



LAND USE SERVICES DEPARTMENT
PLANNING DIVISION
PLANNING COMMISSION STAFF REPORT



HEARING DATE: December 20, 2012

AGENDA ITEM # 2

Project Description

Vicinity Map

APN: 0433-014-54
Applicant: Aikyum, Inc./Deep Creek Solar Farm
Community: Apple Valley/1st Supervisorial District
Location: Northwest corner of Deep Creek Road and Hinton Road
Project No: P201100391/CUP
Staff: Tracy Creason
Rep: REP Energy, Inc.
Proposal: Conditional Use Permit to establish a 2-Megawatt solar photovoltaic renewable energy generation facility on a 26-acre portion of 40 acres.



22 Hearing Notices Sent On: November 29, 2012
P.C. Field Inspection Date: December 14, 2012

Report Prepared By: Tracy Creason
Field Inspected By: Commissioner Coleman

SITE INFORMATION

Parcel Size: 40 acres.
Terrain: Flat vacant desert terrain site
Vegetation: Joshua tree woodland and dry desert wash

SURROUNDING LAND DESCRIPTION:

| AREA | EXISTING LAND USE | LAND USE ZONING DISTRICT / OVERLAYS |
|-------|--------------------------------|---|
| Site | Vacant | AG/FW – Agriculture/Floodway / Fire Safety 2, Flood Plain 1, Dam Inundation |
| North | Vacant / Mojave River | AG/FW – Agriculture/Floodway / Fire Safety 2, Flood Plain 1, Dam Inundation |
| South | Scattered Residential / Vacant | AG/FW – Agriculture/Floodway / Fire Safety 2, Flood Plain 1, Dam Inundation |
| East | Scattered Residential / Vacant | AG – Agriculture / Fire Safety 2, Flood Plain 1, Dam Inundation |
| West | Vacant / Mojave River | FW – Floodway / Fire Safety 2, Flood Plain 1, Dam Inundation |

| | <u>AGENCY</u> | <u>COMMENT</u> |
|---------------------------|----------------------|---|
| City Sphere of Influence: | Town of Apple Valley | In support |
| Water Service: | N/A | Minimum amount for washing to be hauled |
| Septic Service | N/A | Not required |

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

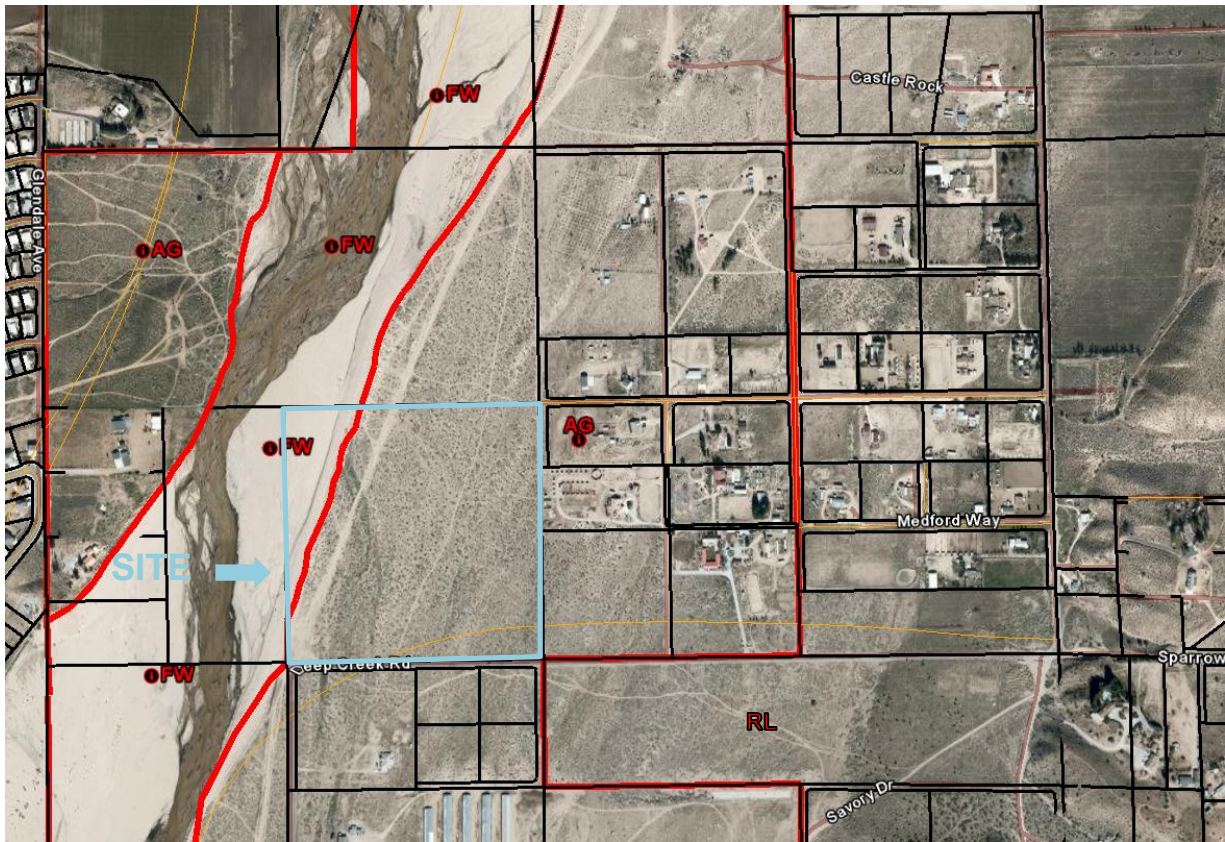
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VICINITY MAP



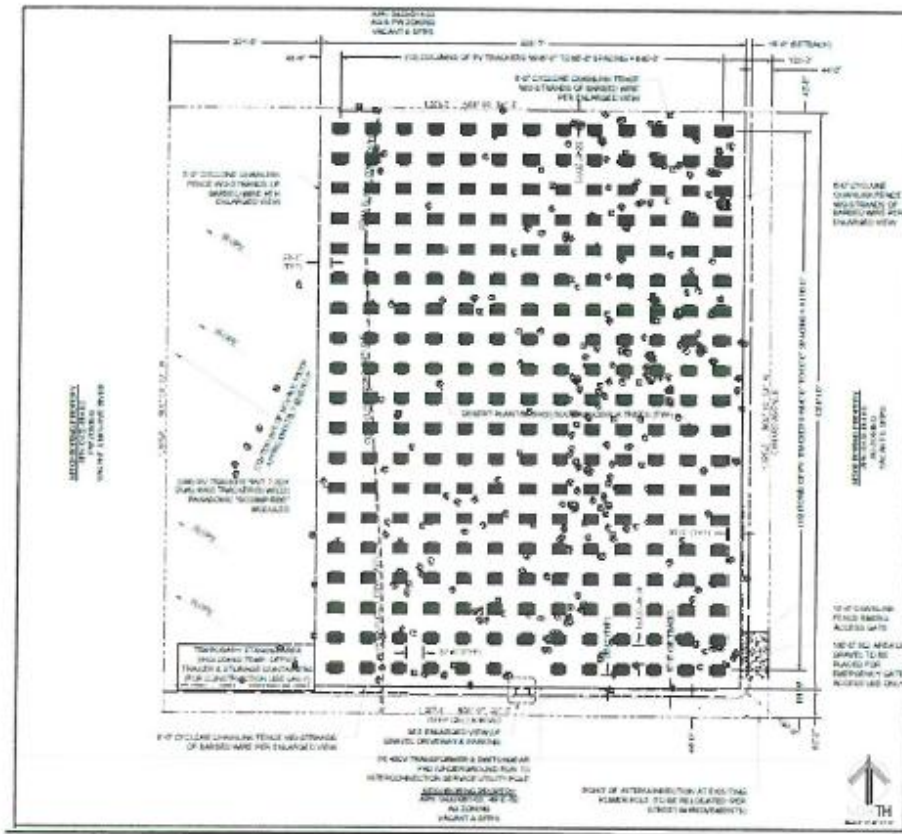
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LAND USE ZONING DISTRICT MAP



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SITE PLAN



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BACKGROUND:

The proposed Conditional Use Permit (“CUP”) is a request to establish a 2 megawatt solar photovoltaic (“PV”) renewable energy generation facility (“Project”) on a 26-acre portion of 40 acres near the Town of Apple Valley and the City of Hesperia. The Project will generate power sufficient to serve approximately 1,500 average-size homes. It is anticipated that this Project will be constructed over approximately eight to ten weeks. Upon completion, the Project will be unmanned except for periodic maintenance and upkeep.

Location and Access: The site is located at the northwest corner of Deep Creek Road and Hinton Road in the sphere of influence of the Town of Apple Valley. The City of Hesperia is approximately ½ mile west of the site and the Town of Apple Valley is approximately 2.4 miles northeast. The Project site will be accessed via Deep Creek Road.

Public Input: In response to the Project notice, the Town of Apple Valley sent a letter in support of the Project due to the Project location, conditions of the property, and the facility’s production of clean energy. Staff received four responses in opposition to the Project notice and one response requesting notification of the Project decision. Expressed concerns have been addressed through Project design and Conditions of Approval (“COAs”), and included:

- Incompatibility with the agricultural, rural, equestrian lifestyle
- Increased traffic
- Reduction of property values and desirability
- Glare
- Addition of carcinogens

Environmental setting: The site is located on level terrain with elevations on-site ranging from 2910 to 2915 feet above mean sea level. There are existing scattered residences to the south and east. According to the Biological Resources Report (“BRR”) prepared by Tom Dodson & Associates in May 2012, the primary vegetation communities on site can be characterized as Joshua Tree woodland, and dry desert wash. The Joshua Tree woodland community consists of low-growing perennial plants with a few taller shrubs, such as burrobush, creosote bush, and buckwheat. The desert wash community on site is part of the Mojave River and is un-vegetated. The site contains evidence of on-going disturbance, including off-road vehicle use, dogs, and trash dumping.

Approximately seven acres of the westerly portion of the 40-acre Project site occur within the Mojave River floodplain. The Project proposes to avoid the westerly 14 acres of the site. A mitigation measure requires a qualified professional to clearly delineate the boundary limits of disturbance in order to avoid any impacts within the floodplain.

Solar Array Operation: The Project will utilize approximately 8200 PV modules mounted on 246 dual-axis sun tracking systems mounted in rows. The Project includes a 480V transformer and switchgear pad. Electrical energy generated on the site would connect to the existing regional transmission system via an underground interconnection run to the existing power pole at the southeast corner of the property. SCE will buy the energy produced by the Project via a long-term Power Purchase Agreement. The foundations are helical pier anchors driven into the soil using a pneumatic technique similar to hydraulic driving. The maximum height of the panels will be approximately 16.5 feet, with an approximate two-foot ground clearance.

ANALYSIS:

Compliance with Development Standards: The zoning designations for the site are Agriculture (“AG”) and Floodway (“FW”). Chapter 84.29 of the Development Code entitled “Renewable Energy Generation Facilities” permits renewable energy facilities in the AG and FW zones, subject to a CUP. The AG and FW districts allow structures up to 35 feet in height. This Project otherwise complies with all development standards of the AG and FW districts.

General Plan Consistency: The County General Plan establishes goals for renewable energy for the County. Conservation Element Policy CO 4.12 states that the County shall promote siting of renewable energy resources. Conservation Element Goal CO 8 aims to minimize energy consumption and promote safe energy extraction, uses and systems to benefit local, regional, and global environmental goals. Policies under this goal include Policy CO 8.3, which states that the County will assist in efforts to develop alternative energy technologies that have minimum adverse effects on the environment, and explore and promote newer opportunities for the use of alternative energy sources. This Project supports the objectives of these goals and policies.

Renewable Energy Projects: The California Renewable Portfolio Standard (“RPS”) legislation established in 2002 (Senate Bill 1078), and accelerated in 2006 (Senate Bill 107), requires retail sellers of electricity to obtain 20 percent of their supply of electricity from renewable energy sources by 2010 and 33 percent of electricity from renewable energy sources by 2020. The proposed Project will assist in efforts to meet the RPS standard and increased demands for electricity.

Greenhouse Gas Emissions: In 2006, the State of California passed the California Global Warming Solutions Act (“AB32”) which requires the state to reduce emissions of carbon dioxide (CO₂) and other greenhouse gases (GHG) to 1990 emission levels (a 30 percent reduction) by 2020. In December 2011, the San Bernardino County Board of Supervisors adopted the County Greenhouse Gas (“GHG”) Emissions Reduction Plan (“GHG Plan”). Among others, one of the GHG Plan’s objectives is to reduce emissions from activities over which the County has jurisdictional and operational control consistent with AB32. Senate Bill 1368, enacted in 2006, prohibits California electric utilities from constructing power plants or entering into long-term energy purchase contracts with facilities that do not meet the GHG emissions standard. The proposed Project will assist in efforts to meet both the California and the County GHG emissions goals.

Aesthetics/Visual: The current visual character of the Project site is typical of agricultural and rural living areas consisting of flat lands surrounded by sparse residential development, and typical vegetation communities. The proposed Project will remove a majority of the current vegetation on the site (outside the required setbacks), place photovoltaic panels and other appurtenant structures among the remaining vegetation, construct internal access roads, and erect a chain link fence around the perimeter of the developed area of the site. These features will minimally alter the existing visual character from the current vacant rural view.

The proposed Project has a low profile (maximum height at full extension of 16.5 feet) and will have minimal lighting. Therefore, it will not substantially degrade the existing visual character or quality of the site and its surroundings. None of the Project equipment will obstruct any viewsheds in the area. In addition, the Project will include a condition of approval to maintain native landscaping buffers between the solar panel field and the adjacent properties. The motion sensitive lighting must comply with the

Development Code as it relates to the regulation of glare, outdoor lighting, and night sky protection in the desert region.

Biological Resources: Species considered in the BRR include the desert tortoise (“DT”), burrowing owl (“BUOW”), Coast horned lizard, LeConte’s thrasher, and the Mohave ground squirrel (“MGS”). Although three additional special status species (sagebrush loeflingia, Mohave River vole, and Victorville shoulderband) are documented in the local region, they do not occur within ten miles of the Project site.

The BRR concluded that MGS, DT, BUOW, and other special-status species do not occur on the Project site. The Project site falls within the historic range of the MGS, but is outside of the MGS Conservation Area in the West Mojave Plan. Furthermore, during 2010 coordination between the biologist and California Department of Fish and Game (“CDFG”) on a nearby, upstream project, CDFG concurred that MGS have a low occurrence potential east of the Interstate 15, within the Mojave River floodplain where the Project is proposed. The Project site is not within DT critical habitat nor is it located within a Desert Wildlife Management Area. The nearest such areas are located approximately 18 to 20 miles north of the Project site.

With incorporation of mitigation measures into the COAs, the Project will not have substantial adverse effects, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFG or U.S. Fish and Wildlife Service.

Noise: A Burlington Northern Santa Fe railroad track exists approximately 0.8 mile north of the Project site. Use of this track is minimal, with approximately one train trip daily. Construction may elevate the ambient noise level in the area, although construction noise is short-term, localized, temporary, and transitory. All construction must adhere to the noise and vibration standards in the Development Code, including days and hours of operation. Operational on-site noises will be limited to the fractional horsepower drive motors that rotate the photovoltaic panels on the dual-axis tracking system and maintenance activities (including panel cleaning, drive motor repair, tracker repair, electrical connection repair, panel replacement, and possible mowing of vegetation). The proposed Project must adhere to the adopted County noise standards, and therefore, as designed, the Project will have minimal noise impacts.

Traffic: Typically, there will be between five and ten workers and one Project manager on the site daily during the ten-week construction phase. Depending upon construction activity, worker commute vehicles will account for up to 20 vehicle trips to and from the site per day. Delivery of materials will account for about two vehicle trips weekly depending upon construction activity. It is estimated that up to 20 truck trips are required to complete the Project.

Onsite construction equipment will consist of traditional equipment used for site development, although because there is no grading proposed there is no need for heavy earth-moving equipment. During Project operation, the Project will be unmanned. As a result, periodic maintenance of the facility will generate minimal traffic.

Water Usage: Water will be required during construction for earthwork operations, primarily related to dust control for site work. Construction is anticipated to last eight to ten weeks, five days a week. Water will be applied via a water truck. Bottled water and portable sanitation units will be used during construction.

For operational and maintenance activities, water will be needed for washing the solar panels and dust control as necessary. Since the proposed Project will not be directly connected to a public water system, water will be obtained from the nearest Apple Valley Ranchos Water District hydrant at the intersection of Deep Creek Road and Wren Street through a temporary hydrant connection. Water need is expected to be approximately 0.4 gallons per square meter of panel. Based on the proposed Project size, approximately 6,160 gallons will be required each time the panels are washed, 12 times per year. The total annual operational water use will be 0.23 acre-feet (AF). An additional 8200 gallons (0.03 AF) may be used annually for dust suppression if needed. The total projected water use for operations and maintenance is approximately 82,120 gallons (0.25 AF) per year. The Apple Valley Fire Protection District determined that no on-site fire suppression system infrastructure is required for the proposed Project.

ENVIRONMENTAL REVIEW:

Planning Staff prepared an Initial Study for the Project pursuant to County Guidelines under Ordinance 3040 and Section 15063 of the California Environmental Quality Act ("CEQA") Guidelines. The CEQA Initial Study evaluates a project based upon 18 major categories of environmental factors. Staff prepared a proposed Mitigated Negative Declaration for the Project pursuant to the State requirements of CEQA and mailed out 22 Notices of Availability on October 4, 2012. The Initial Study was circulated through the State of California Governor's Office of Planning and Research, State Clearinghouse ("SCH") and Planning Unit as SCH# 201201017. Staff received comments from the California Department of Fish and Game, the Lahontan Regional Water Quality Control Board, and the Native American Heritage Commission. Staff reviewed the comments, consulted with the Project biologist and the applicant to obtain additional information, and has verified that concerns raised in the comment letters have been adequately addressed in the Initial Study (Ref. Section IV Biological Resources, Section V Cultural Resources, and Section IX Hydrology and Water Quality).

Specifically, as requested by CDFG, Planning Staff received confirmation from the Project biologist that the surveys conducted on the Project site met the most recent and up-to-date survey protocol, that the habitat assessment for MGS adhered to the CDFG criteria, and that although a 7-acre portion along the westerly boundary of the Project parcel is within the Mojave River floodplain, the proposed solar farm will not encroach into the jurisdictional boundary of the Mojave River.

In the Biological Resources Report and in responses to the CDFG comment letter, the biologist addressed concerns expressed by the Lahontan Regional Water Quality Control Board relative to construction within a floodplain. Adherence with best management practices, avoidance of the floodplain, and minimization of land disturbance will ensure that the Project will not result in adverse impacts to water quality.

With regard to the standard comments from the Native American Heritage Commission, a California Historical Resources Information System records search through the County Museum determined that the Project will not impact cultural resources. The site was included in previous surveys, which found three historic archaeological resources and one prehistoric archaeological resource within or adjacent to the site. These previous surveys resulted in site mitigation. The Museum recommended no further archaeological work for this Project. The COAs contain a precautionary measure that if any finds are made during Project construction, the developer must cease work in the area of the find and contact the appropriate representative. The combination of these will ensure that the Project will not result in adverse impacts to cultural resources.

To summarize, the Initial Study concludes that the proposed Project with mitigation measures incorporated will not have a significant effect on the environment, and Staff recommends adoption of a Mitigated Negative Declaration. The COAs include all mitigation measures, which will be implemented through the post approval review process. Confirmation of completion on the Condition Compliance Release Forms constitutes the Mitigation Monitoring and Reporting Program for this Project.

SUMMARY:

The proposed Project will assist in meeting the renewable source targets for retail sellers of electricity in California. The proposed Project is consistent with County goals and policies regarding renewable energy. It is also consistent with the state's GHG emissions standards. Therefore, Planning Staff recommends approval of the Project.

RECOMENDATION: That the Planning Commission:

- 1) **ADOPT** the Mitigated Negative Declaration and find that the Initial Study has been completed in compliance with California Environmental Quality Act, that it has been reviewed and considered prior to approving the Project and that the Initial Study/Mitigated Negative Declaration reflects the independent judgment of San Bernardino County;
- 2) **APPROVE** a Conditional Use Permit to establish a photovoltaic solar energy generation facility on a 26-acre portion of a 40-acre parcel, subject to the Conditions of Approval;
- 3) **ADOPT** the Findings for approval of the Conditional Use Permit; and
- 4) **FILE** a Notice of Determination.

