



# INYO COUNTY BOARD OF SUPERVISORS

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

NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA

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

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

### REGULAR MEETING February 6, 2024

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

Start Time

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

**CLOSED SESSION**

- 2) **Conference with County's Labor Negotiators – Pursuant to Government Code §54957.6** – Regarding employee organizations: Deputy Sheriff's Association (DSA); Elected Officials Assistant Association (EOAA); Inyo County Correctional Officers Association (ICCOA); Inyo County Employees Association (ICEA); Inyo County Probation Peace Officers Association (ICPPOA); IHSS Workers; Law Enforcement Administrators' Association (LEAA). Unrepresented employees: all. County designated representatives – Administrative Officer Nate Greenberg, Assistant County Administrator Sue Dishion, Deputy Personnel Director Keri Oney, County Counsel John-Carl Vallejo, Assistant County Counsel Christy Milovich, and Senior Budget Analyst Denelle Carrington.
- 3) **Conference with Real Property Negotiators – Pursuant to paragraph (1) of subsection (b) of Government Code §54956.8** – Property: Bishop, Independence, and Lone Pine Landfills. Agency Negotiators: Nate Greenberg, John-Carl Vallejo, Greg James, Fred Aubrey. Negotiating parties: Inyo County and Los Angeles Department of Water and Power. Under negotiation: price and

terms of payment.

- 4) **Conference with Legal Counsel – Existing Litigation – Pursuant to Government Code §54956.9(d)(1)** – Name of case: *Inyo v. Wolverine/Inyo, LLC et. al.* (Case No. 23UC70164).
- 5) **Public Employment – Pursuant to Government Code §54957** – Title: Public Defender.
- 6) **Public Employment – Pursuant to Government Code §54957** – Title: Assistant County Administrator.

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

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

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

- 11) **Board of Supervisors Meeting Minutes**  
Clerk of the Board | Assistant Clerk of the Board  
  
**Recommended Action:** Approve the minutes from the regular Board of Supervisors meeting of January 16, 2024.
- 12) **Continuation of Local Emergency for Tropical Storm Hilary**  
County Administrator - Emergency Services | Mikaela Torres  
  
**Recommended Action:** Discuss, consider, and approve staff's recommendation to continue the local emergency proclaimed in response to Tropical Storm Hilary.
- 13) **Requests for Refunds from Donations to the Commander's House Re-Roofing Project**  
County Administrator - Museum | Shawn Lum  
  
**Recommended Action:** Pursuant to Inyo County Code Section 6.26.020, reject two donations of \$2,500, for a total of \$5,000, for the Commander's House re-roofing project and authorize the Auditor's Office to issue warrants to the two impacted contributors.

14) **Copier-Printer Lease Agreement under State Contract between the County and ABM**

County Administrator - Information Services | Nate Greenberg

**Recommended Action:** Approve a new lease agreement with American Business Machines under a pre-negotiated State contract in order to continue the servicing and replacement of copiers and printers throughout County offices at a leasing cost not to exceed \$245,000 per year for a term of 5 years, and authorize the Chief Information Officer to sign said agreement.

15) **Approval of "Workplace Violence Prevention Plan"**

County Administrator - Risk Management | Aaron Holmberg

**Recommended Action:** Approve the "Workplace Violence Prevention Plan," and authorize the Chairperson to sign.

16) **Lease Agreement between the County of Inyo and Mono County**

Child Support Services | Amy Weurdig

**Recommended Action:** Approve the Lease Agreement between the County of Inyo and Mono County, for the real property described as the "Tioga Room," 1290 Tavern Road, Mammoth Lakes, CA 93546 for a term of three years in an amount not to exceed \$250 per month for the period of March 1, 2024 to March 1, 2027, for a total not-to-exceed amount of \$9,000, contingent upon future budget approval, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

17) **Appointment of Anna Scott as the Interim Local Mental Health Director**

Health & Human Services - Behavioral Health | Anna Scott

**Recommended Action:** Ratify and approve appointment of Anna Scott, HHS Director, as the Interim Local Mental Health Director and authorize the County Administrator to sign the appointment letter.

18) **Appointment of Anna Scott as Interim Inyo County Alcohol and Drug Program Administrator**

Health & Human Services - Behavioral Health | Anna Scott

**Recommended Action:** Ratify and approve the appointment of Anna Scott, HHS Director, as the Interim Inyo County Alcohol and Drug Program Administrator, consistent with California Health and Safety Code (HSC) Section 11800.

19) **Appointment of Anna Scott to the First 5 Children and Families Commission**

Health & Human Services - First 5 | Anna Scott

**Recommended Action:** Appoint Anna Scott, HHS Director, to a new three-year term as the Health and Human Services Commissioner on the First 5 Children and Families Commission, ending December 5, 2026.

20) **Appointment of Darcia Blackdeer-Lent as LPS Conservator**

Health & Human Services - Social Services | Anna Scott

**Recommended Action:** Appoint Darcia Blackdeer-Lent, HHS Deputy Director of Placement and Social Services, as the authorized LPS (Lanterman-Petris-Short) Conservator.

21) **Auction of Surplus Public Works Vehicle/Equipment**

Public Works | Shannon Platt

**Recommended Action:** A) declare the vehicles and equipment listed in Attachment 1 as surplus; B) authorize the Road Department to offer the vehicles and equipment for sale utilizing the Public Surplus auction site; and C) authorize any unsold vehicles and equipment to be disposed of as scrap metal.

22) **Request to Reserve Tinnemaha Campground**

Public Works - Parks & Recreation | Michael Errante

**Recommended Action:** Approve a request from the Moontribe Collective to reserve all campsites at Tinnemaha Creek Campground, June 19 through June 24, 2024.

23) **Right-of-Way Contracts for Temporary Easements to Caltrans**

Public Works | Michael Errante

**Recommended Action:** Approve two (2) Right-of-Way Contracts for Temporary Easements between the County of Inyo and the California Department of Transportation in an amount not to exceed \$3,000, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

24) **Approval for Hiring an Office Technician III at Step E**

Treasurer-Tax Collector | Alisha McMurtrie

**Recommended Action:** Authorize the hiring of one (1) Office Technician III, Rance 63 (\$4,525 - \$5,507), at Step E (\$5,507).

25) **Lower Owens River Project Annual Accounting Report**

Water Department | Holly Alpert

**Recommended Action:** Approve the 2022-2023 Lower Owens River Project (LORP) Annual Accounting Report.

**REGULAR AGENDA - MORNING**

26) **Review of New and Pending Legislation**

Clerk-Recorder | Danielle Sexton  
15 minutes (10min. Presentation / 5min. Discussion)

**Recommended Action:** This item is presented for informational purposes only. There is no recommended action.

27) **Inyo County/Los Angeles Standing Committee Meeting - February 8, 2024**

Water Department | Holly Alpert  
10 minutes (5min. Presentation / 5min. Discussion)

**Recommended Action:** Provide direction to the County's Standing Committee representatives in advance of the meeting of the Inyo County/Los Angeles Standing Committee scheduled for February 8, 2024, in Los Angeles.

28) **Administration Department Restructure**

County Administrator | Nate Greenberg  
20 minutes (10min. Presentation / 10min. Discussion)

**Recommended Action:**

- A) Approve the proposed restructuring of the Administration Department as recommended;
- B) Approve changes to the Authorized Strength in the County Administrative Officer Department by:
  - 1. Adding one (1) Deputy County Administrator at Range 88 (\$8,232-\$10,003) or Senior Deputy County Administrator at Range 92 (\$9,079-\$11,036), depending on qualifications and scope of duties/responsibilities, and deleting one (1) Assistant County Administrative Officer at Range 160 (\$11,553-\$14,043); and
  - 2. Adding one (1) Assistant Director of Budget and General Services at Range 92 (\$9,079-\$11,036) and deleting one (1) Senior Budget Analyst at Range 88 (\$8,232-\$10,003); and
- C) Approve the job descriptions for the Deputy/Senior Deputy County Administrator and Assistant Director of Budget and General Services;
- D) Approve the contract between the County of Inyo and Meaghan McCamman for provision of personal services as Deputy County Administrator at Range 88, Step E, \$10,003 per month, effective February 15, 2024, and authorize the County Administrator to sign;
- E) Approve the contract between the County of Inyo and Denelle Carrington for provision of personal services as Assistant Director of Budget and General Services at Range 92, Step E, \$11,036 per month, effective February 15, 2024, and authorize the County Administrator to sign;
- F) Direct staff to update the publicly available pay schedule accordingly; and
- G) Approve Resolution No. 2024-05 titled, "A Resolution of the Board of Supervisors, County of Inyo, State of California, Setting Certain Salary and/or Terms of Conditions of Employment for Management and Non-represented Employees Employed in the Several Offices or Institutions of the County of Inyo, Which Shall Supersede any Prior Resolution Pertaining to that Subject to the Extent They are Inconsistent," and authorize the Chairperson to sign.

29) **Contract with Willdan Engineering for Outside Plan Review and Other Services with Accompanying Resolution and Associated Budget Amendment**

County Administrator - Emergency Services & Public Works | Nate Greenberg  
15 minutes (5min. Presentation / 10min. Discussion)

**Recommended Action:**

- A) Approve the contract between the County of Inyo and Willdan Engineering of San Bernardino, CA for the provision of Building and Safety and Engineering Services in an amount not to exceed \$25,000 for the period of February 6, 2024 through June 30, 2024, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained;
- B) Approve Resolution No. 2024-06, titled, "A Resolution of the Board of Supervisors, County of Inyo, State of California, Updating the Fee Schedule for Plan Check Services Provided by the Office of Building and Safety," and authorize the Chairperson to sign; and
- C) Amend the Fiscal Year 2023-2024 County Budget as follows: increase appropriation in the Building & Safety Budget (023200), Professional Services (5265) by \$25,000 and reduce the General Fund Contingencies Budget (087100), Contingencies (5901) by \$25,000 (*4/5ths vote required*).

30) **Review of County-Owned Property**

County Administrator | Meaghan McCamman, Nate Greenberg  
40 minutes (10min. Presentation / 30min. Discussion)

**Recommended Action:** A) Conduct workshop to review County-owned real property; and B) Provide any follow-up direction to staff as necessary.

31) **2024 Legislative Platform**

County Administrator | Nate Greenberg  
10 minutes (5min. Presentation / 5min. Discussion)

**Recommended Action:** Adopt the Inyo County 2024 Federal Legislative Platform.

**LUNCH**

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

**REGULAR AGENDA - AFTERNOON**

**1 P.M. 33) Appeal No. 2023-02/Barker Solar**

Planning Department | Cynthia Draper  
60 min (15min Presentation / 45min Discussion)

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

- 1 P.M.** 34) **Appeal No. 2023-03/Barker Solar**  
Planning Department | Cynthia Draper  
60 minutes (15min. Presentation / 45min. Discussion)

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

**ADDITIONAL PUBLIC COMMENT & REPORTS**

- 35) **Public Comment**  
Comments may be time-limited
- 36) **Board Member and Staff Reports**  
Receive updates on recent or upcoming meetings and projects

**CORRESPONDENCE - INFORMATIONAL**

- 37) **California Fish and Game Commission** - Agenda for February 14-15 meeting to be held in Sacramento and via webinar.



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## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-43

### Board of Supervisors Meeting Minutes

Clerk of the Board

ACTION REQUIRED

#### ITEM SUBMITTED BY

Clerk of the Board

#### ITEM PRESENTED BY

Assistant Clerk of the Board

#### RECOMMENDED ACTION:

Approve the minutes from the regular Board of Supervisors meeting of January 16, 2024.

#### BACKGROUND / SUMMARY / JUSTIFICATION:

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

#### FISCAL IMPACT:

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

#### ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

N/A

#### OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.

#### ATTACHMENTS:

- Draft January 16, 2024 Minutes



**APPROVALS:**

Hayley Carter  
Darcy Ellis

Created/Initiated - 1/17/2024  
Final Approval - 1/17/2024

# MINUTES



# County of Inyo Board of Supervisors

**January 16, 2024**

The Board of Supervisors of the County of Inyo, State of California, met in regular session at the hour of 8:31 a.m., on January 16, 2024, in the Board of Supervisors Room, County Administrative Center, Independence, with the following Supervisors present: Chairperson Matt Kingsley, presiding, Scott Marcellin, Matt Kingsley, Jeff Griffiths, Jennifer Roeser and Trina Orrill. Also present: County Administrator Nate Greenberg, Assistant County Counsel John-Carl Vallejo, and Assistant Clerk of the Board Darcy Ellis.

***Closed Session  
Public Comment***

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

***Closed Session***

Chairperson Roeser recessed open session at 8:32 a.m. to convene in closed session with all Board members present to discuss the following item(s): No. 2 **Conference with County's Labor Negotiators – Pursuant to Government Code §54957.6** – Regarding employee organizations: Deputy Sheriff's Association (DSA); Elected Officials Assistant Association (EOAA); Inyo County Correctional Officers Association (ICCOA); Inyo County Employees Association (ICEA); Inyo County Probation Peace Officers Association (ICPPOA); IHSS Workers; Law Enforcement Administrators' Association (LEAA). Unrepresented employees: all. County designated representatives – Administrative Officer Nate Greenberg, Assistant County Administrator Sue Dishion, Deputy Personnel Director Keri Oney, County Counsel John-Carl Vallejo, Assistant County Counsel Christy Milovich, and Senior Budget Analyst Denelle Carrington; and No. 3 **Conference with Legal Counsel - Existing Litigation - Pursuant to paragraph (1) of subdivision (d) of Government Code §54956.9** – *County of Inyo v. Los Angeles Department of Water and Power*, Inyo County Superior Court Case No. SICVCV 18-62064 (Eminent Domain-Independence); Case No. SICVCV 18-62065 (Eminent Domain-Lone Pine); and Case No. 18-62067 (Eminent Domain-Bishop).

***Open Session***

Chairperson Kingsley recessed closed session and reconvened the meeting in open session at 10:02 a.m. with all Board members present.

***Report on Closed Session***

County Counsel Vallejo reported that the Board met under Item Nos. 2 and 3 and that no action was taken during closed session required to be reported.

***Pledge of Allegiance***

Supervisor Griffiths led the Pledge of Allegiance.

***Employee Service Recognition***

The Board recognized the following employees who reached service milestones during the Fourth Quarter of 2023, many of whom were in attendance to receive their commemorative pins:

- Shane Scott, 20 years; Brian Howard, 20 years; Jessica Royal-Dews, 5 years; and Mike Atkins, 5 years – Sheriff's Department
- Mike Durbin, 15 years – District Attorney
- Eryn Clark, 10 years; Laura Coretz Barrientos, 10 years; Natalia Luque, 10 years; and Christina Bonanno, 5 years – Health & Human Services
- Chuck Baker, 5 years; Kody Nelson, 5 years; and Marjorie Chapman, 5 years – Public Works

***Public Comment***

Chairperson Kingsley asked for public comment related to items not calendared on the agenda and public comment was received from Lauralyn Hundley, an individual identified as "Joe," and Linda Chaplin.

<i>County Department Reports</i>	Public Works Director Mike Errante provided a brief update on the status of Mt. Whitney Portal Road repairs, noting the lower culverts are almost complete.
	Health & Human Services Director Anna Scott provided an update on the recently vacant Behavioral Health Director position and said the department is working to recruit an interim person for the position. Scott mentioned that Assistant HHS Director Gina Ellis will be working out of the Behavioral Health office to provide reception assistance to the public until the position is filled.
<i>Clerk of the Board – Approval of Minutes</i>	Moved by Supervisor Roeser and seconded by Supervisor Marcellin to approve the minutes from the regular Board of Supervisors meeting of January 9, 2024, and the special Board of Supervisors meeting of January 10, 2024. Motion carried unanimously.
<i>Clerk of the Board – Cancellation of Special Meeting</i>	Moved by Supervisor Roeser and seconded by Supervisor Marcellin to cancel the special meeting scheduled for Wednesday, February 7, 2024. Motion carried unanimously.
<i>County Administrator- Personnel – Social Worker IV Minimum Qualifications Change</i>	Moved by Supervisor Roeser and seconded by Supervisor Marcellin to approve the change to the minimum qualifications of the Social Worker IV position, consistent with the attached Job Description. Motion carried unanimously.
<i>HHS-First 5 – First 5 Children and Families Commission Appointments</i>	Moved by Supervisor Roeser and seconded by Supervisor Marcellin to: A) Appoint Mr. Alex Burciaga to an unexpired three-year term on the First 5 Commission ending December 5, 2024, and B) Appoint Mrs. Heather Carr to a new three-year term on the First 5 Commission ending December 5, 2026. Motion carried unanimously.
<i>Public Works – Clean California Local Grant Program Acceptance/ Reso. #2024-03</i>	Moved by Supervisor Roeser and seconded by Supervisor Marcellin to approve Resolution No. 2024-03, to: A) accept a Clean California Local Grant Program award in the amount of \$1,475,000; and B) authorize the Inyo County Public Works Director to execute agreements with the California Department of Transportation for the Inyo County Diaz Lake Welcoming & Beautification Project. Motion carried unanimously.
<i>Public Works- Recycling &amp; Waste Management – Waste Hauler Maximum Rate Adjustments</i>	Moved by Supervisor Roeser and seconded by Supervisor Marcellin to: <ul style="list-style-type: none"> <li>A) Ratify and approve the Consumer Price Index (CPI) adjustment of 6.5% to the portion of the Service Fee Maximum rates not associated with the tipping fees, effective January 1, 2024, in accordance with Franchise Agreements between the County of Inyo and contract waste haulers; and</li> <li>B) Adopt the new schedule of Maximum Charges for Waste Hauling Services for Areas A &amp; B in Inyo County as presented in Exhibit A.</li> </ul> Motion carried unanimously.
<i>Water Department – Water Commission Appointments</i>	Moved by Supervisor Roeser and seconded by Supervisor Marcellin to consider the Letters of Interest received and appoint two Water Commissioners each to four-year terms ending December 31, 2027. Motion carried unanimously.
<i>CAO – The Ferguson Group Contract Amendment No. 4/CSAC Grants Contract</i>	The agenda item was moved from the Consent Calendar to the Regular Agenda for further discussion and Assistant CAO Meaghan McCamman explained that bringing the California State Association of Counties Grants Initiative into the fold will allow the County to plan and act on future grant opportunities more efficiently.  Moved by Supervisor Orrill and seconded by Supervisor Griffiths to: <ul style="list-style-type: none"> <li>A) Ratify Amendment No. 4 to the contract between the County of Inyo and The Ferguson Group (TFG), removing the Grant Services portion of the Scope of Work, reducing the monthly compensation from \$8,000 per month to \$5,000 per month effective January 1, 2024, removing travel reimbursement expenses, and extending the term end date from June 30, 2024 to June 30, 2025, contingent upon the Board's</li> </ul>

approval of future budgets, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained; and

- B) Approve the three-way agreement between the County of Inyo and California State Association of Counties (CSAC) and The Ferguson Group (TFG) for the provision of Grant Services in an amount not to exceed \$50,000 for the period of February 1, 2024 - January 31, 2025, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

Motion carried unanimously.

***CAO-Personnel –  
Code Compliance  
Inspector/Approval of  
Job Description***

The agenda item was moved from the Consent Calendar to the Regular Agenda for discussion. Assistant Personnel Director Keri Oney provided additional information on the proposed changes being made. CAO Greenberg and Assistant Personnel Director Oney responded to Board questions regarding where and how to contact the new Code Compliance Inspector once hired.

Moved by Supervisor Orrill and seconded by Supervisor Roeser to:

- A) Change the Authorized Strength in Administration by deleting one (1) Code Enforcement Officer at Range 68 (\$5,099 - \$6,195);
- B) Change the Authorized Strength in the Planning Department by adding one (1) Code Compliance Inspector at Range 68 (\$5,099 - \$6,195);
- C) Approve the Code Compliance Inspector job description; and
- D) Approve the removal of the Code Enforcement Officer from Resolution No. 2023-41 titled, "A Resolution of the Board of Supervisors, County of Inyo, State of California, Setting Certain Salary and/or Terms and Conditions of Employment for Management and Non-represented Employees Employed in the Several Offices or Institutions of the County of Inyo," and recognize the Code Compliance Inspector as an Inyo County Employees Association represented position.

Motion carried unanimously.

***Public Works-Parks &  
Recreation –  
Portuguese Joe  
Campground  
Reservation***

The agenda item was moved from the Consent Calendar to the Regular Agenda. Assistant Public Works Director John Pinkney said on-call emergency medical services was not an issue the previous year at the same event and he does not anticipate problems arising this time.

Moved by Supervisor Roeser and seconded by Supervisor Orrill to approve a request from Allan Johnson to reserve all campsites at Portuguese Campground, Thursday, October 10, 2024, through Sunday, October 13, 2024. Motion carried unanimously.

***Public Works –  
Jail Administration  
Remodel Project***

The agenda item was moved from the Consent Calendar to the Regular Agenda. Supervisor Orrill asked for clarification on the parapet cap and brought it to the attention of Public Works Director Mike Errante that the dollar amount on the Change Order needed correction and should be \$68,951.90. Errante said he would get this fixed and thanked her for bringing it to his attention.

Moved by Supervisor Orrill and seconded by Supervisor Roeser to authorize the Public Works Director to sign Change Order No. 2 for \$68,951.90 to Pagenkopp Construction, Inc. for additional scope-of-work on the Jail Administration Remodel Project. Motion carried unanimously.

***Board of Supervisors –  
Committee  
Appointments***

Moved by Supervisor Orrill and seconded by Supervisor Roeser to approve the 2024 Board of Supervisors committee assignments as recommended by the Chairperson, including the addition of an alternate position on the Inyo-L.A. Standing Committee and on the City of Bishop-County of Inyo Liaison Committee. Motion carried unanimously.

***Board of Supervisors –  
Amargosa Basin  
Presentation***

Friends of the Amargosa Basin Executive Director Cameron Mayer provided a presentation to the Board on efforts being made to create the Amargosa Basin National Monument. Friends President Susan Sorrells introduced retired University of Washington professor Daryl Allen, who spoke about the Shoshone Education and Research Center field station and highlighted the geological uniqueness of the Amargosa Basin.

***CAO-Advertising***

Film Commissioner Jesse Steele provided the Board with a written report and summary on

*County Resources –  
Film Commissioner  
Written Report*

local filming activity.

Chairperson Kingsley requested that the next report include more information on the permitting process for film activity then asked if there was anyone from the public wishing to speak. Public comment was given by an individual identified as “Joe.”

*Board of Supervisors –  
Inyo National Forest  
Report on 2024 Rose  
Parade Participation*

Supervisor Roeser introduced the following Inyo National Forest crew members to the Board: Mt. Whitney District Ranger Taro Pusina, Wilderness and Trails Supervisor for the Mammoth Ranger District and Co-Director of the Region 5 Pack Stock Center of Excellence Michael Morse, and Fire Prevention Specialist Levi Ray.

Morse shared a video put together highlighting the Pack Stock Center of Excellence’s participation in the Tournament of Roses Parade in honor of Smokey Bear’s 80<sup>th</sup> birthday. Ray, who has also helped establish the Hot Shot Crew for the Inyo National Forest, was put in charge of building the float for the parade and shared more about the float crew and their preparations.

Board members thanked the Inyo National Forest employees for their hard work and said that it was truly an honor and privilege having Inyo represented in the Tournament of Roses Parade.

*Attendance Change*

Vice Chairperson Marcellin stepped in to run the meeting for Chairperson Kingsley at 12:02 p.m. so he could travel to a Rural County Representatives of California meeting.

*CAO –  
Administration  
Department  
Restructure*

CAO Greenberg provided background information and explained the purpose of a proposed restructuring of the Administrative Department.

Supervisor Orrill asked for clarification and brought it to Board attention that the approval list for the item had not been routed through the Auditor-Controller.

In response, Auditor-Controller Amy Shepherd said that a brief review of this item would have prompted her request for additional information identifying the specific savings created by the restructuring and said she would have asked that the current Senior Budget Analyst Denelle Darrington be removed from the approval list as the changes will directly affect her salary.

Board members decided to delay the approval of the item presented so the Auditor-Controller could fully review it and requested that it be brought back to Board at the next meeting on February 6.

*CAO-Personnel –  
Undersheriff/Personal  
Services Contract*

Moved by Supervisor Griffiths and seconded by Supervisor Orrill to:

- A) Ratify and approve the contract between the County of Inyo and Juan Martinez for the provision of personal services as the Undersheriff at Range 85SE, Step F, \$12,693 per month effective December 12, 2023, and authorize the Chairperson to sign, contingent on all appropriate signatures being obtained; and
- B) Direct staff to update the publicly available pay schedule accordingly.

Motion carried 4-0 with Supervisor Kingsley absent.

*CAO-Personnel –  
Assistant Chief  
Information Officer/  
Personal Services  
Contract*

Moved by Supervisor Griffiths and seconded by Supervisor Roeser to:

- A) Approve the contract between the County of Inyo and Abhilash Itharaju for the provision of personal services as the Assistant Chief Information Officer at Range 92, Step E, \$11,036 per month effective February 15, 2024, and authorize the Chairperson to sign;
- B) Approve the Job Description for the Assistant Chief Information Officer; and
- C) Direct staff to update the publicly available pay schedule accordingly.

Motion carried 4-0 with Supervisor Kingsley absent.

*Recess/Reconvene*

Vice Chairperson Marcellin recessed the regular Board meeting for a break at 12:11 p.m. and reconvened at 12:26 p.m. with all Board members present except Supervisor Kingsley.

**CAO-Personnel –  
Management and Non-  
Represented/  
Reso. #2024-04**

Moved by Supervisor Griffiths and seconded by Supervisor Orrill to approve Resolution No. 2024-04 titled, "A Resolution of the Board of Supervisors, County of Inyo, State of California, Setting Certain Salary and/or Terms of Conditions of Employment for Management and Non-represented Employees Employed in the Several Offices or Institutions of the County of Inyo, Which Shall Supersede any Prior Resolution Pertaining to that Subject to the Extent They are Inconsistent," and authorize the Chairperson to sign. Motion carried 4-0 with Supervisor Kingsley absent.

**CAO –  
ESCOG Update**

The Board received a presentation on the current projects and initiatives of the Eastern Sierra Council of Governments (ESCOG) from Executive Director of Regional Coordination Elaine Kabala.

**Attendance Change**

Supervisor Griffiths left the Board meeting at 1:18 p.m. to attend a scholarship presentation in Bishop.

**CAO –  
Regional Broadband  
Activities Update**

The Board received a presentation and update on Regional Broadband Activities from Regional Broadband Coordinator Scott Armstrong.

**Public Comment**

Vice Chairperson Marcellin asked for public comment related to items not calendared on the agenda and comment was received from Lauralyn Hundley.

**Board Member & Staff  
Reports**

CAO Greenberg said he has been working on Strategic Planning and attended the Search and Rescue Appreciation dinner.

Supervisor Orrill said she attended an Eastern Sierra Transportation Authority meeting.

Supervisor Marcellin said he attended the SAR dinner and mentioned that he was recently given the exciting news that he has a new grandchild on the way.

**Adjournment**

The Chairperson adjourned the meeting at 1:56 p.m. to 8:30 a.m. Tuesday, February 6, 2024, in the County Administrative Center in Independence.

\_\_\_\_\_  
Chairperson, Inyo County Board of Supervisors

Attest: **NATE GREENBERG**  
Clerk of the Board

by: \_\_\_\_\_  
Darcy Ellis, Assistant



# INYO COUNTY BOARD OF SUPERVISORS

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

NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-54

### Continuation of Local Emergency for Tropical Storm Hilary

County Administrator - Emergency Services

ACTION REQUIRED

**ITEM SUBMITTED BY**

Emergency Services

**ITEM PRESENTED BY**

Mikaela Torres, Emergency Services Manager

**RECOMMENDED ACTION:**

Discuss, consider, and approve staff's recommendation to continue the local emergency proclaimed in response to Tropical Storm Hilary.

**BACKGROUND / SUMMARY / JUSTIFICATION:**

During your August 25, 2023 Board of Supervisors meeting, your Board took action to approve Resolution 2023-24, ratifying the Director of Emergency Services's August 21, 2023 proclamation of the existence of a local emergency. The local emergency was proclaimed in response to the formidable storm system, including heavy rain, flooding, lightning, and strong gusty winds, that passed through the area as a result of Tropical Storm Hilary from August 19-22, 2023.

Per State law, the governing body shall review the need for continuing the local emergency at least once every 60 days until the governing body terminates the local emergency. Staff recommends the Board continue this review, and that Resolution 2023-24 be updated as necessary, until further evaluation of conditions is completed and staff makes the recommendation to end the emergency.

**FISCAL IMPACT:**

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

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

The Board can choose not to continue this emergency. This is not recommended as we are still dealing with response and recovery to this emergency.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

**ATTACHMENTS:**

1. Hurricane Hilary Disaster Declaration
2. Resolution No. 2023-24 - Ratifying Local Emergency Proclamation

**APPROVALS:**

Darcy Ellis	Created/Initiated - 1/23/2024
Mikaela Torres	Approved - 1/24/2024
John Vallejo	Approved - 1/24/2024
Nate Greenberg	Final Approval - 1/26/2024





**EMERGENCY SERVICES DIRECTOR OF INYO, STATE OF CALIFORNIA  
PROCLAIMING EXISTENCE OF A LOCAL EMERGENCY**

**WHEREAS**, on August 18, 2023, Hurricane Hilary initiated a series of severe weather events, including heavy rain, flooding, lightning, and strong gusty winds, affecting Southern California, particularly Inyo County;

**WHEREAS**, in response to the developing situation, the National Weather Service issued a sequence of Flood Watches on August 18, 2023, forewarning of the potential for major to historic flooding within Inyo County, spanning the period from August 19, 2023, through August 22, 2023;

**WHEREAS**, this formidable storm system engendered widespread flooding, necessitating the closure of vital roadways. Notably, a full closure of Highway 395, a critical artery connecting the County with southern California. Furthermore, a full closure of Highway 190 left both inhabitants and visitors within Death Valley National Park stranded. The ramifications extended to essential infrastructure and public transportation systems, compelling the issuance of evacuation advisories and orders;

**WHEREAS**, the ongoing assessment of the damage incurred by County roads and highways confronts challenges posed by compromised accessibility. Impassable conditions due to washouts and persisting floods have impeded the expeditious evaluation of the extent of destruction;

**WHEREAS**, Hurricane Hilary's impact, coupled with the consequent debris flow, continues to pose imminent threats to vital infrastructure, both public and private properties, as well as the safety and well-being of the populace residing within the County;

**WHEREAS**, the Director of Emergency Services finds that these emergency conditions will require additional resources, services, personnel, equipment, and any other assistance, including the combined forces of the mutual aid region to mitigate the effects of the local emergency. These resources are necessary to address immediate threats and to assist in recovery efforts; and,

**WHEREAS**, Government Code Section 8630, and Inyo County Code Section 2.56.060 empowers the Director of Emergency Services to proclaim the existence of a local emergency when the County Board of Supervisors is not in session and Inyo County is threatened or likely to be threatened by the conditions of disaster or of extreme peril to the safety of persons and property that are or are likely to be beyond the control of the services, personnel, equipment and facilities of this County; and

**WHEREAS**, the Inyo County Board of Supervisors is not currently in session and cannot immediately be called into session; and

**WHEREAS**, the Inyo County Board of Supervisors shall take action to ratify this Proclamation within seven days thereafter or the Proclamation shall have no further force or

effect.

**NOW, THEREFORE, BE IT RESOLVED AND PROCLAIMED** by the Director of Emergency Services for the County of Inyo that, for the reasons set forth herein, a local emergency now exists throughout Inyo County; and,

**BE IT FURTHER RESOLVED, PROCLAIMED AND ORDERED** that during the existence of this local emergency the powers, functions, and duties of the emergency organization of this County shall be those prescribed by State law, by ordinances, and resolutions, and that this emergency shall be deemed to continue to exist until either the Governor of the State of California, or the Board of Supervisors of the County of Inyo, State of California, proclaims its termination, or if the Board of Supervisors of the County of Inyo does not ratify this proclamation within seven days of its issuance. Further, it is directed that this emergency proclamation be forwarded to the Director of the Governor's Office of Emergency Services and the Governor of the State of California, with a request for additional resources, services, personnel, and equipment.

**APPROVED AND ADOPTED** on this 21<sup>st</sup> day of August, 2023, by the Inyo County Director of Emergency Services.



---

Nate Greenberg,  
County Administrative Officer  
Director of Emergency Services  
County of Inyo, State of California

**RESOLUTION NO. 2023-24**

**A RESOLUTION OF THE  
BOARD OF SUPERVISORS, COUNTY OF INYO, STATE OF CALIFORNIA,  
PROCLAIMING THE EXISTENCE OF A LOCAL EMERGENCY RESULTING  
FROM HURRICANE HILARY**

**WHEREAS**, on August 18, 2023, Hurricane Hilary initiated a series of severe weather events, including heavy rain, flooding, lightning, and strong gusty winds, affecting Southern California, particularly Inyo County;

**WHEREAS**, in response to the developing situation, the National Weather Service issued a sequence of Flood Watches on August 18, 2023, forewarning of the potential for major to historic flooding within Inyo County, spanning the period from August 19, 2023, through August 22, 2023;

**WHEREAS**, this formidable storm system engendered widespread flooding, necessitating the closure of vital roadways. Notably, a full closure of Highway 395, a critical artery connecting the County with southern California. Furthermore, a full closure of Highway 190 left both inhabitants and visitors within Death Valley National Park stranded. The ramifications extended to essential infrastructure and public transportation systems, compelling the issuance of evacuation advisories and orders;

**WHEREAS**, the ongoing assessment of the damage incurred by County roads and highways confronts challenges posed by compromised accessibility. Impassable conditions due to washouts and persisting floods have impeded the expeditious evaluation of the extent of destruction;

**WHEREAS**, Hurricane Hilary's impact, coupled with the consequent debris flow, continues to pose imminent threats to vital infrastructure, both public and private properties, as well as the safety and well-being of the populace residing within the County;

**WHEREAS**, the Director of Emergency Services finds that these emergency conditions will require additional resources, services, personnel, equipment, and any other assistance, including the combined forces of the mutual aid region to mitigate the effects of the local emergency. These resources are necessary to address immediate threats and to assist in recovery efforts; and,

**WHEREAS**, the Director of Emergency Services did proclaim the existence of a local emergency within the county on August 21, 2023, a copy of which is attached to this Resolution as Attachment A.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** as follows

**Section 1:** The Inyo County Board of Supervisors does hereby ratify the declaration of the Director of Emergency Services and proclaims the existence of a Local Emergency in Inyo County as a result of the reasons set forth herein; and,

**Section 2:** The Inyo County Board of Supervisors request that this emergency proclamation be forwarded to the Director of the Governor’s Office of Emergency Services and the Governor of the State of California, with a request for assistance to recover from the threats and effects of Hurricane Hilary to the safety of property and persons in Inyo County including threats to private, Tribal, and public property and infrastructure, public health, environmental health, and the County’s economy described but not limited herein, including additional resources, services, personnel, and equipment.

**Section 3:** The Inyo County Board of Supervisors will review the need for continuing the Local Emergency at least every 30 days and, if appropriate, take action to terminate the local emergency as of the earliest possible date that conditions warrant, pursuant to California Government Code Section 8630(c),

**APPROVED AND ADOPTED** on this 25<sup>th</sup> day of August, 2023, by the Inyo County Board of Supervisors, County of Inyo:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

---

Chair, Board of Supervisors  
County of Inyo

Attest: Nate Greenberg  
Clerk of the Board

By: \_\_\_\_\_  
Assistant Clerk of the Board



# INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-36

### Requests for Refunds from Donations to the Commander's House Re-Roofing Project County Administrator - Museum ACTION REQUIRED

#### ITEM SUBMITTED BY

Shawn Lum, Museum Administrator

#### ITEM PRESENTED BY

Shawn Lum, Museum Administrator

#### RECOMMENDED ACTION:

Pursuant to Inyo County Code Section 6.26.020, reject two donations of \$2,500, for a total of \$5,000, for the Commander's House re-roofing project and authorize the Auditor's Office to issue warrants to the two impacted contributors.

#### BACKGROUND / SUMMARY / JUSTIFICATION:

In 2020, the Eastern California Museum initiated a project to re-roof the Commander's House, a historic building in downtown Independence that has long been leased and maintained by the Museum through the Inyo County Public Works Building and Maintenance Division. The Friends of the Eastern California Museum, along with several private individuals, donated money to fund the much-needed re-roofing project.

Unfortunately, the roofing contractor hired to re-roof the Commander's House inadvertently caused a fire that resulted in extensive damage to the building. Though the roof was eventually repaired, the County did not end up paying the contractor for the re-roofing and has instead had to invest extensive resources into abating some of the fire damage. The building remains damaged and unoccupied at this time as the County works with the property owner to develop a plan for restoration.

Two of the private individuals who donated money to the re-roofing project have requested refunds, given that their donation was not spent on the project for which it was intended. The two refunds are for \$2,500 each for a total of \$5,000 to be refunded. Staff recommends that the Board refund these private individuals their contributions, and looks forward to partnering with the Friends of the Eastern California Museum and private benefactors in future projects to beautify and restore the County's historic artifacts. As a technical matter, staff did not locate any Board Action formally accepting the donation as required by Inyo County Code section 6.26.010 so the Board will be "rejecting" the donation and issuing the refund accordingly.

The balance of funds donated for this project continues to sit in an account until a suitable alternative project is recommended by the Museum and agreed to by the County.

#### FISCAL IMPACT:

<b>Funding Source</b>	Private Donation	<b>Budget Unit</b>	507001
<b>Budgeted?</b>	No	<b>Object Code</b>	4951
<b>Recurrence</b>	N/A		
<b>Current Fiscal Year Impact</b>			
The funds are currently sitting in the trust and are available for a refund to these two individuals.			
<b>Future Fiscal Year Impacts</b>			
The funds would not be available for use, but it does not appear that the roof needs further repair at this time.			
<b>Additional Information</b>			

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

The Board could decide not to reject the donation pursuant to Section 6.26.020 and refund the contributions to the Commander's House re-roofing project as requested. This is not advised, as public-private partnerships are critical to maintaining the history and culture of our communities, and these partnerships require mutual trust and cooperation.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

Friends of the Eastern California Museum

**ATTACHMENTS:**

**APPROVALS:**

Meaghan McCamman	Created/Initiated - 1/12/2024
Darcy Ellis	Approved - 1/17/2024
Shawn Lum	Approved - 1/18/2024
Denelle Carrington	Approved - 1/18/2024
Amy Shepherd	Approved - 1/18/2024
John Vallejo	Approved - 1/24/2024
Nate Greenberg	Final Approval - 1/27/2024







# INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-49

### Copier-Printer Lease Agreement under State Contract between the County and ABM

#### County Administrator - Information Services

ACTION REQUIRED

**ITEM SUBMITTED BY**

Noam Shendar, Chief Information Officer

**ITEM PRESENTED BY**

Nate Greenberg, County Administrative Officer

**RECOMMENDED ACTION:**

Approve a new lease agreement with American Business Machines under a pre-negotiated State contract in order to continue the servicing and replacement of copiers and printers throughout County offices at a leasing cost not to exceed \$245,000 per year for a term of 5 years, and authorize the Chief Information Officer to sign said agreement.

**BACKGROUND / SUMMARY / JUSTIFICATION:**

The County is reaching the end of its copier-printer lease agreement with American Business Machines (ABM). The lease agreement includes not only the machines themselves, but also automatic replenishment of consumables such as toner, and technical support using resources residing here in Inyo County.

Thanks to a pre-negotiated competitive contract with the State of California, entered via NASPO (the National Association of State Procurement Officials), the County is able to renew this lease at a cheaper rate than is currently paying now, saving nearly \$5,000 per month (just under \$60,000 per year) versus the current lease costs.

An additional advantage of renewing with ABM is that the County already has a custom-developed system that automatically reads the detailed usage of each copier-printer, and bills out each department for its usage, on a page-by-page basis. This ensures both accurate billing and an incentive by each department to use resources responsibly.

The annual total lease cost is \$213,804. The Board request is for \$245,000 per year, reflecting a 14.5% contingency for additional devices as required by the departments over the course of the 5-year lease term. Even if the full contingency were used up, this would still represent savings vs. the current rate of a bit more than \$272,000 per year).

**FISCAL IMPACT:**

<b>Funding Source</b>	General Fund	<b>Budget Unit</b>	011801
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<b>Budgeted?</b>	Yes	<b>Object Code</b>	5285
<b>Recurrence</b>	Ongoing Expenditure		
<b>Current Fiscal Year Impact</b>			
Monthly reduction of lease costs from \$22,680 to \$17,817 (down from \$272,160 annually to \$213,804), a savings of \$4,863 per month (\$58,356 per year).			
<b>Future Fiscal Year Impacts</b>			
At \$213,804 per year, the lease costs for years 2 through 5 (the last 4 years of the lease) is \$855,216.			
The savings continue for the duration of the contract (5 years), amounting to an additional \$233,424 of savings over the last 4 years of the lease term.			
<b>Additional Information</b>			

All copier costs associated with a non-general fund budget are billed to reimburse the general fund through internal billings.

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

The Board could decide not to execute this lease agreement. This is not recommended, as American Business Machines (ABM) has been a trusted partner for years and is available to us under a State contract. Further, it would require the County to restart a multi-month effort to identify alternate vendors and proposed contract terms. Moreover, during this time, the County would suffer from not being able to replace the aging machines which are currently being used. In addition, the County would need to develop a new system for billing internal printer and copier use which would be time consuming and take away from other important work.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

None.

**ATTACHMENTS:**

1. Canon Master Agreement
2. National Association of State Procurement Officials Schedule A
3. Participating Addendum
4. Copier Fleet Refresh Quote

**APPROVALS:**

Noam Shendar	Created/Initiated - 1/22/2024
Nate Greenberg	Approved - 1/24/2024
John Vallejo	Approved - 1/24/2024
Amy Shepherd	Approved - 1/26/2024
Darcy Ellis	Final Approval - 1/26/2024





# **NASPO ValuePoint Master Agreement Terms and Conditions**

## **For Copiers and Managed Print Services**

**A Contract for the NASPO ValuePoint Cooperative Purchasing Program  
Acting by and through the State of Colorado (Lead State)**

**Department of Personnel & Administration  
State Purchasing & Contracts Office  
1525 Sherman Street, 3<sup>rd</sup> Floor  
Denver, Co 80203**

**And**

**Canon U.S.A., Inc.  
One Canon Park  
Melville, NY 11747**

**Master Agreement Number: 140595**

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## 1. NASPO VALUEPOINT MASTER AGREEMENT OVERVIEW

### 1.1. Parties

This Master Agreement is entered into by and between the State of Colorado, acting by and through the Department of Personnel & Administration, State Purchasing & Contracts Office (hereinafter called the "Lead State"), and Canon U.S.A., Inc. (hereinafter called "Contractor"), for the procurement of A3 MFD's, A4 MFD's, Production Equipment, Single-function Printers, Large/Wide Format Equipment, Scanners, Software, Supplies, Managed Print Services, and other Products and Services as approved per this Master Agreement, for the benefit of Participating States, Entity's, and Purchasing Entities. The Contractor and the Lead State hereby agree to the following terms and conditions.

### 1.2. Effective Date

This Master Agreement shall not be effective or enforceable until the date on which it is approved and signed (hereinafter called the "Effective Date") by the Colorado State Controller or designee.

### 1.3. Master Agreement Order of Precedence

1.3.1. Any Order placed under this Master Agreement shall incorporate, and shall be governed by the terms and subject to the conditions of, the following documents:

- a) A Participating Entity's Participating Addendum ("PA");
- b) NASPO ValuePoint Master Agreement Terms & Conditions, including all Exhibits;
- c) An Order issued against this Master Agreement;
- d) The Solicitation, RFP-NP-18-001 Copiers and Managed Print Services;
- e) Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State; and
- f) Contractor Supplemental Documents, including all Attachments.

1.3.2. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and shall be incorporated into this Master Agreement.

### 1.4. Term of this Master Agreement

1.4.1. **Initial Term-Work Commencement.** The Parties' respective performances under this Master Agreement shall commence on the Effective Date or August 1, 2019, whichever occurs later. This Master Agreement shall terminate on December 31, 2021, unless terminated sooner, as specified in §6.10, **Defaults and Remedies**, or extended further as specified in §1.4.2 below.

1.4.2. **Extension of Agreement.** This Master Agreement may be extended beyond the original Contract period for up to three (3) consecutive one (1) year additional terms, upon the mutual agreement of the Lead State and Contractor, by written Amendment. The total duration of this Master Agreement, including any extensions, shall not exceed five (5) years.

1.4.3. **Amendments.** The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the Lead State.

1.4.4. **Cancellation.** This Master Agreement may be canceled by either party upon sixty (60) days written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon thirty (30) days written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights and obligations attending Orders outstanding at the time of

cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, and rights attending any warranty or default in performance in association with any Order. Cancellation of this Master Agreement due to Contractor default may be immediate.

## 2. DEFINITIONS

The following terms shall be construed and interpreted as follows:

<b>Term</b>	<b>Description</b>
<b><i>A3 MFD</i></b>	A Multi-function Device that is designed to handle letter, legal, ledger and some smaller paper sizes, such as postcards and envelopes.
<b><i>A4 MFD</i></b>	A Multi-function Device that is designed to handle letter, legal and some smaller paper sizes, such as postcards and envelopes. Ledger size paper is NOT an option on this Device.
<b><i>Acceptance</i></b>	A written notice from a Purchasing Entity to Contractor advising Contractor that the Product has passed its Acceptance Testing. Acceptance of a Product for which Acceptance Testing is not required shall occur following the completion of delivery, installation, if required, and a reasonable time for inspection of the Product, unless the Purchasing Entity provides a written notice of rejection to Contractor.
<b><i>Acceptance Testing</i></b>	The process set forth in this Master Agreement for ascertaining that the Product meets the standard of performance prior to Acceptance by the Purchasing Entity.
<b><i>Accessory</i></b>	A compatible item that is added to the Base Unit to enhance its capabilities and functions.
<b><i>Authorized Dealer ("Dealer")</i></b>	The Contractor's authorized sales and Service center (also known as a Dealer, Distributor, or Partner) that must be certified by the Contractor to sell the Contractor's Products, and perform machine installation and maintenance on Devices offered by the Contractor. A Purchasing Entity must be able to, at a minimum, visit the sales and Service center to view and test Equipment.
<b><i>Base Unit</i></b>	The copier, printer, Scanner, Large/Wide Format and Production Equipment that includes all standard Accessories and parts, and excludes optional Accessories and/or software.
<b><i>Blended Rate</i></b>	A rate that is derived by taking the b&w and color cost per click rates on one or more Devices and calculating one rate that a customer will be billed for all copies, regardless of Device type and b&w or color output. Allows for simplicity when billing copies run.
<b><i>Bronze Standard</i></b>	Devices that meet less than 50% of the 28 optional EPEAT criteria.
<b><i>Business Day</i></b>	Any day other than Saturday, Sunday or a legal holiday.
<b><i>Buyout to Keep</i></b>	The early termination option on an FMV or \$1 Buyout Lease that involves the acquisition of the Equipment by the Purchasing Entity, and consists of any current and past due amount, plus the remaining stream of Equipment Payments.
<b><i>Buyout to Return</i></b>	The early termination option on an FMV, \$1 Buyout or Straight Lease that involves the return of the Equipment by the Purchasing Entity to Contractor,



	in good working condition (ordinary wear and tear excepted), and consists of any current and past due amounts, plus the remaining stream of Equipment Payments.
<b><i>Ceiling Pricing</i></b>	Pricing that is established as a “not-to-exceed” amount; the maximum price Contractor may charge for Products, Services, and Supplies.
<b><i>Chief Procurement Officer</i></b>	The individual who has the authority to supervise and approve the procurement of all Products and Services needed by the Lead State or a Participating State.
<b><i>Contractor</i></b>	The person or entity delivering Products or performing Services under the terms and conditions set forth in this Master Agreement.
<b><i>Coterminous</i></b>	Two or more leases that end at the same time. The original lease payment is modified to reflect the addition of a new piece of Equipment or Accessory. The original term of the lease is not modified because of a Coterminous addition.
<b><i>Device</i></b>	Also referred to as “Equipment.” The Base Unit, either with or without optional Accessories and/or software.
<b><i>Direct Material</i></b>	Materials that are easily identified, measured, and charged to the cost of production; part of the finished Product. Examples include timber for furniture and leather for shoes.
<b><i>Electronic Product Environmental Assessment Tool (EPEAT)</i></b>	A tool that evaluates and selects Equipment according to a list of preferred environmental attributes. EPEAT registered means Devices meet the 1680.2 IEEE Standard for Environmental Assessment of Imaging Equipment, as amended.
<b><i>EULA</i></b>	End User License Agreement
<b><i>Embedded Software</i></b>	One or more software applications that permanently reside on a computing Device.
<b><i>Energy Star</i></b>	The U.S. Environmental Protection Agency’s standard for energy efficiency.
<b><i>Equipment</i></b>	Also referred to as “Device.” The Base Unit, either with or without optional Accessories and/or software.
<b><i>Equipment Downtime</i></b>	The period of time that a Device is waiting for Service to be completed.
<b><i>Equipment Payment</i></b>	The Equipment portion of the payment, less any Service, Supplies, and maintenance.
<b><i>Equipment Trade-In</i></b>	An agreed upon transaction between the Purchasing Entity and Contractor, in which Contractor takes ownership of Purchasing Entity’s owned Device, often for a discounted amount.
<b><i>Equipment Upgrade or Downgrade</i></b>	A replacement of the Purchasing Entity’s existing lease Equipment, with a different piece of Equipment, of either greater or lesser value. A new lease is then originated for the new piece of Equipment, with the remaining lease payments on the old Equipment wrapped into it. The old lease is closed out, and the Equipment is returned to Contractor.
<b><i>Free on Board (FOB) Destination</i></b>	Contractor is responsible for transportation and handling charges and the sale does not occur until the Products arrive at the Purchasing Entity’s specified location.

<b>Group</b>	The Device classification for the different types of Equipment in this Master Agreement. Groups are determined by the Devices primary functions and/or capabilities.
<b>Independent Contractor</b>	A natural person, business, or corporation that provides Products or Services to another entity under the terms specified in a contract. An employer-employee relationship does not exist.
<b>Initial Lease Term</b>	The length of time (i.e. 12, 18, 24, 36, 48, or 60 months) that a Purchasing Entity enters into a lease agreement.
<b>Intellectual Property</b>	Any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.
<b>Lead State</b>	The State that is centrally administering this Master Agreement.
<b>Lease</b>	<p>Per the Governmental Accounting Standards Board (GASB), a lease is defined as a contract that conveys control of the right to use another entity's nonfinancial asset (the underlying asset) as specified in the contract for a period of time in an exchange or exchange-like transaction.</p> <p>For the purposes of this Master Agreement, a Lease shall contain the following options:</p> <ol style="list-style-type: none"> <li>1. Short-Term Lease: Maximum possible term is 12 months, including any renewal or extension options.</li> <li>2. Straight Lease: A type of agreement in which ownership is not an option and the Total Monthly Payment amount remains firm throughout the Initial Term.</li> <li>3. Fair Market Value Lease (FMV): A lease in which the Purchasing Entity can either 1) Take title to the Equipment at the end of the Initial Lease Term by paying the residual value to Contractor, 2) Enter into a Renewal Term for the Equipment, or 3) Return the Equipment to Contractor at the end of the Initial Lease Term.</li> <li>4. \$1 Buyout Lease: A lease in which title to the Equipment will automatically pass from the Contractor to the Purchasing Entity at the end of the Initial Lease Term, and the Purchasing Entity will not be subject to additional payments in order to assume ownership.</li> </ol>
<b>Legacy Equipment</b>	Equipment that was purchased, leased, or rented under a prior NASPO ValuePoint or WSCA Master Agreement, another program, or via any other means.
<b>Maintenance Agreement</b>	An agreement in which the Contractor provides monthly Service, parts, Supplies, and Preventative Maintenance on purchased or leased Devices.
<b>Managed Print Services (MPS)</b>	The management, Service, and support of the Purchasing Entity's entire enterprise and output infrastructure of printed materials, with the objective of creating a solution that improves the print process and reduces the expense of printed material.
<b>Manufacturer</b>	A company that, as its primary business function, designs, assembles, and owns the trademark/patent and markets a Product. Also referred to as Contractor.
<b>Manufacturer's</b>	The list price or recommended retail price of a Product in which the

<b><i>Suggested Retail Price (MSRP)</i></b>	Manufacturer recommends that the retailer sell the Product.
<b><i>Master Agreement</i></b>	Also referred to as "Contract"; the underlying agreement executed by and between the Lead State, acting on behalf of the NASPO ValuePoint program, and the Contractor, as now or hereafter amended.
<b><i>Multi-function Device (MFD)</i></b>	A Device that incorporates the functionality of multiple Devices into one, such as print, fax, copy and scan. Each feature can work independently of the other.
<b><i>NASPO ValuePoint</i></b>	The NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint, is a 501(c)(3) limited liability company that is a subsidiary organization of the National Association of State Procurement Officials (NASPO). NASPO ValuePoint is identified in this Master Agreement as the recipient of reports and may perform Contract administration functions relating to collecting and receiving reports as well as other Contract administration functions as assigned by the Lead State.
<b><i>Newly Manufactured</i></b>	Devices that have not been Refurbished, Remanufactured, rented, leased, sold, or used in a demonstration, and are currently being marketed by the Manufacturer.
<b><i>Normal Business Hours</i></b>	8:00 a.m. to 5:00 p.m., Monday through Friday (state holidays excluded), regardless of time zone.
<b><i>Not Specifically Priced (NSP)</i></b>	NSP items are items that enhance or compliment the Contractor's Product, and may be acquired by a Purchasing Entity under Contractor's Master Agreement, but are not listed or priced in Contractor's NASPO ValuePoint Price List. NSP's may include Coin Op equipment, empowering software, etc. NSP items do not include Services.
<b><i>OEM</i></b>	Original Equipment Manufacturer.
<b><i>Order</i></b>	Any type of encumbrance document or commitment voucher, including, but not limited to, a purchase order, contract, MPS statement of work, Maintenance Agreement, lease agreement etc.)
<b><i>Participating Addendum</i></b>	A bilateral agreement executed by a Contractor and a Participating State or Entity incorporating this Master Agreement and any other additional Participating State or Entity specific language or other requirements (e.g. ordering procedures, other terms and conditions).
<b><i>Participating Entity</i></b>	A government entity within a state, or an eligible Non-Profit association, that is properly authorized to enter into a Participating Addendum.
<b><i>Participating State</i></b>	A state, which encompasses all government entities within that state, or the District of Columbia, or one of the territories of the United States, that enters into a Participating Addendum.
<b><i>Power Filter</i></b>	An electronic filter that is placed between an external power line and a Device for removing frequencies or electromagnetic interference.
<b><i>Preventative Maintenance</i></b>	The servicing of a Device for maintaining a satisfactory operating condition by providing systematic inspection, detection, and correction of failures either before they occur or before they develop into major defects.
<b><i>Private Label</i></b>	Products that are manufactured by one company and sold under a retailer's

	brand name.
<b><i>Product</i></b>	Devices, Accessories, parts, software, and/or Supplies provided or created by the Contractor pursuant to this Master Agreement.
<b><i>Production Equipment</i></b>	A high-speed, high quality printing Device that typically has advanced finishing functionality.
<b><i>Public Record</i></b>	All books and Public Records of a governmental entity, the contents of which are not otherwise declared by law to be confidential must be open to inspection by any person and may be fully copied or an abstract or memorandum may be prepared from those public books and Public Records.
<b><i>Purchasing Entity</i></b>	A city, county, district, institution of higher education, and some non-profits who issue an Order against this Master Agreement via their Participating State or Entity's Participating Addendum.
<b><i>Refurbished</i></b>	A Product that has received extensive maintenance and/or minor repair, including the replacement of all standard parts subject to wear during the normal course of use. Refurbished Equipment shall not have more than 750,000 original copies on it. In addition, Refurbished Equipment must only contain OEM parts. The Manufacturer must certify refurbished Equipment.
<b><i>Remanufactured</i></b>	The process of disassembling Devices known to be worn or defective that can be reused or brought up to OEM specification by cleaning, repairing or replacing it in a manufacturing environment and then reassembling and testing it, so that it will operate like a new Device. The Manufacturer must certify remanufactured Equipment.
<b><i>Renewal Term</i></b>	A lease term that supersedes the Initial Lease Term, and which a Purchasing Entity may enter into upon thirty (30) days prior written notice to Contractor. Each Renewal Term shall not exceed 12 months, the residual value of the Equipment, or the Useful Life of the Equipment. \$1 Buyout Leases are excluded from going into renewal.
<b><i>Resell</i></b>	Any payment in exchange for transfer of tangible Products, or assignment of the right to Services.
<b><i>Response Time</i></b>	The time from when the original Service Call is placed with the Contractor or Authorized Dealer, to when the Service technician arrives at the Purchasing Entity's location.
<b><i>Scanner</i></b>	A Device that scans documents and converts them into digital data.
<b><i>Segment</i></b>	The various speeds that Devices are categorized by.
<b><i>Service Base Location</i></b>	The place of business where the Contractor or Authorized Dealer stores parts and provides training for service technicians.
<b><i>Service Call</i></b>	An on-site Service technician visit due to Device error or malfunction.
<b><i>Services</i></b>	The labor required to be performed by Contractor pursuant to this Master Agreement or an Order.
<b><i>Single-function Printer</i></b>	An inkjet or laser Device that only prints and is not capable of other functions such as copying, faxing or scanning.
<b><i>Solicitation</i></b>	A written offer or attempt to purchase Products and/or Services through an official Proposal, Evaluation, and Award process.

<b><i>Supplies</i></b>	<u>Consumable</u> items that gets used up or are discarded once used, such as ink cartridges.
<b><i>Third Party</i></b>	Someone who may be indirectly involved but is not a principal party to an arrangement, contract, deal, lawsuit or transaction.
<b><i>Total Monthly Payment</i></b>	The Equipment portion of the payment, as well as any Service, Supplies or maintenance, and less any applicable taxes.
<b><i>Useful Life</i></b>	Period during which a Device is expected to be usable for the purpose in which it was manufactured.

### 3. NASPO VALUEPOINT PROGRAM PROVISIONS

#### 3.1. Price and Rate Guarantee Period

- 3.1.1.** The Price List(s) in **Exhibit A (Price Lists)**, identifies a complete listing of all Products and Services the Contractor can provide under this Master Agreement, with the exception of NSP items.
- 3.1.2.** MSRP/List Price discount percentages must be guaranteed throughout the term of this Master Agreement, including any renewal terms; however, Contractor may increase its discount percentage at any time. The Lead State must be notified of any such discount percentage increase, and provided with a copy of the new Group Price List(s).
- 3.1.3.** MSRP/List Price shall remain firm during the first twelve (12) months of the Master Agreement. After this period, Awarded Vendors may update their MSRP/List Price on a quarterly basis, according to the following guidelines:
- a) All requested price increases must include documentation from Direct Material suppliers detailing cost escalations, and Awarded Vendors must describe how those escalations impact current Product offerings.
  - b) With the exception of Direct Material cost increases, no price increase requests will be allowed.
  - c) Updated Price Lists must be submitted to the Lead State by the 1st day of each quarter.
  - d) Pricing will not go into effect unless, or until, it is approved by the Lead State.
- 3.1.4.** The Master Agreement pricing IS Ceiling Pricing. Contractor may offer lower pricing on a per Order basis to Purchasing Entity's; likewise, Purchasing Entity's may request lower pricing on a per Order basis from Contractor.
- 3.1.5.** Contractor may offer state-wide promotional discounts, customer location specific discounts, bulk discounts, or spot discounts. Contractor must notify the Participating State or Entity Contract Administrator of special state-wide promotional discounts.
- 3.1.6.** Any revisions to Product offerings (new Products, altered item or model numbers, etc.) must be pre-approved by the Lead State, and will be allowed once per month.
- 3.1.7.** Product updates are required by the 1st of the month and shall go into effect upon approval by the Lead State.
- 3.1.8.** Any Product additions must be updated with Buyer's Lab within ninety (90) days of submission to the Lead State. Failure to adhere to this requirement will result in the Product(s) being removed from the Master Agreement Price List(s) until such time as they can be verified on Buyer's Lab.

- 3.1.9. Updates to lease rates must be submitted by the 1st day of each quarter.
- 3.1.10. Price Lists received after the 1st of the month may not be approved for up to thirty (30) days following submission. In addition, errors in the Contractor's Price Lists may delay the approval process further.
- 3.1.11. All approved Price Lists will be submitted by the Lead State to NASPO ValuePoint. Contractor shall then update all applicable websites with the new Price Lists after the NASPO ValuePoint website has been updated.
- 3.1.12. All-inclusive Cost Per Copy (CPC) programs may be offered upon request by the Participating State or Entity, but pricing must not exceed Master Agreement pricing. Contractor must provide the Participating State or Entity with their pricing breakdown that enables the Participating State or Entity to easily compare the pricing in the CPC structure against the pricing in this Master Agreement.
- 3.1.13. Pricing must include all shipping, delivery, and installation costs associated with the Products. Excess installation charges however, may be billable. Refer to §4.9.5 for more information.

## 3.2. Participants and Scope

- 3.2.1. Contractor may not deliver Products or perform Services under this Master Agreement until a Participating Addendum acceptable to the Participating State or Entity and Contractor is executed. The NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating State or Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum. By way of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating State or Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g. Order) used by the Purchasing Entity to place the Order.
- 3.2.2. Use of specific NASPO ValuePoint cooperative Master Agreements by state agencies, political subdivisions and other Participating States or Entities authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Officer. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Officer.
- 3.2.3. Obligations under this Master Agreement are limited to those Participating States and Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. Financial obligations of Participating States and Entities are limited to the Orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions. Contractor shall email a fully executed PDF copy of each Participating Addendum to [PA@naspovaluepoint.org](mailto:PA@naspovaluepoint.org) to support documentation of participation and posting in appropriate databases.
- 3.2.4. Participating States and Entities may, through a Participating Addendum, limit:
  - a) Available financial vehicles;
  - b) Device Groups, Segments, Products, Services (including MPS); and
  - c) Any additional items as deemed necessary by the Participating State or Entity.

