever is less. County Ordinance #3586

If you would like additional information regarding any of the conditions in this document, please contact the department responsible for applying the condition and be prepared to provide the Record number above for reference. Department contact information has been provided below.

Department/Agency	Office/Division	Phone Number
Land Use Services Dept.	San Bernardino Govt. Center	(909) 387-8311
(All Divisions)	High Desert Govt. Center	(760) 995-8140
Web Site	https://lus.sbcounty.gov/	
County Fire	San Bernardino Govt. Center	(909) 387-8400
(Community Safety)	High Desert Govt. Center	(760) 995-8190
Web Site	https://www.sbcfire.org/	
County Fire	Hazardous Materials	(909) 386-8401
	Flood Control	(909) 387-7995
Dept. of Public Works	Solid Waste Management	(909) 386-8701
	Surveyor	(909) 387-8149
	Traffic	(909) 387-8186
Web Site	https://dpw.sbcounty.gov/	
Dept. of Public Health	Environmental Health Services	(800) 442-2283
Web Site	https://dph.sbcounty.gov/programs/ehs/	
Local Agency Formation Commission (LAFCO)		(909) 388-0480
Web Site	http://www.sbclafco.org/	
	Water and Sanitation	(760) 955-9885
	Administration,	

APN: 0466111090000

Effective Date:

PROJ-2019-00057

Expiration Date:

	Park and Recreation,	
Special Districts	Roads, Streetlights,	(909) 386-8800
	Television Districts, and Other	
<i>External Agencies (Caltrans, U.S. Army, etc.)</i>		<i>See condition text for contact information...</i>

Mitigation Monitoring and Reporting Program
Initial Study/Mitigated Negative Declaration
Corral Solar Project

Prepared by:



County of San Bernardino, Land Use Services Department

385 N. Arrowhead Avenue, 1st Floor

San Bernardino, California 92415-0182

Contact: Luis Rodriguez Jr., Contract Planner III

NOVEMBER 2024

Table of Contents

<u>SECTION</u>	<u>PAGE NO.</u>
1 INTRODUCTION.....	1
2 MITIGATION MONITORING AND REPORTING PROGRAM TABLE.....	1

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1 Introduction

The California Environmental Quality Act (CEQA) requires that a public agency adopting a Mitigated Negative Declaration (MND) take affirmative steps to determine that approved mitigation measures are implemented after project approval. The lead or responsible agency must adopt a reporting and monitoring program for the mitigation measures incorporated into a project or included as conditions of approval. The program must be designed to ensure compliance with the MND during project implementation (California Public Resources Code, Section 21081.6(a)(1)).

This Mitigation Monitoring and Reporting Program (MMRP) will be used by the County of San Bernardino (County) to ensure compliance with adopted mitigation measures identified in the MND for the proposed Corral Solar Project when construction begins. The County, as the lead agency, will be responsible for ensuring that all mitigation measures are carried out. Implementation of the mitigation measures would reduce impacts to below a level of significance for aesthetics, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, transportation, tribal cultural resources, utilities and service systems and wildfire.

The remainder of this MMRP consists of a table that identifies the mitigation measures by resource for each project component. Table 1 identifies the mitigation monitoring and reporting requirements, list of mitigation measures, party responsible for implementing mitigation measures, timing for implementation of mitigation measures, agency responsible for monitoring of implementation, and date of completion. With the MND and related documents, this MMRP will be kept on file at the following location:

County of San Bernardino
385 N. Arrowhead Avenue, First Floor
San Bernardino, California 92415

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2 Mitigation Monitoring and Reporting Program Table

Table 1 Mitigation Monitoring and Reporting Program

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<i>Biological Resources</i>				
<p>BIO-1: <u>Change in Project Scope:</u> If the project scope should change for any reason, Elevated Entitlements and the County of San Bernardino shall be notified to determine whether current environmental documentation is adequate.</p>	<p>On going This measure shall be implemented throughout the lifespan of the project.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	
<p>BIO-2: <u>Pre-Construction Meeting:</u> The Project biologist shall conduct a pre-construction meeting to provide environmental awareness training to all personnel that will be on the Project site during construction. The meeting will be held within one-week prior to that start of construction. The environmental awareness training will educate personnel on all special-status species and other biological resources (i.e. aquatic resources) that could occur within the Project area and related avoidance and minimization measures.</p>	<p>Prior to Land Disturbance This measure shall be implemented prior to or during initiation of construction depending on the specifications of the measure. Any mitigation measures that are identified shall be implemented in the time frame specified by the qualified biologist.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	
<p>BIO-3: <u>Water Run-off:</u> Use of water onsite shall be controlled as to not allow pooling of water or creation of streams.</p>	<p>During Construction Activities This measure shall be implemented during initiation of construction depending on the specifications of the measure if necessary.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>BIO-4: Biological Monitoring: Biological monitor(s) shall be present during vegetation clearing, earthwork and ground disturbing activities. Should special-status biological resources be found during these activities, the biological monitor shall have the authority to stop work as needed to avoid direct impacts to these resources and confer with CDFW and USFWS, as needed, to identify any additional protection measures needed.</p>	<p>During Construction Activities This measure shall be implemented during initiation of construction depending on the specifications of the measure.</p>	<p>Project applicant and their construction contractor</p>	<p>Biologist</p>	
<p>BIO-5: Equipment Check: Equipment operators shall check under motorized equipment & vehicles that have been parked overnight or stationery before moving the vehicle to determine the presence or absence of potential species.</p> <p>Environmental awareness training shall be provided for all construction personnel to educate them on desert tortoise, protective status, and avoidance measures to be implemented by all personnel, including looking under vehicles and equipment prior to moving. If tortoises are encountered, such vehicles shall not be moved until the tortoises have voluntarily moved away from them or a qualified biologist has moved the tortoises out of harm's way.</p>	<p>During Construction Activities This measure shall be implemented during initiation of construction depending on the specifications of the measure.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	
<p>BIO-6: Desert Tortoise: Should a tortoise be found within the Project area prior to or during construction activities, the Applicant will consult with United States Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) to obtain authorization for take pursuant to the Federal Endangered Species Act (FESA) and California Endangered Species Act (CESA), respectively, if needed. Project activities with potential to harm desert tortoise will not resume until authorization has been received from USFWS and CDFW.</p>	<p>During Construction Activities This measure shall be implemented during initiation of construction depending on the specifications of the measure.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>BIO-7: Desert Tortoise Clearance Survey: Not more than 15 days prior to ground-disturbing activities, qualified personnel (USFWS Qualified or Authorized Desert Tortoise Biologist) shall perform a preconstruction clearance survey for desert tortoise. If the species is present on-site, individual(s) shall be allowed to leave the site on their own. No person(s) shall be allowed to touch a desert tortoise without authorization from the US Fish and Wildlife Service (USFWS) and CDFW. Project activities that could harm desert tortoise will not commence without approval from CDFW and USFWS.</p> <p>In addition, the project proponent will install permanent exclusionary fencing immediately after the pre-construction clearance survey. Exclusionary fencing will follow the specifications found in Chapter 8 Desert Tortoise Exclusion Fence of the Desert Tortoise (Mojave Population) Field Manual (USFWS) and will be installed around the perimeter of the Project impact area only.</p>	<p>Prior to Land Disturbance This measure shall be implemented prior to or during initiation of construction depending on the specifications of the measure.</p> <p>Any mitigation measures that are identified shall be implemented in the time frame specified by the qualified biologist.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	
<p>BIO-8: Exclusionary Fencing: Exclusionary fences shall be inspected at least weekly during construction and at least semi-annually during operations by the project biological monitor or onsite manager. Any needed repairs to the exclusionary fence shall be repaired immediately.</p>	<p>During Construction Activities This measure shall be implemented during initiation of construction depending on the specifications of the measure.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	
<p>BIO-9: Mohave Ground Squirrel: Should Mohave ground squirrel (MGS; Xerospermophilus mohavensis) be found on-site during the pre-construction clearance survey conducted as part of Measure BIO-4, or at any time during construction, all work and any activities that could harm the MGS shall stop and Applicant will consult with the California Department of Fish and Wildlife (CDFW) to obtain authorization for take pursuant to California Endangered Species Act (CESA). Project activities with potential to harm MGS will not resume until authorization has been received from CDFW. If required</p>	<p>Prior to Land Disturbance This measure shall be implemented prior to or during initiation of construction depending on the specifications of the measure.</p> <p>Any mitigation measures that are identified shall</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>as part of this authorization, the Project will obtain an Incidental Take Permit (ITP) for Mohave ground squirrel. The ITP shall specify avoidance, minimization, and mitigation conditions for temporary and/or permanent impacts to Mohave ground squirrel including mitigation through habitat acquisition at a CDFW-approved location. Mitigation will be provided at a minimum 1:1 ratio.</p>	<p>be implemented in the time frame specified by the qualified biologist.</p>			
<p>BIO-10: Nesting Bird: To avoid nesting birds, no less than 3 days prior to commencement of scheduled ground disturbance during the nesting bird breeding season (February 1 through August 31), qualified personnel shall perform a nest survey within the disturbance footprint and a 500 feet buffer, as accessible. If active nests are found, project disturbance activities shall be postponed or halted within a non-disturbance buffer surrounding each active nest. The non-disturbance buffer will be a minimum 150 ft. for native songbirds 500 ft. for raptors, or as determined suitable particular bird species and nest location(s) by the biological monitor. The buffer will remain in place until the nest(s) is vacated and juveniles have fledged, as determined by the biologist. Any such buffer(s) shall be clearly demarcated in the field with highly visible construction fencing or flagging, and construction personnel shall be instructed on the sensitivity of nest areas. A biologist shall monitor construction activities near all such buffer(s) to ensure no inadvertent impacts on active nest(s). If listed species are involved, the CDFW and/or USFWS shall be notified immediately for consultation on how to proceed.</p>	<p>Prior to Land Disturbance This measure shall be implemented prior to or during initiation of construction depending on the specifications of the measure.</p> <p>Any mitigation measures that are identified shall be implemented in the time frame specified by the qualified biologist.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	
<p>BIO-11: Stormwater and Erosion Control: This project shall employ all appropriate Stormwater and Erosion Control Best Management Practices (BMPs) during construction, and these must be incorporated into the project specifications. Prior to the start of construction, all drain inlets must be protected with BMPs</p>	<p>During Construction Activities This measure shall be implemented during initiation of construction depending on the</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
to prevent construction materials and debris from entering drainages.	specifications of the measure.			
<p>BIO-12: High-Visibility Fencing (Type ESA): High-visibility fencing (Type ESA) shall be placed around environmentally sensitive areas, consisting of (1) all non-impacted aquatic resources within 50 feet of the Project limits, (2) any special-status plants identified during the survey conducted for BIO-16 that will be avoided, and (3) any nests that are to be avoided under the supervision of the certified biologist.</p>	<p>Prior to Land Disturbance This measure shall be implemented prior to or during initiation of construction depending on the specifications of the measure.</p> <p>Any mitigation measures that are identified shall be implemented in the time frame specified by the qualified biologist.</p>	Project applicant and their construction contractor	County of San Bernardino	
<p>BIO-13: Staging: Construction Staging Areas and Access Roads: Temporary construction staging areas and access roads shall be used to avoid and/or minimize impacts to vegetation outside the construction areas.</p>	<p>Prior to Land Disturbance This measure shall be implemented prior to or during initiation of construction depending on the specifications of the measure.</p> <p>Any mitigation measures that are identified shall be implemented in the time frame specified by the qualified biologist.</p>	Project applicant and their construction contractor	County of San Bernardino	
<p>BIO-14: Control of Invasive Plant Species: The construction contractor shall inspect and clean construction equipment at the beginning of each day prior to transporting equipment to the construction site. During construction, soil and vegetation disturbance will be minimized to the greatest extent feasible. During</p>	<p>During Construction Activities This measure shall be implemented during initiation of construction depending on the</p>	Project applicant and their construction contractor	County of San Bernardino	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>construction, the contractor shall ensure that all active portions of the construction site are watered a minimum of twice daily or more often when needed due to dry or windy conditions to prevent excessive amounts of dust. During construction, the contractor shall ensure that all material stockpiled is sufficiently watered or covered to prevent excessive amounts of dust. During construction, soil/gravel/rock will be obtained from weed-free sources. Only certified weed-free straw, mulch, and/or fiber rolls will be used for erosion control. The use of herbicides shall be prohibited within and adjacent to native vegetation, except as specifically authorized and monitored by the County Biologist and Landscape Architect.</p>	<p>specifications of the measure.</p>			
<p>BIO-15: <u>Pollution and Litter:</u> All pollution and litter laws and regulations shall be followed by all personnel on site.</p>	<p>During Construction Activities This measure shall be implemented during initiation of construction depending on the specifications of the measure.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	
<p>BIO-16: <u>Botanical Survey:</u> Prior to Project implementation, and during the appropriate season (March-May), a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife's (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes</p>	<p>Prior to the issuance of Land Disturbance or Grading Permit This measure shall be implemented prior to or during initiation of construction depending on the specifications of the measure. Any mitigation measures that are identified shall be implemented in the time frame specified by the qualified biologist.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>related to plants and plant collecting. If any special-status plants are identified, the Project Applicant shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging).</p> <p>If complete avoidance of a California Rare Plant Rank (CRPR) 1A, 1B, 2A, or 2B species is not feasible, the Project Applicant shall mitigate the loss of the plant(s) through off-site compensation including:</p> <ol style="list-style-type: none"> 1) permanent protection of an existing off-site native population; 2) permanent protection of an off-site introduced population; 3) a combination of 1) and 2); or 4) mitigation banking. <p>Compensation will be provided at a minimum 1:1 ratio.</p>				
Air Quality				
<p>AQ-1: Dust Control Plan: A Dust Control Plan shall be submitted and accepted by the County and Mojave Desert AQMD prior issuance of any construction related permits. The Plan shall include methods to stabilize and/or bind the soil as part of construction and operational activities, along with screening to reduce potential dust to the east consistent with Development Code Findings 84.29.035(22).</p>	<p>Prior to the issuance of Land Disturbance or Grading Permit This measure shall be implemented prior to or during initiation of construction depending on the specifications of the measure.</p> <p>Any mitigation measures that are identified shall be implemented in the time frame specified by the qualified biologist.</p>	Project applicant and their construction contractor	County of San Bernardino	
<p>AQ-2: Solar Permit: Applicant shall obtain Solar Permits as listed in District Rule 302 and a Dust Control Plan.</p>	<p>Prior to the issuance of Land Disturbance or Grading Permit This measure shall be implemented prior to or during initiation of</p>	Project applicant and their construction contractor	County of San Bernardino	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
	<p>construction depending on the specifications of the measure.</p> <p>Any mitigation measures that are identified shall be implemented in the time frame specified by the qualified biologist.</p>			
<p>AQ-3: Signage: Signage compliant with Rule 403 Attachment B shall be erected at each project site entrance not later than the commencement of construction.</p>	<p>Prior to the issuance of Land Disturbance or Grading Permit This measure shall be implemented prior to or during initiation of construction depending on the specifications of the measure.</p> <p>Any mitigation measures that are identified shall be implemented in the time frame specified by the qualified biologist.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	
<p>AQ-4: Watering for Dust Control: Use a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions.</p>	<p>During Construction Activities This measure shall be implemented during initiation of construction depending on the specifications of the measure.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	
<p>AQ-5: District Permits: Obtain District permits for any miscellaneous process equipment that may not be exempt under District Rule 219 including, but not limited to: Internal Combustion</p>	<p>Prior to the issuance of Land Disturbance or Grading Permit This measure shall be implemented prior to or</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
Engines with a manufacture's maximum continuous rating greater than or equal to 50 brake horsepower.	<p>during initiation of construction depending on the specifications of the measure.</p> <p>Any mitigation measures that are identified shall be implemented in the time frame specified by the qualified biologist.</p>			
<p>AQ-5: Rule 403: Comply with all applicable provisions listed in Rule 403 - Fugitive Dust Control.</p>	<p>During Construction Activities This measure shall be implemented during initiation of construction depending on the specifications of the measure.</p>	Project applicant and their construction contractor	County of San Bernardino	
<i>Cultural Resources</i>				
<p>CUL-1: Cultural Monitoring: Prior to construction of the proposed Project, a qualified archaeological monitor with relevant San Bernardino County experience and who will work directly under the direction of a Secretary of the Interior's (SOI) professional archaeologist, should be retained by the Project proponent. If the resources cannot be avoided and if the lead agency requires, an Archaeological Management Plan will be prepared to establish procedures for monitoring</p>	<p>Prior to the issuance of Land Disturbance or Grading Permit This measure shall be implemented prior to or during initiation of construction depending on the specifications of the measure.</p> <p>Any mitigation measures that are identified shall be implemented in the time frame specified by the qualified biologist.</p>	Project applicant and their construction contractor	County of San Bernardino	
<p>CUL-2: Cultural Monitoring Termination: The Project archaeologist may, at their discretion, terminate monitoring if (and only if) no subsurface</p>	<p>During Construction Activities</p>	Project applicant and their construction contractor	County of San Bernardino	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>cultural resources have been detected. If buried cultural resource artifacts are uncovered during ground disturbance activities the archaeological monitor will have the authority to re-direct grading activities to other location within the Project to examine the resources and possibly conduct subsurface testing (Phase II), as indicated in the Archaeological Management Plan. A research design associated with such work must be written before any subsurface fieldwork begins. The Plan shall include a description of how and where artifacts will be curated. If the site is determined to be significant through the testing process, continued impacts to the site would be considered significant and possibly unavoidable impacts. Impacts to the significance resource must take place either through avoidance or a Phase 3 excavation. Should any prehistoric or tribal cultural resources be identified within the Project Area, Native American consulting parties shall be contacted regarding the disposition and treatment of the resource(s).</p>	<p>This measure shall be implemented during initiation of construction depending on the specifications of the measure.</p>			
<p><u>CUL-3: Unanticipated Human Remains:</u> In the event unanticipated human remains, work in the immediate vicinity of the find shall stop and no further disturbance shall occur until the San Bernardino County Coroner has made a determination of origin and disposition pursuant to CEQA, Section 15064.5(e), State of California Health and Safety Code Section 7050.5 and PRC Section 5097.98. The County Coroner shall be notified of the find immediately. If the Coroner determines that the human remains are of Native American in origin, then the Coroner shall notify the NAHC, who is responsible for identifying and notifying the Native American most likely descendant (MLD). The MLD shall complete the inspection of the site within 48 hours of notification and make recommendations regarding the treatment and disposition of human remains and items associated with Native American burials. If an agreement regarding disposition of human remains between the MLD and the Landowner or a MLD cannot be identified</p>	<p>During Construction Activities This measure shall be implemented during initiation of construction depending on the specifications of the measure.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
the landowner shall comply with the disposition and documentation required as defined by PCR 5097.98 Section (e).				
<i>Tribal Cultural Resources</i>				
<p>TCR-1: <u>Treatment of Tribal Cultural Resources:</u> If a pre-contact cultural resource is discovered during Project implementation, ground-disturbing activities shall be suspended for a distance of 60 feet around the resource(s), and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed.</p> <p>The Project Archaeologist shall develop a research design that shall include a plan to evaluate the resource for significance under CEQA criteria. Representatives from YSMN, Cultural Resources Department, the Archaeologist, and the County shall confer regarding the research design, as well as any testing efforts needed to delineate the resource boundary. Following the completion of evaluation efforts, all parties shall confer regarding the resource's archaeological significance, its potential as a Tribal Cultural Resource (TCR), and avoidance (or other appropriate treatment) of the discovered resource.</p> <p>It is the preference of YSMN that removed cultural material be reburied as close to the original find location as possible. However, should reburial within/near the original find location during Project implementation not be feasible, then a reburial location for future reburial shall be decided upon by YSMN, the landowner, and the Lead Agency, and all finds shall be reburied within this location. Additionally, in this case, reburial shall not occur until all ground-disturbing activities associated with the Project have been completed, all monitoring has ceased, all cataloguing and basic recordation of cultural resources have been completed, and a final monitoring report has been issued to Lead Agency, CHRIS, and YSMN. All reburials are subject to a reburial</p>	<p>Prior to issuance of Land Disturbance or Grading Permit This measure shall be implemented during construction and followed through until final disposition of such resources has been achieved.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>agreement that shall be developed between the landowner and YSMN outlining the determined reburial process/location and shall include measures and provisions to protect the reburial area from any future impacts.</p> <p>Should it occur that avoidance, preservation in place, and on-site reburial are not an option for treatment, the landowner shall relinquish all ownership and rights to this material and confer with YSMN to identify an American Association of Museums (AAM)-accredited facility within the County that can accession the materials into their permanent collections and provide for the proper care of these objects in accordance with the 1993 CA Curation Guidelines. A curation agreement with an appropriately qualified repository shall be developed between the landowner and museum that legally and physically transfers the collections and associated records to the facility. This agreement shall stipulate the payment of fees necessary for permanent curation of the collections and associated records and the obligation of the Project developer/applicant to pay for those fees.</p> <p>All draft records/reports containing the significance and treatment findings and data recovery results shall be prepared by the archaeologist and submitted to the Lead Agency and YSMN for their review and comment. After approval from all parties, the final reports and site/isolate records are to be submitted to the local CHRIS Information Center, the Lead Agency, and YSMN.</p>				
<p><u>TCR-2: Inadvertent Discoveries of Human Remains/Funerary Objects:</u> In the event that any human remains are discovered within the property, ground disturbing activities shall be suspended 100 feet around the resource(s) and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. The on-site</p>	<p>During Construction This measure shall be implemented during construction and followed through until final disposition of such</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	