ATTACHMENTS:

| | |
|------------|---|
| Exhibit A: | Findings |
| Exhibit B: | Conditions of Approval |
| Exhibit C: | Site Photographs |
| Exhibit D: | Correspondence |
| Exhibit E: | Initial Study with Project Specific Reports |

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EXHIBIT A

FINDINGS

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FINDINGS: Conditional Use Permit for Solar Energy Generating Facility

1. The site for the proposed use is adequate in terms of shape and size to accommodate the proposed use and all setbacks and other required features pertaining to the application. The 40-acre site is sufficiently large to accommodate the 30-foot wide perimeter road inside the 6-foot high perimeter fence, which is set back 15-feet from the property lines, and to allow additional access to the rows of solar arrays that constitute the project. The westerly 14 acres of the site, 7 of which are within the Mojave River floodplain, will remain virtually undisturbed. The site is able to accommodate the proposed solar panels and all ancillary facilities associated with the project with proper setbacks and access.
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 abuts Deep Creek Road. The Department of Public Works conditioned the project to require dedication of grants of easement on Deep Creek Road and Canard Avenue, two adjacent roads. Additionally, the conditions of project approval require match-up paving of Deep Creek Road, adjacent to the site. These requirements provide legal and physical access to the site. In addition, the 30-foot wide perimeter road will allow internal access for emergency vehicles. The fences and gates, one for primary access and the other for emergency access, are 15 feet inside the property lines so that incoming vehicles will be able to park at the gate, outside of the right-of-way.
3. The proposed use will not have a substantial adverse effect on abutting properties or the allowed use of the abutting properties, which means that the use as designed and conditioned will not generate excessive noise, traffic, vibration, lighting, glare, or other disturbance that would affect adjacent properties. The design of the solar arrays is required to operate within the standards of the County Development Code relating to noise, lighting, and the general performance standards including those for glare and vibration. The project will generate minimal traffic and the use will not substantially interfere with the present or future ability to use solar energy systems, as this project is a solar energy project.
4. The proposed use and manner of development are consistent with the goals, maps, policies, and standards of the General Plan and any applicable community or specific plan, as this projects specifically supports the following General Plan Goals/Policies:
 - *Conservation Element Policy CO 4.12*, which states that the County shall promote siting or use of renewable energy sources; and
 - *Conservation Element Goal CO 8*, which aims to minimize energy consumption and promote safe energy extraction, uses and systems to benefit local regional and global environmental goals. Specifically, Policy CO 8.3, states that the

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Aikyum, Inc.

P201100391/CUP

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County will assist in efforts to develop alternative energy technologies that have minimum adverse effect on the environment, and explore and promote newer opportunities for the use of alternative energy sources.

5. There is supporting infrastructure, existing or available, consistent with the intensity of the development to accommodate the proposed solar power facility without significantly lowering service levels. The existing roadways on Deep Creek Road and Canard Avenue are sufficient to provide for the transportation needs of this project. Southern California Edison currently has sufficient transmission capability in close proximity to the site to provide a convenient upload to the regional power grid. An existing 33kV line exists at the southeast corner of the Project site.
6. The lawful conditions stated in the approval are deemed reasonable and necessary to protect the overall public health, safety and general welfare, because adequate onsite setbacks, security fencing, and access for emergency equipment have been required.
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, as the project is a photovoltaic solar energy generating facility.
8. There is no substantial evidence that the project will have a significant effect on the environment, as determined and justified in the Initial Study for the project, which has been completed in compliance with the California Environmental Quality Act. The Mitigated Negative Declaration reflects the County's independent judgment.

EXHIBIT B

CONDITIONS OF APPROVAL

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CONDITIONS OF APPROVAL

GENERAL REQUIREMENTS

Conditions of Operation and Procedure

[Not subject to Condition Compliance Release Form (CCRF) signatures]

LAND USE SERVICES – Planning Division (760) 995-8140

1. Project Approval Description. This Conditional Use Permit (CUP) project is approved to be constructed and operated in compliance with the San Bernardino County Code (SBCC), California Building Codes (CBC), the following conditions of approval, the approved site plan, and all other required and approved reports and displays (e.g. elevations). This CUP project is approved to establish a 2-megawatt solar power generation facility consisting of approximately 8200 crystalline photovoltaic (PV) modules on 246 dual-axis trackers, a 480V transformer and switchgear pad, and other mechanical components, all of which will be enclosed by a six-foot high chain link perimeter fence on a 26-acre portion of a 40-acre site. The arrays of PV panels on dual-axis trackers will have an approximate maximum height of sixteen and a half feet and a minimum ground clearance of about two feet. As an alternative to security lighting, the applicant intends to ensure security, maintenance, and proper operation of system monitoring through regularly scheduled personnel visits to the site.

The developer shall provide a copy of the approved conditions and the 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 Site with APN: 0433-014-54 and Project Number: P201100391.

2. Project Location. The project site is in an unincorporated area of the County of San Bernardino (County) on the northwest corner of Deep Creek Road and Hinton Road. The project site is in the Town of Apple Valley's sphere of influence, which is in the First Supervisorial District.
3. Zoning Standards/AG. The project site is located in the Desert Region within the Agriculture (AG) Land Use Zoning District. AG Development Standards are listed in SBCC section 82.03.060. The following standards apply to the project:
 - Solar energy generating equipment and their mounting structures and devices shall be set back from the property lines either pursuant to the standards in the Land Use Zoning District, or 130 percent of maximum height of the mounted structure, whichever is greater.
4. Facility Design. The facility design shall incorporate the following guidelines:
 - The applicant shall arrange the arrays in a logical, orderly manner and pattern.
 - The applicant shall maintain the panels, inverters, and transformers so that electrical interference will not affect adjacent properties.

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- The applicant shall perform any repairs or upgrades to the components of the solar power facility at such times and in such a manner that noise and glare will not be disruptive to adjacent properties, roads, or traffic.
5. Revisions. Any proposed change to the approved use/activity on the site (e.g. from solar facility to other uses); or any increase in the developed area of the site or any expansion or modification to the approved facilities, including changes to structures, building locations, elevations, signs, parking allocation, landscaping, lighting, allowable number of occupants, (clients and/or employees); or a proposed change in the conditions of approval, including operational restrictions from those shown either on the approved site plan and/or in the conditions of approval shall require that an additional land use application (e.g. Revision to an approved Action) be approved by the County. The developer shall prepare, submit with fees, and obtain approval of the application prior to implementing any such revision or modification. (SBCC §86.06.070)
 6. Continuous Effect/Revocation. All of the conditions of approval applied to this project shall be effective continuously 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.
 7. Developer Defined. The term “developer” as used in these conditions of approval for this project and for any development of this project site, includes all of the following: the applicant, the property owner, and any lessee, tenant or sub-tenant, operator and/or any other agent or other interested party of the subject project and/or project site and/or any heir or any other successor in interest in the project site or project land use by sale or by lease of all or of a portion of the project site or project land uses and/or any other right given to conduct any land use in any or all of the project structures or any area on the project site.
 8. Indemnification. In compliance with SBCC §81.01.070, the developer shall agree to defend, indemnify, and hold harmless the County or its “indemnities” (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 the 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.
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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's fees, which the County or its indemnitees may be required by a court to pay as a result of such action.

At its sole discretion, the County may 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 indemnitee's "passive" negligence but does not apply to the indemnitee's "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code Section 2782.

9. Local Labor. *The developer shall give preference to and employ San Bernardino County residents as much as practicable during construction and operation of the facility.*
10. Development Impact Fees. Additional fees may be required prior to issuance of development permits. Fees shall be paid as specified in adopted fee ordinances.
11. Project Account. The Job Costing System (JCS) account number is P201100391. 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 expenses 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 shall be in the project account at the time of project approval and the initiation of the Condition Compliance Review. Sufficient funds shall remain in the account to cover all estimated charges that may be made during each compliance review. All fees required for processing shall be paid in full prior to final inspection, occupancy, and/or operation of each approved use in each approved structure or land use activity area. There shall be sufficient funds (\$500.00 minimum) remaining in the account to properly fund file closure and any other required post-occupancy compliance review and inspection requirements (e.g. landscape performance).
12. Expiration/CUP. This project permit approval shall expire and become void if it is not exercised within three years of the effective date of this approval, unless an extension of time is approved. The permit is deemed exercised when either:

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- The permittee has commenced actual construction or alteration under a validly issued Building Permit or
 - 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)

Occupancy of completed structures and operation of the approved 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 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 the expiration date. The developer is responsible for initiation of any Extension of Time application.

13. Extension of Time/CUP. 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 30 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)
14. Condition Compliance. In order to obtain construction permits for grading, building, final inspection and/or tenant occupancy for each approved building, the developer shall process a Condition Compliance Release Form (CCRF) for each respective building and/or phase of the development through County Planning in accordance with the directions stated in the Approval letter. County Planning shall release their holds on each phase of development by providing to County Building and Safety the following:
 - Grading Permits – a copy of the signed CCRF for grading/land disturbance and two “red” stamped and signed approved copies of the grading plans.
 - Building Permits – a copy of the signed CCRF for building permits and three “red” stamped and signed approved copies of the final approved site plan.
 - Final Inspection – a copy of the signed CCRF for final inspection of each respective building, after an on-site compliance inspection by County Planning.

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15. Additional Permits. The property owner, developer, and land use operator are all responsible to ascertain and comply with all laws, ordinances, regulations, and any other requirements of Federal, State, County, and Local agencies as are applicable to the development and operation of the approved land use and project site. These include:
- a) FEDERAL: U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service
 - b) STATE: California Department of Fish and Game, Mojave Desert Air Quality Management District, Lahontan Regional Water Quality Control Board, California Energy Commission
 - c) COUNTY: Land Use Services – Planning / Building and Safety / Code Enforcement, County Fire, Environmental Health Services, and Public Works
 - d) LOCAL: Town of Apple Valley, Apple Valley Fire Protection District
16. Continuous Maintenance. 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 developer shall ensure that all facets of the development are regularly inspected, maintained and that any defects are timely repaired. The elements to be maintained, include but are not limited to:
- Annual maintenance and repair inspections shall be conducted for all structures, fencing/walls, driveways, and signs to assure proper structural, electrical, and mechanical safety.
 - Graffiti and debris shall be removed immediately with weekly maintenance.
 - Dust control measures shall be maintained on any undeveloped areas where landscaping has not been provided.
 - Erosion control measures shall be maintained to reduce water runoff, siltation, and promote slope stability.
 - Signage. All on-site signs, including posted area signs (e.g. “No Trespassing”) shall be maintained in a clean readable condition at all times and all graffiti and vandalism shall be removed and repaired 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 County Planning-approved sign plan.
 - Fire Lanes. All markings required by the Fire Department, including “No Parking” designations and “Fire Lane” designations shall be clearly defined and shall be maintained in good condition at all times.
17. Performance Standards. The approved land uses shall operate in compliance with the general performance standards listed in the SBCC 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. In addition to these, none of the following shall be perceptible without instruments at any point outside the project boundaries at adjoining property lines:
- Odors: No offensive or objectionable odor.
 - Emissions: No emission of dirt, dust, fly ash and other forms of particulate matter.
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- Smoke: No smoke of a greater density than that described in No. 2 on the Ringelmann Chart, as published currently by the United States Bureau of Mines, shall be emitted from any project source.
 - Radiation: No dangerous amount of radioactive emissions.
 - Toxic Gases: No emission of toxic, noxious or corrosive fumes of gases.
 - Glare: No intense glare that is not effectively screened from view at any point outside the project boundary.
18. Lighting. Any lighting shall be maintained so that all lights are operating properly for safety purposes and shall not project onto adjoining properties or roadways. Lighting shall adhere to San Bernardino County Desert and Mountain night light regulations.
19. Clear Sight Triangle. 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.
20. Noise. The following noise attenuation measures shall be implemented:
- Exterior construction activities shall be limited between 7 a.m. and 7 p.m. There shall be no exterior construction activities on Sundays or National Holidays.
 - Muffling of construction equipment shall be per manufacturer's specifications.
 - All stationary construction and operations equipment shall be placed in a manner so that emitted noise is directed away from sensitive receptors nearest the project site.

LAND USE SERVICES – Code Enforcement (760) 995-8140

21. Enforcement. If any County enforcement activities are required to enforce compliance with the conditions of approval, the property owner shall be charged for such enforcement activities in accordance with the County Code Schedule of Fees.
22. Weed Abatement. In conjunction with required permits (i.e., CDFG Incidental Take Permit), the applicant shall comply with San Bernardino County Desert Area Fire Hazard Abatement regulations [SBCC§ 23.031-23.043] and periodically clear the site of all non-complying vegetation. This includes removal of all Russian thistle (tumbleweeds).

LAND USE SERVICES – Building and Safety (760) 995-8140

23. Walls. Submit plans and obtain separate building permits for any required walls, retaining walls, or trash enclosures.

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24. Drainage Courses. Natural drainage courses/easements shall not be occupied or obstructed unless specific approval from the Land Development Division – Drainage Section is provided.

LAND USE SERVICES – Environmental Health Services [DEHS] (800) 442-2283

25. Water. If the developer makes any changes to the proposed Project operation that would require the site to obtain water and/or sanitary facilities, the project will have to be revised and conditioned by the DEHS.

APPLE VALLEY FIRE PROTECTION DISTRICT – (760) 247-7618

26. Jurisdiction. The above referenced project is under the jurisdiction of the Apple Valley Fire Protection District, herein “Fire Department”. Prior to any construction occurring on any parcel, the developer shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current Uniform Fire Code requirements and all applicable statutes, codes, ordinances, and standards of the Fire Department.
27. Additional Requirements. In addition to the Fire requirements stated herein, other requirements from the Solar Photovoltaic Installation Guideline from the California State Fire Marshal may arise at the time of field inspection.

PUBLIC WORKS – Solid Waste Management Division (909) 386-8701

28. Mandatory Commercial Recycling. Beginning July 1, 2012 all businesses (defined to include a commercial or public entity) that generate four or more cubic yards of commercial solid waste a week must arrange for recycling services. The County is required to monitor business recycling and will require that business to provide recycling information. This requirement is to assist the County in compliance with the recycling requirements of AB341.
29. Mandatory Commercial Trash Service. This project falls within a Uniform Handling Service area. If uniform handling service is implemented for all or part of a particular franchise area, all owners within the uniform handling area who are required to have uniform handling service shall be required to accept uniform handling service from the grantee holding a franchise agreement and pay the rate of such services. This requirement is a stipulation of County Code Title 4, Division 6, Chapter 5, Section 46.0501.

PUBLIC WORKS – Land Development – Drainage (909) 387-8145

30. Infrequent Flood Hazards. The site may be subject to infrequent flood hazards by reasons of overflow, erosion and debris deposition in the event of a major storm.

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31. FEMA Flood Zone. The project is located within Flood Zone A and X-unshaded according to FEMA Panel Number 6515 H dated 08/28/2008. In compliance with FEMA and/or San Bernardino County regulations the following shall apply: The building pad is to be elevated a minimum of two feet above the highest adjacent ground if the project lies in flood zone A (an Elevation Certificate is required). There are no elevation requirements for building in flood zone X-unshaded areas.
 32. Tributary Drainage. Adequate provisions should be made to intercept and conduct the tributary off-site/on-site drainage flows around and through the site in a manner that will not adversely affect adjacent or downstream properties.
 33. Natural Drainage. The natural drainage courses traversing the site shall not be occupied or obstructed.
 34. Additional Drainage Requirements. In addition to drainage requirements stated herein, other on-site and/or off-site improvements may be required that cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.
 35. Continuous BMP Maintenance. The property owner/developer is required to provide periodic and continuous maintenance of all Best Management Practices (BMP) devices/facilities listed in the County approved Water Quality Management Plan (WQMP) for the project. This includes but is not limited to, filter material replacement and sediment removal, as required to assure peak performance of all BMPs. Furthermore, such maintenance activity will require compliance with all Local, State or Federal laws and regulations, including those pertaining to confined space and waste disposal methods in effect at the time such maintenance occurs.
 36. BMP Enforcement. In the event the property owner/developer (including any successors or assigns) fails to accomplish the necessary BMP maintenance within five days of being given written notice by County Public Works, then the County shall cause any required maintenance to be done. The entire cost and expense of the required maintenance shall be charged to the property owner and/or developer, including administrative costs, attorney's fees, and interest thereon at the rate authorized by the County Code from the date of the original notice to the date the expense is paid in full.

PUBLIC WORKS – Land Development – Roads (909) 387-8145

37. Road Standards. All required street improvements shall comply with the latest San Bernardino County Road Planning and Design Standards and the San Bernardino County Standard Plans.

PRIOR TO ANY LAND DISTURBANCE OR ISSUANCE OF ANY GRADING PERMITS,

Completion of the following must occur, with CCRF signatures

LAND USE SERVICES – Building and Safety (760) 995-8140

38. Stormwater. Prior to issuance of a grading permit, a San Bernardino County Stormwater Management Plan is required.
39. Runoff. Applicant must hold all runoff to pre-development levels per Section 82.13.080 of the San Bernardino County Development Code.
40. Tree Removal Plan. A preconstruction inspection, tree removal plan and permit in compliance with the County's Plant Protection and Management Ordinance shall be approved prior to any land disturbance and/or removal of any trees or plants.
41. Joshua Trees. The developer shall submit a Joshua Tree Protection and Relocation Plan and obtain a pre-construction inspection by Building and Safety prior to any land disturbance, including all areas within any proposed right-of-way.
42. Erosion and Sediment Control Plan. Applicant shall submit an erosion and sediment control plan and permit application to Building and Safety for review and approval prior to any land disturbance.
43. Grading Plans. Applicant shall submit grading plans to Building and Safety for review and approval prior to grading and/or land disturbance.
44. Stormwater Pollution Prevention Plan (SWPPP). A Stormwater Pollution Prevention Plan shall be submitted to Building and Safety for review and approval prior to land disturbance or issuance of any permit.
45. NPDES Permit. A National Pollutant Discharge Elimination System (NPDES) permit – Notice of Intent (NOI) is required on all grading of one acre or more prior to issuance of a grading/construction permit. Contact the Regional Water Quality Control Board (RWQCB), Lahontan Region, for specifics.
46. RWQCB Permit. Prior to permit issuance, CONSTRUCTION projects involving one or more acres must be accompanied by a copy of the Regional Board permit letter with the WDID#. Construction activity includes clearing, grading, or excavation that results in the disturbance of at least one acre of land total.

LAND USE SERVICES – Planning (760) 995-8140

47. Landscape Buffers. The developer shall maintain native landscaping buffers between the solar panel field and the adjacent properties. A certified arborist shall oversee the transplantation of Joshua trees removed from elsewhere on the site into these areas. The developer shall provide verification of compliance to County Planning, which must include the certificate of completion from the certified arborist. The verification may include photographs of the landscape buffers.
48. **AQ – Construction Mitigation**. Developer shall submit written verification that all construction contracts and sub-contracts for the project contain provisions that require adherence to the following standards to reduce impacts to air quality: During construction, each contractor and subcontractor shall implement the following, whenever feasible:
- **MDAQMD-approved Dust Control Plan (DCP) submitted with the Grading Plans. The DCP shall include these elements to reduce dust production:**
 - **Exposed soil shall be kept continually moist through a minimum of twice daily waterings to reduce fugitive dust during all grading and construction activities**
 - **Street sweeping shall be conducted when visible soil accumulations occur along site access roadways to remove dirt dropped by construction vehicles.**
 - **Site access driveways and adjacent streets shall be washed daily, if there are visible signs of any dirt track-out at the conclusion of any workday.**
 - **Tires of vehicles will be washed before the vehicle leaves the project site and enters a paved road.**
 - **All trucks hauling dirt away from the site shall be covered**
 - **During high wind conditions (i.e., wind speeds exceeding 25 mph), areas with disturbed soil shall be watered hourly and activities on unpaved surfaces shall be terminated until wind speeds no longer exceed 25 mph.**
 - **Storage piles that are to be left in place for more than three working days shall either be:**
 - **Sprayed with a non-toxic soil binder, or**
 - **Covered with plastic, or**
 - **Re-vegetated until placed in use.**
 - **Provide documentation prior to beginning construction demonstrating that the project proponents will comply with all MDAQMD regulations.**
 - **Suspend use of all construction equipment operations during second stage smog alerts. For daily forecast, call (800) 367-4710 (San Bernardino and Riverside counties).**
 - **Trucks/equipment shall not be left idling on site for periods in excess of ten minutes.**
 - **Provide temporary traffic control during all phases of construction.**

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- **Provide on-site food service for construction workers.**
 - **Use reformulated low-sulfur diesel fuel in equipment and use low-NOx engines, alternative fuels, and electrification. Apply 4-6 degree injection timing retard to diesel IC engines. Use catalytic converters on gasoline-powered equipment.**
 - **Minimize concurrent use of equipment through equipment phasing.**
 - **Substitute electric and gasoline-powered equipment for diesel-powered equipment.**
 - **Onsite electrical power hook-ups shall be provided for electric construction tools to eliminate the need for diesel-powered electronic generators.**
 - **Maintain construction equipment engines in good order to reduce emissions. The developer shall have each contractor certify that all construction equipment is properly serviced and maintained in good operating condition.**
 - **Install storm water control systems to prevent mud deposition onto paved areas.**
 - **Contractors shall use low sulfur fuel for stationary construction equipment as required by AQMD Rules 431.1 and 431.2 to reduce the release of undesirable emissions.**
49. Common Raven Predation Management Plan – Onsite. In order to offset direct impacts from development projects with the potential to increase raven populations (and decrease desert tortoise populations), the applicant shall develop an on-site raven management plan. This Plan is to eliminate and/or minimize the availability of subsidies (i.e. food, water, nest sites), and the potential for ravens to occupy the site during all phases of development and use, including construction, operation, maintenance, and decommissioning. Submit the Plan to County Planning for approval.
50. Common Raven Predation Management Plan – Offsite. In order to offset indirect and cumulative impacts from development projects with the potential to increase raven populations (and decrease desert tortoise populations), the applicant shall contribute to the regional raven management plan, which the National Fish and Wildlife Foundation manages. For projects with 30-year durations, the contribution to the regional plan is \$105 per acre impacted. The total contribution includes acreage associated with substations and transmission lines. Submit verification of payment to County Planning.
51. **Pre-construction Survey.** As a standard operating procedure for projects located in native habitat, a qualified biologist shall conduct a 30-day pre-construction survey to determine if Desert Tortoise, Mohave ground squirrel, and/or Burrowing Owl have migrated onto the site. If the biologist encounters any of these species during the pre-construction survey, then the project
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proponent must contact the appropriate regulatory authority (USFWS and/or CDFG) to obtain the required take authorization for the project.