- 3.2.5.** A Participating State or Entity must sign a new Participating Addendum with Contractor, regardless of whether Contractor has signed Participating Addenda under a prior Master Agreement(s).
- 3.2.6.** NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint, is not a party to this Master Agreement. It is a nonprofit cooperative purchasing organization assisting states in administering the NASPO ValuePoint cooperative purchasing program for state government departments, institutions, agencies and political subdivisions (e.g., colleges, school districts, counties, cities, etc.) for all 50 states, the District of Columbia and the territories of the United States.
- 3.2.7.** Participating Addenda shall not be construed to amend the following provisions in this Master Agreement between the Lead State and Contractor, and any such language shall be void and of no effect:
- a) Term of this Master Agreement;
  - b) Amendments;
  - c) Participants and Scope;
  - d) Administrative Fee;
  - e) NASPO ValuePoint Summary and Detailed Usage Reports;
  - f) NASPO ValuePoint Cooperative Program Marketing and Performance Review;
  - g) NASPO ValuePoint eMarket Center;
  - h) Right to Publish;
  - i) Price and Rate Guarantee Period; and
  - j) Individual customers.
- 3.2.8.** Participating Entities who are not states, may under some circumstances sign their own Participating Addendum, subject to the approval of participation by the Chief Procurement Officer of the state where the Participating Entity is located. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists in the Participating Entity; they must ensure that they have the requisite procurement authority to execute a Participating Addendum.
- 3.2.9.** Purchasing Entities may not Resell Products. This limitation does not prohibit the following; however, any sale or transfer must be consistent with license rights granted for use of Intellectual Property:
- a) Payments by employees of a Purchasing Entity for Products;
  - b) Sales of Products to the general public as surplus property; and
  - c) Fees associated with inventory transactions with other governmental or non-profit entities, and consistent with a Purchasing Entity's laws and regulations.

**3.3. Administrative Fees**

- 3.3.1.** The Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter.
- 3.3.2.** The NASPO ValuePoint Administrative Fee is not negotiable.

- 3.3.3. The Contractor shall report on all actual Equipment sales, and on estimated Service and Supply sales. This method will no longer require the Contractor to capture the actual Service and Supply revenues that are billed to the customer each month.
- 3.3.4. Industry research has shown close to a 1:1 ratio between sales price on a piece of Equipment and the actual amount of Service and Supply costs required to operate that Equipment over its Useful Life. Therefore, to simplify the reporting process and remove the burden to capture the actual Service and Supply costs, the Contractor shall report as follows:
- a) **Purchased Equipment:** Contractor shall report the actual amount invoiced (less any taxes) for all Equipment sold under the reporting period (calendar quarter). In addition, the Contractor shall report an additional amount equal to the invoice amount and identified as “Estimated Service and Supplies” providing the customer elects to enter into a Maintenance Agreement. Thus, in the Contractor’s Detailed Sales Report, for each item sold, there will be two-line items: one for the piece of Equipment, and one for the Estimated Service and Supplies. The amounts reflected for the Estimated Service and Supplies, if applicable, must be equal to the amount of the Equipment.
  - b) **Leased Equipment:** Contractor shall report sales according to the Purchased Equipment methodology described in 3.3.4(a), or they may report the actual amount invoiced (less any taxes) for the lease during the reporting period (calendar quarter). In addition, the Contractor shall report an additional amount equal to the invoice amount and identified as “Estimated Service and Supplies.” Thus, in the Contractor’s Detailed Sales Report, for each item leased, there will be two-line items: one for the invoice amount to the customer for the Equipment, and one for the Estimated Service and Supplies.
- 3.3.5. Some Participating States may require a fee be paid directly to the Participating State on sales made by Purchasing Entities within that state. For all such requests, the fee level, payment method, and schedule for such reports and payments will be incorporated into the Participating Addendum. The Contractor may adjust this Master Agreement pricing accordingly for sales made by Purchasing Entities within the jurisdiction of the Participating State requesting the additional fee.

### 3.4. NASPO ValuePoint Summary and Detailed Usage Reports

The Contractor shall provide the following NASPO ValuePoint reports:

- 3.4.1. **Summary Sales Data.** The Contractor shall submit quarterly sales reports directly to NASPO ValuePoint using the NASPO ValuePoint Quarterly Sales/Administrative Fee Reporting Tool found at <http://www.naspo.org/WNCPO/Calculator.aspx>. Any/all sales made under the Contract shall be reported as cumulative totals by state, which are inclusive of all line items identified in the Detailed Sales Report. Even if Contractor experiences zero sales during a calendar quarter, a report is still required. Reports shall be due no later than thirty (30) days following the end of the calendar quarter (as specified in the reporting tool).
- 3.4.2. **Detailed Sales Report.** Contractor shall also report detailed sales data by:
- a) State;
  - b) Customer Type (e.g. local government, higher education, K-12, non-profit);
  - c) Customer bill-to name and address;
  - d) Contractor or Authorized Dealer Order number;
  - e) Customer purchase order number;
  - f) Customer number;
  - g) Order type (e.g. sales Order, credit, return, upgrade);
  - h) Purchase order date;



- i) Ship date;
- j) Invoice date and number;
- k) Product number and description
- l) List Price/MSRP;
- m) Contract Price;
- n) Quantity;
- o) Total Price;
- p) NASPO ValuePoint Admin Fee amount; and
- q) Dealer.

**3.4.3.** Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than thirty (30) days after the end of the reporting period. Reports shall be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated portal, email, CD-ROM or flash drive. Detailed sales reports shall include sales information for all sales under Participating Addenda executed under this Master Agreement. The format for the detailed sales data report is shown in **Exhibit F (NASPO ValuePoint Detailed Sales Reporting Template)**.

**3.4.4.** Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the Participating Addendum. Report data for employees should be limited to ONLY the state and entity they are participating under the authority of (state and agency, city, county, school district, etc.) and the amount of sales. No personal identification numbers, e.g. names, addresses, social security numbers or any other numerical identifier, may be submitted with any report.

**3.4.5.** Contractor shall provide the NASPO ValuePoint Cooperative Development Coordinator with an executive summary each quarter that includes, at a minimum, a list of states with an active Participating Addendum, states that Contractor is in negotiations with, and any PA roll out or implementation activities and issues. NASPO ValuePoint Cooperative Development Coordinator and Contractor will determine the format and content of the executive summary. The executive summary is due thirty (30) days after the conclusion of each calendar quarter.

**3.4.6.** Timely submission of these reports is a material requirement of this Master Agreement. The recipient of the reports shall have exclusive ownership of the media containing the reports. The Lead State and NASPO ValuePoint shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

### **3.5. NASPO ValuePoint Cooperative Program Marketing and Performance Review**

**3.5.1.** Contractor agrees to work cooperatively with NASPO ValuePoint personnel to ensure that Contractor's personnel will be educated regarding the provisions of this Master Agreement, as well as the competitive nature of NASPO ValuePoint procurements, the Participating Addendum process, and the manner in which Participating Entities can utilize this Master Agreement.

**3.5.2.** Contractor agrees, as Participating Addenda are executed, and if requested by NASPO ValuePoint personnel, to provide plans to launch this Master Agreement program within the Participating State. Plans will include timeframes to implement this Master Agreement and Participating Addendum, as well as confirmation that the Contractor's website has been updated to properly reflect the contract offer as available in the Participating State.

**3.5.3.** Contractor agrees, absent anything to the contrary outlined in a Participating Addendum, to consider customer proposed terms and conditions, as deemed important to the customer, for

possible inclusion into the Participating Addendum. Contractor shall ensure that their sales force is aware of this contracting option.

- 3.5.4. Contractor agrees to fairly, actively, and equally promote and advertise their NASPO ValuePoint Master Agreement at all trade shows and Dealer meetings whereby Contractor displays or refers to their government contract award offerings.
- 3.5.5. Contractor agrees, within 30 days of this Master Agreement effective date, to notify the Lead State and NASPO ValuePoint of any contractual most-favored customer provisions in third-party contracts or agreements that may affect the promotion of this Master Agreement, or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this Master Agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.
- 3.5.6. Contractor agrees to participate in person at an annual performance review, which may include a discussion of marketing action plans, target strategies, marketing materials, reporting, and timeliness of administration fee payments. The Lead State and NASPO ValuePoint shall determine the location of the performance review.
- 3.5.7. Contractor agrees that Contractor may not use the NASPO ValuePoint logos in sales and marketing materials until a logo-use agreement is executed with NASPO ValuePoint.
- 3.5.8. The Lead State shall evaluate the utilization of this Master Agreement at the annual performance review. The Lead State may, in its discretion, cancel this Master Agreement pursuant to §1.4, or not exercise an option to renew, when Contractor utilization does not warrant further administration of this Master Agreement. The Lead State may exercise its right to not renew this Master Agreement if Contractor fails to record or report revenue for three consecutive quarters, upon a 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than two (2) years after execution of this Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel this Master Agreement pursuant to §1.4.4 or to terminate for default pursuant to §6.10.

### **3.6. NASPO ValuePoint eMarket Center**

- 3.6.1. In July 2011, NASPO ValuePoint entered into a multi-year agreement with SciQuest, Inc. (doing business as JAGGAER) whereby JAGGAER will provide certain electronic catalog hosting and management services to enable eligible NASPO ValuePoint customers to access a central online website to view and/or shop the Products and Services available from existing NASPO ValuePoint Cooperative Contracts. The central online website is referred to as the NASPO ValuePoint eMarket Center.
- 3.6.2. The Contractor shall have visibility in the eMarket Center through one of the following no-cost options:
  - a) **Ordering Instructions**
    - i. The Contractor shall provide a link to their website, their Price list, their Dealer list, and any additional information they would like the customer to have in regards to placing Orders.
    - ii. Upon receipt of written request from the eMarket Center Site Administrator, the Contractor shall have thirty (30) days to provide NASPO ValuePoint with the Ordering Instructions.
  - b) **Hosted Catalog**
    - i. The Contractor shall provide a list of its awarded Products and Services pricing via an electronic data file, in a format acceptable to JAGGAER.

- ii. In order to maintain the most up-to-date version of its Product offerings, the Contractor must submit electronic data to the eMarket Center no more than four (4) times per calendar year.
  - iii. Upon receipt of written request from the eMarket Center Site Administrator, the Contractor shall have fifteen (15) days to set up an enablement schedule with NASPO ValuePoint and JAGGAER. The schedule shall include future calls and milestone timeframes related to testing and go-live dates.
  - iv. The Contractor shall have ninety (90) days from the receipt of written request, to provide the Hosted Catalog to NASPO ValuePoint.
  - v. The Hosted Catalog must be strictly limited to the awarded Products and Services, and must contain the most current approved pricing, including applicable quantity discounts.
  - vi. The catalog must include a Lead State Contract identification number and detailed Product line item descriptions.
  - vii. The catalog must include any additional NASPO ValuePoint and Participating Addendum requirements. Although Suppliers in the SQSN normally submit one (1) catalog, it is possible to have multiple catalogs applicable to different NASPO ValuePoint Participating State or Entities if for example, the Participating State or Entity has incorporated an Administrative Fee into the Contract pricing, or a Participating State or Entity has determined that they will not allow all awarded Products and Services under their Participating Addendum. SciQuest will deliver the appropriate contract files to the user viewing the catalog.
- c) Punch-Out Catalog**
- i. The Contractor shall provide its own online catalog, which must be capable of being integrated with the eMarket Center via Commerce eXtensible Markup Language (cXML).
  - ii. The Contractor shall validate that its online catalog is current by providing a written update to the Lead State every four (4) months, verifying that they have audited the offered Products and Services pricing.
  - iii. The Contractor shall have ninety (90) days from the receipt of the written request, to deliver the Punch-Out Catalog to NASPO ValuePoint.
  - iv. The Punch-Out Catalog must be strictly limited to the awarded Products and Services, and must contain the most current approved pricing, including applicable quantity discounts.
  - v. The catalog must include a Lead State Contract identification number and detailed Product line item descriptions.
  - vi. The site must also return detailed UNSPSC codes for each line item.
  - vii. Contractor shall provide e-Quote functionality to facilitate volume discounts.
  - viii. The catalog must include any additional NASPO ValuePoint and Participating Addendum requirements. It is possible to have multiple catalogs applicable to different NASPO ValuePoint Participating State or Entities if for example, the Participating State or Entity has incorporated an Administrative Fee into the Contract pricing, or a Participating State or Entity has determined that they will not allow all awarded Products and Services under

their Participating Addendum. JAGGAER will deliver the appropriate contract files to the user viewing the catalog.

### **3.6.3. Revising Pricing and Products**

- a) Any revisions to Product offerings (new Products, altered SKU's, etc.) must be pre-approved by the Lead State, and will be allowed once per month.
- b) Updated Product files are required by the 1<sup>st</sup> of the month and shall go into effect upon approval by the Lead State.
  - i. Files received after the 1st of the month may not be approved for up to thirty (30) days following submission.
  - ii. Errors in the Contractor's submitted files may delay the approval process.

### **3.6.4. Supplier Network Requirements for Hosted and Punch-Out Catalogs**

- a) Contractor shall join the JAGGAER Supplier Network (SQSN) and shall use the JAGGAER's Supplier Portal to import the Contractor's catalog and pricing files into the JAGGAER system.
- b) Contractor can receive Orders through electronic delivery (cXML) or through low-tech options such as fax.
- c) More information about the SQSN can be found at [www.sciquest.com](http://www.sciquest.com), or by contacting the JAGGAER Supplier Network Services team at 800-233-1121.

### **3.6.5. Order Acceptance Requirements for Hosted and Punch-Out Catalogs**

- a) Contractor must be able to accept Orders via fax or cXML.
- b) The Contractor shall provide confirmation via phone or email within 24 hours of Order receipt.
- c) If the Order is received after 3pm (EST) on the day prior to a weekend or holiday, the Contractor must provide confirmation via phone or email on the next business day.

### **3.6.6. UNSPSC Requirements**

- a) Contractor shall support use of the United National Standard Product and Services Code (UNSPSC). UNSPSC versions that Contractors must adhere to are provided by JAGGAER and upgraded each year.
- b) NASPO ValuePoint reserves the right to migrate to future versions of the UNSPSC, and Contractor shall be required to support the migration effort.
- c) All line items for Products and Services provided under this Master Agreement must be associated to a UNSPSC code.
- d) All line items must be identified at the most detailed UNSPSC level, indicated by segment, family, class, and commodity.

### **3.6.7. Applicability.** Contractor agrees that NASPO ValuePoint controls which contracts appear in the eMarket Center, and that NASPO ValuePoint may elect at any time to remove any Contractor offerings from the eMarket Center.

### **3.6.8.** Several NASPO ValuePoint Participating States and Entities currently maintain separate JAGGAER eMarket Place accounts. In the event that one of these Participating States or Entities elects to use this NASPO ValuePoint Master Agreement (available through the eMarket Center),

but publish the information to their own eMarket Place, the Contractor agrees to work in good faith with the entity and NASPO ValuePoint, and agrees to take commercially reasonable efforts to implement such separate JAGGAER catalogs.

### **3.7. Right to Publish**

Throughout the duration of this Master Agreement, Contractor must secure from the Lead State, prior approval for the release of any information, including any written correspondence, which pertains to the potential work or activities covered by this Master Agreement. The Contractor shall not make any representations of NASPO ValuePoint's opinion or position as to the quality or effectiveness of the Products and Services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of this Master Agreement for cause.

### **3.8. Individual Customers**

Except to the extent modified by a Participating Addendum, each Purchasing Entity shall follow the terms and conditions of this Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in this Master Agreement, including but not limited to, any indemnity or right to recover any costs as such right is defined in this Master Agreement and applicable Participating Addendum. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

## **4. STATEMENT OF WORK**

### **4.1. Overview**

- 4.1.1.** Contractor guarantees a continuing supply and consistent quality of Equipment, Accessories, software, Supplies, and Services offered.
- 4.1.2.** Contractor may not provide Products that have not been approved by the Lead State, with the exception of NSP items, as referenced in §4.3.9.
- 4.1.3.** Contractor shall maintain compliance with all requirements of this Master Agreement throughout the duration of the Contract.
- 4.1.4.** A Purchasing Entity that purchases or leases Equipment may issue an Order, pursuant to the terms and conditions that are incorporated into this Master Agreement, and according to the requirements listed in their states' Participating Addendum, including, but not limited to, the issuance of Contractor's Supplemental Documents, which are attached as Attachment A through Attachment H. Each Participating State or Entity shall be responsible for negotiating the terms and conditions of each of the aforementioned Attachments, as well as any additional EULA's the Contractor may provide under an Order.
- 4.1.5.** Per Section 508 of the United States Workforce Rehabilitation Act of 1973, Contractor provides Devices under Groups A, B, C, D, E, and F, which are accessible to people with disabilities.
- 4.1.6. MPS:**
  - a)** Contractor may provide MPS on Group A, Group B, Group C, Group D, Group E, and Group F.
  - b)** Contractor may not provide MPS maintenance or repair Services on any Devices that are being leased or rented to a Purchasing Entity by another Manufacturer, unless they have a written agreement with the Manufacturer to do so.

#### **4.1.7. Survivability:**

- a) Any Order placed under this Master Agreement shall survive the expiration of this Master Agreement unless otherwise specified in a Participating Addendum.
- b) Contractor is not permitted to increase pricing on any Order that was placed prior to the expiration of this Master Agreement.

**4.1.8.** Contractor shall notify the Lead State, Participating States, Participating Entities and all Purchasing Entities of any recall notices, warranty replacements, safety notices, or any applicable notice regarding the Products being sold. This notice must be received in writing (via postal mail or email) within thirty (30) calendar days of Contractor learning of such issues.

#### **4.2. Authorized Dealers**

**4.2.1.** Contractor may engage Authorized Dealers, who shall be Contractor's agent and Subcontractor for providing sales and support for the Products and/or Services purchased by the Purchasing Entity under this Master Agreement.

**4.2.2.** In the event Contractor elects to use Authorized Dealers in the performance of the specifications, Contractor shall serve as the primary Contractor, and shall be fully accountable to the Lead State for assuring that the Authorized Dealers comply with the terms and conditions of this Master Agreement, and shall be liable in the event that Authorized Dealers fail to comply with such terms and conditions.

**4.2.3.** Authorized Dealers shall be expected to stay current with Contractor's Products, pricing, Master Agreement, and Participating Addendum requirements.

**4.2.4.** Authorized Dealers shall have the ability to accept Orders from a Purchasing Entity and invoice them directly.

**4.2.5.** Contractor must disclose to the Lead State, a list of all Authorized Dealers that provide Products and/or Services, utilizing **Exhibit D (Authorized Dealers by State)**.

**4.2.6.** Contractor shall send notice to the Lead State, utilizing **Exhibit E (Authorized Dealer Form)** and the Authorized Dealers by State, within three (3) calendar days of engaging or removing a Dealer.

**4.2.7.** The Lead State reserves the right to deny the addition of any Authorized Dealer and will provide notification to the Contractor with justification as to why the decision was reached. In addition, it will be at the discretion of each Participating State or Entity as to whether they will utilize the Authorized Dealers as approved by the Lead State.

**4.2.8.** If an Authorized Dealer is performing unsatisfactorily, or is not in compliance with this Master Agreement, then it shall be at the discretion of the Lead State, upon recommendation from the Participating State, to either remove the Dealer from the Contract, or in the case of multiple branch locations in one state, or multiple states, remove them as a Dealer from the location in which they are not in compliance. Alternatively, the Contractor may investigate and consult with the Participating State and/or the Purchasing Entity as appropriate, and use commercially reasonable efforts to resolve the dispute.

#### **4.3. Product Offerings**

**4.3.1. Group Segments.** Contractor shall offer Products under the following Groups:

<b>Group A – MFD, A3 B&amp;W only; Color and B&amp;W</b>	
<b>Segment</b>	<b>PPM</b>
2	20 – 30
3	31 – 40
4	41 – 50
5	51 – 60
6	61 – 70
7	71 – 90

<b>Group B – MFD, A4 B&amp;W only; Color and B&amp;W</b>	
<b>Segment</b>	<b>PPM</b>
1	Up to 20
2	21 – 30
3	31 – 40
4	41 – 50
5	51 – 60
6	61+

<b>Group C – Production Equipment B&amp;W only; Color and B&amp;W</b>	
<b>Segment</b>	<b>PPM</b>
1	65 – 79
2	80 – 89
3	90 – 110
4	111 – 130
5	131+

<b>Group D – Single-function Printers B&amp;W only; Color and B&amp;W</b>	
<b>Segment</b>	<b>PPM</b>
1	Up to 20
2	21 – 40
3	41 – 60
4	61+

<b>Group E – Large/Wide Format Equipment B&amp;W only; Color and B&amp;W</b>	
<b>Segment</b>	<b>A1 or D Size PPM* (speeds are based on b&amp;w output)</b>
Low	1 – 3
Medium Low	4 – 8
Medium High	9 – 19
High	20+

Group F - Scanners	
Segment	PPM
1	10 – 29
2	30 – 49
3	50 – 69
4	70 – 89
5	90 – 110
6	111 – 130
7	131+

**4.3.2. Device Configurations.** Contractor's Devices shall be equipped, at a minimum, with the following Accessories/capabilities:

**a) Group A – MFD, A3**

- i) New Power Filter;
- ii) Duplex for Segment 3 and above;
- iii) Standard paper drawer(s) equal to or greater than:
  - 1) One (1) paper supply for Segment 2;
  - 2) Two (2) paper drawers for Segments 3 and 4; and/or
  - 3) 2,000 sheet paper capacity for Segments 5 and above.
- iv) Paper size capacity up to 11" x 17"; and
- v) Bypass paper supply, if applicable for Segment.

**b) Group B – MFD, A4**

- i) New Power Filter;
- ii) Bypass paper supply;
- iii) Standard paper drawer(s) equal to or greater than:
  - 1) One (1) paper supply for Segments 1 and 2;
  - 2) Two (2) paper drawers for Segments 3 and 4; and/or
  - 3) 2,000 sheet paper capacity for Segments 5 and above.
- iv) Paper size capacity up to 8 ½" x 14"; and
- v) Envelope adjustment capability.

**c) Group C – Production Equipment**

- i) New Power Filter;
- ii) Bypass paper supply;
- iii) Standard paper drawer(s) equal to or greater than:
  - 1) One (1) paper supply for Segments 1 and 2;
  - 2) Two (2) paper drawers for Segments 3 and 4; and/or
  - 3) 2,000 sheet paper capacity for Segments 5 and above.
- iv) Paper size capacity up to 8 ½" x 14"; and
- v) Envelope adjustment capability.



- d) Group D – Single-function Printers**
  - i) Must include an inkjet, light emitting diode (LED), or laser print engine;
  - ii) Standard paper drawer(s);
  - iii) Standard paper capacity; and
  - iv) Network connectivity.
- e) Group E – Large/Wide Format Equipment**
  - i) Hard-Disk drive;
  - ii) Network connectivity;
  - iii) Touch screen control panel; and
  - iv) Automatic Media Selection – a built-on sensor detects the size of the original and the proper media size is then selected.
- f) Group F – Scanners**
  - i) Charge-Coupled Device (CCD) or Contact Image Sensor (CIS);
  - ii) Automatic Document Feeder (ADF);
  - iii) Letter or legal paper size capacity;
  - iv) Color depth of at least 24 bytes; and
  - v) Single pass duplex scan.

**4.3.3. Device Standards.** Devices shall meet the following requirements:

- a) Group A and Group B Base Units are OEM only;
- b) Group A and Group B must be EPEAT registered to a minimum of Bronze Standard within one (1) year of being added to the Master Agreement Price List;
- c) Group D must be Energy Star compliant or EPEAT registered to a minimum of Bronze Standard within one (1) year of being added to the Master Agreement Price List;
- d) If Contractor's Devices fail to meet the EPEAT Bronze Standard, or be Energy Star compliant (applicable to Group D Devices only) within one (1) year, then they will be removed from the Price List;
- e) Must be Newly Manufactured, current, Remanufactured, or Refurbished, except as specified in a Participating Addendum;
- f) Devices, when installed, and if available, must be set-up to receive automatic software updates and patches. For new software versions or upgrades that carry an additional cost, updates will not be done automatically; rather, Contractor or their Authorized Dealer will inform the Purchasing Entity of the new version and assist them in their decision to upgrade based on needed functionality and compatibility with their existing Equipment.
- g) Specifications must be published on Contractor's website;
- h) MSRP must not exceed what is listed with Buyers Laboratory Inc., or List Price must not exceed what is published on the Manufacturer's website;
- i) Must maintain a PPM speed, according to Segment classification; and

- j) Must be compatible with using recycled paper, up to and including, 100% Post-Consumer Waste (PCW) paper. Contractor may not fault the use of recycled paper for Device failures, as long as the recycled paper in use meets the standard paper specifications (e.g., multi-purpose, copy, or laser paper).

#### **4.3.4. Device Exceptions**

- a) Group C, Group D, Group E, and Group F will not be restricted to OEM, and do not have to be Private Labeled;
- b) Group C, Group E, and Group F are not required to be EPEAT registered or Energy Star compliant;
- c) 3D Printers may be offered by Contractor, and shall be priced based on a minimum discount of 10%;
- d) Digital Duplicators may be offered by Contractor, and shall be priced based on a minimum discount of 64%;
- e) Inkjet and Digital Presses may be offered by Contractor, and shall be priced based on the minimum discount offered in the Segment to which they belong (refer to the Group C Price List for Segment discounts);
- f) Roll-Fed Wide Format Printers may be offered by Contractor, and shall be priced based on a minimum discount of 10%.
- g) Contractor may offer Large/Wide Format Equipment that accommodates all paper sizes. Pricing shall be based on the discount offered for the Segment in which the Device belongs (refer to the Group E Price List for Segment discounts).

#### **4.3.5. Accessories**

- a) Contractor shall provide OEM and/or Third Party compatible Accessories that compliment or enhance the features of the Device.
- b) Contractor shall maintain a separate price list for Accessories for Base Units that have been discontinued. The pricing must be based on the same discount offered, per the 'Discount from MSRP' tab, on the applicable Group Price List.
- c) Purchasing Entities may add Accessories to Devices that have been purchased, leased or rented under prior NASPO ValuePoint and/or WSCA Master Agreements, as well as via any other means.

#### **4.3.6. Software**

- a) Contractor shall provide software to enhance the capabilities of the Devices, or software may be provided as a standalone option on any pre-owned, purchased, or leased Device.
- b) Contractor shall provide OEM and/or Third Party Software.
- c) All software drivers shall be, at a minimum, Windows 7 compliant, and all Devices must have universal software drivers.
- d) Purchasing Entities that acquire software Products (not including Embedded Software) shall be subject to the software developers' end-user license agreements distributed with such software Products, as referenced in Attachment F through Attachment H, and as additionally provided by Contractor upon Order placement. However, the Master Agreement will supersede and

control if there is conflicting language between the Master Agreement, and any software license agreement.

#### **4.3.7. Consumable Supplies**

- a) Contractor shall offer OEM or compatible Ink and Roll paper for Group E Devices. The Ink and/or paper may be purchased as standalone items, and will not be included as part of a Maintenance Agreement, nor will it be wrapped into the Total Monthly Payment on a lease agreement.
- b) Contractor shall offer OEM or compatible consumable for Supplies for Groups A, B, C, D, and F. These Supplies may be purchased as standalone items or included as part of a Maintenance Agreement. Under no circumstances may the Supplies, regardless of quantity, be financed, unless they are start-up Supplies. The Supplies that may be offered include, but are not limited to, the following:
  - i) Toner;
  - ii) Staples;
  - iii) Ink;
  - iv) Print Cartridges;
  - v) Imaging Drums;
  - vi) Fuser Kits;
  - vii) Transfer Kits;
  - viii) Waste Toner Bottles;
  - ix) Ozone Filters;
  - x) Developer;
  - xi) Rollers and Pads; and
  - xii) Maintenance Kits.
- c) Toner must be free of carcinogenic, mutagenic, or teratogenic substances.
- d) Contractor shall provide the Purchasing Entity with a method to return the empty toner cartridges at no additional charge.

#### **4.3.8. Remanufactured/Refurbished Equipment**

- a) Contractor may offer Remanufactured and/or Refurbished Equipment under Group A, B, C, D, E, and F.
- b) Remanufactured and Refurbished Equipment is not required to be EPEAT registered or Energy Star compliant.
- c) Equipment may be acquired via a purchase or lease agreement.
- d) Contractor must notify the Purchasing Entity in writing, when Remanufactured or Refurbished Equipment is being offered.
- e) All Remanufactured or Refurbished Equipment must be clearly labeled as such, and must be certified by the Manufacturer.

- f) Remanufactured Equipment must be priced according to the minimum discount offered for similar Equipment in Group A, B, C, D, E, and F.
- g) Refurbished Equipment shall be offered at a minimum discount of 10% less than the lowest priced Device of the Group and Segment to which the Refurbished Equipment belongs.
- h) Service and Supplies for Remanufactured and Refurbished Equipment will receive the same pricing as the published price for the Group and Segment to which it belongs.

#### 4.3.9. Open Market Items

- a) Contractor may offer Not Specifically Priced (NSP) items that compliment or enhance the Products and/or Services. NSP items will not include:
  - i) Interactive White boards;
  - ii) Computers, monitors, or other related items;
  - iii) Fax machines;
  - iv) Overhead Projectors; and
  - v) Cameras.
- b) NSP items may only be acquired through the Contractor or their Authorized Dealers and must be reported quarterly with all other sales.
- c) NSP items must be priced at a minimum discount of 15% from MSRP or List Price.
- d) NSP items shall not be offered to a Purchasing Entity as a stand-alone option, and the maximum allowable amount of all NSP items in a single Order shall be determined by the Participating State or Entity.
- e) It shall be at the discretion of the Participating State or Entity to allow Open Market Items in their Participating Addendum.

#### 4.3.10. Emerging Technologies

- a) Upon approval from the Lead State, Contractor may add new, related technology.
- b) Technology does not have to be restricted to OEM, nor does it have to be Private Labeled.
- c) Any new technology that a Contractor requests to add to their Price List must contain a full description of the Product, along with MSRP and pricing information, as well as an explanation/justification as to how the Product conforms to the requirements of this Master Agreement.
- d) Any new technology must be priced at a minimum discount of 3%.

### 4.4. Service Offerings

#### 4.4.1. Managed Print Services

- a) Contractor shall provide the following:
  - i) **Free Initial Assessment** – which shall include the following:
    - 1) Document workflow
    - 2) Identification of Service, Supplies, and parts
    - 3) Current output

- 4) Total Cost of Ownership (TCO)
  - 5) Employee to Device ratio
  - 6) Preliminary estimated cost savings
- ii) Implementation – which shall consist of the following:**
- 1) Plan Development
  - 2) Hardware and Software Installation and Set-up for remote management/MPS account management software.
- iii) Remote Device Monitoring – which shall include the following:**
- 1) Job Accounting
  - 2) Automated Meter Reads
  - 3) Automated Toner Replenishment
- iv) End-user Support – which shall include the following:**
- 1) Training
  - 2) Help Desk Services
- v) Account Management – which shall include the following:**
- 1) Reporting
  - 2) Invoicing
  - 3) Customer Business Reviews
- b) Contractor may also provide the following:**
- i) Maintenance**
- 1) Preventative Maintenance
  - 2) Service and Repair
  - 3) On-site break/fix
  - 4) Parts Management
  - 5) Warranty Management
- ii) Ongoing Fleet Management and Optimization**
- 1) Consumable Spend
  - 2) Continual Assessments
  - 3) Green Initiatives
  - 4) Add/Move/Change Services
  - 5) Disaster Recovery
- iii) Cost Based Assessment**
- 1) Asset Mapping
  - 2) End-user Survey
  - 3) Detailed Recommendation
  - 4) Analysis and Plan Design

- iv) Change Management
- v) Professional Services
- c) All MPS engagements shall require the Contractor and Purchasing Entity to complete a detailed statement of work, as referenced in **Exhibit C (Sample MPS Statement of Work)**, **Attachment C (Canon Sample MPS Agreement Terms and Conditions)**, and **Attachment D (Canon Sample MPS Customer Expectations Document)**, and they must be approved by both parties prior to the initiation of any engagement.
- d) The free initial assessment shall not constitute a commitment on behalf of the Purchasing Entity. Upon request from a Purchasing Entity, Contractor must provide the assessment with the understanding that the Purchasing Entity is under no obligation to enter into an MPS engagement.
- e) MPS pricing and billing options shall be flexible, as long as pricing doesn't exceed Master Agreement pricing, and the Purchasing Entity will drive the complexity of the solution required with a staged approach to implementation.

#### 4.4.2. Maintenance Agreements

- a) **Pricing**
  - i) Pricing shall include a zero base, cost per click rate for b&w and/or color for Groups A, B, C and D.
  - ii) Pricing for a monthly base charge, a set copy allowance and an overage rate for b&w and/or color shall also be provided.
  - iii) Pricing must be provided that includes all parts, labor, Preventative Maintenance, Service Calls, and Supplies for Groups A, B, C and D.
  - iv) A pricing option for ALL Groups shall include parts, labor, Preventative Maintenance (if applicable), and Service Calls, but **excludes** Supplies.
  - v) Paper and ink for Group E Devices shall not be included as part of the Service and Supply pricing.
  - vi) Contractor may increase their Service and Supply pricing to include staples (if applicable to the Device).
  - vii) Contractor may charge flat rate fees for Services performed on any Accessories.
  - viii) Service Calls due to misuse, neglect or abuse shall not be covered by the Maintenance Agreement, and Contractor and Authorized Dealers may bill the Purchasing Entity at an hourly rate for Services rendered.
  - ix) **11"x17" impressions:**
    - 1) Shall be counted as two (2) clicks on Group A Devices; and
    - 2) May be counted as two (2) clicks on Group C Devices.
  - x) Contractor shall offer a one (1) click rate that encompasses all paper sizes for Group C Devices.
  - xi) A two-sided document shall be counted as two (2) clicks.
  - xii) Contractor must not charge for scans on any MFD.
  - xiii) **Initial Term:**
    - 1) Pricing shall remain firm for the initial term of the Maintenance Agreement.

- 2) For leased Equipment, the Maintenance Agreement term is equal to the term of the lease (i.e. 24, 36, 48 months etc.).
- 3) For purchased Equipment, the initial term is whatever period of time the Purchasing Entity elects, as long as it does not exceed 60 months on Group A, Group B, Group D, Group E, and Group F Devices and 84 months on Group C Devices.

**xiv) Renewal Term:**

- 1) If a Purchasing Entity wishes to renew a Maintenance Agreement for Equipment that was acquired under this Master Agreement, then the Contractor may negotiate new pricing. This pricing shall not exceed this Master Agreement pricing.
- 2) If a Purchasing Entity wishes to renew a Maintenance Agreement for Equipment that was acquired under Master Agreement (3091), then §4.4.2(f) shall apply.

**b) Blended Rates**

- i) Contractor shall have the ability to blend the Service and Supply costs over a large Equipment fleet, and the Blended Rate must cover all units in the fleet.
- ii) The Blended Rate must be divided between b&w and color.
- iii) Contractor shall provide the Purchasing Entity with the Blended Rate calculation prior to Order placement.
- iv) Utilizing a Blended Rate shall be at the discretion of the Participating State or Entity.

**c) Manual Meter Reads**

- i) Contractor may collect meter reads from a Purchasing Entity via electronic means.
- ii) Meter reads may be submitted via the Contractor's online portal, or through e-mail, or facsimile.
- iii) A Participating State or Entity may also elect, at their discretion, to submit meter reads through the Device.

**d) Customer Owned Equipment**

- i) Purchasing Entity's may elect to enter into a Maintenance Agreement for Equipment they already own, or Equipment they acquire through an up-front purchase.
- ii) The Maintenance Agreement may be priced on a flat rate fee, which shall include parts, labor, Preventative Maintenance (if applicable) and Service calls. Supplies may or may not be included.
- iii) The Maintenance Agreement shall not be subject to automatic renewals.

**e) Leased Equipment**

- i) Contractor shall be required to provide a Maintenance Agreement on all Equipment that is leased by a Purchasing Entity.
- ii) The Maintenance Agreement shall be priced based on a cost per click rate, or a monthly base charge.

**f) Legacy Equipment**

- i) Upon request from the Purchasing Entity, Contractor may provide Maintenance Agreements on any Equipment that is owned or was leased or rented through Master Agreement (3091), or via any other means, providing the following conditions are met:
  - 1) The Device has not reached the end of its Useful Life;

- 2) The maximum term of the Maintenance Agreement does not exceed the Useful Life of the Device, unless otherwise specified in a Participating Addendum; and
  - 3) The Maintenance Agreement adheres to the same requirements as outlined in §4.4.2(d) and §4.4.2(e).
- ii) Devices that were previously serviced by another Dealer or Manufacturer must be inspected and repaired, if necessary. Upon mutual agreement, Contractor may charge Purchasing Entity for any parts and/or labor required to bring the Device up to acceptable maintenance levels.
  - iii) If the Device has been at the Purchasing Entity's location for less than five (5) years, then Maintenance Agreement pricing shall not exceed this Master Agreement pricing, until the Purchasing Entity reaches the five (5) year mark. Refer to §4.4.2(f)(iv) below for additional information.
  - iv) If the Device has been at the Purchasing Entity's location for more than five (5) years, then Maintenance Agreement pricing shall not exceed 107% of the Service and Supply pricing in this Master Agreement for years 5 through 7, and 110% for years 8 and beyond. The Service and Supply pricing that will be used for this calculation will be based on the following:
    - 1) The Group and Segment to which the Device is categorized; and
    - 2) The Service and Supply pricing for that Group and Segment, as listed under Newly Manufactured Equipment in this Master Agreement.

#### 4.4.3. Service Requirements

- a) **Technicians.** All technicians shall be factory trained by the OEM and certified to Service the Devices.
- b) **Standard Service Levels.** Participating States and/or Entities shall negotiate their own Service Level Agreement (SLA) with the Contractor. The SLA, must, at a minimum, adhere to the following requirements:
  - i) **End-User Training**
    - 1) An initial, no charge, on-site, one-hour training session for each Device, must be offered by Contractor for all non-desktop Products placed at each Purchasing Entity's location. For drop-shipped or desktop Products, Contractor shall offer an initial, one-hour, no charge, web-based, or on-line training session.
    - 2) Technical support training shall also be included in the initial, no charge training, and will include network connectivity and print driver installation. This training will be in addition to the one-hour of free training for Device operation.
    - 3) If Purchasing Entity elects to exercise the training option, then Contractor shall provide the training within ten (10) Business Days of Purchasing Entity's request.
    - 4) Contractor shall offer additional on-site, one-hour training sessions for a flat rate fee. Additional charges for travel and per diem, if applicable, must be disclosed to the Purchasing Entity prior to Order placement.
    - 5) Contractor must provide on-site or off-site operational training to designated Purchasing Entity personnel, until the personnel are able to operate the Equipment independently. Pricing for operational training shall be based on a flat rate fee. Additional charges for travel and per diem, if applicable, must be disclosed to the Purchasing Entity prior to Order placement.
    - 6) Contractor shall provide Product literature, user-manuals, and access to on-line resources, if available, at no charge to the Purchasing Entity.



- 7) Contractor shall provide a toll-free end-user technical support number that Purchasing Entities can utilize for everyday minor troubleshooting. A Purchasing Entity must be able to obtain assistance during Normal Business Hours.
  - 8) Contractor shall provide phone/technical support within two (2) hours of Purchasing Entity's request for assistance.
- ii) **Preventative Maintenance.** Contractor shall perform all Preventative Maintenance Services at the Manufacturer's suggested intervals, or as specified in an Order. Preventative Maintenance shall not be a requirement on desktop Devices.
- iii) **Equipment Performance**
- 1) Equipment Downtime shall be calculated from the time a service call is placed with Contractor or with Dealer's dispatch department until the time the technician completes the repair.
  - 2) Equipment Downtime due to lack of consumable Supplies is not acceptable.
  - 3) Equipment Uptime is calculated between 8:30am and 5:00pm, Monday through Friday, excluding Contractor and Dealer holidays. Uptime requirements shall not include Preventative Maintenance service calls, calls which could have been prevented by key operator functions outlined in the Device's operating manual, calls due to customer mishandling, units which are running outside the Manufacturer's optimum performance volume, or Devices which need to be over-hauled as a result of reach the end of Useful Life (in the Contractor's opinion).
  - 4) **Devices under 91ppm:** Contractor shall guarantee that the fleet of Devices for each Purchasing Entity will be operational at least 96% of the time, during Normal Business Hours for Group A, Group B, Group C, and Group D.
  - 5) **Devices over 91ppm:** Contractor shall guarantee that digital press Production Equipment for each Purchasing Entity will be operational at least 90% of the time, during Normal Business Hours.
  - 6) If any fleet of Devices fails to perform at the operation level specified in §4.4.3(b)(iii)(4) and (5), then §4.11.13 shall apply.
  - 7) Contractor must provide daily communication to the Purchasing Entity regarding inoperable Equipment, including updates regarding resolution timeframe, and any parts, Accessories, or Devices on back-order.
- iv) **Loaner Equipment.** If any Device, excluding digital press Production Equipment, and Group E Equipment, is inoperable for two (2) Business Days, due to Equipment malfunction, as reasonably determined by Contractor, then Contractor shall provide the Purchasing Entity with:
- 1) A loaner Device of similar speed and capabilities until such time as the inoperable Device(s) are now operable; or
  - 2) Provide the Purchasing Entity with off-site manned production capabilities to accomplish the work of the unit that is inoperable at the sole expense of the Contractor. Such costs shall be limited to the cost of production (Service and Supplies), Equipment, labor, and transportation to and from the off-site production facility and the Purchasing Entity location.
- v) **Repair Parts**
- 1) Contractor shall guarantee the availability of repair parts for a minimum of five (5) years after the Purchasing Entity's Acceptance of any Device.

- 2) All Device components, spare parts, application software, and ancillary Equipment that is supplied under this Master Agreement, must conform to Manufacturer specifications.
- 3) Contractor shall be responsible for ensuring that any repair parts are operable and installed in accordance with Manufacturer specifications.
- 4) Repair parts may be new, reconditioned, reprocessed or recovered.

**vi) Replacement Equipment**

- 1) If Purchasing Entity is not satisfied with any Device that does not perform up to its documented Equipment specifications, Contractor will, at Purchasing Entity's written request, replace it without charge with an equivalent unit or, upon mutual agreement with the Purchasing Entity, with a Device of comparable features and capabilities.
- 2) Prior to installing a substitute Device, Contractor will be allowed thirty (30) days to remedy any quality or reliability issues.
- 3) A designated factory authorized technician must certify each Device's ability to produce acceptable impressions with an acceptable number of copies between calls or uptime. This certification will remain in effect for up to five (5) years from the Purchasing Entity date of purchase or lease, providing the Equipment has not been subjected to abuse or neglect and has been continuously covered by a Maintenance Agreement. This certification will be void in accordance with §4.11.10.

**vii) Service Zones**

- 1) Unless otherwise specified in a Participating Addendum, Contractor shall adhere to the following Service Call Response Times based on the distance that their Service Base Location is from the Purchasing Entity:

Service Zone	Definition	Response Time
Urban	Within 60 miles	4 - 6 Hours
Rural	60 – 120 miles	1 - 2 Business Days
Remote	120+ miles, or only accessible by plane or by boat	4 - 5 Business Days

- 2) Repair or replacement of parts and/or Devices shall occur within four (4) Business Days of Contractor arriving at Purchasing Entity's location, with the following exception:
  - If Contractor is drop-shipping a new Device to replace a defective Device, then Purchasing Entity must receive the new Device within three (3) Business Days.
- 3) Contractor may charge different rates according to each Service zone.

**viii) Service Logs**

- 1) Contractors shall maintain a Service log that describes the maintenance and repair Services provided for each Device.
- 2) A no-cost copy of Service logs/reports must be provided to the Purchasing Entity or Participating State or Entity, within five (5) Business Days of the request.

**ix) Equipment Relocation**

- 1) Equipment relocation Services include dismantling, packing, transporting, and re-installing Equipment.

- 2) Contractor may charge for this Service based on the following table:

Service Zone	Distance from original placement of Device	Charge
1	Within the same building	No Charge Allowed*
2	Up to 50 miles from building in which Device was originally placed	Flat Rate Fee, plus Per Mile or Hourly Fee
3	More than 50 miles from building in which Device was originally placed	Flat Rate Fee, plus Per Mile or Hourly Fee

\*Contractor may charge Purchasing Entities a mutually agreed upon price for special rigging in the event a Purchasing Entity's demographics require such rigging for Zone 1 relocation's. Contractor and Purchasing Entity shall agree upon the price in writing prior to any Equipment relocation in Zone 1.

- 3) Contractor shall not charge for any fees incurred due to fuel or tolls.
- 4) Moves must be performed within thirty (30) calendar days of the Purchasing Entity request. Request may be verbal or written, but Contractor must confirm the request in writing and provide a date that the move will occur. Written confirmation must be sent to the Purchasing Entity within three (3) Business Days of request. In the event that there will be a delay in these Services, Contractor shall communicate with Purchasing Entity and agree on a mutually beneficial time-frame.

**c) Meter Read Invoicing**

- i) In order for Contractor to generate accurate invoices, Purchasing Entities shall provide meter reads within the Contractor's requested time-frame.
- ii) Invoices that are generated without receiving the proper meter read information from the Purchasing Entity will not be considered inaccurate.
- iii) The Purchasing Entity shall provide written notice of any such alleged invoicing issue and the Contractor will be allowed a thirty (30) day cure period to address any such issue. During the thirty (30) day cure period, the Purchasing Entity will not be assessed any late fees for failure to submit payment by the invoice due date.
- iv) Failure on the Contractor's part to maintain accurate invoicing shall result in a \$25.00 per instance credit on the following month's invoice.

**d) Service Level Calculations**

- i) At the discretion of the Participating State or Entity, Contractor shall produce reports that can be measured against the required SLA components. Refer to §4.4.3(e) for reporting requirements.
- ii) The Participating State or Entity shall determine how the reports will be utilized and whether liquidated damages will be assessed for failure to meet the SLA requirements. Any liquidated damages or penalty structure shall be defined in the Participating State or Entity's Participating Addendum.

**e) Reporting.** Contractor shall provide periodic reporting to all Purchasing Entities upon request. The reports shall be provided on a quarterly basis, or at the discretion of the Participating State or Entity.

- i) The report shall include the following:
  - 1) Up-time percentage (%) per fleet of Devices;

- 2) Number of Service Calls placed;
- 3) Response Time per Device;
- 4) Dates that Preventative Maintenance was performed, if applicable;
- 5) Hours of end-user training performed; and
- 6) Estimated end of Useful Life per Device, based on current usage.

- ii) The report may include, but not be limited to, the following:
- 1) Location of Devices;
  - 2) Click usage per Device; and
  - 3) EPEAT certification level of each Device.

f) **Additional Terms and Conditions.** Maintenance Agreements shall be subject to the additional terms and conditions set forth in **Attachment B (Canon Maintenance Terms and Conditions)**, and **Attachment E (Digital Press Production and Large Format Equipment Master Services Agreement Terms and Conditions)**.

**4.4.4. Software Subscriptions**

- a) Software pricing shall be inclusive of available software patches and any updates.
- b) Purchasing Entities shall have the option to finance software subscriptions according to the lease rates listed in Groups A, B, C, D, E, and F of the Master Agreement.
- c) Any new releases of software versions (upgrades) shall be chargeable to the Purchasing Entity; however, Contractor may not charge for the installation of the software upgrade.
- d) License fees and support fees shall remain firm throughout the term of the agreement.
- e) Software subscriptions shall not be subject to automatic renewals. Should there be any conflicting language between the software EULA and the Master Agreement, the Master Agreement shall govern and control.
- f) Contractor shall be responsible for communicating all updates, patches, and new releases/versions to Purchasing Entities.
- g) Contractor shall provide a web-based or toll-free hotline during Normal Business Hours for Purchasing Entities to report software problems or answer software related questions.

**4.5. Purchase and Lease Programs**

4.5.1. Contractor shall offer the following acquisition methods:

Financial Vehicle	Standard Terms Offered
Purchase	N/A
Fair Market Value Lease	12, 18, 24, 36, 48 and 60 months
\$1 Buyout Lease	
Straight Lease	12 months
Short-Term Lease	

4.5.2. All Products on Contractor’s Price List may be purchased or leased, either as a packaged-deal, or stand-alone item.

4.5.3. Contractor shall also offer 72 and 84-month lease rates for Group C Devices only.

#### 4.5.4. Equipment Trade-In

- a) A Purchasing Entity shall have the option, at the Contractor's sole discretion, and based upon Participating State or Entity regulations and laws, and Purchasing Entity policies, to do an Equipment Trade-In, when placing a purchase or lease Order.
- b) The value for the Equipment Trade-In shall be negotiated by the Purchasing Entity and the Contractor, and shall not include any disposal or shipping fees.

#### 4.5.5. Lease Rates

- a) Contractor shall include an estimated property tax amount in their lease rates.
- b) The rate for any lease shall remain fixed throughout the Initial Lease Term.
- c) Equipment Payments for Renewal Terms shall never exceed Master Agreement pricing.
- d) If a Purchasing Entity enters into a Renewal Term, then the Equipment Payment will be subject to the lease rates listed in the most recent Price List(s) posted on the NASPO ValuePoint website.
- e) Contractor may update lease rates on a quarterly basis to allow for changes in the financial market. The rates must be indexed against the US Daily Treasury Yield Curve Rates, or something similar, and must be the rate in effect at the end of each calendar quarter. Refer to <https://www.treasury.gov/resource-center/data-chart-center/interest-rates/Pages/TextView.aspx?data=yield> for additional information.
- f) On a quarterly basis, Contractor may update the personal property tax uplift on lease rates based on the participation of states not listed in the RFP, or a change in the property tax assessed by states that are listed in the RFP.
- g) Contractor shall offer Coterminous lease rates to any Purchasing Entity wishing to add Products to an existing lease agreement.

#### 4.5.6. Leasing Overview

- a) All lease programs must remain with the Contractor or Authorized Dealers through an in-house leasing program, or through the financial branch or subsidiary of the Contractor. In addition, Contractor and their Authorized Dealers may use Third Party leasing companies, but all billing must be invoiced in the name of the Contractor or their Authorized Dealer, and all contractual obligations shall remain with the Contractor.
- b) A Purchasing Entity may lease Equipment pursuant to the terms and conditions identified herein.
- c) A Purchasing Entity that leases Equipment may issue an Order, pursuant to the terms and conditions that are incorporated into this Master Agreement, and according to the requirements listed in their states' Participating Addendum. Without limiting the foregoing, each Order shall, except as otherwise provided in the applicable state's Participating Addendum, be subject to and be governed by the terms and conditions of Attachment A (Canon Lease Agreement Terms and Conditions).
- d) Lease agreements shall not be subject to automatic renewals.
- e) In the event that the term of a lease agreement extends beyond the term of the Participating Addendum, the terms and conditions of this Master Agreement and Participating Addendum shall continue to apply.

- f) A lease agreement issued prior to the termination of this Master Agreement and Participating Addendum, shall survive the termination of this Master Agreement and the Participating Addendum.
- g) With the exception of a \$1 Buyout Lease arrangement, or unless exercising the purchase option on an FMV Lease, a Purchasing Entity shall return the Equipment at the end of the Initial Lease Term, or at the end of the Renewal Lease Term, or the Contractor may pick the Equipment up, without any further financial obligations to the Purchasing Entity.
- h) Equipment pickups must be performed within thirty (30) calendar days of the end of the Initial or Renewal Term.
- i) Equipment returns must be performed within thirty (30) calendar days after the Contractor or Authorized Dealer provides return shipping instructions to the Purchasing Entity.
- j) Contractor shall be responsible for all Product pickup and return costs.
- k) The maximum term on any Initial Lease Term shall be 60 months, with the exception of Group C Devices, which shall have a maximum term of 84 months, and with the exception of Short-Term Leases, which shall have a maximum term of 12 months.
- l) The length of a Renewal Term shall be at the discretion of the Participating State or Entity, but at no time shall the Renewal Term exceed the Useful Life of the Equipment.
- m) All Renewal Terms shall be billed on a monthly basis.

#### **4.5.7. Leasing Options**

##### **a) FMV Lease**

- i) A Purchasing Entity shall have the option to enter into an Initial Lease Term of 12, 18, 24, 36, 48 or 60 months for Group A, Group B, Group C, Group D, Group E and Group F, at the discretion of the Participating State or Entity. In addition, a Participating State or Entity may elect to enter into 72 and 84-month terms for Group C only.
- ii) Upon the expiration of the Initial Lease Term, a Purchasing Entity may do one of the following:
  - 1) Exercise their purchase option;
  - 2) Renew the lease on a month to month basis, or a 12-month basis, at the discretion of the Participating State or Entity; or
  - 3) Return the Equipment to the Contractor, or have the Contractor pick the Equipment up.

##### **b) \$1 Buyout Lease**

- i) A Purchasing Entity shall have the option to enter into an Initial Lease Term of 12, 18, 24, 36, 48 or 60 months for Group A, Group B, Group C, Group D, Group E and Group F, at the discretion of the Participating State or Entity. In addition, a Participating State or Entity may elect to enter into 72 and 84-month terms for Group C only.
- ii) Upon the expiration of the Initial Lease Term, the Contractor shall provide title to the Equipment to the Purchasing Entity, or as otherwise determined in a Participating Addendum, and the Purchasing Entity shall not be subject to any additional expense in order to assume possession of the Equipment.

**c) Straight Lease**

- i) A Purchasing Entity shall have the option to enter into an Initial Lease Term of 12, 18, 24, 36, 48 or 60 months for Group A, Group B, Group C, Group D, Group E and Group F, at the discretion of the Participating State or Entity. In addition, a Participating State or Entity may elect to enter into 72 and 84-month terms for Group C only.
- ii) Upon the expiration of the Initial Lease Term, a Purchasing Entity may do one of the following:
  - 1) Renew the lease on a month to month basis, or a 12-month basis, at the discretion of the Participating State or Entity; or
  - 2) Return the Equipment to the Contractor, or have the Contractor pick the Equipment up.

**d) Short-Term Lease**

- i) A Purchasing Entity shall have the option to enter into a maximum lease term of 12 months.
- ii) Upon the expiration of the lease term, a Purchasing Entity shall return the Equipment to the Contractor, or have the Contractor pick the Equipment up.

**4.5.8. Leasing Terms and Conditions**

**a) Possession and Return of Leased Equipment**

- i) Purchasing Entity is responsible for risk of loss to the Products while the Products are in Purchasing Entity's possession. Purchasing Entity shall be relieved of all risks of loss or damage to the Products during periods of transportation and de-installation.
- ii) Contractor or Authorized Dealer must notify a Purchasing Entity, in writing, of their End of Term (EOT) options at least sixty (60) to ninety (90) days prior to the end of any Initial Lease Term. Such notification may include, but not be limited to, the following:
  - 1) Any acquisition or return options, based on the type of lease agreement;
  - 2) Any renewal options, if applicable; and/or
  - 3) Hard drive removal and surrender cost, if applicable.
- iii) If a Purchasing Entity desires to exercise a purchase, renewal, or return of the Equipment, it shall give Contractor at least thirty (30) days written notice prior to the expiration of such lease term. Notwithstanding anything to the contrary, if Purchasing Entity fails to notify Contractor of its intent with respect to the exercise of a purchase, renewal, or return of the Equipment, the Initial Lease Term shall be terminated on the date as stated in the Order and removal of the Product will be mutually arranged, unless otherwise specified in a Participating State or Entity's Participating Addendum.
  - 1) If the Purchasing Entity fails to notify Contractor at least thirty (30) days prior to lease termination of digital press Production Equipment and/or large format printers, then the lease will automatically renew on a month-to-month basis until the Purchasing Entity notifies the Contractor of their intent. In such a case, the automatic renewal term shall not exceed a maximum of 12 monthly payments. At which point in time, Contractor will make arrangements to pick up the Equipment from the Purchasing Entity.
- iv) If Purchasing Entity does not exercise the purchase or renewal option, it will immediately make the Product available to Contractor in as good of condition as when Purchasing Entity received it, except for ordinary wear and tear.

- b) **Payment.** The first scheduled payment (as specified in the applicable Order), will be due following the Acceptance of the Products, or such later date as Contractor may designate. The remaining payments will be due on the same day of each subsequent month, unless otherwise specified in the applicable Order.
- c) **Buyout to Keep Option.** A Purchasing Entity must notify the Contractor or Authorized Dealer, in writing, at least thirty (30) days in advance, if they wish to exercise the Buyout to Keep option on an FMV or \$1 Buyout I Lease.
- d) **Buyout to Return Option.** A Purchasing Entity must notify the Contractor or Authorized Dealer, in writing, at least thirty (30) days in advance, if they wish to exercise the Buyout to Return option on an FMV, \$1 Buyout or Straight Lease, and return the Equipment to the Contractor in good working condition (ordinary wear and tear excepted).
- e) **Equipment Upgrade or Downgrade.** A Purchasing Entity may do an Equipment Upgrade or Downgrade on a lease at any time throughout the term of the lease agreement. The Purchasing Entity and the Contractor shall negotiate the price of the Equipment Upgrade or Downgrade, but at no time shall the total cost of the Equipment Upgrade or Downgrade be less than the remaining stream of Equipment Payments.
- f) **Non-appropriation of Funds.** The continuation of any lease agreement will be subject to, and contingent upon, sufficient funds being made available by the Participating State Legislature and/or federal sources. The Purchasing Entity may terminate any such lease agreement, and Contractor waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Purchasing Entity's funding sources are not available.
- g) **Assignment**
  - i) Purchasing Entity has no right to sell, transfer, encumber, sublet or assign the Product or any lease agreement without Contractor's prior written consent (which consent shall not be unreasonably withheld).
  - ii) Purchasing Entity agrees that Contractor may not sell or assign any portion of Contractor's interests in the Product and/or these Lease Terms or any Order for leases, without notice to Purchasing Entity even if less than all the payments have been assigned. In that event, the assignee (the "Assignee") will have such rights as Contractor assigns to them, but none of Contractor's obligations (Contractor will keep those obligations) and the rights of the Assignee will not be subject to any claims, defenses or set offs that Purchasing Entity may have against Contractor.
  - iii) No assignment to an Assignee will release Contractor from any obligations Contractor may have to Purchasing Entity.
- h) **Early Termination Charges**
  - i) Except in the case of Non-appropriation of funds, FMV, \$1 Buyout, Straight and Short-Term Leases shall be subject to an early termination charge, and shall involve the return of the Equipment (in good working condition; ordinary wear and tear excepted) by the Purchasing Entity to the Contractor. With respect to the Equipment, the termination charge shall not exceed the balance of remaining Equipment Payments (including any current and past due amounts), and with respect to Service or maintenance obligations, the termination charge shall not exceed four (4) months of the Service and Supply base charge or twenty-five percent (25%) of the remaining Maintenance Agreement term, whichever is less.
- i) **Default.** Each of the following is a "default" under these lease terms:



- i) Purchasing Entity fails to pay any payment or any other amount within forty-five (45) days (or as otherwise agreed to in a Participating Addendum) of its due date;
  - ii) Any representation or warranty made by Purchasing Entity in these lease terms is false or incorrect and Purchasing Entity does not perform any of its obligations under these lease terms, and this failure continues for forty-five (45) days (or as otherwise agreed to in a Participating Addendum) after Contractor has notified Purchasing Entity;
  - iii) Purchasing Entity or any guarantor makes an assignment for the benefit of creditors;
  - iv) Any guarantor dies, stops doing business as a going concern, or transfers all or substantially all of such guarantor's assets; or
  - v) Purchasing Entity stops doing business as a going concern or transfers all or substantially all of Purchasing Entity's assets.
- j) **Remedies.** If a Purchasing Entity defaults on a lease agreement, then Contractor, in addition to, or in lieu of, the remedies set forth in this Master Agreement, and Participating Addendum, may do one or more of the following:
- i) Cancel or terminate any or all Orders, and/or any or all other agreements that Contractor has entered into with Purchasing Entity;
  - ii) Require Purchasing Entity to immediately pay to Contractor, as compensation for loss of Contractor's bargain and not as a penalty, a sum equal to:
    - 1) All past due payments and all other amounts payable under the lease agreement;
    - 2) All unpaid payments for the remainder of the lease term, discounted at a rate equal to three percent (3%) per year to the date of default; and
    - 3) Require Purchasing Entity to deliver the Product to Contractor per mutual arrangements.

## 4.6. Security Requirements

### 4.6.1. Network and Data Security

- a) Devices may be configured to include a variety of data security features. The set-up of such features shall be at the discretion of the Purchasing Entity, and all costs associated with their implementation must be conveyed by Contractor prior to Order placement.
- b) Contractor will not be permitted to download, transfer, or access print data stored on the Device in either hard drive or chip memory. Only system management accessibility will be allowed.
- c) Contractor shall ensure that delivery and performance of all Services shall adhere to the requirements and standards as outlined in each Participating State or Entity's Participating Addendum.

**4.6.2. Sensitive Information.** Sensitive information that is contained in any Legacy Equipment or applications shall be encrypted if practical. In addition, sensitive data will be encrypted in all newly developed applications. Since sensitive information is subjective, it shall be defined by each Participating State or Entity in their Participating Addendum.

**4.6.3. Data Breach.** Contractor shall have an incident response process that follows National Institute of Standards and Technology (NIST) standards as referenced in Special Publication 800-61, Revision 2 (available at <http://dx.doi.org/10.6028/NIST.SP.800-61r2>) and includes, at a minimum, breach detection, breach notification, and breach response.

#### **4.6.4. Authentication and Access**

- a) Any network connected Device must offer authentication for all features via LDAP and/or Windows AD, as well as the ability to disable authentication for any or all features.
- b) Any network connected Device must have the ability to connect via Dynamic Host Configuration Protocol (DHCP) or Static IP address.
- c) The credential information for any remote authentication method may not be maintained within the Device's memory.
- d) Access to the Device's administrative functions must be password protected per the Participating State or Entity requirements, and the default settings must be changed at the time of Equipment installation.

#### **4.6.5. Hard Drive Removal and Surrender**

- a) Contractor shall ensure that all hard drive data is cleansed and purged (if capable) from the Device at the end of its Useful Life, or when any hard drive leaves the Purchasing Entity's possession; or
- b) At the Participating State or Entity's discretion, Contractor shall remove the hard drive from the applicable Device and provide the Purchasing Entity with custody of the hard drive before the Device is removed from the Purchasing Entity's location, moved to another location, or any other disposition of the Device. The Purchasing Entity shall then be responsible for securely erasing or destroying the hard drive.
- c) If Contractor takes possession of any Device at the Purchasing Entity's location, then they shall also remove any ink, toner, and associated Supplies (drum, fuser, etc.) and dispose of them in accordance with applicable law, as well as environmental, and health considerations, or as otherwise specified in a Participating Addendum.
- d) Hard drive sanitation shall be at no expense to the Purchasing Entity; however, Contractor may charge the Purchasing Entity a fee if the Purchasing Entity elects to keep the hard drive in their possession. Contractor must disclose the price for removal and surrender of the hard drive, prior to Order placement.
- e) If the hard drive is not removable, or the Device does not contain a hard drive, then Contractor must convey this to the Purchasing Entity at the time of Order placement. In the case of a non-removable hard drive, §4.6.5(a) shall apply.
- f) If a Contractor is removing another Manufacturer's Equipment, they are not permitted to remove the hard drive. Only the Manufacturer or their Authorized Dealer shall remove hard drives in their own Devices. Contractor shall work with the Manufacturer to ensure the requirements pursuant to this Subsection are met.