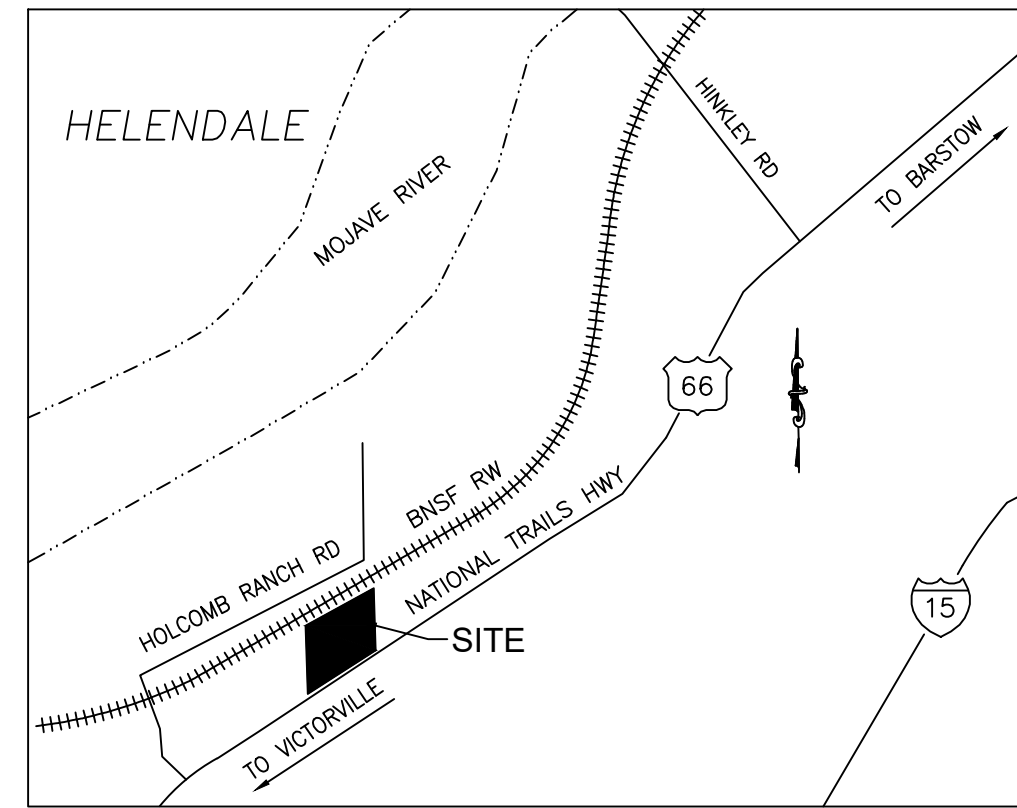
Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>lead/foreman shall then immediately notify YSMN, the applicant/developer, and the Lead Agency. The County of San Bernardino and the applicant/developer shall then immediately contact the County Coroner regarding the discovery. The County Coroner shall be contacted as required by the State Health and Safety Code regarding the discovery. If the Coroner recognizes the human remains to be those of a Native American or has reason to believe that they are those of a Native American, the Coroner shall ensure that notification is provided to the NAHC within twenty-four (24) hours of the determination, as required by California Health and Safety Code § 7050.5 (c). The NAHC-identified Most Likely Descendant (MLD), shall be allowed, under California Public Resources Code § 5097.98 (a), to (1) inspect the site of the discovery and (2) make determinations as to how the human remains and funerary objects shall be treated and disposed of with appropriate dignity. The MLD, Lead Agency, and landowner agree to discuss in good faith what constitutes "appropriate dignity" as that term is used in the applicable statutes. The MLD shall complete its inspection and make recommendations within forty-eight (48) hours of the site visit, as required by California Public Resources Code § 5097.98.</p> <p>Reburial of human remains and/or funerary objects (those artifacts associated with any human remains or funerary rites) shall be accomplished in compliance with the California Public Resources Code § 5097.98 (a) and (b). The MLD in consultation with the landowner, shall make the final discretionary determination regarding the appropriate disposition and treatment of human remains and funerary objects. All parties are aware that the MLD may wish to rebury the human remains and associated funerary objects on or near the site of their discovery, in an area that shall not be subject to future subsurface disturbances. The applicant/developer/landowner should</p>	<p>resources has been achieved.</p>			

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>accommodate on-site reburial in a location mutually agreed upon by the Parties.</p> <p>It is understood by all Parties that unless otherwise required by law, the site of any reburial of Native American human remains or cultural artifacts shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The coroner, parties, and Lead Agencies would be asked to withhold public disclosure information related to such reburial, pursuant to the specific exemption set forth in California Government Code § 6254 (r).</p>				
<p>TCR-3: Archaeological Monitors: A sufficient number of archaeological monitors shall be present each workday to ensure that simultaneously occurring ground disturbing activities receive thorough levels of monitoring coverage. A Monitoring and Treatment Plan (MTP) that is reflective of the Project mitigation (“Cultural Resources” and “Tribal Cultural Resources”) shall be completed by the archaeologist and submitted to the County and the Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN). Any and all findings would be subject to the protocol detailed within the MTP, as well as the protocol outlined in TCR-1. The MTP shall also state the frequency by which the archaeological monitor would submit monitoring logs to the County and YSMN. Once all parties review and approve the MTP, it shall be adopted by the County, which shall occur prior to permitting for the Project. At the conclusion of monitoring for the Project, a draft monitoring report would be submitted to the County and YSMN for review, and the final monitoring report would be submitted to all parties for their records.</p>	<p>During Construction This measure shall be implemented during construction and followed through until final disposition of such resources has been achieved.</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	
<p>TCR-4: Tribal Monitors: Monitoring of earthmoving activities by a qualified archaeologist and/or tribal monitor (including initial grubbing and vegetation removal) is recommended to</p>	<p>During Construction This measure shall be implemented during construction and</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	

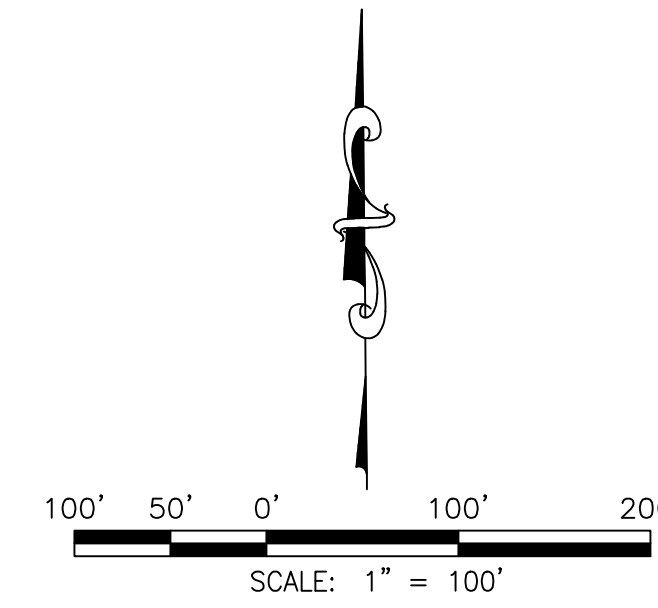
Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
mitigate potential impacts to undiscovered human remains.	followed through until final disposition of such resources has been achieved.			

CONDITIONAL USE PERMIT

3.0MW PHOTOVOLTAIC SOLAR ELECTRIC GENERATING FACILITY



EASEMENT FOR COMMUNICATION SYSTEMS TO SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, AS SET FORTH IN A DOCUMENT RECORDED NOVEMBER 20, 2000 AS INSTRUMENT NO. 20000424037 OF OFFICIAL RECORDS.



LEGEND

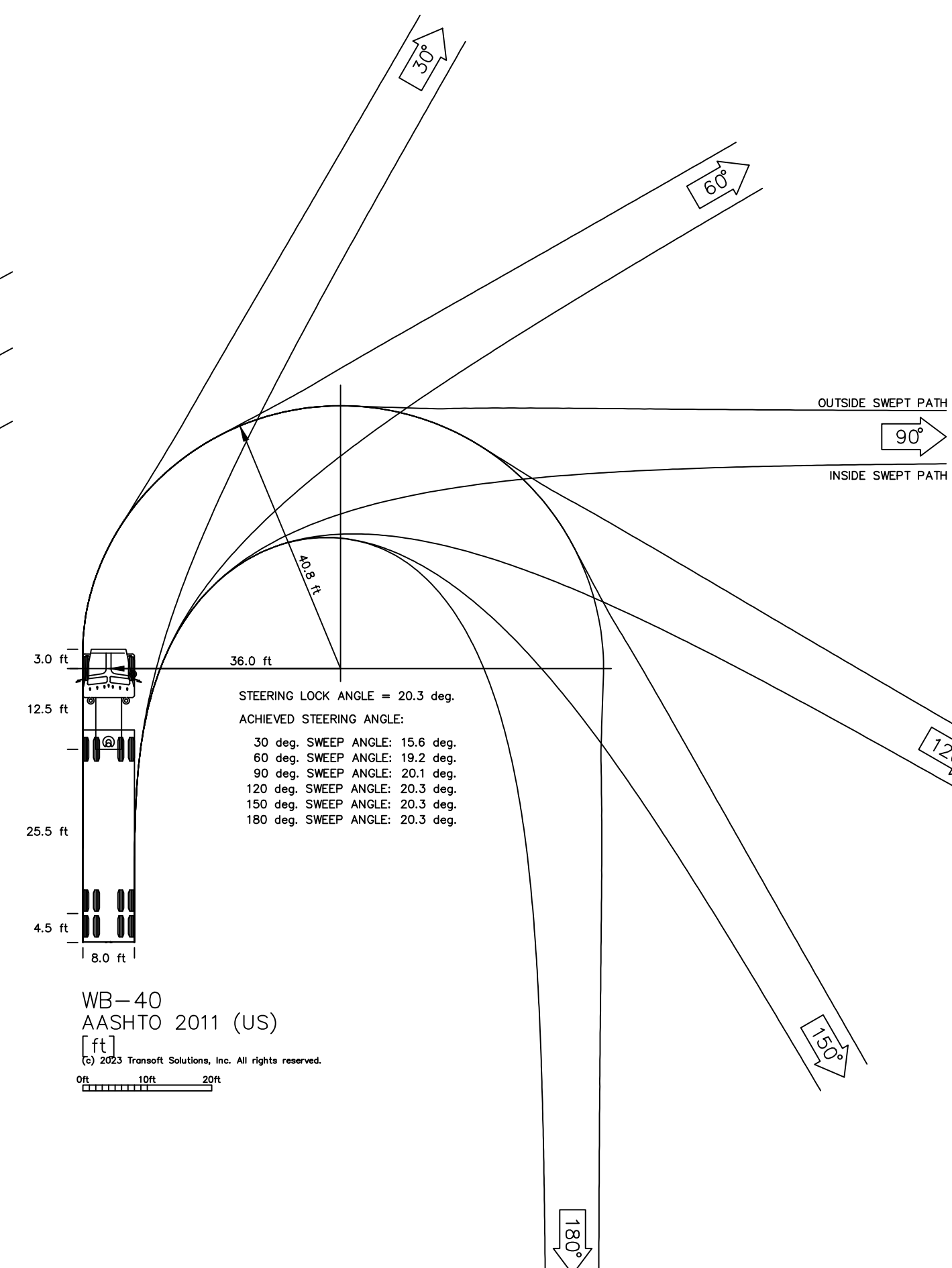
- INDICATES 6' HIGH CHAIN LINK FENCE W/ 3 STRAND BARB WIRE
- BSL INDICATES BUILDING SETBACK LINE
- INDICATES PROPERTY LINE