52. **Nesting Birds.** The State of California prohibits the “take” of active bird nests. To avoid an illegal take of active bird nests, any grubbing, brushing or tree removal shall be conducted outside of the State identified nesting season (February 15 through September 1). Alternatively, a qualified biologist shall evaluate the site prior to initiation of ground disturbance to determine the presence or absence of nesting birds. Avoidance of active bird nests **MUST** occur during the nesting season. If an active nest is located in the project construction area it will be flagged and a 300-foot avoidance buffer placed around it. No activity will occur within the 300-foot buffer until the young have fledged the nest.
53. **Delineation of Project Boundary.** All project activities shall be limited to a well-defined and visually delineated area. Prior to grading and construction activities, a qualified professional shall clearly mark the limits of disturbance with flagging, stakes, or fencing. A qualified professional shall install a clear visual delineation (i.e. signs, silt fencing, or construction fencing) along the western boundary of the project site to prevent encroachment beyond the work zone to the west into the CDFG and/or Corps jurisdictional limits of the Mojave River.
54. **Environmental Awareness Training.** A qualified biologist shall prepare and provide environmental awareness training to all construction personnel associated with the project. The environmental awareness class shall include information regarding the MGS, DT, and BUOW, relevant Federal and State laws, and worker responsibilities when working in Mojave Desert habitat.
55. **Joshua tree relocation.** A qualified biologist shall be onsite to monitor the Joshua tree relocation, clearing, and grubbing, and shall remain on-call for the remainder of construction.
56. **Streambed Alteration Agreement (SAA).** Applicant shall consult with CDFG to determine the need for a SAA. Provide verification of compliance to County Planning.
57. **Noxious Weeds.** Applicant shall follow recommended Best Management Practices during construction and operation to prevent the spread and propagation of noxious weeds.

PUBLIC WORKS – Surveyor (909) 387-8149

58. A Record of Survey per Section 8762 of the Business and Professions Code is required. The Site Plan indicates bearings and distances around the subject property, which are not of record and appear to be based upon a field survey. The Record of Survey will facilitate the construction staking for the proposed chain link fence.

PUBLIC WORKS – Land Development – Drainage (909) 387-8145

59. Drainage Facility Design. A Registered Civil Engineer shall investigate and design adequate drainage facilities to intercept and conduct the off-site and on-site drainage flows around and through the site in a manner that will not adversely affect adjacent or downstream properties. Submit a Drainage Study for review and obtain approval. The Land Development Division will collect a \$520 deposit for drainage review upon submittal.
60. Drainage Easements. Applicant shall provide adequate San Bernardino County Drainage Easements (minimum 15 feet wide) over the natural drainage courses, drainage facilities, and/or concentration of runoff from the site to dewater into private property.
61. FEMA Flood Zone. The project is located within Flood Zone A and X-unshaded according to FEMA Panel Number 6515 H dated 08/28/2008. In compliance with FEMA and/or San Bernardino County regulations the following shall apply: The building pad is to be elevated a minimum of two feet above the highest adjacent ground if the project lies in flood zone A (an Elevation Certificate is required). There are no elevation requirements for building in flood zone X-unshaded areas.
62. Drainage Flows. A topographic map shall be provided to facilitate the design and review of necessary drainage facilities.
63. LDD/Grading Plans. Applicant shall submit grading plans to the Land Development Division, Drainage Section for review and approval. The Land Development Division will collect a \$520 deposit for grading review upon submittal.
64. Natural Drainage. The natural drainage courses traversing the site shall not be occupied or obstructed.
65. WQMP. A completed Water Quality Management Plan (WQMP) shall be submitted for review and approval obtained. The Land Development Division will collect a \$2500 deposit for WQMP review upon submittal. Copies of the WQMP guidance and template can be found at:
http://www.sbcounty.gov/dpw/land/environmental_mgmt.asp

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66. SAA. The California Department of Fish and Game must be notified if the drainage course of any streambed on this property is to be altered or encroached. The developer shall provide a Streambed Alteration Agreement (SAA) to the Public Works Department prior to grading.

PUBLIC WORKS – Solid Waste Management Division (909) 386-8701

67. C&D Plan – Part 1. The developer shall prepare, submit, and obtain approval from Solid Waste Management Division (SWMD) of a “Construction Waste Management Recycling Plan (C&D Plan), Part I”. The C&D Plan shall list the types and volumes of solid waste materials expected to be generated from grading and construction. The Plan shall include options to divert from landfill disposal materials for reuse or recycling by a minimum of 50 percent of total volume.

Upon completion of construction, the developer shall complete SWMD’s C&D Plan Part 2”. This summary shall provide documentation of diversion of materials including but not limited to receipts or letters from diversion facilities or certification regarding reuse of materials on site.

PRIOR TO ISSUANCE OF BUILDING PERMITS,
Completion of the following must occur, with CCRF signatures

PUBLIC WORKS – Land Development – Roads (909) 387-8145

68. Road Dedication/Improvement. The developer shall submit for review and obtain approval from the County Public Works of the following dedications, plans, and permits for the listed required improvements, designed by a Registered Civil Engineer (RCE) licensed in the State of California. These shall be submitted to the Department of Public Works (DPW) located at 825 E. Third Street, San Bernardino, CA 92415-0835. Phone: (909) 387-8145.

Deep Creek Road (Section Line – 88 feet in width)

- Road Dedication. A 44-foot grant of easement is required to provide a half-width right-of-way of 44 feet.
- Curb Return Dedication. A 35-foot radius return grant of easement is required at the intersection of Deep Creek Road with Canard Avenue.
- Street Improvements. Design an asphalt concrete dike with match-up paving 18 feet from centerline. A minimum 26-foot paved section shall be required along the project frontage.
- Driveway Approach. Design the driveway approach per San Bernardino County Standard 129, and located per Standard 130.

Canard Avenue (Quarter Section Line – 88 feet in width)

- Road Dedication. A 44-foot grant of easement is required to provide a half-width right-of-way of 44 feet.

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69. Road Design. Road sections within and/or bordering the project site shall be designed and constructed to Desert Road Standards of San Bernardino County and to the policies and requirements of the County Department of Public Works and in accordance with the Master Plan of Highways.
 70. Street Improvement Plans. The developer shall submit for review and obtain approval of street improvement plans prior to construction.
 71. Utilities. Final plans and profiles shall indicate the location of any existing utility facility or utility pole that would affect construction, and any such utility shall be relocated as necessary without cost to the County.
 72. Encroachment Permits. Prior to installation of road and drainage improvements, a permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8039, as well as encroachment permits from other agencies prior to work within their jurisdiction.
 73. Soils Testing. Any grading within the road right-of-way prior to the signing of the improvement plans shall be accomplished under the direction of a soils testing engineer. Compaction tests of embankment construction, trench back fill, and all sub-grades shall be performed at no cost to San Bernardino County. A written report shall be submitted to the Transportation Operations Division, Permits Section of County Public Works, prior to any placement of base materials and/or paving.
 74. Open Roads/Cash Deposit. Existing County roads, which will require reconstruction, shall remain open for traffic at all times, with adequate detours, during actual construction. A cash deposit shall be made to cover the cost of grading and paving prior to issuance of road encroachment permit. Upon completion of road and drainage improvement to the satisfaction of the Department of Public Works, the cash deposit may be refunded.
 75. Transitional Improvements. Right-of-way and improvements (including off-site) to transition traffic and drainage flows from proposed to existing, shall be required as necessary.
 76. Street Gradients. Road profile grades shall not be less than 0.5 percent unless the engineer at the time of submittal of the improvement plans provides justification to the satisfaction of County Public Works confirming the adequacy of the grade.

PUBLIC WORKS – Land Development – Traffic (909) 387-8186

77. Traffic Management Plan. This project falls within the Regional Transportation Facilities Mitigation Plan for the Apple Valley Subarea. This fee shall be paid by a cashier's check to the Department of Public Works Business Office. The fee assessed will be based on the applicable rates at the time of application for a building permit. These fees are subject to change however the current Regional Transportation Fee Plan can be found at the following website:
http://www.sbcounty.gov/dpw/transportation/transportation_planning.asp

LAND USE SERVICES – Building and Safety (760) 995-8140

78. Erosion Control Devices. Prior to issuance of building permits, erosion control devices must be installed at all perimeter openings and slopes. No sediment is to leave the job site.
79. Erosion Control Devices Installed. All erosion control planting, landscaping and devices shall be installed upon completion of rough grading.
80. Site Drainage/Runoff. All runoff must be held to pre-development levels [SBCC §82.13.080].
81. Flood Hazard Review. A Flood Hazard Review approved by the Drainage Section of the Land Development Division of the Department of Public Works is required. Approval of all new construction by DPW within the FP Zone is required.
82. Building Plans. Any building, sign, or structure to be constructed or located on site will require professionally prepared plans approved by the Building and Safety Division. Submit plans and obtain permits for foundation and hold-down design for all equipment and shelters or storage structures.
83. Foundation Plans. Submit manufacturer's installation instruction, or engineered foundation plans for commercial coach/modular unit. NOTE: A Temporary Use Permit (TUP) is required for units not on a permanent foundation.
84. TUP. A TUP for the office trailer will be required or it must be placed on a permanent foundation per State HCD guidelines. A TUP is valid for a maximum of five years, in one-year increments of time.
85. Fence/Wall Plans. Submit plans and obtain permits for all fences greater than six feet in height and for any walls required by the Planning Division.

LAND USE SERVICES – Planning (760) 995-8140

86. Decommissioning Requirements. In accordance with SBCC 84.29.060, Decommissioning Requirements, the Developer shall submit a Closure Plan to the Planning Division for review and approval. The Decommissioning Plan shall satisfy the following 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 re-vegetation of the project Site after decommissioning. The applicant shall prepare a Closure, Re-vegetation, and Rehabilitation Plan and submit 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 off-site 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 re-vegetated by the collection of seeds and re-seeding following decommissioning.
- b) Closure Compliance. Following the operational life of the project, the developer shall perform site closure activities in accordance with the approved closure plan to meet federal, state, and local requirements for the rehabilitation and re-vegetation of the project site after decommissioning. Project decommissioning shall be performed in accordance with all other plans, permits, and mitigation measures that would assure the project conforms to applicable requirements and would avoid significant adverse impacts. These plans shall include the following as applicable:
 - Water Quality Management Plan
 - Erosion and Sediment Control Plan
 - Drainage Report
 - Notice of Intent and Stormwater Pollution Prevention Plan
 - Air Quality Permits
 - Biological Resources Report
 - Incidental Take Permit, Section 2081 of the Fish and Game Code
 - Cultural Records Report
- c) Abandoned Site. If the solar field is not operational for twelve consecutive months, it shall be deemed abandoned. The solar field shall be removed within 60 days from the date a written notice of the declaration of abandonment by the County is sent to the developer. Within this 60-day period, the developer may provide the Land Use Services Director with a written request to modify this condition at a public hearing before the Planning Commission requesting an extension of time for an additional twelve months. In no case shall the Planning Commission authorize an extension of time beyond two years from the date the solar field was deemed abandoned without requiring financial assurances to guarantee the

removal of the solar field, and that portion of the support structure lying above the natural grade level, in the form of a corporate surety bond, irrevocable letter of credit, or an irrevocable certificate of deposit wherein the County is named as the sole beneficiary. In no case shall a solar field, which has been deemed abandoned, be permitted to remain in place for more than 48 months from the date the solar field was first deemed abandoned.

- d) Environmental Site Assessment. The County may require a Phase 1 Environmental Site Assessment be performed at the end of decommissioning to verify site conditions.

PRIOR TO FINAL INSPECTION OR OCCUPANCY,
Completion of the following must occur, with CCRF signatures

APPLE VALLEY FIRE PROTECTION DISTRICT – (760) 247-7618

87. Fire Access. The development shall have a minimum of two points of vehicular access.
88. Fire Access. The applicant shall provide and maintain a minimum 28-foot wide access road around the perimeter of the project to provide for fire access. The applicant shall provide a minimum of 20-foot wide, one-way access roads between the arrays.
89. Turnaround. The applicant shall provide an approved turnaround at the end of each roadway that is 150 feet or longer. Cul-de-sac length shall not exceed 600 feet. Roadways shall not exceed a 12 percent grade. All roadways shall have a minimum turning radius of 45 feet.
90. Key Box. The applicant shall provide a Fire Department approved key box. Minimum 28-foot wide access gates to the project site through any perimeter fencing are required. All swing gates shall have an approved Fire Department Knox © Lock.
91. Access Roads. All access roads provided to the site shall be asphalt paving or concrete all weather surface.
92. On-site Roads. Roads within the site can remain native soil or gravel with a compaction rate of 95 percent.

COUNTY FIRE DEPARTMENT – Hazardous Materials Division (909) 386-8401

93. Removal. Prior to operation, the owner/operator shall obtain permits for installing, upgrading, or removing existing underground storage tanks. For information, contact the Office of the Fire Marshal, Hazardous Materials Division at (909) 386-8401.

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94. Emergency/Contingency Plan. Prior to occupancy, the operator shall submit a Business Emergency/Contingency Plan for emergency release or threatened release of hazardous materials and wastes or a letter of exemption. For information, contact the Office of the Fire Marshall, Hazardous Materials Division at (909) 386-8401.
 95. Permits. Prior to occupancy, the applicant shall be required to apply for one or more of the following: a Hazardous Materials Handler Permit, a Hazardous Waste Generator Permit, and/or an Underground Storage Tank Permit. For information, contact the Office of the Fire Marshall, Hazardous Materials Division at (909) 386-8401.

PUBLIC WORKS – Solid Waste Management Division (909) 386-8701

96. C&D Plan – Part 2. The developer shall complete SWMD's C&D Plan Part 2". This summary shall provide documentation of diversion of materials including but not limited to receipts or letters from diversion facilities or certification reuse of materials on site. The C&D Plan – Part 2 shall provide evidence to the satisfaction of County Solid Waste that demonstrates that the project has diverted from landfill disposal materials for reuse or recycling by a minimum of 50 percent of total volume of all construction waste.

This summary shall provide documentation of diversion of materials including but not limited to receipts or letters documenting material types and weights from diversion facilities or certification reuse of materials on site.

PUBLIC WORKS – Land Development – Drainage (909) 387-8145

97. Drainage and WQMP Improvements. All required drainage and WQMP improvements shall be completed by the applicant, then inspected and approved by County Public Works.
98. WQMP Final File. An electronic file of the final and approved WQMP shall be submitted to Land Development Division, Drainage Section.
99. Elevation Certificate. An Elevation Certificate of structure shall be completed, approved, and on file with County Building and Safety, if structures are placed in Flood Zone A.

PUBLIC WORKS – Land Development – Roads (909) 387-8145

100. Road Improvements. The applicant shall complete all required on-site and off-site improvements. County Public Works shall inspect and approve.

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101. Structural Section Testing. A thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer, shall be submitted to County Public Works.

PUBLIC WORKS / Traffic Division – (909) 387-8186

102. This project falls within the S/E Apple Valley Local Area Transportation Facilities Fee Plan. This fee shall be paid by a cashier's check to the Department of Public Works Business Office.

LAND USE SERVICES – Building and Safety (760) 995-8140

103. Final Occupancy. Prior to occupancy, all Planning Division requirements and sign-offs shall be completed.

LAND USE SERVICES – Planning (760) 995-8140

104. CCRF/Occupancy. Prior to occupancy/use, all Condition Compliance Release Forms (CCRF) shall be completed to the satisfaction of County Planning with appropriate authorizing signatures from each affected agency.
105. Install On-site Improvements. All required on-site improvements shall be installed.
106. Fees Paid. 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 P201100391.

END OF CONDITIONS

EXHIBIT C

SITE PHOTOGRAPHS

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EXHIBIT D

CORRESPONDENCE

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NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
ds_nahc@pacbell.net



RECEIVED
OCT 15 2012

October 10, 2012

PLANNING DIVISION

Tracy Creason, Project Planner

County of San Bernardino Land Use Services Department

15900 Smoke Tree Street
Hesperia, CA 92345

Re: SCH#2012101017; CEQA Notice of Completion; mitigated Negative Declaration for the "Deep Creek Solar – Conditional Use Permit Project;" located in the Apple Valley / Hesperia area; San Bernardino County, California

Dear Tracy Creason:

The Native American Heritage Commission (NAHC) is the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources pursuant to California Public Resources Code §21070 and affirmed by the Third Appellate Court in the case of EPIC v. Johnson (1985: 170 Cal App. 3rd 604).

This letter includes state and federal statutes relating to Native American historic properties or resources of religious and cultural significance to American Indian tribes and interested Native American individuals as 'consulting parties' under both state and federal law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9. This project is also subject to California Government Code Section 65352.3.

The California Environmental Quality Act (CEQA – CA Public Resources Code 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance.' In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. The NAHC recommends that lead agencies conduct a Sacred Lands File search of the proposed 'area of potential effect' (APE) as part of their due diligence.

The NAHC "Sacred Sites," as defined by the Native American Heritage Commission and the California Legislature in California Public Resources Code §§5097.94(a) and 5097.96. Items in the NAHC Sacred Lands Inventory are confidential and exempt from the Public Records Act pursuant to California Government Code §6254 (r).

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries of cultural resources or burial sites once a project is underway.

Culturally affiliated tribes and individuals may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We strongly urge that you make contact with the list of Native American Contacts on the attached list of Native American contacts, to see if your proposed project might impact Native American cultural resources and to obtain their recommendations concerning the proposed project. Pursuant to CA Public Resources Code § 5097.95, the NAHC requests cooperation from other public agencies in order that the Native American consulting parties be provided pertinent project information. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). Pursuant to CA Public Resources Code §5097.95, the NAHC requests that pertinent project information be provided consulting tribal parties, including archaeological studies. The NAHC recommends *avoidance* as defined by CEQA Guidelines §15370(a) to pursuing a project that would damage or destroy Native American cultural resources and California Public Resources Code Section 21083.2 (Archaeological Resources) that requires documentation, data recovery of cultural resources, construction to avoid sites and the possible use of covenant easements to protect sites.

Furthermore, the NAHC if the proposed project is under the jurisdiction of the statutes and regulations of the National Environmental Policy Act (e.g. NEPA; 42 U.S.C. 4321-43351). Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 *et seq.*), 36 CFR Part 800.3 (f) (2) & .5, the President's Council on Environmental Quality (CSQ, 42 U.S.C 4371 *et seq.* and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The aforementioned Secretary of the Interior's *Standards* include recommendations for all 'lead agencies' to consider the historic context of proposed projects and to "research" the cultural landscape that might include the 'area of potential effect.'

Confidentiality of "historic properties of religious and cultural significance" should also be considered as protected by California Government Code §6254(r) and may also be protected under Section 304 of the NHPA or at the Secretary of the Interior discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APEs and possibility threatened by proposed project activity.