#### **4.7. Equipment Demonstration Requirements**

- 4.7.1. Contractor must offer trial or demonstration Equipment for Group A, Group B, and if requested by the Purchasing Entity, Group C, Group D, Group E, and Group F.
- 4.7.2. Trial or demonstration Equipment may be new or used; however, no used, Remanufactured, or Refurbished Devices shall be converted to a purchase or lease.
- 4.7.3. At the discretion of the Participating State or Entity, and upon request by a Purchasing Entity, showroom Equipment for Groups A, B, and C may be converted to a purchase or lease, providing the following conditions are met:

- a) The meter count on Group A and Group B Devices does not exceed 10,000 copies total (i.e. b&w and color combined);
- b) The meter count on Group C Devices not exceed 50,000 copies total (i.e. b&w and color combined);
- c) The Device must be discounted by at least 5% off of this Master Agreement pricing for that same Device; and
- d) The Purchasing Entity and the Contractor indicate on the Order that the Device is a showroom model.

**4.7.4.** Any trial or demonstration period shall not exceed thirty (30) calendar days.

#### **4.8. Shipping and Delivery Requirements**

- 4.8.1.** All Orders, regardless of quantity, shall be delivered to the Purchasing Entity within thirty (30) calendar days after Contractor receipt of Order, unless otherwise specified by a Purchasing Entity.
- 4.8.2.** Software related to the Device must be installed within five (5) Business Days of the Device installation, or as otherwise stated in an Order.
- 4.8.3.** All deliveries shall be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. The minimum shipment amount, if any, will be found in the special terms and conditions. Any Order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered shall be shipped without charge.
- 4.8.4.** Responsibility and liability for loss or damage shall transfer to the Purchasing Entity upon delivery of the Product, except as to material defects, fraud and Contractor's warranty obligations, which shall remain with the Contractor.
- 4.8.5.** All deliveries shall be made during Normal Business Hours, which may vary for each Purchasing Entity of each Participating State.
- 4.8.6.** It shall be the responsibility of the Contractor to be aware of the delivery days and receiving hours for each Purchasing Entity.
- 4.8.7.** The Purchasing Entity shall not be responsible for any additional charges, should the Contractor fail to observe specific delivery days and receiving hours.
- 4.8.8.** The Purchasing Entity shall establish the delivery days and delivery hours at the time of Order placement.
- 4.8.9.** All deliveries, with the exception of drop-shipped or desktop Products, shall be made to the interior location specified by the Purchasing Entity. Specific delivery instructions will be noted on the Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to immediately notify the Purchasing Entity placing the Order.
- 4.8.10.** Products shall be packaged and labeled so as to satisfy all legal and commercial requirements applicable for use by any Purchasing Entity, and shall include, without limitation and if applicable, OSHA material safety data sheets, and shall conform to all statements made on the label.

4.8.11. Packages that cannot be clearly identified may be refused and/or returned at no cost to the Purchasing Entity.

4.8.12. **Laws and Regulations.** Any Products and Services offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

#### 4.9. **Equipment Installation Requirements**

4.9.1. Prior to Order acceptance, Contractor must advise Purchasing Entity of any specialized installation and site requirements for the delivery and installation of Device. This information should include, but is not limited to, the following:

- a) Air conditioning;
- b) Electrical;
- c) Special grounding;
- d) Cabling;
- e) Space;
- f) Humidity and temperature limits; and
- g) Other considerations critical to the installation.

4.9.2. The Purchasing Entity shall be responsible for furnishing and installing any special wiring or dedicated lines.

4.9.3. Network installation shall include configuration of the Device for the proper network protocols, and installation of the appropriate print drivers on up to five (5) computers per Device, or as otherwise specified in a Participating Addendum.

4.9.4. If applicable, all Devices must be set-up with Preventative Maintenance notifications turned on, and with the most environmentally responsible defaults enabled, including Energy Star saving settings.

4.9.5. Contractor may charge for excessive installation requirements, including rigging, access alterations, and access to non-ground floors via stairs. Any such excessive installation charges must be quoted to the Purchasing Entity prior to the signature of any Order, and shall be based on the actual expenditures of Contractor or Authorized Dealer.

4.9.6. Contractor or Authorized Dealers shall affix a label or a decal to the Device at the time of installation that shows the name, address, and telephone number of Contractor or Authorized Dealer responsible for warranty Service of the Equipment.

4.9.7. Contractor shall clean-up and remove all debris and rubbish resulting from their work as required by the Purchasing Entity. Upon completion of the work, the premises shall be left in good repair and in an orderly, neat, clean, and unobstructed condition.

#### 4.10. **Inspection and Acceptance**

4.10.1. All Products are subject to inspection at reasonable times and places before Acceptance.

4.10.2. If the Product does not meet the standard of performance during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met. Upon rejection, the Contractor will have fifteen (15) calendar days to cure the standard of performance issue(s). If after the cure period, the Product still has not met the standard of performance, the Purchasing Entity may, at its option:

- a) Declare Contractor to be in breach and terminate the Order;
- b) Demand replacement Product from Contractor at no additional cost to Purchasing Entity; or,
- c) Continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor. Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section. No Product shall be deemed Accepted and no charges shall be paid until the standard of performance is met.

**4.10.3.** Purchasing Entity shall confirm delivery, installation and Acceptance of all Products covered by each purchase or lease Order, by signing a Delivery and Acceptance Certificate (D&A), as referenced in Exhibit B (Sample D&A Certificate), which shows Acceptance of the Product(s) and allows Contractor to invoice for the Product(s).

**4.10.4.** Purchasing Entity agrees to sign and return the D&A to Contractor (which, at mutual agreement, may be done electronically) within five (5) Business Days after any Product is installed, or as otherwise stated in a Participating Addendum.

**4.10.5.** Failure to sign the D&A or reject the Product(s) within the foregoing five (5) day period shall be deemed as Acceptance by the Purchasing Entity; however, it does not relieve the Contractor of liability for material (nonconformity that substantially impairs value) defects subsequently revealed when Products are put to use. Acceptance of such Products may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor shall be liable for any resulting expense incurred by the Purchasing Entity in relation to the preparation and shipping of Product(s) rejected and returned, or for which Acceptance is revoked.

**4.10.6. Transfer of Title**

- a) Contractor shall have exclusive title to the Products being delivered and the Products shall be free and clear of all liens, encumbrances, and security interests. Title to the Device shall only pass to the Purchasing Entity upon:
  - i) Purchasing Entity up-front purchase of the Device;
  - ii) Purchasing Entity exercising the purchase option at the end of a Fair Market Value Lease;
  - iii) Upon expiration of a Purchasing Entity's \$1 Buyout Lease; or
  - iv) Purchasing Entity has secured Third Party financing and the Purchasing Entity is making payment directly to the Contractor.
- b) Transfer of title to the Product shall include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license shall be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

**4.10.7.** If any Services do not conform to Contract requirements, the Purchasing Entity may require the Contractor to perform the Services again in conformity with Contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements; and reduce the Contract price to reflect the reduced value of Services performed.

**4.11. Warranty Requirements**

**4.11.1.** The Warranty period shall begin upon Acceptance of the Products, and shall be for a minimum of ninety (90) days for purchase or leased Equipment.

- 4.11.2.** Contractor shall also offer a 1-year warranty, and in some cases, a 3-year warranty, for select imagePROGRAF, imageCLASS, and imageFORMULA Devices.
- 4.11.3.** Contractor shall also offer an eCarePAK program for the Devices listed in §4.11.2. The additional service coverage that this program offers includes covered parts and labor, as well as helpdesk support for triaging issues. For desktop Devices covered under the eCarePAK program, Contractor shall also offer Advanced Exchange Replacement services, which allows for quick and easy Device replacement by mail should any covered Device become inoperable.
- 4.11.4.** Devices that are sold under this Master Agreement will come with the standard features as published on the Manufacturers website, and will not deviate from the stated specifications.
- 4.11.5.** Products shall be in good working order, free from any defects in material and workmanship, and fit for the ordinary purposes they are intended to serve.
- 4.11.6.** If defects are identified, per mutual agreement of Contractor and the Purchasing Entity, Contractors obligations shall be limited solely to the repair or replacement of Products proven to be defective upon inspection.
- 4.11.7.** Replacement of Products shall be on a like-for-like basis and shall be at no cost to the Purchasing Entity.
- 4.11.8.** Repair of defective parts and/or Devices shall be at no cost to the Purchasing Entity.
- 4.11.9.** Upon significant failure of a Product, the warranty period shall commence again for the same amount of time as specified in §4.11.1. Significant failure shall be determined by the Participating State.
- 4.11.10.** Contractor warranty obligations shall not apply if:
- a) Product is installed, wired, modified, altered, or serviced by anyone other than Contractor and/or their Authorized Dealer;
  - b) If a defective or non-Contractor authorized Accessory, Supply, software, or part is attached to, or used in the Device; and
  - c) The Device is relocated to any place where Contractor Services are not available.
- 4.11.11.** Contractor agrees to perform its Services in a professional manner, consistent with applicable industry standards.
- 4.11.12.** It will be at the discretion of each Participating State or Entity to negotiate additional warranty requirements with the Contractor.
- 4.11.13. Lemon Clause**
- a) This clause shall apply to all Devices that are purchased or leased under this Master Agreement.
  - b) This clause shall not apply if Supplies are used in the Devices that were not manufactured, provided, or authorized by the Contractor.
  - c) The application period is thirty-six (36) months from the date of Acceptance.

- d) This clause shall take precedence over any other warranty or Services clauses associated with this Master Agreement, or as specified by a Participating State or Entity in their Participating Addendum.
- e) A Purchasing Entity must maintain an uninterrupted Maintenance Agreement on all purchased Devices in order for this clause to apply past the initial ninety (90) day warranty.
- f) Any Device that fails (except due to operator error) to function in accordance with the Manufacturer's published performance specifications, four (4) times in any four (4) week period and/or is subject to recurring related problems, shall be replaced with a like-for-like (i.e. similar usage, remaining useful life etc.) Device that meets or exceeds the requirements of the original Device, at no cost to the Purchasing Entity.

#### **4.12. Customer Service**

- 4.12.1. Key Personnel.** Contractor shall ensure that staff has been allocated appropriately to ensure compliance with this Master Agreement and subsequent Participating State or Entity requirements and that the individuals occupying the Key Personnel positions have adequate experience and knowledge with successful implementation and management of a national cooperative contract. Contractor shall ensure that there is always a single point of contact for the following positions:
- a) **Master Agreement Contract Administrator** - the Lead State's primary contact in regards to Contract negotiations, amendments, Product and Price List updates, and any other information or documentation relating to this Master Agreement;
  - b) **NASPO ValuePoint Reporting Contact** - Responsible for submitting quarterly reports and the quarterly Administrative Fee to the appropriate personnel;
  - c) **Master Agreement Marketing Manager** - Responsible for marketing this Master Agreement, as well as creating Participating State websites, and ensuring that all uploaded data and content is current; and
  - d) **National Service Manager** - Responsible for overseeing the Regional Service Managers, Field Service Technicians, training, and inside Service operations. This position works with the Lead State Contract Administrator to ensure contractual obligations are met, while providing leadership for the Contractor's operations, as well as strategic planning of the Service department.
- 4.12.2.** Contractor shall provide a single point of contact for each Participating State, who will handle any questions regarding the Products provided, as well as pricing, delivery, billing, status of Orders, customer complaints and escalated issues.
- 4.12.3.** Contractor shall provide full Service and support for Products during Normal Business Hours.
- 4.12.4.** Contractor shall have a designated customer service team who will be available by phone (via local or toll free number), fax, or email during Normal Business Hours.
- 4.12.5.** Customer service representatives shall have online access to account information and will respond to inquiries concerning the status of Orders (shipped or pending), delivery, back-orders, pricing, Product availability, Product information, and account and billing questions.

### **5. ADMINISTRATION OF ORDERS**

#### **5.1. Ordering and Invoicing Specifications**

- 5.1.1.** Master Agreement Order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

- 5.1.2. Contractor shall accept procurement credit cards as a form of payment from Purchasing Entity, with no additional charge or fee assessed.
- 5.1.3. Contractor shall provide a centralized billing option, upon request, and at the discretion of a Participating State or Entity.
- 5.1.4. Authorized Dealers may invoice the Purchasing Entity directly, unless otherwise specified in a Participating Addendum.
- 5.1.5. Contractor and/or Authorized Dealers may charge the Purchasing Entity a re-stocking fee for any Products that are not accepted. The amount of the fee shall be the lesser of 10% of the purchase price, or \$200.00, unless otherwise specified in a Participating Addendum.
- 5.1.6. Contractor may bill property tax separately or as otherwise indicated in a Participating Addendum or an Order.
- 5.1.7. Contractor and/or Authorized Dealers may estimate meter reads if a Purchasing Entity fails to submit the required information within the specified time-frame.
- 5.1.8. This Master Agreement permits Purchasing Entities to define project-specific requirements and informally compete the requirement among other contractors having a NASPO ValuePoint Master Agreement, on an "as needed" basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to Purchasing Entity rules and policies. The Purchasing Entity may, in its sole discretion, determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost and other factors considered.
- 5.1.9. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of Products, and/or Services contemplated by this Master Agreement.
- 5.1.10. Contractor shall not begin work without a valid purchase order or other appropriate commitment document compliant with the law of the Purchasing Entity.
- 5.1.11. Orders must be placed consistent with the terms of this Master Agreement, and only during the term of this Master Agreement.
- 5.1.12. All Orders pursuant to this Master Agreement, at a minimum, shall include:
  - a) Name of Purchasing Entity;
  - b) The name, phone number, and address of the Purchasing Entity representative;
  - c) Order date;
  - d) Description of the Product and/or Service ordered;
  - e) Model number;
  - f) Serial number;
  - g) Price;
  - h) This Master Agreement number; and
  - i) Any additional information required by the Participating Entity.



- 5.1.13.** All software Orders must reference the Manufacturer's most recent release or version of the Product, unless the Purchasing Entity specifically requests a different version.
- 5.1.14.** All communications concerning administration of Orders placed shall be furnished solely to the authorized individual within the Purchasing Entity's location, or to such other individual identified in writing in the Order.
- 5.1.15.** Contractor shall not issue an invoice until the Purchasing Entity has confirmed Acceptance, per §4.10.3.
- 5.1.16.** Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement. Contractor is reminded that financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.
- 5.1.17. Internet-based Portal and Electronic Catalogs.** If Contractor provides the ability to place an Order through an internet-based portal or electronic catalog, then Contractor shall maintain all necessary hardware, software, backup-capacity and network connections required to operate that internet-based portal or electronic catalog. In addition, Contractor shall adhere to the following requirements:
- a) The internet-based portal or electronic catalog shall clearly designate that the Products are part of this NASPO ValuePoint Master Agreement, and shall link to the Participating State or Entity's designated web location;
  - b) All Environmentally Preferable Products (EPP) shall be clearly listed;
  - c) If the Contractor's electronic catalog will either be hosted on or accessed through the Participating State's eCommerce system, then Contractor shall comply with all policies, procedures and directions from the Participating State or Entity in relation to hosting its catalog on or making its catalog accessible through that system;
  - d) All information made available through the Participating State or Entity's eCommerce system is accurate and complies with this Master Agreement and the Participating Addendum; and
  - e) Paper catalogs or catalogs on other digital media must be supplied to the Participating State or Entity upon request.
- 5.1.18.** Substitutions are not allowed. If an ordered Product is out-of-stock, Contractor shall notify the Purchasing Entity and request approval before substituting for the out-of-stock item. Contractor's request to substitute shall explain how the substituted Product compares with the out-of-stock item. Any substitute Product offered must be on this Master Agreement Price List.
- 5.1.19.** Notwithstanding the expiration or termination of this Master Agreement, Contractor agrees to perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration or termination of this Master Agreement, or otherwise inconsistent with its terms. Orders from any separate indefinite quantity, task orders, or other form of indefinite delivery Order arrangement priced against this Master Agreement, may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery Order agreement.
- 5.1.20.** Contractor's process for resolving disputed invoices, issuing refunds and/or credit, and addressing over-payments as well as Product returns is as follows:
- a) Purchasing Entity shall contact the Contractor via email or the 800 customer service number provided on the invoice;

- b) If the Customer Service team is not able to resolve the issue, then the call will be escalated to the Master Agreement Contract Administrator;
- c) If Contractor agrees to Purchasing Entity's dispute, the Purchasing Entity's account shall be credited. If the Master Agreement Contract Administrator does not agree with the Purchasing Entity's dispute, then the Purchasing Entity can request further review by the Director of Bids and Administration.

In all instances of dispute resolution, the Purchasing Entity may contact the Participating State Contract Administrator, or the Lead State for assistance in resolving the dispute.

## **5.2. Payment**

Payment for completion of a Contract Order is normally made within thirty (30) days following the date the entire Order is delivered or the date a correct invoice is received, whichever is later. After forty-five (45) days, the Contractor may assess overdue account charges up to a maximum rate of one (1) percent per month on the outstanding balance.

## **6. GENERAL PROVISIONS**

### **6.1. Insurance**

- 6.1.1.** Unless otherwise agreed in a Participating Addendum, Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of Best's Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option; result in termination of its Participating Addendum.
- 6.1.2.** Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below, with no deductible for each of the following categories:
  - a) Commercial General Liability covering premises operations, Independent Contractors, Products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence, \$2 million general aggregate, \$2 million Products and completed operations aggregate and \$50,000 and any one fire. If any aggregate limit is reduced below \$2,000,000 because of claims made or paid, the Contractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish to the Participating Entity, a certificate or other document satisfactory to the Participating Entity, showing compliance with this provision.
  - b) Cyber Liability covering claims and losses with respect to network, internet (Cloud) or other data disclosure risks (such as data breaches, releases of Confidential Information, unauthorized access/use of information, and identity theft) with minimum limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.
  - c) Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.
  - d) Automobile Liability covering any auto (including owned, hired and non-owned), with a minimum limit of \$1,000,000 each accident combined single limit.
- 6.1.3.** Contractor shall pay premiums on all insurance policies. Such policies shall also reference this Master Agreement and shall have a condition that the insurer not revoke them until thirty (30) calendar days after notice of intended revocation thereof shall have been given to Purchasing Entity and Participating Entity by the Contractor.

- 6.1.4.** Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that:
- a) Names the Participating States identified in the Request for Proposal as additional insured's, and;
  - b) Provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating State as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, the Participating Entity's rights and Contractor's obligations are the same as those specified in the first sentence of this subsection. Before performance of any Purchase Order issued after execution of a Participating Addendum authorizing it, the Contractor shall provide to a Purchasing Entity or Participating Entity who requests it the same information described in this subsection.
- 6.1.5.** Contractor shall furnish to the Lead State, Participating Entity, and, on request, the Purchasing Entity copies of certificates of all required insurance within seven (7) calendar days of the execution of this Master Agreement, the execution of a Participating Addendum, or the Purchase Order's effective date and prior to performing any work. The insurance certificate shall provide the following information: the name and address of the insured; name, address, telephone number and signature of the authorized agent; name of the insurance company (authorized to operate in all states); a description of coverage in detailed standard terminology (including policy period, policy number, limits of liability, exclusions and endorsements); and an acknowledgment of the requirement for notice of cancellation. Copies of renewal certificates of all required insurance shall be furnished within fifteen (15) days after any renewal date. These certificates of insurance must expressly indicate compliance with each insurance requirement specified in this section. Failure to provide evidence of coverage may, at sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.
- 6.1.6.** Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Order.

**6.2. Records Administration and Audit**

- 6.2.1.** The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or Orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of five (5) years following termination of this Agreement or final payment for any Order placed by a Purchasing Entity against this Agreement, whichever is later, to assure compliance with the terms hereof or to evaluate performance hereunder.
- 6.2.2.** Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of this Master Agreement or Orders, or underpayment of fees found as a result of the examination of the Contractor's records.
- 6.2.3.** The rights and obligations herein right exist in addition to any quality assurance obligation in this Master Agreement requiring the Contractor to self-audit Contract obligations and that permits the Lead State to review compliance with those obligations.

### **6.3. Confidentiality, Non-Disclosure, and Injunctive Relief**

**6.3.1. Confidentiality.** Contractor acknowledges that it and its employees or Authorized Dealers may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity's or Purchasing Entity's clients. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or Authorized Dealers in the performance of this Master Agreement, including, but not necessarily limited to:

- a) Any Purchasing Entity's records;
- b) Personnel records;
- c) Information concerning individuals is Confidential Information of Purchasing Entity. Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that:
  - i) Is or becomes (other than by disclosure by Contractor) publicly known;
  - ii) Is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement;
  - iii) Is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement;
  - iv) Is obtained from a source other than Purchasing Entity without the obligation of confidentiality;
  - v) Is disclosed with the written consent of Purchasing Entity; or
  - vi) Is independently developed by employees, Dealers or Subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

**6.3.2. Non-Disclosure.** Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement. Contractor shall advise each of its employees and Distributors of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person. Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement.

**6.3.3. Injunctive Relief.** Contractor acknowledges that breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to Purchasing Entity that is inadequately compensable in damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal

remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

**6.3.4. Purchasing Entity Law.** These provisions shall be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

**6.3.5.** The rights granted to Purchasing Entities, and the Contractor obligations under this section shall also extend to the cooperative's Confidential Information, defined to include Participating Addenda, as well as Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to §6.2, **Records Administration and Audit**. To the extent permitted by law, Contractor shall notify the Lead State of any entity seeking access to the Confidential Information described in this subsection.

#### **6.4. License of Pre-Existing Intellectual Property**

Contractor grants to the Purchasing Entity a non-exclusive, perpetual, irrevocable, unlimited license to use the Intellectual Property and its derivatives, embodied in any Products delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property") solely to the extent as necessary for the Purchasing Entity to use the Products as contemplated by this Master Agreement. The license shall be subject to any third party rights in the Pre-existing Intellectual Property. Contractor shall obtain, at its own expense, on behalf of the Purchasing Entity, written consent of the owner for the licensed Pre-existing Intellectual Property. Notwithstanding the foregoing, no license to use any software Products is granted other than as provided in the developer's end-user license agreement therefor.

#### **6.5. Public Information**

This Master Agreement and all related documents are subject to disclosure pursuant to the Purchasing Entity's public information laws.

#### **6.6. Assignment/Subcontracts**

**6.6.1.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.

**6.6.2.** The Lead State reserves the right to assign any rights or duties, including written assignment of Contract administration duties to NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint.

#### **6.7. Changes in Contractor Representation**

The Contractor must notify the Lead State of changes in the Contractor's Key Personnel, in writing within ten (10) calendar days of the change. The Lead State reserves the right to approve changes in key personnel, as identified in the Contractor's proposal. The Contractor agrees to propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed in the Contractor's proposal.

#### **6.8. Independent Contractor**

**6.8.1.** Contractor shall perform duties as an Independent Contractor, and not as an employee. Neither the Contractor nor any employee or Authorized Dealer of the Contractor, shall be or deemed to be an employee of the Lead State, NASPO ValuePoint, and/or any Participating State or Entity.

**6.8.2.** Contractor acknowledges that its employees are not entitled to unemployment insurance benefits unless the Contractor or a Third Party provides such coverage, and that the Lead State, NASPO

ValuePoint and any Participating State or Entity does not pay for or otherwise provide such coverage.

**6.8.3.** Contractor shall have no authority to bind the Lead State, NASPO ValuePoint and any Participating State or Entity to any agreements, liability, or understanding except as may be expressly set forth in this Master Agreement, Participating Addendum or an Order.

**6.9. Force Majeure**

Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war, which is beyond that party's reasonable control. The Lead State may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of this Master Agreement.

**6.10. Defaults and Remedies**

**6.10.1.** The occurrence of any of the following events shall be an event of default under this Master Agreement:

- a) Nonperformance of contractual requirements; or
- b) A material breach of any term or condition of this Master Agreement; or
- c) Any certification, representation or warranty by Contractor in this Master Agreement that proves to be untrue or materially misleading; or
- d) Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
- e) Any default specified in another section of this Master Agreement.

**6.10.2.** Upon the occurrence of an event of default, Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of thirty (30) calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part, if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis.

**6.10.3.** If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and Lead State shall have the right to exercise any or all of the following remedies:

- a) Exercise any remedy provided by law;
- b) Terminate this Master Agreement and any related Contracts or portions thereof;
- c) Impose liquidated damages as provided in this Master Agreement;
- d) Suspend Contractor from being able to respond to future Solicitations;
- e) Suspend Contractor's performance; and
- f) Withhold payment until the default is remedied.

**6.10.4.** Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and have all of the rights and remedies under this paragraph regarding its participation in this Master Agreement, in addition to those set forth in its Participating Addendum.

**6.10.5.** Unless otherwise specified in an Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions shall be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

**6.11. Waiver of Breach**

Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Order shall not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, Participating Addendum, or an Order.

**6.12. Debarment**

The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (Contract) by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

**6.13. Indemnification**

**6.13.1.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as NASPO ValuePoint), the Lead State, Participating Entities, and Purchasing Entities, along with their officers, agents, and employees as well as any person or entity for which they may be liable, from and against claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to property arising from act(s), error(s), or omission(s) of the Contractor, its employees or Subcontractors or volunteers, at any tier, relating to the performance under this Master Agreement.

**6.13.2. Indemnification – Intellectual Property.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as NASPO ValuePoint), the Lead State, Participating Entities, Purchasing Entities, along with their officers, agents, and employees as well as any person or entity for which they may be liable ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use, infringes Intellectual Property rights ("Intellectual Property Claim").

**6.13.3.** The Contractor's obligations under this section shall not extend to any combination of the Product with any other Product, system or method, unless the Product, system or method is:

- a) Provided by the Contractor or the Contractor's subsidiaries or affiliates;
- b) Specified by the Contractor to work with the Product;
- c) Reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available Product, system or method capable of performing the same function; or
- d) It would be reasonably expected to use the Product in combination with such Product, system or method.

**6.13.4.** The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the

Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of it. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible. The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of it and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim. Unless otherwise agreed in writing, this section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

#### **6.14. No Waiver of Sovereign Immunity**

**6.14.1.** In no event shall this Master Agreement, any Participating Addendum or any Contract or any Purchase Order issued thereunder, or any act of a Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

**6.14.2.** This section applies to a claim brought against the Participating State only to the extent Congress has appropriately abrogated the Participating State's sovereign immunity and is not consent by the Participating State to be sued in federal court. This section is also not a waiver by the Participating State of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

#### **6.15. Governing Law and Venue**

**6.15.1.** The laws of the Lead State shall govern the construction and effect of this Master Agreement. Venue for any administrative or judicial action relating to this Master Agreement shall be in the City and County of Denver, Colorado.

**6.15.2.** The construction and effect of any Participating Addendum or Order against this Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.

**6.15.3.** If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): The Lead State for claims relating to the procurement, evaluation, award, or Contract performance or administration if the Lead State is a party; the Participating State if a named party; the Participating Entity state if a named party; or the Purchasing Entity state if a named party.

#### **6.16. Assignment of Antitrust Rights**

Contractor irrevocably assigns to a Participating Entity any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any Goods or Services provided to the Contractor for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at a Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

#### **6.17. Contract Provisions for Orders Utilizing Federal Funds**



Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-



**Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.**

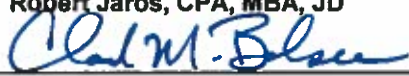
**THE PARTIES HERETO HAVE EXECUTED THIS MASTER AGREEMENT**

**\* Individual signing for Contractor hereby swears and affirms that they are authorized to act on Contractor's behalf and acknowledge that the Lead State is relying on their representations to that effect.**

<p><b>CONTRACTOR</b> Canon U.S.A., Inc.</p> <p>By: Shinichi Yoshida Title: Executive Vice President and General Manager</p> <p>By: <u></u> *Signature</p> <p>Date: <u>7/29/19</u></p>	<p><b>STATE OF COLORADO</b> Jared S. Polis, Governor Department of Personnel &amp; Administration State Purchasing &amp; Contracts Office Kara Veitch, Executive Director</p> <p>By: <u></u> John Chapman, State Purchasing Manager</p> <p>Date: <u>Aug 1, 2019</u></p>
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**ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER**

**CRS §24-30-202 requires the State Controller to approve all State Contracts. This Master Agreement is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any Goods and/or Services provided hereunder.**

<p><b>STATE CONTROLLER</b> Robert Jaros, CPA, MBA, JD</p> <p>By: <u></u></p> <p>Date: <u>8/8/19</u></p>
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## **EXHIBIT A, PRICE LISTS**

**Group A** (posted as separate file)

**Group B** (posted as separate file)

**Group C** (posted as separate file)

**Group D** (posted as separate file)

**Group E** (posted as separate file)

**Group F** (posted as separate file)

**MPS** (posted as separate file)

**Software** (posted as separate file)

**Accessories for Discontinued Base Units** (posted as separate file)

**EXHIBIT B, SAMPLE D&A CERTIFICATE**

**NASPO VALUEPOINT MASTER AGREEMENT NO. 140595  
AND THE STATE OF Insert Name of Participating State PARTICIPATING  
ADDENDUM NO.  
WITH Canon U.S.A., Inc.**

**To:** Insert Name of Contractor or Authorized Dealer

Pursuant to the provisions of the Master Agreement and Participating Addendum, Purchasing Entity hereby certifies and warrants that (a) all Equipment described in the Order has been delivered and installed; (b) Purchasing Entity has inspected the Equipment, and all such testing as it deems necessary has been performed by Purchasing Entity and/or Contractor to the Satisfaction of Purchasing Entity; and (c) Purchasing Entity accepts the Equipment for all purposes of the Order.

**Insert name of Purchasing Entity**

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**EXHIBIT C, SAMPLE MPS STATEMENT OF WORK**

<b>Agency/Customer:</b>		<b>Contractor:</b>	
<b>Contact Name:</b>		<b>Contact Name:</b>	
<b>Address:</b>		<b>Address:</b>	
<b>Email:</b>		<b>Email:</b>	
<b>Phone:</b>		<b>Phone:</b>	
<b>Fax:</b>		<b>Fax:</b>	
		<b>Contractor website:</b>	
<b>Print Assessment Date:</b>		<b>Period of Performance:</b>	
<b>Statement of Work must incorporate the following documents:</b>			
NASPO ValuePoint Master Agreement # 140595		[Imbed document here]	
Participating Addendum # _____		[Imbed document here]	
Contractor's Print Assessment		[Imbed document here]	

**Statement of Work, at a minimum, must include the following elements:**

- 1. Introduction:**  
*Describe your current environment. What is your inventory, including owned, rented, or leased Devices?*
- 2. Scope:**  
*Include Project scope (i.e. single-function, multi-function printers etc.) and software*
- 3. Out of Scope:**  
*This Project does not cover the following functions or deliverables:*
- 4. Objective:**  
*The main objective of this project is:*  
*System and procedures will be set up to allow:*
- 5. Location:**  
*Enter all physical locations of where work will be performed*

**6. Discovery/Assessment:**

*Contractor will be required to discover/assess Purchasing Entity print environment as described below:*

***Deliverables:***

*Describe the deliverables for Discovery/Assessment*

***Checkpoints:***

*Describe the checkpoints for Discovery/Assessment*

**7. Data Security**

*Include description of data security requirements*

**8. Data Breach**

*Describe any data breach requirements*

**9. Equipment Guarantees**

*Describe downtime, on-site service, response time etc. (Note: this section must, at a minimum, adhere to the same requirements as outlined in the Master Agreement and/or Participating Addendum)*

**10. End of Life/Equipment replacement**

*Insert description of end of life/equipment replacement process*

**11. Implementation:**

***Deliverables:***

*Describe the deliverables for Implementation*

***Checkpoints:***

*Describe the checkpoints for Implementation*

***User Acceptance Testing:***

*Describe User Acceptance Testing for Implementation*

***Production Rollout:***

*Describe the Production Rollout for Implementation*

**12. Contractor Staff and Support**

*Describe Contractor staff roles and their availability*

**13. Purchasing Entity Roles and Responsibilities**

*Insert description of Purchasing Entity Roles and Responsibilities including:*

***Contacts:***

Project Manager

End-User Representative

System Administrator

Technical Support

***General and Technical Responsibilities:***

*Insert description of Purchasing Entity Roles and Responsibilities*

**14. Performance Penalties**

*Insert description of Contractor Performance Penalties*

**15. Payment**

*Describe billing cycles and invoice information*

This Agreement is entered into by and between the *[Purchasing Entity]*, located at *[Agency address]* and *[Contractor]* licensed to conduct business in the State of \_\_\_\_\_ ("*Contractor*"), located at *[Contractor address]* for the purpose of providing *Managed Print Services*.

The signatories to this Managed Print Services Agreement represent that they have the authority to bind their respective organizations to this Agreement.

*In Witness Whereof*, the parties hereto, having read this Managed Print Services Agreement in its entirety, including all attachments, have executed this Agreement.

This Agreement is effective this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.  
Initial term of this Agreement is \_\_\_\_\_ year(s) or until \_\_\_\_\_.  
Maximum term of this Agreement is five (5) years, or until \_\_\_\_\_.

Contractor Signature	Date	Purchasing Entity Signature	Date
Contractor or Authorized Dealer Printed Name, Title		Purchasing Entity Printed Name, Title	

**EXHIBIT D, AUTHORIZED DEALERS BY STATE**

**Canon Dealer List (posted as separate file)**



## EXHIBIT E, AUTHORIZED DEALER FORM

**Manufacturer Name:** \_\_\_\_\_

(Check one)

- The Dealer listed below is authorized to provide Products and Services in accordance with the NASPO ValuePoint Copiers and Managed Print Services Master Agreement.
  
- The Dealer listed below will no longer provide Products and Services under the NASPO ValuePoint Copiers and Managed Print Services Master Agreement for the following reason:

State(s) Serviced by Dealer:	
Dealer Name:	
Address:	
Phone (include Toll-Free, if available):	
Contact Person(s):	
Email Address:	
FEIN:	

Signed: \_\_\_\_\_  
(Contractor Representative)

Date: \_\_\_\_\_

Signed: \_\_\_\_\_  
(Authorized Dealer Representative)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Print First and Last Name of Authorized Dealer Representative)

# EXHIBIT F, NASPO VALUEPOINT DETAILED SALES REPORTING TEMPLATE



NASPO ValuePoint  
Detailed Sales Repo

## ATTACHMENT A, CANON LEASE AGREEMENT TERMS AND CONDITIONS

**CFS:** Canon Financial Services, Inc., a New Jersey Corporation, with its place of business at 158 Gaither Drive, Suite 200, Mount Laurel, New Jersey 08054

**CUSTOMER:** political subdivision or agency or other Purchasing Entity under the applicable Participating Addendum

**PRODUCTS:** The Devices, Accessories, parts, software, and/or Supplies being leased by Customer under a Fair Market Value Lease, a \$1 Buyout Lease, a Straight Lease, or a Short-Term Lease, as specified in the applicable Order.

1. **TERM OF LEASE:** Each lease of Products under an Order shall be effective on and commence from the date the Products are delivered to Customer ("Commencement Date"), provided Customer executes CFS' form of acceptance ("Acceptance Certificate") or otherwise accepts the Products as specified herein. The term of each lease shall consist of the initial term specified in the applicable Order and any renewal term(s) if and as applicable. After acceptance of the Products, Customer shall have no right to revoke such acceptance or cancel the lease during the term thereof, except as set forth herein.

2. **RENEWAL OF LEASE; RETURNS OR PURCHASES OF PRODUCTS; BUYOUT TO KEEP/RETURN:** Leases shall not be subject to automatic renewals, except as hereafter provided. With the exception of a \$1 Buyout Lease arrangement, or unless exercising the purchase option on an FMV Lease, Customer shall return the Products at the end of the initial lease term, or at the end of the Renewal Lease Term, or CFS may pick the Products up, without any further financial obligations to Customer.

**FMV Leases:** Upon expiration of the initial lease term, Customer may do one of the following:

- 1) Exercise its purchase option;
- 2) Renew the lease on a month to month basis, or a 12-month basis, at the discretion of Customer, Short-Term Leases excepted; or
- 3) Return the Products to CFS, or have CFS pick the Products up.

**\$1 Buyout Leases:** Upon the expiration of the initial lease term, CFS shall provide title to the Products to the Customer, or as otherwise determined in a Participating Addendum, and Customer shall not be subject to any additional expense in order to assume possession of the Products.

**Straight Leases:** Upon the expiration of the initial lease term, Customer may do one of the following:

- 1) Renew the lease on a month to month basis, or a 12-month basis, at the discretion of Customer; or
- 2) Return the Products to CFS, or have CFS pick the Products up.

**Short-Term Lease:** Upon the expiration of the initial lease term, Customer may do one of the following:

- 1) Renew the rental on a month to month basis, up to a total maximum term of 12 months, including the initial lease term; or
- 2) Return the Products to CFS, or have CFS pick the Products up.

If Customer desires to exercise a purchase, renewal, or return of the Products, it shall give CFS at least thirty (30) days written notice prior to the expiration of such lease term. Notwithstanding anything to the

contrary, if Customer fails to notify CFS of its intent with respect to the exercise of a purchase, renewal, or return of the Products, the initial lease term shall be terminated on the date as stated in the Order and removal of the Product will be mutually arranged, unless otherwise specified in a Participating State or Entity's Participating Addendum.

Notwithstanding the foregoing, if Customer fails to notify CFS at least thirty (30) days prior to lease termination of a digital press Production Device and/or large format printer, then the lease will automatically renew on a month-to-month basis until Customer notifies CFS of its intent. In such a case, the automatic renewal term shall not exceed a maximum of 12 monthly payments. At which point in time, CFS will make arrangements to pick up the Equipment from Customer.

If Customer does not exercise the purchase or renewal option, it will immediately make the Product available to Contractor in as good of condition as when Customer received it, except for ordinary wear and tear.

Product Payments for renewal terms shall never exceed Master Agreement pricing. If Customer enters into a renewal term, then the Product Payment will be subject to the lease rates listed in the most recent Price List(s) posted on the NASPO ValuePoint website.

Customers under FMV or \$1 Buyout Leases shall have a Buyout to Keep Option. Customers under FMV, \$1 Buyout or Straight Leases shall have a Buyout to Return Option. The Buyout to Keep Option price shall be the Remaining Lease Balance (as hereinafter defined). The Buyout to Return Option shall be the Remaining Lease Balance, less the Fair Market Value (as hereinafter defined). Customer must notify the CFS, in writing, at least thirty (30) days in advance, if it wishes to exercise the Buyout to Keep option on an FMV or \$1 Buyout Lease. Customer must notify CFS, in writing, at least thirty (30) days in advance, if it wishes to exercise the Buyout to Return option on an FMV, \$1 Buyout or Straight Lease, and return the Products to CFS in good working condition (ordinary wear and tear excepted).

3. **PAYMENTS:** The first scheduled payment (as specified in the applicable Order), will be due following the Acceptance of the Products, or such later date as CFS may designate. The remaining payments (together with the first scheduled payment, the "Payments") will be due on the same day of each subsequent month, unless otherwise specified in the applicable Order. The Payments are comprised of the principal and interest thereon. Customer's obligation to pay all amounts due for the lease of the Products shall be absolute and unconditional and is not subject to any abatements, set-off, defense or counterclaim for any reason whatsoever.

4. **APPLICATION OF PAYMENTS:** All Payments received by CFS from Customer under this Agreement will be applied to amounts due and payable hereunder chronologically, based on the date of the charge as shown on the invoice for each such amount, and among amounts having the same date in such order as CFS, in its discretion, may determine.

5. **NO CFS WARRANTIES: CUSTOMER ACKNOWLEDGES THAT CFS IS NOT A MANUFACTURER, DEALER, OR SUPPLIER OF THE PRODUCTS. CUSTOMER AGREES THAT THE PRODUCTS ARE LEASED "AS IS" AND IS OF A SIZE, DESIGN AND CAPACITY SELECTED BY CUSTOMER. CUSTOMER ACKNOWLEDGES THAT CFS HAS MADE NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE SUITABILITY OR DURABILITY OF THE PRODUCTS, THE ABSENCE OF ANY CLAIM OF INFRINGEMENT OR THE LIKE, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** Any warranty with respect to the Products made by the manufacturer, dealer, or supplier is separate from, and is not a part of, the lease of the Products and shall be for the benefit of CFS, Customer and CFS' successors or assignees, if any. So long as Customer is not in breach or default with respect to its lease, CFS assigns to Customer any warranties (including those agreed to between Customer and the manufacturer, dealer, or supplier) which CFS may have with respect to any

item of the Products; provided that the scope and limitations of any such warranty shall be solely as set out in any agreement between Customer and such manufacturer, dealer, or supplier or as otherwise specified in warranty materials from such manufacturer, dealer, or supplier and shall not include any implied warranties arising solely from CFS' acquisition of the Products. CUSTOMER ACKNOWLEDGES THAT NEITHER THE SUPPLIER NOR ANY DEALER IS AUTHORIZED TO WAIVE OR ALTER ANY TERM OF THIS AGREEMENT OR ANY SCHEDULE, OR TO MAKE ANY REPRESENTATION OR WARRANTY WITH RESPECT TO THIS AGREEMENT OR THE PRODUCTS ON BEHALF OF CFS.

6. **NON-APPROPRIATION OF FUNDS:** The continuation of any lease agreement will be subject to, and contingent upon, sufficient funds being made available by the Participating State Legislature and/or federal sources. Customer may terminate any such lease agreement, and CFS waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Customer's funding sources are not available.

7. **ACCEPTANCE; DELIVERY:** Customer's acceptance of a Product as provided in the Master Agreement shall conclusively establish that the Equipment has been delivered to and accepted by Customer for all purposes of this Agreement and Customer may not for any reason revoke that acceptance.

8. **LOCATION; LIENS; NAMES; OFFICES:** Customer shall not move the Products from the location specified in the applicable Order except with the prior written consent of CFS. Customer shall keep the Products free and clear of all claims and liens other than those in favor of CFS. Customer's legal name (as set forth in its constituent documents filed with the appropriate governmental office or agency) is as set forth in the applicable Order. The chief executive office address of Customer is as set forth herein. Customer shall provide CFS with written notice at least thirty (30) days prior to any change of its legal name or chief executive office address, and shall execute and deliver to CFS such documents as required or appropriate.

9. **WARRANTY OF BUSINESS PURPOSE; USE; PERSONAL PROPERTY; FINANCING STATEMENTS:** Customer represents and warrants that the Products will not be used for personal, family, or household purposes. Customer shall comply with all laws and regulations relating to the use and maintenance of the Products. Customer shall put the Products only to the use contemplated by the manufacturer or developer. The Products shall remain personal property regardless of whether it becomes affixed to real property or permanently rests upon any real property or any improvement to real property. Customer authorizes CFS (and any third party filing service designated by CFS) to execute and file (a) financing statements evidencing the interest of CFS in the Products (including forms containing a broader description of the Equipment than the description set forth herein), (b) continuation statements in respect thereof, and (c) amendments thereto, and Customer irrevocably waives any right to notice thereof.

10. **INDEMNITY:** Customer shall reimburse CFS for and defend CFS against any claim for losses or injury caused by the Products. This Section shall survive termination of the lease.

11. **MAINTENANCE; ALTERATIONS:** Customer shall at all times maintain and keep in effect a service contract, through one of Contractor's Authorized Dealers under the Master Agreement or by other contractual arrangements, to keep and maintain the Equipment in good working order and to supply and install all replacement parts and accessories when required to maintain the Equipment in good working condition. Customer shall not, without the prior written consent of CFS, make any changes or substitutions to the Equipment. Any and all replacement parts, accessories, authorized changes to and/or substitutions for the Equipment shall become part of the Equipment and subject to the terms of this Agreement.

12. **TAXES; OTHER FEES AND CHARGES:** CUSTOMER SHALL PAY AND DISCHARGE WHEN DUE ALL LICENSE AND REGISTRATION FEES, ASSESSMENTS, SALES, USE AND OTHER TAXES,

AND OTHER EXPENSES AND CHARGES, together with any applicable penalties, interest, and administrative fees now or at any time imposed upon any Products, the Payments, or Customer's performance or non-performance of its obligations hereunder, whether payable by or assessed to CFS or Customer. If Customer fails to pay any such fees, assessments, taxes, expenses or charges as required hereunder, CFS shall have the right but not the obligation to pay those fees, assessments, taxes, expenses and charges, and Customer shall promptly reimburse CFS, upon demand, for all such payments made plus administrative fees and costs, if any. Notwithstanding the generality of the foregoing, Customer shall not be liable for property taxes, which shall be the sole responsibility of CFS.

13. **INSURANCE:** Customer, at its sole cost and expense, shall, during the term hereof including all renewals and extensions, obtain, maintain and pay for (a) insurance against the loss, theft, or damage to the Equipment for the full replacement value thereof, and (b) comprehensive public liability and property damage insurance. All such insurance shall provide for a deductible not exceeding \$5,000 and be in form and amount, and with companies satisfactory to CFS. Each insurer providing such insurance shall name CFS as additional insured and loss payee and provide CFS thirty (30) days' written notice before the policy in question shall be materially altered or canceled. Customer shall pay the premiums for such insurance, shall be responsible for all deductible portions thereof, and shall deliver certificates or other evidence of insurance to CFS. The proceeds of such insurance, at the option of CFS, shall be applied to (a) replace or repair the Equipment, or (b) pay CFS the "Remaining Lease Balance," which shall be the sum of: (i) all amounts then owed by Customer to CFS under the lease; plus (ii) the present value of all remaining Payments for the full term of the lease; plus (iii) except in the case of \$1 Buyout Leases, the Fair Market Value of the Products (as defined herein); plus (iv) any applicable taxes, and any expenses, charges or fees which may be payable as otherwise provided herein or in the Master Agreement or the applicable Participating Addendum. For purposes of determining present value, Payments shall be discounted at three percent (3%) per year. Customer hereby appoints CFS as Customer's attorney-in-fact solely to make claim for, receive payment of, and execute and endorse all documents, checks, or drafts for any loss or damage to Equipment under any such insurance policy. If within ten (10) days after CFS' request, Customer fails to deliver satisfactory evidence of such insurance to CFS, then CFS shall have the right, but not the obligation, to obtain insurance covering CFS' interests in the Equipment, and add the costs of acquiring and maintaining such insurance, and an administrative fee, to the amounts due from Customer with respect to the lease. CFS and any of its affiliates may make a profit on the foregoing.

14. **LOSS; DAMAGE:** Customer assumes and shall bear the entire risk of loss, theft of, or damage to the Products from any cause whatsoever, effective upon delivery to the Customer, except that Customer shall be relieved of all risks of loss or damage to the Products during periods of transportation and de-installation. No such loss, theft or damage shall relieve Customer of any obligation with respect to its lease of the Products. If any Equipment is lost or stolen, Customer, at the option of CFS, will (a) replace the same with like equipment in a condition acceptable to CFS and convey clear title to such equipment to CFS (and such equipment will become "Equipment" and be subject to the terms of this Agreement), or (b) pay CFS the Remaining Lease Balance. Upon CFS' receipt of the Remaining Lease Balance, CFS shall transfer the applicable Equipment to Customer "AS-IS, WHERE-IS" without any representation or warranty whatsoever, except for title, and this Agreement shall terminate with respect to such Equipment.

15. **DEFAULT:** Each of the following is a "default" under these lease terms:

- i) Customer fails to pay any Payment within forty-five (45) days (or as otherwise agreed to in a Participating Addendum) of its due date;
- ii) Any representation or warranty made by Customer in these lease terms or in the Master Agreement is false or incorrect and Customer does not perform any of its obligations under these lease terms or in the Master Agreement, and this failure continues for forty-five (45) days (or as otherwise agreed to in a Participating Addendum) after CFS has notified Customer;
- iii) Customer or any guarantor makes an assignment for the benefit of creditors;

- iv) Any guarantor dies, stops doing business as a going concern, or transfers all or substantially all of such guarantor's assets; or
- v) Customer stops doing business as a going concern or transfers all or substantially all of Customer's assets.

16. **REMEDIES:** If Customer defaults on a lease, then CFS, in addition to, or in lieu of, the remedies set forth in the Master Agreement, and Participating Addendum, may do one or more of the following:

- i) Cancel or terminate the Order;
- ii) Require Customer to immediately pay to Contractor, as compensation for loss of Contractor's bargain and not as a penalty, a sum equal to the Remaining Lease Balance.

17. **EXPENSES OF ENFORCEMENT:** Customer shall reimburse CFS for all of its out-of-pocket costs and expenses incurred in exercising any of its rights or remedies hereunder or in enforcing any of the terms of this Agreement, including, without limitation, reasonable fees and expenses of attorneys and collection agencies, whether or not suit is brought. If CFS should bring court action, Customer and CFS agree that attorney's fees equal to twenty-five percent (25%) of the total amount sought by CFS shall be deemed reasonable for purposes of this Agreement.

18. **ASSIGNMENT:** (i) Customer has no right to sell, transfer, encumber, sublet or assign the Product or any lease agreement without Contractor's prior written consent (which consent shall not be unreasonably withheld). (ii) CFS may not sell or assign any portion of CFS' interests in the Products or any Order for leases, without notice to Customer even if less than all the payments have been assigned. In that event, the assignee (the "Assignee") will have such rights as CFS assigns to them, but none of CFS' obligations (CFS will keep those obligations) and the rights of the Assignee will not be subject to any claims, defenses or set offs that Customer may have against CFS.

19. **DATA:** Customer acknowledges that the hard drive(s) on the Equipment, including attached devices, may retain images, content or other data that Customer may store for purposes of normal operation of the Equipment ("Data"). Customer acknowledges that CFS is not storing Data on behalf of Customer and that exposure or access to the Data by CFS, if any, is purely incidental to the services performed by CFS. CFS does not have an obligation to erase or overwrite Data upon Customer's return of the Products to CFS. Customer shall indemnify CFS, its subsidiaries, directors, officers, employees and agents from and against any and all costs, expenses, liabilities, claims, damages, losses, judgments or fees (including reasonable attorneys' fees) arising or related to the storage, transmission or destruction of the Data. This section survives termination or expiration of the lease term under the applicable Order. The terms of this section are without limitation of Contractor's obligations with respect to Data under the Master Agreement, the applicable Participating Addendum, and the applicable Order.

20. **MAXIMUM INTEREST; RECHARACTERIZED AGREEMENT:** No Payment is intended to exceed the maximum amount of interest permitted to be charged or collected by applicable laws, and any such excess Payment will be applied to payments due under the applicable Order, in inverse order of maturity, and thereafter shall be refunded. If the lease under any Order is characterized as a conditional sale or loan, Customer hereby grants to CFS, its successors and assigns, a security interest in the Products to secure payment and performance of Customer's obligations under such Order.

21. **UCC-ARTICLE 2A: CUSTOMER ACKNOWLEDGES AND AGREES THAT EACH ORDER IS INTENDED AS A "FINANCE LEASE" AS THAT TERM IS DEFINED IN ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE ("UCC 2A") AND THAT CFS IS ENTITLED TO ALL BENEFITS, PRIVILEGES, AND PROTECTIONS OF A LESSOR UNDER A FINANCE LEASE. CUSTOMER WAIVES ITS RIGHTS AS A LESSEE UNDER UCC 2A SECTIONS 508-522.**

22. **WAIVER OF OFFSET:** Each Order shall be a net lease. If the Products are not properly installed, do not operate as represented or warranted, or are unsatisfactory for any reason, Customer shall make

such claim solely against the supplier, dealer, or manufacturer. Customer waives any and all existing and future claims and offsets against any Payments or other charges due under each Order, and unconditionally agrees to pay such Payments and other charges, regardless of any offset or claim which may be asserted by Customer or on its behalf.

23. **AUTHORITY AND AUTHORIZATION:** Customer represents and agrees that (a) Customer is a state or a political subdivision or agency of a state or other eligible Purchasing Entity under the applicable Participating Addendum; (b) that entering into and performance of each Order is authorized under Customer's state laws and Constitution and does not violate or contradict any judgment, law, order, or regulation, or cause any default under any agreement to which Customer is party; and (c) Customer has complied with any bidding requirements and, where necessary, has properly presented each Order for approval and adoption as a valid obligation on Customer's part. Upon request, Customer agrees to provide CFS with an opinion of counsel as to clauses (a) through (c) above, an incumbency certificate, and other documents that CFS may request, with all such documents being in a form satisfactory to CFS.

24. **GOVERNMENT USE:** Customer agrees that the use of the Products are essential for Customer's proper, efficient and economic operation, Customer will be the only entity to use the Products during the term of the applicable Order and Customer will use the Products only for Customer's governmental purposes. Upon request, Customer agrees to provide CFS with an essential use letter in a form satisfactory to CFS as to the preceding sentence.



## ATTACHMENT B, CANON MAINTENANCE TERMS AND CONDITIONS

This document includes additional terms and conditions that apply to Maintenance Agreements for Purchasing Entities (referred to as "You" herein).

### 1. Maintenance.

- 1.1 Authorized Dealer shall provide all routine preventive maintenance and emergency service necessary to keep the Equipment in good working order in accordance with this Agreement and Authorized Dealer's normal practice. Such service shall be performed during Authorized Dealer's local regular business hours (8:00 A.M. to 5:00 P.M. Monday through Friday, except holidays).
- (a) You shall give Authorized Dealer reasonable and safe access to the Equipment to perform on-site service. Authorized Dealer may terminate its maintenance obligations on any Equipment you relocate to a site outside Authorized Dealer's service territory. If, in Authorized Dealer's opinion, any Equipment cannot be maintained in good working order through Authorized Dealer's routine maintenance services, Authorized Dealer may, at its option, (i) substitute comparable Equipment or (ii) cancel any balance of the term of the Maintenance Agreement as to such Equipment and refund the unearned portion of any prepaid charges hereunder. Parts or Equipment replaced or removed by Authorized Dealer in connection with maintenance services will become the property of Authorized Dealer and you disclaim any interest therein.
  - (b) Installation/Implementation of software Products may be at an additional charge, and may be conditioned on a separate statement of work or other document covering the scope and schedule of installation/implementation, configuration options, responsibilities of each party, and other matters, which shall govern as to the matters covered therein. Additional charges may apply for work beyond the initial scope described in such separate document.
  - (c) Support for software Products is provided directly by the respective developers thereof and as set forth in each developer's applicable separate support contract, and is not provided by Authorized Dealer under the Maintenance Agreement except as expressly provided herein. Support for software Products may require separate purchase by you of a support contract. The terms of support contracts for software Products are available from the developers, or will be provided to you by Authorized Dealer upon request.
  - (d) Authorized Dealer shall make available to you from time to time software patches and any updates for software Products and Embedded Software, but only if such patches and updates are provided to Authorized Dealer by the developers of such software Products and Embedded Software. New releases (upgrades) of software Products, and installation/implementation thereof, shall be chargeable to you. You are not required to use Authorized Dealer for installation software patches, updates or upgrades, but if installation is done by anyone other than Authorized Dealer, Authorized Dealer shall have no responsibility for any performance or other issues that may result from such installation.
  - (e) Authorized Dealer shall also use reasonable efforts to provide Level 1 support for the software Products (for all software Products for which separately-priced support contracts are available, Level 1 support shall be provided only if and so long as the support contract for such software Product from the developer has been purchased and remains in effect). Level 1 support consists of (i) providing help-line telephone assistance in operating the software Product and identifying service problems and attempting to troubleshoot any such problems in the software Product; (ii) escalating operating problems to the available developer of the software Product as needed to rectify such problems, including facilitating contact between you and the developer of the software Product as necessary; and (iii) maintaining a log of such problems to assist in tracking the same.
- 1.2 For Equipment under NASPO ValuePoint Groups A & C, the meter shall record a quantity of 2 impressions for any image produced on 11"x17" media.
- 1.3 In the event your toner usage exceeds by more than 10% the published manufacturer specifications for conventional office image coverage, as determined by Authorized Dealer, Authorized Dealer may invoice you for such excess, provided that Authorized Dealer shall not invoice you for excess toner usage as aforementioned unless and until Authorized Dealer has first notified you of the excess toner usage, and until you and Authorized Dealer have consulted in good faith in an attempt to identify the reason(s) for the

excess toner usage and you have had a reasonable opportunity, if practicable, to rectify the excess toner usage. You may purchase additional toner from Authorized Dealer if required during the term of the Maintenance Agreement.

- 1.4 You shall bear all risk of loss, theft or damage to unused consumables, which shall remain Authorized Dealer's property and shall be returned promptly upon termination of the Maintenance Agreement.
- 1.5 Unless otherwise indicated, you authorize Authorized Dealer to use networked features of the Equipment including imageWARE to receive software updates, activate features/new licenses and transmit use and service data accumulated by the Equipment over your network by means of an HTTPS protocol and to store, analyze and use such data for purposes related to servicing the Equipment, providing reports and product improvement. You agree to provide meter readings to Authorized Dealer, in accordance with a meter read option made available by Authorized Dealer. Authorized Dealer may change your meter read options from time to time upon 60-day notice. If Authorized Dealer does not receive timely meter readings from you, you agree to pay invoices that reflect Authorized Dealer's estimates of meter readings. Authorized Dealer reserves the right to verify the accuracy of any meter readings from time to time, and to invoice you for any shortfall in the invoice for the next periodic billing cycle.
2. **Non-Covered Service.** The following services, and any other work beyond the scope of this Agreement are not included within Maintenance: (a) replacement of any consumable supply item not provided as part of toner inclusive service identified on the face page, including, without limitation, paper, toner, ink, waste containers, fuser oil, staples, other media, print heads and puncher dies; (b) repairs necessitated by factors other than normal use including, without limitation, any willful act, negligence, abuse or misuse of the Equipment; the use of parts, supplies or software which are not supplied by Authorized Dealer and which cause abnormally frequent service calls or service problems; service performed by personnel other than Authorized Dealer personnel; use of the Equipment with non-compatible hardware or software components; electrical power malfunction or heating, cooling or humidity ambient conditions; (c) de-installation, re-installation or relocation of Equipment; (d) repairs to or realignment of Equipment, and related training, necessitated by changes you made to your system configuration or network environment; (e) work which you request to be performed outside of Authorized Dealer's regular business hours; or (f) repair of network/system connection device.
3. **Term and Renewal of Maintenance Agreement.** For leased Equipment, the term of the Maintenance Agreement therefor shall be equal to the term of the lease. For purchased Equipment, the term of the Maintenance Agreement shall be as specified on the related Order (provided, that it may not exceed 60 months on Group A, Group B, Group D, Group E and Group F Devices and 84 months on Group C Devices). Maintenance Agreements shall not be subject to automatic renewal; if you desire to renew a Maintenance Agreement, the pricing during the renewal term shall be as determined pursuant to the Master Agreement.
4. **Limited Warranty.** All Equipment is provided with a manufacturer's end user limited warranty from Canon USA, Inc. Authorized Dealer is an authorized Canon service dealer and provides warranty service under the Canon USA limited warranties. All other Products are provided subject to such end user warranties and license terms as are provided by the manufacturer or developer as packaged or otherwise provided with the Listed Items. Authorized Dealer shall upon your request provide to you copies of all such end user warranties and license. SUCH WARRANTIES, TOGETHER WITH WARRANTIES AS PROVIDED IN THE MASTER AGREEMENT AND THE APPLICABLE PARTICIPATING ADDENDUM, ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES REGARDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, RELATING TO THE USE OR PERFORMANCE OF THE PRODUCTS, AND ALL SUCH OTHER WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. YOU EXPRESSLY ACKNOWLEDGE THAT SUCH WARRANTIES DO NOT ASSURE UNINTERRUPTED OPERATION AND USE OF THE PRODUCTS.
5. **LIMITATION OF LIABILITY.** NEITHER AUTHORIZED DEALER NOR CONTRACTOR SHALL BE LIABLE FOR EXPENDITURES FOR SUBSTITUTE EQUIPMENT OR SERVICES, LOSS OF REVENUE OR PROFIT, LOSS, CORRUPTION OR RELEASE OF DATA, FAILURE TO REALIZE SAVINGS OR OTHER BENEFITS, STORAGE CHARGES OR INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT REGARDLESS OF THE LEGAL THEORY ON WHICH THE CLAIM IS BASED AND EVEN IF AUTHORIZED DEALER OR CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## ATTACHMENT C, CANON SAMPLE MPS AGREEMENT TERMS AND CONDITIONS

1. **TERM.** The Managed Print Services ("MPS") shall begin on the Start Date and continue for the initial term specified above.
2. **CHARGES.** Authorized Dealer agrees that pricing shall remain firm for the initial terms of the Maintenance Agreement. Upon expiration of the initial contract term, or during any renewal period, Dealer reserves the right to increase the pricing upon thirty (30) days prior written notice, based on any changes to the fleet, or services being delivered, provided these changes are outside the scope of the original statement of work, and provided the pricing does not exceed Master Agreement pricing. If you have selected the Fleet Coverage Plan, the Base Charge, Covered Images and Per Image Charges noted above shall apply to all of the Equipment on the Schedule. If you have selected the Per Unit Coverage Plan, the Base Charge, Covered Images and the Per Image Charges for each unit shall be reflected on the Schedule.
3. **PRIOR ASSESSMENT.** As part of an initial assessment, Authorized Dealer has performed a network and system discovery analysis of your IT environment in which services are to be rendered under this Agreement. Additionally, as part of the initial assessment, Authorized Dealer has used certain discovery tools to identify the components and conditions of your IT environment.
4. **COVERED PRINTERS.** This agreement is intended to provide services for your entire fleet of printers; however, certain models of printers may not be eligible for services under this contract due to age, geographic location or other reasons determined by Authorized Dealer. At Authorized Dealer's discretion, the ineligible printers may be placed under a "Standard Plan" and identified on the associated schedule ("Schedule B") and shall only receive toner cartridges and monitoring services. The "Premier" scope of services as defined in Paragraph 7 covers only the printers identified on the associated schedule ("Schedule A" or "Schedule A-MICR"). The parties may agree to add or remove printers from time to time during the Term by mutual execution of an Authorized Dealer MPS Change Order. Customer shall provide Authorized Dealer a standard device configuration sheet showing the start meter reading of the added printer(s) as of the start date of this contract. Otherwise, Authorized Dealer may compute a start reading for the printer(s) utilizing the current meter reading and subtracting an estimated monthly volume per printer, as determined by Authorized Dealer. In the event Customer acquires additional devices subsequent to the start date of this Agreement, the start meter shall be zero. If the quantity of printers changes during the Term from the original quantity listed on Schedule A, Schedule A-MICR or Schedule B, Authorized Dealer reserves the right to adjust the pricing accordingly.
5. **YOUR RESPONSIBILITIES. As a condition precedent to Authorized Dealer's duties:**
  - (a) The Printers shall meet the "Fit for Service" requirements outlined in the MPS Customer Expectation Document (CED) and shall be in good working condition on the Start Date (as determined solely by Authorized Dealer in its reasonable discretion.)
  - (b) You shall provide Authorized Dealer with an accurate location and printed configuration page for each printer placed under this Agreement. You shall notify Authorized Dealer if you relocate any printers from the address indicated on Schedule A, A-MICR, B or any related Change Order.
  - (c) You shall use only Authorized Dealer-approved parts and supplies for the Printers.
  - (d) You shall have proper electrical and network connections, install, and use Authorized Dealer approved surge protector where appropriate.
  - (e) You shall provide a Key Operator responsible for designated duties in the operator's manual and insure that the proper supplies are being installed and/or used correctly with the printers.
  - (f) You are solely responsible for security of your electronic and other data.
  - (g) You must install and keep the Data Collection Agent ("DCA") installed on your network for networked devices and locally for non-networked devices throughout the Term of this Agreement. If the DCA does not communicate with Authorized Dealer, you agree to provide manual meter readings upon request.
  - (h) You agree that Authorized Dealer may use estimated meter readings if it does not receive timely meter reading on any Printers covered by this Agreement.
  - (i) You shall utilize the Authorized Dealer ordering procedures for adding or deleting printers and ordering Toner Cartridges. You acknowledge that Authorized Dealer will not deliver services or toner for printers not listed on Schedule A, Schedule A-MICR, Schedule B or any related Change Order until you complete the proper ordering procedure to add the printer to the Agreement.
  - (j) You shall provide timely meter readings for any printer not connected to the DCA for any reason.