UTILITIES:

- ELECTRIC: EDISON INTERNATIONAL
30555 RIMROCK ROAD
BARSTOW, CALIFORNIA 92311
(760) 252-6451
- GAS: SOUTHWEST GAS CORP.
751 E. MAIN STREET
BARSTOW, CALIFORNIA 92311
(760) 256-3571
- WATER: NONE
- SEWER: NONE
- TELEPHONE: FRONTIER COMMUNICATIONS
(877) 236-2894

PROJECT SCOPE:

- CONDITIONAL USE PERMIT
1. THERE ARE 23.03 ACRES TO THIS PROJECT.
 2. EXISTING ZONING: RL (RURAL LIVING)
PROPOSED ZONING: RL (RURAL LIVING)
 3. THERE ARE NO NEW STREETS PROPOSED.
 4. THE AVERAGE SLOPE OF ALL FEASIBLE ACCESS ROUTES AND BUILDING SITES DOES NOT EXCEED (10%).
 5. THERE ARE NO WATER COURSES TRAVERSING THE SITE.
 6. THERE ARE NO PROTECTED OR ENDANGERED TREES EXISTING ON THE SITE.
 7. THERE ARE NO EXISTING STRUCTURES ON THE SITE.
 8. TRANSFORMER WILL REST ON A CONCRETE PAD AND IS APPROXIMATELY 7' TALL, 7' WIDE, AND 9' DEEP
 9. SWITCHGEAR STRUCTURE IS 10' TALL, 20' WIDE, 14' DEEP
 10. THERE WILL BE NO BATTERY STORAGE BUILDINGS.
 11. NO EMPLOYEES ON SITE EXCEPT PERIODIC MAINTENANCE (2-4 TIMES PER YEAR)
 12. PERIMETER ROAD TO BE 26 FT WIDE.
INTERIOR ROAD SEPARATING ARRAY TO BE 20 FT WIDE.
ROADS TO BE AN ALL-WEATHER SURFACE AS APPROVED BY THE FIRE DEPARTMENT.
ROWS BETWEEN INDIVIDUAL PANELS TO BE 14' WIDE.
 13. A 26' LOCKED DOUBLE SWING GATE TO BE AT SITE ACCESS POINT.
DRIVEWAYS PER 2010 CALTRANS STD DETAIL A87A & LOCATED PER COUNTY STD 130. TRUCK TURN DETAIL PER AASHTO 2011 STD WB-40.
 14. NO DUSK-DOWN LIGHTING IS PLANNED. HOWEVER, FOR SECURITY PURPOSES, MOTION-ACTIVATED FLOOD LIGHTS AIMED INWARD TO THE PROJECT WILL BE UTILIZED ADJACENT TO THE TRANSFORMER AND SWITCHGEAR.



LEGAL DESCRIPTION:

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO UNINCORPORATED AREA AND DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF THE NORTHWEST 1/4 OF SECTION 13, TOWNSHIP 8 NORTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF LYING NORTHERLY OF THE NORTHERLY LINE OF OLD NATIONAL TRAILS HIGHWAY AND SOUTHERLY OF THE SOUTHERLY LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY'S RIGHT OF WAY.

EXCEPTING THEREFROM THE WEST 280.00 FEET OF SAID SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER.

APN: 0466-111-09

C 1/4 COR SEC 13
FD 2" W/ BC, LS
2981 PER RS 5/19
& RS 27/36

PRELIMINARY
Not For Construction



CONDITIONAL USE PERMIT
SITE PLAN
APN 0466-111-09
HELENDALE, CALIFORNIA
FOR:
RADIANT BMT, LLC

DRAWN BY:
LL
DATE:
11/19/24
SHEET
1 OF 1



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

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 18, 2024
 Sent via email

Linda Mawby
 San Bernardino County Land Use Services
 385 N Arrowhead Ave 1st Floor
 San Bernardino, CA 92415
linda.mawby@lus.sbcounty.gov

Luis Rodriguez
 San Bernardino County Land Use Services
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Dear Linda Mawby and Luis Rodriguez:

**BMT Corral, LLC Corral Solar Farm (Project)
 MITIGATED NEGATIVE DECLARATION (MND)
 SCH# 2024060805**

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from San Bernardino County for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

CDFW ROLE

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

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The Project proposes to develop and operate a 3-megawatt photovoltaic solar facility on a 23-acre portion of a 58.81-acre parcel. The Project originally encompassed portions of two separate parcels, Assessor's Parcel Numbers (APN) 0466-111-09 (58.51 acres) and APN

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

Linda Mawby, Acting Planning Manager
San Bernardino County
July 18, 2024
Page 2

0466-131-01 (15.3 acres), totaling 73.81 acres. The solar facility has been reconfigured to encompass 23 acres located on one existing parcel (0466-111-09). A lot line adjustment is proposed to leave the balance of the 50.78 acres as undeveloped. The Project would utilize approximately 7,000 photovoltaic solar module panels mounted to single-axis trackers utilizing 12, 250-kilowatt (kW) inverters. The Project will be interconnected with a 33-kW distribution circuit that serves the local area. The project was designed as a Community Oriented Renewable Energy (CORE) project. It meets the general requirements of the San Bernardino County CORE criteria, in that the project size is under 10 MW-ac, project area is less than 60 acres, and nearly 100% of production will serve local off-site use.

Proponent: BMT Corral, LLC

Objective: The objective of the Project is to construct and operate a 3-megawatt community photovoltaic solar facility on an approximately 23-acre portion of a 58.51-acre parcel.

Location: The Project is located north of National Trails Highway, south of Atchinson Topeka & Santa Fe Railroad, and west of Corral Road, near the community of Helendale, California, San Bernardino County, 34.785715° latitude, -117.252550° longitude.

Timeframe: No construction initiation dates, construction windows, operation periods, or decommissioning dates were specified in the Mitigated Negative Declaration.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist San Bernardino County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

I. Environmental Setting and Related Impact Shortcoming

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

COMMENT #1:

Section: MND IV, Pages 19-21

Issue: CDFW is concerned that the MND has not accurately described or fully established the biological resources present onsite, limiting the CEQA Lead Agency's and CDFW's ability to analyze the project's potential impacts, avoidance, and/or mitigation measures on candidate, sensitive, or special status species. The MND relies on incomplete and possibly inaccurate biological resource surveys when concluding that the Project does not contain suitable habitat, and therefore, significant impacts to candidate, sensitive, or special status species including desert tortoise (*Gopherus agassizii*), Mohave ground squirrel (*Xerospermophilus mohavensis*), Barstow woolly sunflower (*Eriophyllum mohavense*), Beaver Dam breadroot (*Pediomelum castoreum*), Desert cymopterus (*Cymopterus deserticola*), Mojave monkeyflower (*Diplacus mohavensis*), and Mojave spineflower (*Chorizanthe spinose*).

Specific impact: Potential project impacts to candidate, sensitive, or special status species may be mischaracterized, resulting in avoidable, unminimized, or unmitigated impacts not analyzed by the MND.

Why impact would occur: The MND and accompanying Biological Assessment for Corral Solar Project (Elevated Entitlements) concludes that the Project site does not support suitable habitat for desert tortoise, Mohave ground squirrel, Barstow woolly sunflower, beaver dam breadroot, desert cymopterus, Mojave monkeyflower, and Mojave spineflower.

Linda Mawby, Acting Planning Manager
 San Bernardino County
 July 18, 2024
 Page 3

Evidence impact would be significant: On June 24, 2024 CDFW staff observed the project site from public right of ways to confirm the MND's findings that Mojave creosote scrub and/or chenopod scrub constituencies were absent from the site. Both Mojave creosote scrub and chenopod species were readily observed from the public right of way. Suitable habitat and habitat elements for the above-mentioned sensitive species are present within the Project site. Given the presence of potentially suitable habitat, Project impacts to the species identified above are possible and the MND should incorporate avoidance, minimization, and mitigation measures for each species based on an assumption of presence or based on focused surveys, following professionally accepted methods (protocol level surveys), and incorporated in the MND. The species above include federal Endangered Species Act (ESA) and California Endangered Species Act (CESA)-listed species, and rare plants that have professionally accepted survey methodologies, and reporting practices. Following the MND's analysis of protocol level surveys, the MND should require ESA and CESA permits in the event the MND anticipates take of those species.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)

To reduce impacts to less than significant: The MND should include a Project impact analysis on sensitive species based on professionally accepted survey methodologies, including but not limited to, desert tortoise², MGS³, and rare plants⁴ (see comments 3-6 below). A complete, *recent* inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish & G. Code, § 3511). Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). Focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required.

Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?

COMMENT #2:

Section: MND section X, Page 37

Issue: The MND does not include, but should include, a jurisdictional delineation of all ephemeral stream features potentially subject to notification for Lake and Streambed Agreement pursuant Fish and Game Code section 1602. Development facilitated by

² US Fish and Wildlife Service. October 8, 2019. Preparing For Any Action That May Occur Within The Range Of The Mojave Desert tortoise (*Gopherus agassizii*).

https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise%20Pre-project%20Survey%20Protocol_2019_v2.pdf

³ California Department of Fish and Wildlife. October, 2023. California Department of Fish and Wildlife Mohave Ground Squirrel Survey Guidelines (January 2003, revised July 2010, October 2023).

https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise%20Pre-project%20Survey%20Protocol_2019_v2.pdf

⁴ California Department of Fish and Wildlife. March 20, 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities.

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

Linda Mawby, Acting Planning Manager
 San Bernardino County
 July 18, 2024
 Page 4

the Project could impact stream resources subject to notification pursuant to Fish and Game Code section 1602.

Specific impact: Project activities, including grading, solar panel installation, vehicle and equipment staging, and site access could divert or obstruct stream flows, substantially alter the bed, bank, or channel of a stream, use or deposit materials subject to notification pursuant to Fish and Game Code section 1602. Absent notification, the Project could result in impacts to stream resources that should otherwise be avoided, minimized, or addressed in an agreement with CDFW.

Why impact would occur: Project implementation will result in physical changes to the landscape (e.g., grading) and could physically alter lake or streambed resources.

Evidence impact would be significant: California places great value on streams and the resources they provide. CDFW has authority over activities in rivers, streams and lakes that may substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake (Fish and Game Code section 1602). For any such activities, the Project Applicant should provide written notification of Lake and Streambed Alteration to CDFW and obtain a Lake and Streambed Alteration Agreement pursuant to Fish and Game Code section 1602.

The MND mentions that a Preliminary Drainage Study was prepared utilizing Geographical Information System (GIS) to identify one United States Geological Survey (USGS) mapped blue line stream, that would be avoided in the site design. However, a number of ephemeral streams were observed on June 24, 2024 by CDFW staff from public rights of way, and pictured in Figures 9, 10, 11, 12, 13, 16, 22, 23, 24, 25, 26, 27, 28, and 29 of the Biological Assessment (Elevated Expectations) that are not fully represented by the MND. CDFW considers the fill and permanent conversion of natural ephemeral streams to impervious surfaces a significant impact to stream resources. The conversion of a natural ephemeral stream systems to impervious managed systems results in direct, permanent impacts to the physical form and function of natural stream systems and the habitats they support, increases water flow velocity, increases erosive processes downstream, removes habitat and wildlife corridors, and prohibits groundwater infiltration. Indirect effects associated with streambed conversion include increased habitat fragmentation, increased developmental encroachment on natural stream systems, and increased maintenance activities.

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant:

CDFW recommends the MND include a jurisdictional delineation to identify stream resources subject to Fish and Game Code section 1602. Should the Project be unable to avoid impacts to stream resources, the Project applicant will need to notify CDFW per Fish and Game Code section 1602. Fish and Game Code section 1602 requires any entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream, or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream, or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow similar to those referenced above.

II. Mitigation Measure or Alternative and Related Impact Shortcoming

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

Linda Mawby, Acting Planning Manager
 San Bernardino County
 July 18, 2024
 Page 5

COMMENT #3:

Section: MND Section IV, Pages 19-21

Issue: The Project may impact Desert Tortoise, a California Endangered Species Act threatened species and its habitat.

Specific impact: Desert tortoise is a State and federally listed threatened species. This species is impacted by ongoing threats, including loss, degradation, and fragmentation of habitat, due to development. Staging of construction equipment, vehicles, and foot traffic may result in the collapse of occupied burrows and result in direct mortality and/or injury to desert tortoise. Project construction and operation may result in collision with or crushing by vehicles or heavy equipment; entrapment within open trenches and pipes; entrapment or entanglement within materials and equipment staged and moved; crushing or burial of individuals or eggs in burrows; destruction of burrows and refugia; and increased predation.

Why impact would occur: The Project site is located within suitable desert tortoise habitat. The CNDDDB notes desert tortoise sightings on properties within 1,500 feet of the Project site. The Biological Resources Assessment survey was conducted on June 3, 2023, which is outside of the typical active seasons identified as the preferred timeframe in the US Fish and Wildlife Service’s protocols for surveying for desert tortoise and their sign. CDFW is concerned regarding the MND’s assertion that desert tortoise habitat is not present without providing the protocol desert tortoise survey field notes substantiating the MND’s lack of desert tortoise compensatory mitigation measures and incidental take permitting requirements. CDFW strongly encourages the Project proponent to apply for a CESA incidental take permit (ITP) for take of desert tortoise if full avoidance is not feasible.

Evidence impact would be significant: Desert tortoise is a California Endangered Species Act (CESA)-listed species. Take of any CESA listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Consequently, if a Project, including Project construction or any Project-related activity during the life of the Project results in take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization *prior* to Project implementation. This may include an incidental take permit or a consistency determination (Fish and Game Code, §§ 2080.1 & 2081).

Desert tortoise populations have declined significantly in recent decades as a result of human activities in their native habitat including land development, off-road vehicle use, overgrazing, agricultural development, military activities, predation, and the spread of invasive plant species (USFWS 2011). The desert tortoise population in the western Mojave Desert has declined by 90% since the 1980s. Desert tortoises can take up to 20 years to reach sexual maturity, which limits their ability to recover from even small losses in population numbers (USFWS 2011).