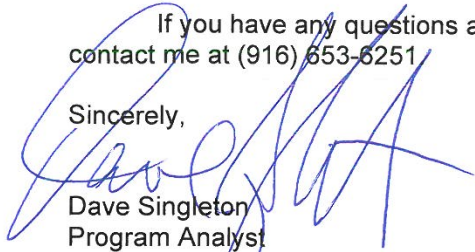
Furthermore, Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for inadvertent discovery of human remains mandate the processes to be followed in the event of a discovery of human remains in a project location other than a 'dedicated cemetery'.

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. Regarding tribal consultation, a relationship built around regular meetings and informal involvement with local tribes will lead to more qualitative consultation tribal input on specific projects.

Finally, when Native American cultural sites and/or Native American burial sites are prevalent within the project site, the NAHC recommends 'avoidance' of the site as referenced by CEQA Guidelines Section 15370(a).

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dave Singleton', is written over the 'Sincerely,' and the typed name.

Dave Singleton
Program Analyst

Cc: State Clearinghouse

Attachment: Native American Contact List

**Native American Contacts
San Bernardino County
October 10, 2012**

Ramona Band of Cahuilla Mission Indians
Joseph Hamilton, Chairman
P.O. Box 391670 Cahuilla
Anza, CA 92539
admin@ramonatribes.com
(951) 763-4105
(951) 763-4325 Fax

San Fernando Band of Mission Indians
John Valenzuela, Chairperson
P.O. Box 221838
Newhall, CA 91322
tsen2u@hotmail.com
(661) 753-9833 Office
(760) 885-0955 Cell
(760) 949-1604 Fax
Fernandeno
Tataviam
Serrano
Vanyume
Kitanemuk

San Manuel Band of Mission Indians
Carla Rodriguez, Chairwoman
26569 Community Center Drive Serrano
Highland, CA 92346
(909) 864-8933
(909) 864-3724 - FAX
(909) 864-3370 Fax

AhaMaKav Cultural Society, Fort Mojave Indian
Linda Otero, Director
P.O. Box 5990 Mojave
Mohave Valley AZ 86440
(928) 768-4475
LindaOtero@fortmojave.com
(928) 768-7996 Fax

Chemehuevi Reservation
Edward Smith, Chairperson
P.O. Box 1976 Chemehuevi
Chemehuevi Valley CA 92363
chair1cit@yahoo.com
(760) 858-4301
(760) 858-5400 Fax

Morongo Band of Mission Indians
Michael Contreras, Cultural Heritage Prog.
12700 Pumarra Road Cahuilla
Banning, CA 92220 Serrano
(951) 201-1866 - cell
mcontreras@morongo-nsn.
gov
(951) 922-0105 Fax

Fort Mojave Indian Tribe
Timothy Williams, Chairperson
500 Merriman Ave Mojave
Needles, CA 92363
(760) 629-4591
(760) 629-5767 Fax

San Manuel Band of Mission Indians
Ann Brierty, Policy/Cultural Resources Department
26569 Community Center Drive Serrano
Highland, CA 92346
(909) 864-8933, Ext 3250
abrierty@sanmanuel-nsn.
gov
(909) 862-5152 Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2012101017; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the DEEP CREEK SOLAR - CONDITIONAL USE PERMIT PROJECT; located in the vicinity of Apple Valley / Hesperia; San Bernardino County, California.

**Native American Contacts
San Bernardino County
October 10, 2012**

Serrano Nation of Mission Indians
Goldie Walker, Chairwoman
P.O. Box 343 Serrano
Patton , CA 92369

(909) 528-9027 or
(909) 528-9032

Ernest H. Siva
Morongo Band of Mission Indians Tribal Elder
9570 Mias Canyon Road Serrano
Banning , CA 92220 Cahuilla
siva@dishmail.net
(951) 849-4676

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2012101017; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the DEEP CREEK SOLAR - CONDITIONAL USE PERMIT PROJECT; located in the vicinity of Apple Valley / Hesperia; San Bernardino County, California.

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Response to Comment Letter #2
CALIFORNIA DEPARTMENT OF FISH AND GAME
Letter Dated November 1, 2012

- 2-1 Your comment is noted and as the Lead Agency, the County of San Bernardino (County) acknowledges that the California Department of Fish and Game (CDFG or Department) is a CEQA Responsible and Trustee agency regarding this project.
- 2-2 The County recognizes and acknowledges The project is in the range of the desert tortoise (*Gopherus agassizii*) [DT] , which is listed as threatened under the California Endangered Species Act (CESA); and the western burrowing owl (*Athene cunicularia*) [BUOW]; which is a Species of Special Concern and protected under Fish and Game Code Section 3503.5.
- 2-3 In the Biological Resources Report (BRR) written by Tom Dodson and Associates for Deep Creek Solar Farm, on page 5 under Section 4.3 it states that 100% coverage focused surveys for DT and BUOW were conducted between April 7 and 9, 2012. As a point of clarification, the site was surveyed on April 7, 8 and 9, 2012. The surveys were conducted on clear, calm weather days, during peak BUOW activity between the morning hours of 5:30 a.m. and 9:30 a.m. and evening hours of 2:30 p.m. to 5:30 p.m. During the three site visits, pedestrian surveys covered all open areas of the project site and zone of influence areas to account for adjacent burrows and foraging habitat. According to the BRR, the surveyor employed the "Burrowing Owl Survey Protocol and Mitigation Guidelines (Guidelines)" prepared by the California Burrowing Owl Consortium on April 1993 and the October 17, 1995 California Department of Fish and Game staff report on Burrowing Owl Mitigation. Since suitable habitat was observed during on site a 100% coverage survey was conducted. The BRR explains the rationale behind spacing the transects of BUOW surveys narrower than what is called for in the protocol. According to the BRR, the BUOW protocol calls for transects spaced at no more than 100-foot intervals. Since DT surveys call for narrower transect intervals (30-foot) compared to those required in a BUOW survey (100-foot), the DT survey transects set for the subject parcel, were considered sufficient to cover the site for BUOW also. In summary, the BUOW surveys were performed to protocol at an appropriate time of year.
- 2-4 Your comment is noted and the County acknowledges that preconstruction surveys may be warranted. Page 17 of the Initial Study under the heading of mitigation measures, it states that as a standard operating procedure for projects located in native habitat, a qualified biologist shall conduct a 30-day preconstruction survey to determine if DT, MGS, and/or BUOW have migrated onto the site. If in the event a BUOW is encountered and a direct loss will result as part of the project, compensation will be provided as itemized in 1.a-c and 2 in your letter and as per the 1993 Guidelines. Also in accordance with the 1993 guidelines, any BUOWs directly impacted by the project will be relocated in the manner described in items 3.a-c and 4 listed in your letter.
- 2-5 Your comment is noted. According to page 10, Section 5.6 of the BRR approximately 7 acres of the westerly boundary of the 40-acre subject parcel occur within the Mojave River floodplain. Although the project is located within the Mojave River floodplain, a Streambed Alteration Agreement pursuant to Fish and Game Code §1600 et. seq. is not necessarily warranted. The County acknowledges that Section §1600 et. seq Fish and Game Code requires a Lead Agency to notify the Department of any activity that that would divert,

obstruct, or affect the natural flow or change the bed, channel, or bank of any waterway. Page 6 Section 4.4 of the BBR states that suspected California Department of Fish and Game jurisdictional areas were field checked for the presence of definable streambeds (bed, bank, and channel) and any associated riparian habitat using the California Fish and Game (CFG) Code (Section 1600 et seq.) and guidance described in *A Field Guide to Lake and Streambed Alteration Agreements Sections 1600-1607* (ESD-CDFG, 1994). Figure 5 of the BBR shows the jurisdictional boundary line. Page 13 Section 7 the BBR concludes that the project does not proposed impacts to jurisdictional waters and will avoid any such impact. If the project changes in a way that encroaches into the jurisdictional boundary of the Mojave River (as shown in figure 5) and impacts will result, then a CWA Section 404 permit, CWA Section 401 Certification, and CFG Code Section 1602 Streambed Alteration Agreement may be required for those impacts.

- 2-6 Your recommendation is noted and will be made available to the Board prior to a decision on the proposed project.
- 2-7 Your comment is noted. Please refer to 2-5 above. The project does not propose any impacts to CDFG jurisdictional streambed as defined in Section 1600 et seq of the FGC. In addition to Figure 5 of the BBR the site plan attached to the supplemental letter provides a clear picture of the project foot print. Comparison of these two figures should provide you with the images you are looking for to verify that the project will not encroach into or impact CDFG jurisdictional streambed.
- 2-8 Permanent chain-link fencing will be installed around the project area. This fencing will also serve to keep the PV modules from leaving the site boundaries in the event of extreme storms.

Response to Comment Letter #1
CALIFORNIA DEPARTMENT OF FISH AND GAME
Letter Dated October 24, 2012

- 1-1 Your comment is noted and as the Lead Agency, the County of San Bernardino (County) acknowledges that the California Department of Fish and Game (CDFG or Department) is a CEQA Responsible and Trustee agency regarding this project.
- 1-2 The County recognizes and acknowledges The project is in the range of the desert tortoise (*Gopherus agassizii*) [DT] , which is listed as threatened under the California Endangered Species Act (CESA); Mohave ground squirrel(*Xerospermophilus mohavensis*) [MGS], which is listed as threatened under CESA; and the western burrowing owl (*Athene cunicularia*) [BUOW]; which is a Species of Special Concern and protected under Fish and Game Code Section 3503.5.
- 1-3 In the Biological Resources Report (BRR) written by Tom Dodson and Associates for Deep Creek Solar Farm, on page 5 under Section 4.3 it states that 100% coverage focused surveys for DT and BUOW were conducted between April 7 and 9, 2012. As a point of clarification, the site was surveyed on April 7, 8 and 9, 2012. One person conducted the surveys over the course of three days within six separate site visits between the morning hours of 5:30 a.m. and 9:30 a.m. and evening hours of 2:30 p.m. to 5:30 p.m. The pace at which the surveys were conducted provided ample time for the surveyor, a qualified biologist who has over a decade of experience surveying for DT and BUOW in the project vicinity, to keep error to an absolute minimum. According to the BRR, the surveyor performed the DT surveys in accordance with the most recent and up-to-date survey protocol. Page 5, Section 4.3 of the BRR states that the surveyor employed the UFWs guidelines provided in the 2010 "Pre-project field survey protocol for potential desert tortoise habitats." The surveys covered all open areas of the project site and zone of influence areas to account for adjacent burrows and foraging habitat. The BRR did note that zone of influence transects did not extend into fenced private property or into areas with structures or dogs.
- 1-4 Your comment is noted and your recommendation will be provided to the Board before project approval. The County acknowledges that a focused MGS trapping survey was not performed. However, according to the BRR the level at which the habitat was assessed and the literature was reviewed provided enough relevant and concrete detail to reach a conclusion that MGS do not occur in the vicinity of the project site. The conclusion in the BRR that MGS do not occupy the site was based on the following paraphrased statement in the report. The subject parcel falls within the historic range of the MGS but is located outside, to the south, of the MGS Conservation Area set forth in the West Mojave Plan (U.S. Bureau of Land Management 2005). According to the California Natural Diversity Database, MGS historically (prior to 1950) occurred in the project vicinity. However, the most recent record of MGS is from 2005, where one individual was found just north of the California Aqueduct, west of the Interstate 15 (I-15) Freeway approximately 15 miles away from the subject property. The nearest documented MGS was recorded in 1955 about 8 miles north-northeast of the subject property. Fifteen protocol MGS trapping grids were sampled in the vicinity of the subject parcel between 1998 and 2007. MGS were not detected and were considered absent during those 15 trapping sessions (Leitner 2008). The near vicinity has been surveyed to protocol level on several occasions, yet there is no compelling evidence showing that MGS occur, or have occurred recently, in the vicinity of the subject parcel. Further, in

2010 the CDFG concurred with the assertion of an unrelated project that MGS have a low occurrence potential east of the I-15, within the Mojave River floodplain where this project is located.

- 1-5 Your comment is noted. According to page 10, Section 5.6 of the BRR approximately 7 acres of the westerly boundary of the 40-acre subject parcel occur within the Mojave River floodplain. Although the project is located within the Mojave River floodplain, a Streambed Alteration Agreement pursuant to Fish and Game Code §1600 et. seq. is not necessarily warranted. The County acknowledges that Section §1600 et. seq Fish and Game Code requires a Lead Agency to notify the Department of any activity that that would divert, obstruct, or affect the natural flow or change the bed, channel, or bank of any waterway. Page 6 Section 4.4 of the BRR states that suspected California Department of Fish and Game jurisdictional areas were field checked for the presence of definable streambeds (bed, bank, and channel) and any associated riparian habitat using the California Fish and Game (CFG) Code (Section 1600 et seq.) and guidance described in *A Field Guide to Lake and Streambed Alteration Agreements Sections 1600-1607* (ESD-CDFG, 1994). Figure 5 of the BRR shows the jurisdictional boundary line. Page 13 Section 7 the BRR concludes that the project does not propose impacts to jurisdictional waters and will avoid any such impact. If the project changes in a way that encroaches into the jurisdictional boundary of the Mojave River (as shown in figure 5) and impacts will result, then a CWA Section 404 permit, CWA Section 401 Certification, and CFG Code Section 1602 Streambed Alteration Agreement may be required for those impacts. In addition to Figure 5 of the BRR the site plan attached to the supplemental letter provides a clear picture of the project foot print. Comparison of these two figures should provide you with the images you are looking for to verify that the project will not encroach into or impact CDFG jurisdictional streambed.
- 1-6 Clarification has been provided that demonstrates the DT and BUOW surveys were performed to the most recent accepted recommendations, guidelines, and protocols and that the in-depth and logical MGS analysis is sufficient to deduce that there is no risk of taking MGS by implementing this project.



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EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

PLANNING DIVISION

Lahontan Regional Water Quality Control Board

November 5, 2012

File: Environmental Doc Review -
San Bernardino County

Tracy Creason, Senior Planner
Land Use Services Department
County of San Bernardino
15900 Smoke Tree Street
Hesperia, CA 92345
Email: tcreason@lusd.sbcounty.gov

**COMMENTS ON THE INITIAL STUDY AND PROPOSED MITIGATED NEGATIVE
DECLARATION FOR THE DEEP CREEK SOLAR FARM PROJECT, APPLE VALLEY,
SAN BERNARDINO COUNTY, STATE CLEARINGHOUSE NUMBER 2012101017**

The California Regional Water Quality Control Board, Lahontan Region (Water Board) staff received the Initial Study and Proposed Mitigated Negative Declaration (IS/MND) for the above-referenced project (Project) on October 9, 2012. The IS/MND was prepared by the County of San Bernardino, Land Use Services Department (County) and submitted in compliance with provisions of the California Environmental Quality Act (CEQA). Water Board staff, acting as a responsible agency, is providing these comments to specify the scope and content of the environmental information germane to our statutory responsibilities pursuant to CEQA Guidelines, California Code of Regulations (CCR), title 14, section 15096. We hope that the County will consider our comments and value our position with respect to protecting and maintaining water quality in the Lahontan Region.

The proposed Project is to develop and operate a 2 megawatt (MW) photovoltaic (PV) solar generating facility on a 40-acre parcel of land located adjacent to the Mojave River in Apple Valley, San Bernardino County. While the Project site is not located within the active channel of the Mojave River, the site is located, in part, within the active floodplain of the river. The potential for the Project to impeded flood flows or for the Project to discharge chemical constituents to shallow groundwater at concentrations that could impair beneficial use are concerns with respect to hydrology and water quality. Our comments regarding the Deep Creek Solar Farm Project are outlined below.

Authority

All groundwater and surface waters are considered waters of the State. All waters of the State are protected under California law. State law assigns responsibility for protection of water quality in the Lahontan Region to the Lahontan Water Board. Some waters of the State are also waters of the U.S. The Federal Clean Water Act (CWA) provides additional protection for those waters of the State that are also waters of the U.S.

DON JARDINE, CHAIR | PATTY Z. KOUCYOUNJIAN, EXECUTIVE OFFICER

14440 Civic Drive, Suite 200, Victorville, CA 92392 | www.waterboards.ca.gov/ahontan



The *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains policies that the Water Board uses with other laws and regulations to protect the quality of waters of the State within the Lahontan Region. The Basin Plan sets forth water quality standards for surface water and groundwater of the Region, which include designated beneficial uses as well as narrative and numerical objectives which must be maintained or attained to protect those uses. The Basin Plan can be accessed via the Water Board's web site at

http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/references.shtml.

Implementation of the proposed Project must comply with all applicable water quality standards and prohibitions, including provisions of the Basin Plan.

Specific Comments

1. The Project site is located, in part, within the active floodplain of the Mojave River. Construction within a floodplain has the potential to result in hydrologic modifications such as impeded flood flows and altered flow regimes. Construction in a floodplain can lead to disruption of local drainage, loss of floodwater storage, and downstream flooding. The IS/MND must fully describe how the Project will or will not alter or modify existing hydrology on the site and identify specific mitigations that, when implemented, will reduce potential hydrology impacts to a less than significant level.
2. Shallow groundwater is known to exist in the vicinity of the site and the potential to discharge chemical constituents to groundwater, both during construction and during site operations, is a concern with respect to water quality. The IS/MND must identify and evaluate all potential chemical constituents and source pathways that may impact both surface waters and groundwater. The IS/MND must then propose adequate mitigation to reduce potential water quality impacts to a less than significant level.
3. The Mojave River is identified in the Basin Plan as both an "intermittent" and "perennial" stream within the Mojave Hydrologic Unit 628.00 and assigned the following beneficial uses: municipal supply (MUN); agricultural supply (AGR); groundwater recharge (GWR); contact and non-contact recreational uses (REC-1, REC-2); commercial and sport fishing (COMM); warm freshwater habitat (WARM); cold freshwater habitat (COLD); and wildlife habitat (WLD). Water quality objectives and standards, both numerical and narrative, for these surface waters, are outlined in Chapter 3 of the Basin Plan. Implementation of the proposed Project must comply with all applicable water quality standards and prohibitions, including provisions of the Basin Plan.
4. The groundwater beneath the Project site is within the Upper Mojave River Valley Groundwater Basin No. 6-42 and is assigned the following beneficial uses: MUN; AGR; industrial supply (IND); freshwater replenishment (FRSH); and aquaculture

(AQUA). Water quality objectives and standards, both numerical and narrative, for groundwater, are outlined in Chapter 3 of the Basin Plan. Implementation of the proposed Project must comply with all applicable water quality standards and prohibitions, including provisions of the Basin Plan.

5. Adequate mitigation must be proposed such that Project implementation does not result in an exceedance of any applicable water quality objective, either directly or indirectly. Based on our review of the IS/MND, the following water quality objectives are of particular concern for this Project.
 - a. Chemical Constituents – Surface waters and groundwater designated MUN shall not contain concentrations of chemical constituents in excess of the maximum contaminant level (MCL) or secondary MCL based upon current drinking water standards. Surface waters and groundwater designated as AGR, shall not contain concentrations of chemical constituents at concentrations that adversely affect the water for agricultural purposes.
 - b. Oil and Grease – Surface waters shall not contain oils, greases, waxes or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect the water for beneficial uses.
 - c. pH – For surface waters with designated beneficial uses of COLD or WARM, changes in normal ambient pH levels shall not exceed 0.5 pH units.
 - d. Sediment – The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect the water for beneficial uses.
 - e. Temperature – For surface waters designated WARM, the temperature shall not be altered by more than five degrees Fahrenheit above or below the natural temperature. For surface waters designated COLD, the temperature shall not be altered.
 - f. Turbidity – All surface waters shall be free of changes in turbidity that cause nuisance or adversely affect the water for beneficial uses. Increases in turbidity shall not exceed background levels by more than 10 percent.
6. Due to the potential for shallow groundwater to exist beneath the site, dewatering may be required during construction. We request that a detailed dewatering plan be prepared as part of this Project. The plan must include an appropriate combination of sediment and erosion control best management practices (BMPs) that will reduce the potential for scour and erosion and reduce the potential for

turbidity increases in surface waters downstream of the Project site. Where feasible, dewatering discharges should be directed to upland areas where it will percolate into the ground. Dewatering discharges directly to surface waters may require regulation under an National Pollutant Discharge Elimination System (NPDES) limited threat discharge permit (see *Permitting Requirements* section below). The dewatering plan should also include a monitoring component to monitor water quality and BMP effectiveness, as well as include contingencies should monitoring indicate that water quality is or is threatened of being impaired.