## ADDITIONAL TERMS AND CONDITIONS

### 6. AUTHORIZED DEALER RESPONSIBILITIES

- (a) Authorized Dealer may tag each Printer initially listed on Schedule A, Schedule A-MICR or Schedule B with an Authorized Dealer Service tag indicating serial # and Authorized Dealer contact information.
- (b) Printers listed on Schedule A, A-MICR and B are provided replenishment of Original Equipment Manufacturer ("OEM") or 3rd Party manufactured toner cartridges, as indicated on Page 1, for exclusive use with the Printers specified on Schedule A, A-MICR and B. The pricing in this agreement is based upon 5% toner coverage for black & white and 20% for color letter size pages. You agree that Authorized Dealer may invoice you for excess usage in the event your actual toner usage exceeds these assumptions by more than 10%. Excess toner charges shall be computed using the expected print volume ("EPV") minus the actual print volume reported. The EPV = actual number of cartridges shipped x the toner yield per cartridge x 90%. You shall bear all risk of loss, theft or damage to unused toner cartridges provided to you under this Agreement, which shall remain Authorized Dealer's property and shall be returned promptly upon termination of this Agreement.
- (c) Authorized Dealer may perform an initial walkthrough of Customer locations covered under this Agreement. Customer shall identify each networked and non-networked device to be covered under this agreement. Authorized Dealer will deliver, install, configure and test its network Data Collection Agent ("DCA") with your IT staff assistance. Authorized Dealer will provide all technical support, updates and maintenance for the DCA.
- (d) You acknowledge that Authorized Dealer's ability to deliver the services is dependent upon your full and timely cooperation with Authorized Dealer, as well as the accuracy and completeness of the information provided by you to Authorized Dealer. If, during the initial three (3) months of the Term, the assumptions used to develop the pricing and any related Statement of Work is found to be incorrect or misstated, the parties agree to meet and in good faith negotiate equitable changes in the scope of work and associated charges. You agree to follow the detailed operational procedures and program guidelines, which are explained in the MPS Customer Expectation Document, which you hereby acknowledge, receipt of at the time of executing this agreement.

### 7. SERVICES. YOU SHALL RECEIVE THE SERVICES DESCRIBED IN THIS PARAGRAPH 7 ONLY FOR THE EQUIPMENT LISTED ON A SCHEDULE A, SCHEDULE A-MICR, CHANGE ORDER FORM A, OR CHANGE ORDER FORM A-MICR . SUCH SERVICES ARE SUBJECT TO THE EXCLUSIONS HERINAFTER DESCRIBED.

### 8. COVERED SERVICES

- (a) Authorized Dealer shall provide all routine preventive maintenance, maintenance kits and emergency service necessary to keep the Printers in good working order in accordance with this Agreement and Authorized Dealer's normal practice. Such service shall be performed during Authorized Dealer's local regular business hours (8:00 A.M. to 5:00 P.M. Monday through Friday, except holidays).
- (b) You shall afford Authorized Dealer full, free and safe access to the Printers to perform on-site service. Authorized Dealer may terminate its maintenance obligations as to any Printers if you relocate it to a site outside Authorized Dealer's authorized service territory. If, in Authorized Dealer's opinion, any Printers cannot be maintained in good working order through Authorized Dealer's routine maintenance services, Authorized Dealer shall, at its option, either (i) substitute comparable Printers or (ii) cancel the balance of any remaining term of this Agreement as to such Printers and refund the unearned portion of any prepaid charges hereunder. Parts replaced or removed by Authorized Dealer in connection with maintenance services hereunder shall become the property of Authorized Dealer and you disclaim any interest therein.

### 9. NON-COVERED SERVICE. You acknowledge that Authorized Dealer shall not have obligations related to i) overhauls and/or reconditioning of printers; ii) printer user errors; (iii) the alteration, modification or customization of any software controlling, used by, installed on or embedded in the Printers; (iv) the service or repair of devices, accessories, power, data or communication lines or other instruments which are external to or otherwise not a component part of the Printers; (v) hard drive removal or (vi) supplying external communications or data transfer lines, paper or other throughput, staples, cassettes, exit trays or other like items or supplies (other than toner cartridges as defined in section 3 ) used or consumed in the normal operations of the Printers ("Excluded Items"). The following services, and any other work beyond the scope of this Agreement, shall be invoiced in accordance with Canon's then current contract pricing:

- (a) replacement of any consumable supply item other than toner;
- (b) repairs necessitated by factors other than normal use including, without limitation, any willful act, negligence, abuse or misuse of the Printers; the use of parts, supplies or software which are not supplied

by Authorized Dealer and which cause abnormally frequent service calls or service problems; service performed by personnel other than Authorized Dealer personnel; transportation of the Printers; accident; use of the Printers with non-compatible hardware or software components; electrical power malfunction or heating, cooling or humidity ambient conditions;

- (c) re-installation or relocation of Printers;
- (d) repairs to or realignment of Printers, and related training, necessitated by changes you made to your system configuration or network environment;
- (e) repairs or service required because of inadequate operation of the Printers (e.g., Authorized Dealer technician is dispatched to rectify a problem described in the operator manual); and
- (f) work that you request to be performed outside of Authorized Dealer's regular business hours.

**10. DATA.** You acknowledge that the hard drive(s) on the Equipment may retain images, content or other data that you may store for purposes of normal operation of the Equipment ("Data"). You acknowledge that Authorized Dealer is not storing Data on your behalf and that exposure or access to the Data by Authorized Dealer, if any, is purely incidental to the services performed by Authorized Dealer. You are solely responsible for the Data. The Canon branded Equipment contains various security features that you can utilize. Upon your request, Authorized Dealer will work with you to provide information regarding your options and offer services to assist you. Please note that Canon offers basic data security options free of charge; however, other optional services may have an additional cost associated. The terms of this Section shall solely govern as to Data, notwithstanding that any provisions of this Agreement or any separate confidentiality or data security or other agreement now or hereafter entered into between you and Authorized Dealer could be construed to apply to Data.

**11. TERMINATION.** Either party may terminate this Agreement, with or without cause, by providing thirty (30) days written notice to the other party.

## ATTACHMENT D, CANON SAMPLE MPS CUSTOMER EXPECTATIONS DOCUMENT

1. **Introduction.** This Customer Expectation Document is designed to provide details related to the Canon Managed Print Services ("MPS") Program and to answer commonly asked questions. The terms and conditions of the MPS program can be found in the associated Managed Print Services Agreement.
2. **Program Objectives.** The MPS program is designed to help organizations achieve business efficiencies and cost savings through better management and administration of print environments. Our unique consulting process contemplates collaboration with our customers to identify areas for print optimization, increased productivity and cost savings. Critical to this process is the availability of print volume data from all sources within the print enterprise. The success of the program is dependent on uninterrupted communication with the printers or alternative sources of data capture in order for Authorized Dealer to perform the services and provide accurate and timely billing under the agreement.
3. **Initial Contract Set-up**
  - a) **Start Date.** The contract becomes effective approximately 10 days after the Customer executes the MPS Agreement accompanied by a complete listing of the covered Printers on Schedule A and Schedule B, if applicable. This allows Authorized Dealer ample time to prepare its systems to accept customer calls and begin to provide services.
  - b) **Initial Printer Listing.** Schedule A and B contain all relevant information on each printer initially covered under the MPS Agreement. Printers listed in Schedule B will only be eligible for toner fulfillment and monitoring services. The Customer is responsible for discovering and identifying the required information for all printers to be covered under this agreement. Although Authorized Dealer software tools may help discover devices based on detection of activity, idle units and units with no network connection may not be detected during this discovery process. In the event a customer identifies additional equipment which was mistakenly excluded from the original schedules, additional printers can be added using the Change Order form along with a printed configuration page for each printer added and made retroactive to the start date. Customers who call for services or toner for units not yet added to the contract may be told their printer is not covered since it will not appear in the Authorized Dealer system.
  - c) **"Fit for Service" Requirements.** Prior to the start of the contract, the following must be confirmed:
    - i. Each printer must have a minimum of 25% toner remaining in the cartridge;
    - ii. Each printer must have a minimum of 25% life remaining for other consumable maintenance items (fuser kit, maintenance kit, drums);
    - iii. Any printer displaying a service or supplies alert (error codes, low consumables, etc.) or demonstrating a technical or performance issue (regardless of alert status) must have the condition corrected;
    - iv. Any printer with an image quality issue must have the condition corrected; and
    - v. Any printer inadvertently placed on an MPS contract that does not meet "Fit for Service" requirements, must have the issues promptly remediated or the Printer must be removed from the MPS contact.
  - d) Customers can contact Authorized Dealer Customer Service (see Section 5 below) to purchase the required consumable items (toner cartridge, maintenance kit, fuser kit, drum, etc.) and/or request a service call to remediate technical issues, so the printer can be added to an MPS contract.
  - e) **Tagging.** Each printer initially covered under the agreement may be tagged with an Authorized Dealer Service tag by an Authorized Dealer representative. The tag includes the serial # of the printer, the phone # for service and supplies and other relevant information. The tag should not be removed from the printer during the term of the agreement. Authorized Dealer may mail tags to the customer for placement on the printers for machine additions or remote locations during the term of the contract.
  - f) **Installation of DCA Software.** Authorized Dealer will work with the Customer's IT staff to perform the initial installation of the Data Collection Agent ("DCA") software for networked devices. Additionally, Authorized Dealer may assist the Customer's IT staff to push the local client version of the DCA software for use with any non-networked printers. It is the Customer's responsibility to keep the DCA installed during the term including any reinstallation that may be required because of change in the Customer's infrastructure or environment.

**4. Ordering Procedures**

- a) **Toner.** Printer toner cartridges may be ordered from Authorized Dealer by either calling Customer Service or by placing an on-line order (if applicable). Customers who wish to use on-line ordering must first register through Authorized Dealer's on-line customer portal. Customers will be asked to provide the related serial # or asset tag# located on the asset tag placed on the printer. The maximum toner order is limited to one (1) cartridge per serial#. Authorized Dealer Reserves the right to limit toner shipments based upon print volume/utilization. Canon's Managed Print Services program does not contemplate the provision of "shelf stock" at Customer locations. Customers that require extra toner stored onsite may purchase shelf stock by contacting Customer Service (see Section 5 below).
- b) **Service Calls.** Requests for repair may be placed by either calling Authorized Dealer's Dispatch Center or by placing a service request on-line within the Authorized Dealer's on-line customer portal (if applicable).
- c) **Add/Remove.** Additions or deletions of printers covered under the MPS Agreement are made by executing and submitting an MPS Change Order form indicating the pertinent information on the specific units being added or removed from the agreement or submitting such request on-line within the customer portal (if applicable). Additionally, Customers must provide a printed configuration page from each added or removed unit that provides Authorized Dealer necessary meter, quality and other information necessary to make the change effective. Please note that changes to the printer fleet configuration may impact the price per copy reflected in the contract on a prospective basis.

**5. Customer Service.** For any questions or contract changes, please reference the following contact information:

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

- 6. **Relocations.** If Customers relocate any printers under the agreement, they must promptly notify Authorized Dealer in order to change the location information in the Authorized Dealer database. Customers are responsible for de-installing and reinstalling all relocated printers including installation of the DCA in order to keep the printers communicating with Authorized Dealer. Please note that printers relocated outside of Authorized Dealer's Servicing geography may not be eligible to be covered under this agreement.
- 7. **Meter Collection.** The MPS program is designed to automatically collect periodic meter readings from the printers covered under this agreement using the DCA software program. The DCA program is initially installed on the Customer network for connectivity to networked printing devices. A local DCA program must be installed on individual networked computers in order to communicate with non-networked printers. It is extremely important to keep the DCA software connected in order for Authorized Dealer to capture information in order to provide the services under the MPS Agreement. Customers are responsible to maintain this critical connection that may require reinstallation of the local DCA software when upgrading, replacing or repairing related computers.
- 8. **Fixed Volume.** If Authorized Dealer does not receive timely meter readings from the DCA software or alternatively from the Customer through other means of communication, Authorized Dealer will estimate the usage on the related devices utilizing predetermined average monthly volume information, which are based on Authorized Dealer standard usage rates by model.
- 9. **Toner Usage Reconciliation.** The MPS program includes replenishment of toner cartridges based upon toner page coverage of 5% for black toner and 20% for color toner. Customers who print images with more toner average coverage should expect to pay additional charges. Toner usage reconciliation is done separately for black toner, color toner, and MICR toner. Please see the reconciliation example below:

Toner Manufacturer Yield per Cartridge	3,000
# of Cartridges shipped to Customer*	<u>x 10</u>
Manufacturer Expected Print Volume	30,000
Extra 10% provided by Authorized Dealer	<u>3,000</u>
Authorized Dealer Expected Print Volume	27,000
Actual Print Volume	<u>25,500</u>
Volume Reconciliation	1,500
Price per Page	<u>x \$ .0200</u>
Toner Usage Reconciliation Charge	\$30.00

\* **Note 1:** Certain cartridges for the same models may contain different manufacturer yields.

\* **Note 2:** Cartridge yield associated with "Unused Toner Cartridges" (see definition in Section 12 below)

purchased from Authorized Dealer for purposes of "shelf stock" may be considered during toner reconciliation, when the Actual Print Volume exceeds the Authorized Dealer Expected Print Volume.

10. **Quarterly Review Process.** Customers are entitled to a quarterly review discussion to review expectations, charges, print volume data and recommendations for further optimization of the print environment.
11. **Renewal and End of Term Process**
  - a) The MPS agreement will not automatically renew. If the Customer wishes to renew, then Authorized Dealer shall promptly provide a renewal quote for the renewal period. Upon mutual agreement, a new agreement shall be executed for the renewal term.
  - b) If the Customer does not choose to renew, the Customer may return unused toner cartridges within 30 days of the end of term and Authorized Dealer will adjust the # of cartridges shipped for computing the final toner reconciliation described above.
  - c) Customers must contact Authorized Dealer's Customer Service to obtain return instructions and return authorization # prior to mailing the returned supplies back to Authorized Dealer. In the event Authorized Dealer is unable to obtain a final meter reading from the DCA or other reasonable means, Authorized Dealer will estimate the final meter reading using customer volume history or utilizing the Authorized Dealer standard usage rates by model.
12. **Unused Toner Cartridges.** Unused toner cartridges are defined as the original items shipped to Customers, which:
  - a) were provided to the Customer by Authorized Dealer;
  - b) are in the original box, which is unopened and undamaged;
  - c) the contents (toner cartridges) are sealed and undamaged; and
  - d) are deemed resalable, in Authorized Dealer's sole discretion.
13. **Restocking Fee.** A restocking fee of 10 percent (10%) of the MSRP value shall be charged for all unused toner cartridges returned to Authorized Dealer, unless the returned cartridge is deemed defective or the restocking fee is prohibited by law.
14. **Toner Availability.** Authorized Dealer shall use commercially reasonable efforts to procure toner cartridges for the printer(s) covered by the MPS contract. In the event OEM toner is no longer readily available (discontinued by the manufacturer, restricted distribution, exhausted inventory, etc.) Authorized Dealer shall, at its option, either (i) substitute OEM cartridges with compatible (3rd party) toner cartridges, or (ii) substitute comparable printer(s) at your expense, or (iii) cancel the balance of any remaining term of the MPS contract for the affected printer(s) and refund the unearned portion of any prepaid charges associated with the printer(s).



## ARTICLE II

### **DCA Software & Technical Requirements**

Authorized Dealer must utilize data collection software to provide services under this agreement. Authorized Dealer is responsible to maintain the software, provide updates when necessary, and assist with the initial installation as necessary. The detailed technical information with respect to the Data Collection Agent (DCA) is as follows:

The DCA collects usage data on Products from predefined Management Information Bases (MIBs), using Simple Network Management Protocol (SNMP). For greater security, the DCA initiates communication solely with the Authorized Dealer Data Repository. Communication sessions are conducted via HTTPS (port 443), the universal standard in secure transactions. The DCA sends and receives data in a single hourly session.

Authorized Dealer does not provide root access or local edit access to the DCA and Authorized Dealer does not permit scripts to be run against the DCA.

Customers must provide the following technical information in conjunction with the implementation of the Canon Managed Print Services program. This information is required specifically for the expressed purposes of configuration and implementation of the DCA. Requirements and details below may be subject to change based on modifications to the existing software or a change to the DCA software being utilized.

### **INFORMATION**

#### **DCA Server (must be able to access all subnets with devices under contract)**

Hostname  
IP Address  
Default Gateway  
Fully Qualified Domain Name  
DNS Server (primary and secondary)  
Subnet Mask

#### **Network**

Subnet Range(s)  
**Proxy (if applicable)**  
Proxy Name  
Port Number  
Username / Password (if required)

#### **SNMP**

Public (READ)  
Any non-public SNMP community strings

### **CONFIGURATION**

In addition to the information above to function properly, the DCA requires the following network configuration

Port 80 TCP (outbound access)

Port 443 TCP (outbound access)

SNMP (access to all subnets with devices on contract) Port 161 UDP (access to all subnets with devices on contract)

#### **ADDITIONAL PORTS REQUIRED FOR MDS CLOUD CC AGENT**

- Port 427 UDP (outbound access)
- Port 47545 UDP (outbound access) (Canon Devices)
- Port 47546 TCP (outbound access) (Canon Devices)
- Port 9007 TCP (outbound access) (Canon Devices)
- Port 50700 UDP (inbound access) (Canon Device event notifications)
- Port 11427 UDP (inbound access) (Canon Device power status notifications)
- Port 44301 TCP (inbound access) (Open CC Agent dashboard on network)

### **HARDWARE**

Hardware: Non-dedicated server powered on 24 hours a day, 7 days a week

Network Card: 100mbit or higher

RAM 512 MB or higher

Internet connected browser

### **ADDITIONAL HARDWARE REQUIRED FOR MDS CLOUD CC AGENT**

- Dual Core CPU 2.0GHz or faster
- RAM 4GB or more Recommended 8GB or more
- Available Storage 8GB or more Recommended 35GB or more

### **SOFTWARE**

Computers where the DCA will be installed must meet the following software requirements:

Windows 7, 8, 10, Server 2008 R2, Server 2012, Server 2016 or higher and .NET Framework 3.5 SP1 Including .NET 3.0 and 2.0 Feature enabled

Virtualization software support: The following virtualization software will support the installation:

Microsoft Virtual Server 2005

VMware GSX

### **ADDITIONAL SOFTWARE REQUIRED FOR MDS CLOUD CC AGENT**

- Virtual Environments:

VMware vSphere v6.0/v6.5

Microsoft Hyper-V: Windows Server 2008 R2/Server 2012/Server 2012 R2

- .NET Framework 4.5.2 or higher: <https://www.microsoft.com/en-US/download/details.aspx?id=42643>

- IIS 10.0 Express: <https://www.microsoft.com/en-us/download/details.aspx?id=48264>

- SQL Server Express 2014 SP2 or higher: [https://www.microsoft.com/en-](https://www.microsoft.com/en-US/download/details.aspx?id=53167)

[US/download/details.aspx?id=53167](https://www.microsoft.com/en-US/download/details.aspx?id=53167)

### **COLLECTION INTERVALS FOR MDS CLOUD CC AGENT**

- Errors and alerts – Every 5 minutes while not in sleep mode
- Consumable Supplies (Toner & Paper levels) – Every 60 minutes while not in sleep mode
- Counters – Every 8 hours

### **DATA TRANSMISSION**

The DCA transmits small amounts of data to the central server. This data includes only statistical and alert condition information. **NO IMAGE DATA IS TRANSMITTED.** The following data estimates are provided to assist in the assessment of network impact.

DCA scan, blank IP: 5.2KB

DCA scan, 1 printer: 7.2KB

DCA scan, 1 printer, 254 local IP addresses: 96KB

DCA scan, network of 15 printers, 254 local IP addresses: 125KB

## ATTACHMENT E, DIGITAL PRESS PRODUCTION AND LARGE FORMAT EQUIPMENT MASTER SERVICES AGREEMENT TERMS AND CONDITIONS

This Attachment includes additional terms and conditions that apply to Maintenance Agreements for Purchasing Entities (referred to as "Customer" herein) for Océ Production Equipment and Large Format Equipment (referred to as "Equipment" herein). In the event of a conflict between the Canon Maintenance Terms and Conditions set forth in Attachment B and the terms and conditions in this Attachment E, the terms and conditions in this Attachment E shall govern.

### 1. Installation and Site Preparation

1.1 Authorized Dealer shall install the Equipment at the location identified on the applicable Schedule ("Equipment Location"). Installation shall be deemed complete when the Equipment has been installed and is ready for commercial operation. Customer shall furnish a suitable installation site in accordance with Authorized Dealer's power, environmental, and other requirements. All site preparation, including appropriate space requirements, electrical wiring, air conditioning, required venting or special duct work and necessary permits or approvals, is Customer's responsibility.

1.2 For Software installed at a Customer location, installation shall be determined complete when the Software has been installed and is ready for commercial operation. For all of the Software, installation shall be deemed complete when Customer is provided instructions on how to access and/or download the Software.

### 2. Supplies

Customer is entitled to the amount of toner/supplies which, on average, covers six percent (6%) of the letter size media unless another coverage rate is specified in an Order. Unless otherwise agreed to in an Order, for cutsheet color products, Customer is entitled to the amount of toner/supplies which, on average, covers ten percent (10%) of the letter size media per color (black counts as a color). Unless specifically agreed to in an Order, supplies do not include staples. Reconciliation for overuse of toner/supplies shall be invoiced to and paid by Customer at the rates in effect at the time of such reconciliation, and will be calculated based on coverage/use.

### 3. Maintenance

3.1 **Equipment Support:** Authorized Dealer shall provide Customer: (a) Authorized Dealer's standard preventive maintenance services ("PM's"), including labor and replacement parts to be provided Monday – Friday during Authorized Dealer's standard business hours (the length and frequency of periods of time required for preventive maintenance will be determined by Authorized Dealer); (b) corrective maintenance coverage as indicated on the applicable Schedule, including labor and replacement parts (service on Authorized Dealer holidays is available with advance notice to Authorized Dealer and Authorized Dealer shall bill Customer at its then current hourly rates for holiday service) provided that repairs can be performed in the field; and (c) engineering changes, including safety changes, deemed necessary by Authorized Dealer. Preventive maintenance includes testing, adjusting, cleaning and replacement of components scheduled in accordance with the Equipment service specifications. PM's performed on weekends, holidays or between 5PM and 8:00AM (at Customer's request) will be billed at Authorized Dealer's holiday rates according to the Master Agreement Price Lists. If Customer refuses to permit installation of a safety change or removes one already installed, Authorized Dealer may discontinue maintenance support services for all Equipment until the hazard has been corrected. All defective parts removed during maintenance shall become the property of Authorized Dealer. Parts used for repair may be used or remanufactured in accordance with manufacturer's specifications. The Equipment may contain software that allows Authorized Dealer to access the Equipment remotely ("Remote Software"). In such cases, Customer authorizes Authorized Dealer to use the Remote Software to (i) receive software updates and transmit use and service data accumulated by the Equipment over Customer's network by means of an HTTPS (or other) protocol and (ii) store and analyze such data solely for Authorized Dealer's own purposes related to servicing the Equipment and for product improvement.

3.2 Customer shall: (a) provide Authorized Dealer full, free and safe access, subject to Customer's safety and security regulations, to the Equipment for performance of maintenance as deemed necessary by Authorized Dealer; (b) allow Authorized Dealer to store reasonable quantities of maintenance equipment and/or parts on Customer's premises; (c) provide a suitable environment for the Equipment in accordance with manufacturer's environmental requirements; and (d) inform Authorized Dealer promptly of any operating problems

**3.3** Remote Help Desk Support (applicable to cut sheet printers and Software under 5x8 service coverage)

If Customer purchases "Remote Help Desk Support", then the following terms are applicable:

- (a) Authorized Dealer provides Remote Help Desk Support via telephone, to access Authorized Dealer Support Specialists for operator questions, installation support, explanation of maintained software features and functionality, network connectivity questions, and other support issues ("Remote Support"). Remote Support is available Monday – Friday 8:00AM to 8:00PM EST, excluding holidays. By purchasing Remote Support, Customer has unlimited access to the help desk.
- (b) Authorized Dealer will provide Remote Support to those Customer employees who have been issued an ID code providing email/telephone access to the Authorized Dealer Software Support Center. Customer shall be responsible for controlling ID code access and for any unauthorized use of ID codes. ID codes are non-transferable.

**3.4** Services for Additional Charge

- (a) The services listed in this Section are not included as part of Authorized Dealer's remedial or preventive maintenance services: Services for repair of Equipment (including the inkjet heads in Authorized Dealer's printers or the fuser rollers in Authorized Dealer's continuous feed printers) or replacement of parts (including the inkjet heads in Authorized Dealer's printers or the fuser rollers in Authorized Dealer's continuous feed printers ) caused or made necessary, in Authorized Dealer's reasonable discretion, in whole or in part, by: (i) Customer's failure to continually provide a suitable environment in accordance with Authorized Dealer's requirements; (ii) neglect, misuse, or use of the Equipment for purposes other than for which it was designed, or failure to operate the Equipment in accordance with Authorized Dealer's or manufacturer's operating instructions or within manufacturer's specifications; (iii) accident, disaster, including effects of water, wind, lightning, or transportation; terrorism, vandalism or burglary; (d) alterations of Equipment, including any deviation from Equipment design, unless previously authorized in writing by Authorized Dealer; (iv) attachment(s) to the Equipment, including connection of devices not supplied by Authorized Dealer, which cause the Equipment to malfunction, unless previously authorized in writing by Authorized Dealer; (v) Customer's failure to perform or its failure to correctly perform the normal duties of Customer's operators; (vi) the use of any non-Authorized Dealer parts, toner, developer or inks; (vii) the use of forms not in compliance with Authorized Dealer's paper specifications; (viii) maintenance or repair services performed by Customer or a third party without written authorization from Authorized Dealer; or (ix) pre or post processing Equipment disconnected from the printing system to which it was originally installed unless previously authorized in writing by Authorized Dealer. If in Authorized Dealer's reasonable discretion, Equipment has been rendered un-repairable, then Authorized Dealer may refuse to render services under this Agreement and may terminate the appropriate Schedule.
- (b) If repairs or replacements as set forth above are needed due to the causes listed in (a) above, Authorized Dealer's prices to provide any such repair or replacement will: (i) use the published hourly Master Agreement service rates and minimum charges for the service time, which includes travel and waiting time; (ii) use the current parts and material prices; and (iii) travel expenses. All repairs will be governed by the terms of this Agreement, however, Authorized Dealer reserves the right to decline to perform such services.
- (c) Authorized Dealer may withdraw any item of Equipment from maintenance coverage (i) if such Equipment has been removed from the Equipment Location and Authorized Dealer does not offer maintenance services at the new Equipment location; or (ii) if Authorized Dealer declares end of life for such Equipment, and then only with at least ninety (90) days prior written notice. Customer shall pay monthly service charges up to the date of termination. For any prepaid amounts, Authorized Dealer shall refund or credit the pro rata amount of the remaining term from the effective date of termination

## ATTACHMENT F, SAMPLE ECOPY EULA

You acknowledge that you have read all of the above terms and conditions, understand them, and agree to be bound by them. You understand that Canon USA and any Dealer are not Nuance's agents and are not authorized to make any representations or warranties on Nuance's behalf nor to vary any of the terms or conditions of this License.

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P/N: 73-00521  
December, 2009

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5. **TECHNICAL SUPPORT.** You shall first contact Dealer for Level 1 support on the Licensed Products. Level 1 support consists of providing help-line telephone assistance in operating the Licensed Products and identifying service problems facilitating contact between you and Nuance to rectify such problems and maintaining a log of such problems to assist in tracking the same. If you still require technical support after Dealer has provided Level 1 support, then you shall have access to Nuance technical support as escalated through Dealer during the term of this Agreement. You must specify a designated individual who will act for you as the sole support liaison to Dealer. You shall have access to telephone, e-mail, or web based support during the term of this Agreement. You can contact Technical Support online at [www.askecopy.com](http://www.askecopy.com). Nuance will support the current Major Release (and related Point

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## 6. Additional M&S Offerings

- (a) **On-Demand Online Training** – Access to online library of best practices, "how-to" and "what's new" videos related to Licensed Product installation;
- (b) **eCopy User Group** - Membership to eCopy's User Group allows you to connect with other licensees of the Licensed Product to share experiences, feedback and recommend enhancements to the Licensed Product. Membership includes access to periodic webinars, electronic newsletters and access to Premium Knowledge Base Articles.
- (c) **Remote Technical Diagnostics** – Communicate with live technical support resources to remotely troubleshoot performance and configuration issues;
- (d) **License Key replacement** – Upon your request, a replacement license key can be issued to replace a lost or corrupt license key at no additional cost to you;
- (e) **Designated Contacts** – During the term of M&S, you may designate two primary individuals (each a "Technical Contact") to serve as the liaison between you, the Dealer, Canon USA and Nuance support personnel. Your designated Technical Contact shall be the sole liaison between you, the Dealer, Canon USA and Nuance for M&S. To avoid interruptions in services, notify Dealer, Canon USA and Nuance whenever your Technical Contact responsibilities are transferred to another individual.
- (f) **Connector Migration Support** – With respect to Connectors delivered to you by Nuance at the time the Licensed Product is delivered ("Core Connector"), Nuance will, at no additional cost, provide up to four (4) hours of technical support for issues encountered with the Core Connectors when moving the Licensed Product to hardware not supplied by Nuance or when upgrading the Licensed Product from a prior version of the

Licensed Product; provided (a) the upgrade is from the immediately prior version of the Licensed Product (i.e. from V4.x to V5.x, not V3.x to V5.x); (b) you have registered the Licensed Product in accordance with Section 1, (c) you request such Connector Migration Support no more than once in any twelve month period during the Term and (d) you schedule Connector Migration Support via your Dealer during Nuance's normal business hours.

7. **ASSIGNMENT.** Nuance will be entitled to assign, sub-contract or sub-let this Agreement or any part thereof. You will not be entitled to assign this Agreement or any part thereof without the prior written consent of Nuance.
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**11. NOTE ON JAVA SUPPORT.** THE PRODUCT MAY CONTAIN SUPPORT FOR PROGRAMS WRITTEN IN JAVA. JAVA TECHNOLOGY IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE OR RESALE AS ONLINE CONTROL EQUIPMENT IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, DIRECT LIFE SUPPORT MACHINES, OR WEAPONS SYSTEMS, IN WHICH THE FAILURE OF JAVA TECHNOLOGY COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE. Sun Microsystems, Inc. has contractually obligated Microsoft to make this disclaimer.

**12. U.S. GOVERNMENT LICENSE RIGHTS.** All Product provided to the U.S. Government pursuant to solicitations issued on or after December 1, 1995 is provided with the commercial license rights and restrictions described elsewhere herein. All Product provided to the U.S. Government pursuant to solicitations issued prior to December 1, 1995 is provided with "Restricted Rights" as provided for in FAR, 48 CFR 52.227-14 (JUNE 1987) or DFAR, 48 CFR 252.227.7013 (OCT 1988), as applicable.

**13. APPLICABLE LAW.** If you acquired this Product in the United States, this EULA is governed by the laws of the State of Washington. If you acquired this Product in Canada, unless expressly prohibited by local law, this EULA is governed by the laws in force in the Province of Ontario, Canada; and, in respect of any dispute which may arise hereunder, you consent to the jurisdiction of the federal and provincial courts sitting in Toronto, Ontario. If this Product was acquired outside the United States, then local law may apply.

**14. COPYRIGHT.** The Product is protected by copyright and other intellectual property laws and treaties. Microsoft or its suppliers own the title, copyright, and other intellectual property rights in the Product. The Product is licensed, not sold.

**15. ENTIRE AGREEMENT.** This EULA, including any addendum or amendment to this EULA which is included with the Product, are the entire agreement between you and Microsoft relating to the Product and the support services (if any), and they supersede all prior or contemporaneous oral or written communications, proposals and representations with respect to the Product or any other subject matter covered by this EULA. To the extent the terms of any Microsoft policies or programs for support services conflict with the terms of this EULA, the terms of this EULA shall control.

- **CRYSTAL REPORTS FOR MICROSOFT VISUAL STUDIO 2005:** MS Visual Studio is a development environment that is being used by uniFLOW. Crystal Reports, which is integrated with MS Visual Studio, is being used by uniFLOW for generating printing reports, a core functionality of uniFLOW. Please also refer to <https://support.microsoft.com/en-us/kb/318102>. NT-ware as a developer is licensee of MS Visual Studio and of Business Object Software Limited ("Business Objects"), the supplier of Crystal Reports software. Business Objects permits NT-ware to sub-license certain Crystal Reports Runtime Software to uniFLOW End-Users. Similar to MDAC, Crystal Reports Runtime Software ("Runtime Software") is included with uniFLOW and is automatically installed during the normal installation process.

The following are terms Company agrees to as a condition of its use of the Runtime Software:

The Runtime Software is licensed, not sold, to Company. Company may only use the Runtime Software in conjunction with uniFLOW. Accessing data that is not specifically created or used within the context of a uniFLOW is in violation of this license.

- o Company agrees not to alter disassemble, decompile, translate, adapt or reverse-engineer the Runtime Software or the report file (.RPT) format;
- o Company agrees not to distribute the Runtime Software with any general-purpose report writing, data analysis or report delivery product or any other product that performs the same or similar functions as Business Objects' product offerings;

- o Company agrees not to use the Runtime Software to create for distribution a product that is generally competitive with Business Objects' product offerings;
- o Company agrees not to use the Runtime Software to create for distribution a product that converts the report file (.RPT) format to an alternative report file format used by any general purpose report writing, data analysis or report delivery product that is not the property of Business Objects; and
- o Company agrees not to use the Runtime Software on a rental or timesharing basis or to operate a service bureau facility for the benefit of third parties.

BUSINESS OBJECTS AND ITS SUPPLIERS AND DISTRIBUTORS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF THIRD PARTY RIGHTS FOR THE RUNTIME SOFTWARE. BUSINESS OBJECTS AND ITS SUPPLIERS AND DISTRIBUTORS SHALL HAVE NO LIABILITY WHATSOEVER UNDER THIS AGREEMENT OR IN CONNECTION WITH THE RUNTIME SOFTWARE.

Business Objects and/or its suppliers retain all right, title and interest in and to the Runtime Software and all copies at all times, regardless of the form or media in or on which the original or other copies may subsequently exist.

Company neither owns nor hereby acquires any claim or right of ownership to the Runtime Software or to any related patents, copyrights, trademarks or other intellectual property. Company agrees to use reasonable efforts to prevent and protect the contents of the Runtime Software from unauthorized disclosure or use. Business Objects and/or its suppliers reserve all rights not expressly granted to Company. Business Objects' suppliers are the intended third party beneficiaries of these terms and have the express right to rely upon and directly enforce the terms set forth herein.

The Runtime Software is copyrighted by Business Objects and/or its suppliers and is protected by United States copyright and patent laws and international treaty provisions.

## **SOFTWARE SUPPORT AND MAINTENANCE AGREEMENT**

This software support and maintenance agreement ("Agreement") by and between the company whose name and address appear in the registration described in Section 1 below ("Company") and NT-Ware U.S.A., Inc. a Delaware corporation ("NT-Ware"), sets forth the terms and conditions under which NT-Ware will furnish updates to and technical support for the licensed software products of NT-ware covered by this Agreement ("Licensed Software").

**1. ELIGIBILITY.** In order for Company to be eligible for maintenance and support services, Company must register online by completing the requested information when prompted during installation. Once Company activates the support services, NT-Ware's support and maintenance database will determine eligibility and the effective term (including the initial term and any extended terms purchased with the initial purchase of Licensed Software) and send confirmation to Company. In case an online registration is not possible, the registration may be completed via e-mail or by fax to the number listed in the registration procedure.

**2. TERM.** This Agreement shall commence on the date ("Commencement Date") which is the date of license of the Licensed Software. Unless terminated pursuant to Section 9 below, this Agreement shall be in effect for one (1) year from the Commencement Date, and is included at no additional charge in the price of the Licensed Software purchased from Canon U.S.A., Inc. ("Canon USA") or an authorized office imaging retail dealer of Canon USA ("Dealer"). At the time of original purchase or prior to the expiration of this one (1) year term, Company may purchase additional years of extended maintenance and support solely from Canon USA or a Dealer. Accordingly, depending on the purchase of extended support, the duration of support will be for a period of up to five (5) years from the date of license of the Licensed Software ("Support Term"). For current extended support prices, please contact Canon USA or a Dealer. Such prices may be changed at any time without notice. No matter when purchased, the term of extended maintenance and support starts upon the expiration date of the term that you have previously purchased. To ensure continued maintenance and support, the extension must be purchased by Company prior to the expiration of this Agreement. If additional Licensed Software is purchased, this may result in adjustment of the effective term for all supported Licensed Software. Customer may contact the purchase source for the Licensed Software (Canon USA or Dealer) for information about the effective term of support and

maintenance. Support outside the scope or term of this Agreement may be provided at the published rates of NT-Ware, Canon USA or its Dealers, as the case may be, for time and materials and with Company assuming all costs, including shipping.

**3. UPDATES TO LICENSED SOFTWARE.** During the Support Term NT-Ware will provide updates to the Licensed Software, including patches and new versions of the Licensed Software ("Updates") to Canon USA within 30 days of NT-Ware's commercial release of such Updates, and Canon USA will distribute such Updates to Dealers (or, where applicable, its direct purchasers). During the Support Term, Company is entitled to receive all commercially released Updates of the Licensed Software. Company may install any Update release itself or engage Canon USA or a Dealer to perform such installation for an agreed upon charge. NT-Ware reserves the right to discontinue support for connections to versions of third party applications that are no longer supported by the manufacturer. New versions of the Licensed Software, such as versions for new operating systems or which feature fundamentally new functionality, are not within the scope of this Agreement. Also, Updates that are patches will only be suitable and compatible with a version of Licensed Software that is not more than two (2) years from its release date (i.e., within a Mainstream Support Period as defined below). Any open source operating system software and certain other third party software components that are included in the Licensed Software will be supported solely to the extent that the relevant developer makes support available to NT-Ware, and NT-Ware reserves the right to replace such third party software at any time, including if technical updates or compatibility upgrades deemed necessary by NT-Ware are not forthcoming from any such developer. Any Updates or other modified version of the Licensed Software provided under this Agreement shall be subject to the same End-User License Agreement as is applicable to the Licensed Software, and shall be subject to its terms.

**4. OBTAINING TECHNICAL SUPPORT.** During the Support Term, Company shall contact the purchasing source (Dealer or Canon USA) for Level 1 support on a uniFLOW System. Level 1 support consists of providing help-line telephone assistance in operating the uniFLOW System and identifying service problems, escalating issues as needed to rectify such problems with bug fixes, if needed to remedy a problem, and maintaining a log of such problems to assist in tracking the same. If Company still requires technical support after Level 1 support has been provided by Dealer or Canon USA, as the case may be, then, at Company's request, Canon USA shall escalate the problem in coordination with NT-Ware. Company must specify a designated individual who will act for Company as the sole support liaison to Dealer or Canon USA. NT-ware will provide Level 3 support and bug fixes (if needed) only if, on the date of the support request, Company is running a version of Licensed Software that is no more than two (2) years from the release date of such version ("Mainstream Support Period"). If the Support Term is ongoing but Company requests support for a problem more than two (2), but less than seven (7) years from the release date of the Licensed Software version (the "Subsequent Support Period") hotfixes for bugs in such version are possible but not guaranteed, and any Update releases specifically for this version will further be provided at NT-ware's sole discretion based on common market demand. During the Support Period, the Mainstream Support Period will be refreshed whenever Company is running a version of the License Software that is within two (2) years of the version release date. Therefore, Company is advised to install promptly all Updates produced by NT-Ware under Section 3 and made available to Company by its Dealer or Canon USA under Section 3 to ensure that NT-Ware will optimally support Company's versions of the Licensed Products throughout the term of Company's purchased Support Period. In making a request for technical support, the Company representative must identify Company and provide the serial number(s) and release date of its version of the Licensed Software then running to define the support to which it is entitled.

**5. ASSIGNMENT.** NT-Ware will be entitled to assign, sub-contract or sub-let this Agreement or any part thereof. Company will not be entitled to assign this Agreement or any part thereof without the prior written consent of NT-Ware.

**6. LIMITATION OF LIABILITY.** NEITHER NT WARE, CANON USA, NOR ANY DEALER, SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOSS OR DEGRADATION OF DATA, BUSINESS INTERRUPTION OR LOST PROFITS) ARISING FROM THE MAINTENANCE AND SUPPORT OF THE NT-WARE SYSTEM, INCLUDING LICENSED SOFTWARE AND UPDATES THEREFOR, OR FROM ANY OF NT-WARE'S OBLIGATIONS UNDER THIS AGREEMENT, EVEN IF NT-WARE, CANON USA OR DEALER HAS BEEN MADE AWARE OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. COMPANY ACKNOWLEDGES THAT THE LIABILITY OF DEALER, CANON USA AND/OR NT-WARE (INDIVIDUALLY AND IN THE AGGREGATE) FOR DIRECT DAMAGES ARISING OUT OF COMPANY'S OPERATION OR USE OF THE LICENSED SOFTWARE, REGARDLESS OF THE FORM OF ACTION (I.E., WHETHER IN CONTRACT OR TORT, INCLUDING WITHOUT LIMITATION NEGLIGENCE OR STRICT LIABILITY), SHALL NOT EXCEED THE FEES ACTUALLY PAID BY COMPANY TO DEALER OR CANON USA.

7. **GENERAL.** This Agreement is the complete and exclusive statement of the terms and conditions under which NT-Ware will produce Updates to be made available to Company through Canon USA and its Dealers with maintenance and certain technical support services for the uniFLOW System, including updates to Licensed Software. This Agreement supersedes any prior proposal, agreement, or communication, oral or written, pertaining to the subject matter contained herein. This Agreement shall be governed by the laws of the State of New York. All questions concerning the terms and conditions of this Agreement should be directed to NT-Ware in writing to NT-Ware U.S.A., Inc. at 105 Maxess Road, Suite 129 S, Melville, New York 11747.

8. **U.S. GOVERNMENT RESTRICTED RIGHTS.** Any new releases, upgrades or versions of the Licensed Software are provided with Restricted Rights. Licensed Software provided under this agreement is "commercial computer software" as defined in DFARS 252.227-7014(a)(1)(June 1995) and accompanying Documentation is subject to Restricted Rights. Contracting Officer and Government End User agree to the inclusion of third party copyrighted computer software and documentation for all Licensed Software provided under this Agreement. Use, duplication, or disclosure by the Government is set forth in subparagraph (b)(3) of Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, DFARS 252.227-7014 (June 1995) or subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights clause at 48 CFR 52.227-19(June 1987), as applicable. Contractor/manufacturer is NT-Ware U.S.A., Inc., 105 Maxess Road, Suite 129 S, Melville, New York 11747.

Contracting Officer and Government End User acknowledge that they have read all of the above terms and conditions, understand them, agree to be bound by them and further that neither Canon USA nor Dealer is a NT-Ware's agent, nor are they authorized to make representations or warranties on NT-Ware's behalf, or to vary any of the terms or conditions of this Agreement.

9. **TERMINATION.** This Agreement shall terminate automatically without notice to Company upon failure to comply with any term or condition set herein or upon the termination of the license agreement for any Licensed Software. Upon such termination, Company acknowledges that no refunds of any maintenance fees shall be made.

**Registration Data:**

In order to activate your NT-Ware Software Maintenance and Support Agreement, you must register the Licensed Software covered by this Agreement by completing the requested information when prompted during installation. Be prepared to supply the following information:

COMPANY name/Technical Contact (Name and Title):

Post Office Address:

E-mail Address:

DEALER name:

[Licensed Software Serial Number – the 10 digit number after "S/N" that is located on the label of the software CD case.]

## County of Inyo, California - NASPO PO Schedule A

<b>Equipment Address / Ship To</b>	<b>City</b>	<b>Department</b>	<b>Model/Accessory</b>
<b>1360 N. Main Street Suite 227/228</b>	<b>Bishop</b>	<b>Agriculture Commissioner</b>	<b>iR Adv C3930i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			Cassette Feeding Unit-AW1
			Super G3 Fax Board-BH1
<b>682 Spruce Street</b>	<b>Bishop</b>	<b>Bishop Senior Center</b>	<b>iR Adv C3930i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			Cassette Feeding Unit-AW1
			Super G3 Fax Board-BH1
<b>1360 N. Main Street Suite 152-C (ARC)</b>	<b>Bishop</b>	<b>HHS-Bishop</b>	<b>iR Adv C3930i</b>
			Inner Finisher-L1
			Cassette Feeding Unit-AW1
			Super G3 Fax Board-BH1
<b>155 N Grant Street</b>	<b>Independence</b>	<b>Museum Independence</b>	<b>iR Adv C3930i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			Cassette Feeding Unit-AW1
			Super G3 Fax Board-BH1
<b>201 Mazourka Canyon Road</b>	<b>Independence</b>	<b>Juvenile Center</b>	<b>iR Adv C3930i</b>
			Inner Finisher-L1
			Cassette Feeding Unit-AW1
			Super G3 Fax Board-BH1
<b>380 N. Mount Whitney Drive</b>	<b>Lone Pine</b>	<b>HHS-Lone Pine</b>	<b>iR Adv C3930i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			Cassette Feeding Unit-AW1
			Super G3 Fax Board-BH1
<b>860 Tecopa Hot Springs Road</b>	<b>Tecopa</b>	<b>Parks and Rec-Tecopa</b>	<b>iR Adv C3930i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			Cassette Feeding Unit-AW1
			Super G3 Fax Board-BH1
<b>138 N. Jackson Street</b>	<b>Lone Pine</b>	<b>Senior Center-Lone Pine</b>	<b>iR Adv C3930i</b>



## County of Inyo, California - NASPO PO Schedule A

			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			Cassette Feeding Unit-AW1
			Super G3 Fax Board-BH1
<b>210 Academy Street</b>	<b>Bishop</b>	<b>Bishop Library</b>	<b>iR Adv C3930i</b>
			Inner Finisher-L1
			Cassette Feeding Unit-AW1
			Super G3 Fax Board-BH1
<b>1360 N. Main Street Suite 220</b>	<b>Bishop</b>	<b>Public Guardian-PAPG</b>	<b>iR Adv C3930i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			Cassette Feeding Unit-AW1
			Super G3 Fax Board-BH1
<b>1360 N. Main Street</b>	<b>Bishop</b>	<b>Sheriff Department</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>TTC Treasury / COH</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>TTC Treasury</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>1360 N. Main Street Suite 203</b>	<b>Bishop</b>	<b>First Five-CPS</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>1360 N. Main Street Suite 256A</b>	<b>Bishop</b>	<b>Administration Services-CAO</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1

## County of Inyo, California - NASPO PO Schedule A

			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>1360 N. Main Street Suite 237</b>	<b>Bishop</b>	<b>Child Support Service</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>1360 N. Main Street Suite 268</b>	<b>Bishop</b>	<b>DA / Welfare / Fraud - Bishop</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>1360 N. Main Street Suite 117</b>	<b>Bishop</b>	<b>Health Dept.-Clinic Pub Health</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>DA - Independence - 3rd Floor</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>550 South Clay Street</b>	<b>Independence</b>	<b>Sheriff Office-Independence</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>550 South Clay Street</b>	<b>Independence</b>	<b>Jail-Independence</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>Assessors Office-Independence</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>726 N. Main Street</b>	<b>Lone Pine</b>	<b>Lone Pine Sub Station Sheriff Dept.</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1

## County of Inyo, California - NASPO PO Schedule A

			Inner 2/3 Hole Puncher-D1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>224 N. Edwards Street</b>	<b>Independence</b>	<b>IT Information Service-Independence</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>Auditor Office-Independence</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>Treasurer Tax Collector-Independence</b>	<b>iR Adv C5840i</b>
			Inner Finisher-L1
			High Capacity Cassette Feeding Unit-C1
			Super G3 Fax Board-AX1
<b>1360 N. Main Street Suite 204</b>	<b>Bishop</b>	<b>HHS</b>	<b>iR Adv C5870i</b>
			High Capacity Cassette Feeding Unit-C1
			Staple Finisher-AB2
			Buffer Pass Unit-P2
			2/3 Hole Puncher Unit-A1
			Super G3 Fax Board-AX1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>Planning Department</b>	<b>iR Adv C5850i</b>
			High Capacity Cassette Feeding Unit-C1
			Inner Finisher-L1
			Super G3 Fax Board-AX1
<b>135 South Jackson Street</b>	<b>Independence</b>	<b>Water Department</b>	<b>iR Adv C5850i</b>
			High Capacity Cassette Feeding Unit-C1
			Inner Finisher-L1
			Super G3 Fax Board-AX1
<b>1360 N. Main Street Suite 162</b>	<b>Bishop</b>	<b>Probation Department-Adult</b>	<b>iR Adv C5850i</b>
			High Capacity Cassette Feeding Unit-C1
			Inner Finisher-L1
			Super G3 Fax Board-AX1
<b>1360 N. Main Street Suite 162</b>	<b>Bishop</b>	<b>Juvenile Probation-Bishop</b>	<b>iR Adv C5850i</b>
			High Capacity Cassette Feeding Unit-C1
			Inner Finisher-L1

## County of Inyo, California - NASPO PO Schedule A

			Super G3 Fax Board-AX1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>Public Works Roads-Independence</b>	<b>iR Adv C5850i</b>
			High Capacity Cassette Feeding Unit-C1
			Inner Finisher-L1
			Super G3 Fax Board-AX1
<b>703 Airport Road</b>	<b>Bishop</b>	<b>Bishop Airport/Main Terminal</b>	<b>iR Adv DX 719iFZ</b>
			Cassette Feeding Unit-AR1
<b>703 Airport Road</b>	<b>Bishop</b>	<b>Bishop Airport #2/WBX Building</b>	<b>iR Adv DX 719iFZ</b>
			Cassette Feeding Unit-AR1
<b>200 N. Washington Street</b>	<b>Lone Pine</b>	<b>Lone Pine Library</b>	<b>iR Adv DX 529iFZ</b>
			Cassette Module-AG1
			Cabinet Type-U
<b>408 Tecopa Hot Springs Road</b>	<b>Tecopa</b>	<b>Tecopa Library</b>	<b>iR Adv DX 529iFZ</b>
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>Annex 2nd Floor Hall</b>	<b>iR Adv DX 6855i</b>
			High Capacity Cassette Feeding Unit-C1
			Staple Finisher-AB2
			Buffer Pass Unit-P2
			Super G3 Fax Board-AX1
<b>500 Main Street</b>	<b>Big Pine</b>	<b>Big Pine Library</b>	<b>iR Adv DX 4935i</b>
			Cabinet Type-W
			Inner Finisher-L1
			Single Pass DADF-C1
<b>1360 N. Main Street Suite 227/230</b>	<b>Bishop</b>	<b>AG/SW/MP/Parks</b>	<b>iR Adv C5860i</b>
			High Capacity Cassette Feeding Unit-C1
			Inner Finisher-L1
			Super G3 Fax Board-AX1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>Clerk Recorder / Elections-Independence</b>	<b>iR Adv C5860i</b>
			High Capacity Cassette Feeding Unit-C1
			Inner Finisher-L1
			Super G3 Fax Board-AX1
<b>1360 N. Main Street Suite 124</b>	<b>Bishop</b>	<b>Clerk</b>	<b>iR Adv C5860i</b>
			High Capacity Cassette Feeding Unit-C1
			Inner Finisher-L1
			Super G3 Fax Board-AX1
<b>1360 N. Main Street Suite 201</b>	<b>Bishop</b>	<b>HHS Admin-County Services</b>	<b>iR Adv C5860i</b>
			High Capacity Cassette Feeding Unit-C1

## County of Inyo, California - NASPO PO Schedule A

			Inner Finisher-L1
			Super G3 Fax Board-AX1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>HHS Fiscal Office-Independence</b>	<b>iR Adv C5860i</b>
			High Capacity Cassette Feeding Unit-C1
			Inner Finisher-L1
			Super G3 Fax Board-AX1
<b>224 N. Edwards Street</b>	<b>Independence</b>	<b>Administration Services-Indy</b>	<b>iR Adv C5860i</b>
			High Capacity Cassette Feeding Unit-C1
			Inner Finisher-L1
			Super G3 Fax Board-AX1
<b>1360 N. Main Street Suite 114</b>	<b>Bishop</b>	<b>Social Services-E&amp;E-Bishop</b>	<b>iR Adv C5860i</b>
			High Capacity Cassette Feeding Unit-C1
			Inner Finisher-L1
			Inner 2/3 Hole Puncher-D1
			Super G3 Fax Board-AX1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>Clerk Recorder-Independence</b>	<b>iR Adv C5860i</b>
			High Capacity Cassette Feeding Unit-C1
			Inner Finisher-L1
			Super G3 Fax Board-AX1
<b>224 N. Edwards Street</b>	<b>Independence</b>	<b>Boark Clerk-Independence</b>	<b>imageCLASS LBP1127C</b>
			Cassette Unit-AF1
<b>224 N. Edwards Street</b>	<b>Independence</b>	<b>Personnel-Admin Office-Independence</b>	<b>imageCLASS LBP1127C</b>
			Cassette Unit-AF1
<b>1360 N. Main Street Suite 229</b>	<b>Bishop</b>	<b>Farm Advisor-Bishop</b>	<b>imageCLASS LBP1127C</b>
			Cassette Unit-AF1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>Auditors Office-Courthouse Independence</b>	<b>imageCLASS LBP1127C</b>
			Cassette Unit-AF1
<b>1360 N. Main Street Suite 2</b>	<b>Bishop</b>	<b>Sheriffs Dept-MINT-Bishop 2nd Floor</b>	<b>iR Adv C259iF</b>
			Cassette Module-AE1
<b>CA-127 Shoshone</b>	<b>Shoshone</b>	<b>Sheriff Sub Station-Shoshone</b>	<b>iR Adv C259iF</b>
			Cassette Module-AE1
<b>1001 County Road</b>	<b>Big Pine</b>	<b>Sheriff Animal Shelter-Big Pine</b>	<b>iR Adv C259iF</b>
			Cassette Module-AE1
<b>550 S Clay Street</b>	<b>Independence</b>	<b>Sheriff Administration-Independence</b>	<b>iR Adv C259iF</b>
			Cassette Module-AE1
<b>550 S Clay Street</b>	<b>Independence</b>	<b>Sheriff Dispatch-Independence</b>	<b>iR Adv C259iF</b>

## County of Inyo, California - NASPO PO Schedule A

			Cassette Module-AE1
<b>1360 N. Main Street</b>	<b>Bishop</b>	<b>Sheriff Posse Hut-Bishop</b>	<b>iR Adv C259iF</b>
			Cassette Module-AE1
<b>1360 N. Main Street</b>	<b>Bishop</b>	<b>HHS Progress House-Bishop</b>	<b>iR Adv C259iF</b>
			Cassette Module-AE1
<b>1360 N. Main Street</b>	<b>Bishop</b>	<b>HHS Wellness Center-Bishop</b>	<b>iR Adv C259iF</b>
			Cassette Module-AE1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>County Council-Admin Office-Independence</b>	<b>iR Adv C259iF</b>
			Cassette Module-AE1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>Downstairs Courthouse-Independence</b>	<b>iR Adv C259iF</b>
			Cassette Module-AE1
<b>168 N. Edwards Street</b>	<b>Independence</b>	<b>Building and Maintenace</b>	<b>imageCLASS X MX1647iF</b>
			Paper Feeder PF-C1

X
<b>Authorized Signer</b>
<b>Print Name</b>
<b>Title</b>
<b>Date</b>

**STATE OF CALIFORNIA**  
**PARTICIPATING ADDENDUM NUMBER 7-19-70-46-01**  
**AMENDMENT 2**

Copiers and Managed Print Services  
Colorado NASPO ValuePoint Master Agreement Number 140595  
**Canon U.S.A., Inc. (Contractor)**

The parties mutually agree to amend Participating Addendum 7-19-70-46-01 as follows:

- 1) Agreement is extended from December 31, 2022 to July 31, 2024. **Section 2. TERM, subparagraph A** is revised to read as follows:
  - A. The term of this Participating Addendum shall begin upon signature approval by the State and will end July 31, 2024, or upon termination by the State, whichever occurs first.
- 2) **Section 21. EXECUTIVE ORDER N-6-22 – RUSSIA SANCTIONS** is hereby added to read as follows:

**21. EXECUTIVE ORDER N-6-22 – RUSSIA SANCTIONS**

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. “Economic Sanctions” refers to sanctions imposed by the U.S. government in response to Russia’s actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this Participating Addendum. The State shall provide Contractor advance written notice of such termination, allowing Contractor at least thirty (30) calendar days to provide a written response. Termination shall be at the sole discretion of the State.

All other terms and conditions of the Participating Addendum shall remain in full force and effect.

**Participating Addendum 7-19-70-46-01  
Amendment 2**

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date of execution by both parties below.

**STATE OF CALIFORNIA**

**CONTRACTOR**

Department of General Services

Canon U.S.A., Inc.

*Agency Name*

*Contractor Name*



11/29/2022

DocuSigned by:  
Mason Olds

11/7/2022

*Authorized Signature*

*Date Signed*

*Authorized Signature*

*Date Signed*

Julie Matthews, MAU2 Supervisor

Mason Olds

SVP

*Printed Name/Title of Person Signing*

*Printed Name/Title of Person Signing*

707 Third Street  
West Sacramento, CA 95605

One Canon Park  
Melville, NY 11747

*Address*

*Address*







# INYO COUNTY BOARD OF SUPERVISORS

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

NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-48

### Approval of "Workplace Violence Prevention Plan" County Administrator - Risk Management ACTION REQUIRED

**ITEM SUBMITTED BY**

Aaron Holmberg, Risk Manager

**ITEM PRESENTED BY**

Aaron Holmberg, Risk Manager

**RECOMMENDED ACTION:**

Approve the "Workplace Violence Prevention Plan," and authorize the Chairperson to sign.

**BACKGROUND / SUMMARY / JUSTIFICATION:**

As part of continuous improvement in employee safety, and in accordance with the passage of SB-553 in September 2023, the County has updated the Anti-Violence Policy and renamed it "Workplace Violence Prevention Plan." This update cleans-up the language, brings the plan into compliance, and highlights the intent of the safety message embodied by the plan.

Risk would like to thank the Joint Labor Management Health and Safety Committee for their input and support, and Administration for the ongoing commitment to continuous improvement in employee safety.

**FISCAL IMPACT:**

<b>Funding Source</b>	General and Non-General Fund	<b>Budget Unit</b>	010900/ 500902/ 500903
<b>Budgeted?</b>	The expense of the premiums for PRISM are budgeted annually in various Risk budgets	<b>Object Code</b>	4822
<b>Recurrence</b>	Annual		
<b>Current Fiscal Year Impact</b>			
The approval of this plan has no fiscal impact. The training that is offered to employees annually is part of the Target Solutions training modules, which are provided free of charge through payment of our annual PRISM premiums.			
<b>Future Fiscal Year Impacts</b>			
All premiums are budgeted annually.			
<b>Additional Information</b>			
Plan requires annual training which is already accounted for elsewhere.			

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could elect to deny or modify the safety plan. This is not recommended as the plan has been vetted, and time is of the essence due to passage of SB553.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

None.

**ATTACHMENTS:**

1. Workplace Violence Prevention Plan

**APPROVALS:**

Aaron Holmberg	Created/Initiated - 1/20/2024
Darcy Ellis	Approved - 1/22/2024
Aaron Holmberg	Approved - 1/22/2024
Anna Scott	Approved - 1/23/2024
Keri Oney	Approved - 1/23/2024
John Vallejo	Approved - 1/24/2024
Amy Shepherd	Approved - 1/26/2024
Nate Greenberg	Final Approval - 1/27/2024



**County of Inyo  
Workplace Violence Prevention Plan  
Formerly “Anti Violence Policy”**

**Updated January 2024  
Approved by Health and Safety Committee on 1/18/2024  
Pending adoption by the Board of Supervisors**

**MESSAGING TO MEMORIZE:  
“If you see something, say something.”  
“RUN, HIDE, FIGHT.”**

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## **I. PURPOSE**

The County of Inyo provides a safe and healthful workplace for its employees and public officials and is committed to securing work environments. Workplace violence is any incident in which any employee is abused, threatened, battered, assaulted, or intimidated at the workplace. No form of violence will be tolerated. Any violent act or threat against a person's life, health, family, or property, directly or indirectly, regardless of intent, made by or to any County employee is unacceptable. If a county employee causes or contributes to an act of workplace violence, discipline will result up to and including separation from County employment.