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant: CDFW recommends inclusion of the following changes to the mitigation measure BIO-8 for desert tortoise (edits are in strikethrough and additions are in bold):

Biological Resources Mitigation Measure 8 (BIO-8)

BIO-8

A CDFW-approved biologist (Authorized Biologist) shall conduct a protocol level presence or absence survey within the Project area and 500-foot buffer of suitable habitat, no more than 48-hours prior to Project activities and after any pause in Project activities lasting 30 days or more, in accordance with U.S. Fish and Wildlife Service 2009 desert tortoise survey methodology. The

Linda Mawby, Acting Planning Manager
 San Bernardino County
 July 18, 2024
 Page 6

survey shall utilize perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign. Preconstruction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to start of Project activities. If the survey confirms absence, the CDFW-approved biologist (Authorized Biologist) shall ensure desert tortoise do not enter the Project area. If the survey confirms presence, the Project proponent shall submit to CDFW for review and approval a desert tortoise-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take of desert tortoises. If complete avoidance cannot be achieved, the Project proponent shall not undertake Project activities and Project activities shall be postponed until the appropriate authorization [i.e., California Endangered Species Act (CESA) incidental take permit under the Fish and Game Code section 2081] is obtained.

To ~~avoid~~ **minimize** construction impacts to desert tortoise not more than ~~45~~ **15** days before construction a pre-construction clearance survey must be conducted **by a Authorized Biologist (USFWS)**. If ~~species~~ **desert tortoise** is present, individuals will be allowed to leave on their own. In addition, in observation with USFW and CDFW the project proponent will install exclusionary fencing **following the specifications found in Chapter 8 Desert Tortoise Exclusion Fence of the Desert Tortoise (Mojave Population) Field Manual (USFWS)**.

COMMENT #4:

Section: MND section VI, Page 21

Issue: Mitigation measure BIO-7 is infeasible as written.

Specific impact: Desert tortoise is a State and federally listed threatened species. Any activities, including mitigation measures involving take (See Fish and Game Code, §§ 2080 & 2085) necessary to reduce a CEQA project’s potential impacts to below a level of significance, requires an incidental take permit or a consistency determination (Fish and Game Code, §§ 2080.1 & 2081). Mitigation measure BIO-7 includes handling of desert tortoise, a CESA-listed species, without specifying that the appropriate incidental take authorization be in place *prior to* the need for take/handling.

Why impact would occur: The Project site is located within desert tortoise habitat. The CNDDDB notes desert tortoise sightings on adjacent properties to the Project site. As currently written, the MND instructs a “certified biologist” to remove desert tortoise from the Project. CDFW also strongly encourages the Project proponent to apply for a CESA incidental take permit (ITP) for take of desert tortoise to facilitate handling if full avoidance is not feasible.

Evidence impact would be significant: Desert tortoise is a California Endangered Species Act (CESA)-listed species. Take of any CESA listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Consequently, if a Project, including Project construction or any Project-related activity during the life of the Project, results in take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to Project implementation. This may include an incidental take permit or a consistency determination (Fish and Game Code, §§ 2080.1 & 2081).

Desert tortoise populations have declined significantly in recent decades as a result of human activities in their native habitat including land development, off-road vehicle use, overgrazing, agricultural development, military activities, predation, and the spread of invasive plant species (USFWS 2011). The desert tortoise population in the western Mojave Desert has declined by 90% since the 1980s. Desert tortoises can take up to

Linda Mawby, Acting Planning Manager
San Bernardino County
July 18, 2024
Page 7

20 years to reach sexual maturity, which limits their ability to recover from even small losses in population numbers (USFWS 2011).

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant: CDFW recommends inclusion of the following changes to the mitigation measures for desert tortoise (edits are in strikethrough and additions are in bold):

Biological Resources Mitigation Measure 7 (BIO-7)

BIO-7: Permittee will obtain California Endangered Species Act (CESA) authorization prior to initiating ground-disturbing activities. If a desert tortoise is present within the construction area, all work and any activities that could harm the tortoise shall stop. The project manager shall notify a ~~certified~~ **CDFW Authorized bBiologist** to safely remove the desert tortoise prior to commencing construction.

COMMENT #5: Mohave ground squirrel (*Xerospermophilus mohavensis*)

Section: MND section IV, Page 19-21

Issue: The Project site contains potentially suitable habitat for the California Endangered Species Act (CESA)-threatened Mohave ground squirrel (MGS).

Specific Impact: The MND does not provide any avoidance/minimization or mitigation measures specific to MGS. The Project and Project related activities have the potential to take MGS.

Why impact would occur: MGS is a State and federally listed threatened species. Staging of construction equipment, vehicles, and foot traffic may result in the collapse of occupied burrows and result in direct mortality and/or injury to Mohave ground squirrel. Grading, ground disturbance, and vegetation clearing may result in the permanent loss of up to 23 acres of MGS habitat.

Evidence impact would be significant: The MND concludes that MGS is not present stating that “[b]ased upon the completion of a Biological Survey of the property, which include a visual survey performed by Elevated Entitlements, no species or habitat were found for Mojave Ground Squirrel (MGS) and thus, the Project would not have a significant impact upon this species.” While the biological Assessment (Elevated Entitlement) notes that the nearest MGS occurrence is 1.35 miles from the Project. Although the California Natural Diversity Database (CNDDDB) is a positive-detection database only and is not exhaustive in terms of the data it houses, nor is it an absence database. The fact that a CNDDDB species occurrence occurs within 1.35 miles southeast of the Project (Elevated Entitlements), the habitat and vegetative communities are consistent to the Project’s northeast and southeast are a good indication of suitable MGS habitat. A lack of recorded CNDDDB observations at a Project site does not provide sufficient merit to make the definitive statement that no impacts would occur without conducting protocol-level focused surveys. Mohave ground squirrels are challenging to detect, and a general survey may not provide an accurate assessment of presence/absence. The CNDDDB data should not be substituted for onsite surveys. Additionally, desert shrub vegetation such as creosote bush scrub (*Larrea tridentata*, present at the Project) are known to provide habitat for Mohave ground squirrel. According to CDFW’s [Mohave Ground Squirrel Predicted Habitat - CWHR M073 \[ds2531\] GIS Dataset \(ca.gov\)](#) database, the Project site provides moderately suitable habitat for Mohave ground squirrel (CDFW 2016). Without focused protocol surveys during the appropriate survey period, Project activities may adversely impact Mohave ground squirrel.

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant: CDFW offers the following measures for inclusion in the final MND to avoid impacts to Mojave ground squirrel:

Linda Mawby, Acting Planning Manager
 San Bernardino County
 July 18, 2024
 Page 8

Biological Resources Mitigation Measure 11 (BIO-11)

BIO-11: Prior to Project approvals or Entitlements, a A qualified biologist familiar with the species' behavior and life history shall conduct focused surveys for Mohave ground squirrel throughout the Project site. Focused Mohave ground squirrel surveys shall adhere to California Department of Fish and Wildlife Mohave Ground Squirrel Survey Guidelines (CDFW 2023). If Mohave ground squirrel is observed on site or captured during any of the trapping sessions, the Project proponent shall secure a CESA Incidental Take Permit (ITP) for Mohave ground squirrel before the issuance of ~~City~~ **County entitlement** permits **or** approvals. The ITP shall specify avoidance, minimization, and mitigation conditions for temporary and/or permanent impacts to Mohave ground squirrel including habitat acquisition at a CDFW-approved location and mitigation ratio

COMMENT #6: Special-Status Plant Species

Section: MND section IV, Page 20-21

Issue: Page 20 of the MND notes that “[s]pecial status plant species were not observed during the site visit on June 3 2023, but the current vegetation type does not contain suitable habitat for sensitive biological resources...” CDFW is concerned that the Biological Resources Assessment incorrectly concludes that suitable habitat for several sensitive plant species including Barstow wooly sunflower (*Eriophyllum mohavense*), Beaver Dam breadroot (*Pediomelum castoreum*), desert cymopterus (*Cymopterus deserticola*), Mojave spineflower (*Chorizanthe spinosa*), Mojave monkeyflower (*Diplacus mohavensis*), Mojave spineflower (*Chorizanthe spinose*), white pygmy-poppy (*Canbya candida*), and crowned muilla (*Mullia coronata*) is absent from the Project site. CDFW is concerned with these inconsistencies in the Biological Assessment and MND's subsequent conclusions. Several of these species have a California Rare Plant Rank of 1B or 2B and any potential impacts require public disclosure of such impacts. The determinations of special-status plants potential to occur were made based on habitat assessments that were conducted on June 3, 2023, and information supporting a protocol-level botanical survey is not provided in the MND or attached biological report. For several of the species, this time was outside of the flowering season, and it appears that surveys were not conducted according to CDFW 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018).

If sensitive species and/or their habitat may be impacted from the Project, CDFW recommends the inclusion of specific mitigation in the MND. CEQA Guidelines section 15126.4, subdivision (a)(1)(8) states that formulation of feasible mitigation measures should not be deferred until some future date. The Court of Appeal in *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645 struck down mitigation measures which required formulating management plans developed in consultation with State and Federal wildlife agencies after Project approval. Courts have also repeatedly not supported conclusions that impacts are mitigable when essential studies, and therefore impact assessments, are incomplete (*Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d. 296; *Gentry v. City of Murrieta* (1995) 36 Cal. App. 4th 1359; *Endangered Habitat League, Inc. v. County of Orange* (2005) 131 Cal. App. 4th 777).

Specific impact: The Project has the likelihood for Project-related impacts to special status plant species due to ground disturbing activities associated with the development of the Project site.

Why impact would occur: The Project has the potential to impact several special status plants and it is unclear why protocol surveys were not completed to determine and support the analysis within the MND. The MND and Biological Assessment for Corral Solar project (Elevated Entitlements) indicate that special-status plant species are Presumed Absent, and for the majority the supporting evidence is that there is no

Linda Mawby, Acting Planning Manager
 San Bernardino County
 July 18, 2024
 Page 9

suitable habitat within or adjacent to the Project site. CDFW is concerned regarding this determination and provides specific justification below:

Barstow woolly sunflower – According to the Biological Assessment for Corral Solar project (Elevated Entitlements), “Found in chenopod scrub, Mojavean desert scrub, and playas. Found at elevations between 1,640 feet and 3,150 feet. Blooms between March and May.” CDFW disagrees with the MND’s determination and understands that the Project site does contain suitable habitat (Mojavean desert scrub, and chenopod) and is within the range of Barstow woolly sunflower. Additionally, the June 3, 2023 survey date cited by the Biological Assessment falls outside the species’ typical blooming period.

Beaver Dam breadroot– According to the Biological Assessment for Corral Solar project (Elevated Entitlements), “Found in Joshua tree woodland and Mojavean desert scrub. Found at elevations between 2,000 feet and 5,005 feet. Blooms between April and May. CDFW disagrees with the MND’s determination and understands that the Project site does contain suitable habitat (Mojavean desert scrub) and is within the range of Beaver Dam breadroot. Additionally, the June 3, 2023 survey date cited by the Biological Assessment falls outside the species’ typical blooming period.

Crowned muilla– According to the Biological Assessment for Corral Solar project (Elevated Entitlements), “ Found in chenopod scrub, Joshua tree woodland, Mojavean desert scrub and pinyon and juniper woodland. Found at elevations between 2,200 feet and 6,430 feet. Blooms between March and April, but as late as May.” Based on the habitat characteristics observed by CDFW staff and documented in the Biological Assessment, the Project site includes suitable habitat (chenopod scrub), CDFW disagrees with the MND’s determination and understands that the Project site does contain suitable habitat and is within the range of crowned muilla. Additionally, the June 3, 2023 survey date cited by the Biological Assessment falls outside the species’ typical blooming period.

Mojave monkeyflower – According to the Biological Assessment for Corral Solar project (Elevated Entitlements), “Found in Joshua tree woodland and Mojavean desert scrub. Found at elevations between 1,970 feet and 3,935 feet. Blooms between April and June. CDFW disagrees with the MND’s determination and understands that the Project site does contain suitable habitat (Mojavean desert scrub) and is within the range of Mojave monkeyflower.

Mojave spineflower – According to the Biological Assessment for Corral Solar project (Elevated Entitlements), “Found in chenopod scrub, Joshua tree woodland, Mojavean desert scrub, playas. Found at elevations between 20 feet and 4,265 feet. Blooms between March and July.” Based on the habitat characteristics observed by CDFW staff and documented in the Biological Assessment, the Project site includes suitable habitat (chenopod scrub), CDFW disagrees with the MND’s determination and understands that the Project site does contain suitable habitat and is within the range of Mojave spineflower.

White pygmy-poppy – According to the Biological Assessment for Corral Solar project (Elevated Entitlements), “ Found in Joshua tree woodland, Mojavean desert scrub, pinyon and juniper woodland. Found at elevations between 1,970 feet and 4,790 feet. Blooms between March and June.” CDFW disagrees with the MND’s determination and understands that the Project site does contain suitable habitat (Mojavean desert scrub) and is within the range of white pygmy poppy.

Evidence impact would be significant:

Plants constituting California Rare Plant Ranks 1A, 1B, 2A, and 2B generally meet the criteria of a CESA-listed species and should be considered as an endangered, rare or threatened species for the purposes of CEQA analysis. Likewise, CDFW considers State listed communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional

Linda Mawby, Acting Planning Manager
 San Bernardino County
 July 18, 2024
 Page 10

level. These ranks can be obtained by querying the CNDDDB and are included in the Manual of California Vegetation and California Native Plant Society (cnps.org) (CNPS 2023).

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: CDFW offers the following Mitigation Measures for Sensitive Plant Species (additions are in bold):

Add Biological Resources Mitigation Measure 18 (BIO-18)

BIO-18

Pre-construction rare plant clearance survey: Prior to Project implementation, and during the appropriate season, a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife's (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special-status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the Project area is identified to the taxonomic level necessary to determine rarity and listing status. If any special-status plants are identified, the Project Applicant shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging).

If complete avoidance of a special status plant is not feasible, the Project Applicant shall mitigate the loss of the plant(s) through off-site compensation including: 1) permanent protection of an existing off-site native population; 2) permanent protection of an off-site introduced population; 3) a combination of 1) and 2); or 4) mitigation banking. The ratio of acquisition to loss must in most cases exceed 1:1 for any species. The ratio should be higher for rarer species, particularly for those that occupy irreplaceable habitats.

ENVIRONMENTAL DATA

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

ENVIRONMENTAL DOCUMENT FILING FEES

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

Linda Mawby, Acting Planning Manager
San Bernardino County
July 18, 2024
Page 11

CONCLUSION

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

Questions regarding this letter or further coordination should be directed to Eric Weiss, Senior Environmental Scientist Specialist at eric.weiss@wildlife.ca.gov.

Sincerely,

DocuSigned by:

84FBB8273E4C480...
Alisa Ellsworth
Environmental Program Manager

ec: Office of Planning and Research, State Clearing House, Sacramento
state.clearinghouse@opr.ca.gov

ATTACHMENTS

Attachment A: MMRP for CDFW-Proposed Mitigation Measures

REFERENCES

California Department of Fish and Game (CDFG). 2010. Mohave Ground Squirrel Survey Guidelines. Available for download at:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83975&inline>

California Department of Fish and Wildlife. March 20, 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

California Department of Fish and Game (CDFG). 2012. Staff report on burrowing owl mitigation. State of California, Natural Resources Agency. Available for download at:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>

California Natural Diversity Database (CNDDDB) Government [ds45]. 2023. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System.

County of San Bernardino. June 2024. Initial Study/Mitigated Negative Declaration Environmental Checklist Form BMT Corral, LLC.

Elevated Entitlements. May 29, 2024. Biological Assessment for Corral Solar Project.

Sawyer, J. O., T. Keeler-Wolf, and J. M. Evens. 2009. A manual of California Vegetation, 2nd ed. California Native Plant Society Press, Sacramento, California. <http://vegetation.cnps.org/>

U.S. Fish and Wildlife Service. 2019. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*). USFWS Desert Tortoise Recovery Office. Reno, NV.