7. The IS/MND did not identify access roads as part of the Project description. Soils at the Project site are sandy and highly permeable. The construction of access roads requires grading and compaction and tends to increase stormwater runoff and concentrate discharges. The IS/MND must identify and evaluate all potential Project impacts that may result from access road construction.
8. Post-construction stormwater management must be considered a significant Project component. Of particular concern is the collection of onsite stormwater runoff and the concentrated discharge of that stormwater to natural drainage channels. Design alternatives that are compatible with low impact development should be considered. Components would include: maintaining natural drainage paths and landscape features to slow and filter runoff and maximize groundwater recharge; managing runoff as close to the source as possible; and maintaining vegetated areas for stormwater management and onsite infiltration. Vegetation clearing should be kept to a minimum. Where feasible, existing vegetation should be mowed so that after construction the vegetation could reestablish and help mitigate for potential stormwater impacts.
9. Construction staging areas should be sited in upland areas outside active stream channels and other surface waters on or around the Project site. Construction equipment should use existing roadways to the extent feasible. All temporary impacts should be restored (recontoured and revegetated) to pre-Project conditions.
10. Obtaining a permit and conducting monitoring does not constitute adequate mitigation. Development and implementation of acceptable mitigation is required. The environmental document must specifically describe the best management practices and other measures used to mitigate Project impacts, during the construction and the post-construction phases.

Permitting Requirements

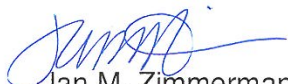
A number of activities associated with the proposed Project appear to have the potential to impact waters of the State and, therefore, may require permits issued by either the State Water Resources Control Board (State Water Board) or Lahontan Water Board. The required permits may include:

- Land disturbance of more than 1 acre may require a CWA, section 402(p) stormwater permits, including a NPDES General Construction Stormwater Permit, Water Quality Order (WQO) 2009-0009-DWQ, obtained from the State Water Board, or individual stormwater permit obtained from the Lahontan Water Board;
- Depending on the Standard Industrial Classification (SIC) code for industrial-type activities at the site, the Project may require an NPDES General Industrial Stormwater Permit, WQO-97-03-DWQ, obtained from the State Water Board, or individual Stormwater Permit obtained from the Lahontan Water Board;
- Water diversion and/or dewatering activities may be subject to discharge and monitoring requirements under either NPDES General Permit, Limited Threat Discharges to Surface Waters, Board Order R6T-2008-0023, or General Waste Discharge Requirements for Discharges to Land with a Low Threat To Water Quality, WQO-2003-0003, both issued by the Lahontan Water Board; and
- Streambed alteration and/or discharge of fill material to a surface water may require a CWA, section 401 water quality certification for impacts to federal waters (waters of the U.S.), or dredge and fill waste discharge requirements for impacts to non-federal waters, both issued by the Lahontan Water Board.

Please be advised of the permits that may be required for the proposed Project, as outlined above. We request that specific Project activities that may trigger these permitting actions be identified in the appropriate sections of the environmental document. Should Project implementation result in activities that will trigger these permitting actions, the Project proponent must consult with Water Board staff. Information regarding these permits, including application forms, can be downloaded from our web site at <http://www.waterboards.ca.gov/lahontan/>.

Thank you for the opportunity to comment. If you have any questions regarding this letter, please contact me at (760) 241-7376 (jjzimmerman@waterboards.ca.gov) or Patrice Copeland, Senior Engineering Geologist, at (760) 241-7404 (pcopeland@waterboards.ca.gov).

Sincerely,



Jan M. Zimmerman, PG
Engineering Geologist

cc: State Clearinghouse (SCH 2012101017)
(via email, state.clearinghouse@opr.ca.gov)
Jeff Brandt, California Department of Fish & Game
(via email, JBrandt@dfg.ca.gov)

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Department of Fish and Game
Inland Deserts Region
3602 Inland Empire Blvd., Suite C220/200
Ontario, CA 91764
(909) 484-0167 - Public Information
(909) 481-2945 - FAX

FAX COVER SHEET

Date: 11/2/2012

To: Tracey Creason

Pages: Cover & CEQA

Agency: County of San Bernardino

Phone No. () _____

FAX No. (760) 995 - 8167

From: CDFG - Heather Weiche

Phone No. (909) 980 8607

Comments: CEQA comment letter



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Inland Deserts Region
407 West Line Street
Bishop, CA 93514
www.dfg.ca.gov

EDMUND G. BROWN, Jr., Governor
CHARLTON H. BONHAM, Director



November 1, 2012

Tracey Creason, Senior Planner
County of San Bernardino
15900 Smoke Tree St
Hesperia, CA 92345

Subject: A 2 Mega Watt (MW) solar power generating facility. P201100391/CUP

Dear Ms Creason:

The California Department of Fish and Game (Department) is providing comments on the Initial Study and the Conditional Use Permit (CUP) for the 2 MW solar power generating facility (Project) prepared by the County of San Bernardino (Lead Agency). The Department is providing these comments as the State agency which has statutory and common law responsibilities with regard to fish and wildlife resources and habitats. California's fish and wildlife resources, including their habitats, are held in trust for the people of the State by the Department (Fish and Game Code §711.7). The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitats necessary for biologically sustainable populations of those species (Fish and Game Code §1802). The Department's Fish and wildlife management functions are implemented through its administration and enforcement of Fish and Game Code (Fish and Game Code §702). The Department is a trustee agency for fish and wildlife under the California Environmental Quality Act (see CEQA Guidelines, 14 Cal. Code Regs. §15386(a)) and a Responsible agency regarding any discretionary actions (CEQA §15381). The Department is providing these comments in furtherance of these statutory responsibilities, as well as its common law role as trustee for the public's fish and wildlife.

The Project as identified in the IS/CUP includes a 2 MW solar power facility located on 26-acres portion of a 40-acre parcel. The Project will include 246 dual-axis trackers supporting approximately 8200 crystalline photovoltaic (PV) modules, and a 480 V transformer and switchgear pad. The Project is located on the northwest corner of Deep Creek Road and Hinton Road in the City of Apple Valley in San Bernardino County.

The project is in the range of the desert tortoise (*Gopherus agassizii*, DT), which is listed as threatened under the California Endangered Species Act (CESA); and the burrowing owl (*Athene cunicularia*, BUOW), which is a Species of Special Concern and protected under Fish and Game Code Section 3503.5.

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The Department offers the following comments and recommendations:

Burrowing Owl

The ISND did not indicate if protocol level surveys were conducted for BUOW.

A complete survey for BUOW consists of four separate site visits. Nesting Season Survey – begins as early as February 1 and continues through August 31. Survey for Winter Residents (non-breeding owls) – should be conducted between December 1 and January 31. The Department recommends the Lead Agency require surveys be performed to protocol at the appropriate times, and the results of which be submitted to the Lead Agency and the Department.

Following these surveys, preconstruction BUOW surveys may be warranted. If during the preconstruction survey BUOW are observed, the Department recommends the Lead Agency require BUOW mitigation measures be applied as presented below.

1. As compensation for the direct loss of burrowing owl nesting and foraging habitat, the project proponent shall mitigate by acquiring and permanently protecting known burrowing owl nesting and foraging habitat at the following ratio:
 - a) Replacement of occupied habitat with occupied habitat at 1.5 times 6.5 acres per pair or single bird;
 - b) Replacement of occupied habitat with habitat contiguous with occupied habitat at 2 times 6.5 acres per pair or single bird; and/or
 - c) Replacement of occupied habitat with suitable unoccupied habitat at 3 times 6.5 acres per pair or single bird.
2. The project proponent shall establish a non-wasting endowment account for the long-term management of the preservation site for burrowing owls. The site shall be managed for the benefit of burrowing owls. The preservation site, site management, and endowment shall be approved by the Lead Agency after consultation with the Department.
3. All owls associated with occupied burrows that will be directly impacted (temporarily or permanently) by the project shall be relocated and the following measures shall be implemented to avoid take of owls:
 - a) Occupied burrows shall not be disturbed during the nesting season of February 1 through August 31, unless a qualified biologist can verify through non-invasive methods that either the owls have not begun egg laying and incubation or that juveniles from the occupied burrows are foraging independently and are capable of independent flight.

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November 1, 2012

- b) Owls must be relocated by a qualified biologist from any occupied burrows that will be impacted by project activities. Suitable habitat must be available adjacent to or near the disturbance site or artificial burrows will need to be provided nearby. Once the biologist has confirmed that the owls have left the burrow, burrows should be excavated using hand tools and refilled to prevent reoccupation.
 - c) All relocation shall be approved by the Lead Agency after consultation with the Department. The permitted biologist shall monitor the relocated owls a minimum of three days per week for a minimum of three weeks. A report summarizing the results of the relocation and monitoring shall be submitted to the Lead Agency and the Department within 30 days following completion of the relocation and monitoring of the owls.
4. A Burrowing Owl Mitigation and Monitoring Plan shall be submitted to the Lead Agency and the Department for review and approval prior to relocation of owls. The Burrowing Owl Mitigation and Monitoring Plan shall describe proposed relocation and monitoring plans. The plan shall include the number and location of occupied burrow sites and details on adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation of artificial burrows (numbers, location, and type of burrows) shall also be included in the plan. The Plan shall also describe proposed off-site areas to preserve to compensate for impacts to burrowing owls/occupied burrows at the project site as required under Condition 1.

CDFG Jurisdictional Waters

The project may require a Streambed Alteration Agreement pursuant to Fish and Game Code §1600 et. seq. The Department has direct authority under Fish and Game Code §1600 et. seq. in regard to any proposed activity that would divert, obstruct, or affect the natural flow or change the bed, channel, or bank of any waterway. Departmental jurisdiction under §1600 et. seq. may apply to all lands within the 100-year floodplain. Early consultation is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources.

Section 1600 et. seq. of the Fish and Game Code requires a Lead Agency to notify the Department of any activity that will divert, obstruct or change the natural flow of the bed, channel or bank (which includes associated riparian habitat) or a river, stream or lake, or use material from a streambed prior to the applicant's commencement of the activity. Streams include, but are not limited to, intermittent and ephemeral streams, rivers, creeks, dry washes, sloughs, blue-line streams and watercourses with subsurface flow.

The Department is concerned with the location of the temporary staging area located at the southwestern section of the project site. The Department considers this area to be extremely close to the Mojave River and would like it to be moved to an alternative location.

The Department would like to see a project footprint in the Jurisdictional Delineation section that adequately shows the impacts to the CDFG jurisdictional waters. The IS/CUP states that the proposed parcel is 40 acres and the project footprint will be 26 acres. The Department would like a map of where the 26 acres will be located on the 40 acre lot.

The Department also has concerns with having multiple PV modules in the Mojave River FEMA 100-year flood plain. The concerns are that during heavy weather events the modules

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will fall and cause harmful debris to flow downstream into endangered species habitats. The Department would like to see what measures the permittee is going to take to ensure that the PV modules will not fall during a 100-year flood.

Thank you for the opportunity to provide comments on the ISND. Questions regarding this letter and further coordination on these issues should be directed to Heather Weiche, Environmental Scientist at (909) 980-8607 Hweiche@dfg.ca.gov.

Sincerely,



Rebecca Jones
Acting Senior Environmental Scientist

Cc: Heather Weiche
CHRON

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State of California - The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Inland Deserts Region
407 West Line Street
Bishop, California 93514
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EDMUND G. BROWN, Jr., Governor
JOHN McCAMMAN, Director



October 24, 2012

Ms. Tracy Creason, Senior Planner
San Bernardino County-Land Use Services
15900 Smoke Tree Street
Hesperia, CA 92345

**Subject: Aikyum, Inc. , Deep Creek Solar Farm –Conditional Use Permit,
Project No. P201100391/CUP, 2-Megawatt photovoltaic solar power
generating facility, Initial Study, State Clearinghouse Number (SCH#
2012101017)**

Dear Ms. Creason:

The Department of Fish and Game (Department) has reviewed the Initial Study (IS) prepared by San Bernardino County (Lead Agency) for the above referenced project. The project, proposed by Aikyum, Inc. (Applicant), is for construction and operation of a 2-Megawatt (MW) photovoltaic (PV) solar power generating facility, hereinafter referred to as Project. The project will be constructed on 26-acres of a 40 acre parcel of land. The project site is located in unincorporated San Bernardino County approximately ½ mile east of the City of Hesperia and approximately 2.4 miles southwest of the Town of Apple Valley on the northwest corner of Deep Creek and Hinton Roads.

The Department is providing comments on the IS as the State agency which has the statutory and common law responsibilities with regard to fish and wildlife resources and habitats. California's fish and wildlife resources, including their habitats, are held in trust for the people of the State by the Department (Fish and Game Code §711.7). The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitats necessary for biologically sustainable populations of those species (Fish and Game Code §1802). The Department's Fish and wildlife management functions are implemented through its administration and enforcement of Fish and Game Code (Fish and Game Code §702). The Department is a trustee agency for fish and wildlife under the California Environmental Quality Act (see CEQA Guidelines, 14 Cal. Code Regs. §15386(a)). The Department is providing these comments in furtherance of these statutory responsibilities, as well as its common law role as trustee for the public's fish and wildlife.

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The project is in the range of the desert tortoise (*Gopherus agassizii*, DT), which is listed as threatened under the California Endangered Species Act (CESA) and the federal Endangered Species Act (ESA); the Mohave ground squirrel (*Xerospermophilus mohavensis*, MGS), which is listed as threatened under CESA; and the burrowing owl (*Athene cunicularia*, BUOW), which is a Species of Special Concern and protected under Fish and Game Code Section 3503.5.

Desert tortoise and Burrowing Owl

The Project is within the range of the DT and BUOW. In the Biological Resources Report (BRR) written by Tom Dodson and Associates for Deep Creek Solar Farm, it states that surveys for DT and BUOW were conducted on April 7 and 9, 2012. It is not clear if the surveys for both the DT and BUOW were conducted at the same time by the same person. One person surveying for multiple species simultaneously can increase survey errors. The Department recommends the Lead Agency request from the applicant clarification on the above point. The BRR indicates that protocol-level surveys were conducted for DT and BUOW. However, it appears that the most recent survey protocols for DT and BUOW may not have been used. The Department recommends the Lead Agency require the project applicant conduct surveys for DT and BUOW using current survey protocols. The Department is available to assist the Lead Agency and the Applicant with identifying appropriate survey protocols. The Department also recommends the biological surveys including survey datasheets be submitted to the Lead Agency and the Department for review.

Mohave ground squirrel

The Project is located within the historic range of the MGS. The BRR states that a habitat assessment for MGS included a pedestrian field assessment, review of reported occurrences of the MGS in the Region, and adherence to the Department's criteria for assessing potential impacts to MGS. The Department recommends the Lead Agency require the project applicant conduct surveys for MGS using current survey protocols. The Department is available to assist the Lead Agency and the Applicant with identifying appropriate survey protocols. Surveys for MGS should follow established survey guidelines. If protocol MGS trapping efforts demonstrate an absence of the species, this inference is considered valid only for one year's time following the final protocol trapping date. If the species is determined or assumed to be present, an Incidental Take Permit (ITP) pursuant to Fish and Game Code § 2080 would be warranted to ensure that the unlawful take of MGS would not occur. The Department also recommends the biological surveys including survey datasheets be submitted to the Lead Agency and the Department for review.

Ms. Tracy Creason
October 22, 2012
Deep Creek Solar Farm
Page 3 of 3

Lake and Streambed Alteration Agreement

The project is located within the Mojave River floodplain, and therefore a Streambed Alteration Agreement pursuant to Fish and Game Code §1600 *et. seq.* will likely be warranted. The Department has direct authority under Fish and Game Code §1600 *et. seq.* in regard to any proposed activity that would divert, obstruct, or affect the natural flow or change the bed, channel, or bank of any waterway. Departmental jurisdiction under §1600 *et. seq.* may apply to all lands within the 100-year floodplain. Early consultation with the Department is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources.

In conclusion, for the Department to adequately assess the potential project impacts the Department recommends the Lead Agency require the Applicant to complete appropriate protocol surveys for the species addressed in this letter, revise and update the BRR to include survey data and results, and provide copies of the revised BRR and survey datasheets to the Lead Agency and the Department for review. The Department requests the updated revised BRR and datasheets be sent to Department Environmental Scientist Wendy Campbell for review at 407 West Line Street, Suite 1, Bishop, CA 93514.

Thank you for this opportunity to comment. Please direct any questions about this letter and any requests for further coordination on issues the Department has presented above to Ms. Campbell at (760) 873-7355, or by email at WCampbell@dfg.ca.gov.

Sincerely,



Rebecca Jones
Acting Senior Environmental Scientist

Cc: Wendy Campbell

State Clearinghouse

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EXHIBIT E

INITIAL STUDY WITH PROJECT SPECIFIC REPORTS

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SAN BERNARDINO COUNTY INITIAL STUDY ENVIRONMENTAL CHECKLIST FORM

This form and the descriptive information, in the application package constitute the contents of Initial Study pursuant to County Guidelines (Ord.3040) and State CEQA Guidelines (Section 15063).

PROJECT LABEL:

| | |
|--------------------|---|
| APN: | 0433-014-54 |
| APPLICANT: | Aikyum, Inc. |
| COMMUNITY: | Apple Valley / 1 st Supervisorial District |
| LOCATION: | Northwest corner of Deep Creek Rd & Hinton Rd |
| PROJECT NO: | P201100391/CUP |
| STAFF: | Tracy Creason |
| REP(S): | Harina Kapoor |
| PROPOSAL: | Conditional Use Permit to establish a 2 MW solar power generating facility on a 26-acre portion of 40 acres |

USGS Quad: Apple Valley South

T, R, Section: T4N R3W Sec. 30 SW¼

Planning Area: Desert Region

Zoning: AG/FW

Overlays: Biological, Fire Safety, Flood Plain, Dam Inundation

PROJECT CONTACT INFORMATION:

Lead agency: County of San Bernardino
Land Use Services - Planning
15900 Smoke Tree St.
Hesperia, CA 92345

Contact person: TRACY CREASON, Senior Planner

Phone No: (760) 995-8140

E-mail: tcreason@lud.sbcounty.gov

Fax No: (760) 995-8167

Project Sponsor: Aikyum, Inc. – Harina Kapoor
34 Cassidy
Irvine, CA 92620
(949) 275-1654
harinakapoor@gmail.com

PROJECT DESCRIPTION:

Aikyum, Inc. (applicant) proposes to develop and operate a utility scale 2 MW solar generating facility on a 26-acre portion of a 40-acre parcel of land. The proposed facility will include 246 dual-axis trackers supporting approximately 8200 crystalline photovoltaic (PV) modules, and a 480V transformer and switchgear pad. Electrical energy generated on the site would connect to the existing regional transmission system via an underground interconnection run to the existing power pole at the southeast corner of the property. The project site is in unincorporated San Bernardino County approximately ½ mile east of the City of Hesperia and approximately 2.4 miles southwest of the Town of Apple Valley on the northwest corner of Deep Creek and Hinton Roads. The project is in the First Supervisorial District, within the sphere of influence of the Town of Apple Valley. The Land Use Zoning designation for the site is AG (Agriculture) and FW (Floodway). The Biological Resource, Fire Safety (FS-2), Flood Plain (FP-1), and Dam Inundation overlays regulate the site.

ENVIRONMENTAL/EXISTING SITE CONDITIONS:

The site of the proposed project lies within the Mojave Desert region, within which mountain ranges, broad alluvial fans, terraces, and playas are characteristic. With elevations on-site ranging from 2915 to 2910 feet above mean sea level, the site slopes from the east to the west. The site contains no structures. Surrounding properties to the west and north are vacant. Scattered residential development exists to the east and south. The *Focused Survey for Desert Tortoise & Western Burrowing Owl, Habitat Assessment for Mohave Ground Squirrel, General Biological Resource Assessment, & Jurisdictional Delineation Report* prepared by Tom Dodson & Associates concludes that "MGS, DT, and BUOW are absent from the site...."

| AREA | EXISTING LAND USE | ZONING/OVERLAY DISTRICTS |
|-------|--------------------------------|---|
| Site | Vacant | AG/FW – Agriculture/Floodway / Fire Safety, Flood Plain, Dam Inundation |
| North | Vacant | AG/FW – Agriculture/Floodway / Fire Safety, Flood Plain, Dam Inundation |
| South | Scattered Residential / Vacant | AG/FW – Agriculture/Floodway / Fire Safety, Flood Plain, Dam Inundation |
| East | Scattered Residential / Vacant | AG – Agriculture / Fire Safety, Dam Inundation |
| West | Vacant | FW – Floodway / Fire Safety, Flood Plain, Dam Inundation |

PROJECT SUMMARY:

The proposed project is for the development of a 2 MW solar generation facility. The solar arrays will be on a dual-axis tracking system. The foundations are helical pier anchors driven into the soil using a pneumatic technique similar to hydraulic driving. The height of the panels will be approximately sixteen and a half feet, with an approximate two-foot ground clearance. The site design contains appropriate access roads for emergency vehicles. The project does not include the construction of any buildings.