Violence could be obvious and overt, such as physical assault and verbal abuse. It could alternatively be more subtle, such as intimidation and threatening body language. Here are some examples of workplace violence from the news over the last few years:

- Physical attack, including biting, choking, grabbing, hair pulling, kicking, punching, slapping, pushing, pulling, scratching, or spitting.
- Verbal abuse in person or by telephone, including voice mail.
- Written abuse by U.S. mail, intra- or inter-office mail, or by e-mail.
- Harassing surveillance or stalking.
- Unauthorized possession or implied use of firearms or any type of weapon.
- Destruction or threat of destruction of County property.
- Making either direct or veiled verbal threats of harm (i.e., predicting that bad things are going to happen to a co-employee or supervisor).
- Words or actions that are extremely unusual, disruptive and/or completely inconsistent with the workplace.

There are four types of Workplace Violence, and all four are included in the Plan: (1) Workplace violence committed by a person who has no legitimate business at the work site and includes violent acts by anyone who enters the workplace with the intent to commit a crime. (2) Workplace violence directed at employees by customers, clients, patients, students, inmates, or visitors or other individuals accompanying a client, customer, or patient. (3) Workplace violence against an employee by a present or former employee, supervisor, or manager. (4) Workplace violence committed in the workplace by someone who does not work there but has or is known to have had a personal relationship with an employee.

This Workplace Violence Prevention Plan replaces the County's previous version, called the Anti-Violence Policy, and the Plan covers all employees. The Plan is fully compliant with California SB 553, signed into law September 30, 2023. In accordance with SB 553, certain reporting aspects of the plan do not apply to healthcare facilities subject to Section 3342, POST participating law enforcement, employees working remotely, and work spaces with less than 10 employees with no public access. For questions about applicability, contact Risk Management or Personnel.

## II. DEFINITIONS

- A. Abuse: Language that condemns or vilifies usually unjustly, intemperately, and angrily; or physical maltreatment.
- B. Battery: Unlawful touching of another without his/her consent.
- C. Assault: Any willful attempt or threat to inflict injury upon another person, when coupled with an apparent present ability so to do, and any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm. An assault may be committed without physically touching, or striking, or doing bodily harm to the person of another (e.g., lifting a fist in a threatening manner).
- D. Threat: Communicated intent to inflict physical or other harm on any person or on property. Includes a statement or conduct that causes a person to fear for his or her safety because there is a reasonable possibility the person might be physically injured, and that serves no legitimate purpose.
- E. Intimidation: To make timid or fearful; frighten; to compel or deter by or as if by threats. Such fear must arise from the willful conduct of the accused, rather than from some mere temperamental timidity of the victim; however, the fear of the victim need not be so great as to result in terror, panic, or hysteria.

## III. RESPONSIBILITIES

The Risk Manager is the point person for this plan. He brings periodic updates to the Board for consideration following review for effectiveness by the Threat Assessment Team and the Joint Labor Management Health and Safety Committee. Contact the Risk Manager at 760.872.2908 | [risk@inyocounty.us](mailto:risk@inyocounty.us) | 1360 North Main St, Ste 256, Bishop, CA 93514.

Department Heads are responsible for implementing this Plan in their units with guidance from Risk Management and Personnel. The Threat Assessment Team and the Joint Labor Management Health and Safety Committee provide recommendations on the plan and input to assist in implementation. In conjunction with other provisions of the Injury & Illness Prevention Program (including routine inspections, site security assessments, employee surveys, and hazard reports), the Threat Assessment Team and the Joint Labor Management Health and Safety Committee will review the plan annually for effectiveness.

Supervisors and their employees have important roles in maintaining a safe work environment and minimizing the risk of violence in the workplace. These roles can overlap, but the nature of the responsibility can differ, as distinguished by these guidelines:

- **Employee Responsibilities:** (a) Complete training/orientation as required; (b) Follow security precautions; (c) Know Run, Hide, Fight; (d) Report threats or suspicious behaviors; (e) Share suggestions for improvement with supervisor, union rep, or risk management; and (f) Do not engage in violence at work.
- **Supervisor Responsibilities:** (a) Conduct training/orientations as required; (b) Maintain this document and make it available to employees; (c) Ensure periodic review of security protocols; (d) Follow-up with employee after an incident; (e) Cooperate with outside agencies; and (f) Consider suggestions.



#### IV. PREVENTION AND HAZARD IDENTIFICATION

The County's commitment to preventing or minimizing the threat of violence in the workplace includes the utilization of engineering controls, administrative and work practice controls, and the awareness education of potential pre- or post- indicators of violence. Our IIPP carefully covers the process of hazard identification, so this section appears generalized and brief and is not intended to be a comprehensive review of workplace violence hazards. Furthermore, this plan is a public document, and we do not wish to disclose extemporaneously to the public potential avenues for someone to practice violence against our employees or visitors. Here are general themes to our solutions.

- Engineering Controls
  - Routine inspections – see IIPP
  - Keeping up with trash and debris collection
  - Clear panels in doors for monitoring, subject to further security review.
  - Curved mirrors to see around corners.
  - Closed circuit video in jail and in certain exterior areas.
  - Vehicle deterrence around buildings
  - Keyless door systems
  - Furniture arrangement to facilitate expedited egress.
  - Cell phones, panic buttons, silent messaging in Teams
  - Other warning and silent messaging systems
- Administrative and Work Practice Controls
  - Health and Human Services has its own custom violence prevention plan that is a subset of this one for employees working in the field since 2022 designed with the expertise of those employees working in the field and with the input of medical and law enforcement. That plan is not attached to this one.
  - Employees are provided cell or satellite phones when traveling remotely and when appropriate.
  - Panic buttons are being installed in treatment rooms.
  - Employees may request to have another employee or law enforcement accompany them in situations where they feel unsafe or threatened.
  - Coaching through routine Vector Solutions assignments

By identifying signal behaviors, officials, managers, and employees may be able to prevent violent incidents from occurring. We teach our employees vigilance without discrimination in their awareness and reporting efforts in service to themselves and others. Managers and employees shall report concerns about signal behaviors to their Division Head or Department Head and/or Risk Management or 9-1-1. The Risk Manager and Division or Department Head will conduct a confidential interview with the reporting employee. Anonymous reports may be made at <https://www.inyocounty.us/iipp>.

The following behaviors may be a signal that something is wrong. None should be ignored.

- Awareness - Indicators of Potential Tendency to Violence
  - Direct or veiled threats of harm.
  - Intimidating, belligerent, harassing, bullying, or other inappropriate and

- aggressive behavior.
- Numerous conflicts with supervisors and other employees.
- Fascination with weapons.
- Statements showing fascination with incidents of workplace violence, statements indicating approval of the use of violence to resolve a problem, or statements indicating identification with perpetrators of workplace homicides.
- Statements indicating desperation (over family, financial, and other personal problems) to the point of contemplating suicide.
- Drug or alcohol abuse.
- Extreme changes in behavior.
- Awareness - Indicators of Domestic Violence that could spill over to workplace
  - Signs of physical injury.
  - Emotional episodes.
  - Increased fear of a victim.

## **V. MANDATORY REPORTING OF WORKPLACE INCIDENTS**

Employees are required to report all instances of workplace violence or threats of workplace violence to their Division Head, Department Head, or Risk Management within 24 hours of the incident. No special form is required to make a report. The person receiving the report may collect information on the Workplace Violence Report form to ensure complete data collection. The County prohibits retaliation against an employee who makes a workplace violence report. If a violent act results in an injury to a County employee, the County will report the incident to the appropriate law enforcement agency. Nothing in this policy should be construed as prohibiting an employee from reporting an incident to a law enforcement agency.

## **VI. PROCEDURE FOR IMMEDIATE DANGER**

In the event an employee is in or feels in immediate danger of a workplace violence incident, the employee shall Dial 9-1-1 or 8-9-1-1 for emergency assistance if it is safe to do so. Employees are responsible for knowing how to summon emergency help from their particular offices. If you are unable to talk with the 911 dispatcher, discreetly dial 911 and leave the phone off the hook. The dispatcher will be able to hear what is going on and the address automatically appears on their screen. If applicable, follow the Active Shooter Guidelines in Appendix A.

## **VII. PROCEDURE FOR A POTENTIALLY VIOLENT SITUATION**

If you see something, say something. Retaliation against someone reporting a potentially violent person or situation is strictly prohibited.

In the event an employee is confronted with a situation that they feel could turn violent, the steps below are advised, subject to conditions and circumstances. This information may also be found in the Emergency Action Guide.

## County of Inyo Workplace Violence Prevention Plan

- Stay calm.
- Speak in a calm voice, businesslike, and clearly.
- Be careful of your language - do not be verbally abusive or argumentative.
- Be non-threatening. Don't clench your fists.
- Keep at a distance from the perpetrator.
- Attempt to position yourself so that office furniture or other objects separate you and the perpetrator.
- Position yourself so that an exit route is accessible.
- Do not touch the perpetrator.
- Do not attempt to physically disarm a perpetrator holding a weapon.
- Obey the perpetrator's orders when you are physically in danger but be vigilant in looking for opportunities to get away.

### **VIII. PROCEDURE FOR AFTER AN INCIDENT OCCURS (POST INCIDENT PROCEDURE)**

The following are advised after an incident occurs.

1. The target employee shall immediately notify their Division Head or Department Head and Risk Management. If the employee's Department Head is the perpetrator, the notification shall be made only to Risk Management. If the perpetrator is the Risk Manager, then the report shall be made directly to the CAO.
2. Post-incident debriefing will be conducted as soon as possible after the incident with employees and supervisors involved in the incident.
3. Individual trauma counseling for all employees affected by the incident will be made available by Personnel.
4. A Workplace Violence Report shall be prepared by Risk Management during the investigation with the assistance of the initial reporting employee and the Threat Assessment Team. The depth and timeliness of the investigation shall be commensurate with the severity of the incident. Employees who work most closely in the area where the event occurred may have special insight into the causes and solutions and will be interviewed to ascertain their insights and recommendations.
5. A review of whether appropriate engineering and administrative and work practice control measures were effectively implemented will be conducted and recommendations for the future, if any, will be prepared.
6. The investigative findings may be put in writing, and electronic copies of the findings will be made available to affected employees.
7. To the extent possible, confidentiality of the facts and circumstances surrounding an incident of workplace violence will be maintained. All employees involved in the incident and/or investigation, whether the target employee, perpetrator or witnesses, shall not discuss the incident with anyone other than law enforcement, the Risk Manager, County Counsel, union representative or Threat Management Team. Any requests for information, whether verbal or written, shall be referred to Risk Management.
8. The Risk Manager shall record information in the Violent Incident Log about every incident, post-incident response, and investigation in accordance with Cal-OSHA regulations. Risk Management will report to the appropriate state agency.

## **IX. THREAT MANAGEMENT TEAM**

The Threat Management Team comprised of the Risk Manager, Assistant or Deputy Personnel Director, and representatives from the offices of County Counsel, Sheriff's Department, and Behavioral Health. The Team assembles to determine courses of action in immediate or potentially violence situations, to provide their expertise and assistance to Department Heads and Risk Management in investigations of workplace violence incidents, and to make recommendations regarding discipline, counseling, fitness for duty exams and special security measures. The Team meets as needed and no regular schedule is required at this time.

## **X. TRAINING**

The County will provide training to employees that addresses the workplace violence risks that the employees are reasonably anticipated to encounter in their jobs. The training will include: (a) How to obtain a copy of the workplace violence prevention plan and how to participate in its development and implementation; (b) the definitions and requirements of applicable regulations; (c) how to report workplace violence incidents or concerns to the employer or law enforcement without fear of reprisal; (d) workplace violence hazards specific to one's job, corrective measures the employer has implemented, how to seek assistance to prevent or respond to violence, and strategies to avoid physical harm; (e) the violent incident log and how to obtain copies of required records; and (f) an opportunity for interactive questions and answers with a person knowledgeable about the employer's plan.

The Threat Assessment Team and the Joint Labor Management Health and Safety Committee will review the effectiveness of the training and advise on continuous improvement.

## **XI. RECORDKEEPING**

Violence Incident Logs are recorded on a calendar basis and maintained by Risk Management. Logs are maintained for five years per SB553. Aggregated (nameless) data are shared with the Joint Labor Management Committee annually if there is any data. The Risk Manager is the contact person for questions regarding data or other records.

## **XII. EXHIBITS**

Three appendices follow.

- A. Active Shooter Guidelines (2 pages)
- B. Concerns, Recommendations, and Feedback (1 page)
- C. Jobs and Tasks Requiring Annual Training on this Plan (1 page)
- D. Sample Violent Incident Log (1 page. Sorry, it's hard to read as a PDF. It's a big spreadsheet. Email Risk Manager for a printout.)

## **EXHIBIT A: ACTIVE SHOOTER GUIDELINES (2 pages)**

The objective of these guidelines is to assist employees in dealing with an active shooter event. Because active shooter situations are often over within 10 to 15 minutes and prior to the arrival of law enforcement, employees must be prepared both mentally and physically to deal with an active shooter situation. An active shooter is defined as an individual actively engaged in killing or attempting to kill people in a confined and populated area. There is usually no pattern or method to their selection of victims.

### **A. HOW TO RESPOND: RUN**

If there is an accessible escape path, attempt to evacuate the premises. Get out of there! Be sure to:

- Have an escape route and plan in mind.
- Evacuate regardless of whether others agree to follow.
- Leave your belongings behind.
- Help others escape, if possible.
- Prevent individuals from entering an area where the active shooter may be.
- Keep your hands visible.
- Follow the instructions of any police officers.
- Do not attempt to move wounded people.
- Call 911 when you are safe. The information to provide the 911 operator is the location of the active shooter, number of shooters, physical description of the shooter(s), number and types of weapons, and number of potential victims at the location.

### **B. HOW TO RESPOND: HIDE**

If evacuation is not possible, find a place to hide where the active shooter is less likely to find you, but watch for the situation to change. Your hiding place should:

- Be out of the active shooter's view.
- Provide protection if shots are fired in your direction (i.e., an office with a closed and locked door).
- Blockade the door with heavy furniture.
- Not trap you or restrict your options for movement.

While in your hiding place:

- Silence your cell phone.
- Turn off any source of noise.
- Hide behind large items such as cabinets or desks.
- Remain quiet.
- Turn out the lights.

### **C. HOW TO RESPOND: FIGHT**

As a last resort, and only when your life is in imminent danger, attempt to disrupt and/or incapacitate the active shooter by:

- Acting as aggressively as possible against him/her.
- Throwing items and improvising weapons (i.e., fire extinguisher).
- Yelling.
- Committing to your actions.

### **D. WHAT TO DO WHEN LAW ENFORCEMENT ARRIVES**

Law enforcement's purpose is to stop the active shooter as soon as possible, not to evacuate victims. Officers will proceed directly to the area in which the last shots were heard. They might march right past you even though you're bleeding. Let them.

- Remain calm and follow officers' instructions.
- Put down any items in your hands (i.e., bags, jackets).
- Immediately raise your hands and spread your fingers.
- Always keep your hands visible.
- Avoid making quick movements toward officers or holding on to them for safety.
- Avoid pointing, screaming and/or yelling.
- Do not stop to ask officers for directions when evacuating, just proceed in the safest direction, which is more than likely the direction from which officers are entering the premises.
- Once you have reached a safe location or an assembly point, you will likely be held there until the situation is under control and all witnesses have been identified and questioned. Do not leave until law enforcement authorities have instructed you to do so.

County of Inyo Workplace Violence Prevention Plan

EXHIBIT B: CONCERNS, RECOMMENDATIONS, AND FEEDBACK  
REGARDING THE INYO COUNTY WORKPLACE VIOLENCE PREVENTION PLAN

In the interest of providing a safe and healthful work environment, all Inyo County employees are encouraged to bring any concerns about this plan or its impact, to their supervisor, labor representative, or Risk Management. This form may be used to do so. Labor representatives are encouraged to bring these forms to the Joint Labor/Management Safety Committee for review and recommendation. To express concerns anonymously, see <https://www.inyocounty.us/iipp>.

CONCERN:

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RECOMMENDATION

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Employee Name: _____ Title: _____ <i>(You may elect to remain anonymous.)</i>
Employee Signature: _____ Date: _____

*RETURN COMPLETED FORM TO SUPERVISOR, RISK MANAGEMENT, OR UNION REP*

EMPLOYEE – PLEASE DO NOT WRITE BELOW THIS LINE

---

Name of Department Head or Supervisor (Print): \_\_\_\_\_  
Signature: \_\_\_\_\_ Date Received: \_\_\_\_\_

## County of Inyo Workplace Violence Prevention Plan

### EXHIBIT C: JOBS AND TASKS WITH POTENTIAL OCCUPATIONAL EXPOSURE TO WORKPLACE VIOLENCE WHEREIN ANNUAL TRAINING MAY BE REQUIRED

Inyo County employees assigned to any of the following tasks are considered to have potential occupational exposure to workplace violence incidents, however unlikely, and must complete annual training on how to protect themselves. Such employees hold any of the following countywide job titles:

The Sheriff's Department is exempt from the annual training assigned by the Risk Manager under this policy, as the Sheriff's Department trains Sheriff's Department staff on workplace violence prevention. **All other departments and employees will be assigned at least one annual training topic related to workplace violence prevention.** Entirely remote ("at home") workers may be exempted from the annual training requirement by their department head or designee. Remote workers who return to the office should take the previously exempted course upon return to the office.



Violent Incident Log

Date of Incident	Workplace Violence Incident Type	Time of Incident	Location of Incident	Location Classification	Who Committed the Violence	Employee Circumstances	Description of Incident	Type of Incident	Consequences of Incident	Name of Person Completing Log Entry	Job Title of Person Completing Log Entry	Date of Log Entry
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# INYO COUNTY BOARD OF SUPERVISORS

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

NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-44

### Lease Agreement between the County of Inyo and Mono County Child Support Services ACTION REQUIRED

#### ITEM SUBMITTED BY

Amy Weurdig, Child Support Services Regional Director

#### ITEM PRESENTED BY

Amy Weurdig, Child Support Services Regional Director

#### RECOMMENDED ACTION:

Approve the Lease Agreement between the County of Inyo and Mono County, for the real property described as the "Tioga Room," 1290 Tavern Road, Mammoth Lakes, CA 93546 for a term of three years in an amount not to exceed \$250 per month for the period of March 1, 2024 to March 1, 2027, for a total not-to-exceed amount of \$9,000, contingent upon future budget approval, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

#### BACKGROUND / SUMMARY / JUSTIFICATION:

The existing Mono County location for Child Support Services is no longer a good option for the department, as the building was recently purchased by a new owner who is requiring Child Support to sign a lease which has unfavorable terms. As a result the department sought out new space that is adequate for the operation at a location and under a lease structure which is favorable. Luckily, space was located in the Mono County Civic Center located in Mammoth Lakes, and a favorable lease option was offered by Mono County.

This lease provides office space for the Mono County branch of the Eastern Sierra Department of Child Support Services. The Lease Agreement provides for a three-year term commencing March 1, 2024 to March 1, 2027. This ensures that the agency is in compliance with the California Code, Family Code 17400(a) "Each county shall maintain a local child support agency, as specified in Section 17304".

The Mono Branch serves roughly 200 cases and is open two days a week and by appointment. Currently, the office serves on average 24 people a month.

#### FISCAL IMPACT:

<b>Funding Source</b>	Non-General Fund	<b>Budget Unit</b>	022501
<b>Budgeted?</b>	Yes	<b>Object Code</b>	5291
<b>Recurrence</b>	Ongoing Expenditure		
<b>Current Fiscal Year Impact</b>			

Reduce rent costs from \$962.85 per month to \$250 per month, saving approximately \$3562 this fiscal year on rent for Mono County offices.

**Future Fiscal Year Impacts**

Access to office space at this rate for 3 years in Mammoth Lakes will save the department approximately \$33,000 at the current rate of rent. However, rent in the area continues to increase 2% annually, further saving the department over the term of this lease.

**Additional Information**

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

Should your Board choose not to support this, Child Support would have to find another location. This is not recommended as Child Support has been searching for available space within budget for quite some time, and options are extremely limited. Alternative space would further distance program participants from other county services, which is not recommended.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

Public Works  
County Counsel

**ATTACHMENTS:**

1. Civic Center Lease

**APPROVALS:**

Amy Weurdig	Created/Initiated - 1/17/2024
Darcy Ellis	Approved - 1/17/2024
Amy Weurdig	Approved - 1/17/2024
Keri Oney	Approved - 1/18/2024
John Vallejo	Approved - 1/18/2024
Grace Chuchla	Approved - 1/19/2024
Amy Shepherd	Approved - 1/19/2024
Nate Greenberg	Final Approval - 1/27/2024



**OFFICE LEASE FOR PROPERTY LOCATED  
AT 1290 TAVERN ROAD, MAMMOTH LAKES, CALIFORNIA**

1. Parties

This Office Lease Agreement (“Lease”) is made as of the March 1, 2024, by and between County of Mono, a political subdivision (hereinafter referred to as “Landlord”) and Inyo County - Eastern Sierra Child Support Services. (“Tenant”).

2. Leased Premises

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, an amount of square footage, which for initial reference purposes only shall be described as approximately 58 useable square feet of space, known as the Tioga Room, (the “Leased Premises”) of the property commonly referred to as 1290 Tavern Road, Mammoth Lakes, Mono County, California, (the “Property”). A floor plan of the Property depicting the Leased Premises is attached to this Lease as Exhibit “A” and incorporated herein by this reference.

3. Term

The term of this Lease shall be for one year commencing on March 1, 2024, and ending on March 1, 2027.

4. Rent

Tenant shall pay to the Landlord as rent for the Leased Premises the sum of \$250 per month, for a total annual amount of \$3,000, in advance on the first day of each month during the term hereof but in no event later than the tenth day of each month. Rent shall be payable without notice or demand in lawful money of the United States to the Landlord at the address stated herein for notice or such other persons or such other places as the Landlord may designate to the Tenant in writing.

5. Taxes

a. Real Property Taxes

i. Landlord shall pay all real property taxes and general assessments levied and assessed against the Leased Premises during the term of the Lease.

b. Personal Property Taxes

i. Tenant shall pay any taxes assessed against and levied upon the trade fixtures, furnishings, equipment and other personal property of Tenant contained in the Leased Premises.

6. Utilities

Landlord shall pay for all utilities, including, but not limited to, propane, electric, garbage, and other utility services supplied to the Leased Premises together with any taxes thereon and for all connection charges.

7. Condition of Premises

Tenant has examined Leased Premises, all furniture, furnishings, appliances and landscaping, if any, and fixtures, including smoke detectors and acknowledges that these items are clean and in operative condition. The portion of the Leased Premises consisting of Existing Space shall be delivered to Tenant in its current "AS IS" condition. Nothing in this Section regarding the condition of the Leased Premises shall be construed as relieving Landlord of any obligation it may otherwise have under this Lease to properly repair and maintain the Building and Property in good order, condition, and repair.

8. Maintenance of Premises

The Tenant will provide all basic janitorial services for the Leased Premises, including trash removal, vacuuming and dusting in all common areas, as well as snow removal in and around the designated parking areas.

Landlord is responsible for any minor maintenance and repair of appliances and fixtures, including the cost of such maintenance and repair, which were a part of the Leased Premises prior to occupancy by Tenant. This includes, but is not limited to: plumbing, septic, heating, electrical, and lighting, unless there is evidence that the need for repair was caused by negligence or willful misconduct of Tenant or Tenant's employees or clients. Tenant shall make its staff available to assist with completing such minor maintenance as requested by the Landlord. Requests should be made in writing to Tenant and Tenant shall respond with either a timeline for completion of the repair or a statement that its staff are not available to assist with a given repair within a reasonable time. In the event that any large repair of appliance and fixtures is required, Landlord will be responsible for 64% of the cost and Tenant will be responsible for 36% of the cost, unless otherwise negotiated by the parties at that time. For purposes of this paragraph, large repair is defined as any repair costing in excess of two thousand dollars (\$2000.00).

Tenant is responsible for the maintenance and repair of any additional amenities or fixtures Landlord has permitted Tenant to add or install pursuant to the procedure set forth in paragraph 9 below.

9. Alterations and Additions

Tenant shall not, with the exception of certain Required Improvements set forth in paragraph 10, without Landlord's prior written consent, make any alterations, improvements or additions to or about the Premises. If Tenant desires to add any additional fixtures or amenities, including, but not limited to air conditioning, then Tenant shall give Landlord written notice, specifying therein the fixtures or amenities Tenant wishes to add or install. If Landlord consents to such addition or installation, it shall so advise Tenant in writing. Tenant may then make the installation, at its sole expense, with the exception of certain Required Improvements set forth in paragraph 10, which shall be subject to the cost-sharing arrangement described in Paragraph 8.

Landlord shall not unreasonably withhold consent to make any alterations, improvements or additions to or about the Leased Premises nor shall Landlord withhold consent where such alterations, improvements, or additions are required by law. Landlord hereby consents to the placement of wiring for phones, computers, and security systems in the walls and floors of the office building portion of the Leased Premises and to the installation of signage on the exterior of the Building indicating the location of Tenant's offices therein.

10. Use of Premises

The Leased Premises shall be used for the operation of Child Support Services, which are open to the public. No other use shall occur within the Leased Premises without the prior written consent of the Landlord.

11. Parking

There is public parking at the Premises. All parking spots in the parking lot and on the street are available on a first-come-first-served basis.

12. Confidentiality

Landlord acknowledges that Tenant's personal, confidential, and/or sensitive material is contained on the Leased Premises and that it must be kept secure from unauthorized access pursuant to federal and state laws. Landlord understands that it is not authorized to access said personal, confidential, and/or sensitive material and agrees that it will not access, attempt to access, or assist any other unauthorized person in accessing said personal, confidential and/or sensitive material.

Tenant acknowledges Landlord's personal, confidential and/or sensitive material is contained on the Premises and that it must be kept secure from unauthorized access pursuant to federal and state laws. Tenant understands that it is not authorized to access said personal, confidential, and/or sensitive material at any time, including, but not limited to, the times during which janitorial services are provided pursuant to Paragraph 8 above, and agrees that it will not access, attempt to access, or assist any other unauthorized person in accessing said personal, confidential, and/or sensitive material.

13. Hold Harmless

Tenant shall indemnify and hold Landlord harmless from and against any and all claims arising from Tenant's use or occupancy of the Leased Premises or from the conduct of its business or from activity, work, or things which may be permitted or suffered by Tenant in or about the Leased Premises, including all damages, costs, attorney's fees, expenses and liabilities including in the defense of any claim or action or proceeding arising therefrom.

Landlord shall indemnify and hold Tenant harmless from and against any and all claims arising from Landlord's use or occupancy of the Premises or from the conduct of its business or from activity, work, or things which may be permitted or suffered by Landlord in or about the Premises, including all damages, costs, attorney's fees, expenses and liabilities including in the defense of any claim or action or proceeding arising therefrom.

14. Insurance

Tenant shall, at Tenant's expense, obtain and keep in force during the term of this Lease a policy of combined, single limit, bodily injury and property damage insurance insuring Landlord and Tenant against any liability arising out of the use, occupancy, or maintenance of the Leased Premises by Tenant.

Such insurance shall be a combined single limit policy in the amount of not less than one million dollars (\$1,000,000.00). Tenant shall provide Landlord with a copy of the certificate of insurance demonstrative the above terms.

Landlord shall obtain and keep in force during the Term of this Lease a policy of insurance covering loss or damages to the Premises against all perils included within the classification of fire, extended coverage vandalism (excluding earthquake or flood).

15. Assignment and Subletting

Tenant shall not voluntarily or by operation of law assign, transfer, sublet, mortgage, or otherwise transfer or encumber all or part of Tenant's interest in this Lease or in the Leased Premises without Landlord's prior written consent.

16. Cancellation

This Lease may be terminated by Tenant or Landlord, at will and without cause, by giving the other party six (6) months' written notice of such intent to cancel.

17. Default

It is agreed between the parties that if any rent shall be due and unpaid, or if Tenant shall default and breach any other covenant or provisions of the Lease, then the Landlord may, after giving Tenant notice of such breach or default and a reasonable period of time to in which effectuate a cure, and if same is not corrected within that time period, terminate this Lease. Upon such termination, Tenant shall remove its property from the Leased Premises as soon as reasonably practicable.

18. Surrender

Unless this Lease is extended by mutual written agreement of the Landlord and Tenant on or prior to the last day of the Term of this Lease, Tenant shall surrender the Premises to Landlord in good and clean condition, ordinary wear expected.

19. Lease Renewal

The lease does not automatically renew.

20. Binding on Successor and Assigns

Each provision of this Lease performable by Tenants shall be deemed both a covenant and a condition. The terms, conditions, and covenants of this Lease shall be bonding upon and shall inure to the benefit of each of the parties hereto, their heirs, personal representatives, successors and assigns.

21. Notices

Whenever under this Lease a provision is made for any demand, notice, or declaration of any kind, it shall be in writing and sent by United States mail, postage prepaid, addressed to the following:



The Landlord:  
Mono County  
P.O. Box 696  
Bridgeport, CA 93517

The Tenant:  
Inyo County - ESCSS  
1360 N. Main Street, Suite 237  
Bishop, CA 93514

22. Damage to Premises

If, by no fault of the Tenant, Leased Premises are totally or partially damaged or destroyed by fire, earthquake, accident or other casualty, which render Leased Premises uninhabitable, either Landlord or Tenant may terminate this agreement by giving the other written notice. Rent shall be abated as of the date of the damage. The abated amount shall be the current monthly rent pro-rated on a 30-day basis. If this agreement is not terminated, Landlord shall repair such damage in a timely manner, and rent shall be reduced based on the extent to which the damage interferes with Tenant's reasonable use of Leased Premises.

23. Integration

Landlord and Tenant agree that this Lease constitutes the entire agreement of the parties with respect to the rental of the Leased Premises. No prior agreements, written or oral, exist which could alter the terms of this Lease Agreement.

24. Voluntary Execution

Landlord acknowledges that this Lease is executed voluntarily by her or him, without duress or undue influence on the part or on behalf of the County. The Tenant and Landlord acknowledge that this lease is executed voluntarily by each, without duress or undue influence on the part of or on behalf of the Landlord. The Thant and Landlord enter this agreement knowingly aware of the contents of this Lease.

In witness thereof, the parties hereto have set their hands and seals this \_\_\_\_ day of \_\_\_\_\_, 2024.

**COUNTY OF MONO**

By: \_\_\_\_\_

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Taxpayer's Identification or Social Security Number  
\_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counsel

APPROVED BY RISK MANAGEMENT:

\_\_\_\_\_  
Risk Manager



# INYO COUNTY BOARD OF SUPERVISORS

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

NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-14

### Appointment of Anna Scott as the Interim Local Mental Health Director

#### Health & Human Services - Behavioral Health

ACTION REQUIRED

**ITEM SUBMITTED BY**

Anna Scott, Health & Human Services Director

**ITEM PRESENTED BY**

Anna Scott, Health & Human Services Director

**RECOMMENDED ACTION:**

Ratify and approve appointment of Anna Scott, HHS Director, as the Interim Local Mental Health Director and authorize the County Administrator to sign the appointment letter.

**BACKGROUND / SUMMARY / JUSTIFICATION:**

Your Board previously appointed Dr. Kimball Pier, HHS Deputy Director of Behavioral Health, as the Local Mental Health Director for the County's Mental Health Plan. Dr. Pier resigned from her position effective January 10, 2024. Her departure will leave a void in both the Mental Health Director role and also for the Substance Use Disorders Administrator.

The requirements for appointment as the Local Mental Health Director are outlined in the California Code of Regulations, Title 9, Section 620, which lists a number of licensed professionals who can fill the role when it is not the role of the local health officer or medical administrator of the county hospital. Subsection (f) specifically reads, "an administrator who shall have a master's degree in hospital administration, public health administration, or public administration from an accredited college or university, and who shall have at least three years of experience in hospital or health care administration, two of which shall have been in the mental health field. Additional qualifying experience may be substituted for the required education on a year-for-year basis with the approval of the Department".

The HHS Director's Master's Degree in Public Administration and administrative experience within the Health and Human Services Department, including administrative oversight of the Public Health and Prevention division and experience as the HHS Assistant Director and Director, including oversight of the Behavioral Health Division, appear to qualify her for the appointment on an interim basis.

The Department is respectfully requesting your Board to ratify the appointment of the HHS Director as the Interim Local Mental Health Director effective January 11, 2024. The Department also requests your Board authorize the County Administrative Officer to sign the attached letter for forwarding with the Board Order to the Department of Health Care Services for the purpose of confirming the appointment.

**FISCAL IMPACT:**

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

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

A Local Mental Health Director is required in order to act in the capacity of County Mental Health Plan administrator. Not approving this item would result in the County being out of compliance, which is not recommended as it puts the County at risk in a number of areas.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

California Department of Health Care Services

**ATTACHMENTS:**

- Mental Health Director Approval

**APPROVALS:**

Anna Scott	Created/Initiated - 1/5/2024
Darcy Ellis	Approved - 1/8/2024
Anna Scott	Approved - 1/17/2024
Keri Oney	Approved - 1/18/2024
John Vallejo	Approved - 1/18/2024
Christian Milovich	Approved - 1/24/2024
Amy Shepherd	Approved - 1/25/2024
Nate Greenberg	Final Approval - 1/27/2024





# INYO COUNTY ADMINISTRATION



NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER  
ngreenberg@inyocounty.us

DARCY ELLIS  
ASST. CLERK OF THE BOARD  
dellis@inyocounty.us

February 6, 2024

Tyler Sadwith, Deputy Director, Behavioral Health  
Michele Wong, Division Chief, Medi-Cal Behavioral Health – Oversight & Monitoring Division  
California Department of Health Care Services  
1501 Capital Avenue, MS 4000  
Sacramento, California 95899-7413

RE: Appointment of Anna Scott as Interim Local Mental Health Director

Dear Ms. Zurlin and Dr. Pfeifer,

This letter is to confirm Kimball Pier, PhD has resigned from her position as the Deputy Director, Behavioral Health and her role as the appointed Local Mental Health Director effective January 10, 2024. Inyo County Health and Human Services opened a recruitment for this position on November 20, 2023 and the County will notify your office once a qualified candidate is selected.

The Inyo County Board of Supervisors is recommending that Anna Scott, Health and Human Services (HHS) Director, be appointed as the Interim Local Mental Health Director. Ms. Scott holds a Master of Public Administration with an Emphasis in Health Care Management and has provided administrative oversight to all HHS divisions, including Behavioral Health, since January, 2022 when she was first appointed as the Assistant Director for the Department. Prior to that, Ms. Scott served as the Deputy Director of Public Health and Prevention for the County of Inyo for seven years, where she provided administrative oversight of medical and non-medical programs and staff. Ms. Scott will continue in her current role and will work with her administrative leadership and Behavioral Health clinical team to ensure continuity of services while recruiting to fill the upcoming vacancy.

We are recommending that Ms. Scott's appointment be effective January 11, 2024, as Dr. Pier's last day in the office was January 10, 2024. Future correspondence from the Department of Health Care Services should be addressed to Anna Scott, HHS Director, 1360 North Main Street, Suite 201, Bishop, California 93514. Ms. Scott can be contacted by email at [ascott@inyocounty.us](mailto:ascott@inyocounty.us) or by calling (760) 873-3305.

Please feel free to contact our office at (760) 878-0292 should you have any questions. Thank you.

Sincerely,

Nate Greenberg,  
County Administrative Officer



# INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-39

### Appointment of Anna Scott as Interim Inyo County Alcohol and Drug Program Administrator Health & Human Services - Behavioral Health ACTION REQUIRED

#### ITEM SUBMITTED BY

Anna Scott, Health & Human Services Director

#### ITEM PRESENTED BY

Anna Scott, Health & Human Services Director

#### RECOMMENDED ACTION:

Ratify and approve the appointment of Anna Scott, HHS Director, as the Interim Inyo County Alcohol and Drug Program Administrator, consistent with California Health and Safety Code (HSC) Section 11800.

#### BACKGROUND / SUMMARY / JUSTIFICATION:

Your Board previously appointed Dr. Kimball Pier, former HHS Deputy Director of Behavioral Health, as the County Alcohol and Drug Program Administrator pursuant to Health and Safety Code Sections 11800, 11801 and California Code of Regulations (CCR) Title 9, Sections 9412 and 9414, which outline the requirements for this state-county liaison and title. Dr. Pier recently resigned from her position, resulting in a vacancy for the role of Alcohol and Drug Administrator. The HHS Director meets the requirements as outlined in CCR Section 9414. The Department is recommending your Board ratify the appointment of the HHS Director as the Interim Alcohol and Drug Administrator to January 11, 2024, and until the position of HHS Deputy Director for Behavioral Health is filled.

#### FISCAL IMPACT:

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

#### ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

Your Board may choose to not approve this item which would lead to a vacancy in the Drug and Alcohol Administrator role. This is not recommended as that vacancy may impact the County's ability to meet reporting and invoice requirements.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

California Department of Health Care Services and the County Behavioral Health Director's Association of California

**ATTACHMENTS:**

**APPROVALS:**

Anna Scott	Created/Initiated - 1/16/2024
Darcy Ellis	Approved - 1/17/2024
Anna Scott	Approved - 1/17/2024
Keri Oney	Approved - 1/18/2024
John Vallejo	Approved - 1/18/2024
Amy Shepherd	Approved - 1/19/2024
Nate Greenberg	Final Approval - 1/27/2024







# INYO COUNTY BOARD OF SUPERVISORS

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DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-34

### Appointment of Anna Scott to the First 5 Children and Families Commission Health & Human Services - First 5 ACTION REQUIRED

**ITEM SUBMITTED BY**

Katelyne Lent, First 5 Program Manager

**ITEM PRESENTED BY**

Anna Scott, Health & Human Services Director

**RECOMMENDED ACTION:**

Appoint Anna Scott, HHS Director, to a new three-year term as the Health and Human Services Commissioner on the First 5 Children and Families Commission, ending December 5, 2026.

**BACKGROUND / SUMMARY / JUSTIFICATION:**

Your Board is asked to reappoint one individual to the First 5 Children and Families Commission whose term ended December 5, 2023. Inyo County Code requires that the First 5 Children and Families Commission membership shall consist of the Health & Human Services Director or his/her designee, as defined in Health & Safety Code Section 130140.

Anna Scott, HHS Director, is recommending re-appointment of herself to the HHS Commissioner position. Anna Scott has served as the chair of the First 5 Commission since January 2019. She brings a high level of understanding and knowledge to the Commission.

**FISCAL IMPACT:**

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

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose not to appoint or not reappoint different persons, adhering to the County Code of HHS designee directions. This could cause a delay in the Commission reaching a quorum and conducting regular business.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

None.

**ATTACHMENTS:**

**APPROVALS:**

Katelyne Lent	Created/Initiated - 1/12/2024
Darcy Ellis	Approved - 1/17/2024
Katelyne Lent	Approved - 1/17/2024
Stephanie Tanksley	Approved - 1/17/2024
Anna Scott	Approved - 1/17/2024
Nate Greenberg	Final Approval - 1/27/2024





# INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-15

### Appointment of Darcia Blackdeer-Lent as LPS Conservator Health & Human Services - Social Services

**ITEM SUBMITTED BY**

Anna Scott, Health & Human Services Director

**ITEM PRESENTED BY**

Anna Scott, Health & Human Services Director

**RECOMMENDED ACTION:**

Appoint Darcia Blackdeer-Lent, HHS Deputy Director of Placement and Social Services, as the authorized LPS (Lanterman-Petris-Short) Conservator.

**BACKGROUND / SUMMARY / JUSTIFICATION:**

Health and Human Services requests your Board appoint Darcia Blackdeer-Lent, the HHS Deputy Director of Placement and Social Services, as the Lanterman-Petris-Short (LPS) Act Conservator for Inyo County. The individual in this role acts as the LPS Conservator of a person when there is no family or other person to act in that capacity. The role of LPS Conservator has been assigned to the HHS Deputy Director for Behavioral Health for over twenty years. However, the Department envisioned transitioning this role to the Deputy Director of Social and Placement Services when that division was restructured in the fall of 2023. Former HHS Deputy Director of Behavioral Health, Dr. Kimball Pier, retained the role until her departure from her position in January 2024, which allowed time to transition cases from her to Ms. Blackdeer-Lent.

The Department is respectfully requesting your Board to appoint the HHS Deputy Director of Social and Placement Services as the LPS Conservator with the authority to appoint Deputy LPS Conservators to act in the Conservator's absence.

**FISCAL IMPACT:**

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

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose not to appoint an LPS conservator at this time. This is not recommended, as the County would not be able to establish conservatorships for individuals who meet criteria as outlined in the LPS Act.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

None.

**ATTACHMENTS:**

**APPROVALS:**

Anna Scott	Created/Initiated - 1/5/2024
Darcy Ellis	Approved - 1/8/2024
Anna Scott	Approved - 1/17/2024
Keri Oney	Approved - 1/18/2024
John Vallejo	Approved - 1/18/2024
Christian Milovich	Approved - 1/24/2024
Amy Shepherd	Approved - 1/25/2024
Nate Greenberg	Final Approval - 1/29/2024





# INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2023-4454

### Auction of Surplus Public Works Vehicle/Equipment Public Works ACTION REQUIRED

#### ITEM SUBMITTED BY

Gordon Moose

#### ITEM PRESENTED BY

Shannon Platt, Deputy Public Works Director - Roads

#### RECOMMENDED ACTION:

A) declare the vehicles and equipment listed in Attachment 1 as surplus; B) authorize the Road Department to offer the vehicles and equipment for sale utilizing the Public Surplus auction site; and C) authorize any unsold vehicles and equipment to be disposed of as scrap metal.

#### BACKGROUND / SUMMARY / JUSTIFICATION:

Since 2015, Inyo County has used the online auction site Public Surplus to dispose of surplus vehicles with great success. This system provides the opportunity for local government agencies, special districts, non-profit agencies, county residents and the general public to purchase surplus county vehicles and equipment online. The auction will be conducted over a one-week period and will be accompanied by advertising. All payments will be processed through Public Surplus. At the end of the auction, unsold vehicles and equipment will be disposed of as scrap metal. All proceeds will be deposited into the Road Department Budget 034600, object code 4911, sales of fixed assets.

A list of the proposed vehicles and equipment is attached as Attachment 1.

#### FISCAL IMPACT:

<b>Funding Source</b>	N/A	<b>Budget Unit</b>	
<b>Budgeted?</b>	No	<b>Object Code</b>	
<b>Recurrence</b>	N/A		
<b>Current Fiscal Year Impact</b>			
Proceeds from the auction go to Road Department Budget 034600 object code 4911 Sales of fixed Assets			
<b>Future Fiscal Year Impacts</b>			
N/A			
<b>Additional Information</b>			
N/A			



**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose not to declare the vehicles and equipment as surplus and not approve them for auction. This is not recommended as the vehicles and equipment listed are in constant need of repair due to age, non-repairable due to damage or too costly to bring into California Air Resource Board smog compliance.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

None.

**ATTACHMENTS:**

1. Surplus Equipment List - Dec. 2023

**APPROVALS:**

Shannon Platt	Created/Initiated - 12/27/2023
Darcy Ellis	Approved - 12/28/2023
Shannon Platt	Approved - 1/8/2024
Breanne Nelums	Approved - 1/9/2024
John Vallejo	Approved - 1/18/2024
Amy Shepherd	Approved - 1/19/2024
Michael Errante	Final Approval - 1/22/2024



Attachment 1

Surplus Equipment List for Inyo County Public Works Dept. Dec 2023

Asset number	Description	License	Notes
8511	2007 Chevy Pickup	127526	Mechanical Issues
8010	2000 Dodge Pickup	1017682	Mechanical Issues
8013	2000 Dodge Pickup	101768	Mechanical Issues
7494	1999 Ford Pickup	E001487	Mechanical Issues
9115	Tow Broom	1383519	Non-Op, in pieces
6993	1988 Ford Pickup	E370798	Non-Op
7779	1999 Jeep	1012766	Runs poorly
5801	1988 GMC S-10 Pickup	E206817	Non-Op
7485	1996 Ford Taurus	370849	Elec. Issues



# INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-35

### Request to Reserve Tinnemaha Campground Public Works - Parks & Recreation ACTION REQUIRED

#### ITEM SUBMITTED BY

Teresa Elliott, Administrative Analyst

#### ITEM PRESENTED BY

Michael Errante, Public Works Director

#### RECOMMENDED ACTION:

Approve a request from the Moontribe Collective to reserve all campsites at Tinnemaha Creek Campground, June 19 through June 24, 2024.

#### BACKGROUND / SUMMARY / JUSTIFICATION:

The Parks and Recreation department has received a request from the Moontribe Collective to reserve the entire Tinnemaha Creek Campground from June 19 through June 24, 2024. The Moontribe Collective has camped at the Tinnemaha Campground in the past for many years. According to their website, "Moontribe is a community of friends and family who gather in the desert to dance beneath the full moon." While reserving the entire campground does not happen regularly, it is now addressed in County Code 12.18.030 which requires approval by your Board. In addition, the Moontribe will be required to pay the appropriate fees. Moontribe is also obtaining extra chemical toilets and an extra dumpster for their event, at their expense.

#### FISCAL IMPACT:

<b>Funding Source</b>	General Fund	<b>Budget Unit</b>	076923
<b>Budgeted?</b>	Revenue	<b>Object Code</b>	4786
<b>Recurrence</b>	One-Time		
<b>Current Fiscal Year Impact</b>			
This will generate revenue of \$3150 for the Parks budget in fiscal year 2023-2024.			
<b>Future Fiscal Year Impacts</b>			
<b>Additional Information</b>			

The typical revenue for this period of time with this campground open to reservations is estimated at \$1500 - \$2000.

#### ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

Your Board is under no obligation to grant the Moontribe Collective's request to reserve the entire Tinnemaha Campground. If the request is not granted, Moontribe Collective is free to use the conventional reservation system.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

None.

**ATTACHMENTS:**

**APPROVALS:**

Teresa Elliott	Created/Initiated - 1/12/2024
Darcy Ellis	Approved - 1/12/2024
Teresa Elliott	Approved - 1/13/2024
Breanne Nelums	Approved - 1/16/2024
John Vallejo	Approved - 1/16/2024
Michael Errante	Approved - 1/16/2024
Nate Greenberg	Final Approval - 1/29/2024





# INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-12

### Right-of-Way Contracts for Temporary Easements to Caltrans Public Works ACTION REQUIRED

**ITEM SUBMITTED BY**

Travis Dean, Engineering Assistant

**ITEM PRESENTED BY**

Michael Errante, Public Works Director

**RECOMMENDED ACTION:**

Approve two (2) Right-of-Way Contracts for Temporary Easements between the County of Inyo and the California Department of Transportation in an amount not to exceed \$3,000, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained.

**BACKGROUND / SUMMARY / JUSTIFICATION:**

The California Department of Transportation (Caltrans) is requesting two (2) Right of Way Contracts for Temporary Easements for their Manzanar Pavement Project. Part of this project is installing new curb ramps along Highway 395 in Independence. There are three (3) locations of this project, where a temporary easement would be beneficial to Caltrans: Mid-block across from the northwest corner of W. Center Street; the southeast corner of E. Center Street; and the northeast corner of E. Center Street.

These temporary easements would allow Caltrans (or their Contractor) to remove existing concrete and/or curb, excavate approximately 1 foot behind the existing curb to install concrete forms and place concrete, remove the forms and backfill the new concrete curb, while protecting existing trees and utility boxes and fire hydrants. This work may involve salvaging existing grass and sod to be replaced and trimming of some trees or bushes (if necessary).

Caltrans is offering to pay the County \$3,000.00 for these temporary easements (\$500 for each temporary easement, plus \$1,000 incentive payment for each temporary easement).

**FISCAL IMPACT:**

<b>Funding Source</b>	Non-General Fund	<b>Budget Unit</b>	034600
<b>Budgeted?</b>	Yes	<b>Object Code</b>	4141
<b>Recurrence</b>	One time revenue		
<b>Current Fiscal Year Impact</b>			
Caltrans is offering to pay the County \$3,000.00 for these temporary easements (\$500 for each temporary easement, plus \$1,000 incentive payment for each temporary easement).			

<b>Future Fiscal Year Impacts</b>
<b>Additional Information</b>

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

The Board could choose not to approve the temporary easement. This is not recommended as Caltrans needs this area to construct their Manzanar Pavement Project and should it not be granted, a portion of the project could be placed in jeopardy.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

None.

**ATTACHMENTS:**

1. Manzanar Pavement Project - Temporary Easement #1
2. Manzanar Pavement Project - Temporary Easement #2

**APPROVALS:**

Travis Dean	Created/Initiated - 1/8/2024
Darcy Ellis	Approved - 1/9/2024
Travis Dean	Approved - 1/9/2024
Breanne Nelums	Approved - 1/9/2024
Grace Chuchla	Approved - 1/12/2024
Amy Shepherd	Approved - 1/19/2024
Michael Errante	Approved - 1/22/2024
Nate Greenberg	Final Approval - 1/27/2024





**RIGHT OF WAY CONTRACT — STATE HIGHWAY — TEMPORARY EASEMENT** Page 1 of 2

RW 08-04 (REV 09/2021)

DIST 09	CO INY	RTE 395	POST 69.9-73.5	EXP AUTH/PROJ. NO. 09-37900/0919000004
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168 N Edwards StIndependence, CA 93526County of Inyo

Grantor

THIS DOCUMENT NO., 4382-1,2 in the form of a TEMPORARY EASEMENT, covering the property particularly described in Clause 3 below has been executed and delivered to Curtis Hill, Right of Way Agent for the State of California.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the State of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed improvement.
2. The State shall pay the undersigned grantor(s) the sum of \$ 1,500 (\$ 500 for this Temporary Easement, plus a \$ 1,000.00 Incentive Payment as described in Clause 6 below).
3. Permission is hereby granted the State or its authorized agent to enter upon grantor's land where necessary within that certain area shown outlined in color on the map marked Exhibit "A" attached hereto and made a part hereof, for the purpose of providing working room.
4. This Temporary Easement shall terminate upon completion of the project known as Manzanar Pavement. The Temporary Construction Easement shall continue for a period of twenty-four (24) months. Construction within the TCE Area and the term of the Temporary Construction Easement shall commence fourteen (14) days from the date upon which Grantee or its authorized representative provides Grantor with written notice of Grantee's intent to commence utilization of the Temporary Construction Easement and, unless extended, it shall terminate on the earliest of (a) the date upon which Grantee notifies Grantor that it no longer needs the Temporary Construction Easement, or (b) twenty-four (24) months from the commencement date of the Temporary Construction Easement.
5. The undersigned grantor(s) warrant(s) that they are the owner(s) in fee simple of the property affected by this Temporary Easement as described in Clause 3 above and that they have the exclusive right to grant this Temporary Easement.
6. In addition to the fair market value of the easement to be acquired, it is agreed by and between the parties hereto that the amount in Clause 2 above includes the sum of \$1,000.00 as an incentive to the Grantor for the timely signing of this Right of Way Contract. This incentive payment offer expires sixty (60) days from the Initiation of Negotiations (                                , 2023).
7. The parties to this contract shall, pursuant to Section 21.7(a) of Title 49, Code of Federal Regulations, comply with all elements of Title VI of the Civil Rights Act of 1964. This requirement under Title VI and the Code of Federal Regulations is to complete the USDOT Non-Discrimination Assurance requiring compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Parts 21 and 28 C.F.R. Section 50.3.  
Further, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that is the subject of this contract.

**ADA Notice**

For individuals with sensory disabilities, this document is available in alternate formats. For alternate format information, contact the Forms Management Unit at (279) 234-2284, TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

**RIGHT OF WAY CONTRACT — STATE HIGHWAY — TEMPORARY EASEMENT** Page 2 of 2

RW 08-04 (REV 09/2021)

*In Witness Whereof, the Parties have executed this agreement the day and year first above written.*

Inyo County

224 N. Edwards St.

Independence, CA 93526

Jennifer Roeser, Chairperson of Board of Supervisors  
Grantor

Recommended for Approval:

By \_\_\_\_\_  
Right of Way Agent

By \_\_\_\_\_  
Chief, Acquisition Branch

STATE OF CALIFORNIA  
Department of Transportation

By \_\_\_\_\_

**No Obligation Other Than Those Set Forth Herein Will Be Recognized**

**ADA Notice**

For individuals with sensory disabilities, this document is available in alternate formats. For alternate format information, contact the Forms Management Unit at (279) 234-2284, TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

**Exhibit A**

**Manzanar Pavement Project (4382-1 and 4382-2)**  
**Proposed Curb Ramps adjacent to Inyo County Property**

Location 25: Mid-block receiving ramp across from NW corner of W Center Street

Proposed work: Remove existing sidewalk and concrete curb; construct new mid-block receiving ramp, including retaining curb at back of sidewalk.

Work to be done within PTE: Remove existing concrete curb, excavate approx. 1' behind existing curb for forms for new concrete retaining curb, construct forms and place concrete, remove forms, backfill new concrete curb. Existing grass and sod to be salvaged and replaced behind new retaining curb.

Location 26: SE corner of E Center Street

Proposed work: Remove existing sidewalk, curb ramp, and concrete curb; construct new Type CM curb ramp, including retaining curb at back of sidewalk.

Work to be done within PTE: Remove existing concrete curb, excavate approx. 1' behind existing curb for forms for new concrete retaining curb, construct forms and place concrete, remove forms, backfill new concrete curb. Protect existing tree and vault boxes.

**RIGHT OF WAY CONTRACT — STATE HIGHWAY — TEMPORARY EASEMENT** Page 1 of 2

RW 08-04 (REV 09/2021)

DIST 09	CO INY	RTE 395	POST 69.9-73.5	EXP AUTH/PROJ. NO. 09-37900/0919000004
------------	-----------	------------	-------------------	-------------------------------------------

224 N Edwards St  
Independence, CA 93526  
County of Inyo

Grantor

THIS DOCUMENT NO., 4383-1 in the form of a TEMPORARY EASEMENT, covering the property particularly described in Clause 3 below has been executed and delivered to Curtis Hill, Right of Way Agent for the State of California.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

- The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the State of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed improvement.
- The State shall pay the undersigned grantor(s) the sum of \$ 1,500.00 (\$ 500.00 for this Temporary Easement, plus a \$ 1,000.00 Incentive Payment as described in Clause 6 below).
- Permission is hereby granted the State or its authorized agent to enter upon grantor's land where necessary within that certain area shown outlined in color on the map marked Exhibit "A" attached hereto and made a part hereof, for the purpose of providing working room.
- This Temporary Easement shall terminate upon completion of the project known as Manzanar Pavement. The Temporary Construction Easement shall continue for a period of twenty-four (24) months. Construction within the TCE Area and the term of the Temporary Construction Easement shall commence fourteen (14) days from the date upon which Grantee or its authorized representative provides Grantor with written notice of Grantee's intent to commence utilization of the Temporary Construction Easement and, unless extended, it shall terminate on the earliest of (a) the date upon which Grantee notifies Grantor that it no longer needs the Temporary Construction Easement, or (b) twenty-four (24) months from the commencement date of the Temporary Construction Easement.
- The undersigned grantor(s) warrant(s) that they are the owner(s) in fee simple of the property affected by this Temporary Easement as described in Clause 3 above and that they have the exclusive right to grant this Temporary Easement.
- In addition to the fair market value of the easement to be acquired, it is agreed by and between the parties hereto that the amount in Clause 2 above includes the sum of \$1,000.00 as an incentive to the Grantor for the timely signing of this Right of Way Contract. This incentive payment offer expires sixty (60) days from the Initiation of Negotiations (\_\_\_\_\_, 2023).
- The parties to this contract shall, pursuant to Section 21.7(a) of Title 49, Code of Federal Regulations, comply with all elements of Title VI of the Civil Rights Act of 1964. This requirement under Title VI and the Code of Federal Regulations is to complete the USDOT Non-Discrimination Assurance requiring compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Parts 21 and 28 C.F.R. Section 50.3.  
Further, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that is the subject of this contract.

**ADA Notice**

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**RIGHT OF WAY CONTRACT — STATE HIGHWAY — TEMPORARY EASEMENT** Page 2 of 2

RW 08-04 (REV 09/2021)

*In Witness Whereof, the Parties have executed this agreement the day and year first above written.*

Inyo County

224 N. Edwards St.

Independence, CA 93526

Jennifer Roeser, Chairperson of Board of Supervisors  
Grantor

Recommended for Approval:

By \_\_\_\_\_  
Right of Way Agent

By \_\_\_\_\_  
Chief, Acquisition Branch

STATE OF CALIFORNIA  
Department of Transportation

By \_\_\_\_\_

**No Obligation Other Than Those Set Forth Herein Will Be Recognized**

**ADA Notice**

For individuals with sensory disabilities, this document is available in alternate formats. For alternate format information, contact the Forms Management Unit at (279) 234-2284, TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

**Exhibit A**

**Manzanar Pavement Project (4383-1)**  
**Proposed Curb Ramps adjacent to Inyo County Property**

Location 27: NE corner of E Center Street

Proposed work: Remove existing sidewalk, curb ramp, and concrete curb; construct new Blended curb ramp, including retaining curb at back of sidewalk, reset existing utility box.

Work to be done within PTE: Remove existing concrete sidewalk and curb, excavate approx. 1' behind existing curb and sidewalk for forms for new concrete curb and sidewalk, construct forms and place concrete, remove forms, backfill new concrete curb and sidewalk. Protect fire hydrant. Minor trimming of existing bushes on E Center Street may be required.



# INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-118

### Approval for Hiring an Office Technician III at Step E Treasurer-Tax Collector ACTION REQUIRED

#### ITEM SUBMITTED BY

Alisha McMurtrie, Treasurer

#### ITEM PRESENTED BY

Alisha McMurtrie, Treasurer

#### RECOMMENDED ACTION:

Authorize the hiring of one (1) Office Technician III, Range 63 (\$4,525 - \$5,507), at Step E (\$5,507).

#### BACKGROUND / SUMMARY / JUSTIFICATION:

Finding candidates that have knowledge and experience working in a Treasurer Tax Collector (TTC) Department is hard to find. Through a current recruitment, the Department has identified a candidate for the vacant Office Technician position, who has years of experience working in government offices performing a similar style of work that parallels the work in the TTC Department.

Given the candidate's experience and our current challenges in recruiting and hiring, per Inyo County Personnel Rules and Regulations Article 5, Section 5.14, this action is important to the successful operation of the Department and meets the unusual circumstances' requirement defined in this section.

The Department respectfully request authorization to hire the candidate at the established Range 63, at Step E (\$5,507).

#### FISCAL IMPACT:

<b>Funding Source</b>	General Fund	<b>Budget Unit</b>	010500
<b>Budgeted?</b>	Yes	<b>Object Code</b>	Salaries & Benefits
<b>Recurrence</b>	Ongoing Expenditure		
<b>Current Fiscal Year Impact</b>			
This position is budgeted in this budget's salary and benefit object codes.			
<b>Future Fiscal Year Impacts</b>			
<b>Additional Information</b>			

#### ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:



Your Board could deny the request and the Department would re-initiate recruitment for the position. This is not recommended as the department has found a qualified candidate which would be lost through this process.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

None.

**ATTACHMENTS:**

**APPROVALS:**

Keri Oney	Created/Initiated - 1/26/2024
Darcy Ellis	Approved - 1/26/2024
Alisha McMurtrie	Approved - 1/26/2024
Amy Shepherd	Approved - 1/26/2024
Nate Greenberg	Final Approval - 1/27/2024





# INYO COUNTY BOARD OF SUPERVISORS

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NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-51

### Lower Owens River Project Annual Accounting Report Water Department ACTION REQUIRED

**ITEM SUBMITTED BY**

Holly Alpert, Water Director

**ITEM PRESENTED BY**

Holly Alpert, Water Director

**RECOMMENDED ACTION:**

Approve the 2022-2023 Lower Owens River Project (LORP) Annual Accounting Report.

**BACKGROUND / SUMMARY / JUSTIFICATION:**

The Agreement between the County of Inyo and the City of Los Angeles Department of Water and Power concerning operation and funding of the Lower Owens River Project (Post Implementation Agreement, or PIA), which was adopted by the City of Los Angeles Board of Water and Power Commissioners on May 18, 2010, by Resolution 110-323, and approved by the Inyo County Board of Supervisors on June 8, 2010, requires an annual accounting report that describes the work performed pursuant to the previous year's approved Lower Owens River Project (LORP) Work Plan and Budget (Work Plan), and the costs incurred by each party in performing such work shall be submitted to the governing board of each party or the party's designee by October 31. The PIA had sunset on July 11, 2022, but was renewed for two years by your Board on July 5, 2022). The accounting report identifies the difference, if any, between the actual costs incurred by each party and the actual work performed by each party as compared to the costs and work for that party that were identified in that year's approved Work Plan (Section II.J.3.a; <https://www.inyowater.org/wp-content/uploads/2012/10/LORP-Post-Imp-Agreement-May-2010.pdf>).

The primary purpose of the LORP Annual Accounting Report is to provide a basis for which to estimate time and expenses for the next fiscal year work plan and accounting. Under the Post Implementation Agreement, the County of Inyo (County) and the Los Angeles Department of Water and Power (LADWP) are jointly responsible for the costs and activities specified in PIA Section II.J.3.b. If a Party fully performs the share of the work allocated to it in the annual LORP Work Plan that party is in compliance with the PIA. Further, there shall be no reconciliation of hours or costs even if an annual accounting report or audit shows that the Party expended more time in performing the work than was estimated. An exception to this rule allows reconciliation for contract work that was performed for less than the amount budgeted. In this case, to reconcile the change with the approved budget, the accounting report will specify whether a payment should be made by LADWP to the County or whether the County should make a payment to LADWP. The Accounting Report will specify the account to be credited or debited (Post Implementation LORP Credit and/or LORP Trust Account; PIA Section II.J.3.c).

The 2022-2023 Work Plan, adopted by the Inyo/LA Technical Group on June 23, 2022, identifies tasks to be carried out in the categories of Hydrologic Monitoring, Biological and Water Quality Monitoring,

Operations and Maintenance, Mosquito Abatement, Noxious Species Control, Rodent Control, Range Monitoring, and Adaptive Management (including the second year of implementation of the Blackrock Waterfowl Management Area interim plan). The 2022-2023 Work Plan also includes a consultant contract for vegetation mapping. All tasks identified in the Work Plan were carried out, though the degree of completion of tasks varied because of the challenges related to the beginning of the very large 2023 runoff season.