U.S. Fish and Wildlife Service. 2009. Desert Tortoise (Mojave Population) Field Manual: (*Gopherus agassizii*). Region 8, Sacramento, California.



Attachment A

Draft Mitigation Monitoring and Reporting Program and Draft Recommendations

Draft Mitigation Monitoring and Reporting Program (MMRP)

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

Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Party
<p>MM-BIO-8: A CDFW-approved biologist (Authorized Biologist) shall conduct a protocol level presence or absence survey within the Project area and 500-foot buffer of suitable habitat, no more than 48-hours prior to Project activities and after any pause in Project activities lasting 30 days or more, in accordance with U.S. Fish and Wildlife Service 2009 desert tortoise survey methodology. The survey shall utilize perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign. Preconstruction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to start of Project activities. If the survey confirms absence, the CDFW-approved biologist (Authorized Biologist) shall ensure desert tortoise do not enter the Project area. If the survey confirms presence, the Project proponent shall submit to CDFW for review and approval a desert tortoise-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take of desert tortoises. If complete avoidance cannot be achieved, the Project proponent shall not undertake Project activities and Project activities shall be postponed until the appropriate authorization [i.e., California Endangered Species Act (CESA) incidental take permit under the Fish and Game Code section 2081] is obtained.</p> <p>To minimize construction impacts to desert tortoise not more than 15 days before construction a pre-construction clearance survey must be conducted by a Authorized Biologist (USFWS). If species desert tortoise is present, individuals will be allowed to leave on their own. In addition, in observation with USFW and CDFW the project proponent will install exclusionary fencing following the specifications found in Chapter 8 Desert Tortoise Exclusion Fence of the Desert Tortoise (Mojave Population) Field Manual (USFWS).</p>	<p>Prior to commencing ground or vegetation disturbing activities</p> <p>& During Construction</p>	<p>Project Proponent</p>

Linda Mawby, Acting Planning Manager
 San Bernardino County
 July 18, 2024
 Page 2 of 4

<p>MM-BIO-7: Permittee will obtain California Endangered Species Act (CESA) authorization prior to initiating ground-disturbing activities. If a desert tortoise is present within the construction area, all work and any activities that could harm the tortoise shall stop. The project manager shall notify a CDFW Authorized Biologist to safely remove the desert tortoise prior to commencing construction.</p>	<p>Prior to commencing ground or vegetation disturbing activities & During Construction</p>	<p>Project Proponent</p>
<p>MM-BIO-11: Prior to Project approvals or Entitlements, a qualified biologist familiar with the species' behavior and life history shall conduct focused surveys for Mohave ground squirrel throughout the Project site. Focused Mohave ground squirrel surveys shall adhere to California Department of Fish and Wildlife Mohave Ground Squirrel Survey Guidelines (CDFW 2023). If Mohave ground squirrel is observed on site or captured during any of the trapping sessions, the Project proponent shall secure a CESA Incidental Take Permit (ITP) for Mohave ground squirrel before the issuance of County entitlement permits or approvals. The ITP shall specify avoidance, minimization, and mitigation conditions for temporary and/or permanent impacts to Mohave ground squirrel including habitat acquisition at a CDFW-approved location and mitigation ratio</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>
<p>MM-BIO-18: Pre-construction rare plant clearance survey: Prior to Project implementation, and during the appropriate season, a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife's (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special-status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the Project area is identified to the taxonomic level necessary to determine rarity and listing status. If any special-status plants</p>	<p>Prior to commencing ground or vegetation disturbing activities</p>	<p>Project Proponent</p>

Linda Mawby, Acting Planning Manager
San Bernardino County
July 18, 2024
Page 3 of 4

<p>are identified, the Project Applicant shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging).</p> <p>If complete avoidance of a special status plant is not feasible, the Project Applicant shall mitigate the loss of the plant(s) through off-site compensation including: 1) permanent protection of an existing off-site native population; 2) permanent protection of an off-site introduced population; 3) a combination of 1) and 2); or 4) mitigation banking. The ratio of acquisition to loss must in most cases exceed 1:1 for any species. The ratio should be higher for rarer species, particularly for those that occupy irreplaceable habitats.</p>		
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Linda Mawby, Acting Planning Manager
San Bernardino County
July 18, 2024
Page 4 of 4

Draft Recommendations

CDFW recommends the following language to be incorporated into the [enter document type] for the Project.

Biological Resources (BIO)		
Recommendation (REC) Description	Implementation Schedule	Responsible Party
REC-1:		
REC-2:		

Mojave Desert Air Quality Management District

Brad Poiriez, *Executive Director*
14306 Park Avenue, Victorville, CA 92392-2310
760.245.1661 • Fax 760.245.2022
www.MDAQMD.ca.gov • @MDAQMD

RECEIVED
2024 JUL 17 AM 9:39
LAND USE SERVICES
ADMINISTRATION



July 15, 2024

County of San Bernardino, Land Use Services Dept.
Luis Rodriguez, Contract Planner
385 North Arrowhead Avenue
San Bernardino CA 92415

Subject: Corral Solar Farm (PROJ-2019-00057)

Dear Mr. Rodriguez:

The Mojave Desert Air Quality Management District (District) has received the initial study for the proposed Corral Solar Farm in Helendale, CA. The proposed project includes a request for a Conditional Use Permit (CUP) and Lot Line Adjustment to establish a community photovoltaic (PV) solar facility on approximately 23.0-acre Request for a Conditional Use Permit (CUP) and Lot Line Adjustment to establish a community photovoltaic (PV) solar facility on approximately 23.0-acre portion of a 58.51-acre area located north of the National Trails Highway, south of the Atchison Topeka & Santa Fe Railroad, and west of Corral Road. A Lot Line Adjustment has been proposed as a condition of approval to relocate the parcel line between the two parcels to reflect the proposed solar facility, covering approximately 23 acres, with the balance of the 50.78 acres remaining undeveloped.

We have reviewed the project as proposed and based on the information available to us at this time, the District requires that the owner/operator obtain Solar Permits as listed in District Rule 302 and a Dust Control Plan (DCP) for the planned solar facility. The most current Dust Control Plan Requirements and Dust Control Plan Submission Form are available at <https://www.mdaqmd.ca.gov/permitting/compliance-forms>.

Other District requirements include:

- Signage compliant with Rule 403 Attachment B shall be erected at each project site entrance not later than the commencement of construction.
- Use a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. For projects with exposed sand or fines deposits (and for projects that expose such soils through earthmoving), chemical stabilization or covering with a stabilizing layer of gravel will be required to eliminate visible dust/sand from sand/fines deposits.
- All perimeter fencing shall be wind fencing or the equivalent, to a minimum of four feet of height or the top of all perimeter fencing. The owner/operator shall maintain the wind fencing as needed to keep it intact and remove windblown dropout. This wind fencing

requirement may be superseded by local ordinance, rule or project-specific biological mitigation prohibiting wind fencing.

- All maintenance and access vehicular roads and parking areas shall be stabilized with chemical, gravel or asphaltic pavement sufficient to eliminate visible fugitive dust from vehicular travel and wind erosion. Take actions to prevent project-related trackout onto paved surfaces, and clean any project-related trackout within 24 hours. All other earthen surfaces within the project area shall be stabilized by natural or irrigated vegetation, compaction, chemical or other means sufficient to prohibit visible fugitive dust from wind erosion.
- Obtain District permits for any miscellaneous process equipment that may not be exempt under District Rule 219 including, but not limited to: Internal Combustion Engines with a manufacture's maximum continuous rating greater than or equal to 50 brake horsepower.
- Comply with all applicable provisions listed in Rule 403 – *Fugitive Dust Control*.

Thank you for the opportunity to review this planning document. If you have any questions regarding this letter, please contact me at (760) 245-1661, extension 6726, or Bertrand Gaschot at extension 4020.

Sincerely,



Alan De Salvo
Deputy APCO

AJD/bg

SBC Corral Solar Farm 2024 15 Jul

Corral Solar Project

Final Initial Study, Mitigated Negative Declaration

prepared by

County of San Bernardino

Land Use Services

385 N Arrowhead Ave 1st Floor

San Bernardino, CA 92415

Email: luis.rodriguez@lus.sbcounty.gov

prepared with the assistance of

Elevated Entitlements

5716 Corsa Ave. Suite 201,
Westlake Village, CA 91364

October 4, 2024

Table of Contents

1	Introduction.....	3
1.1	Environmental Review Process.....	3
2	Responses to Comments	4
	Letter C1.....	5
	Letter C2.....	15
2.1	Introduction to the MMRP.....	18
2.2	MMRP	18

1 Introduction

This Final Initial Study, Mitigated Negative Declaration (IS/MND) has been prepared for the Corral Solar Project, located at APN: 466-131-01 and 0466-111-09 (also referred to as the “proposed Project” or “Project”). This Final IS/MND has been prepared in conformance with the California Environmental Quality Act of 1970 (CEQA) statutes (California Public Resources Code [PRC], Section 21000 et. seq., as amended) and implementing guidelines (California Code of Regulations, Title14, Section 15000 et. seq.).

Before approving a Project, CEQA requires the lead agency to prepare and certify a Final IS/MND. The County has the principal responsibility for approval of the proposed Project and is therefore considered the lead agency under CEQA Section 21067. According to the CEQA Guidelines, Section 15132, the Final IS/MND shall consist of:

- The Draft IS/MND or a revision of the Draft IS/MND
- Comments and recommendations received on the Draft IS/MND either verbatim or in summary.
- A list of persons, organizations, and public agencies commenting on the Draft IS/MND
- The responses of the lead agency to significant environmental points raised in the review and consultation process; and
- Any other information added by the lead agency.

1.1 Environmental Review Process

CEQA Noticing

A Notice of Intent (NOI) was submitted by the County on October 13, 2024. The Draft IS/MND was filed on June 18, 2024, and circulation concluded July 18, 2024. The Draft IS/MND was filed with the County Clerk-Recorder and submitted to the State Clearinghouse (SCH No. 2024060805), as well as provided on the County’s website. The NOI provided information about the proposed Project to members of public agencies, interested stakeholders and residents/community members. The County received letters from the California Department of Fish and Wildlife (CDFW) and the Mojave Desert Air Quality Management District (MDAQMD), which were received in response to the circulation of the Draft IS/MND.

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

Final IS/MND

The Final IS/MND addresses the comments received during the public review period and includes minor changes to the text of the Draft IS/MND in accordance with comments that necessitated revisions. This Final IS/MND will be presented to the County for certification as the environmental document for the proposed Project. The Final IS/MND will also be posted on the County’s website. The Applicant proposes to develop and operate a 3-megawatt photovoltaic solar facility on a 23-acre portion of a 73.81-acre parcel. The original Project application to the County encompassed portions of two separate parcels, Assessor’s Parcel Numbers (APN) 0466-111-09 (58.51 acres) and APN 466-131-01 (15.3 acres), totaling 73.81 acres. The solar facility has been reconfigured to encompass approximately 23 acres located on one existing parcel (0466-111-09). A lot line adjustment is proposed to leave the balance of the 50.78 acres as undeveloped. The Project would utilize approximately 7,000 photovoltaic solar module panels mounted to single-axis trackers utilizing 12, 250-kilowatt (kW) inverters. The Project will be interconnected with a 33-kW distribution circuit that serves the local area. The Project was designed as a Community Oriented Renewable Energy (CORE) Project. It meets the general requirements of the San Bernardino County CORE criteria, in that the Project size is under 10 MW-ac, Project area is less than 60 acres, and nearly 100% of production will serve local off-site use.

In addition, when approving a Project, public agencies must also adopt a MMRP describing the changes that were incorporated into the proposed Project or made a condition of Project approval to mitigate or avoid significant effects on the environment (CEQA Guidelines Section 15097). The MMRP is adopted at the time of Project approval and is designed to ensure compliance during Project implementation. Upon approval of the proposed Project, the County will be responsible for implementation of the proposed Project’s MMRP.

2 Responses to Comments

This section includes comments received during the circulation of the Draft IS/MND (State Clearinghouse No. 2024020027) prepared for the solar facility Project (the Project). The Draft IS/MND was circulated for a 30-day public review period that began on June 18, 2024, and ended on July 18, 2024. The County received two comment letters on the circulation of the IS/MND. The commenters and the page number on which each commenter’s letter appears are listed below.

Letter No.	Commenter	Date	Page No.
C1	California Department of Fish and Wildlife	July 18, 2024	5
C2	Mojave Desert Air Quality Management District	July 15, 2024	15

The comment letters and responses follow. The comment letters have been labeled with brackets, which correspond to the text below and each separate issue raised by the commenter has been addressed.

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

Letter C1

COMMENTER: California Department of Fish and Wildlife

DATE: July 18, 2024

All comments are in reference to the IS/MND.

Comment C-1-1 Summary:

Section: MND IV, Pages 19-21

Issue: CDFW is concerned that the MND has not accurately described or fully established the biological resources present onsite, limiting the CEQA Lead Agency's and CDFW's ability to analyze the Project's potential impacts, avoidance, and/or mitigation measures on candidate, sensitive, or special status species. The MND relies on incomplete and possibly inaccurate biological resource surveys when concluding that the Project does not contain suitable habitat, and therefore, significant impacts to candidate, sensitive, or special status species including desert tortoise (*Gopherus agassizii*), Mohave ground squirrel (*Xerospermophilus mohavensis*), Barstow woolly sunflower (*Eriophyllum mohavense*), Beaver Dam breadroot (*Pediomelum castoreum*), Desert cymopterus (*Cymopterus deserticola*), Mojave monkeyflower (*Diplacus mohavensis*), and Mojave spineflower (*Chorizanthe spinose*).

Commenter Recommendation:

To reduce impacts to less than significant: The MND should include a Project impact analysis on sensitive species based on professionally accepted survey methodologies, including but not limited to, desert tortoise², Mohave ground squirrel (MGS)³, and rare plants⁴ (see comments 3-6 below). A complete, *recent* inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish & G. Code, § 3511).

Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). Focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required.

Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

Applicant Response:

A Biological Resources Assessment was performed on June 3, 2023, which included a biological literature review, habitat suitability assessment for potential special status species, and general assessment of ephemeral drainages on the Project site. The Biological Resources Assessment Report indicates that the habitat onsite is diminished in biological value due to anthropogenic impacts from disturbances such as ongoing off-road vehicle use. Evidence of ongoing off-road vehicle use is evident from the photographs of the Project site included in the Biological Resources Assessment Report.

More recent biological surveys by EGP Consulting, Inc. (EGP) were conducted for the Project in July and August 2024. The 2024 surveys included a habitat assessment for Mohave ground squirrel (MGS; *Xerospermophilus mohavensis*), presence-absence survey for desert tortoise (DETO; *Gopherus agassizii*) and aquatic resources delineation. The Biological Assessment Report has been revised to incorporate these recent studies.

Based on the habitat suitability assessment for MGS, it was determined that MGS are unlikely to occur within the study area for the following reasons:

- the study area is outside of the MGS range;
 - The MGS range extends to the west side of the Mojave River, located over one mile northwest of the study area.
- the study area is isolated from known MGS occurrences
 - The site is about 8 miles east of the nearest recent MGS occurrence, the broad unvegetated Mojave River channel and extensive agricultural development on both sides of the river form a wide barrier to MGS dispersal,
- habitat within the study area does not appear suitable for MGS (P. Leitner, personal communication, July 17th, 2024).
- the study area is located within the known range of round-tailed ground squirrel, a species which is known to out-compete MGS when there is a potential overlap of ranges
 - there are several round-tailed ground squirrel records in the general vicinity of the study area on the east side of the Mojave river, including an observation made a few years ago about 2 miles to the northeast (P. Leitner, personal communication, July 17th, 2024).