The construction of the project through commencement of commercial operations will occur over approximately eight to ten weeks. Typically, there will be five to ten workers and a project manager on the site. Construction crews will be on site from 7:30AM to 5:00PM, Monday through Friday. Once construction is over, the solar plant will go online and monitoring will occur remotely. After construction, workers will perform maintenance on a regular basis, which will include the mowing of grasses and shrubs and PV panel and electrical upkeep. Workers will truck water in from off-site for this periodic maintenance. This Project is an unmanned installation, with only monthly accesses for maintenance.

Other public agencies whose approval may be required (e.g., permits, financing approval, or participation agreement.):

Federal: U.S. Army Corps of Engineers, U.S. Fish and Wildlife

State of California: Fish and Game, Caltrans, Regional Water Quality Control Board (Lahontan Region), Mojave Desert Air Quality Management District

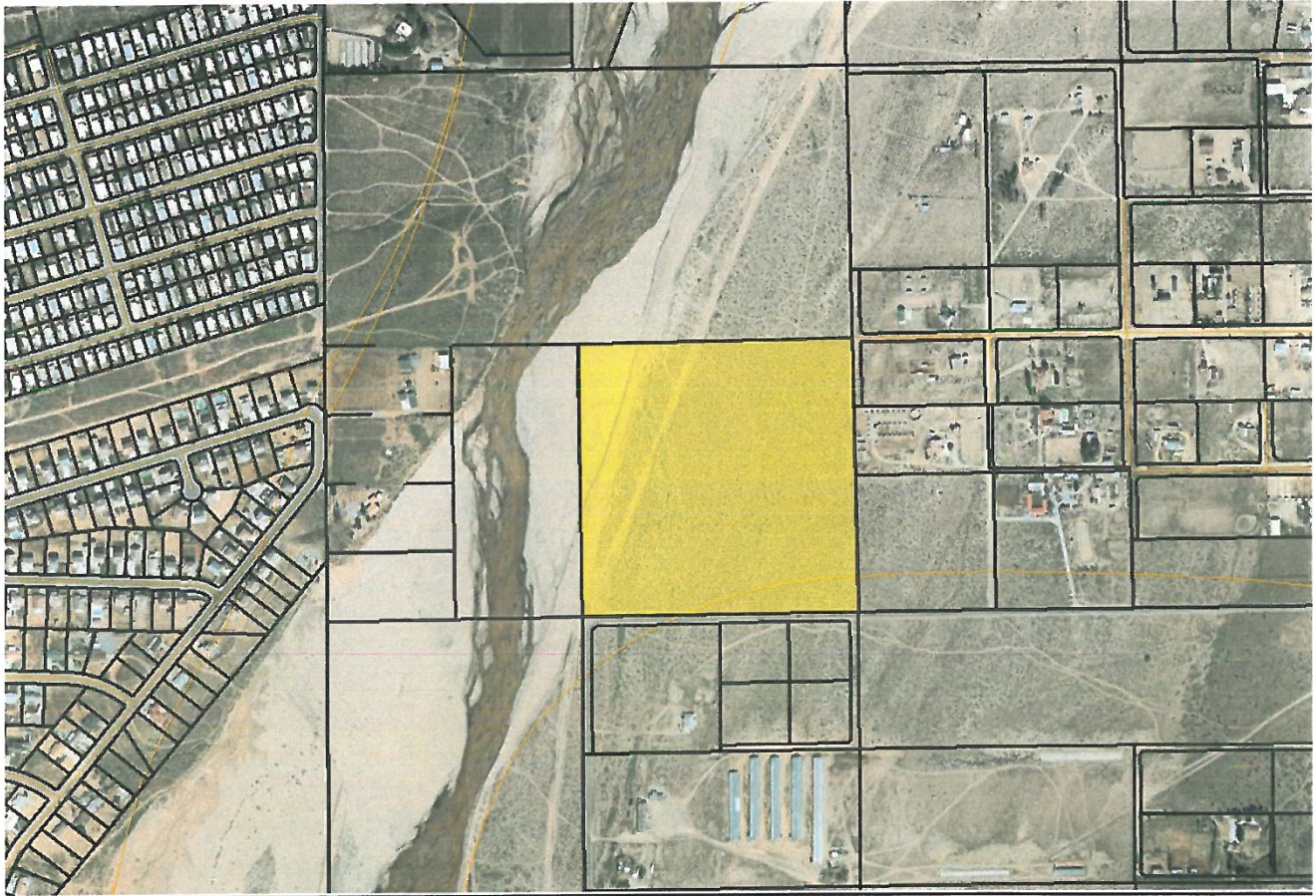
County of San Bernardino: Land Use Services – Code Enforcement, Building and Safety; Public Health – Environmental Health Services; Public Works – Land Development, Solid Waste, Traffic; and

Local: Town of Apple Valley, Apple Valley Fire Protection District

VICINITY MAP



LOCATION MAP



[illegible]

EVALUATION FORMAT

The County of San Bernardino prepared this initial study in compliance with the California Environmental Quality Act (CEQA) Guidelines. The format of the study is as follows. Staff evaluated the project based upon its effect on 18 major categories of environmental factors. Staff reviewed each factor by responding to a series of questions regarding the impact of the project on each element of the overall factor. The Initial Study Checklist provides a formatted analysis that provides a determination of the effect of the project on the factor and its elements. Staff categorizes the effect of the project into one of the following four categories of possible determinations:

| Potentially Significant Impact | Less than Significant with Mitigation | Less than Significant Impact | No Impact |
|--------------------------------|---------------------------------------|------------------------------|-----------|
|--------------------------------|---------------------------------------|------------------------------|-----------|

Staff provides substantiation to justify each determination and one of the four following conclusions as a summary of the analysis for each of the major environmental factors.

1. Significant adverse impacts have been identified or anticipated. An Environmental Impact Report (EIR) is required to evaluate these impacts, which are (Listing the impacts requiring analysis within the EIR).
2. Possible significant adverse impacts have been identified or anticipated and the following mitigation measures are required as a condition of project approval to reduce these impacts to a level below significant. The required mitigation measures are: (List mitigation measures)
3. No significant adverse impacts are identified or anticipated and no mitigation measures are required. (Optional mitigation may be added by stating: "As a precautionary measure to further reduce any potential for impacts, the following requirement shall apply"):
4. No impacts are identified or anticipated and no mitigation measures are required.

At the end of the analysis the required mitigation measures are restated and categorized as being either self-monitoring or as requiring a Mitigation Monitoring and Reporting Program.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology /Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality |
| <input type="checkbox"/> Land Use/ Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation, the following finding is made:

- ☐ The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☒ Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ The proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ Although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.


Signature (prepared by): Tracy Creason, Project Planner

20 Aug 2012
Date


Signature: Heidi Duron, Supervising Planner

10/1/2012
Date

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|---|--------------------------------------|---|-------------------------------------|--------------------------|
| I. AESTHETICS - Would the project | | | | |
| a) Have a substantial adverse effect on a scenic vista? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

SUBSTANTIATION

(Check ☐ if project is located within the view-shed of any Scenic Route listed in the General Plan):

The proposed project is not located within a Scenic Corridor, as designated by the Scenic Corridor Overlay District of the General Plan. The proposed project will have a low profile. It will not substantially degrade the existing visual character of the site and its surroundings.

- I a) **Less than Significant Impact.** The proposed project is approximately 7.8 miles southeast of Interstate 15 and 9.5 miles southwest of State Route 18, designated scenic corridors in the area. However, due to the distance from the Highway, the project will not impact the scenic integrity of the area.
- I b) **Less than Significant Impact.** A scenic highway is designated officially as a state scenic highway when the local jurisdiction adopts a scenic corridor protection program, applies for the California Department of Transportation for scenic highway approval, and receives notification from Caltrans that the highway has been designated as an official scenic highway. The proposed project will not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway, because the site is not adjacent to a state scenic highway. As stated above in I a), State Route 18 is approximately 9.5 miles northeast and Interstate 15 is approximately 7.8 miles northwest of the proposed site. The applicant intends to transplant any Joshua trees within the proposed solar field elsewhere on the property or place them for adoption as required by the San Bernardino County Code (SBCC). There are no rock outcroppings or historic buildings on the project site – it is adjacent to the Mojave River, as well as vacant or large residential parcels of land.
- I c) **Less than Significant Impact.** The proposed project will have a low profile (approximately sixteen and a half feet high) and will utilize motion sensors for security. It will not substantially degrade the existing visual character or quality of the site and its surroundings. The current visual character of the site includes the Mojave River, desert wilderness, hills, ridges, and scattered residences. As a precautionary measure, a condition of approval to maintain native landscaping buffers between the solar panel field and the adjacent properties will be required.

- I d) **Less than Significant Impact.** The project could be a new source of glare with the potential to adversely impact daytime views of the desert. However, the applicant proposes to use dark photovoltaic solar panels, which produce much less glare than other solar panel technologies. The photovoltaic panels will emit no light. As mentioned previously, the site will use motion sensors of security; there will be no on-site nighttime lighting. In addition, the project must comply with San Bernardino County Ordinance No. 3900 that regulates glare, outdoor lighting, and night sky protection in the desert region. Therefore, the proposed facility would not have a significant impact on daytime or nighttime views in the area.

No significant adverse impacts are identified or anticipated and no mitigation measures are required. As a precautionary measure, a condition of approval to maintain native landscaping buffers between the solar panel field and the adjacent properties will be required.

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|--|--------------------------------|--|--------------------------|-------------------------------------|
| II. AGRICULTURE AND FOREST RESOURCES - In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project, and the forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project: | | | | |
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Result in the loss of forestland or conversion of forestland to non-forest use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forestland to non-forest use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SUBSTANTIATION (Check ☐ if project is located in the Important Farmlands Overlay):

The proposed project is not located on Important Farmland, as mapped by the State of California. The site is adjacent to the Mojave River and within a portion of the floodplain. The primary vegetation communities within the parcel are Joshua tree woodland and dry desert wash. The site is not located within an Agricultural Preserve area.

II a-e) **No Impact.** The proposed project will not convert Prime Farmland, Unique Farmland, or Farmland of

Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use. Although the proposed project is located in an agriculture land use zoning district, it is designated “grazing” land on the maps prepared pursuant to the Farmland Mapping and Monitoring Program due to the area having mainly low density rural development. According to the California Department of Conservation Map entitled *San Bernardino County North Desert Region, Parcels Under Agriculture Contract* the project site is within a large area having “unique soils”. It does not contain “prime soils” or “statewide soils”, nor is it under an agriculture contract. Furthermore, a portion of the project site is zoned Floodway because of its location adjacent to the Mojave River and within a portion of the floodplain. The City of Hesperia is within ½ mile to the west, while the Town of Apple Valley is approximately 2.4 miles to the northeast and 2.25 miles to the north. Parcel sizes in the general vicinity range from 2.5 acres to 160 acres. Zoning on the adjacent and nearby properties includes RL, RL-10, RL-20 (Rural Living, 2.5-acre minimum, 10-acre minimum, and 20-acre minimum parcel sizes), AG (Agriculture), FW (Floodway), and RC (Resource Conservation). The proposed project site is in the high desert of Southern California, an area of extreme high and low temperatures, extremely low humidity, and water scarcity. The proposed Project will have no impact on forest resources.

No impacts are identified or anticipated and no mitigation measures are required.

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|--|--|--|-------------------------------------|-------------------------------------|
| III. AIR QUALITY - Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project: | | | | |
| a) Conflict with or obstruct implementation of the applicable air quality plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Expose sensitive receptors to substantial pollutant concentrations? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| e) Create objectionable odors affecting a substantial number of people? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| SUBSTANTIATION | (Discuss conformity with the Mojave Desert Air Quality Management Plan (MDAQMP), if applicable): | | | |

The development of renewable energy sources is expected to produce cumulative and regional environmental benefits. Because of this, the Mojave Desert Air Quality Management District supports this project and did not require an Air Quality Impact Analysis.

- III a) **Less than Significant Impact.** The Project site is located within the jurisdiction of the MDAQMP. The MDAQMD adopted the Mojave Desert Planning Area-Federal Particulate Matter Attainment Plan (Plan) in 1995 and the Ozone Attainment Plan in 2004. Air quality impacts would include construction exhaust emissions generated from construction equipment, vegetation clearing and earth movement activities, construction workers' commute, and construction material hauling for the entire construction period. These activities would involve the use of diesel- and gasoline-powered equipment that would generate emissions of criteria pollutants such as Carbon Monoxide (CO), Nitrogen Oxides (NO_x), Reactive Organic Gases (ROG) or Volatile Organic Compounds (VOC), Sulfur Oxides (SO_x), Particulate Matter less than 10 microns (PM₁₀), and Particulate Matter less than 2.5 microns (PM_{2.5}). The project construction activities also represent sources of vehicle re-entrained fugitive dust (which includes PM₁₀), a potential concern because the proposed project is in a non-attainment area for ozone and PM₁₀. However, construction-related increases in emissions of fugitive dust and exhaust from construction equipment and employee commute vehicles would be temporary and limited to the time required to construct the project. Potential impacts will be less than significant.

-
- III b) **Less than Significant Impact with Mitigation Incorporated.** The project would contribute criteria pollutants in the area during the short-term project construction period. None of the activities associated with the proposed project would create a substantial permanent increase in the emissions of criteria pollutants that would be cumulatively considerable. The project will not violate any air quality standard or contribute substantially to an existing or projected air quality violation, because the proposed use(s) do not exceed established thresholds of concern as established by the District. The MDAQMD provided a response to the project notice indicating their support for “the development of renewable energy sources”, stating “such development is expected to produce cumulative and regional environmental benefits.” The MDAQMD’s letter recommended “the County require that a fugitive dust best management practices (including but not limited to applicable provisions of District Rule 403.2) be implemented in the grading and construction phases of the project.” As a mitigation measure to regulate construction activities that could create windblown dust and to control emissions of fugitive dust and exhaust during construction, the proposed project will be required to implement an approved Dust Control Plan (DCP).
- III c) **No Impact.** Occasional patrolling and routine maintenance and repairs of the facilities will have no impact on the emissions of criteria pollutants that would be cumulatively considerable. There are no sources of potential long-term air impacts associated with the implementation of the proposed project. After construction, the amount of air pollutants are expected to be reduced considerably as photovoltaic energy production systems do not generate emissions that would cause reduction of air quality or produce objectionable odors.
- III d) **Less than Significant Impact.** The MDAQMD defines sensitive receptors as residences, schools, daycare centers, playgrounds, and medical facilities. There are scattered residences in the area, but no sensitive receptors in close proximity to the project area. The nearest residence to the proposed project is approximately 350 feet east. In addition, electricity generation via the use of photovoltaic systems does not generate chemical emissions that would negatively contribute to air quality. Furthermore, the County’s general conditions and standards as well as project-specific design and construction features incorporated into the proposed project such as dust suppression techniques per MDAQMD’s Rule 403 would reduce any potential impacts from the project. No significant adverse impacts are identified or anticipated and no additional mitigation measures are required.
- III e) **Less than Significant Impact.** Electricity generation via the use of photovoltaic systems does not generate chemical emissions that would negatively contribute to air quality or produce objectionable odors. Potential odor generation associated with the proposed project would be limited to construction sources such as diesel exhaust and dust. No significant odor impacts related to project implementation are anticipated due to the nature and short-term extent of potential sources, as well as the intervening distance to sensitive receptors. Therefore, the operation of the project would have a less than significant impact associated with the creation of objectionable odors affecting a substantial number of people.
-

Possible significant adverse impacts have been identified or anticipated and the following mitigation measures are required as conditions of project approval to reduce these impacts to a level below significant.

Mitigation Measure

AQ – Construction Mitigation. Developer shall submit written verification that all construction contracts and sub-contracts for the project contain provisions that require adherence to the following standards to reduce impacts to air quality: During construction, each contractor and subcontractor shall implement the following, whenever feasible:

- MDAQMD-approved Dust Control Plan (DCP) submitted with the Grading Plans. The DCP shall include these elements to reduce dust production:
 - Exposed soil shall be kept continually moist through a minimum of twice daily waterings to reduce fugitive dust during all grading and construction activities
 - Street sweeping shall be conducted when visible soil accumulations occur along site access roadways to remove dirt dropped by construction vehicles.
 - Site access driveways and adjacent streets shall be washed daily, if there are visible signs of any dirt track-out at the conclusion of any workday.
 - Tires of vehicles will be washed before the vehicle leaves the project site and enters a paved road.
 - All trucks hauling dirt away from the site shall be covered
 - During high wind conditions (i.e., wind speeds exceeding 25 mph), areas with disturbed soil shall be watered hourly and activities on unpaved surfaces shall be terminated until wind speeds no longer exceed 25 mph.
 - Storage piles that are to be left in place for more than three working days shall either be:
 - Sprayed with a non-toxic soil binder, or
 - Covered with plastic, or
 - Re-vegetated until placed in use.
 - Provide documentation prior to beginning construction demonstrating that the project proponents will comply with all MDAQMD regulations.
 - Suspend use of all construction equipment operations during second stage smog alerts. For daily forecast, call (800) 367-4710 (San Bernardino and Riverside counties).
 - Trucks/equipment shall not be left idling on site for periods in excess of ten minutes.
 - Provide temporary traffic control during all phases of construction.
 - Provide on-site food service for construction workers.
 - Use reformulated low-sulfur diesel fuel in equipment and use low-NO_x engines, alternative fuels and electrification. Apply 4-6 degree injection timing retard to diesel IC engines. Use catalytic converters on gasoline-powered equipment.
 - Minimize concurrent use of equipment through equipment phasing.
 - Substitute electric and gasoline-powered equipment for diesel-powered equipment.
 - Onsite electrical power hook-ups shall be provided for electric construction tools to eliminate the need for diesel-powered electronic generators.
 - Maintain construction equipment engines in good order to reduce emissions. The developer shall have each contractor certify that all construction equipment is properly serviced and maintained in good operating condition.
 - Install storm water control systems to prevent mud deposition onto paved areas.
 - Contractors shall use low sulfur fuel for stationary construction equipment as required by AQMD Rules 431.1 and 431.2 to reduce the release of undesirable emissions.
-

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|--|--------------------------------|--|-------------------------------------|-------------------------------------|
| IV. BIOLOGICAL RESOURCES - Would the project: | | | | |
| a) Have substantial adverse effects, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc...) through direct removal, filling, hydrological interruption, or other means? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

SUBSTANTIATION (Check if project is located in the Biological Resources Overlay or contains habitat for any species listed in the California Natural Diversity Database ☒):

Tom Dodson & Associates prepared a *Focused Survey for Desert Tortoise & Western Burrowing Owl, Habitat Assessment for Mohave Ground Squirrel, General Biological Resource Assessment, & Jurisdictional Delineation Report* in May 2012.

- IV a) **Less Than Significant with Mitigation Incorporated.** According to the *Focused Survey for Desert Tortoise & Western Burrowing Owl, Habitat Assessment for Mohave Ground Squirrel, General Biological Resource Assessment, & Jurisdictional Delineation Report* (May 2012) prepared by Tom Dodson & Associates, the primary vegetation communities within the parcel are Joshua tree woodland and dry desert wash. Plants observed included Joshua tree (*Yucca brevifolia*), creosote bush (*Larrea tridentate*), allscale (*Atriplex polycarpa*), cheese bush (*Hymenoclea salsola*), linear-leaf goldenbush (*Ericameria linearifolius*), rubber rabbitbush (*Chrysothamnus nauseosus*),

California buckwheat (*Eriogonum fasciculatum*), and desert needlegrass (*Achnatherum speciosum*). The surveys detected many native wildflower species (i.e., sticky nama, Mojave sun-cups, little gold-poppy, purple desert lupine, Golden linanthus, sand blossoms, California coreopsis, Pringle's woolly daisy, common tidy tips, and desert dandelion), several exotic annuals (i.e., sprit grass, shortpod mustard, tumble mustard, sisymbrium, hare barley, red brome, and cheat grass), and native plants adapted to disturbance, such as red-stemmed filaree, Lemmon's lessingia, and fiddleneck.

The only reptiles observed were western fence lizard (*Sceloperus occidentalis*) and western whiptail (*Cnemidophorus tigris*), although other reptiles expected to occur include the San Diego horned lizard (*Phrynosoma coronatum blainvillei*), red racer (*Masticophis flagellum*), gopher snake (*Pituophis melanoleucus*), and various rattlesnake species (*Crotalus* spp.).