The 2022-2023 LORP Work Plan and associated \$597,161.35 budget was adopted by the Inyo/LA Technical Group on June 23, 2022, and approved by your Board on June 28, 2022. Inyo County's budgeted contribution was \$123,144.88 and LADWP's was \$474,016.47. Actual expenditures were \$914,645.11, with Inyo County contributing \$66,959.20 and LADWP \$847,685.91 (Table 1 in the Accounting Report). The total difference in budgeted expenses between the County and LADWP, divided by the two parties, is \$192,211.26. This amount will be deducted from the County's LORP credit.

**FISCAL IMPACT:**

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

As of July 1, 2023, the LORP Credit balance, held by LADWP, after deducting the 2022-23 LORP expenses of \$192,211.26 and making a 3.8% adjustment based on the April 2023 Los Angeles-Anaheim-Riverside All Urban Consumers Price Index, is \$408,588.77. As of December 31, 2023, the LORP Post-Implementation Trust Account (504103) balance, held by the County of Inyo Treasury is \$2,149,528.49. The sum of the Trust and Credit accounts is \$2,558,117.26. This amount, with interest on the Trust account and indexing on the Credit balance, is available to fund the County's ongoing LORP costs through the term of the Post-Implementation Agreement, which sunsets on July 11, 2024.

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

N/A

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

LADWP

**ATTACHMENTS:**

- 2022-2023 LORP Accounting Report

**APPROVALS:**

Holly Alpert	Created/Initiated - 1/22/2024
Darcy Ellis	Approved - 1/23/2024
Holly Alpert	Approved - 1/24/2024
Keri Oney	Approved - 1/24/2024
John Vallejo	Approved - 1/29/2024
Amy Shepherd	Approved - 1/29/2024
Nate Greenberg	Final Approval - 1/29/2024



# Lower Owens River Project 2022-2023 Fiscal Year Work Plan Annual Accounting Report

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Prepared by Inyo County Water Department  
&  
Los Angeles Department of Water and Power

January 04, 2024

## **Executive Summary**

*The Agreement Between the County of Inyo and the City of Los Angeles Department of Water and Power Concerning Operation and Funding of the Lower Owens River Project (PIA)* requires that an annual accounting report that describes the work performed pursuant to the previous year's approved Work Plan, and the costs incurred by each Party in performing such work, be submitted to the governing board of each Party or the Party's designee by October 31. Due to the unexpected expenses incurred in managing the runoff conditions encountered in 2023, the submission of the 2022-2023 Accounting Report has been delayed until January 2024.

The Lower Owens River Project (LORP) Work Plan and Budget contained various categories of tasks under maintenance and monitoring, including operations and maintenance, hydrologic monitoring, biological/water quality monitoring, range monitoring, mosquito abatement, noxious species control, rodent control, and adaptive management.

## **Background**

The PIA was adopted by the City of Los Angeles Board of Water and Power Commissioners (LADWP Board) on May 18, 2010, through Resolution 010-323, and approved by the Inyo County Board of Supervisors on June 8, 2010. It was amended for a two-year extension by the Inyo County Board of Supervisors July 5, 2022, and by the LADWP Board on September 13, 2022, through Resolution 023-048. The PIA sunset on July 11, 2022, but was extended by agreement of the LADWP and Inyo County Boards for two years. It will terminate on July 11, 2024.

The PIA requires that an annual accounting report that describes the work performed pursuant to the previous year's approved Work Plan, and the costs incurred by each Party in performing such work, shall be submitted to the governing board of each Party or the Party's designee. The accounting report will identify the difference, if any, between the actual costs incurred by each Party and the actual work performed by each Party as compared to the costs and work for that Party that were identified in that year's approved Work Plan and Budget (PIA Section II.J.3.a). The purpose of the accounting report is to inform the preparation of future work plans.

Inyo County and the Los Angeles Department of Water and Power (LADWP) are jointly responsible for the costs and activities specified in PIA Section II.J.3.b. If a Party fully performs the share of the work allocated to it in the annual Work Plan budget, that party is in compliance with this agreement. Further, except for payments to contractors, there shall be no reconciliation of hours or costs even if an annual accounting report or audit show that the Party expended more time in performing the work than was estimated.

If an annual accounting report shows that the amount paid by a Party for contract services and/or contract work was less than the amount budgeted for the contract services and/or contract work, to reconcile the change with the approved budget, the accounting report will specify whether a payment should be made by LADWP to the County or whether a debit from the Post Implementation Credit and/or Trust Account or whether the County should make a payment to LADWP.

## **2022-2023 Accounting and Adjustment**

The 2022-2023 LORP Work Plan and associated \$597,161.35 budget was adopted by the Inyo/LA Technical Group on June 23, 2022. Inyo County's budgeted contribution was \$123,144.88 and LADWP's was \$474,016.47. Actual expenditures were \$914,645.11, with Inyo County contributing \$66,959.20 and LADWP \$847,685.91 (Table 1).

The vegetation mapping contract with Formation, amounting to \$33,600, came in under budget by \$49.08 (\$33,550.92) and was fully paid by LADWP in February 2023. Half of the payment to the consultant (\$16,775.46) will be deducted from the County's LORP credit.

In total, the difference in budget and expenditures between the County and LADWP, split equally between the parties, is \$192,211.26. This sum will be deducted from the County's outstanding LORP credit.



**Table 1. Monitoring and Adaptive Management Budget from LORP Work Plan, Budgeted vs. Actual Expenses**

Inyo County	Budgeted Staff Work Days	Actual Staff Work Days	Budgeted Staff Time, Materials, and Equipment	Actual Staff Time, Materials, and Equipment	Payment/Credit
Biologic and Water Quality	16	18	\$16,800.00	\$0.00	
Mosquito Abatement	-	-	\$30,000.00	\$16,959.20	
Noxious Species Control	-	-	\$50,000.00	\$50,000.00	
Adaptive Management	82	122	\$26,344.88	\$0.00	
<b>Inyo County Totals</b>	<b>98</b>	<b>140</b>	<b>\$123,144.88</b>	<b>\$66,959.20</b>	<b>(\$192,211.26)</b>
LADWP	Budgeted Staff Work Days	Actual Staff Work Days	Budgeted Staff Time, Materials, and Equipment	Actual Staff Time, Materials, and Equipment	
Hydrologic Monitoring	-	-	\$71,460.00	\$168,418.18	
Biologic and Water Quality	16	18	\$16,800.00	\$33,550.92	
Operations and Maintenance	-	-	\$311,411.59	\$610,757.61	
Mosquito Abatement	-	-	\$30,000.00	\$16,959.20	
Rodent Control	-	-	\$18,000.00	\$18,000.00	
Adaptive Management	82	122	\$26,344.88	\$0.00	
LADWP Totals	<b>98</b>	<b>140</b>	<b>\$474,016.47</b>	<b>\$847,685.91</b>	
<b>Combined Total</b>	<b>196</b>	<b>280</b>	<b>\$597,161.35</b>	<b>\$914,645.11</b>	
Inyo County Credit Adjustment (1/2 of the Difference in Expenditures between Inyo County and LADWP)			<b>(\$192,211.26)</b>		

# Section 1. Budget Summary by Individual Work Group

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## **Operations and Maintenance, LADWP**

Operation activities consist of setting and checking flows. Maintenance activities consist of cleaning water measurement facilities, cleaning sediment and aquatic vegetation from ditches, mowing ditch margins, and adjustments to flow control structures. Estimates of the level of effort necessary for maintenance are adjusted as required by Section II.D of the PIA, which allows that costs for maintenance of ditches, spillgates, and control structures that are above the baseline costs for facilities in the river corridor and Blackrock Waterfowl Management Area (BWMA) shall be shared. The estimated 2022-2023 costs for river corridor and BWMA facilities were \$481,016.89. This figure reduced by the combined Consumer Price Index (CPI)-adjusted baseline costs for the river corridor and BWMA facilities is \$311,411.59.

Actual costs for regular operations and maintenance activities in the LORP in the 2022-2023 fiscal year were \$790,539.23 (Table 2). This amount reduced by the CPI - adjusted baseline costs (Table 3) is \$610,757.61 (Table 2). The majority of these expenditures were associated with emergency work on LORP infrastructure defined in the PIA to maintain conveyance and functionality of the facilities during the largest stream flows in the LORP in recorded history from March 2023 to the end of June 2023. These high stream flows followed record snowpack and runoff conditions throughout the Eastern Sierra in 2023. Much of DWP's work during this period focused on cleaning, repairs, and maintenance of the Intake Spillgate and Independence Spillgate as well as ongoing Aqueduct and Reservoir Keeper labor for patrols and flow changes for the project. No construction work was performed in the BWMA Adaptive Management area because of sustained flooding (see Section 2, Table 7). Construction maintenance and repairs for the BWMA will resume in the 2023-2024 fiscal year. Finally, the replacement of the LORP Intake Langemann Gate did not occur because of the sustained high flows, which prevented safe access to the site as well as flows low enough to conduct the replacement work. This work will be conducted in the 2023-2024 fiscal year.

## **Hydrologic Monitoring, LADWP**

LADWP budgeted a total of \$71,460.00 for hydrologic monitoring in the 2022-2023 fiscal year. The actual cost was \$168,418.18 (Table 4). This work was considerably over budget because of the need to measure stream flow, daily, that was associated with the high runoff and multiple flood events in March and June of 2023. Flows overwhelmed the stream-flow gaging stations, which limited the accuracy of the in-situ streamflow measuring equipment. Additionally, new flow equipment was purchased as warranted by the increase in measurements. There will be no offset in costs due to higher than budgeted expenditures.

## **Biological Monitoring, Inyo County and LADWP**

Monitoring, analysis, and report preparation were jointly conducted by Inyo County and LADWP. Eight people days were budgeted to each agency to conduct the wetted extent monitoring for the BWMA, for a total of 16 people days. Habitat modeling of LORP indicator species was also proposed and 16 total people days were budgeted and were to be equally divided among the County and LADWP. The actual number of people days spent for biological monitoring was 36 people days, with Inyo County and LADWP contributing 18 people days each (Table 5). Both Inyo County and LADWP equally contributed 8 people days to the wetted extent acreage. The habitat

modeling required more effort than budgeted, with Inyo County and LADWP contributing 18 people days each to this effort.

Additionally, in response to an unusually high spring runoff that flooded the Lower Owens River Project and potential impact to the warm water fishery, Inyo County, LADWP, and the California Department of Fish and Wildlife (CDFW) collaborated to install five aerator stations in the LORP. Inyo County purchased the necessary equipment and LADWP and CDFW installed it in appropriate locations within the LORP to provide refuge for fish. CDFW monitored fish populations and Inyo County concurrently conducted water quality monitoring at key locations within the LORP. This monitoring was not anticipated during the development of the 2022-2023 LORP Work Plan and therefore was not budgeted. There will be no offsetting costs for this work.

Additionally, Formation consultants conducted vegetation mapping of the riverine riparian and Delta Habitat Areas for a total cost of \$33,550.92. \$33,600 was budgeted to be equally shared between Inyo County and Los Angeles for this purpose in the approved budget. However, LADWP paid the full consultant cost, so Inyo County's half will be deducted from its credit balance. This is reflected in the final credit adjustment that includes an offset for the consultant's invoice, which came in under budget.

### **Range Monitoring**

Range monitoring (utilization, range trend monitoring, and irrigated pasture condition scoring) described in the LORP Monitoring, Adaptive Management, and Reporting Program (MAMP) was conducted by LADWP and is not a shared cost, and was therefore not budgeted for in the 2022-2023 LORP Work Plan and Budget. However, actual people days necessary to conduct this work are shown in Table 6.

### **Mosquito Abatement**

During the 2022-2023 Fiscal Year, \$60,000.00 (split evenly between LADWP and Inyo County) was budgeted for mosquito abatement activities to be conducted by the Owens Valley Mosquito Abatement Program. These activities include: field surveillance of potential larval habitat for mosquito production, larviciding, pupaciding, adult mosquito surveillance with light traps, mosquito borne disease surveillance, and treatment for adult mosquitoes. LADWP and Inyo County were billed a combined total of \$33,918.40 for mosquito abatement activities in the LORP in the 2022-2023 fiscal year, which is \$26,081.60 less than budgeted. The lower cost is because of 1) limited Inyo County mosquito abatement staff and 2) a reduction in mosquito treatment owing to a loss of access because of flooded conditions along the river.

### **Noxious Weeds**

During the 2022-2023 fiscal year, Inyo County paid a total of \$50,000 for noxious species control in the LORP.

**Table 2. LORP Operations and Maintenance Summary of Actual Expenditures**

<b>Labor</b>		
<b>Location/Activity</b>	<b>Total Labor</b>	<b>Total Equip</b>
<b>River</b>		
Measuring Station Maintenance	\$12,289.20	\$19,823.70
Intake Spillgate	\$53,998.00	\$90,728.00
Thibaut Spillgate and Ditch	\$0.00	\$0.00
Independence Spillgate and Ditch	\$55,357.80	\$97,646.20
Locust Spillgate and Ditch	\$4,660.80	\$10,344.80
Georges Ditch	\$4,487.10	\$4,618.20
Alabama Spillgate	\$0.00	\$0.00
Delta Spillgate	\$0.00	\$0.00
<b>River Subtotal</b>	<b>\$130,792.90</b>	<b>\$223,160.90</b>
<b>Blackrock Waterfowl Management Area</b>		
Blackrock Ditch	\$39,046.70	\$77,097.30
Goose Lake Maintenance	\$5,971.65	\$4,650.40
Patrol & Flow Changes (River and BWMA)	\$166,487.67	\$143,331.71
<b>BWMA Subtotal</b>	<b>\$211,506.02</b>	<b>\$225,079.41</b>
<b>TOTALS</b>		
<b>River Total</b>		<b>\$353,953.80</b>
<b>BWMA Total</b>		<b>\$436,585.43</b>
<b>Total O and M</b>		<b>\$790,539.23</b>
<b>CPI Adjusted O &amp; M</b>		<b>\$610,757.61</b>

**Table 3. LORP Operations and Maintenance Cost Adjustment \***

		River	BWMA	Total CPI Adj
CPI adjustment		\$56,863.00	\$62,798.00	\$119,661.00
2006-2007	4.5%	\$59,421.84	\$65,623.91	\$125,045.75
2007-2008	3.1%	\$61,263.91	\$67,658.25	\$128,922.16
2008-2009	-1.3%	\$60,467.48	\$66,778.69	\$127,246.17
2009-2010	0.9%	\$61,011.69	\$67,379.70	\$128,391.39
2010-2011	0.7%	\$61,438.77	\$67,851.36	\$129,290.13
2011-2012	3.0%	\$63,281.93	\$69,886.90	\$133,168.83
2012-2013	2.1 %	\$64,610.85	\$71,354.53	\$135,965.38
2013-2014	0.4%	\$64,869.30	\$71,639.94	\$136,509.24
2014-2015	1.3%	\$65,712.60	\$72,571.26	\$138,283.86
2015-2016	1.6%	\$66,764.00	\$73,732.40	\$140,496.40
2016-2017	1.8%	\$67,965.75	\$75,059.59	\$143,025.34
2017-2018	3.6%	\$70,412.52	\$77,761.73	\$148,174.25
2018-2019	3.6%	\$72,947.37	\$80,561.15	\$153,508.52
2019-2020	3.2%	\$75,281.69	\$83,139.11	\$158,420.80
2020-2021	1.0%	\$76,034.50	\$83,970.50	\$160,005.00
2021-2022	6.0%	\$80,596.57	\$89,008.73	\$169,605.30
2022-2023	6.0%	\$85,432.37	\$94,349.26	\$179,781.62

*\*Adjusted up or down based on the November Los Angeles-Anaheim-Riverside All Urban Consumers Price Index ([https://www.bls.gov/regions/west/news-release/consumerpriceindex\\_losangeles.htm](https://www.bls.gov/regions/west/news-release/consumerpriceindex_losangeles.htm))*

**Table 4. LORP Hydrologic Monitoring, Budgeted vs. Actual Expenditures**

	Budgeted Labor Costs	Budgeted Equipment Costs	Total Budgeted Costs	Total Actual Costs
HYDRO OPERATIONS				
River Stations	\$13,750.00	\$5,800.00	\$19,550.00	\$107,352.05
Seasonal Habitat	\$3,300.00	\$240.00	\$3,540.00	\$0.00
Off River Lakes & Ponds	\$3,850.00	\$280.00	\$4,130.00	\$3,864.22
Flow to Delta	\$2,200.00	\$3,160.00	\$5,360.00	\$26,224.36
Blackrock Waterfowl	\$3,850.00	\$3,280.00	\$7,130.00	\$3,357.26
Reporting Compliance	\$2,750.00	\$200.00	\$2,950.00	\$2,272.29
ENGINEERING				
Reporting Compliance	\$28,800.00	\$ -	\$28,800.00	\$25,348.00
<b>Total Hydro Budget</b>			<b>\$71,460.00</b>	<b>\$168,418.18</b>

**Table 5. LORP Biological, Time Budgeted vs. Actual**

Biological Monitoring Task	Budgeted Person Days			Actual Person Days		
	Total Days	Inyo Days	LA Days	Total Days	Inyo Days	LA Days
Waterfowl Area Acreage	16	8	8	16	8	8
LORP Habitat Indicator Species Modeling	16	8	8	20	10	10
<b>Total Person Days on Project</b>	<b>16</b>	<b>8</b>	<b>8</b>	<b>36</b>	<b>18</b>	<b>18</b>

**Table 6. LORP Range Monitoring, Time Budgeted vs. Actual**

Task	Budgeted Person Days	Actual Person Days
Utilization	45	30
Irrigated Pasture Condition	5	6
Range Trend	50	40
Analysis and Reporting	20	44
<b>Total</b>	<b>120</b>	<b>120</b>

## Section 2. Adaptive Management

LADWP and Inyo County completed the second year of the 5-year Interim Management and Monitoring Plan in the Blackrock Waterfowl Management Area in the 2022-2023 fiscal year. Anticipated work had included improving and maintenance of water conveyance infrastructure and the preparation of the Waggoner, Winterton, and Thibaut Waterfowl Units prior to reflooding in fall 2022. This work was planned to be performed by LADWP and was budgeted at \$52,689.76, and to be shared equally between LADWP and Inyo County. Unfortunately, due to high flows and ensuing flooding, no work could be performed and thus no funds were expended.

**Table 7. BWMA Adaptive Management Actual Costs**

Location/Activity	Labor	Equipment
Berm Repair - Thibaut, Winterton	\$0.00	\$0.00
Winterton Discing	\$0.00	\$0.00
East Winterton Culvert	\$0.00	\$0.00
<b>Subtotal</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>TOTALS</b>	<b>\$0.00</b>	<b>\$0.00</b>

LADWP and Inyo County described a number of adaptive management tasks to complete during the 2022-2023 fiscal year, allocating a total of 164 person-days, with Inyo County contributing 82 person-days and LADWP contributing 82 person-days. The actual number of person days spent on adaptive management was 244, with 122 contributed by Inyo County, and 122 for LADWP (Table 8). The increase in number of days for both agencies is primarily related to the elevated work load associated with BWMA monitoring, analysis, and reporting. Lastly, both Inyo County and LADWP surveilled and treated noxious weeds in the LORP; however, these efforts were limited because of the reduced access because of flooding.

**Table 8. LORP Adaptive Management, Time Budgeted vs. Actual**

Adaptive Management Monitoring Tasks	Budgeted Person Days			Actual Person Days		
	Total Days	Inyo Days	LA Days	Total Days	Inyo Days	LA Days
BWMA Interim Management and Monitoring Plan - Monitoring and Reporting	64	32	32	148	66	82
DHA Flow Effectiveness Monitoring	2	0	2	5	0	5
Noxious species survey and treatment	63	15	48	52	17	35
Tree recruitment assessment	35	35	0	39	39	0
<b>Total Person Days</b>	<b>164</b>	<b>82</b>	<b>82</b>	<b>244</b>	<b>122</b>	<b>122</b>



# INYO COUNTY BOARD OF SUPERVISORS

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

NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-38

### Review of New and Pending Legislation

#### Clerk-Recorder

NO ACTION REQUIRED

#### ITEM SUBMITTED BY

Danielle Sexton, Clerk/Recorder

#### ITEM PRESENTED BY

Danielle Sexton, Clerk/Recorder

#### RECOMMENDED ACTION:

This item is presented for informational purposes only. There is no recommended action.

#### BACKGROUND / SUMMARY / JUSTIFICATION:

With the close of 2023, it is time to review the many Assembly and Senate Bills that passed last year that affect either Clerk-Recorder or Elections functions, as well as highlight additional bills that are currently pending. The attached list of bills are those that the Clerk-Recorder's office is currently tracking.

Efforts to track new laws pertaining to our department rely on involvement with statewide associations -- Clerk Recorder Association of California (CRAC), and California Association of Clerks and Elections Officers (CACEO) -- and attending their regular Legislative Committee meetings, annual conferences, and annual New Law workshops.

#### FISCAL IMPACT:

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

#### ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:

#### OTHER DEPARTMENT OR AGENCY INVOLVEMENT:

None.



**ATTACHMENTS:**

1. Legislative Bills Tracking Sheet

**APPROVALS:**

Danielle Sexton	Created/Initiated - 1/15/2024
Darcy Ellis	Approved - 1/17/2024
Danielle Sexton	Approved - 1/23/2024
John Vallejo	Approved - 1/24/2024
Nate Greenberg	Final Approval - 1/29/2024

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Bill	Subject	Status	Partial Summary. Refer to the Bill language for complete information.	Applies to:
AB-63	Canvass of the vote: reporting results.	Secretary of State-Chaptered	This bill would require the elections official, beginning no later than the Thursday following the election until submission of a certified statement of the results, to post updated information regarding the election on their internet website at least once per week. The information must at a minimum include updated results for any candidate for office or measure appearing on the ballot, the number of ballots processed and an estimated number of outstanding unprocessed ballots, according to specified categories, and the date and time when it is expected that the next results will be posted. The bill would permit the elections official to stop posting the results when either a certified statement of results is published or the only ballots left to count are vote by mail ballots for which a voter has the opportunity to cure their ballot by verifying or providing their signature.	Elections Office - providing ballot processing statistics
AB-223	Change of gender and sex identifier.	Secretary of State-Chaptered	This bill would require any petition for a change of gender and sex identifier or a petition for change of gender, sex identifier, and name filed by a person under 18 years of age, and any papers associated with the proceeding, to be kept confidential by the court. The bill would require the court to limit access to these records to specified individuals, including, among others, the minor, the minor’s parents, and their attorneys.	County Clerk - Vital Records
AB-243	Child abduction survivors: address confidentiality program.	Secretary of State-Chaptered	Existing law authorizes victims of domestic violence, sexual assault, stalking, human trafficking, and elder or dependent adult abuse, and members of their households, to complete an application to be approved by the Secretary of State for the purpose of enabling state and local agencies to respond to requests for public records without disclosing a program participant’s changed name or location, subject to specified conditions.  This bill, beginning on July 1, 2024, would make victims of child abduction, as defined, and members of their households eligible for the protections of this address confidentiality program.	Elections Office - confidential voter registration processing
AB-288	Revocable transfer on death deeds.	Secretary of State-Chaptered	Current law, until January 1, 2032, governs the execution, revocation, and effectiveness of a revocable transfer on death (TOD) deed, which is an instrument that makes a donative transfer of real property to a named beneficiary that becomes operative on the transferor’s death, but remains revocable until the transferor’s death. Under current law, a separate interest in a stock cooperative is not real property that may be transferred by a revocable TOD deed. This bill would authorize the transfer of real property by revocable TOD deed even if ownership is not typically evidenced or transferred by use of a deed, and would authorize the transfer of an interest in a stock cooperative by revocable TOD deed subject to any limitation on the transferor’s interest. If a stock cooperative exercises an option to purchase property transferred by revocable TOD deed on the transferor’s death, the bill would specify that the property is transferred to the stock cooperative and the purchase price is paid to the beneficiary.	Recorder Office
AB-292	Primary elections: ballots.	Secretary of State-Chaptered	This bill would require, for any nonpartisan ballot provided to a voter who has declined to disclose a political party preference for use in a presidential primary election, that the ballot provide specified information regarding how a voter may request and vote a partisan ballot.	Elections Office - ballot design
AB-356	California Environmental Quality Act: aesthetic impacts.	Secretary of State-Chaptered	Existing law, until January 1, 2024, specifies that, except as provided, a lead agency is not required to evaluate the aesthetic effects of a project and aesthetic effects are not considered significant effects on the environment if the project involves the refurbishment, conversion, repurposing, or replacement of an existing building that meets certain requirements.  This bill would extend the operation of the above provision to January 1, 2029. The bill would require the lead agency to file a notice with the Office of Planning and Research and the county clerk of the county in which the project is located if the lead agency determines that it is not required to evaluate the aesthetic effects of a project and determines to approve or carry out that project.	County Clerk - CEQA Filings
AB-398	Voting: replacement ballots.	Secretary of State-Chaptered	This bill would remove the requirement that the voter provide a statement under penalty of perjury, and instead require the elections official to provide a replacement ballot upon request. The bill would require the voter making the request to provide the elections official with specified personal identifying information. The bill would also require the elections official, prior to issuing the replacement ballot, to advise the requester that a request for a replacement ballot made by a person other than the registered voter is a criminal offense.	Elections Office - ballot processing
AB-421	Elections: referendum measures.	Secretary of State-Chaptered	This bill would revise the ballot title and summary and ballot label requirements for statewide referendum measures by instead requiring that the ballot title and summary be posed in the form of a question asking whether the state should keep or overturn the law that is proposed to be overturned, followed by a summary of the chief purposes and points of the law. The bill would require this question and a condensed version of the summary to be included on the ballot label. The bill would require the ballot label for statewide referendum measures to be followed by the choices “Keep the law” and “Overturn the law.”	Elections Office - ballot design
AB-507	Presidential electors.	Secretary of State-Chaptered	This bill would update state law to conform to the requirement that presidential electors meet and vote on the first Tuesday after the second Wednesday in December. The bill would also require the Governor to designate an alternative location for the electors to assemble if it is unsafe to meet in the State Capitol due to a proclaimed state of emergency	Elections Office - Presidential Electors

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Bill	Subject	Status	Partial Summary. Refer to the Bill language for complete information.	Applies to:
AB-545	Elections: access for voters with disabilities.	Secretary of State-Chaptered	--This bill would expand the list of required supplies to include specified items to assist voters with disabilities. --This bill would eliminate the requirement that the voter issue a declaration under oath before receiving assistance, as specified. --This bill would expand authority to allow a voter with a disability to vote by regular ballot outside any polling place, regardless of whether the polling place is inaccessible.	Elections Office - voting accessibility
AB-626	Voting: returning vote by mail ballots in person.	Secretary of State-Chaptered	This bill would authorize a voter to vote their vote by mail ballot without the identification envelope if the voter returns the ballot in person at the polling place designated for the voter's home precinct or a vote center, if specified conditions are met. The bill would require a ballot cast in this manner to be processed and counted like a nonprovisional ballot cast in person at the polling place or vote center. (EC 3016.5.)	Elections Office - ballot processing
AB-690	Legal document assistants and unlawful detainer assistants.	Secretary of State-Chaptered	This bill extends the sunset requiring Legal document assistants and unlawful detainer assistants to register with the County Clerk Office till 2030	County Clerk - LDA & UDA Filings
AB-773	Elections: filings.	Secretary of State-Chaptered	This bill would establish a lead county, as defined, for the purposes of district or school district elections when the boundaries of the district or school district encompass more than one county. The bill would require authors of arguments for or against district or school district measures, and related rebuttal arguments, to submit the arguments to the elections official of the lead county. The bill would require the elections official of the lead county to work with the other counties within the district bounds to establish deadlines for receipt of the arguments. The bill would require the elections official of the lead county to select the arguments for publication in the county voter information guide, and to transmit copies of the selected arguments to elections officials in the other counties within the district or school district, as specified. The bill would require an elections official who receives arguments selected by the lead county to include the arguments in their county voter information guide. This bill would require elections officials to post and accept electronic submission of a form for candidates to submit a candidate statement for the voter information portion of the county voter information guide. The bill would authorize a candidate running in a multicounty district to submit to each county an electronic copy of the form from the candidate's county of residence, and would require the candidate to transmit hardcopies of the candidate statement form, any accompanying form, and payment of the requisite fee to each county by overnight mail within 72 hours of filing the statement electronically.	Elections Office - candidate filing
AB-878	Business filings: fictitious business names.	Secretary of State-Chaptered	This bill would require any registrant who files a fictitious business name statement, statement of abandonment, or statement of withdrawal to include a business mailing address instead of a residence address.	County Clerk - FBN Filings
AB-910	County officers: auditors: qualifications.	Secretary of State-Chaptered	This bill would recast provisions to expand documentation requirements for Superior Court Judges and County Auditors.	Elections Office - candidates
AB-911	Unlawfully restrictive covenants: affordable housing.	Secretary of State-Chaptered	Before recording the modification document, existing law requires the owner to submit to the county recorder a copy of the original restrictive covenant and any documents the owner believes necessary to establish that the property qualifies as an affordable housing development for purposes of these provisions. As part of this process, existing law requires the county counsel to determine, among other things, if the property qualifies as an affordable housing development and if a modification document may be recorded. If the county counsel has authorized the county recorder to record the modification document, that authorization is required to be noted on the face of the modification or on a cover sheet affixed to it. This bill would require the county recorder to notify the owner or submitting party of the county counsel's determination without delay, so that notice may be given by the owner regarding the authorization to record the modification document. The bill would permit the owner, upon receipt of that notification, to mail copies of the modification documents and related materials by certified mail to anyone who the owner knows has an interest in the property or the restrictive covenant. The bill would also establish a process by which notice by the owner to the intended recipient would be deemed given. The bill would provide that notice by the owner is optional and failure to provide it does not invalidate a recorded restrictive covenant modification document. Existing law prohibits the county recorder from recording the modification document if the county counsel finds that the original restrictive covenant document does not contain a prohibited restriction, or if the county counsel finds that the property does not qualify as an affordable housing development. This bill would additionally prohibit the owner from recording the modification document if the owner of the property is not yet its record title owner but is instead a beneficial owner, as specified, until the owner closes escrow on the property and becomes its record title owner. For purposes of these provisions, the bill would define "owner" to mean any record title owner of the property, beneficial owner of the property, or individual controlling the property for purposes of developing an affordable housing project, as specified.	Recorder Office - RCM

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Bill	Subject	Status	Partial Summary. Refer to the Bill language for complete information.	Applies to:
AB-969	Elections: voting systems.	Secretary of State-Chaptered	This bill would prohibit an elections official from performing a manual vote count in a semifinal official canvass pursuant to the above procedures in any contest held on an established election date, as specified, where there are more than 1,000 registered voters eligible to participate in that election as of 154 days in advance of the election, or in any contest held on a date other than an established election date, where there are more than 5,000 registered voters eligible to participate in that election as of 154 days in advance of the election. The bill would only allow an elections official to conduct a manual vote count for a semifinal official canvass in a precinct pursuant to the above procedures if the count is conducted pursuant to a plan approved by the Secretary of State, as specified. The bill would require the Secretary of State to adopt regulations regarding manual vote counts.	Elections Office - ballot processing
AB-1037	Vote by mail ballots: signature verification.	Secretary of State-Chaptered	Voters sending cured signatures may submit these statements by email, by facsimile transmission, or in person at a polling place within the county or a ballot dropoff box. This bill would additionally require the instructions sent to voters to state that they may submit a signature verification statement or unsigned identification envelope statement by other electronic means made available by the local elections official. This bill would require a local elections official who offers other electronic means for submission to establish appropriate privacy and security protocols so that the information transmitted is received by the elections official and is only used to verify the signature on the voter's ballot.	Elections Office - ballot processing
AB-1219	Elections: ballots.	Secretary of State-Chaptered	The bill would specify the font and location of certain text and would revise the ballot instructions provided to voters. The bill would require those instructions to communicate to voters, in plain language, how to cast a vote in a contest, how to write in a candidate, and what to do if a mistake is made.	Elections Office - ballot design
AB1416 (2021-2022)	Elections: Supporters and Opponents of Measures	Secretary of State-Chaptered	This bill requires supporters and opponents of State and Local Measures to be printed on the ballot. The Statute allows an option for Counties to request the Board of Supervisors to opt-out for Local Measures.	Elections Office - ballot design
AB-1637	Local government: internet websites and email addresses.	Secretary of State-Chaptered	This bill, no later than January 1, 2029, would require a local agency, as defined, that maintains an internet website for use by the public to ensure that the internet website utilizes a ".gov" top-level domain or a ".ca.gov" second-level domain and would require a local agency that maintains an internet website that is noncompliant with that requirement to redirect that internet website to a domain name that does utilize a ".gov" or ".ca.gov" domain. This bill, no later than January 1, 2029, would also require a local agency that maintains public email addresses to ensure that each email address provided to its employees utilizes a ".gov" domain name or a ".ca.gov" domain name. By adding to the duties of local officials, the bill would impose a state-mandated local program.	Clerk-Recorder/Elections Office
AB-1762	Elections omnibus bill.	Secretary of State-Chaptered	<p>(1) Existing law sets forth rules for counting words for the purposes of the Elections Code generally and for the specific purposes of ballot designations. For both purposes, existing law provides that hyphenated words appearing in a generally available standard reference dictionary, as specified, are considered as one word. This bill would provide that for the purposes of counting hyphenated words in the Elections Code, generally, and for the purposes of ballot designations, specifically, reference may be made to a standard reference dictionary published online.</p> <p>(2) Existing law authorizes any county to conduct any election as an all-mailed ballot election if specified conditions apply, including that at least one vote center is provided for every 10,000 registered voters. Existing law authorizes the County of Los Angeles to conduct a vote center election if, among other things, every permanent vote by mail voter receives a ballot. This bill would repeal those provisions relating to the County of Los Angeles and make conforming changes.</p> <p>(3) Existing law authorizes a candidate for elective office to have the designation "incumbent" appear immediately under their name on an election ballot if the candidate is a candidate for the same office that the candidate currently holds by election of the people. This bill would prohibit a candidate who was elected in an at-large election from using this designation if they are a candidate in a district-based election.</p> <p>(4) Existing law establishes procedures by which a voter may request a recount of the votes cast in an election and how a voter may contest an election. Former law, which was repealed on January 1, 2019, authorized the Secretary of State to create a post canvass risk-limiting audit pilot program. This bill would delete obsolete references to the pilot program.</p> <p>(5) Existing law requires, upon the Governor or Secretary of State ordering a recount, the Secretary of State to notify the elections official of each county and direct the county elections officials to recount all the votes cast for the office or for and against the state ballot measure, as specified. This bill would make a technical change to this provision.</p>	Elections Office - Omnibus Bill

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Bill	Subject	Status	Partial Summary. Refer to the Bill language for complete information.	Applies to:
SB-29	The Political Reform Act of 1974: Fair Political Practices Commission: political reform education program.	Secretary of State-Chaptered	<p>The Political Reform Act of 1974 provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees. Under existing law, the Fair Political Practices Commission has primary responsibility for the impartial, effective administration and implementation of the Political Reform Act of 1974. Existing law makes a knowing or willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties. Under existing law, a person who files an original statement or report after a deadline imposed by the Political Reform Act of 1974 is liable in the amount of \$10 per day after the deadline until the statement or report is filed, as specified. Existing law authorizes a filing officer to not impose this liability if the officer determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the act, except as specified. Existing regulation directs the commission to develop a diversion program to allow for the education of a person who commits a minor violation of the act, as specified.</p> <p>This bill would authorize the commission to establish and administer a political reform education program as an alternative to an administrative proceeding, as specified. The bill would establish eligibility requirements for the political reform education program, including that the person has little or no experience with the act and that the violation resulted in minimal or no public harm. If a person meets the requirements to participate in the political reform education program and completes the program, this bill would exempt the person from administrative, civil, or criminal penalties for the applicable violation of the Political Reform Act of 1974, as specified. The bill would authorize the commission to impose additional eligibility requirements for participation in the program. The bill would authorize the commission to charge a fee to program participants in an amount not to exceed the reasonable cost to administer the political reform education program. The bill would require the fee be paid to the General Fund. The bill would express the intent of the Legislature to appropriate funds annually to the commission to administer the political reform education program. The bill would prohibit a filing officer from imposing the \$10 per day liability if the person who filed the late report or statement was unable to timely file due to serious illness or hospitalization or if the person completes the political reform education program, as specified.</p>	Elections Office - FPPC
SB-69	California Environmental Quality Act: local agencies: filing of notices of determination or exemption.	Secretary of State-Chaptered	<p>The California Environmental Quality Act (CEQA) requires, among other things, a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect.</p> <p>CEQA requires a local agency that approves or determines to carry out a project subject to CEQA to file a notice of determination with the county clerk of each county in which the project will be located, as provided. CEQA authorizes a local agency that determines that a project is not subject to CEQA to file a notice of exemption with the county clerk of each county in which the project will be located, as provided. CEQA requires the county clerk to make the notice available for public inspection and post the notice within 24 hours of receipt in the office or on the internet website of the county clerk, as specified.</p> <p>CEQA requires an action or proceeding challenging an act or decision of a public agency, including a local agency, on the grounds of noncompliance with CEQA to be commenced within certain time periods, as specified.</p> <p>This bill would require a local agency to file a notice of determination with the State Clearinghouse in the Office of Planning and Research in addition to the county clerk of each county in which the project will be located. The bill would authorize a local agency to file a notice of exemption with the State Clearinghouse in the Office of Planning and Research in addition to the county clerk of each county in which the project will be located. The bill would require the notice, including any subsequent or amended notice, to be posted both in the office and on the internet website of the county clerk and by the Office of Planning and Research on the State Clearinghouse internet website within 24 hours of receipt. The bill would specify that the posting of the notice by the Office of Planning and Research would not affect the applicable time periods to challenge an act or decision of a local agency, as described above. By imposing duties on local agencies, the bill would create a state-mandated local program.</p> <p>The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.</p>	County Clerk - CEQA Filings
SB-77	Voting: signature verification: notice.	Secretary of State-Chaptered	If an elections official has a telephone number or email address on file for a voter whose signature does not compare, the elections official shall notify the voter by telephone, a text message, or email of the opportunity to verify the voter's signature. If an elections official calls the voter and the voter does not answer, the elections official shall attempt to leave a voicemail message. (Elec. Code, § 3019, subd. (d)(1)(B).)	Elections Office - ballot processing
SB-485	Elections: election worker protections.	Secretary of State-Chaptered	<p>Existing law makes interfering in any manner with the officers holding an election or conducting a canvass or with a voter lawfully exercising their right of voting at an election, in order to prevent the election or canvass from being fairly held and lawfully conducted, a crime punishable by imprisonment for 16 months or 2 or 3 years.</p> <p>This bill would specify that for purposes of this crime, "officers holding an election or conducting a canvass" include, but are not limited to, the Secretary of State and their staff, in their performance of any of their duties related to administering the provisions of the Elections Code, an elections official and their staff, including temporary workers and poll workers, or a member of a precinct board, in their performance of any duty related to holding an election or conducting a canvass in order to prevent the election or canvass from being fairly held and lawfully conducted. The bill would clarify that "holding an election or conducting a canvass" for purposes of this crime includes the election observation process.</p>	Elections Office - voting accessibility

**SOS Chaptered Leg.**

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Bill	Subject	Status	Partial Summary. Refer to the Bill language for complete information.	Applies to:
SB-678	Elections: disclosures.	Secretary of State-Chaptered	This bill would require a person who is paid by a committee to support or oppose a candidate or ballot measure on an internet website, web application, or digital application, as specified, to include a disclaimer, if not already required as specified, stating that they were paid by the committee in connection with the post. The bill would also require a committee to notify the person posting the content of the disclaimer requirement. Under this bill, if a person fails to post the disclaimer, they would not be subject to administrative penalties, but the Commission would be authorized to seek injunctive relief to compel disclosure. This bill would also exempt the disclaimer requirement for content posted by a compensated employee of a committee on the employee's own social media page or account if the only expense or cost of the communication is compensated staff time, unless the person's principal duties as an employee are to post content on the person's own social media page or account.	Elections Office - candidates
SB-696	Notaries public.	Secretary of State-Chaptered	This bill would give effect to a notarial act performed in another state, under the authority and within the jurisdiction of a federally recognized Indian tribe, under federal law, or under the authority and within the jurisdiction of a foreign state, as if it were performed by a notarial officer of this state, if specified conditions are met. This bill would authorize a notary public or an applicant for appointment as a notary public to apply for registration with the secretary to be a notary public authorized to perform online notarizations by submitting an application that meets certain requirements. The bill would also require an entity to register with the Secretary of State as an online notarization platform or depository before providing an online notarization system or depository, as defined, to an online notary public. The bill would require a representative of an online notarization platform to certify compliance with applicable laws under penalty of perjury. The bill also creates a civil cause of action against an online notarization platform or depository for a violation of those laws. The bill would require the Secretary of State to develop an application for registration and establish rules to implement the bill.	Clerk-Recorder
SB-790	Public records: contracts for goods and services.	Secretary of State-Chaptered	This bill would provide that any executed contract for the purchase of goods or services by a state or local agency, including the price and terms of payment, is a public record subject to disclosure under the act. The bill would provide that any provision in a written agreement that purports to exclude a contract specified above from disclosure by agreeing to consider it a confidential or proprietary record of the vendor is void and unenforceable as a matter of law. By placing additional duties and responsibilities upon local agencies in connection with requests for inspection of records, this bill would impose a state-mandated local program.	Clerk-Recorder/Elections Office
SB-798	Elections: local bond measures: tax rate statement.	Secretary of State-Chaptered	Existing law requires local governments, when submitting a measure for voter approval for the issuance of bonds that will be secured by an ad valorem tax, to provide voters a statement that includes estimates of the tax rates required to fund the bonds. Under existing law, the estimated tax rate is expressed as the rate per \$100 of assessed valuation on all property to be taxed to fund the bonds. This bill would instead require that the estimated tax rate in the statement be expressed as the rate per \$100,000 of assessed valuation on all property to be taxed to fund the bonds.	Elections Office - Local Bond Measures

Pending Leg.

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Bill	Subject	Status	Partial Summary. Refer to the Bill language for complete information.	Applies to:
AB-544	Voting: county jails.	Assembly-In Committee Process- Appropriations	This bill would require a county jail facility, for elections held on or after November 1, 2024, to provide a polling location, as defined, that permits any eligible incarcerated person to perform specified activities, including registering to vote and voting, returning a vote by mail ballot, voting a provisional ballot, and receiving a replacement ballot. The bill would require the county elections official to work with the county sheriff or county jail facility administrator to design and implement a program that establishes a polling location at each facility and to post the plan for the program on the county elections official's internet website. The bill would require the county sheriff or county jail facility administrator to designate an employee as a voting coordinator at each facility who will be responsible for ensuring compliance with requirements pertaining to polling locations, for maintaining voter education materials in the jail library, and for posting informational flyers regarding voting rights and eligibility to vote, among other duties. The bill would require the Secretary of State to prepare a related training for voting coordinators.	Elections Office - Voter Accessibility
AB-622	Residency: displacement by natural disaster.	Assembly-In Committee Process- Elections	This bill would additionally provide that a person who leaves their home for temporary purposes because of a natural disaster, and who intends to return to the home or to another address within the same jurisdiction, does not lose the person's domicile at that home. The bill would authorize the person to provide a temporary address for mailing purposes without losing their domicile.	Elections Office - Voter Accessibility
AB-884	Elections: language accessibility.	Assembly-In Committee Process- Appropriations	Among other language accessibility requirements of the SOS: ... The bill would require a county elections official to establish a language accessibility advisory committee that is comprised of includes representatives of language minority communities, as specified. The bill would require a county elections official to conduct outreach with community-based organizations to educate voters who have indicated a language preference and to make reasonable efforts to recruit elections officials who are fluent in an identified language. The bill would require the content of state and county elections internet websites to be translated into identified languages, as specified.	Elections Office - Voter Accessibility
AB-1004	Initiative, referendum, and recall petitions: signatures: voter notification.	Assembly-In Committee Process- Appropriations	This bill would establish a process for a voter whose signature on a state, county, city, or district initiative, referendum, or recall petition is rejected by an elections official to submit a statement to verify the voter's signature. If the elections official determines that the signature on the petition possesses multiple, significant, and obvious differing characteristics when compared to all signatures in the voter's registration record, the bill would require the elections official to mail a notice to the voter, on or before the next business day or as soon as practicable, of the opportunity to verify the voter's signature. The bill would require the notice and signature verification statement to contain specified text, and would require the voter to return the statement by the end of a specified 30-day period. The bill would require the elections official to include the petition signature verification statement, instructions, and additional specified information on the elections official's internet website. The bill would require elections officials to report to the Secretary of State by a specified date the number of notices mailed to voters, the number of signature verification statements returned by voters, the number of signatures successfully cured, and the number of signatures that were not cured. The bill would require the Secretary of State to compile this data on an annual basis and post a report with the information on its internet website.	Elections Office - petition processing
AB-1170	Political Reform Act of 1974: filing requirements.	Assembly-In Floor Process-Third Reading	This bill would permit a filing officer to retain a report or statement filed in a paper format as a copy on microfilm or other space-saving materials or as an electronic copy, as specified, without a two-year waiting period. The bill would also permit a filing officer to retain a report or statement as an electronic copy before the Secretary of State certifies an online filing and disclosure system. Once the Secretary of State certifies an online filing and disclosure system, this bill would permit a filing officer to retain a report or statement filed in a paper format as an electronic copy, as specified, without a two-year waiting period. The Political Reform Act of 1974 regulates conflicts of interests of public officials and requires that public officials file, with specified filing officers, periodic statements of economic interests disclosing certain information regarding income, investments, and other financial data. The Fair Political Practices Commission is the filing officer for statewide elected officers and candidates and other specified public officials. If the Commission is the filing officer, the public official generally files with their agency or another person or entity, who then makes a copy and files the original with the Commission. This bill would revise and recast these filing requirements to make various changes, including requiring public officials and candidates for whom the Commission is the filing officer to file their original statements of economic interests electronically with the Commission. The bill would also make conforming changes to other provisions of law. The bill would require the Commission to redact the signature, personal address, and telephone number of a filer, and the street name and building number of the filer's business address and any real property interests.	Elections Office - FPPC
AB-1559	Elections.	Senate-In Committee Process- Appropriations	This bill focuses on security, SOS oversight, and retention. Among many other things, this bill... would authorize the Secretary of State to impose additional conditions of approval for electronic poll books, ballot manufacturers and finishers, ballot on demand systems, voting systems, and remote accessible vote by mail systems. The bill would authorize the destruction or secure disposal of certified voting technology at the end of lifecycle with the written approval of the Secretary of State and the manufacturer. Existing law prohibits a voting system from being connected to the internet and from receiving or transmitting wireless communications or wireless data transfers. This bill would prohibit establishing a network connection to any device not directly used and necessary for voting system functions and would prohibit communication by or with any component of the voting system by wireless or modem transmission. The bill would require a voting system to be used in a configuration of parallel central election management systems separated by an air-gap, as defined.	Elections Office - system security
AB-1595	Elections: eligibility to vote.	Assembly-In Floor Process-Inactive	This bill would remove statutory references to the disqualification of electors while serving a state or federal prison term for the conviction of a felony, would allow an elector currently serving in a state or federal prison to vote based on their last voluntary residence in the state, would require an elections official to provide the incarcerated elector with the voting materials required to be sent to a vote by mail voter to the location where the elector is incarcerated, and would make other conforming changes.	Elections Office - Voter Accessibility

**Pending Leg.**

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Bill	Subject	Status	Partial Summary. Refer to the Bill language for complete information.	Applies to:
AB-1688	Voter registration: cancellation: deceased persons.	Senate-In Committee Process- Appropriations	Beginning on January 1, 2026, this bill would also require the Secretary of State and county elections officials to use information obtained from the Federal Social Security Administration to cancel affidavits of registration of deceased persons. By imposing new duties on county elections officials, this bill would impose a state-mandated local program.	Elections Office - Voter processing
AB-1784	Elections: multiple candidacies.	Assembly-Pending Referral	Existing law prohibits a person from filing nomination documents for a party nomination and an independent nomination for the same office, or for more than one office at the same election. This bill would state the intent of the Legislature to enact legislation clarifying that a person is prohibited from filing nomination documents for more than one office at the same election.	Elections Office - candidates
AB-1785	California Public Records Act.	Assembly-In Committee Process- Judiciary	The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. The act prohibits a state or local agency from posting the home address or telephone number of any elected or appointed official on the internet without first obtaining the written permission of that individual. This bill would define "home address," for purposes of the above provision, to include an assessor's parcel number, which may be converted to a physical address through reference to other information made available online by the state or local agency. By expanding the scope of this provision and thereby increasing the duties of local agencies, the bill would impose a state-mandated local program. Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. This bill would make legislative findings to that effect.	Recorder - public records
AB-1795	Primary elections: dual candidacies.	Assembly-Pending Referral	(1) Existing law prohibits a person from filing nomination documents for a party nomination and an independent nomination for the same office, or for more than one office at the same primary election. This bill would clarify that a candidate is prohibited from filing nomination documents for more than one office at the same primary election. (2) Existing law requires a candidate for state office, or for the office of Member of the United States House of Representatives or United States Senator, to deliver their nomination documents to the county elections official no later than 5 p.m. on the 88th day before the primary election. Existing law further provides that if the incumbent for specified state offices, or for the office of Member of the United States House of Representatives or United States Senator, does not deliver nomination documents to the county elections official by this deadline, then the deadline for a candidate other than the incumbent to file nomination documents for that office is extended to 5 p.m. on the 83rd day before the primary election. Existing law prohibits a candidate whose declaration of candidacy has been filed for any primary election from withdrawing as a candidate at that primary election. This bill would permit a candidate who has filed a declaration of candidacy for an office at a primary election to additionally file nomination documents for one of the offices specified above if a filing extension is granted for that second office because the incumbent has not filed nomination documents. The bill would provide that the candidate's act of filing for the second office constitutes an automatic withdrawal from candidacy for the first office. The bill would further provide that if the candidate who withdraws from the first office is the incumbent of that first office, the period to file nomination documents for that first office would be reopened until 5 p.m. on the 78th day before the primary election.	Elections Office - candidates
AB-1807	Elections: voting machines.	Assembly-Pending Referral	Existing law prohibits the use of a voting system in an election unless it has been certified by the Secretary of State and specifies requirements for elections using voting machines. In an election using an approved voting system, existing law requires the statement of the result of votes cast at a voting precinct to contain specified information. This bill would make a nonsubstantive change to that provision.	Elections Office - system security
SB-251	Candidates' statements: false statements.	Assembly-Pending Referral	This bill would increase the maximum fine amount to \$5,000, for a candidate for nonpartisan elective office, or an incumbent in a recall election, to knowingly make a false statement of material fact in the candidate's statement with the intent to mislead the voters in connection with the candidate's campaign for nomination or election to an office.	Elections Office - candidates
SB-299	<b>Voter registration: California New Motor Voter Program.</b>	Assembly-In Committee Process- Health	<b>SAME BILL AS SB 846</b>	Elections Office - voter registration
SB-409	Elections: candidate's statement.	Assembly-In Committee Process- Appropriations	This bill would require the Secretary of State to establish, on or before January 1, 2026, a pilot program that would allow a candidate to include a QR code link, as defined, to a video statement in the state voter information guide, as specified. The bill would require the Secretary of State to seek to collaborate with at least 1 but not more than 4 county elections offices from geographically diverse counties to establish a similar program for county voter information guides. The bill would require a participating county to report to the Secretary of State about the effectiveness of the program and for the Secretary of State to provide a report to the Legislature, as specified.	Elections Office - candidates
SB-518	Elections: certification of results.	Assembly-In Committee Process- Elections	This bill would require the elections official to submit the certified statement of the results of the election on the 30th calendar day following the election. As opposed to within 30	Elections Office - Voting Results



**Pending Leg.**

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SB-632	Candidate statements.	Assembly-In Floor Process-Inactive	This bill would allow statements of State or Federal Candidates to include the party affiliation of the candidate and the candidate's membership or activity in partisan political organizations. The bill would require the Secretary of State or the office of the elections official to notify a candidate for statewide elective office, State Senate, or Assembly who files a statement with the Secretary of State or the elections official whether the statement was approved or rejected, as specified. By imposing additional duties on local elections officials, this bill would impose a state-mandated local program.	Elections Office - candidates
SB-718	Elections: official canvass: unprocessed ballots.	Assembly-In Committee Process-Elections	This bill would require county elections officials to include in the SOS Unprocessed reports the number of vote by mail ballots that have been processed but not counted because the identification envelope is missing the voter's signature or has a signature that does not compare to the signature on file. This bill would additionally require the Secretary of State to make public the information contained in those reports.	Elections Office - ballot processing
SB-846	<b>Voter registration: California New Motor Voter Program.</b>	Senate-In Committee Process-Appropriations	This bill would additionally require the Department of Motor Vehicles to transmit specified information to the Secretary of State for a person submitting a driver's license application who provides documentation demonstrating United States citizenship and that the person is of an eligible age to register or preregister to vote. The bill would deem this information to constitute a completed affidavit of registration for such persons, and require the Secretary of State to register or preregister the person to vote, unless the Secretary of State determines they are ineligible. The bill would require, if a person is registered or preregistered to vote in this manner, that the county elections official send a notice to the person advising that they may decline to register or preregister to vote and providing additional information. The bill would also require the county elections official to send a notice to a person who is already registered to vote, but for whom the Secretary of State changes their registration information after receiving updated name or address information from the department.	Elections Office - voter registration
SB-863	Measures proposed by the Legislature.	Senate-In Floor Process-Third Reading	Existing law requires every constitutional amendment, bond measure, or other legislative measure submitted to the people by the Legislature to appear on the ballot of the first statewide election occurring at least 131 days after the adoption of the proposal by the Legislature. This bill would allow the Legislature to specify that a constitutional amendment, bond measure, or other legislative measure submitted to the people will appear on the ballot at an election other than the one described above if the election specified in the proposal would occur at least 131 days after adoption of the proposal by the Legislature.	Elections Office
SB-918	Measures submitted to the voters: petitions: filings.	Senate-Pending Referral	Existing law establishes procedures for the filing of a petition relating to a measure to be submitted to the voters with the elections official and for elections officials and the Secretary of State to determine the validity and numerical sufficiency of the signatures submitted with the petition. This bill would make a technical, nonsubstantive change to these provisions.	Elections Office
SB-919	Elections.	Senate-Pending Referral	Existing law requires a ballot card manufacturer, finisher, or ballot on demand system vendor to disclose to the Secretary of State in writing any known flaw or defect in its ballot card manufacturing or finishing process, manufactured or finished ballot cards, or ballot on demand system that could adversely affect the future casting or tallying of votes. This bill would make a technical, nonsubstantive change to that provision.	Elections Office
SB-929	Presidential elections: candidate qualifications.	Senate-Pending Referral	Existing law prescribes specific procedures by which political parties participate in the presidential primary, and it defines the role of the Secretary of State in overseeing the primary and general elections and the meeting of presidential electors. Existing law requires the Secretary of State to cause the names of the political parties' candidates for President and Vice President to be placed on the general election ballot after receiving from each party its certified list of nominees for electors, as specified. Existing law, including the United States Constitution, governs the qualifications of candidates for elective office, including the office of President of the United States. This bill would require the Secretary of State, before placing the name of a candidate for President or Vice President on the ballot for the general election, to determine whether the candidate satisfies the qualifications for the office described in the United States Constitution. The bill would prohibit the Secretary of State from placing on the ballot the name of any candidate who the Secretary of State determines is not eligible in accordance with these provisions. The bill would authorize a voter or candidate to challenge this determination by the Secretary of State in accordance with specified procedures.	Elections Office - candidates
SB-938	Electrical and gas corporations: rate recovery: political activities and advertising.	Senate-Pending Referral	This bill would prohibit, except as provided, an electrical or gas corporation from recording various expenses associated with political influence activities, as defined, or with advertising, as defined, to accounts that contain expenses that the electrical or gas corporation recovers from ratepayers. The bill would require an electrical or gas corporation to provide the commission with all information deemed necessary to monitor compliance with that prohibition. The bill also would require an electrical or gas corporation, for each business unit of the corporation that performs work associated with political influence activities or advertising, to annually file with the commission a report containing specified information. The bill would require the commission to make the report publicly available.	Elections Office



# INYO COUNTY BOARD OF SUPERVISORS

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

NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-47

### Inyo County/Los Angeles Standing Committee Meeting - February 8, 2024 Water Department ACTION REQUIRED

**ITEM SUBMITTED BY**

Holly Alpert, Water Director

**ITEM PRESENTED BY**

Holly Alpert, Water Director

**RECOMMENDED ACTION:**

Provide direction to the County's Standing Committee representatives in advance of the meeting of the Inyo County/Los Angeles Standing Committee scheduled for February 8, 2024, in Los Angeles.

**BACKGROUND / SUMMARY / JUSTIFICATION:**

The next meeting of the Inyo County/Los Angeles Standing Committee will be hosted by Los Angeles Department of Water and Power in person in Los Angeles. Pursuant to Resolution 99-43 and the Long-Term Water Agreement, your Board sets policy for the County's representatives to the Standing Committee. The Water Department requests your Board provide direction to the County's Standing Committee representatives.

The Standing Committee agenda was in development at the time this agenda request was prepared. A final agenda will be circulated when it becomes available. The draft agenda includes approval of actions taken at the November 2023 meeting; a runoff and operations update, including a forecast for the remainder of the 2024 winter; a report on impacts of the 2023 winter and runoff season to the Lower Owens River Project; and a recognition of outgoing LADWP General Manager Marty Adams.

**FISCAL IMPACT:**

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

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose to suggest modifications to the proposed agenda. This is not recommended as staff from the two agencies have met and worked to establish this agenda.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

LADWP

**ATTACHMENTS:**

1. Standing Committee Agenda - Feb 8 2024

**APPROVALS:**

Holly Alpert	Created/Initiated - 1/19/2024
Darcy Ellis	Approved - 1/19/2024
Holly Alpert	Approved - 1/25/2024
John Vallejo	Approved - 1/25/2024
Nate Greenberg	Final Approval - 1/27/2024



AGENDA

**INYO COUNTY/LOS ANGELES  
STANDING COMMITTEE MEETING**

February 8, 2024

11:00 a.m.

LADWP Board Room

*The public will be offered the opportunity to comment on each agenda item prior to any action on the item by the Standing Committee or, in the absence of action, prior to the Committee moving to the next item on the agenda. The public will also be offered the opportunity to address the Committee on any matter within the Committee's jurisdiction prior to the adjournment of the meeting.*

**NOTICE TO THE PUBLIC**

*In order to minimize the spread of the COVID-19 virus, Governor Newsom has issued Executive Orders that temporarily suspend certain requirements of the Brown Act. The Standing Committee meeting will be conducted in person by Inyo County and LADWP representatives but the public can participate via videoconference accessible at:*

<https://ladwp.webex.com/ladwp/onstage/g.php?MTID=eea26c1a840a786f1affe7f948fe5f737>

Event number: 2490 368 8869

Event Password: 1234

*Individuals will be asked to provide their name and email address to access the videoconference. Anyone who does not want to provide their email address may use ANY generic, non-functioning address, such as [123@123.com](mailto:123@123.com), to gain access.*

*Anyone wishing to make either a general public comment or a comment on a specific agenda item prior to the meeting, or as the item is being heard, may do so either in writing or by utilizing the "**Raise hand**" feature when appropriate in the WebEx meeting (the meeting Chair will call on those who wish to speak). Individuals who dial into the WebEx and wish to make a public comment may do so by pressing \*3 to "**Raise Hand**". To lower your hand, press \*3 once again. Written public comments, limited to **250 words or less**, may be emailed to: [Francesca.Joven@ladwp.com](mailto:Francesca.Joven@ladwp.com) . Your emailed comments may or may not be read aloud, but all comments will be made a part of the record. Please make sure to submit a separate email for each item that you wish to comment upon.*

1. Public comment on issues not included as part of this agenda.
2. **Action Item:** Approval of documentation of actions from the November 9, 2023 meeting.
3. Runoff and operations update.
4. Report on the effects of high runoff and tropical storm conditions on the Lower Owens River Project.
5. Acknowledgment of LADWP General Manager Martin Adams' retirement and participation and member of the Standing Committee.
6. Schedule for future Standing Committee meetings:
  - May 16, 2024 (Inyo County)
  - August 8, 2024 (Los Angeles) - tentative
  - November 7, 2024 (Inyo County)
7. Adjourn.



# INYO COUNTY BOARD OF SUPERVISORS

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

NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-40

### Administration Department Restructure County Administrator ACTION REQUIRED

#### ITEM SUBMITTED BY

Nate Greenberg, County Administrative Officer

#### ITEM PRESENTED BY

Nate Greenberg, County Administrative Officer

#### RECOMMENDED ACTION:

- A) Approve the proposed restructuring of the Administration Department as recommended;
- B) Approve changes to the Authorized Strength in the County Administrative Officer Department by:
  - 1. Adding one (1) Deputy County Administrator at Range 88 (\$8,232-\$10,003) or Senior Deputy County Administrator at Range 92 (\$9,079-\$11,036), depending on qualifications and scope of duties/responsibilities, and deleting one (1) Assistant County Administrative Officer at Range 160 (\$11,553-\$14,043); and
  - 2. Adding one (1) Assistant Director of Budget and General Services at Range 92 (\$9,079-\$11,036) and deleting one (1) Senior Budget Analyst at Range 88 (\$8,232-\$10,003); and
- C) Approve the job descriptions for the Deputy/Senior Deputy County Administrator and Assistant Director of Budget and General Services;
- D) Approve the contract between the County of Inyo and Meaghan McCamman for provision of personal services as Deputy County Administrator at Range 88, Step E, \$10,003 per month, effective February 15, 2024, and authorize the County Administrator to sign;
- E) Approve the contract between the County of Inyo and Denelle Carrington for provision of personal services as Assistant Director of Budget and General Services at Range 92, Step E, \$11,036 per month, effective February 15, 2024, and authorize the County Administrator to sign;
- F) Direct staff to update the publicly available pay schedule accordingly; and
- G) Approve Resolution No. 2024-05 titled, "A Resolution of the Board of Supervisors, County of Inyo, State of California, Setting Certain Salary and/or Terms of Conditions of Employment for Management and Non-represented Employees Employed in the Several Offices or Institutions of the County of Inyo, Which Shall Supersede any Prior Resolution Pertaining to that Subject to the Extent They are Inconsistent," and authorize the Chairperson to sign.

#### BACKGROUND / SUMMARY / JUSTIFICATION:

In the fall of 2021, then County Administrative Officer (CAO) Leslie Chapman received approval from the Inyo County Board of Supervisors to authorize an additional Assistant County Administrative Officer (ACAO) in order to establish succession plans and garner further support for the training and development of new staff members in both Personnel and County Administration. Sue Dishion was appointed into one of the ACAO positions in September, 2021 and Meaghan McCamman into the second ACAO position in November, 2021 with the intent of growing into this new role while also furthering countywide housing and economic development efforts. It was anticipated at the time that Mrs. McCamman would assume the singular ACAO role upon Mrs. Dishion's future retirement date.