Details regarding the potential for MGS to occur within the study area are included in a Mohave Ground Squirrel Habitat Assessment Memorandum, which is included as Appendix D of the revised Biological Assessment Report. Measure BIO-9 (previously BIO-11), as discussed in response to Comment #5, has been revised to address CDFW comments with regards to MGS.

A presence/absence survey for desert tortoise (DETO; *Gopherus agassizii*) was conducted in 2024 according to U.S. Fish and Wildlife Service's (USFWS) **2018 Preparing for any Action That May Occur Within the Range of the Mojave Desert Tortoise (*Gopherus Agassizii*)**. No DETO, suitable burrows, or other sign, were observed within the study area. As a result, DETO is considered absent from the study area at this time. However, because the study area contains suitable DETO habitat and the species could move into the study area prior to construction, a DETO pre-construction survey will be conducted, as provided in revised

Measure BIO-7 (previously BIO-8), discussed in response to Comment #3. Measure BIO-6 (previously BIO-7) has also been revised to address CDFW comments regarding DETO, as discussed in response to Comment #4.

The potential for special-status plants to occur within the study area was re-assessed based on site visits conducted in 2024. Six special-status plant species have potential to occur within the study area, including

- Barstow woolly sunflower (*Eriophyllum mohavense*) – California Rare Plant Rank (CRPR) 1B,
- Beaver Dam breadroot (*Pediomelum castoreum*) – CRPR 1B,
- Crowned muilla (*Muilla coronata*) – CRPR 4.
- Mojave monkeyflower (*Diplacus mohavensis*) – CRPR 1B,
- Mojave spineflower (*Chorizanthe spinosa*) – CNPS 4, and
- White pygmy-poppy (*Canbya candida*) – CNPS 4.

All of these plants have potential to occur throughout the study area, although the southwestern portion of the study area is most suitable due to lower disturbance and the presence of hilly topography and defined ephemeral channels. None of these species are state or federally listed. However, CRPR 1B plants generally meet the criteria of a state-listed species and should be considered as an endangered, rare or threatened species for the purposes of CEQA analysis. CRPR 4 plant taxa are of limited distribution or infrequent throughout a broader area in California, so that their vulnerability or susceptibility to threat appears low at this time, from a statewide perspective. Potential Project impacts to CNPS List 4 species, should they occur within the study area, are expected to be less than significant due to the small size of the Project impact area.

A detailed analysis of the potential for these species to occur within the study area is provided in the revised Biological Assessment Report. In addition, Measure BIO-16, as discussed in response to Comment #6, has been revised to address CDFW comments regarding special-status plant.

Comment C-1-2 Summary:

Section: MND section X, Page 37

Issue: The MND does not include but should include a jurisdictional delineation of all ephemeral stream features potentially subject to notification for Lake and Streambed Agreement pursuant Fish and Game Code section 1602. Development facilitated by the Project could impact stream resources subject to notification pursuant to Fish and Game Code section 1602.

Commenter Recommendation:

CDFW recommends the MND include a jurisdictional delineation to identify ephemeral stream features subject to Fish and Game Code Section 1602. Should the Project be unable to avoid impacts to stream resources, the Project applicant will need to notify CDFW per Fish and Game Code section 1602. Fish and Game Code section 1602 requires any entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream, or lake; substantially change or use any material

from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream, or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow similar to those referenced above.

Applicant Response:

An aquatic resources delineation was conducted in August 2024 to determine the extent of United States (U.S.) Army Corps of Engineers (USACE) jurisdiction pursuant to Section 404 of the Clean Water Act (CWA), RWQCB jurisdiction pursuant to Section 401 of the CWA and the Porter-Cologne Water Quality Control Act, and (CDFW) jurisdiction pursuant to Section 1600 et seq. of the California Fish and Game Code within the study area. The delineation was conducted according to currently accepted methodology.

Details of the aquatic resources delineation, including methodology and results, are provided as Appendix F of the revised Biological Assessment Report.

A total of 17 aquatic features (Features A-Q as shown on Appendix A, Figure 5) that exhibit evidence of a clear bed and bank were identified within the study area with 7 aquatic features (Features K-Q) located in the Project impact area. All features identified are ephemeral and unvegetated. No riparian vegetation was observed within the study area. The bank-to-bank width for all features and varied from 0.5-feet-wide to 8-feet-wide, with most features exhibiting a bank-to-bank width of 1-foot.

The study area currently only conveys flows originating immediately within the study area, as evidenced by the lack of any breaks in the roadside berm upstream of the study area. Flows on the downstream end of the study area, near the railroad tracks, appear to percolate into the soils and are not conveyed beyond the immediate vicinity of the study area. There is a culvert designed to convey runoff from the study area under the railroad tracks on the northern boundary of the study area located approximately 90 feet west of the northwest corner of the study area. There is no evidence of flows from within the study area reaching this culvert and flows originating within the study area seem to be currently isolated from any downstream tributaries. It appears that rainfall and other storm flows in the area quickly percolate into the soil.

Because Features A through Feature Q support a clear bed and bank and fluvial indicators that they regularly convey ephemeral flows, CDFW may assert jurisdiction over these features under Section 1600 of the California Fish and Game Code. Should CDFW determine that these features are subject to their regulation, substantial modification of these features would require a CDFW Streambed Alteration Agreement.

Measure BIO-13 will be implemented to avoid indirect impacts to aquatic resources adjacent to the Project impact area.

Comment C-1-3 Summary:

Section: MND Section IV, Pages 19-21

Issue: The Project may impact Desert Tortoise, a California Endangered Species Act threatened species and its habitat.

Commenter Recommendation:

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant: CDFW recommends inclusion of the following changes to the mitigation measure BIO-8 for desert tortoise (edits are in strikethrough and additions are in **bold**):

Biological Resources Mitigation Measure 8 (BIO-8)

BIO-8:

A CDFW-approved biologist (**Authorized Biologist**) shall conduct a protocol level presence or absence survey within the Project area and 500-foot buffer of suitable habitat, no more than 48-hours prior to Project activities and after any pause in Project activities lasting 30 days or more, in accordance with U.S. Fish and Wildlife Service 2009 desert tortoise survey methodology. The survey shall utilize perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign. Preconstruction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to start of Project activities. If the survey confirms absence, the CDFW-approved biologist (**Authorized Biologist**) shall ensure desert tortoise do not enter the Project area. If the survey confirms presence, the Project proponent shall submit to CDFW for review and approval a desert tortoise-specific avoidance plan detailing the protective avoidance measures to be implemented to ensure complete avoidance of take of desert tortoises. If complete avoidance cannot be achieved, the Project proponent shall not undertake Project activities and Project activities shall be postponed until the appropriate authorization [i.e., California Endangered Species Act (CESA) incidental take permit under the Fish and Game Code section 2081] is obtained.

To ~~avoid~~ **minimize** construction impacts to desert tortoise not more than ~~45~~ **15** days before construction a pre-construction clearance survey must be conducted **by an Authorized Biologist (USFWS)**. If ~~species~~ **desert tortoise** is present, individuals will be allowed to leave on their own. In addition, in observation with USFW and CDFW the Project proponent will install exclusionary fencing **following the specifications found in Chapter 8 Desert Tortoise Exclusion Fence of the Desert Tortoise (Mojave Population) Field Manual (USFWS)**.

Applicant Response:

A desert tortoise (DETO; *Gopherus agassizii*) presence/absence survey was conducted in August 2024 according to survey protocol established in the USFWS 2018 *Preparing for any Action That May Occur Within the Range of the Mojave Desert Tortoise* (*Gopherus Agassizii*) (USFWS 2018). Details of the DETO survey are provided in Appendix D of the revised Biological Assessment Report.

No DETO, suitable DETO burrows, or other DETO sign was observed within the study area or accessible areas within 500-feet of the study area during the presence/absence survey. Because of this, DETO are considered absent from the study area. However, since DETO is a mobile species and the study area supports suitable DETO habitat, a pre-construction DETO

clearance survey, as detailed in Measure BIO-8, will be revised to the following:

BIO-7 (previously BIO-8): Not more than 15 days prior to ground-disturbing activities, qualified personnel (USFWS Qualified or Authorized Desert Tortoise Biologist) shall perform a preconstruction clearance survey for desert tortoise. If the species is present on-site, individual(s) shall be allowed to leave the site on their own. No person(s) shall be allowed to touch a desert tortoise without authorization from the US Fish and Wildlife Service (USFWS) and CDFW. Project activities that could harm desert tortoise will not commence without approval from CDFW and USFWS.

In addition, the Project proponent will install exclusionary fencing immediately after the preconstruction clearance survey. Exclusionary fencing will follow the specifications found in Chapter 8 Desert Tortoise Exclusion Fence of the Desert Tortoise (Mojave Population) Field Manual (USFWS) and will be installed around the perimeter of the Project impact area.

Comment C-1-4 Summary:

Section: MND section VI, Page 21

Issue: Mitigation Measure BIO-7 is infeasible as written.

Commenter Recommendation:

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant: CDFW recommends the inclusion of the following changes to the mitigation measures for desert tortoise (edits are in strikethrough and additions are in bold):

Biological Resources Mitigation Measure 7 (BIO-7)

BIO-7: Permittee will obtain California Endangered Species Act (CESA) authorization prior to initiating ground-disturbing activities. If a desert tortoise is present within the construction area, all work and any activities that could harm the tortoise shall stop. The Project manager shall notify a ~~certified~~ **CDFW Authorized Biologist** to safely remove the desert tortoise prior to commencing construction.

Applicant Response:

Because a presence/absence DETO survey was conducted and DETO were determined to be absent from the study area, authorization from CDFW for take of listed species is not warranted at this time. Measure BIO-7 has been revised to the following to account for the potential that DETO could move into the study area prior to the start of construction.

Mitigation Measure BIO-6 (previously BIO-7) is proposed to be modified to the following:

Should a tortoise be found within the Project area prior to or during construction activities,

all Project activities that could harm the tortoise shall stop and will not continue until the tortoise has left the area on its own accord or an authorized biologist has moved the tortoise to safety. The Applicant will consult with United States Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) to obtain authorization for take pursuant to the Federal Endangered Species Act (FESA) and California Endangered Species Act (CESA), respectively, if needed. Project activities with potential to harm desert tortoise will not resume until authorization has been received from USFWS and CDFW.

Comment C-1-5 Summary:

Section: MND section IV, Page 19-21

Issue: The Project site contains potentially suitable habitat for the California Endangered Species Act (CESA)-threatened Mohave ground squirrel (MGS).

Commenter Recommendation:

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant: CDFW offers the following measures for inclusion in the final MND to avoid impacts to Mojave ground squirrel:

Biological Resources Mitigation Measure 11 (BIO-11)

BIO-11: Prior to Project approvals or Entitlements, a A qualified biologist familiar with the species' behavior and life history shall conduct focused surveys for Mohave ground squirrel throughout the Project site. Focused Mohave ground squirrel surveys shall adhere to California Department of Fish and Wildlife Mohave Ground Squirrel Survey Guidelines (CDFW 2023). If Mohave ground squirrel is observed on site or captured during any of the trapping sessions, the Project proponent shall secure a CESA Incidental Take Permit (ITP) for Mohave ground squirrel before the issuance of ~~City~~ **County entitlement** permits or approvals. The ITP shall specify avoidance, minimization, and mitigation conditions for temporary and/or permanent impacts to Mohave ground squirrel including habitat acquisition at a CDFW-approved location and mitigation ratio

Applicant Response:

As discussed in the response to Comment #1, a Mohave ground squirrel (MGS; *Xerospermophilus mohavensis*) habitat assessment was conducted for the study area in August 2024 and it was determined that MGS are unlikely to occur within the vicinity of the study area. As such the Applicant believes that protocol level surveys for MGS are not necessary. Measure BIO-11 has been revised to address potential impacts to MGS in the unlikely change they should be found on-site immediately prior to or during construction:

BIO-9 (previously BIO-11): Should Mohave ground squirrel (MGS; *Xerospermophilus mohavensis*) be found on-site during the pre-construction clearance survey conducted as part of Measure BIO-4, or at any time during construction, all work and any activities that could harm the MGS shall stop and Applicant will consult with the California Department

of Fish and Wildlife (CDFW) to obtain authorization for take pursuant to California Endangered Species Act (CESA). Project activities with potential to harm MGS will not resume until authorization has been received from CDFW. If required as part of this authorization, the Project will obtain an Incidental Take Permit (ITP) for Mohave ground squirrel. The ITP shall specify avoidance, minimization, and mitigation conditions for temporary and/or permanent impacts to Mohave ground squirrel including mitigation through habitat acquisition at a CDFW-approved location. Mitigation will be provided at a minimum 1:1 ratio.

Comment C-1-6 Summary:

Section: MND section IV, Page 20-21

Issue: Page 20 of the MND notes that “special status plant species were not observed during the site visit on June 3, 2023, but the current vegetation type does not contain suitable habitat for sensitive biological resources...”. CDFW is concerned that the Biological Resources Assessment incorrectly concludes that suitable habitat for several sensitive plant species including Barstow wooly sunflower (*Eriophyllum mohavense*), Beaver Dam breadroot (*Pediomelum castoreum*), desert cymopterus (*Cymopterus deserticola*), Mojave spineflower (*Chorizanthe spinosa*), Mojave monkeyflower (*Diplacus mohavensis*), Mojave spineflower (*Chorizanthe spinose*), white pygmy-poppy (*Canbya candida*), and crowned muilla (*Mullia coronata*) is absent from the Project site. CDFW is concerned with these inconsistencies in the Biological Assessment and MND’s subsequent conclusions. Several of these species have a California Rare Plant Rank of 1B or 2B and any potential impacts require public disclosure of such impacts. The determinations of special-status plants potential to occur were made based on habitat assessments that were conducted on June 3, 2023, and information supporting a protocol-level botanical survey is not provided in the MND or attached biological report. For several of the species, this time was outside of the flowering season, and it appears that surveys were not conducted according to CDFW 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018).

If sensitive species and/or their habitat may be impacted from the Project, CDFW recommends the inclusion of specific mitigation in the MND. CEQA Guidelines section 15126.4, subdivision (a)(1)(8) states that formulation of feasible mitigation measures should not be deferred until some future date. The Court of Appeal in *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645 struck down mitigation measures which required formulating management plans developed in consultation with State and Federal wildlife agencies after Project approval. Courts have also repeatedly not supported conclusions that impacts are mitigable when essential studies, and therefore impact assessments, are incomplete (*Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d. 296; *Gentry v. City of Murrieta* (1995) 36 Cal. App. 4th 1359; *Endangered Habitat League, Inc. v. County of Orange* (2005) 131 Cal. App. 4th 777).

Commenter Recommendation:

Recommended Potentially Feasible Mitigation Measure to reduce impacts to less than significant: CDFW offers the following Mitigation Measures for Sensitive Plant Species

(additions are in bold):

Add Biological Resources Mitigation Measure 18 (BIO-18)

BIO-18:

Pre-construction rare plant clearance survey: Prior to Project implementation, and during the appropriate season, a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife's (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a CDFW approved botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. The botanical field surveys shall be conducted at the appropriate time of year when plants will both be evident and identifiable (usually, during flowering or fruiting) and, in a manner, which maximizes the likelihood of locating special- status plants and sensitive natural communities that may be present. Botanical field surveys shall be conducted floristic in nature, meaning that every plant taxon that occurs in the Project area is identified to the taxonomic level necessary to determine rarity and listing status. If any special-status plants are identified, the Project Applicant shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging). If complete avoidance of a special status plant is not feasible, the Project Applicant shall mitigate the loss of the plant(s) through off-site compensation including: 1) permanent protection of an existing off-site native population; 2) permanent protection of an off-site introduced population; 3) a combination of and 2); or 4) mitigation banking. The ratio of acquisition to loss must in most cases exceed 1:1 for any species. The ratio should be higher for rarer species, particularly for those that occupy irreplaceable habitats.