Common resident birds species included California quail (*Callipepla californica*), California towhee (*Pipilo crissalis*), mourning dove (*Zenaida macroura*), wrenit (*Chamaea fasciata*), bushtit (*Psaltriparus minimus*), black-throated sparrow (*Anphispiza bilineata*), sage sparrow (*Amphispiza belli*), and black-chinned sparrow (*Spizella atrogularis*). Raptors included red-tailed hawk (*Buteo jamaicensis*). Species typically associated with urbanizing areas were common and included rock dove (*Columba livia*), common raven (*Corvus corax*), northern mockingbird (*Mimus polyglottos*), house finch (*Carpodacus mexicanus*), and house sparrow (*Passer domesticus*).

According to the report, "all detected mammals are common to the region. Small burrowing mammals included California ground squirrel (*Otospermophilus beecheyi*), Botta pocket gopher (*Thomomys bottae*), kangaroo rat (*Dipodomys* sp.), and several *Peromyscus* species. Medium-sized mammals included black-tailed jack rabbit (*Lepus californicus*) and Audubon cottontail (*Sylvilagus audubonii*). Coyote (*Canis latrans*) was the only predator detected."

No distinct wildlife corridors were identified on the site or in the immediate surrounding area, nor does the site support any critical or sensitive habitats (e.g., wetlands, streams, etc.). Approximately seven acres of the westerly boundary of the 40-acre site occur within the Mojave River floodplain. The project will occupy 26 acres of the site, leaving 14 acres at the western boundary, including the seven within the Mojave River floodplain, undisturbed.

The Biological Resources Report concludes that Mohave ground squirrel (MGS), desert tortoise (DT), and western burrowing owl (BUOW) are absent from the site. Further, the report states that although approximately seven acres along the westerly boundary of the site occur within the Mojave River floodplain, the proposed project intends to avoid the westerly 14 acres. No impacts to the jurisdictional waters will occur.

The Report recommends Minimization and Avoidance Measures to lessen any potential impact further, which the conditions of approval will include as mitigation measures.

Furthermore, the County designates the Joshua tree as a protected plant. Removal or relocation of any Joshua trees existing on site must comply with Development Code Section 88.01.060. A preconstruction inspection, tree removal plan, and permit in compliance with the Plant Protection and Management Ordinance must occur prior to any land disturbance and/or removal of any trees or plants.

- IV b) **Less Than Significant Impact.** This project will not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or

regulations or by the California Department of Fish and Game or US Fish and Wildlife Service. As discussed in IV a), the Mojave River floodplain traverses the westerly seven acres of the site. Although the habitat assessment detected no wildlife corridors on the site, the project proponent intends to avoid the westerly 14 acres of the site, allowing the continuation of any wildlife trespass. The applicant does not intend to place any fencing, solar trackers, or other permanent facilities within that area.

- IV c) **No Impact.** This project will not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means, because the project is not within an identified protected wetland. As discussed in IV a), the Mojave River floodplain traverses the westerly seven acres of the site. The project proponent intends to avoid the westerly 14 acres of the site and any impact on waters of the United States.
- IV d) **Less Than Significant Impact.** This project will not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. The biological assessment identified no distinct wildlife corridors or nursery sites within or near the project site. Retention of the 14 acres on the westerly property boundary as undeveloped will permit migration.
- IV e) **Less Than Significant Impact.** The County designates the Joshua tree as a protected plant. Removal or relocation of any Joshua trees existing on site must comply with Development Code Section 88.01.060. A preconstruction inspection, tree removal plan, and permit in compliance with the Plant Protection and Management Ordinance must occur prior to any land disturbance and/or removal of any trees or plants.
- IV f) **Less Than Significant Impact.** This project will not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan, because no such plan has been adopted in the area of the project site. The site is within the proposed boundary of the West Mojave Plan, which covers 9.3 million acres in the western portion of the Mojave Desert. This interagency habitat conservation plan remains under review.

Possible significant adverse impacts have been identified and the following mitigation measures are required as conditions of project approval to reduce these impacts to a level below significant:

Mitigation Measures:

Pre-construction Survey. As a standard operating procedure for projects located in native habitat, a qualified biologist shall conduct a 30-day preconstruction survey to determine if DT, MGS, and/or BUOW have migrated onto the site. If the biologist encounters any of these species during the pre-construction survey, then the project proponent must contact the appropriate regulatory authority (USFWS and/or CDFG) to obtain the required take authorization for the project.

Nesting Birds. The State of California prohibits the “take” of active bird nests. To avoid an illegal take of active bird nests, any grubbing, brushing or tree removal shall be conducted outside of the State identified nesting season (February 15 through September 1). Alternatively, a qualified biologist shall evaluate the site prior to initiation of ground disturbance to determine the presence or absence of nesting birds. Avoidance of active bird nests **MUST** occur during the nesting season. If an active nest is located in the project construction area it will be flagged and a 300-foot avoidance

buffer placed around it. No activity will occur within the 300-foot buffer until the young have fledged the nest.

Delineation of Project Boundary. All project activities shall be limited to a well-defined and visually delineated area. Prior to grading and construction activities, a qualified professional shall clearly mark the limits of disturbance with flagging, stakes, or fencing. A qualified professional shall install a clear visual delineation (i.e. signs, silt fencing, or construction fencing) along the western boundary of the project site to prevent encroachment beyond the work zone to the west into the CDFG and/or Corps jurisdictional limits of the Mojave River.

Environmental Awareness Training. A qualified biologist shall prepare and provide environmental awareness training to all construction personnel associated with the project. The environmental awareness class shall include information regarding the MGS, DT, and BUOW, relevant Federal and State laws, and worker responsibilities when working in Mojave Desert habitat.

Joshua tree relocation. A qualified biologist shall be onsite to monitor the Joshua tree relocation, clearing, and grubbing, and shall remain on-call for the remainder of construction.

| Issues | | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|--|--|--------------------------------|--|-------------------------------------|--------------------------|
| V. CULTURAL RESOURCES - Would the project | | | | | |
| a) | Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) | Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) | Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| d) | Disturb any human remains, including those interred outside of formal cemeteries? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

SUBSTANTIATION

(Check if the project is located in the Cultural ☐ or Paleontological ☒ Resources overlays or cite results of cultural resource review):

Although the proposed project is within a Cultural or Paleontological Resources Overlay area due to its proximity to the Mojave River, the County Museum conducted a records search. The search concluded that previous surveys included this parcel. All potential impacts were mitigated previously. The Museum recommended no further archaeological work.

- V a) **Less Than Significant Impact.** The Archaeological Information Center of the San Bernardino County Museum conducted a Historical Resources Review for the project site. The review indicated that there are no known previously inventoried historical resources within or adjacent to the project area. There are three historic archaeological resources and one prehistoric archaeological resource reported to exist within or adjacent to the project area. These previous surveys resulted in site mitigation. Based on available information, the Museum recommended no further archaeological work.
- V b) **Less Than Significant Impact.** As stated in V a) above, the Museum recommends no further archaeological.
- V c) **Less Than Significant Impact.** This project will not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature, because no such resources have been identified on the site. To reduce the potential for impacts further, a condition shall be added to the project that requires the developer to contact the County Museum for determination of appropriate mitigation measures, if any finds are made during project construction.
- V d) **Less Than Significant Impact.** This project will not disturb any human remains, including those interred outside of formal cemeteries, because no such burial grounds are identified on this project site. If discovery of any human remains occurs during construction of this project, the developer must contact the County Coroner, County Museum for determination of appropriate mitigation measures, and a Native American representative, if the remains are determined to be of Native American origin.

No significant adverse impacts are identified or anticipated and no mitigation measures are required.

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|---|--------------------------------|--|-------------------------------------|-------------------------------------|
| VI. GEOLOGY AND SOILS - Would the project: | | | | |
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | |
| i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map Issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ii. Strong seismic ground shaking? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| iii. Seismic-related ground failure, including liquefaction? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| iv. Landslides? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Result in substantial soil erosion or the loss of topsoil? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off site landslide, lateral spreading, subsidence, liquefaction or collapse? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| d) Be located on expansive soil, as defined in Table 18-1-B of the California Building Code (2001) creating substantial risks to life or property? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SUBSTANTIATION (Check ☐ if project is located in the Geologic Hazards Overlay District):

This project is not located in a Geologic Hazard (GH) Overlay District, as defined in the County General Plan.

- VI a) **Less Than Significant Impact.** (i-iv) The entire San Bernardino County area is particularly susceptible to strong ground shaking and other geologic hazards. However, the proposed project site is not located within an Alquist-Priolo Special Studies Zone, meaning that the site is not within 500 feet of major active faults, nor is the site within 200 to 300 feet of a trough created by minor faults. The nearest earthquake fault is the North Frontal thrust system, Western Section, which is approximately 1.5 miles east of the site. With adherence to the California Building Code and the incorporation of applicable measures into project design and construction, potential project impacts associated with strong seismic ground shaking will be less than significant. County Building and Safety will review and approve the project and impose appropriate seismic standards. The potential for liquefaction typically occurs in strong ground shaking within fine-grained loose sediments where

the groundwater is less than 50 feet below the surface. Because the western one-third of the site is within the outer edge of the Mojave River floodplain, it has the potential for liquefaction to occur during seismic events. Current building standards, the 1.5-mile distance from the nearest known fault, and the non-residential nature of the proposed development will result in the potential impact being less than significant. Due to the relative lack of slope on the site, there is no potential for landslide to occur.

- VI b) **Less Than Significant Impact.** No substantial grading or vegetation removal will occur for the installation of the proposed project. The retention of the vegetation onsite would reduce wind speeds near ground level to the extent that erosion, if it occurs, will be minor. Building and Safety will require erosion control plans be submitted, approved, and implemented.
- VI c) **Less Than Significant Impact.** The project is not identified as being located on a geologic unit or 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. Potential project impacts associated with landslides or liquefaction will be less than significant.
- VI d) **Less Than Significant Impact.** The project site is not located in an area that the County Building and Safety Geologist has identified as having the potential for expansive soils. As a standard condition of approval, the project applicant will submit a soils report to the County Building and Safety Geologist for review and approval.
- VI e) **No Impact.** When the proponent implements the proposed project, it will be an unmanned facility and will not use septic tanks or alternative wastewater disposal systems; therefore, no impacts are anticipated.

No significant adverse impacts are identified or anticipated and no mitigation measures are required.

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|--|--------------------------------|--|-------------------------------------|--------------------------|
| VII GREENHOUSE GAS EMISSIONS - Would the project: | | | | |
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

SUBSTANTIATION:

Because construction of this project will result in a cleaner, greener source of energy, it will not contribute to GHG emissions.

- VII a, b) **Less than Significant Impact.** As discussed in Section III of this document, the proposed project's primary contribution to air emissions is attributable to construction activities. Project construction shall result in GHG emissions from the following construction related sources: (1) construction equipment emissions and (2) emissions from construction workers personal vehicles traveling to and from the construction site. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel.

The primary emissions that would result from the proposed project occur as carbon dioxide (CO₂) from gasoline and diesel combustion, with more limited vehicle tailpipe emissions of nitrous oxide (N₂O) and methane (CH₄), as well as other GHG emissions related to vehicle cooling systems. Although construction emissions are a one-time event, GHG emissions such as CO₂ can persist in the atmosphere for decades.

On December 6, 2011, the San Bernardino County Board of Supervisors adopted the County Greenhouse Gas (GHG) Emissions Reduction Plan. Although once built and operational this project will provide a "clean" source of energy that will not contribute to GHG emissions, the project must adhere to the Air Quality mitigation measures contained in section III of this document and the performance standards of the GHG Emissions Reduction Plan in effect at the time of development.

GHGs and criteria pollutants would realize co-beneficial emissions reduction from the implementation of mitigation measures discussed in Section III, Air Quality, in this document. Furthermore, the construction of this project would result in "green" electric power generation that otherwise would be produced at a traditional fossil fuel burning plant, which generate considerably more GHG emissions. For these reasons, it is unlikely that this project would impede the state's ability to meet the reduction targets of AB32.

No significant adverse impacts are identified or anticipated and no mitigation measures are required.

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|--|--------------------------------|--|-------------------------------------|-------------------------------------|
| VIII. HAZARDS AND HAZARDOUS MATERIALS - Would the project: | | | | |
| a) Create a significant hazard to the public or the Environment through the routine transport, use, or disposal of hazardous materials? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| d) Be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

SUBSTANTIATION

The proposed project site lies within the Mojave Desert region. The site contains no structures, but shows signs of off-road vehicle use, dogs, and trash dumping. A portion on the westerly boundary of the site is within the Mojave River floodplain. The project, which intends to avoid the westerly 14 acres, will not impact the floodplain.

VIII a) **Less Than Significant Impact.** The project will not create a significant hazard to the public or the

environment through the routine transport, use, or disposal of hazardous materials, because no use approved on the site is anticipated to be involved in such activities. Implementation of the proposed project will not entail the routine transport, use, or disposal of hazardous materials, with the potential exception of short-term construction-related substances such as fuels, lubricants, adhesives, and solvents. The potential risk associated with the accidental discharge during use and storage of such construction-related hazardous materials during project construction is considered low because the handling of any such materials would be addressed through the implementation of Best Management Practices (BMPs) pursuant to the intent of the NPDES General Construction Permit. Operation of the proposed project would require the use or storage of insignificant quantities of hazardous substances, such as glycol-based coolant and lubricants for any moving parts. These materials are mildly toxic; they will not present a major risk to the handlers or the environment. The photovoltaic panels used in the proposed project are environmentally sealed collections of photovoltaic cells that require no chemicals and produce no waste materials. There is not a battery backup component, thus minimizing the need for transporting, using, or disposing of the hazardous materials that may be associated with the project. Furthermore, standard operating procedures will prevent the use of these materials from causing a significant hazard to the public or environment.

- VIII b) **Less Than Significant Impact.** The project will not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment, because any proposed use or construction activity that might use hazardous materials is subject to permit and inspection by the Hazardous Materials Division of the County Fire Department.
- VIII c) **Less Than Significant Impact.** There are no existing or proposed schools within ¼ mile of the proposed project site. The nearest school, Carmel Elementary School, is located approximately 1.3 miles northwest of the project site in the City of Hesperia. Additionally, operation and maintenance of the project would not produce hazardous emissions.
- VIII d) **Less Than Significant Impact.** The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. The proposed project will not create a significant hazard to the public or the environment. No impacts related to this topic will occur because of the proposed project and, therefore, no mitigation measures are required.
- VIII e) **Less Than Significant Impact.** The project site is not within the vicinity or approach/departure flight path of a public airport. The nearest public airport, Hesperia Airport, is approximately 4.9 miles southwest of the project site.
- VIII f) **Less Than Significant Impact.** The project site is not within the vicinity or approach/departure flight path of a private airstrip. The nearest private airstrip, Rabbit Ranch Airport, is approximately 12.4 miles northeast of the project site.
- VIII g) **No Impact.** Activities associated with the proposed project will not impede existing emergency response plans for the project site and/or other land uses in the project vicinity. All vehicles and stationary equipment will stage off public roads and will not block emergency access routes. Accordingly, implementation of the proposed project will not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan.
- VIII h) **Less Than Significant Impact.** The project will not expose people or structures to a significant risk of loss, injury, or death involving wildland fires. The proposed project includes installation of non-combustible poles and panels. On-site soil compaction and periodic vegetation trimming will reduce available fuel. Other than an external source, the only risk of on-site wildfire ignition is due to electrical malfunctions resulting from poor installation. As long as the electrical equipment is
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installed properly and follows all state and county safety codes, the risk of onsite ignition is minimal.

No significant adverse impacts are identified or anticipated and no mitigation measures are required.

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|--|--------------------------------------|---|-------------------------------------|-------------------------------------|
| IX. HYDROLOGY AND WATER QUALITY - Would the project: | | | | |
| a) Violate any water quality standards or waste discharge requirements? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level, which would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| e) Create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| f) Otherwise substantially degrade water quality? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| g) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Place within a 100-year flood hazard area structure that would impede or redirect flood flows? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| j) Inundation by seiche, tsunami, or mudflow? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SUBSTANTIATION

On January 27, 2012, Vikram Bapna prepared and submitted a preliminary Water Quality Management Plan (WQMP) to County Public Works, which they found acceptable. Due to its proximity to the Mojave River, the site is within a Flood Plain 1 Overlay, it is within FEMA Flood Zones A and X-unshaded, and within a Dam Inundation area.

- IX a, b, e, f) **Less than Significant Impact.** Potential water quality impacts from the proposed project are associated with short-term (construction-related) erosion/sedimentation and hazardous material use/discharge. The contractor must adhere to the Best Management Practices (BMPs) contained in the Water Quality Management Plan (WQMP) prepared for the project and approved by the Department of Public Works. Conformance with applicable elements of the required NPDES Construction Permit, use of site design BMPs, and control BMPs will avoid or reduce below a level of significance any potential erosion/sedimentation and hazardous materials impacts. During construction and operation, the Apple Valley Ranchos Water District will provide a temporary hydrant connection from the hydrant at the intersection of Deep Creek Road and Wren Street, a point approximately 3.3 miles northeast of the site. The contractor will haul water from this point for dust suppression during construction and for monthly cleaning of panels during operation. The expectation is that any discharged water will be absorbed into the soils onsite. Most of the ground within the proposed project area will remain permeable, so water percolation and groundwater recharge will remain unchanged by the implementation of the project.
- IX c, d) **Less than Significant Impact.** The project will not substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site. The footprint of the solar arrays is small. The proposed project does not include any impervious surfaces that will divert any drainage pattern. During construction, the contractor will place a silt fence along the down slope edge of the property to reduce any flow of sediments into the Mojave River or off-site. This silt fence will also assist in filtering any stormwater runoff in the event of precipitation during construction. Adherence with the County Public Works Best Management Practices (BMPs) is a standard condition of approval. Furthermore, as part of this project, the applicant will delineate and avoid the westernmost 14 acres of the property. There will be no development or disturbance within those 14 acres.
- IX g) **No Impact.** The proposed project will not create or result in housing within a 100-year flood hazard area. The project proposes to develop a renewable energy facility. It proposes no housing.
- IX h) **Less Than Significant Impact.** The proposed project will not place any structures that would impede or redirect flood flows within a 100-year flood hazard area. As mentioned previously, the renewable energy facility proposes to use helical pier anchors to eliminate the need for concrete foundations. Smaller structure footprints results in smaller redirection of flood flows. Furthermore, Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map, Panel Number 6515H, dated 08/28/2008 indicates that the proposed project area is within Flood Zones A and X-unshaded. In compliance with FEMA and San Bernardino County Zone A regulations, any building pad must be elevated a minimum of two feet above the highest adjacent ground. The applicant must submit an Elevation Certificate confirming that they met this condition.
- IX i) **Less Than Significant Impact.** Although the project site is located within the inundation
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overlay relative to failure of the dam at Silverwood Lake, the unmanned facility will not expose people or structures to a significant risk of loss, injury, or death. The proposed project will not impact any evacuation routes. The County General Plan prohibits only critical, essential, and high-risk land uses within the inundation overlay.

- IX j) **No Impact.** The project site will not be impacted by inundation by seiche, tsunami, or mudflow, because the project is not adjacent to any body of water that has the potential of seiche or tsunami nor is the project site in the path of any potential mudflow.

No significant adverse impacts are identified or anticipated and no mitigation measures are required.

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|---|--------------------------------|--|-------------------------------------|-------------------------------------|
| X. LAND USE AND PLANNING - Would the project: | | | | |
| a) Physically divide an established community? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SUBSTANTIATION

- X a) **No Impact.** The project will not physically divide an established community, because the site is within an area of widely scattered residential uses. The City of Hesperia boundary is approximately ½-mile west, while the Town of Apple Valley boundary is approximately 2.4 miles to the northeast.
- X b) **Less Than Significant Impact.** The current General Plan land use designation for the proposed project area is Agriculture (AG), which allows development of electrical power generation facilities with a Conditional Use Permit (CUP). The proposed project site is mapped within a Biotic Resources (BR) overlay, with the potential for desert tortoise, western burrowing owl, and Mohave ground squirrel in the area. As required by the BR overlay, the proponent submitted a report with the project application that identifies all biotic resources located on and adjacent to the site. The report concluded that with appropriate Biological Resources mitigation measures as contained in section IV of this document, the existence of the biotic resources did not constitute an incompatible land use with the proposed project.
- X c) **No Impact.** The project will not conflict with any applicable habitat conservation plan or natural community conservation plan, because there is no habitat conservation plan or natural community conservation plan within the area surrounding the project site. No habitat conservation lands are required to be purchased as mitigation for the proposed project.