Mrs. Dishion has recently announced her retirement, with an expected date in March 2024. This announcement is triggering the need to review and evaluate the overall staffing needs within the Administration Department. This has become common practice when key positions are vacated throughout the organization - effectively evaluating service design and taking advantage of an opportunity to ensure that operating structure and authorized position(s) still meets the organizational needs.

What has become evident over the past year is that staff (across the organization) are working at capacity. Meanwhile, there are a significant number of high-priority and high-value projects which demand continual engagement from staff. Further, considering that a number of these projects require engagement or oversight from Administration, it is clear that reducing the overall number of staff within that department will force the Board to make some critical decisions around what activities should be de-prioritized or otherwise postponed. Multiple discussions with the Board have indicated that it is impractical to scale-back operations, and there is no desire to do so at this point. In fact, the Board has instead been encouraging the CAO to scale-up grant support capabilities within Administration to support the large volume of work going on, and opportunities on the horizon. Further, several departments have approached the CAO seeking out additional administrative support for projects, grants, and operations which they are currently responsible for executing.

Given the Board's interest around the above, Administration has been evaluating different approaches to improve operational effectiveness while keeping costs down and ensuring that the proper resources are put in place. Through these conversations has emerged the concept of standing up a new Project Management Office (PMO) within Administration that can support Countywide efforts requiring higher-levels of support, oversight, coordination, and/or require financial or legislative resources.

With Mrs. Dishion's retirement comes the opportunity and need to look toward implementing a PMO within our existing resources. The proposal being brought forward through this item would effectively reduce one Assistant County Administrative Officer position to a Deputy County Administrator who will be responsible for overseeing this new PMO function. In addition, some duties which were previously held each of the two ACAOs would be redistributed, and the existing Senior Budget Analyst position for the County upgraded to take on the oversight of Motor Pool, Veterans Services, and Reception Services at the Bishop Consolidated Office Building. Through this process, it is the intent of the Board and Administration to recruit for a new ACAO behind Mrs. Dishion, and have Meaghan McCamman step into the Deputy CAO role overseeing the PMO. Overall, with the changes being requested, there is no change to the FTE's in Administration, simply a change of position titles, duties and ranges, that overall will result in a savings to the General Fund.

While the staffing changes will go into effect immediately, it will take some time to fully stand up the PMO. The initial aspects of that effort will be to begin operationalizing the new Inyo County Strategic Plan and developing a comprehensive work program associated with the identified priorities, in addition to rationalizing that work alongside the existing overall project portfolio for the County. In addition, PMO staff will be engaging with County Department Heads to better understand what work is happening within their departments which require or could otherwise benefit from higher-level support, and then working to develop a plan to manage this overall workload.

Given that this is an entirely new function for the County and staff stepping into new roles, it is expected that there will need to be continual evaluation of the new systems, and potentially tweaks made to ensure effectiveness. As such, Administration will have regular conversations with the County Leadership Team and Board of Supervisors to receive feedback and input around how to further shape the PMO in order to best serve the needs of the County.

If item B of this request is approved, Resolution No. 2024-04 titled, "A Resolution of the Board of Supervisors, County of Inyo, State of California, Setting Certain Salary and/or Terms of Conditions of Employment for Management and Non-represented Employees Employed in the Several Offices or Institutions of the County of Inyo, Which Shall Supersede any Prior Resolution Pertaining to that Subject



to the Extent They are Inconsistent," needs to be updated to include the approved actions. The changes include the deletion of the title Senior Budget Analyst title and the addition of the title Budget and General Services Assistant Director title as listed under the Management Classifications. No additional changes to the Resolution were made.

**FISCAL IMPACT:**

<b>Funding Source</b>	General Fund	<b>Budget Unit</b>	010200/010202
<b>Budgeted?</b>	Yes	<b>Object Code</b>	Salaries and Benefits
<b>Recurrence</b>	Ongoing Expenditure		
<b>Current Fiscal Year Impact</b>			
The current proposed restructure will result in a reduction of salary costs of \$14,820 for the first year of implementation to the General Fund.			
<b>Future Fiscal Year Impacts</b>			
The current proposed restructure will result in a reduction of salary costs in future years by \$37,900.			
<b>Additional Information</b>			

Not supporting this restructure and further reverting to the structure of the Administration Department prior to 2021 would provide a reduction in salary cost of approximately \$250,000.

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

Your Board could choose to not approve this proposed restructure, or any portion of it. This is not recommended as the proposed changes are designed to improve service delivery to the overall County organization while remaining budget- and position-neutral.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

None.

**ATTACHMENTS:**

1. Proposed Admin Restructure - 2024
2. Deputy CAO and Sr. Deputy CAO Job Description
3. Assistant Director of Budget and General Services Job Description
4. Resolution No. 2024-05 Management and Non-Represented Resolution

**APPROVALS:**

Darcy Ellis	Created/Initiated - 1/16/2024
Darcy Ellis	Approved - 1/16/2024
Keri Oney	Approved - 1/16/2024
John Vallejo	Approved - 1/18/2024
Amy Shepherd	Approved - 1/29/2024
Nate Greenberg	Final Approval - 1/29/2024





# 2024 PROPOSED ADMIN RESTRUCTURE

January 16, 2024

# RESTRUCTURE DRIVERS/TRIGGERS



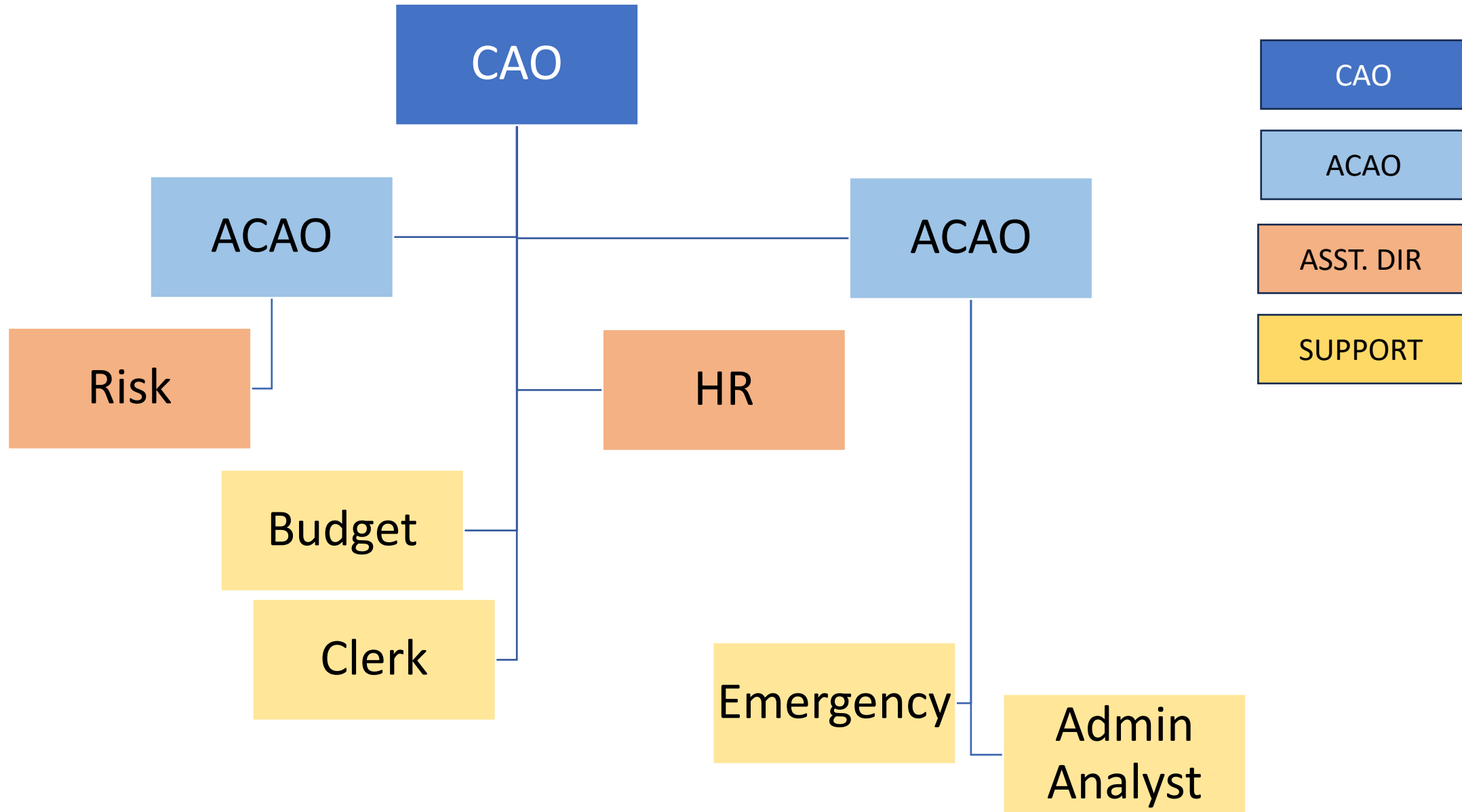
- Sue Dishion (ACAO) retiring in March | Gradual phase-out
- Significant project load – lots in flight
  - Reduced capacity = scaled-back efforts
- Board desire to increase capacity around grant administration
- Department support needs



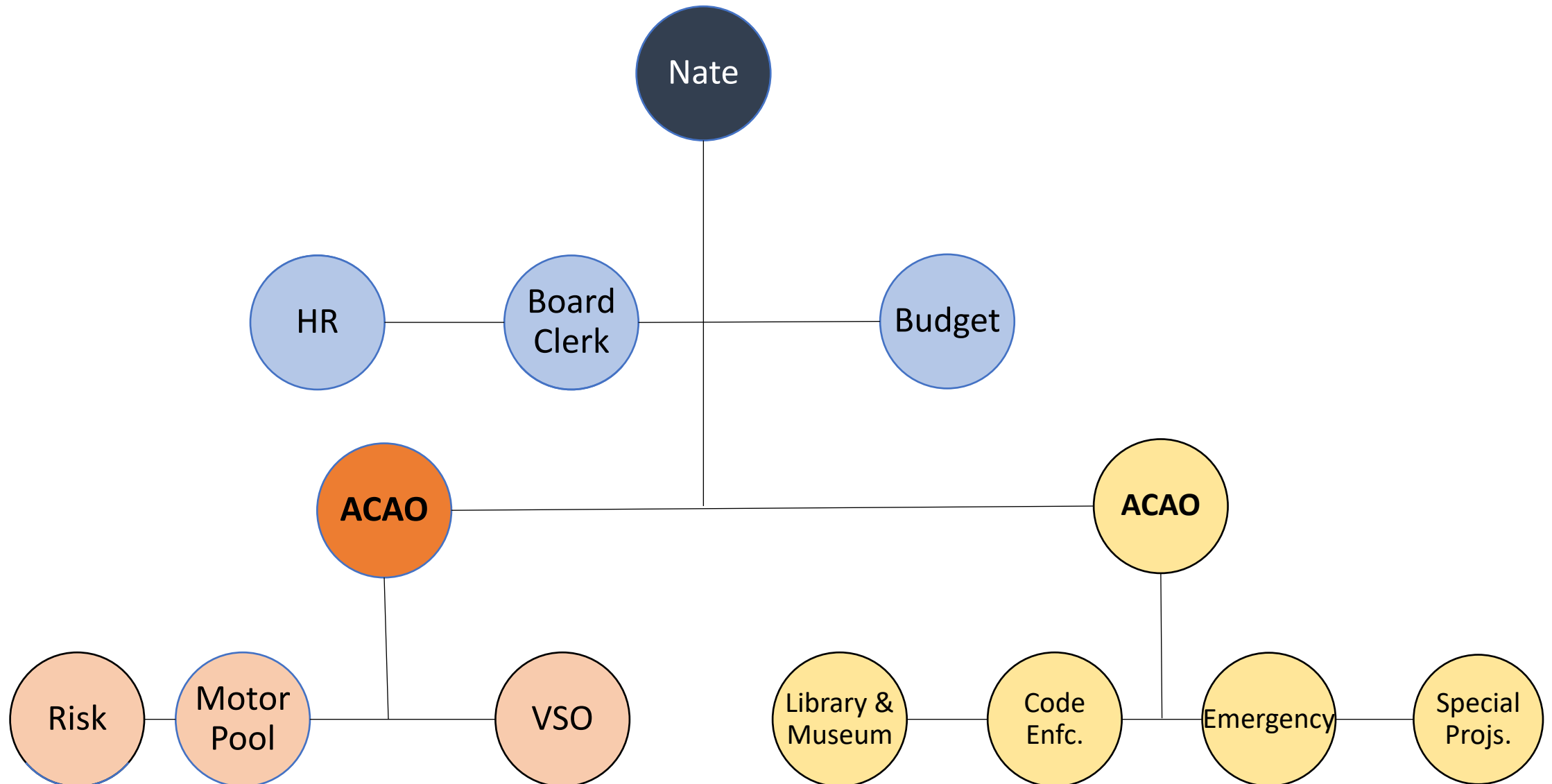
# RESTRUCTURE CONCEPTS

- No Authorized Strength or budget increase
- Convert 1 ACAO to Deputy CAO
  - Project Management Office (PMO) oversight
  - Special/Large Project Management (Economic Development; Housing; etc.)
  - Grants & Legislative Affairs
- Recruit for second Assistant CAO Position
- Upgrade existing Senior Budget Analyst to “Asst. Director of General Services”
  - Budget | Motor Pool | VSO | COB Reception

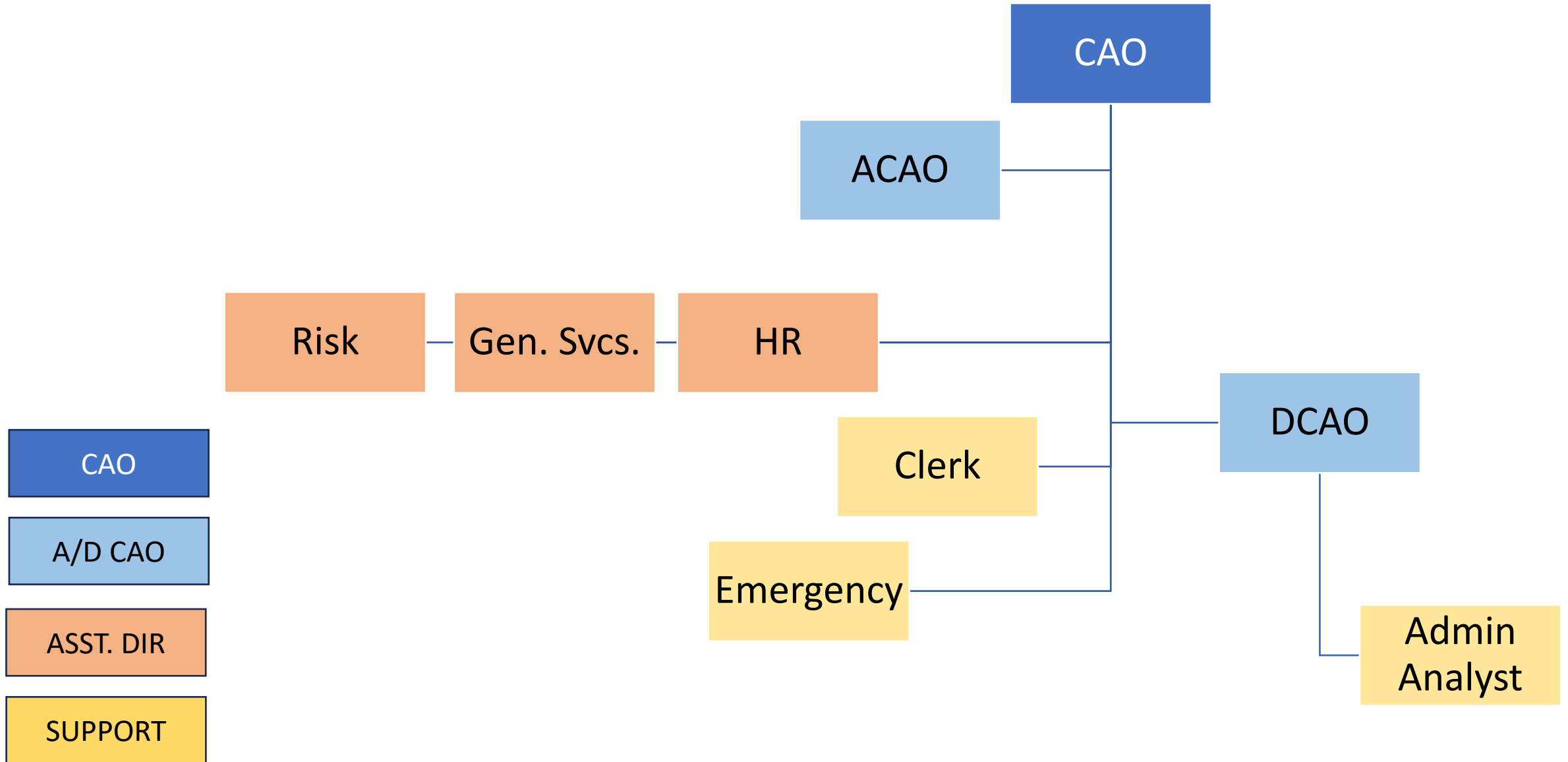
# CURRENT STRUCTURE



# EXISTING ROLES & RESPONSIBILITIES

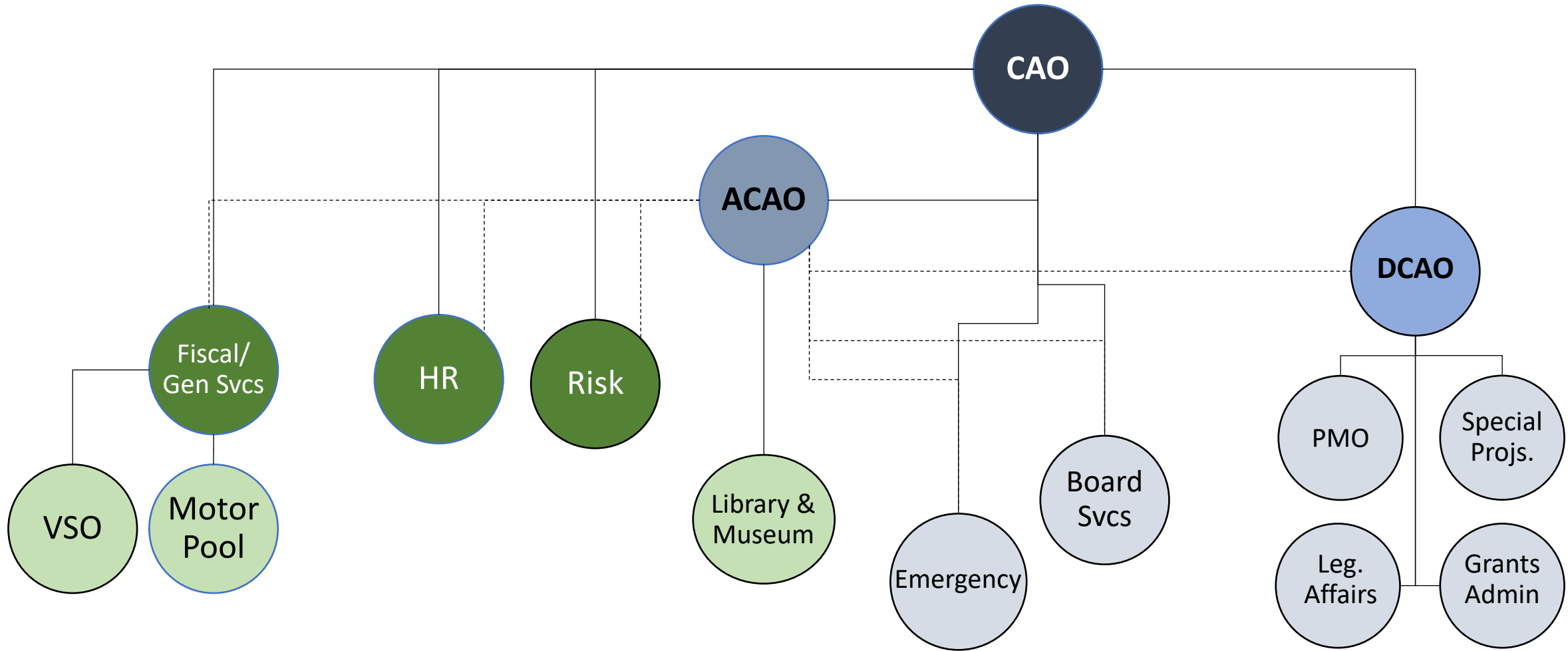


# PROPOSED STRUCTURE

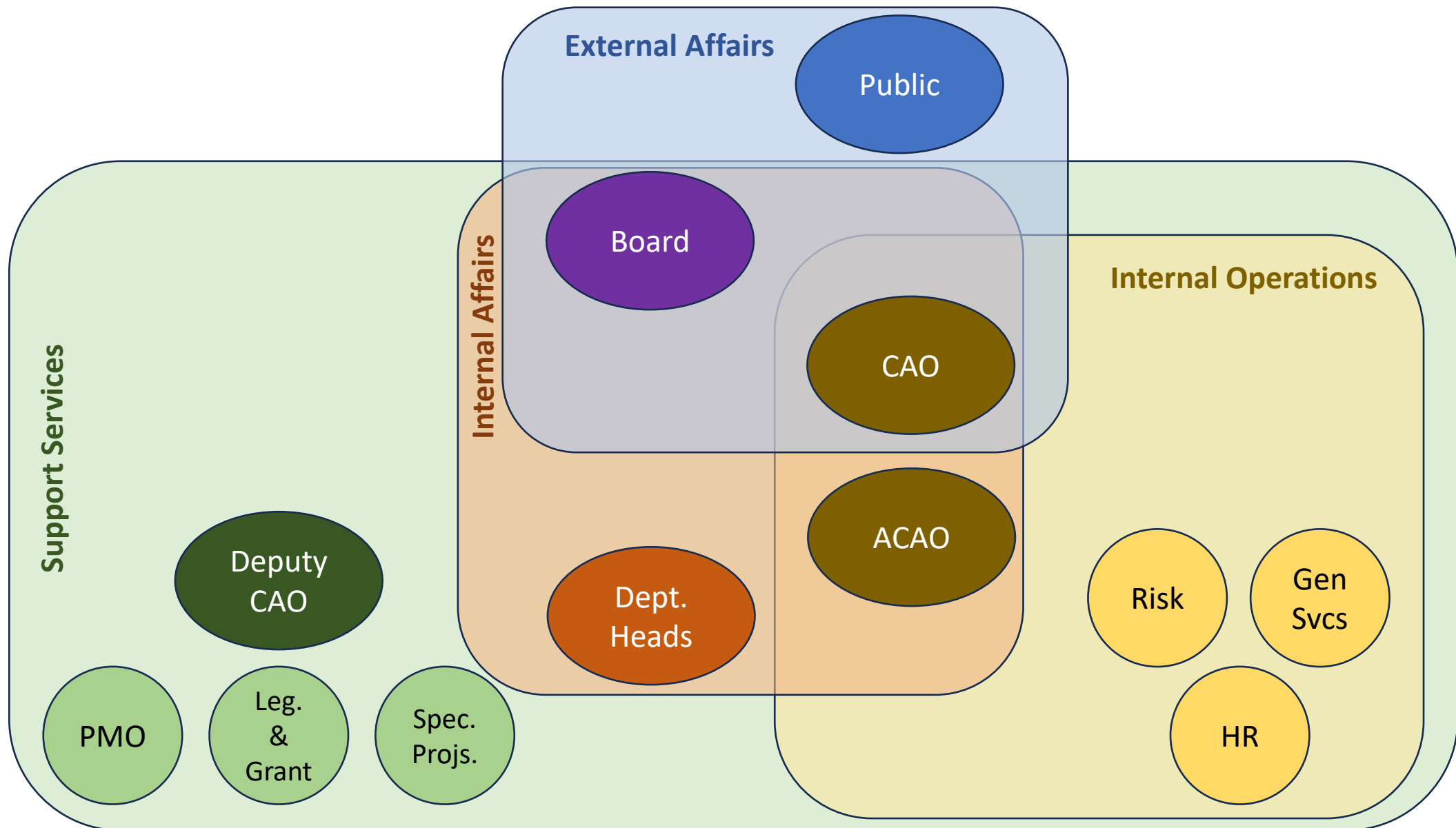




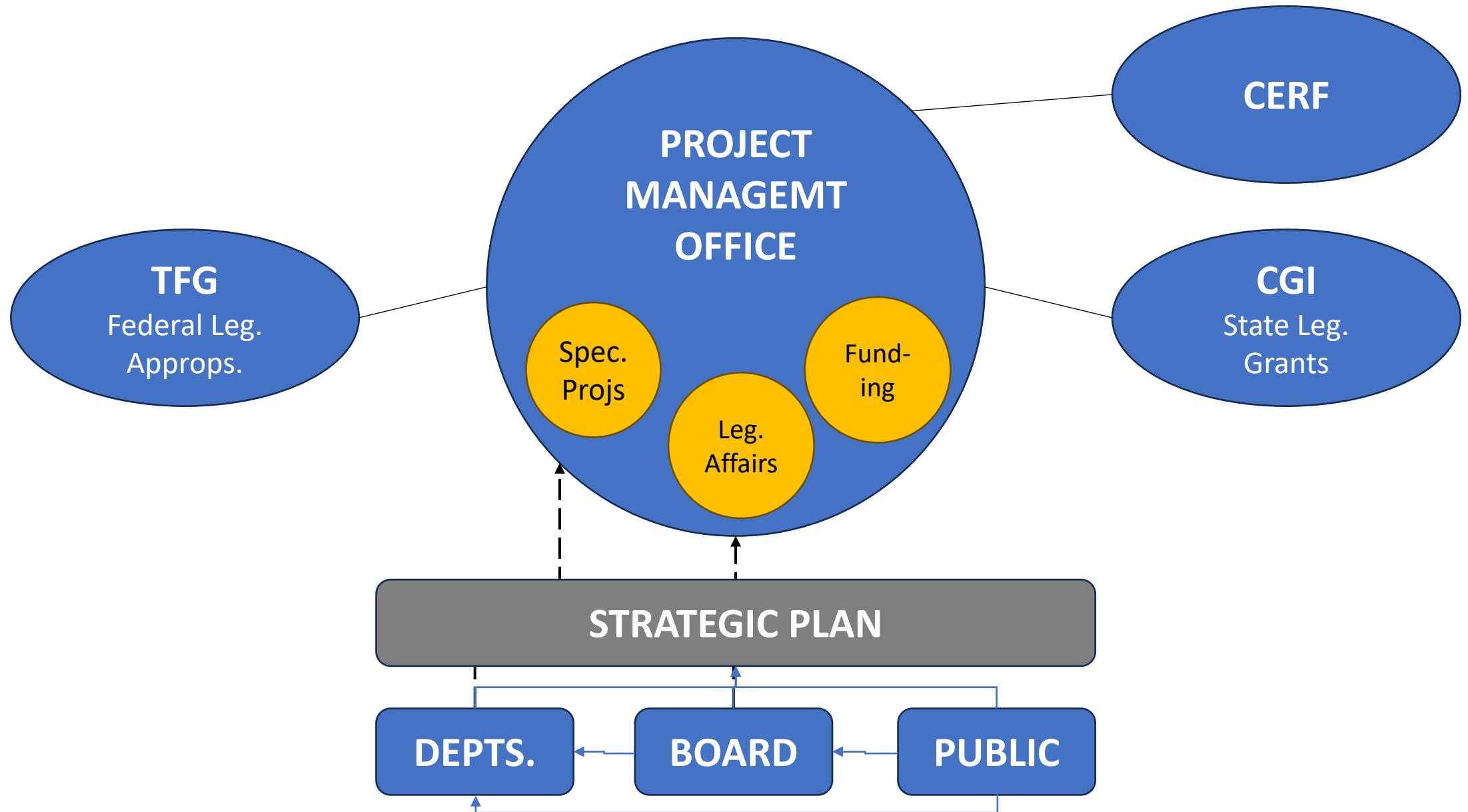
# PROPOSED ROLES & RESPONSIBILITIES



# FUNCTIONAL LAYERS



# PMO ROLE & OPERATIONS





AN EQUAL OPPORTUNITY EMPLOYER  
(WOMEN, MINORITIES, AND DISABLED ARE ENCOURAGED TO APPLY)

## **DEPUTY OR SENIOR DEPUTY COUNTY ADMINISTRATOR**

**DEFINITION:** Under the direction of the CAO and/or Assistant CAO, the Deputy/Senior Deputy assists various administrative functions of the County; primarily by supporting the work of various County offices, divisions, and departments by managing special projects and assisting with the alignment of work to strategic priorities. In addition, this position will support legislative and regulatory affairs of the County in coordination with allied agencies and partners; oversee economic development efforts; and pursue grants and other funding sources for County priorities. The individual in this position may be called upon to provide assistance to the CAO or Assistant CAO, including occasionally assuming the responsibilities of the CAO or Assistant CAO as assigned or as required in his/her absence.

### **DISTINGUISHING CHARACTERISTICS:**

The Senior Deputy County Administrator and Deputy County Administrator are each single-position classes that serve as full line assistants to the County Administrator and Assistant County Administrator. The primary responsibility of these positions is to support the coordination of Countywide efforts and special projects – including legislative work and grants oversight as necessary to successfully execute projects. In support of these functions, this individual needs to be analytical, organized – with a keen attention to detail, as well as having the ability to serve as a positive team member who can build and maintain strong relationships with colleagues both inside and outside of the organization.

In addition and under direction of the CAO, the position may assume responsibility for assigned staff and/or divisions, as well as occasionally perform general administrative tasks for the County Administrator and the County Administrator's Office. As assigned, the positions may act as County Administrator in his/her absence.

The positions are distinguished based on levels of education and experience, as well as scope, breadth, and complexity of responsibility.

The Senior Deputy is distinguished from the Assistant CAO by providing support and services across County departments and divisions, and may be responsible for smaller sections and/or organizational units within the CAO's office. The Senior Deputy is further distinguished from the Deputy who is primarily responsible for the strategic and operational oversight of County objectives and initiatives.

**LEVEL OF RESPONSIBILITY AND SCOPE:** Receives administrative direction from the County Administrator and/or Assistant County Administrator; and may receive policy direction from the Board of Supervisors in the absence of the County Administrator. Exercises direct supervision over professional, technical, and clerical personnel.

## **REPRESENTATIVE DUTIES**

**EXAMPLES OF ESSENTIAL DUTIES – Duties may include, but are not limited to, the following:**

- Has responsibility for the oversight and management of Countywide project and strategic initiatives
- Supports the County Administrator in developing and administering the strategic plan
- Researches potential funding sources, develops grant applications/proposals, negotiates agreements, and administers grant programs and budgets.
- Manages contracts for grant writing and grant support services; supports County departments, divisions, and/or offices in identifying, developing, writing, and implementing grant projects
- Manages the development of the County's legislative platform; and assists with legislative and regulatory advocacy efforts under direction of the Board of Supervisors
- Upon request, consults with elected and appointed department heads concerning policy, administrative, and operational problems, and recommends solutions
- Reviews, develops, and coordinates the installation or implementation of new systems, projects, programs, and procedures.
- Supports and enhances the work of County departments, divisions, and/or offices, especially those activities, programs, and projects involving multiple departments, through oversight and administration of a project management office
- Assists with budget development and budget administration as requested.
- Builds and maintains positive working relationships with co-workers, other County employees, and the public using principles of good customer service.
- In the absence of both the County Administrative Officer and the Assistant County Administrative Officer, assumes the responsibility of the County Administrator's Officer as needed.
- Performs related duties as assigned.

## **MINIMUM QUALIFICATIONS**

### **Experience and Training**

Any combination of experience and training that would provide the required knowledge and skills is qualifying.

**Experience:** A typical way to obtain the required knowledge and skills would be:

**Deputy County Administrator:** Four (4) years of progressively responsible professional administrative experience, including two (2) years of management responsibility.

**Senior Deputy County Administrator:** Five (5) years of progressively responsible professional administrative experience, including four (4) years of management responsibility, with a preference of two (2) years of this management experience being in a public agency (California preferred).

**Training:** Equivalent to a bachelor's degree from an accredited college or university with major coursework in business, public administration, or a related field.

### **Knowledge of:**

- Standard and accepted principles and practices of public administration, including county government structure and administration.
- Advanced principles and practices of administrative analysis.

- Standard and accepted principles and practices of policy development and implementation.
- Principles and practices of leadership, motivation, team building, and conflict resolution.
- Principles and practices of business correspondence and report writing.
- Relevant local, state, and federal laws, rules and regulations.
- Standard and accepted governmental budgeting procedures and techniques.
- Standard and accepted principles and practices of organizational analysis and management.
- Principles and practices of supervision, training, and personnel management.
- Standard and accepted office procedures, methods, and equipment.
- Standard workplace computer software applications.

**Skill to:**

- Provide positive and effective administrative and policy guidance to County department heads.
- On a continuous basis, analyze fiscal, operational, and technical reports; interpret and evaluate staff reports; know laws, regulations, and codes; observe performance and evaluate staff; problem solve issues of countywide application; be familiar with and consistently apply various personnel rules; and explain and interpret policy.
- Develop and implement policies and procedures having countywide application in an effective and proactive manner.
- Gain cooperation through discussion, persuasion, and tact.
- Interpret and apply County policies, procedures, rules, and regulations in an effective and timely manner.
- Successfully develop, control, and administer multiple budgets and monitor expenditures for diverse and varied assigned divisions.
- Analyze problems, identify alternative solutions, project consequences of proposed actions, justify recommendations, and implement appropriate activities in support of established goals.
- Negotiate with and persuade individuals and groups with diverse needs and priorities in an effective and positive manner.
- Communicate clearly, concisely, and tactfully in both oral and written forms.
- Supervise, train, and evaluate assigned management, supervisory, technical, operational, and clerical personnel.
- Work with various cultural and ethnic groups in a tactful and effective manner.
- Plan, organize, and schedule priorities for self and others in an effective and timely manner.
- Meet the physical requirements necessary to perform required duties in a safe and effective manner for self and others.
- Be self-directing and work independently with little supervision.
- Establish and maintain effective working relationships with those contacted in the performance of assigned duties.
- Consider political consequences of decision-making and act accordingly.

- Quickly learn and proficiently use specialized computer software licensed to the County of Inyo.

**License or Certificate:**

You may be required to drive a motor vehicle in the course of employment and must possess a valid operator's license issued by the State Department of Motor Vehicles. Proof of adequate vehicle insurance may also be required. The successful candidate must complete a pre-employment background investigation and physical examination.

**Typical Physical Requirements:** On a continuous basis, sit at desk or in meetings for long periods of time; intermittently, walk, stand and bend while going to/from other offices and taking files to/from meetings; twist to reach equipment surrounding desk; perform simple grasping and fine manipulation; use telephone and write or use a keyboard to communicate through written means; hear sufficiently to communicate with staff and to understand actions in public meetings, hearings, or administrative proceedings; lift light to medium weight; and drive a vehicle to conduct work.

**Typical Working Conditions:** Regular work may be assigned anywhere in Inyo County. Most assigned work is normally performed in an office/public meeting environment, however, some assignments may require performance of job duties in the field. Evening and weekend work may be required. Continuous contact with County staff, management, state and federal agency representatives, general public, and outside organizations/agencies.

**POSITION STATUS:** The two position classes are at-will positions, appointed by and serving at the will of the County Administrator. The two position classes are exempt from the County Personnel Merit System pursuant to Chapter 2.80 of the Inyo County Code.

**Special Requirements:** Your position may be required to serve as a Disaster Service Worker during a County emergency.

## **ASSISTANT DIRECTOR OF BUDGET & GENERAL SERVICES**

### **DEFINITION:**

Under administrative direction, coordinates and manages the day-to-day activities of assigned Divisions within the Administrative Office and the overall County budget processes, including the development of policy recommendations, budget preparation instructions and guidelines to County departments; conducts the full range of complex and sensitive studies and analysis related to budget development and management; prepares and develops the County's financial forecasts; plans, organizes and supervises the work of others; and performs related work as assigned.

### **SUPERVISION RECEIVED AND EXERCISED:**

Receives administrative direction from the CAO and Assistant CAO. Exercises direct supervision over management, supervisory, professional, technical, and administrative support staff.

### **CLASS CHARACTERISTICS:**

This single at-will executive classification is assigned to the County Administrative Office and is responsible for providing program planning, policy development and oversight, and operational management to assigned functions and Divisions that report to the CAO's office as well as County-wide budget development services and support. This includes leading the County budget planning, development, and coordination of the implementation between County departments and the County Administrator's Office, with minimal direction and oversight by the County Administrative Officer. The Divisions assigned and reporting to this position include Purchasing, Motor Pool, Veteran's Services and the Clint Quilter Consolidated Office Building Front Lobby Staff.

### **EXAMPLE OF DUTIES (ILLUSTRATIVE ONLY):**

The information listed below is meant to serve as samples of job duties and responsibilities for this classification. This list is neither inclusive nor exclusive, but indicative of several types of duties performed. Consequently, this information does not reflect Essential Functions for any given position in this classification.

- Plans, directs, and manages the day-to-day activities of one or more divisions.
- Provides administrative coordination, leadership and management support of the County's budget including performing review of budget requests and transfers for fiscal impact and participates in the implementation of short and long-term financial plans to implement Board direction through budgetary control and on-going changes, including mid-year changes.
- Perform strategic financial planning, policy development, and high-level analysis related to the County's long-term financial position, long-term liabilities, labor negotiations, and budget policies.
- Collects and analyzes data, evaluates related issues and determines alternatives, and makes recommendations to the County Administrator and the Board of Supervisors.
- Keeps the County Administrator and Board of Supervisors informed regarding the



County's overall fiscal status and of developing issues or events which could impact the County's fiscal condition.

- Recommends strategies to maintain the fiscal integrity of the County.
- Prepares reports with recommendations on budgetary initiatives and coordinates implementation after approval including reviewing and preparing associated new or revised policies and procedures and communicates changes to County Departments.
- Prepares narrative and statistical reports, correspondence, spreadsheets and graphics for the Board of Supervisors and the County Administrator and makes presentations to the Board of Supervisors and other boards, commissions and committees in regards to findings.
- Monitors and evaluates departmental budgets, budget change proposals, and related expenditures and revenues.
- Supports Countywide strategic planning efforts by assisting with the development and execution of goals, objectives, and priorities particularly with regard to fiscal needs.
- Manage, direct, evaluate, monitor, and support professional, technical, and clerical staff; provide proactive and informational performance feedback to employees on an ongoing basis; conduct performance evaluations in a timely and effective manner; provide recommendations on hiring, demotion, and employee discipline.
- Maintains accurate records and files.
- Build and maintain positive working relationships with coworkers, other County employees, and the public using principles of effective customer service.
- Perform related duties as required.

## **MINIMUM QUALIFICATIONS**

### **Experience and Training**

Any combination of experience and training that would provide the required knowledge and abilities is qualifying. A typical way to obtain the required knowledge and abilities would be:

**Experience:** Five (5) years of increasingly responsible experience in accounting, finance, public administration, or budget analysis, including two (2) years of supervisory responsibility.

**Training:** Equivalent to a bachelor's degree from an accredited college or university with major course work in finance, accounting, business or public administration, or related field is preferred.

## **KNOWLEDGE, SKILLS, AND ABILITIES**

### **Knowledge of:**

- Principles and practices of budgeting and fiscal administration including financial and actuarial forecasting and financial analysis in a public agency.
- Principles of management analysis and organizational design necessary to analyze, recommend and evaluate budget proposals.
- Principles, programs, and practices of California local government fiscal management and budget control including knowledge of California budgetary laws and regulations. Long range financial projecting and forecasting techniques, and public financing methods.
- Principles and practices of project management and employee supervision, including work planning and staff training.
- Techniques of planning and performing budgetary analysis.
- Data analysis and statistical representation techniques as well as computer

applications related to the work, including spreadsheets and basic methods of graphic presentation.

- Techniques for dealing effectively with departmental and employee representatives, members of various public and private organizations and the public in individual or group settings.

**Ability to:**

- Develop, monitor, and implement a complex annual budget for a moderate-sized public agency including policy development.
- Define and resolve problems; collect, analyze, interpret, and evaluate a variety of data; evaluate, define, and select alternatives, establishing rationale for and projecting consequences of decisions and or recommendations.
- Plan and carryout various analytical studies in the area of budget administration and complete tasks that include high level inter-departmental coordination and cooperation.
- Interpret, apply, and explain laws, rules, regulations, and policies.
- Monitor proposed state and federal budgetary or legislative actions to identify potential impact to the County's fiscal condition.
- Plan, coordinate, organize, and direct the work of others in a diverse organization of multiple divisions having unique areas of responsibility.
- Exercise sound, independent judgment, within general policy guidelines including review and approval of budget changes, within delegated limits and consistent with department's policy and procedures.
- Organize own work, coordinate multiple projects, and meet critical deadlines.
- Prepare clear, concise, and accurate reports, correspondence, policies, procedures, and other written materials.
- Maintain accurate records and files.
- Establish and maintain effective working relationships with those contacted in the course of the work.
- Represent the County effectively in meetings with groups and individuals, including making effective oral presentations.
- Select, evaluate, and train employees.
- Act as a resource for department budget-related questions and concerns.
- Analyze situations quickly and objectively, apply appropriate elements of decision-making, and determine the proper course of action.
- Communicate effectively orally and in writing and maintain the County's commitment to provide excellent customer service.

RESOLUTION NO. 2024-06

**A RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY OF INYO, STATE OF CALIFORNIA, SETTING CERTAIN SALARY AND/OR TERMS AND CONDITIONS OF EMPLOYMENT FOR MANAGEMENT AND NON-REPRESENTED EMPLOYEES EMPLOYED IN THE SEVERAL OFFICES OR INSTITUTIONS OF THE COUNTY OF INYO, WHICH SHALL SUPERSEDE ANY PRIOR RESOLUTIONS PERTAINING TO THAT SUBJECT TO THE EXTENT THEY ARE INCONSISTENT**

WHEREAS, the Board of Supervisors, pursuant to Government Code section 25300, shall prescribe the compensation of all county officers and shall provide for the number, compensation, tenure, appointment, and conditions of employment of all County employees; and

WHEREAS, there are Management and Non-Represented employees of the County of Inyo; and

WHEREAS, the Board of Supervisors desires to prescribe the compensation, tenure, appointment and/or conditions of employment for management employees, excluding, appointed officials and Board of Supervisors;

NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors that the following classifications are deemed as Management or Non-Represented and shall be subject to the salary and/or terms and conditions of employment set forth below:

MANAGEMENT CLASSIFICATIONS	
AGRICULTURAL COMMISSIONER DEPUTY	
ASSESSOR ASSISTANT	
AUDITOR-CONTROLLER ASSISTANT	
BUDGET AND GENERAL SERVICES ASSISTANT DIRECTOR	
CAO ASSISTANT	
CAO DEPUTY	
CAO DEPUTY SENIOR	
CHIEF INFORMATION OFFICER	
CHIEF INFORMATION OFFICER ASSISTANT	
CLERK-RECORDER ASSISTANT	
COUNTY COUNSEL ASSISTANT	
COUNTY COUNSEL CHIEF DEPUTY	
COUNTY COUNSEL DEPUTY	
DISTRICT ATTORNEY ASSISTANT	
DISTRICT ATTORNEY DEPUTY SENIOR	
ENGINEER SENIOR CIVIL	
ENVIRONMENTAL HEALTH WATER MANAGER	
EXECUTIVE DIRECTOR OF REGIONAL COORDINATION	
HHS ASSISTANT DIRECTOR	
HHS DEPUTY DIRECTOR BEHAVIORAL HEALTH	
HHS DEPUTY DIRECTOR FISCAL OVERSIGHT & SPECIAL OPERATIONS	
HHS DEPUTY DIRECTOR PUBLIC ASSISTANCE & AGING	
HHS DEPUTY DIRECTOR SOCIAL & PLACEMENT SERVICES	

HHS DEPUTY DIRECTOR PUBLIC HEALTH	
MANAGEMENT ANALYST SENIOR	
PERSONNEL ASSISTANT DIRECTOR	
PROBATION DEPUTY CHIEF OFFICER	
PROGRAM INTEGRITY QA MANAGER SENIOR	
PUBLIC WORKS ASSISTANT DIRECTOR	
PUBLIC WORKS DEPUTY DIRECTOR AIRPORTS	
PUBLIC WORKS DEPUTY DIRECTOR BUILDING & GROUNDS	
PUBLIC WORKS DEPUTY DIRECTOR RECYCLING & WASTE MANAGEMENT	
PUBLIC WORKS DEPUTY DIRECTOR ROADS	
REGIONAL BROADBAND COORDINATOR	
RISK MANAGER & DIRECTOR OF SAFETY & DISABILITY PROGRAMS & SERVICES	
TREASURER-TAX COLLECTOR ASSISTANT	
UNDERSHERIFF	
WATER DEPUTY DIRECTOR	
<b>NON-REPRESENTED CLASSIFICATIONS</b>	
ADMINISTRATIVE ANALYST (ADMINISTRATION)	*C
ADMINISTRATIVE ASSISTANT TO CLERK RECORDER	
ADMINISTRATIVE ASSISTANT TO DISTRICT ATTORNEY	
ADMINISTRATIVE ASSISTANT TO HEALTH & HUMAN SERVICES DIRECTOR	
ADMINISTRATIVE ASSISTANT TO SHERIFF	
ADMINISTRATIVE LEGAL ASSISTANT TO COUNTY COUNSEL	*C
ADMINISTRATIVE OPERATIONS ANALYST	*C
ASSISTANT CLERK TO THE BOARD/PUBLIC RELATIONS LIAISON	*C
BUILDING ASSOCIATE OFFICIAL	
BUILDING TECHNICAL OFFICIAL	
CLINICAL ADMINISTRATOR	
EMERGENCY SERVICES MANAGER	
LIBRARY DIRECTOR	
MANAGEMENT ANALYST	
MUSEUM ADMINISTRATOR	
OFFICE TECHNICIAN (ADMINISTRATION)	*C
PAYROLL ANALYST	*C
PAYROLL MANAGER	*C
PERSONNEL ANALYST	*C
PERSONNEL ANALYST SENIOR	*C
PROBATION MANAGER	
PSYCHIATRIST	
PUBLIC INFORMATION OFFICER	
SAFETY COORDINATOR	*C
*C - CONFIDENTIAL CLASSIFICATIONS	

**ARTICLE 1. RECOGNITION**

The County of Inyo (hereinafter called the "County") has recognized employee bargaining units for the purpose of meeting its obligations under the Meyers-Milias-Brown Act, Government Code Section 3500, et seq. This Resolution applies to Management employees and other employees not represented by any employee bargaining unit. This Resolution applies to those positions listed above.

**ARTICLE 2. EFFECT OF PRIOR RESOLUTIONS**

This Resolution supersedes all prior Resolutions regarding the Management Employees and with regard to the Non-Represented Employees covered by this Resolution to the extent they are inconsistent herewith.

**ARTICLE 3. NON-DISCRIMINATION**

**Section 1.** The County will recognize and will protect the rights of all employees hereby to join and/or participate in protected bargaining unit activities, or to refrain from joining or participating in protected activities, in accordance with Government Code sections 3500 to 3511.

**Section 2.** Management and Non-Represented Employees shall not discriminate against any employee because of race, color, sex, age, national origin, ancestry, political or religion or religious creed, marital status, physical or mental disability, medical condition or sexual orientation.

**Section 3.** Whenever the masculine gender is used in this Resolution, it shall be understood to include the feminine gender.

**ARTICLE 4. WORKDAY AND WORK WEEK**

The County-designated standard workweek begins at 0001 hours each Thursday and ends at 2400 hours the following Wednesday (one minute after 12 midnight Thursday through 12 midnight on Wednesday). The County-designated alternative workweek for "9/80" schedules shall begin exactly four hours after the start time of the 8-hour shift on the day of the week that corresponds with the employee's alternating regular day off.

- a. It is the obligation of a Management Employee to perform the services and work required by his/her position within the County. The performance of these services and work will require a varied schedule. In planning their work schedule, Management Employees will coordinate and make arrangements to fulfill the requirements of the services and work which are necessary.
- b. Employees on an eight-hour daily work schedule will generally work five consecutive days, with two consecutive days off.
- c. Non-Represented employees may be assigned, and/or may request that their Department Head recommend to the CAO to work an alternative work schedule.
- d. Such alternative work schedules may include a "4/10s" schedule (four ten-hour workdays per County-designated standard workweek, consecutive unless otherwise agreed to by the Non-Represented employee and their supervisor). A "4/10s" schedule shall consist of no more than forty (40) hours during the County-designated standard workweek, as applicable, which may be at hours other than traditionally scheduled for the assigned shift.

Such alternative work schedules may include a “9/80” schedule (80 hours worked over 9 workdays per County designated pay-period). A “9/80” schedule shall consist of no more than forty (40) hours during the County-designated alternative workweek. The County-designated alternative workweek for the requested “9/80” schedule shall begin exactly four hours after the start time of the 8-hour shift on the day of the week that corresponds with the employee's alternating regular day off. A Non-Represented employee working a “9/80” schedule will work 36 hours (four 9-hour days) in one County-designated standard workweek and 44 hours (four 9-hour days and one 8-hour day) in the other County-designated standard workweek of the County-designated pay-period.

As approved by the County Administrative Officer, in his/her sole discretion, other alternative schedules may be assigned or accepted upon request.

- e. The County Administrative Officer may in his/her discretion based upon recommendation from a department head change work hours and/or work shifts on a temporary basis in such department or work unit thereof.

#### **ARTICLE 5. OVERTIME AND COMPENSATORY TIME**

The County will comply with the Fair Labor Standards Act (FLSA) and shall compensate all full-time non-exempt employees at the pay rate of time and one-half for all overtime hours worked. Time and one-half compensation will be paid after 40 hours for those non-exempt full-time employees scheduled on a 40-hour work week. Non-exempt full-time employees covered by this Agreement shall be compensated for authorized overtime at the rate of one and one-half (1-1/2) times his or her equivalent hourly rate of pay, when approved in advance by the department head.

Management Employees are FLSA Exempt employees. Non-Represented employees listed on Attachment A are Exempt employees.

#### **ARTICLE 6. STANDBY COMPENSATION**

- a. Standby Compensation. Management and Non-Represented employees requested by the department head to serve in an after-hours response capacity will receive \$75.00, for performing standby duties on each regularly scheduled day and \$120.00, for performing standby duties on regularly scheduled days off or holidays. Holidays are those recognized pursuant to Article 19 of this Agreement.
- b. Call-Out Compensation. Those employees who are eligible for overtime compensation and have ended their workday and have left their place of employment, but who have been requested to perform their duties after normal working hours, will be compensated at the rate of time and one-half. If the time worked is less than two hours, the employee will receive two hours compensation minimum at the rate of time and one-half. Provided, however, if the employee is not required to leave the location at which they would otherwise remain (e.g., the employee takes a call at home, and/or makes calls from home) then the employee will receive time and one-half for the actual hours (calculated in fifteen-minute increments) worked.

If the time worked is more than two hours the employee will receive time and one-half for the actual hours or portions thereof worked.

These call-out provisions will apply to no more than two call-out instances per 12-hour period. Any call-out instances after the first two in a 12-hour period will be paid at normal overtime rates.

Management employees are not eligible for overtime compensation and as such, are not eligible for call-out compensation.

- c. An employee will be deemed to be on telephone standby if the employee's department head informs the employee that the employee may be subject to being called out during a certain period. A department cannot avoid payment under this Article by informing an employee he or she may be needed, but not formally placing the employee on standby.

## ARTICLE 7. SALARIES

- a. Salaries: Employees shall be paid as set forth in Attachment B for Management and Non-Represented employees, Attachment C for Elected Assistants, and Attachment D for the Assistant CAO, Assistant County Counsel, Chief Information Officer and the Regional Broadband Coordinator.

All salaries shall be adjusted annually on the first full pay period following July 1 by the Cost of Living. Cost of Living shall be determined by the March-to-March change in the BLS (Bureau of Labor Statistics) Riverside – San Bernardino – Ontario Price Index. The CAP on the COLA will be no less than 0% and no more than 4% of the Urban Wage Earners and Clerical Workers.

- b. Longevity Pay: The County will provide the following longevity increases after ten (10) years of consecutive service:

- 10 years – 2%
- 15 years – 2%
- 20 years – 2%
- 25 years – 2%

These increases will be based on employee start date. If the employee starts on the first through fifteenth of the month, the increase will begin the first of that month. If employee starts on the sixteenth through the thirty-first of the month, the increase will begin the first of the following month.

- c. Shift Differential: Non-Management employees working swing shifts (as defined by the ICEA MOU) shall receive a shift differential of 2%. Those working graveyard shifts (as defined by the ICEA MOU) shall receive a shift differential of 4%.

As of the time this Resolution is being considered, currently:

### Sheriff's Department - Dispatch

- 10:00 a.m. - 8:00 p.m. - Swing Shift
- 2:00 p.m. - 12:00 a.m. - Swing Shift
- 4:00 p.m. - 2:00 a.m. - Swing Shift
- 8:00 p.m. - 6:00 a.m. - Graveyard Shift

### Public Works - Custodian

- 12:30 p.m. - 9:00 p.m. - Swing Shift
- 4:00 p.m. - 12:30 a.m. - Swing Shift
- 2:00 p.m. - 11:00 p.m. - Swing Shift

Health and Human Services - Progress House

11:30 a.m. - 9:30 p.m. - Swing Shift

9:15 p.m. - 7:15 a.m. - Graveyard Shift

Management employees are not eligible for shift differential pay.

- d. Bilingual Pay: The County will provide four tiers of bilingual compensation based on the degree of fluency needed by the Department and demonstrated by an eligible Employee, as follows:
- Tier I – Those who can communicate with the public = 2% of their base rate of pay.
  - Tier II – Those who interview and interrogate = 3% of their base rate of pay.
  - Tier III – Those who speak, read, and write = 5% of their base rate of pay.
  - Tier IV – Those who are certified interpreters = 7% of their base rate of pay.

The County shall determine its need for bilingual communication skills including which positions qualify for pay under this section. The County may also require testing of bilingual fluency as it deems necessary or desirable, as a prerequisite to being eligible for bilingual pay.

Management employees are not eligible for bilingual pay.

- e. Bi-Weekly Pay period: Employees covered by this Agreement shall be paid bi-weekly (every other Friday).

**ARTICLE 8. PART-TIME BENEFITS**

Part-time Benefits will be the same as agreed to by ICEA.

**ARTICLE 9. INSURANCE BENEFITS**

- a. Medical: The County shall continue to provide Management and Non-Represented employees with the medical benefit plan administered by the Public Employees Retirement system (PERS).
- b. County agrees to pay 80% of the premium of all PERS or PORAC Plans available to County Employees. Employees will be responsible for 20% of the premium.
1. The County will reimburse 50% of the annual medical deductible after the full deductible per person has been paid.
  2. County will pay the following per pay period to each employee who has other medical coverage and has opted out of the County's medical plan.
    - Eligible for employee only coverage = \$92.31 per pay period
    - Eligible for employee plus one coverage = \$184.62 per pay period
    - Eligible for family coverage = \$276.93 per pay period
- c. Dental: County agrees to pay 100% of the monthly premium (for employee and dependents) for dental insurance. County agrees to provide through Delta Dental, orthodontia benefits for adults and children, 50% benefit schedule; \$1,200 lifetime maximum.



- d. Optical: County agrees to pay 100% of the monthly premium (for employee and dependents) for optical insurance.
- e. Life: County agrees to pay 100% of the monthly premium for life insurance - \$20,000 term policy on employee.

**ARTICLE 10. FLEXIBLE BENEFIT PROGRAM**

County will pay the monthly administration fee for each employee who participates in flexible benefit program allowed by Section 125 of the Internal Revenue Code.

**ARTICLE 11. SHORT-TERM DISABILITY PROGRAM**

County will provide all eligible employees with a self-insured income protection plan for up to one (1) year for non-job-related disabilities preventing a person from working. County agrees to pay the applicable premium on behalf of the employee, as set forth in the County's Short-Term Disability Insurance Plan (as the same may be amended from time to time). Any employee denied benefits under this provision may file a grievance pursuant to Article XIII of the County Personnel Rules and may have the matter heard only up to the level of the County Administrative Officer. The benefit will be as set forth in the Short-Term Disability Program.

**ARTICLE 12. DEFERRED COMPENSATION**

County will provide deferred compensation programs for employees.

**ARTICLE 13. UNDERSHERIFF**

Notwithstanding any applicable provisions to the contrary in the Management and Non-Represented Resolution #2024-04 or any successor resolution thereto, the Undersheriff will follow the Law Enforcement Administrators Association (LEAA) salary table, and be provided the same COLA and equity adjustments, recognized holidays, safety retirement plan, retention incentive pay and be eligible to participate in the flexible benefit plan, deferred compensation plan, 401A plan, safety medical, safety vision, safety dental, long term disability, and clothing allowance.

**ARTICLE 14. CAREER LADDER**

For those Non-Represented positions that have an assigned classification career ladder, (e.g. Office Tech I-III), the County will follow the career ladder criteria as defined in the ICEA MOU.

**ARTICLE 15.**

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**ARTICLE 16. SICK LEAVE**

- a. Each employee shall accrue sick leave. There is no limit on the amount of sick leave that may be accrued.
- b. Any employee who retires from the County may donate sick leave to the sick leave bank, without complying with any donation limits.

- c. Management and Non-Represented employees may donate directly to an employee. Management and Non-Represented employees may only donate 80 hours per calendar year.

**ARTICLE 17. VACATION LEAVE**

The maximum number of vacation days which may be accrued shall be 35 eight-hour days (280 hours). There shall be no accrual more than 35 eight-hour days (280 hours).

- a. In the event an employee is denied a request for vacation, which denial causes the employee to cease accruing vacation benefits due to the 35-day cap provided herein, the employee may continue to accrue vacation benefits so long as:
  - 1. The employee and his/her supervisor agree that the employee will take necessary vacation time at a date in the future to bring the employee below the 35-day cap.
  - 2. The alternative vacation must be scheduled and taken by the employee within six months.
  - 3. The County Administrator approves the arrangement, which approval will not be unreasonably denied.
- b. The County Administrative Officer may approve requests for vacation more than 20 consecutive workdays based on extenuating circumstances.

**ARTICLE 18. FLEXIBLE LEAVE**

The County shall grant employees 40 hours of Flexible Leave hours each fiscal year.

Flexible leave will be granted each July 1 and must be exhausted by the following June 30. Flexible leave will not accrue from one fiscal year to the next, with the following exception. If an employee believes there are extenuating circumstances that made it impossible for him/her to utilize flexible leave within the fiscal year, the employee must make a written request to the County Administrative Officer stating the reasons flexible leave should be carried over to the next fiscal year. If the County Administrative Officer approves the request, flexible leave shall be carried over.

Flexible leave will not be paid should an employee terminate, for any reason, from County services.

An employee requesting flexible leave shall give a minimum of 48 hours' notice to his/her supervisor. A request to take flexible leave may be denied due to the operational needs of the employee's department.

New employees, upon appointment, shall be granted a prorated number of flexible leave days as follows:

July 1 – October 31 .....	Five (5) days
November 1 – February 28 .....	Three (3) days
March 1 – June 30 .....	One (1) day

**ARTICLE 19. HOLIDAYS**

a. Recognized Holidays. County holidays are as follows:

- January 1 – New Year’s Day
- Third Monday in January – Martin Luther King Day
- Third Monday in February – President’s Day
- Last Monday in May – Memorial Day
- July 4 – Independence Day
- First Monday in September – Labor Day
- November 11 – Veteran’s Day
- Thanksgiving Day
- Friday immediately following Thanksgiving Day
- December 24 or December 31
- December 25 – Christmas Day

b. Additional Provisions.

- Management employees and non-exempt Non-Represented employees who work on a County Holiday shall not receive any additional pay, overtime, or compensatory time.
- A Non-Represented employee, who is not FLSA exempt, who works on a County recognized holiday, shall be paid at double time and one-half their regular rate. i.e., pay for 20 hours on an 8-hours workday. If a holiday falls on the employee’s day off, payment will be made at straight time with no additional day off.

**ARTICLE 20. RETIREMENT PROVISIONS**

PERS Employees hired prior to January 1, 2013 (Classic)

- a. County shall provide employees 2% at 55 full formula PERS retirement for miscellaneous members.
- b. County shall pay employee’s contribution for PERS retirement, at the rate of 7% of gross pay, less Social Security (FICA) adjustment.
- c. Employees shall pay their own contribution for both Social Security and Medicare through payroll deductions.
- d. PERS benefits to (Classic) miscellaneous employees shall consist of:
  - 1. Final compensation to be based on highest one year’s salary.
  - 2. Include post-retirement survivor allowance.
  - 3. Allow 260 days of accrued sick leave to be added to service credit.
  - 4. Employer Paid member contribution (EPMC).

5. All other provisions for Classic members as amended in the County PERS contract.

PERS Employees hired after January 2013 fall under PEPRA

- a. County shall provide employees 2% at 62 PERS formula.
- b. Employees will be required to pay at least 50% of normal cost.
- c. Employees shall pay their own contribution for both Social Security and Medicare through payroll deductions.
- d. PERS benefits to (PEPRA) miscellaneous employees shall consist of:
  1. Final compensation is to be based on the three highest years of service.
  2. Include post-retirement survivor allowance.
  3. Allow 260 days of accrued sick leave to be added to service credit.
  4. All other provisions for PEPRA members as amended in the County PERS contract.

Any change in retirement benefits negotiated by ICEA will be applied to Management and Non-Represented Employees.

#### **ARTICLE 21. PERSONNEL RULES**

The Personnel Rules are hereby incorporated by reference.

In the event of a conflict between the Personnel Rules and Articles of this Resolution, this Resolution shall prevail. In the event of a conflict between the Personnel Rules and an employment agreement between the County and an employee covered by this Resolution, the employment agreement shall prevail. In the event of a conflict between this Resolution and an employment agreement between the County and an employee covered by this Resolution, the employment agreement shall prevail.

#### **ARTICLE 22. EMPLOYEE ASSISTANCE PROGRAM**

The County will provide an Employee Assistance Program.

#### **ARTICLE 23. TRAVEL PAY**

County will use the Internal Revenue Service (IRS) policy regarding reimbursement of travel pay. If the IRS rates increase, the County reimbursement rates will increase by the same amount as the IRS rates. Should the IRS rates decrease or undergo fundamental changes, the County Travel Policy will be followed.