Applicant Response:

The potential for special-status plants to occur within the study area has been reassessed in the revised Biological Assessment Report. A summary of the revised findings is provided in response to Comment #1, above. Applicant agrees with the CDFW-proposed measure BIO-18 with minor revisions. The Measure has also been re-numbered to Measure BIO-16. The following Measure BIO-16 will be implemented to avoid, minimize, and mitigate for (if needed) Project Impacts to special-status plants.

BIO-16: Prior to Project implementation, and during the appropriate season (March-May), a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife's (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of the area, including special-status and locally significant plants, and familiar with the appropriate state and federal

statutes related to plants and plant collecting. If any special-status plants are identified, the Project Applicant shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging). If complete avoidance of a California Rare Plant Rank (CRPR) 1A, 1B, 2A, or 2B species is not feasible, the Project Applicant shall mitigate the loss of the plant(s) through off-site compensation including:

- 1) permanent protection of an existing off-site native population;
- 2) permanent protection of an off-site introduced population;
- 3) a combination of 1) and 2); or
- 4) mitigation banking.

Compensation will be provided at a minimum 1:1 ratio.

Letter C2

COMMENTER: Mojave Desert Air Quality Management District

DATE: July 24, 2024

Comment C-2-1:

The District requires that the owner/operator obtain Solar Permits as listed in District Rule 302 and a Dust Control Plan (DCP) for the planned solar facility. The most current Dust Control Plan Requirements and Dust Control Plan Submission Form are available at <https://www.mdaqmd.ca.gov/permitting/compliance-forms>.

Applicant Response:

Noted, Rule 302 has been reviewed and a Dust Control Plan will be prepared in concurrence with building permit submittal. This is a requirement of the existing Mitigation Measure AQ-1. In addition, the Mojave Desert Air Quality Management District (MDAQMD) requires a Dust Control Plan - Solar Project (referenced above as a Solar Permit) to be completed by the Developer, which will include proper posting of signage on the property with a 24-hour listed contact.

On September 16, 2024, Elevated Entitlements spoke with Cheri from the Mojave Desert AQMD and confirmed that there is no separate "solar permit" for the District. Rather the comment above is referencing the solar specific Dust Control Plan.

Comment C-2-2:

Signage compliant with Rule 403 Attachment B shall be erected at each project site entrance not later than the commencement of construction.

Applicant Response:

The project applicant will post 48" x 96" signs within 50 feet of each public site entrance. The posted signs will be in adherence with the requirements of Rule 403 attachment B.

Comment C-2-3:

Use a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. For projects with exposed sand or fines deposits (and for projects that expose such soils through earthmoving), chemical stabilization or covering with a stabilizing layer of gravel will be required to eliminate visible dust/sand from sand/fines deposits.

Applicant Response:

Water trucks will be used during construction operations to minimize fugitive dust emissions.

The quantity and frequency of the trucks will be specified in the Dust Control Plan required by Mitigation Measure AQ-1. The project will compact access roads to 85% as required by the County of San Bernardino Fire Department. The ground area below the panels will not be disturbed during operations by vehicular movement and thus would not need soil stabilizer.

Comment C-2-4:

All perimeter fencing shall be wind fencing or the equivalent, to a minimum of four feet of height or the top of all perimeter fencing. The owner/operator shall maintain the wind fencing as needed to keep it intact and remove windblown dropout. This wind fencing requirement may be superseded by local ordinance, rule or project-specific biological mitigation prohibiting wind fencing.

Applicant Response:

The County of San Bernardino has implemented through Conditions of Approval (COA) the requirement to install an 8-foot steel tube fence with slats along the property boundaries that face residential properties. They have implemented this COA to provide visual screening and to help mitigate any fugitive dust. As stated in the MDAQMD comment the wind fencing requirement is superseded by local ordinance.

Comment C-2-5:

All maintenance and access vehicular roads and parking areas shall be stabilized with chemical, gravel or asphaltic pavement sufficient to eliminate visible fugitive dust from vehicular travel and wind erosion. Take actions to prevent project-related trackout onto paved surfaces and clean any project-related trackout within 24 hours. All other earthen surfaces within the project area shall be stabilized by natural or irrigated vegetation, compaction, chemical or other means sufficient to prohibit visible fugitive dust from wind erosion.

Applicant Response:

All maintenance, access vehicular roads, and parking areas will be stabilized with approved native materials or gravel compacted to 85% as required by the County of San Bernardino Fire Department.

Comment C-2-6:

Obtain District permits for any miscellaneous process equipment that may not be exempt under District Rule 219 including, but not limited to: Internal Combustion Engines with a manufacture's maximum continuous rating greater than or equal to 50 brake horsepower.

Applicant Response:

Permits will be requested for any miscellaneous process equipment not exempt under District

Rule 219.

Comment C-2-7:

Comply with all applicable provisions listed in Rule 403 - *Fugitive Dust Control*.

Applicant Response:

Noted, project applicant will abide by Rule 403- *Fugitive Dust Control*.

Mitigation Monitoring and Reporting Program

2.1 Introduction to the MMRP

CEQA requires that a reporting or monitoring program be adopted for the conditions of Project approval that are necessary to mitigate or avoid significant effects on the environment (Public Resources Code [PRC] 21081.6). PRC Section 21081.6 provides general guidelines for implementing mitigation monitoring programs and indicates that specific reporting and/or monitoring requirements, to be enforced during Project implementation, shall be defined prior to final certification of the IS/MND.

This mitigation monitoring and reporting program (MMRP) is intended to track and ensure compliance with adopted mitigation measures during the Project implementation phase. For each mitigation measure recommended in the Initial Study Mitigated Negative Declaration (IS/MND), specifications are made herein that identify the action required, the monitoring that must occur, and the agency or department responsible for oversight.

2.2 MMRP

The Mitigation Monitoring and Reporting Program below lists mitigation measures and Project design features that are required to reduce the significant effects of the proposed Project. To ensure that the mitigation measures are properly implemented, a monitoring program has been devised that identifies the timing and responsible entity for monitoring each measure. The County of San Bernardino will have the responsibility for implementing the measures, and various public agencies will have the primary responsibility for enforcing, monitoring, and reporting the implementation of the mitigation measures.

<p>AQ-1: Dust Control A Dust Control Plan shall be submitted and accepted by the County and Mojave Desert AQMD prior to issuance of any construction related permits. The Plan shall include methods to stabilize and/or bind the soil as part of construction and operational activities, along with screening to reduce potential dust to the east consistent with Development Code Findings 84.29.035(22).</p>	<p>AQ-1: Dust Control A Dust Control Plan shall be submitted and accepted by the County and Mojave Desert AQMD prior issuance of any construction related permits. The Plan shall include methods to stabilize and/or bind the soil as part of construction and operational activities, along with screening to reduce potential dust to the east consistent with Development Code Findings 84.29.035(22).</p>
<p>BIO-1: Change in Project Scope: If the Project scope should change for any reason, Elevated Entitlements and the County of San Bernardino shall be notified to determine whether current environmental documentation is adequate.</p>	<p>BIO-1: Change in Project Scope: If the Project scope should change for any reason, Elevated Entitlements and the County of San Bernardino shall be notified to determine whether current environmental documentation is adequate.</p>
<p>BIO-2: Pre-Construction Meeting: The Project biologist shall conduct a pre-construction meeting to provide environmental awareness training to all personnel that will be on the Project site during construction. The meeting shall be held within one week prior to the start of construction. The environmental awareness training will educate personnel on all special-status species and other biological resources (i.e. aquatic resources) that could occur within the Project area and related avoidance and minimization measures.</p>	<p>BIO-2: Pre-Construction Meeting: The Project biologist shall conduct a pre-construction meeting to provide environmental awareness training to all personnel that will be on the Project site during construction. The meeting will be held within one week prior to the start of construction. The environmental awareness training will educate personnel on all special-status species and other biological resources (i.e. aquatic resources) that could occur within the Project area and related avoidance and minimization measures.</p>
<p>BIO-3: Use of water onsite shall be controlled as to not allow pooling of water or creation of streams.</p>	<p>BIO-3: Use of water onsite shall be controlled as to not allow pooling of water or creation of streams.</p>
<p>BIO-4: Biological monitor(s) shall be present during vegetation clearing, earthwork and ground disturbing activities. Should special-status biological resources be found during these activities, the biological monitor shall have the authority to stop work as needed to avoid direct impacts to these resources and confer with CDFW and USFWS, as needed, to identify any additional protection measures needed.</p>	<p>BIO-4: Biological monitor(s) shall be present during vegetation clearing, earthwork and ground disturbing activities. Should special-status biological resources be found during these activities, the biological monitor shall have the authority to stop work as needed to avoid direct impacts to these resources and confer with CDFW and USFWS, as needed, to identify any additional protection measures needed.</p>

<p>BIO-5: Biological monitors shall be present during vegetation clearing, earthwork and ground disturbing activities.</p>	<p>Combined into BIO-16</p>
<p>BIO-6: Equipment operators shall check under motorized equipment & vehicles that have been parked over night or stationery for some length of time before moving the vehicle to determine the presence or absence of potential species.</p>	<p>BIO-5: Equipment operators shall check under motorized equipment & vehicles that have been parked overnight or stationery before moving the vehicle to determine the presence or absence of potential species.</p> <p>Environmental awareness training shall be provided for all construction personnel to educate them on desert tortoise, protective status, and avoidance measures to be implemented by all personnel, including looking under vehicles and equipment prior to moving. If tortoises are encountered, such vehicles shall not be moved until the tortoises have voluntarily moved away from them or a qualified biologist has moved the tortoises out of harm’s way.</p>
<p>BIO-7: If a desert tortoise is present within the construction area, all work and any activities that could harm the tortoise shall stop. The project manager shall notify a certified biologist to safely remove the desert tortoise prior to commencing construction.</p>	<p>BIO-6: Should a tortoise be found within the Project area prior to or during construction activities, the Applicant shall consult with United States Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) to obtain authorization for take pursuant to the Federal Endangered Species Act (FESA) and California Endangered Species Act (CESA), respectively, if needed. Project activities with potential to harm desert tortoise shall not resume until authorization has been received from USFWS and CDFW.</p>
<p>BIO-8: To avoid construction impacts to desert tortoise not more than 45 days before construction a pre-construction clearance survey must be conducted. If species is present individuals will be allowed to leave on their own. In addition, in observation with USFW and CDFW the project proponent will install exclusionary fencing.</p>	<p>BIO-7: Not more than 15 days prior to ground-disturbing activities, qualified personnel (USFWS Qualified or Authorized Desert Tortoise Biologist) shall perform a preconstruction clearance survey for desert tortoise. If the species is present on-site, individual(s) shall be allowed to leave the site on their own. No person(s) shall be allowed to touch a desert tortoise without authorization from the US Fish and Wildlife Service (USFWS) and CDFW. Project activities that could harm desert tortoise will not commence without approval from CDFW and USFWS.</p>

	<p>In addition, the project proponent will install permanent exclusionary fencing immediately after the pre-construction clearance survey. Exclusionary fencing will follow the specifications found in Chapter 8 Desert Tortoise Exclusion Fence of the Desert Tortoise (Mojave Population) Field Manual (USFWS) and will be installed around the perimeter of the Project impact area only.</p>
<p>BIO-9: Immediately prior to installation of exclusionary fencing around the construction site a clearance survey shall be conducted by a certified biologist.</p>	<p>Added to BIO-7</p>
<p>BIO-10: Exclusionary fence shall be regularly inspected for damage during each routine on-site visit by the project onsite manager.</p>	<p>BIO-8: Exclusionary fence shall be inspected at least weekly during construction and at least semi-annually during operations by the project biological monitor or onsite manager. Any needed repairs to the exclusionary fence shall be repaired immediately.</p>
<p>BIO-11: A qualified biologist familiar with the species' behavior and life history shall conduct focused surveys for Mohave ground squirrel throughout the Project site. Focused Mohave ground squirrel surveys shall adhere to California Department of Fish and Wildlife Mohave Ground Squirrel Survey Guidelines (CDFW 2023). If Mohave ground squirrel is observed on site or captured during any of the trapping sessions, the Project proponent shall secure a CESA Incidental Take Permit (ITP) for Mohave ground squirrel before the issuance of City permits. The ITP shall specify avoidance, minimization, and mitigation conditions for temporary and/or permanent impacts to Mohave ground squirrel including habitat acquisition at a CDFW-approved location and mitigation ratio.</p>	<p>BIO-9: Should Mohave ground squirrel (MGS; <i>Xerospermophilus mohavensis</i>) be found on-site during the pre-construction clearance survey conducted as part of Measure BIO-4, or at any time during construction, all work and any activities that could harm the MGS shall stop and Applicant will consult with the California Department of Fish and Wildlife (CDFW) to obtain authorization for take pursuant to California Endangered Species Act (CESA). Project activities with potential to harm MGS will not resume until authorization has been received from CDFW. If required as part of this authorization, the Project will obtain an Incidental Take Permit (ITP) for Mohave ground squirrel. The ITP shall specify avoidance, minimization, and mitigation conditions for temporary and/or permanent impacts to Mohave ground squirrel including mitigation through habitat acquisition at a CDFW-approved location. Mitigation will be provided at a minimum 1:1 ratio.</p>

<p>BIO-12: Nesting Bird Surveys and Exclusionary Measures: A certified biologist shall recommend approved limits of disturbance, including construction staging areas and access routes, to minimize impacts to adjacent habitat. If work is to occur during the bird nesting season (which is February 1st through September 1st), a certified biologist, shall be notified two weeks prior to the start of construction to determine if nesting birds are present so that preconstruction surveys may be conducted and exclusionary devices and methods may be discussed, per the following standard specification: 14-6.03 Bird Protection. No work shall commence until vegetation to be removed has been surveyed for nesting birds and cleared by a certified biologist. In the event that nesting birds are observed, the construction project manager shall pause work until a certified biologist has determined that fledglings have left the nest. If this is not possible, the construction project manager shall coordinate with a certified biologist to minimize the risk of violating the Migratory Bird Treaty Act (MBTA). A certified biologist shall require a buffer of 150 ft. for native songbirds and a buffer of 500 ft. for raptors during all phases of construction. Native nesting birds are protected under the MBTA and cannot be impacted by construction activities, including but not limited to noise, dust pollution, and habitat disturbance.</p>	<p>BIO-10: To avoid to nesting birds, no less than 3 days prior to commencement of scheduled ground disturbance during the nesting bird breeding season (February 1 through August 31), qualified personnel shall perform a nest survey within the disturbance footprint and a 500 feet buffer, as accessible. If active nests are found, project disturbance activities shall be postponed or halted within a non-disturbance buffer surrounding each active nest. The non-disturbance buffer will be a minimum 150 ft. for native songbirds 500 ft. for raptors, or as determined suitable particular bird species and nest location(s) by the biological monitor. The buffer will remain in place until the nest(s) is vacated and juveniles have fledged, as determined by the biologist. Any such buffer(s) shall be clearly demarcated in the field with highly visible construction fencing or flagging, and construction personnel shall be instructed on the sensitivity of nest areas. A biologist shall monitor construction activities near all such buffer(s) to ensure no inadvertent impacts on active nest(s). If listed species are involved, the CDFW and/or USFWS shall be notified immediately for consultation on how to proceed.</p>
<p>BIO-13: This project shall employ all appropriate Stormwater and Erosion Control Best Management Practices (BMPs) during construction, and these must be incorporated into the project specifications. Prior to the start of construction, all drain inlets must be protected with BMPs to prevent construction materials and debris from entering drainages.</p>	<p>BIO-11: This project shall employ all appropriate Stormwater and Erosion Control Best Management Practices (BMPs) during construction, and these must be incorporated into the project specifications. Prior to the start of construction, all drain inlets must be protected with BMPs to prevent construction materials and debris from entering drainages.</p>
<p>BIO-14: High-Visibility Fencing (Type ESA): High-visibility fencing (Type ESA) shall be placed around environmentally sensitive areas under the supervision of the certified biologist.</p>	<p>BIO-12: High-Visibility Fencing (Type ESA): High-visibility fencing (Type ESA) shall be placed around environmentally sensitive areas, consisting of (1) all non-impacted aquatic resources within 50 feet of the Project limits, (2) any special-status plants identified during the survey conducted for BIO-16 that will be avoided, and (3) any nests that are to be avoided under the supervision of the certified biologist.</p>