No significant adverse impacts are identified or anticipated and no mitigation measures are required

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|---|--------------------------------------|---|--------------------------|-------------------------------------|
| XI. MINERAL RESOURCES - Would the project: | | | | |
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SUBSTANTIATION (Check ☒ if project is located within the Mineral Resource Zone Overlay):

The project site is within the MRZ-3a, an area of undetermined mineral resource significance, but with known mineral occurrence.

- XI a, b) **No Impact.** The project will not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state because there are no identified important mineral resources on the project site, although the site is within a Mineral Resource Zone Overlay.

No impacts are identified or anticipated and no mitigation measures are required

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|---|--------------------------------|--|-------------------------------------|-------------------------------------|
| XII. NOISE - Would the project: | | | | |
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SUBSTANTIATION

(Check if the project is located in the Noise Hazard Overlay District ☐ or is subject to severe noise levels according to the General Plan Noise Element ☐):

The project site is not located in a Noise Hazard (NH) Overlay District and is not subject to severe noise levels according to the County General Plan Noise Element.

XII a-d) **Less Than Significant Impact.** The proposed project is adjacent to undeveloped, vacant, or scattered residential land; therefore, noise and vibration generated from the proposed project could potentially exceed ambient noise standards. Based on studies done for previous projects within the general area, ambient noise levels average between 40 and 45 dBA. Levels adjacent to Deep Creek Road may increase when traffic exists. Specifically, construction of the proposed project may potentially create some elevated short-term construction noise and vibration impacts from construction equipment; however, these activities will be limited to daytime hours and will comply with the noise and vibration standards of the San Bernardino County Development Code. Noise generation from construction equipment/vehicle operation will be localized, temporary, and transitory in nature; therefore, significant impacts are unanticipated.

A Burlington Northern Santa Fe railroad track exists approximately 0.8 miles north of the project site. The use of this track is minimal, averaging approximately one train trip per day.

Subsection 83.01.080 of the County Development Code establishes acceptable noise level

standards. Measurement of noise is at the property line of the nearest site occupied by, zoned, or designated to allow noise-sensitive land uses. The noise standard for stationary noise sources affecting residential land uses for a cumulative period of more than 30 minutes in any hour is 55dBA between 7AM and 10PM. The standard drops to 45dBA between 10PM and 7AM. According to information obtained from www.calendar-updates.com, sunrise times in Apple Valley (zip code 92307) range from approximately 5:35 to 6:55AM throughout the year. The noise emission for a cumulative period of more than 15 minutes in any hour is the standard plus 5dBA.

Based on these standards, operation of the proposed project will not generate audible levels of noise or perceptible levels of vibration in the surrounding area. As mentioned in the project description section of this document, the project includes dual-axis tracking systems. Information obtained from PV Trackers, the manufacturer of the PVT 7.2DX tracker, indicates that the estimated sound pressure level for each motor at a distance of 100 feet ranges from 18dBA to 22dBA. The decibel level of rustling leaves is 20dBA. At a distance of 500 feet, the decibel levels are less than 10dBA. The maximum cumulative decibel level generated by the 246 trackers at a distance of 100 feet ranges from 41.9dBA to 45.9dBA. At a distance of 500 feet, the cumulative decibel levels range from 33.9dBA to 35.9dBA. The total time the trackers will cumulatively generate these levels is 30 minutes each day, once at sunrise and once during sunset for 15 minutes each time. Due to available adjustable programming, PV Trackers can reduce the decibel output by operating the motors at a lower revolution per minute.

The renewable energy facility will include an Aurora 480V inverter from Power One Renewable Energy Solutions. Its proposed location is on a concrete pad, close to the main entrance gate near the midpoint of the southerly property line. It will be set back a minimum of 100 feet from the nearest off-site property. The General Specifications from Power One Renewable Energy Solutions state the noise emission from the Aurora 480V inverter is <62dBA at 1 meter. Using the Inverse-square, Inverse distance, or 1/r law as found at www.sengpielaudio.com, the approximate noise emission will be 32.32dBA at 30.48 meters or 100 feet.

Forty to 44-foot road rights-of-way exist or the project proponent will dedicate them as part of this project on the south and east property boundaries. The trackers and arrays are setback 45 feet on the south, 30 feet on the east, 32.5 feet on the north, and 359.5 feet on the west from the ultimate property boundaries.

The nearest residence exists 350 feet east of the proposed project. Other residences exist approximately 440 feet northeast, 450 feet south, and 470 feet east.

Maintenance activities (including periodic cleaning, electrical connection repair, and panel replacement) will result in minimal noise. Further, the project will not include dwellings or other development, nor will it have the potential to generate any additional vehicle trips or associated noise after construction is completed.

- XII e, f) **No Impact.** The project is not located within an airport land use plan area or within two miles of a public/public use airport or a private airstrip. The nearest public airport, Hesperia Airport is approximately 4.9 miles, southwest of the project site. The nearest private airstrip, Rabbit Ranch Airport, is approximately 12.4 miles northeast of the project site.

No significant adverse impacts are identified or anticipated and no mitigation measures are required.

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|---|--------------------------------------|--|--------------------------|-------------------------------------|
| XIII. POPULATION AND HOUSING - Would the project: | | | | |
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SUBSTANTIATION

XIII a-c) **No Impact.** The project is located in a sparsely populated area of San Bernardino County. The project proponent and County staff expect workers needed for construction and operation of the project to come from the local employment base. The site is vacant. Therefore, displacement of housing or people will not occur. No impacts associated with population increase and housing are anticipated to occur from the proposed project

No impacts are identified or anticipated and no mitigation measures are required.

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|---|--------------------------------------|--|-------------------------------------|-------------------------------------|
| XIV. PUBLIC SERVICES | | | | |
| a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: | | | | |
| Fire Protection? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Police Protection? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Schools? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Parks? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Other Public Facilities? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SUBSTANTIATION

XIV a) **Fire Protection – Less than Significant Impact.** Apple Valley Fire Protection District (AVFPD) provides protection at the site. In order to provide adequate protection, AVFPD requires two points of vehicular access, a minimum 28-foot wide access gate and perimeter access road, a minimum 20-foot wide access road between the arrays, compaction of the access roads on the site to a 95 percent compaction rate, and asphalt paved or all weather surface access roads to the site. These will be conditions of approval for the project. The AVFPD may require regular trimming of on-site vegetation to reduce fire fuel. The project will not result in the need for additional fire protection services. Any development, along with the associated human activity, in previously undeveloped areas increases the potential of the occurrence of wildfires. AVFPD will implement comprehensive safety measures that comply with federal, state, and local worker safety and fire protection codes and regulations for the proposed project that will minimize the occurrences of fire due to project activities during construction and for the life of the project. Because of the low probability and short-term nature of potential fire protection needs during construction, the proposed project will not result in associated significant impacts.

Police Protection – Less than Significant Impact. The San Bernardino County Sheriff's Department serves the proposed project area and other unincorporated portions of the County. The Apple Valley Sheriff's Station is located approximately 8.5 miles to the northeast of the project site. Due to the large expanse that the station covers, deputies regularly assist and are assisted by the California Highway Patrol and the BLM Rangers. The proposed project will not impact service ratios, response times, or other performance objectives related to police protection. The project's short-term service requirements will not result in decreases to the level of public service offered or affect these agencies' response times. The facility may include installation of infrared security cameras with remote notification to an outside security firm to provide security in addition to the chain link perimeter fence.

Schools – No Impact. Long-term operation of the proposed facilities will place no demand on school services because it will not involve the construction of facilities that require such services (e.g., residences) and will not involve the introduction of a temporary or permanent human population into this area.

Parks – No Impact. Long-term operation of the proposed facilities will place no demand on parks because it will not involve the construction of facilities that require such services (e.g., residences) and will not involve the introduction of a temporary or permanent human population into this area.

Other Public Facilities – No Impact. The proposed project will not result in the introduction and/or an increase in new residential homes and the proposed project will not involve the introduction of a temporary or permanent human population into this area. Based on these factors, the proposed project will not result in any long-term impacts to other public facilities.

No significant adverse impacts are identified or anticipated and no mitigation measures are required

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|--|--------------------------------------|--|--------------------------|-------------------------------------|
| XV. RECREATION | | | | |
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SUBSTANTIATION

- XV a, b) **No Impact.** No new residences or recreational facilities will result as part of the proposed project. The proposed project will not induce population growth in adjacent areas and will not increase the use of recreational facilities in surrounding neighborhoods.

No impacts are identified or anticipated and no mitigation measures are required.

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|---|--------------------------------------|--|-------------------------------------|-------------------------------------|
| XVI. TRANSPORTATION/TRAFFIC - Would the project: | | | | |
| a) Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways, and freeways, pedestrian and bicycle paths, and mass transit? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Result in inadequate emergency access? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

SUBSTANTIATION

Due to the minimal number of trips associated with the project, the Public Works Traffic Division determined a Traffic Impact Analysis was unnecessary.

- XVI a) **Less Than Significant Impact.** The County Traffic Division found that there would be no adverse impacts on the surrounding roadway circulation system per the thresholds of significance specified by the San Bernardino County Congestion Management Plan due to the proposed project. Project construction will occur Monday through Friday between 7:30AM and 5:00PM, over an eight to ten week period. Typically, there will be five to ten workers and one project manager daily. Additionally, there will be an average of two material delivery trucks weekly during the construction phase. Table 2-4 in the Circulation and Infrastructure Background Report associated with the 2007 County General Plan update indicates that the level of service (LOS) on Interstate 15 between US 395 and SR 18 is LOS A in the AM Peak Hour and ranges between LOS A & LOS C in the PM Peak Hour. Table 2-7 in the background report indicates that the LOS on Main Street between US 395 and Rock Springs Road ranges between LOS A & LOS D in both the AM & PM Peak Hour. The County standard is LOS C or better. Due to the small increase in vehicle trips associated with the proposed project, the project will not degrade the existing LOS

on Interstate 15, Main Street, Rock Springs Road, or Deep Creek Road.

After construction, periodic maintenance vehicles will arrive at the site via Main Street, Rock Springs Road, and Deep Creek Road.

The Victor Valley Transit Authority (VVTa) provides bus service throughout the area. Route 46 provides transportation along a portion of western Main Street; there are no bus routes on Rock Springs Road or Deep Creek Road.

- XVI b) **No Impact.** The project would not exceed, either individually or cumulatively, a LOS standard established by the County congestion management agency for designated roads or highways. The County Public Works – Traffic Division reviewed the traffic generation of the proposed project. Traffic service will remain at a LOS of C or better, as required by the County General Plan.
- XVI c) **No Impact.** The project would not result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks. There are no airports in the vicinity of the project. As discussed in the Noise section of this document, the Hesperia Airport is approximately 4.9 miles southwest of the project site and the Rabbit Ranch Airport is approximately 12.4 miles northeast of the site. There is no anticipated notable impact on air traffic volumes by passengers or freight generated by the proposed use.
- XVI d) **No Impact.** The project will not substantially increase hazards due to a design feature or incompatible uses. The project site is adjacent to an established road accessed at points with good site distance and properly controlled intersections. There are no incompatible uses proposed by the project that would impact surrounding land uses.
- XVI e) **No Impact.** The project will not result in inadequate emergency access. Deep Creek Road provides paved access to the site, while Hinton Drive, Cornelian Road, and Sunset View Road provide unpaved access.
- XVI f) **No Impact.** As mentioned in XVI a), the public transit provider within the area is the VVTa, which provides bus service to the cities of Adelanto, Apple Valley, Hesperia, and Victorville, as well as portions of San Bernardino County. Route 46 serves portions of western Hesperia. This renewable energy project will not adversely affect this existing service.

No significant adverse impacts are identified or anticipated and no mitigation measures are required.

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|--|--------------------------------|--|-------------------------------------|-------------------------------------|
| XVII. UTILITIES AND SERVICE SYSTEMS - Would the project: | | | | |
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Be served by a landfill(s) with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| g) Comply with federal, state, and local statutes and regulations related to solid waste? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

SUBSTANTIATION

- XVII a) **No Impact.** The proposed project does not involve the construction of facilities that would generate sewage; therefore, it would not exceed applicable wastewater treatment requirements. The proposed project's water discharge does not require treatment or permitting according to the regulations of the Lahontan RWQCB.
- XVII b) **No Impact.** The project will not require new water or wastewater treatment facilities or expansion of existing facilities. As mentioned previously, trucks will bring water to clean the panels periodically from an off-site source, a fire hydrant at the corner of Wren and Deep Creek. This equates to a negligible amount due to maintenance occurring monthly.
- XVII c) **No Impact.** The proposed project would not require the construction or expansion of storm water drainage facilities. It is assumed that the insubstantial quantity of discharged water generated on the site will be absorbed into the soils. On-site soil types are well drained and suitable for most types of development. Accordingly, no impacts are anticipated from implementation of the proposed project.
- XVII d) **No Impact.** Water needed for activities associated with the proposed project will be trucked in

from an offsite fire hydrant, which is part of the Apple Valley Ranchos Water District system. The solar power generation process does not need water. Accordingly, no impacts are anticipated from implementation of the project.

- XVII e) **No Impact.** The proposed project will not require or result in the construction of new wastewater treatment facilities or the expansion of existing wastewater treatment facilities. No impacts are anticipated from implementation of the proposed project.
- XVII f, g) **Less than Significant Impact.** The proposed project will be an unmanned solar power generating facility, generating no process waste and only small quantities of solid waste requiring disposal. During construction, the proponent will provide trash and recycling dumpsters on site. The proponent must complete the Solid Waste Management Division's Construction Waste Management Recycling Plan, Parts 1 and 2. The project is required to comply with federal, state, and local statutes and regulations related to solid waste disposal.

No significant adverse impacts are identified or anticipated and no mitigation measures are required.

| Issues | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant | No Impact |
|--|--------------------------------------|--|-------------------------------------|--------------------------|
| XVIII. MANDATORY FINDINGS OF SIGNIFICANCE: | | | | |
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

SUBSTANTIATION

XVIII a) **Less than Significant Impact with Mitigation Incorporated.** Mitigation Measures have been included to address potential impacts to Air Quality and Biological Resources. However, implementation of the proposed project will not degrade the quality of the environment, substantially reduce the habitat of fish or wildlife species, cause a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory with adherence to the required mitigation measures discussed within this Initial Study.

XVIII b) **Less than Significant Impact.** Cumulative impacts are defined as two or more individual effects that, when considered together, are considerable or that compound or increase other environmental impacts. The cumulative impact from several projects is the change in the environment that results from the incremental impact of the development when added to the impacts of other closely related past, present, and reasonably foreseeable or probable future developments. Cumulative impacts can result from individually minor, but collectively significant, developments taking place over a period. The *CEQA Guidelines*, Section 15130 (a) and (b), states:

(a) Cumulative impacts shall be discussed when the project's incremental effect is cumulatively considerable.

(b) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided of the effects attributable to the project. The discussion should be guided by the standards of practicality and reasonableness.

At present, there are scattered residential and agricultural developments near the project site.

Other solar generating facilities within the High Desert Region of San Bernardino County are in process or conditionally approved. Each of these projects will implement mitigation measures and adhere to conditions of approval to ensure there are no significant impacts. By doing so, Staff expects no significant cumulative impacts.

The project will use a 26-acre portion of a 40-acre vacant parcel for a green-energy-producing facility. The presumption is that this cleaner energy will replace energy produced with fossil fuels, but not increase residential, commercial, or industrial development. Based on this, the project will not have impacts that are individually limited, but cumulatively considerable. The facility will be unmanned upon completion of construction. Trips generated by periodic maintenance workers will be minimal in comparison to the overall traffic in the area. Compliance with the conditions of approval issued for the proposed development will further assure that the potential for cumulative impacts will remain below the level of significant. The project can be served adequately by all existing services and infrastructure.

- XVIII c) **Less than Significant Impact.** The incorporation of design measures, County of San Bernardino policies, standards, and guidelines will ensure that there will be no substantial adverse effects on human beings, either directly or indirectly. Impacts of the proposed project will be less than significant.

XVIII. MITIGATION MEASURES

(Any mitigation measures, which are not “self-monitoring,” shall have a Mitigation Monitoring and Reporting Program prepared and adopted at time of project approval)

CONDITION COMPLIANCE RELEASE FORM (CCRF) MITIGATION MEASURES: (Condition compliance will be verified by existing procedure)

AQ – Construction Mitigation. Developer shall submit written verification that all construction contracts and sub-contracts for the project contain provisions that require adherence to the following standards to reduce impacts to air quality: During construction, each contractor and subcontractor shall implement the following, whenever feasible:

- MDAQMD-approved Dust Control Plan (DCP) submitted with the Grading Plans. The DCP shall include these elements to reduce dust production:
 - Exposed soil shall be kept continually moist through a minimum of twice daily waterings to reduce fugitive dust during all grading and construction activities
 - Street sweeping shall be conducted when visible soil accumulations occur along site access roadways to remove dirt dropped by construction vehicles.
 - Site access driveways and adjacent streets shall be washed daily, if there are visible signs of any dirt track-out at the conclusion of any workday.
 - Tires of vehicles will be washed before the vehicle leaves the project site and enters a paved road.
 - All trucks hauling dirt away from the site shall be covered
 - During high wind conditions (i.e., wind speeds exceeding 25 mph), areas with disturbed soil shall be watered hourly and activities on unpaved surfaces shall be terminated until wind speeds no longer exceed 25 mph.
 - Storage piles that are to be left in place for more than three working days shall either be:
 - Sprayed with a non-toxic soil binder, or
 - Covered with plastic, or
 - Re-vegetated until placed in use.
 - Provide documentation prior to beginning construction demonstrating that the project proponents will comply with all MDAQMD regulations.
 - Suspend use of all construction equipment operations during second stage smog alerts. For daily forecast, call (800) 367-4710 (San Bernardino and Riverside counties).
 - Trucks/equipment shall not be left idling on site for periods in excess of ten minutes.
 - Provide temporary traffic control during all phases of construction.
 - Provide on-site food service for construction workers.
 - Use reformulated low-sulfur diesel fuel in equipment and use low-NO_x engines, alternative fuels, and electrification. Apply 4-6 degree injection timing retard to diesel IC engines. Use catalytic converters on gasoline-powered equipment.
 - Minimize concurrent use of equipment through equipment phasing.
 - Substitute electric and gasoline-powered equipment for diesel-powered equipment.
 - Onsite electrical power hook-ups shall be provided for electric construction tools to eliminate the need for diesel-powered electronic generators.
 - Maintain construction equipment engines in good order to reduce emissions. The developer shall have each contractor certify that all construction equipment is properly serviced and maintained in good operating condition.
 - Install storm water control systems to prevent mud deposition onto paved areas.
 - Contractors shall use low sulfur fuel for stationary construction equipment as required by AQMD Rules 431.1 and 431.2 to reduce the release of undesirable emissions.
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Pre-construction Survey. As a standard operating procedure for projects located in native habitat, a qualified biologist shall conduct a 30-day preconstruction survey to determine if DT, MGS, and/or BUOW have migrated onto the site. If the biologist encounters any of these species during the pre-construction survey, then the project proponent must contact the appropriate regulatory authority (USFWS and/or CDFG) to obtain the required take authorization for the project.

Nesting Birds. The State of California prohibits the “take” of active bird nests. To avoid an illegal take of active bird nests, any grubbing, brushing or tree removal shall be conducted outside of the State identified nesting season (February 15 through September 1). Alternatively, a qualified biologist shall evaluate the site prior to initiation of ground disturbance to determine the presence or absence of nesting birds. Avoidance of active bird nests MUST occur during the nesting season. If an active nest is located in the project construction area it will be flagged and a 300-foot avoidance buffer placed around it. No activity will occur within the 300-foot buffer until the young have fledged the nest.

Delineation of Project Boundary. All project activities shall be limited to a well-defined and visually delineated area. Prior to grading and construction activities, a qualified professional shall clearly mark the limits of disturbance with flagging, stakes, or fencing. A qualified professional shall install a clear visual delineation (i.e. signs, silt fencing, or construction fencing) along the western boundary of the project site to prevent encroachment beyond the work zone to the west into the CDFG and/or Corps jurisdictional limits of the Mojave River.

Environmental Awareness Training. A qualified biologist shall prepare and provide environmental awareness training to all construction personnel associated with the project. The environmental awareness class shall include information regarding the MGS, DT, and BUOW, relevant Federal and State laws, and worker responsibilities when working in Mojave Desert habitat.

Joshua tree relocation. A qualified biologist shall be onsite to monitor the Joshua tree relocation, clearing, and grubbing, and shall remain on-call for the remainder of construction.

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