<p>BIO-15: Construction Staging Areas and Access Roads: Temporary construction staging areas and access roads shall be used to avoid and/or minimize impacts to vegetation outside the construction areas</p>	<p>BIO-13: Construction Staging Areas and Access Roads: Temporary construction staging areas and access roads shall be used to avoid and/or minimize impacts to vegetation outside the construction areas.</p>
<p>BIO-16: Control of Invasive Plant Species: The construction contractor shall inspect and clean construction equipment at the beginning of each day prior to transporting equipment to the construction site. During construction, soil and vegetation disturbance will be minimized to the greatest extent feasible. During construction, the contractor shall ensure that all active portions of the construction site are watered a minimum of twice daily or more often when needed due to dry or windy conditions to prevent excessive amounts of dust. During construction, the contractor shall ensure that all material stockpiled is sufficiently watered or covered to prevent excessive amounts of dust. During construction, soil/gravel/rock will be obtained from weed-free sources. Only certified weed-free straw, mulch, and/or fiber rolls will be used for erosion control. The use of herbicides shall be prohibited within and adjacent to native vegetation, except as specifically authorized and monitored by the County Biologist and Landscape Architect.</p>	<p>BIO-14: Control of Invasive Plant Species: The construction contractor shall inspect and clean construction equipment at the beginning of each day prior to transporting equipment to the construction site. During construction, soil and vegetation disturbance will be minimized to the greatest extent feasible. During construction, the contractor shall ensure that all active portions of the construction site are watered a minimum of twice daily or more often when needed due to dry or windy conditions to prevent excessive amounts of dust. During construction, the contractor shall ensure that all material stockpiled is sufficiently watered or covered to prevent excessive amounts of dust. During construction, soil/gravel/rock will be obtained from weed-free sources. Only certified weed-free straw, mulch, and/or fiber rolls will be used for erosion control. The use of herbicides shall be prohibited within and adjacent to native vegetation, except as specifically authorized and monitored by the County Biologist and Landscape Architect.</p>
<p>BIO-17: Pollution and Litter: All pollution and litter laws and regulations shall be followed by all personnel on site.</p>	<p>BIO-15: Pollution and Litter: All pollution and litter laws and regulations shall be followed by all personnel on site.</p>
	<p>BIO-16: Prior to Project implementation, and during the appropriate season (March-May), a qualified biologist shall conduct botanical field surveys within the Project area following protocols set forth in the California Department of Fish and Wildlife’s (CDFW) 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The surveys shall be conducted by a botanist(s) experienced in conducting floristic botanical field surveys, knowledgeable of plant taxonomy and plant community ecology and classification, familiar with the plants of</p>

	<p>the area, including special-status and locally significant plants, and familiar with the appropriate state and federal statutes related to plants and plant collecting. If any special-status plants are identified, the Project Applicant shall avoid the plant(s), with an appropriate buffer (i.e., fencing or flagging). If complete avoidance of a California Rare Plant Rank (CRPR) 1A, 1B, 2A, or 2B species is not feasible, the Project Applicant shall mitigate the loss of the plant(s) through off-site compensation including:</p> <ol style="list-style-type: none"> 1) permanent protection of an existing off-site native population; 2) permanent protection of an off-site introduced population; 3) a combination of 1) and 2); or 4) mitigation banking. (Compensation will be provided at a minimum 1:1 ratio.)
<p>CUL-1: Monitoring and Treatment Plan Prior to construction of the proposed Project, a qualified archaeological monitor with relevant San Bernardino County experience and who will work directly under the direction of a Secretary of the Interior’s (SOI) professional archaeologist, should be retained by the Project proponent. If the resources cannot be avoided and if the lead agency requires, an Archaeological Management Plan will be prepared to establish procedures for monitoring.</p>	<p>CUL-1: Monitoring and Treatment Plan Prior to construction of the proposed Project, a qualified archaeological monitor with relevant San Bernardino County experience and who will work directly under the direction of a Secretary of the Interior’s (SOI) professional archaeologist, should be retained by the Project proponent. If the resources cannot be avoided and if the lead agency requires, an Archaeological Management Plan will be prepared to establish procedures for monitoring.</p>
<p>CUL-2: Archaeological Monitoring The Project archaeologist may, at their discretion, terminate monitoring if (and only if) no subsurface cultural resources have been detected. If buried cultural resource artifacts are uncovered during ground disturbance activities the archaeological monitor will have the authority to re-direct grading activities to other location within the Project to examine the resources and possibly conduct subsurface testing (Phase II), as indicated in the Archaeological Management Plan. A research design associated with such work must be written before any subsurface fieldwork begins. The Plan shall include a description of how and where artifacts will be curated. If the site is determined to be significant through the testing process, continued impacts to the site would be considered significant and possibly unavoidable impacts. Impacts to the significance resource must take place either through avoidance or a Phase 3 excavation. Should any prehistoric or tribal cultural resources be</p>	<p>CUL-2: Archaeological Monitoring The Project archaeologist may, at their discretion, terminate monitoring if (and only if) no subsurface cultural resources have been detected. If buried cultural resource artifacts are uncovered during ground disturbance activities the archaeological monitor will have the authority to re-direct grading activities to other location within the Project to examine the resources and possibly conduct subsurface testing (Phase II), as indicated in the Archaeological Management Plan. A research design associated with such work must be written before any subsurface fieldwork begins. The Plan shall include a description of how and where artifacts will be curated. If the site is determined to be significant through the testing process, continued impacts to the site would be considered significant and possibly unavoidable impacts. Impacts to the significance resource must take place either through avoidance or a Phase 3 excavation. Should any prehistoric or tribal cultural resources be identified within the Project Area, Native American consulting</p>

<p>identified within the Project Area, Native American consulting parties shall be contacted regarding the disposition and treatment of the resource(s).</p>	<p>parties shall be contacted regarding the disposition and treatment of the resource(s).</p>
<p>CUL-3: In the event unanticipated human remains, work in the immediate vicinity of the find shall stop and no further disturbance shall occur until the San Bernardino County Coroner has made a determination of origin and disposition pursuant to CEQA, Section 15064.5(e), State of California Health and Safety Code Section 7050.5 and PRC Section 5097.98. The County Coroner shall be notified of the find immediately. If the Coroner determines that the human remains are of Native American in origin, then the Coroner shall notify the NAHC, who is responsible for identifying and notifying the Native American most likely descendant (MLD). The MLD shall complete the inspection of the site within 48 hours of notification and make recommendations regarding the treatment and disposition of human remains and items associated with Native American burials. If an agreement regarding disposition of human remains between the MLD and the Landowner or a MLD cannot be identified the landowner shall comply with the disposition and documentation required as defined by PCR 5097.98 Section (e).</p>	<p>CUL-3: In the event unanticipated human remains, work in the immediate vicinity of the find shall stop and no further disturbance shall occur until the San Bernardino County Coroner has made a determination of origin and disposition pursuant to CEQA, Section 15064.5(e), State of California Health and Safety Code Section 7050.5 and PRC Section 5097.98. The County Coroner shall be notified of the find immediately. If the Coroner determines that the human remains are of Native American in origin, then the Coroner shall notify the NAHC, who is responsible for identifying and notifying the Native American most likely descendant (MLD). The MLD shall complete the inspection of the site within 48 hours of notification and make recommendations regarding the treatment and disposition of human remains and items associated with Native American burials. If an agreement regarding disposition of human remains between the MLD and the Landowner or a MLD cannot be identified the landowner shall comply with the disposition and documentation required as defined by PCR 5097.98 Section (e).</p>
<p>TCR-1: Treatment of Tribal Cultural Resources If a pre-contact cultural resource is discovered during Project implementation, ground-disturbing activities shall be suspended for a distance of 60 feet around the resource(s), and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed.</p> <p>The Project Archaeologist shall develop a research design that shall include a plan to evaluate the resource for significance under CEQA criteria. Representatives from YSMN, Cultural Resources Department, the Archaeologist, and the County shall confer regarding the research design, as well as any testing efforts needed to delineate the resource boundary. Following the completion of evaluation efforts, all parties shall confer regarding the resource's archaeological significance, its potential as a Tribal</p>	<p>TCR-1: Treatment of Tribal Cultural Resources If a pre-contact cultural resource is discovered during Project implementation, ground-disturbing activities shall be suspended for a distance of 60 feet around the resource(s), and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed.</p> <p>The Project Archaeologist shall develop a research design that shall include a plan to evaluate the resource for significance under CEQA criteria. Representatives from YSMN, Cultural Resources Department, the Archaeologist, and the County shall confer regarding the research design, as well as any testing efforts needed to delineate the resource boundary. Following the completion of evaluation efforts, all parties shall confer regarding the resource's archaeological significance, its potential as a Tribal</p>

Cultural Resource (TCR), and avoidance (or other appropriate treatment) of the discovered resource.

It is the preference of YSMN that removed cultural material be reburied as close to the original find location as possible. However, should reburial within/near the original find location during Project implementation not be feasible, then a reburial location for future reburial shall be decided upon by YSMN, the landowner, and the Lead Agency, and all finds shall be reburied within this location. Additionally, in this case, reburial shall not occur until all ground-disturbing activities associated with the Project have been completed, all monitoring has ceased, all cataloguing and basic recordation of cultural resources have been completed, and a final monitoring report has been issued to Lead Agency, CHRIS, and YSMN. All reburials are subject to a reburial agreement that shall be developed between the landowner and YSMN outlining the determined reburial process/location and shall include measures and provisions to protect the reburial area from any future impacts.

Should it occur that avoidance, preservation in place, and on-site reburial are not an option for treatment, the landowner shall relinquish all ownership and rights to this material and confer with YSMN to identify an American Association of Museums (AAM)-accredited facility within the County that can accession the materials into their permanent collections and provide for the proper care of these objects in accordance with the 1993 CA Curation Guidelines. A curation agreement with an appropriately qualified repository shall be developed between the landowner and museum that legally and physically transfers the collections and associated records to the facility. This agreement shall stipulate the payment of fees necessary for permanent curation of the collections and associated records and the obligation of the Project developer/applicant to pay for those fees.

All draft records/reports containing the significance and treatment findings and data recovery results shall be prepared by the archaeologist and submitted to the Lead Agency and YSMN for their review and comment. After

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<p>approval from all parties, the final reports and site/isolate records are to be submitted to the local CHRIS Information Center, the Lead Agency, and YSMN.</p>	<p>approval from all parties, the final reports and site/isolate records are to be submitted to the local CHRIS Information Center, the Lead Agency, and YSMN.</p>
<p>TCR-2: Inadvertent Discoveries of Human Remains/Funerary Objects In the event that any human remains are discovered within the property, ground disturbing activities shall be suspended 100 feet around the resource(s) and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. The on-site lead/foreman shall then immediately notify YSMN, the applicant/developer, and the Lead Agency. The County of San Bernardino and the applicant/developer shall then immediately contact the County Coroner regarding the discovery. The County Coroner shall be contacted as required by the State Health and Safety Code regarding the discovery. If the Coroner recognizes the human remains to be those of a Native American or has reason to believe that they are those of a Native American, the Coroner shall ensure that notification is provided to the NAHC within twenty-four (24) hours of the determination, as required by California Health and Safety Code § 7050.5 (c). The NAHC-identified Most Likely Descendant (MLD), shall be allowed, under California Public Resources Code § 5097.98 (a), to (1) inspect the site of the discovery and (2) make determinations as to how the human remains and funerary objects shall be treated and disposed of with appropriate dignity. The MLD, Lead Agency, and landowner agree to discuss in good faith what constitutes "appropriate dignity" as that term is used in the applicable statutes. The MLD shall complete its inspection and make recommendations within forty-eight (48) hours of the site visit, as required by California Public Resources Code § 5097.98.</p> <p>Reburial of human remains and/or funerary objects (those artifacts associated with any human remains or funerary rites) shall be accomplished in compliance with the California Public Resources Code § 5097.98 (a) and (b). The MLD in consultation with the landowner, shall make the final discretionary determination regarding the appropriate disposition and treatment of human remains and funerary objects. All parties are aware that the MLD may wish to</p>	<p>TCR-2: Inadvertent Discoveries of Human Remains/Funerary Objects In the event that any human remains are discovered within the property, ground disturbing activities shall be suspended 100 feet around the resource(s) and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. The on-site lead/foreman shall then immediately notify YSMN, the applicant/developer, and the Lead Agency. The County of San Bernardino and the applicant/developer shall then immediately contact the County Coroner regarding the discovery. The County Coroner shall be contacted as required by the State Health and Safety Code regarding the discovery. If the Coroner recognizes the human remains to be those of a Native American or has reason to believe that they are those of a Native American, the Coroner shall ensure that notification is provided to the NAHC within twenty-four (24) hours of the determination, as required by California Health and Safety Code § 7050.5 (c). The NAHC-identified Most Likely Descendant (MLD), shall be allowed, under California Public Resources Code § 5097.98 (a), to (1) inspect the site of the discovery and (2) make determinations as to how the human remains and funerary objects shall be treated and disposed of with appropriate dignity. The MLD, Lead Agency, and landowner agree to discuss in good faith what constitutes "appropriate dignity" as that term is used in the applicable statutes. The MLD shall complete its inspection and make recommendations within forty-eight (48) hours of the site visit, as required by California Public Resources Code § 5097.98.</p> <p>Reburial of human remains and/or funerary objects (those artifacts associated with any human remains or funerary rites) shall be accomplished in compliance with the California Public Resources Code § 5097.98 (a) and (b). The MLD in consultation with the landowner, shall make the final discretionary determination regarding the appropriate disposition and</p>

rebury the human remains and associated funerary objects on or near the site of their discovery, in an area that shall not be subject to future subsurface disturbances. The applicant/developer/landowner should accommodate on-site reburial in a location mutually agreed upon by the Parties.

It is understood by all Parties that unless otherwise required by law, the site of any reburial of Native American human remains or cultural artifacts shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The coroner, parties, and Lead Agencies would be asked to withhold public disclosure information related to such reburial, pursuant to the specific exemption set forth in California Government Code § 6254 (r).

treatment of human remains and funerary objects. All parties are aware that the MLD may wish to rebury the human remains and associated funerary objects on or near the site of their discovery, in an area that shall not be subject to future subsurface disturbances. The applicant/developer/landowner should accommodate on-site reburial in a location mutually agreed upon by the Parties.

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TCR-3:

A sufficient number of archaeological monitors shall be present each workday to ensure that simultaneously occurring ground disturbing activities receive thorough levels of monitoring coverage. A Monitoring and Treatment Plan (MTP) that is reflective of the Project mitigation (“Cultural Resources” ground-disturbing and “Tribal Cultural Resources”) shall be completed by the archaeologist and submitted to the County and the Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN). Any and all findings would be subject to the protocol detailed within the MTP, as well as the protocol outlined in TCR-1. The MTP shall also state the frequency by which the archaeological monitor would submit monitoring logs to the County and YSMN. Once all parties review and approve the MTP, it shall be adopted by the County, which shall occur prior to permitting for the Project. At the conclusion of monitoring for the Project, a draft monitoring report would be submitted to the County and YSMN for review, and the final monitoring report would be submitted to all parties for their records.

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TCR-4:
Monitoring of earthmoving activities by a qualified archaeologist and/or tribal monitor (including initial grubbing and vegetation removal) is recommended to mitigate potential impacts to undiscovered human remains.

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