#### **ARTICLE 24.**

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**ARTICLE 25. OUT OF CLASSIFICATION PAY**

Out of Class pay will be paid in accordance with Personnel Rule, Article IV Classification Plan, Rule 4.8.

**ARTICLE 26. FLSA EXEMPT, AND REPRESENTED EMPLOYEES**

Management employees are FLSA exempt.

Attachment A lists those Non-Represented classifications, which are FLSA exempt.

**ARTICLE 27.**

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**ARTICLE 28. UNIFORMS**

This resolution covers uniforms for two different groups of employees across three different departments.

1. The County shall provide the necessary uniforms to all Parks & Recreation and Code Enforcement employees covered by this Resolution who are required by the County to wear a uniform.
2. The following applies only to the full-time Probation Manager, and Deputy Chief Probation Officer.
  - a. The County shall provide the employees with a list of the required uniforms.
  - b. The uniform allowance shall be \$800 per year for the purchase, cleaning, replacement, and maintenance of clothing.
  - c. The allowance shall be paid per pay period in the amount of \$30.77.
  - d. All clothing damaged within the course and scope of employment shall be replaced or repaired at no cost to the employee. The determination of replacement or repair will be made by the department. Normal wear and tear of clothing articles is not included.
  - e. New employees (only new employees) will receive a \$200 advancement of uniform allowance, non-accountable plan, to be paid through payroll. The \$200 advancement is to come from the current \$800 annual payment, whereby a new employee's uniform allowance shall be reduced for the proration of the advance payment to \$23.08 per pay period for the first year of employment.

**ARTICLE 29. SAFETY SHOES**

County shall reimburse each employee covered by this Resolution who is required to wear safety shoes, for purchase, repair or rebuild of required safety shoes, upon presentation of an invoice evidencing payment, up to a maximum of \$150.00 per employee per fiscal year. County shall replace an employee's safety shoes, which are destroyed, excluding normal wear and tear, during the course and scope of employment.

**ARTICLE 30. PERFORMANCE EVALUATIONS**

County will use the performance evaluation agreed upon in the ICEA MOU.

**ARTICLE 31. DRUG-FREE WORKPLACE / DOT DRUG TESTING POLICY**

The County will enforce its Alcohol and Drug Abuse policy.

The County will enforce the Alcohol and Drug policy pursuant to the department of Transportation Regulations as amended in accordance with law.

**ARTICLE 32. MATERNITY LEAVE OF ABSENCE**

Maternity leave is governed by Personnel Rule 10.2.

**ARTICLE 33. TUITION REIMBURSEMENT**

Employees will be eligible for the Tuition Reimbursement Program approved by the County.

**ARTICLE 34. SMOKING**

There shall be no smoking, vaping, or chewing of tobacco in any County facility, or County vehicle. Smoking or vaping on County property shall only be allowed in designated smoking areas.

**ARTICLE 35. MISTAKEN OVERPAYMENT**

Should any employee be overpaid due to any mistake or inadvertence, the County may recover the amount of overpayment by subsequent unilateral deductions from the pay of the employee in question up to the amount of overpayment. Impacted employee will have the option of deducting between 10% and 100% of the overpayment from any one paycheck until full amount is deducted, however it will not be mandatory that more than 10% of any such employee's net pay shall be deducted from any one paycheck for this purpose.

**ARTICLE 36. LETTER OF REPRIMAND**

Any Non-Represented employee who receives a letter of reprimand shall be entitled to submit a written response thereto, which shall be placed in such employee's personnel file, along with the written reprimand. While the employee may discuss a reprimand with the Director of Personnel Services who shall have the authority to remove the letter, there shall be no right to grieve or appeal any reprimand, warning, or counseling nor shall there be any formal hearing or review concerning any reprimand, warning, or counseling.

**ARTICLE 37.**

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**ARTICLE 38.**

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**ARTICLE 39.**

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**ARTICLE 40. EMERGENCY WAIVER**

In the event of circumstances beyond the control of the County, such as acts of God, fire, flood, insurrection, civil disorder, national emergency, or similar circumstances, if the County Administrative Officer or his designee so declares, any provisions of this Resolution, which restricts the County's ability to respond to these emergencies, shall be suspended for the duration of such emergency. After the emergency is declared over, the affected Management and Non-Represented employees may meet with the County regarding the impact caused by the suspension of these provisions of this Resolution or any Personnel Rules and Policies.

**ARTICLE 41. SEPARABILITY**

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

This Resolution shall be in full force and effect from now until amended or rescinded.

**ARTICLE 42.**

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**ARTICLE 43.**

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**ARTICLE 44.**

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PASSED AND ADOPTED this 6th day of February 2024 by the following vote of the Inyo County Board of Supervisors:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Matt Kingsley, Chairperson, Inyo County Board of Supervisors

Attest: Nate Greenberg  
Clerk of the Board

BY: \_\_\_\_\_  
Darcy Ellis, Assistant Clerk of the Board





# INYO COUNTY BOARD OF SUPERVISORS

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

NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-37

### Contract with Willdan Engineering for Outside Plan Review and Other Services with Accompanying Resolution and Associated Budget Amendment County Administrator - Emergency Services & Public Works

ACTION REQUIRED

#### ITEM SUBMITTED BY

Meaghan McCamman, Assistant County Administrator

#### ITEM PRESENTED BY

Nate Greenberg, County Administrative Officer

#### RECOMMENDED ACTION:

- A) Approve the contract between the County of Inyo and Willdan Engineering of San Bernardino, CA for the provision of Building and Safety and Engineering Services in an amount not to exceed \$25,000 for the period of February 6, 2024 through June 30, 2024, and authorize the Chairperson to sign, contingent upon all appropriate signatures being obtained; and
- B) Approve Resolution No. 2024-06, titled, "A Resolution of the Board of Supervisors, County of Inyo, State of California, Updating the Fee Schedule for Plan Check Services Provided by the Office of Building and Safety," and authorize the Chairperson to sign; and
- C) Amend the Fiscal Year 2023-2024 County Budget as follows: increase appropriation in the Building & Safety Budget (023200), Professional Services (5265) by \$25,000 and reduce the General Fund Contingencies Budget (087100), Contingencies (5901) by \$25,000 (4/5ths vote required).

#### BACKGROUND / SUMMARY / JUSTIFICATION:

Inyo County and the City of Bishop together employ one Building Inspector and one Technical Building Official, who are responsible for processing all building permits, performing all inspections, reviewing all building plans, and performing all other tasks associated with municipal building and safety throughout the 10,000 square miles encompassed by Inyo County. These two employees also must attend internal County and City staff meetings, complete continuing education classes, consult with other Departments on multi-jurisdictional issues, and perform an important role in code enforcement. The workload in Building and Safety generally exceeds staff capacity, resulting in delays in permitting and processing that can impact homeowners, renters, small business owners, and overall economic development and housing construction in the County.

Recently, the City of Bishop executed an agreement with Willdan Engineering for outside plan check services, which will allow contracted professional Plans Examiners to check plans submitted as a part of the building permitting process for compliance with Building Code. Inyo County proposes to contract for the same set of services with the same firm, in order to reduce backlog and improve plans examining turnaround time in the unincorporated County -- while keeping the process seamless for staff.

In order to execute the Willdan contract, the County must also update its plan check fee schedule to incorporate the new cost of using the contracted service. The Willdan costs are only marginally higher than internal staff costs on an hour by hour basis. The County proposes that new plan check requests and permits generally be serviced by Willdan, unless a customer specifically requests County staff do the plan check. If a customer requests County staff do the plan check, that service will still be available at the County staff hourly rate, but the turnaround time is likely to be longer and the plan check will be put in the Building and Safety staff work queue on a first come, first served basis.

Inyo County has also added the option of contracting for engineering services to the Willdan contract on an à la carte basis, though it does not propose a budget to fund outsourced engineering services at this time. Adding engineering to the contract will simply make it faster and easier to use Willdan's contracted engineering services in the future should the County decide to move in that direction. All services under this contract will be purchased on an hour by hour basis.

**FISCAL IMPACT:**

<b>Funding Source</b>	General Fund	<b>Budget Unit</b>	023200 / 087100
<b>Budgeted?</b>	Yes, with this budget amendment	<b>Object Code</b>	5265 / 5901
<b>Recurrence</b>	On-going expense		
<b>Current Fiscal Year Impact</b>			
Up to \$25,000, though the cost of any Plan Check would be offset 100% by associated revenue realized through the fees charged.			
<b>Future Fiscal Year Impacts</b>			
If the contract continues in future years there will be an impact to the General Fund. Revenue that was formally received for plan checks and off-setting general fund salary cost/fixed costs will now be used to cover the cost of a contracted service, which increases the overall general fund cost.			
<b>Additional Information</b>			

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

The Board could decide not to execute the contract, thereby negating the need for the budget amendment and associated Resolution updating the Building and Safety Fee Schedule. This is not advised, as this contract is being recommended in order to streamline plan review and permitting operations and reduce a backlog of work in the Building and Safety division.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

None.

**ATTACHMENTS:**

1. Willdan Contract
2. Insurance Requirements
3. Building Dept. Fee Update Resolution

**APPROVALS:**

Meaghan McCamman	Created/Initiated - 1/23/2024
Breanne Nelums	Approved - 1/24/2024
Darcy Ellis	Approved - 1/24/2024
Denelle Carrington	Approved - 1/24/2024
Keri Oney	Approved - 1/24/2024
John Vallejo	Approved - 1/24/2024
Grace Chuchla	Approved - 1/24/2024

Amy Shepherd  
Nate Greenberg  
Meaghan McCamman

Approved - 1/24/2024  
Approved - 1/27/2024  
Final Approval - 1/29/2024

**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND \_\_\_\_\_**  
**FOR THE PROVISION OF \_\_\_\_\_ SERVICES**

**INTRODUCTION**

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

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

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

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

**2. TERM.**

The term of this Agreement shall be from \_\_\_\_\_ to \_\_\_\_\_ unless sooner terminated as provided below.

**3. CONSIDERATION.**

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

B. Travel and per diem. County shall reimburse Contractor for travel expenses and per diem which Contractor incurs in providing services and work requested by County under this Agreement. Contractor shall request approval by the County prior to incurring any travel or per diem expenses. Requests by Contractor for approval to incur travel and per diem expenses shall be submitted to \_\_\_\_\_ whose title is: \_\_\_\_\_. Travel and per diem expenses will be reimbursed in the same amount and to the same extent as County reimburses its permanent status employees for such expenses. County reserves the right to deny reimbursement to Contractor for travel or per diem expenses which are either in excess of the amounts that may be paid to County's permanent status employees, or which are incurred by the Contractor without the prior approval of the County.

C. No additional consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits,

retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

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

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

F. Federal and State taxes.

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

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

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

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

#### **4. WORK SCHEDULE.**

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

#### **5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.**

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

permits which are required to perform the services identified in Attachment **A**. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment **A**, County reserves the right to make such determinations for purposes of this Agreement.

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

## **6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.**

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

## **7. COUNTY PROPERTY.**

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

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

## **8. INSURANCE.**

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

## **9. STATUS OF CONTRACTOR.**

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

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

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

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

#### **10. DEFENSE AND INDEMNIFICATION.**

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

#### **11. RECORDS AND AUDIT.**

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

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

#### **12. NONDISCRIMINATION.**

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

#### **13. CANCELLATION.**

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

#### **14. ASSIGNMENT.**

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

**15. DEFAULT.**

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

**16. WAIVER OF DEFAULT.**

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

**17. CONFIDENTIALITY.**

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

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

**18. CONFLICTS.**

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

**19. POST AGREEMENT COVENANT.**

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

**20. SEVERABILITY.**

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



**21. FUNDING LIMITATION.**

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

**22. AMENDMENT.**

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

**23. NOTICE.**

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

County of Inyo  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Department  
Address  
City and State

Contractor:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Name  
Address  
City and State

**24. ENTIRE AGREEMENT.**

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

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**AGREEMENT BETWEEN COUNTY OF INYO**  
**AND \_\_\_\_\_**  
**FOR THE PROVISION OF \_\_\_\_\_ SERVICES**

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

**COUNTY OF INYO**

**CONTRACTOR**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

John-Carl Vallejo  
John-Carl Vallejo (Jan 23, 2024 16:21 PST)  
\_\_\_\_\_  
County Counsel

APPROVED AS TO ACCOUNTING FORM:

Amy Shepherd  
\_\_\_\_\_  
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

K. Oney  
\_\_\_\_\_  
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

Ramon Hernandez  
\_\_\_\_\_  
County Risk Manager

**ATTACHMENT A**

**AGREEMENT BETWEEN COUNTY OF INYO**

**AND \_\_\_\_\_**  
**FOR THE PROVISION OF \_\_\_\_\_ SERVICES**

**TERM:**

**FROM: \_\_\_\_\_ TO: \_\_\_\_\_**

**SCOPE OF WORK:**

**ATTACHMENT B**

**AGREEMENT BETWEEN COUNTY OF INYO**

**AND \_\_\_\_\_**  
**FOR THE PROVISION OF \_\_\_\_\_ SERVICES**

**TERM:**

**FROM: \_\_\_\_\_ TO: \_\_\_\_\_**

**SCHEDULE OF FEES:**

**ATTACHMENT C**

**AGREEMENT BETWEEN COUNTY OF INYO**

**AND \_\_\_\_\_**  
**FOR THE PROVISION OF \_\_\_\_\_ SERVICES**

**TERM:**

**FROM: \_\_\_\_\_ TO: \_\_\_\_\_**

**SEE ATTACHED INSURANCE PROVISIONS**

## **Attachment B: 2023 Insurance Requirements for Certain Professional Services Agreements**

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

### **MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

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

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

### **OTHER INSURANCE PROVISIONS**

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

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

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

## **Attachment B: 2023 Insurance Requirements for Certain Professional Services Agreements**

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

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

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

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

***Self-Insured Retentions:*** Self-insured retentions must be declared to and approved by Inyo County. Inyo County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$10,000 unless approved in writing by Inyo County. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. Inyo County may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. Inyo County reserves the right to obtain a copy of any policies and endorsements for verification.

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

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

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

## **Attachment B: 2023 Insurance Requirements for Certain Professional Services Agreements**

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

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

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

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

-end-














# Willdan Contract

Final Audit Report

2024-01-24

Created:	2024-01-18
By:	Meaghan McCamman (mmccamman@inyocounty.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAXKyp9YK9AlckbtJ7WIA8pEdl6N9TceYl


## "Willdan Contract" History

-  Document created by Meaghan McCamman (mmccamman@inyocounty.us)  
2024-01-18 - 0:54:22 AM GMT
-  Document emailed to jvallejo@inyocounty.us for signature  
2024-01-18 - 0:57:42 AM GMT
-  Document emailed to Aaron Holmberg (aholmberg@inyocounty.us) for signature  
2024-01-18 - 0:57:42 AM GMT
-  Document emailed to Amy Shepherd (ashepherd@inyocounty.us) for signature  
2024-01-18 - 0:57:42 AM GMT
-  Document emailed to koney@inyocounty.us for signature  
2024-01-18 - 0:57:43 AM GMT
-  Email viewed by koney@inyocounty.us  
2024-01-18 - 1:14:03 AM GMT
-  Signer koney@inyocounty.us entered name at signing as Keri Oney  
2024-01-18 - 1:14:40 AM GMT
-  Document e-signed by Keri Oney (koney@inyocounty.us)  
Signature Date: 2024-01-18 - 1:14:42 AM GMT - Time Source: server
-  Email viewed by Amy Shepherd (ashepherd@inyocounty.us)  
2024-01-18 - 6:50:55 PM GMT
-  Document e-signed by Amy Shepherd (ashepherd@inyocounty.us)  
Signature Date: 2024-01-18 - 6:52:05 PM GMT - Time Source: server
-  Document e-signed by Aaron Holmberg (aholmberg@inyocounty.us)  
Signature Date: 2024-01-21 - 7:18:25 PM GMT - Time Source: server



COUNTY OF INYO  
CALIFORNIA


Powered by  
**Adobe**  
**Acrobat Sign**

 Meaghan McCamman (mmccamman@inyocounty.us) added alternate signer John-Carl Vallejo (jcvallejo@inyocounty.us). The original signer jvallejo@inyocounty.us can still sign.

2024-01-24 - 0:15:23 AM GMT

 Document emailed to John-Carl Vallejo (jcvallejo@inyocounty.us) for signature

2024-01-24 - 0:15:23 AM GMT

 Email viewed by John-Carl Vallejo (jcvallejo@inyocounty.us)

2024-01-24 - 0:16:15 AM GMT

 Document e-signed by John-Carl Vallejo (jcvallejo@inyocounty.us)

Signature Date: 2024-01-24 - 0:21:18 AM GMT - Time Source: server

 Agreement completed.

2024-01-24 - 0:21:18 AM GMT



## **Attachment B: 2023 Insurance Requirements for Certain Professional Services Agreements**

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

### **MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

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

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

### **OTHER INSURANCE PROVISIONS**

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

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

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

## **Attachment B: 2023 Insurance Requirements for Certain Professional Services Agreements**

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

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

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

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

***Self-Insured Retentions:*** Self-insured retentions must be declared to and approved by Inyo County. Inyo County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Inyo County. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$10,000 unless approved in writing by Inyo County. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. Inyo County may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. Inyo County reserves the right to obtain a copy of any policies and endorsements for verification.

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

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

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

## **Attachment B: 2023 Insurance Requirements for Certain Professional Services Agreements**

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

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

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

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

-end-

**RESOLUTION NO. 2024 - 06**

**A RESOLUTION OF THE BOARD OF SUPERVISORS,  
COUNTY OF INYO, STATE OF CALIFORNIA,  
UPDATING THE FEE SCHEDULE FOR PLAN CHECK SERVICES PROVIDED BY  
THE OFFICE OF BUILDING AND SAFETY**

**WHEREAS**, the Inyo County Department of Public Works operates the Office of Building and Safety;

**WHEREAS**, the Office of Building and Safety is tasked with reviewing, permitting, and inspecting all aspects of the construction process to ensure compliance with Title 24 of the California Code of Regulations;

**WHEREAS**, Building and Safety has recently experienced a significant increase in the cost to provide plan check services, and the revenue produced under its existing fee schedule is not adequate to allow the County to recover its cost of providing plan check services;

**WHEREAS**, Building and Safety has complied with all procedures set forth in Government Code 66016 as they pertain to fee modifications.

**NOW THEREFORE BE IT RESOLVED:**

1. That the fees for plan check services provided by the Office of Building and Safety shall be set as follows:
  - a. Actual cost based on number of hours spent by the plan examiner at the following rates: Wildan Engineering Plans Examiner - \$135 per hour, Wildan Plans Examiner - \$125 per hour, County Senior Building Inspector - \$105.63 per hour, and County Building Inspector - \$75.34 per hour
  - b. Expedited review will incur an additional cost of 1.35 times the standard cost
2. That all other fees for services provided by the Office of Building and Safety shall remain unchanged.
3. That the adoption of this Resolution approving the proposed fee schedule is statutorily exempt from the provisions of CEQA pursuant to Section 15273(a)(1) and (a)(2) of the CEQA Guidelines as the establishment or modification of rates, fees, and charges which are for the purpose of meeting operating expenses.
4. That these fees meet the requirements set forth in subdivision (e)(2), (e)(3), or (e)(5), as applicable, of Section 1 Article XIII(C) of the California Constitution, and are therefore exempt from the definition of a tax as used therein.
5. That the revenue resulting from the fees established pursuant to this resolution will not exceed the estimated reasonable costs to provide the services and that the costs of providing these services are reasonably allocated among the fees established.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
Matt Kingsley, Chairperson  
Inyo County Board of Supervisors

ATTEST: Nate Greenberg  
Clerk of the Board

By: \_\_\_\_\_  
Darcy Ellis, Assistant  
Assistant Clerk of the Board



# INYO COUNTY BOARD OF SUPERVISORS

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

NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-16

### Review of County-Owned Property County Administrator NO ACTION REQUIRED

#### ITEM SUBMITTED BY

Meaghan McCamman, Assistant County Administrator

#### ITEM PRESENTED BY

Meaghan McCamman, Assistant County Administrator, Nate Greenberg, County Administrative Officer

#### RECOMMENDED ACTION:

- A) Conduct workshop to review County-owned real property; and
- B) Provide any follow-up direction to staff as necessary.

#### BACKGROUND / SUMMARY / JUSTIFICATION:

Inyo County's Real Property Management Policy requires that the County review its inventory of real property once every three years. The attached list of County-owned properties was developed and refined by the Assessor's Office, the Department of Planning, and County Administration, in consultation with Public Works. As required by the Real Property Management Policy, staff requests Board direction on whether any of the County-owned properties might be considered surplus and disposed of by the County. In addition, staff has prepared some high-level recommendations for potential uses of some County-owned properties, and seeks Board feedback and discussion on these recommendations.

The creation of new workforce housing remains a priority issue for the residents and business owners in the County and the City of Bishop, as evidenced by the outcome of numerous public meetings and SWOT analysis recently undertaken during the creation of the Comprehensive Economic Development Strategy (CEDS) and California Jobs First/Community Economic Resilience Fund (CERF) project. In addition, the County's General Plan Housing Element sets an expectation from the state that at least 205 new units be constructed in the unincorporated County by 2029. Many of the following recommendations seek to increase housing opportunities on the County's limited lands to address this priority economic development issue.

- **Laws Museum - 102 Main Street, Laws (APN 010-250-03)**

County staff has had several conversations with the Board and staff of the Laws Museum regarding a potential long-term lease of the Laws property to the Bishop Historical Society. The existing agreement between the Historical Society and County dates to 1981 and is out of date with current needs and processes. The Bishop Historical Society has expressed interest in a 99-year lease of the property. Staff recommends the County continue to seek an updated long-term lease with the Bishop Historical Society.



- **South Street Office/Storage - 207 South Street, Bishop (APN 001-174-06)**

Currently, this former County office building is being used for storage, at an annual cost of approximately \$15,000 per year (for utilities, pest control, and other maintenance services). The storage is needed -- if the County were to dispose of or redevelop the property, new storage capacity would need to be found. Disposing of or redeveloping the property also removes any future possibility of it being repurposed, once again, as a County office building, should the need for additional County offices arise. However, this is prime real estate in downtown Bishop that is arguably not being put to its highest and best use. Staff recommends an exploration of options for potentially developing the property, and an evaluation and cost-benefit analysis of other storage options for the County.

- **Jay Street Lot near Jack in the Box - Bishop (APN 008-240-01)**

The County sought and received \$160,000 under the SB 2 Planning Grants Program to conduct a vacant lands inventory, host a public outreach campaign, and draft amendments to the County General Plan and zoning ordinance for eight parcels in the County to increase the allowable housing density on those select parcels. The Board approved the application for these funds via resolution, for the stated purpose of accelerating the development of housing within the County. Combining the SB2 funding with a REAP grant award, the County expended more than \$210,000 to: conduct a rigorous process to identify lands within a fire district, with direct access to utilities such as water, power, and sewer and avoid environmental hazards; and complete a Vehicle Miles Traveled (VMT) study to enhance an Environmental Impact Report (EIR) and complete the EIR evaluating the 8 parcels that were identified. Despite all of this work, during final approval of the General Plan Amendment and Zone Reclassification, this property was removed from consideration. The property remains completely vacant, and has General Plan and zoning designations for Public Facilities. The State Department of Housing and Community Development (HCD) did approve the Housing Element without the General Plan Amendment and Zone Reclass, but their approval letter states explicitly that the Agency continues to expect the County to move forward with rezoning this site as a requirement of timely and effective implementation of the Housing Element.

This 5.69-acre property is one of the County's most developable properties, as the City of Bishop has already brought utilities to the property line, and the CEQA to re-zone and re-designate the General Plan designation on this property to Central Business has been entirely completed. Staff recommends the Board re-consider this County-owned property for a General Plan Amendment of Central Business District and Zoning Designation of Central Business, which would allow for potential housing development on the property in the future.

- **Big Pine County Road - NE and SE Parcels - Big Pine (APN 003-010-01 and 003-090-01)**

These two, 20-acre parcels are listed as "MULTI" for General Plan and Zoning Designations, which means they have more than one General Plan and zoning designation per parcel. They are, however, both primarily zoned as R1 (single family residential) with a General Plan designation of Agriculture. They both also have a small section zoned Open Space with a Natural Hazards General Plan designation, due to an earthquake fault. These parcels about the 40-acre parcel that houses the County Animal Shelter, which is also a MULTI-zoned parcel consisting mostly of R-1 and Public Facilities land. Currently, these two 20-acre parcels are leased to a private citizen for pasture grazing.

Of all County-owned properties, the northernmost half of these 40 acres includes some of the most realistically developable land for housing. They are already zoned R1, which allows for a single residence per parcel, though the two large parcels would need to be subdivided to build any number of dwellings. Staff recommends that at least the northernmost parcel be evaluated as a site for possible housing.

There has also been some interest expressed in designating some or all of these parcels for agricultural uses. Ideas have included meat processing, dairy, or industrial or community farms and gardens. The

southernmost portion of the property may be biologically more sensitive and may make sense to seek a General Plan Amendment and re-classification for open space and/or agriculture.

- **Lone Pine Road Yard - N. Hay Street and Lone Pine Avenue, Lone Pine - (APN 005-072-07 and 005-072-24)**

These two R3-zoned parcels, along with two additional parcels leased from LADWP, equal nearly 1 acre within a residential neighborhood in downtown Lone Pine, and are currently serving as the County Road Yard. An alternative site for the Road Yard may be found at the Lone Pine Airport. The County would need to fund the creation of a new road yard, including bringing utilities and infrastructure to the airport, in order to make this move a reality. Ideally, the County would also purchase the two LADWP lots to create a single area that could be used, as already zoned and designated, for residential medium-high density housing.

- **605 S. Main Street, Lone Pine - (APN 005-146-07)**

This central business parcel in downtown Lone Pine was purchased in 2023 for the purpose of multi-family housing development. The property was advertised to local agencies and affordable housing developers as required under the State Surplus Land Act (SLA), and documentation of SLA compliance was approved by the State Department of Housing and Community Development. The County is now free to dispose of the land through lease or sale. The County has a Request for Qualifications (RFQ) currently advertised to solicit the services of a broker with experience in multi-family infill property. When a broker is selected, staff hopes to aggressively market the property and recommends that the Board seek a developer willing to maximize the number of dwelling units on the property, and consider deed-restricting the property to help facilitate making any such housing units available to Inyo County residents with local employment.

**FISCAL IMPACT:**

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

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

The Board could decide not to receive a workshop on County-owned property or provide direction to staff. This is not advised, as the County's Real Property Management Policy requires a review of County-owned properties by the Board every three years and we are delinquent in conducting that review.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

None.

**ATTACHMENTS:**

1. Copy of County Owned Parcels 2023

2. Aspendell
3. Big Pine
4. Bishop
5. Deep Springs
6. Independence
7. Laws
8. Lone Pine
9. Olancha
10. Owens Lake
11. Shoshone
12. Trona
13. West of Bishop

**APPROVALS:**

Meaghan McCamman	Created/Initiated - 1/24/2024
Darcy Ellis	Approved - 1/25/2024
Cathreen Richards	Approved - 1/25/2024
John Vallejo	Approved - 1/29/2024
Amy Shepherd	Approved - 1/29/2024
Nate Greenberg	Final Approval - 1/29/2024



APN	General Pla	Zoning Desi	Lot Acres	Description
001-065-17	Bishop	COB	0.12	Bishop Wellness Center, HHS
001-104-10	Bishop	COB	0.18	Progress House
001-123-06	Bishop	COB	0.23	Bishop Library
001-174-06	Bishop	COB	0.29	South Street Office/Storage Building
002-052-09	CBD	CB	0.3	Independence Administration Office
002-054-13	PF	P	3	County Courthouse
002-055-04	PF	P	0.63	Independence Road Yard
002-056-02	PF	P	0.3	Water Department Building, Independence
002-086-01	CBD	CB	0.15	Independence Legion Hall
002-123-07	PF	P	2.57	Juvenile Detention Facility, Independence
002-132-06	PF	P	0.83	Inyo County Jail, Independence
002-132-08	PF	P	1.18	Inyo County Jail, Independence
002-133-04	PF	P	2.69	Inyo County Jail, Independence
002-134-03	PF	P	2.06	Independence Road Yard
003-010-01	MULTI	MULTI	19.5	Big Pine County Road/North East Parcel
003-090-01	MULTI	MULTI	19.5	Big Pine County Road/ South East Parcel
004-040-07	PF	P	0.07	Tiny parcel on the creek in Big Pine
004-070-05	PF	P	0.17	Big Pine Town Hall
004-070-06	PF	P	0.68	Big Pine Road Yard
005-065-03	CBD	CB-D	0.03	Southern Inyo Museum
005-065-04	CBD	CB-D	0.09	Lone Pine Library
005-068-05	RC	C3-7,500-D	0.11	Lone Pine Wellness Center & Probation Duplex
005-071-27	PF	P	0.24	Statham Hall, Lone Pine
005-072-07	RMH	R3-6,500	0.17	Lone Pine Road Yard/South East Parcel
005-072-24	RMH	R3-6,500	0.24	Lone Pine Road Yard/South West Parcel
005-146-05	PF	P	0.81	Portion of Lone Pine Rodeo Grounds
005-146-07	CBD	CB-D	0.42	605 S Main Street Lone Pine/Vacant lot next to McDonalds
008-240-01	PF	P	5.69	Jay Street lot South West of Jack in the Box
008-240-03	PF	P	1	Bishop Road Yard
009-070-02	SFL	OS-40	20.7	Portion of land around Pine Creek Rd
010-110-25	RM	R3-10,000	0.23	Narrow drainage ditch behind Highlands RV Park
010-250-03	PF	P	10	Laws Museum
010-490-14	Bishop	COB	2.58	Clint Quilter County Office Building, Bishop
012-240-07	PF	RR-0.5-STAI	1.44	Starlite Park
014-294-10	RL	R1-10,000	0.07	Sliver of land next to Cardinal Rd.
016-180-04	SFL	OS-40	40	40 acres in Deep Springs (several miles SW of College)
018-090-01	MULTI	MULTI	40.97	Animal Shelter Property, Big Pine
026-390-03	MULTI	MULTI	65.98	Lone Pine Airport
026-390-06	PF	P	2.93	Lone Pine Airport - Highway frontage
029-120-14	MULTI	OS-40	1.25	Vacant north of Cartago - East of 395 Near Cottonwood Gates f
031-180-02	SFL	OS-40	145.14	Vacant on east shore of dry lake - near Hwy 190
033-090-02	PF	P	4.8	Olancha Fire Station and Road Yard
038-290-04	NR	OS-40	20	County Road Borrow Pit
046-110-09	SFL	OS-40	50	Shoshone Landfill
046-120-39	MULTI	MULTI	37.5	Shoshone Airport

Property Class	Parcel Address	Parcel City	Parcel Width	Parcel Depth
SFR (SINGLE FAMILY RESIDENC	586 CENTRAL AVE	BISHOP	50	100
CONVALESCENT HOME	536 N SECOND ST	BISHOP	75	104.95
COUNTY FACILITIES	210 ACADEMY AVE	BISHOP	100	100
OFFICE BLDG	207 SOUTH ST	BISHOP	114	112
COUNTY FACILITIES	224 N EDWARDS ST	INDEPENDE	100	130
COUNTY FACILITIES	168 N EDWARDS ST *	INDEPENDE	435	300
COUNTY FACILITIES	136 S JACKSON ST	INDEPENDE	210	130
COUNTY FACILITIES	135 S JACKSON ST	INDEPENDE	100	130
COUNTY FACILITIES	205 S EDWARDS ST	INDEPENDE	50	130
COUNTY FACILITIES	201 MAZOURKA CANYON RD	INDEPENDE	0	0
VACANT	S CLAY ST	INDEPENDE	0	0
COUNTY FACILITIES	S CROCKETT ST	INDEPENDE	0	0
COUNTY FACILITIES	550 S CLAY ST	INDEPENDE	0	0
COUNTY FACILITIES	750 S CLAY ST	INDEPENDE	0	0
PASTURE	COUNTY RD	BIG PINE	0	0
PASTURE	BAKER CREEK RD	BIG PINE	0	0
COUNTY FACILITIES	100 PINE ST	BIG PINE	50	60
MEETING ROOM	180 DEWEY ST	BIG PINE	0	0
COUNTY FACILITIES	150 DEWEY ST	BIG PINE	0	0
COUNTY FACILITIES	127 W BUSH ST	LONE PINE	25	50
COUNTY FACILITIES	206 N WASHINGTON ST	LONE PINE	75	50
DUPLEX	310 N JACKSON ST	LONE PINE	50	100
MEETING ROOM	138 N JACKSON ST	LONE PINE	0	0
COUNTY FACILITIES	N HAY ST	LONE PINE	50	150
COUNTY FACILITIES	160 N LONE PINE AVE	LONE PINE	70	150
FAIRGROUNDS	S BREWERY ST	LONE PINE	0	0
VACANT COMMERCIAL	605 S MAIN ST	LONE PINE	0	0
PASTURE	FIRST ST	BISHOP	0	0
COUNTY FACILITIES	701 S MAIN ST	BISHOP	0	0
VAC OPEN SPACE	PINE CREEK RD	BISHOP	0	0
VACANT - TOO SMALL	BEHIND HIGHLANDS MH PA	BISHOP	0	0
MUSEUM	102 MAIN ST	LAWS	0	0
220 OFFICE BLDG	1360 N MAIN ST	BISHOP	0	0
PARK	880 STARLITE DR	STARLITE	0	0
VACANT - TOO SMALL	CARDINAL RD	ASPENDELL	0	0
VAC OPEN SPACE	DEEP SPRINGS	DEEP SPRIN	0	0
COUNTY FACILITIES	1001 COUNTY RD	BIG PINE	0	0
AIRPORT	1458 S MAIN ST	LONE PINE	0	0
AIRPORT	HWY 395 @ AIRPORT	LONE PINE	0	0
VACANT	NSF	CARTAGO	0	0
VAC OPEN SPACE	HWY 190	KEELER	0	0
COUNTY FACILITIES	SHOP ST	OLANCHA	0	0
VAC OPEN SPACE	STOCKWELL MINE RD	TRONA	0	0
COUNTY FACILITIES	HWY 178	SHOSHONE	0	0
AIRPORT	246 HWY 127	SHOSHONE	0	0

Lot Sq Feet

5000  
7871  
10000  
12768  
13000  
130500  
27300  
13000  
6500  
111949.2  
36154.8  
51197  
117176.4  
89733.6  
849420  
849420  
3000  
7200  
29466  
1250  
3750  
5000  
10429  
7500  
10500  
35283.6  
18209  
247856.4  
43560  
901692  
10018.8  
435600  
112384.8  
62726.4  
3049.2  
1742400  
1784653  
2874089  
127630.8  
54450  
6322298  
209088  
871200  
2178000  
1633500

Bishop	City of Bishop's General Plan
COB	City of Bishop's Zoning Designation
CBD	Central Business District
CB	Central Business
PF	Public Facilities
P	Public
Multi	Multiple GP designations/zones on a single parcel
CB-D	Central Business with architectural design review
RC	Retail Commercial
C3	Administrative/professional offices
RMH	Residential Medium High - 7.6 to 15.0 du/ac
SFL	State and Federal Lands
OS-40	Open Space with minimum parcel size, 40 acres
R3	Multiple Residential
RR	Rural Residential
NR	Natural Resources



**Aspendell**



**Vacant Land - Sliver Parcel**

 County Owned Parcel



0 250 500 Feet

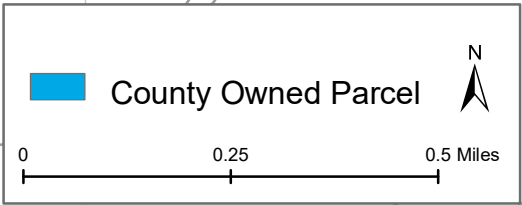
# Big Pine

Animal Shelter, Hay Barn

Pasture

Big Pine Road Shop

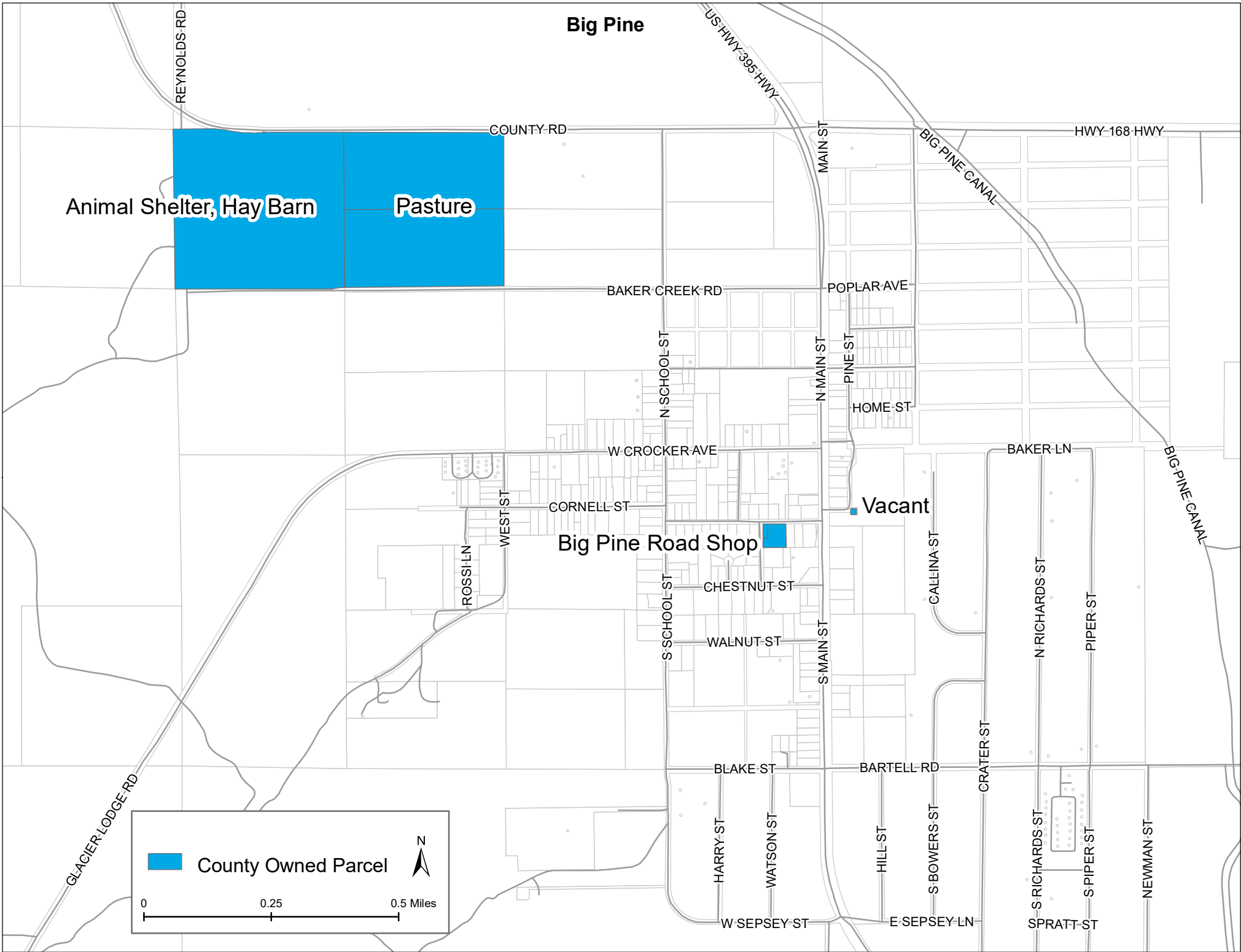
Vacant



0 0.25 0.5 Miles

County Owned Parcel

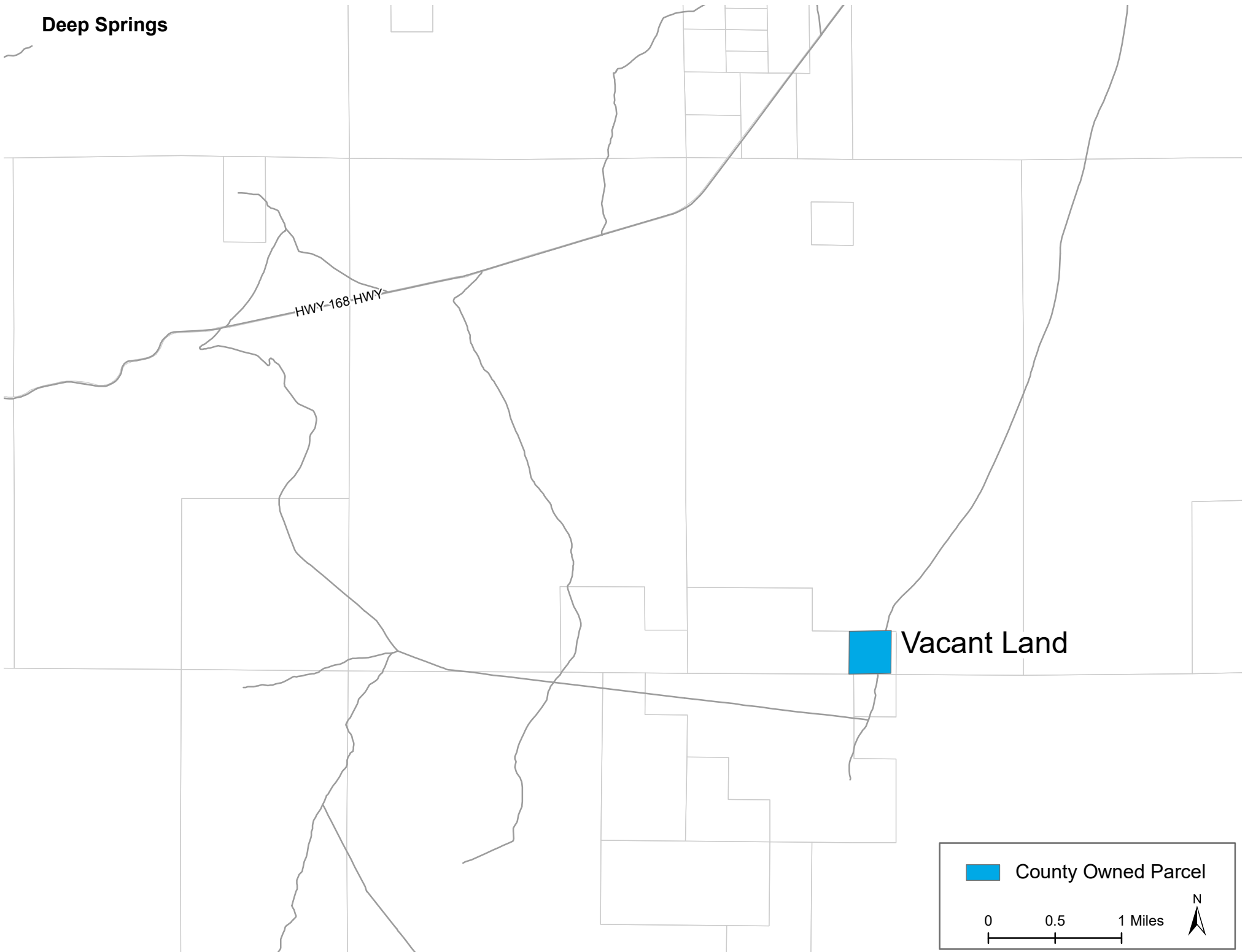
N



# Bishop



# Deep Springs



Vacant Land

County Owned Parcel

0 0.5 1 Miles

N

# Independence



Laws

HWY 6 HWY

JOE SMITH RD

DEHY ST

FIRST ST

LAWS FRONTAGE RD

RAILROAD ST

JORDAN AVE

SILVER CANYON RD

Laws Railroad Museum

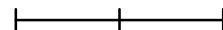
FLYNN RD

STEWART RD

LAWS POLETA RD

County Owned Parcel

0 0.15 0.3 Miles



**Lone Pine**

Lone Pine Wellness Center

Lone Pine Road Shop

Lone Pine Library

Statham Hall

Vacant Land

Lone Pine Film Museum

Lone Pine Airport Office

Lone Pine Airport Hangers



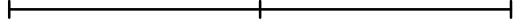
County Owned Parcel



0

0.25

0.5 Miles



# Olancha

SCHOOL RD

SPRING CIR

Olancha Fire Station

SHOP ST

E FALL RD

WILLIAMS RD

OLD STATE HWY

395

S US HWY 395 HWY

W FALL RD

WALKER CREEK RD

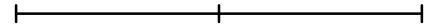
E WALKER CREEK RD



County Owned Parcel



0 0.25 0.5 Miles





# Owen's Lake


 Vacant Land

Vacant Land

HWY-190 HWY

 County Owned Parcel

0 0.75 1.5 Miles



Shoshone

Shoshone Airport

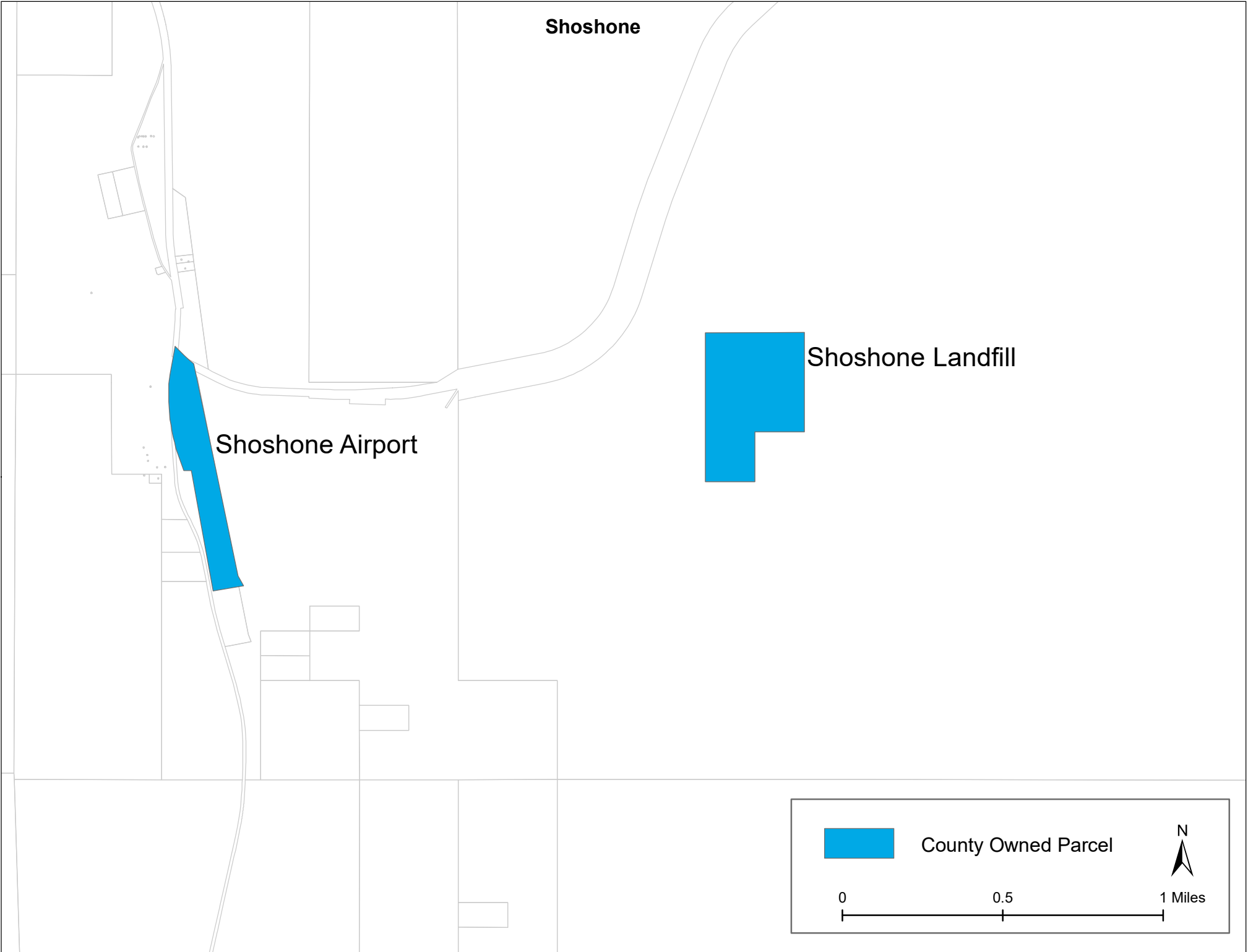
Shoshone Landfill



County Owned Parcel



0 0.5 1 Miles



Trona

HOMEWOOD CANYON RD

TRONA WILDROSE RD

Stockwell Pit

KINGS RANCH RD

STOCKWELL MINE RD

TRONA AIRPORT RD



County Owned Parcel



0 1 2 Miles



West of Bishop

PINE CREEK RD

Vacant Land

S ROUND VALLEY RD

BUTTERMILK RD

Starlite park

APOLLO CIR

County Owned



0 0.5 1 Miles





# INYO COUNTY BOARD OF SUPERVISORS

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

NATE GREENBERG  
COUNTY ADMINISTRATIVE OFFICER

DARCY ELLIS  
ASST. CLERK OF THE BOARD



## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-115

### 2024 Legislative Platform County Administrator ACTION REQUIRED

#### ITEM SUBMITTED BY

Nate Greenberg, County Administrative Officer

#### ITEM PRESENTED BY

Nate Greenberg, County Administrative Officer

#### RECOMMENDED ACTION:

Adopt the Inyo County 2024 Federal Legislative Platform.

#### BACKGROUND / SUMMARY / JUSTIFICATION:

Inyo County employs the services of The Ferguson Group, which specializes in representing public and private entities in Washington, D.C. in a wide array of capacities, including federal funding, grants, as well as legislative and regulatory issues.

Ms. Kristi More of The Ferguson Group will present the Inyo County 2024 Federal Platform for Board approval. While this is substantially the same as the 2023 Platform, Ms. More met with county department heads and individual board members in order to ensure current interests and issues are addressed, and the attached draft document is the result.

Once approved, this document will be distributed to legislators to make them aware of our local, rural issues so they may better lobby for our interests. Adoption of this document also allows each Board member the flexibility to take the position identified in the document, on behalf of the Board, without waiting for a full vote of the Board. Conversely, when confronted with an issue that is not listed in this document, that issue will need Board approval before an Inyo County position may be presented in a letter or other form of advocacy.

#### FISCAL IMPACT:

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

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

Not approve. This is not recommended, as an approved 2024 Platform will be extremely beneficial to have when members of your Board attend the National Association of Counties (NACo) Legislative Conference next week and meet with Inyo County's federal delegation.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

None.

**ATTACHMENTS:**

1. Inyo County 2024 Federal Leg Agenda - DRAFT (with redline)
2. Inyo County 2024 Federal Leg Agenda - DRAFT (without redline)

**APPROVALS:**

Darcy Ellis

Nate Greenberg

Created/Initiated - 1/26/2024

Final Approval - 1/26/2024





# Inyo County, CA 2024 Federal Platform

Approved by Board of Supervisors on INSERT DATE HERE







## County of Inyo, CA

### Board of Supervisors

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**Trina Orrill**

First District

**Jeff Griffiths**

Second District

**Scott Marcellin**

Third District

**Jennifer Roeser**

Fourth District

**Matt Kingsley**

Fifth District

***Nate Greenberg***

***County Administrative Officer***

County Administrative Center

224 North Edwards

Independence, CA 93526



# County of Inyo, CA

## 2024 Federal Priorities

Inyo County was established on March 22, 1866 and is the second largest county in California at 10,227 square miles. However, the County is sparsely populated with more than 19,000 calling it home. The community of Independence serves as the County Seat. Inyo County is a land of magnificent natural diversity, from Mount Whitney, the highest peak in the lower 48 states, to Death Valley, the lowest point in the U.S. Inyo County has a rich indigenous history, as well as a legacy that also traces its roots to pioneering, mining, railroading, ranching, and farming. Much of this history is not only on display today in museums and cultural centers throughout the County, but in the culture, livelihoods, and family trees of those who call Inyo County home. Robust in natural resources and beauty, Inyo County strives to support the cultural and historical values of its communities, protect and enhance its natural environment, and preserve a rural quality of life.



Rural and Isolated  
Communities



Economic  
Development



Resource & Land  
Management

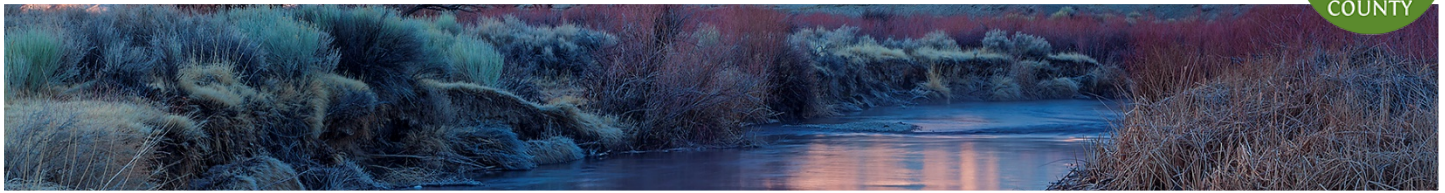


Infrastructure



Agriculture

# Rural and Isolated Communities



Isolated Communities	<ul style="list-style-type: none"><li>• Seek funding and support programs that provide services to isolated communities including construction of community facilities.</li></ul>
Health and Well Being	<ul style="list-style-type: none"><li>• Seek funding and support programs to improve access to health services including mental health, substance abuse programs, emergency services, community health clinics, and hospitals.</li></ul>
Emergency Response	<ul style="list-style-type: none"><li>• Support and seek funding for projects and programs that support emergency and disaster preparedness, response and management.</li></ul>
Public Safety	<ul style="list-style-type: none"><li>• Support funding and programs for public safety initiatives including search and rescue activities, law enforcement communications, and public safety equipment.</li></ul>
Fire Protection	<ul style="list-style-type: none"><li>• Seek funding and support programs for fire protection enhancements including ensuring community access to fire stations and fire fighting services.</li></ul>
Community Facilities and Parks	<ul style="list-style-type: none"><li>• Support funding and programs for the construction programming of projects for community museums, libraries, and parks.</li></ul>
Youth Population	<ul style="list-style-type: none"><li>• Support programs that provide assistance to the County's younger populations including access to early childhood education services, afterschool programming, and juvenile justice programs.</li></ul>
Emergency Medical Services	<ul style="list-style-type: none"><li>• Sustaining Advanced Life Support (ALS) and Basic Life Support (BLS) ambulance service in rural and isolated communities is complex and expensive. Seek funding and support programs that develop and support the elements necessary to make such an initiative successful.</li></ul>
Veterans Services	<ul style="list-style-type: none"><li>• Seek funding to enhance services to the County's veterans, including through the veterans center and veterans housing.</li></ul>
Aging Population	<ul style="list-style-type: none"><li>• Support programs and seek funding for services that assist the County's aging population.</li></ul>

# Economic Development



## Opportunity Zones

- Support development of plan and strategy to encourage private investment in public infrastructure projects through programs such as the Opportunity Zone private tax incentives.

## U.S. Census

- Monitor U.S. Census development process in particular to definitions and impacts to rural communities.

## Digital 395 and Statewide Middle-Mile Initiatives

- Support development, expansion, and implementation of regional broadband initiatives which construct Middle Mile routes and focus on deployment of high-quality Last Mile broadband to customers.

## Bishop Airport

- Support development and expansion of Bishop Airport to increase services of commercial and general aviation uses that support and spur regional economic development.

## Housing

- Advocate and support initiatives and programs that provide additional housing and encourage diversity in housing availability in the County.

## Recreation and Tourism

- Support programs and activities that enhance and protect tourism in the region and recreation on federal lands and within federal parks. Support programs that provide assistance to local economies based on tourism and recreation.

## Tribal Partnerships

- Support programs and activities that prioritize funding for initiatives based on collaborative partnerships between local agencies and Tribal entities.

## Small Businesses

- Support programs and activities that provide assistance to small businesses and promote entrepreneurship.

# Resource and Land Management



## PILT Funding

- Support legislation and budget efforts that continue to maximize the Payment in Lieu of Taxes (PILT) and Secure Rural Schools (SRS) programs.

## Fuels Management

- Support programs that enhance fuel management activities on federal lands.

## Federal Lands Management

- Support funding for federal lands management agencies and programs.

## Wildfire Preparedness

- Support programs that help prevent, mitigate, and respond to wildfires.

## Recreation

- Seek funding and support programs that protect and enhance recreational activities on public lands.

## Federal Land Management Agencies

- Support efforts that foster partnerships and enhance relationships with local agencies and federal land management agencies including the Inyo National Forest, the National Park Service, and the Bureau of Land Management.

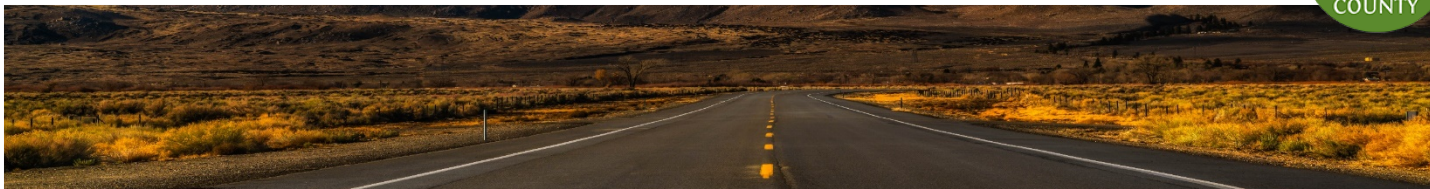
## Mining Industry

- Seek support of changes to mining claims forms that allow for efficient and timely filing of mining claims.

## Bishop Creek Waterway

- Seek funding and support legislation that would improve water quality in Bishop Creek and surrounding areas.

# Infrastructure



## Drinking Water

- Seek funding and support programs that delivery reliable and clean drinking water through resilient infrastructure.

## Wastewater Infrastructure

- Seek funding and support programs that provide wastewater treatment infrastructure and services to communities in a cost efficient matter.

## Local Transportation Projects

- Seek funding and support programs for local transportation projects throughout the County including those related to highways, local streets and roads, trails, transit, pedestrians, and electric vehicles.

## Broadband and Connectivity

- Seek funding for broadband expansion, broadband adoption, telecommunications improvements, technology infrastructure projects, and other technology advancements throughout the County. Seek funding and support programs to provide communication infrastructure, including broadband and cellular services to remote rural communities.

## Environmental Review and Project Delivery

- Support changes to federal law that encourage a more efficient and streamlined environmental review and project delivery process and allow public infrastructure projects to be constructed more efficiently and effectively.

## Electric and Power Utilities

- Seek funding and support programs that provide electric and power utility services to communities in a cost effecient manner.

# Agriculture



## Supplemental Nutrition Programs

- Seek funding for the hiring of personnel that can assist in the distribution of SNAP benefits and administer other federally funded nutrition programs. Support legislation that improves the administration of nutrition programs in rural areas.

## National Resource Conservation Service

- Support legislation that would exclusively provide resource conservation funding for small rural counties.

## Urban Agriculture

- Seek funding to support urban agriculture programs in Inyo County. Support legislation that would expand urban agriculture programs to include consideration for rural areas with land but without access to that land.

## Agricultural Protection

- Seek funding and support legislation that would protect the income of local farmers by preventing the import of certain agricultural products from foreign nations. Seek funding for programs that will develop alternative pesticide products to prevent destruction of crops from pests and other invasive species.

## Sustainable Agriculture

- Seek funding and support legislation that would allow the County to develop and utilize sustainable agricultural practices and grow a self-sustainable agricultural industry in Inyo County.

## Cannabis

- Support administrative and regulatory procedures, including banking, related to the cannabis industry that protect local authority and protect the public.



# County of Inyo, California

## 2024 Legislative Platform

The Inyo County Board of Supervisors recognizes the need to identify and advocate for its legislative and funding priorities in Sacramento and Washington, D.C. To be effective in this mission, the Board is pleased to present its 2024 Legislative Platform.

Inyo County's Legislative Platform is a summary of the priorities of the Board of Supervisors and establishes the basis for its advocacy efforts with the Executive and Legislative branches of the U.S. Government and the State of California regarding legislation and regulation.

Updated annually, the Platform contains general principles held by the County of Inyo as well as the County's definitive stance on critical issues (especially as they related to rural counties) and, in some cases, specific proposals, programs, and pieces of legislation. The document is structured to proactively frame sponsorship, support, and advocacy regarding key legislative and regulatory priorities while also monitoring numerous bills.

In recent years, the Platform has been distributed to Inyo County's state and federal delegations to make legislators aware of our local, rural issues so they may better lobby for our interests. It also provides general direction to the County Administrator's Office and County departments, and the public on positions of support or opposition to key policy initiatives which impact the way the County does business. Adoption of this document also allows each Board member the flexibility to take the position identified in the document, on behalf of the Board, without waiting for a full vote of the Board. Conversely, when confronted with an issue that is not listed in this document, that issue will need Board approval before an Inyo County position may be presented in a letter or other form of advocacy.

While the Platform explicitly states the County's position on numerous programs, proposals, principles, and pieces of legislation, it also offers implicit guidance for responding to related issues. If the County takes a support position on an issue, it must hold true that the County therefor opposes issues that conflict with the underlying principles and goals of the original position of support. For example, the Platform states that the County will oppose legislation that would diminish local authority over commercial cannabis regulation. Conversely, this means the County would then support legislation to increase local authority over commercial cannabis regulation.

Updates to this year's Platform have been made in consultation with department heads, other key staff, and the Board of Supervisors.

The Platform is adopted annual but can be updated at any time throughout the year by action of the Board.



## AGRICULTURE/WEIGHTS & MEASURES

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1. **Support** full cost recovery for new agricultural programs.
2. **Support** continued funding of weed management programs.
- 2.3. **Support** continued funding of US Forest Service biomass fuel production programs.
- 3.4. **Support** authority for USDA to set up cooperative agreements with states for pest exclusion programs.
- 4.5. **Support** control and mitigation for the spread of invasive species to protect, conserve and restore public and private lands.
- 5.6. **Support** efforts to provide and protect local authority for device registration fees.
- 6.7. **Oppose** efforts by State agencies to usurp Agricultural Commissioner's permitting authority for the spraying of pesticides on irrigated lands.
- 7.8. **Oppose** efforts to ban the use of rodenticide for agricultural and public health purposes in California.

## CANNABIS

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1. **Oppose** legislation that would diminish local authority over commercial cannabis regulation.
  2. **Support** legislation that provides the state's tribes a mechanism for entering California's legal cannabis marketplace without sacrificing their sovereign status, while also preserving local governments' right to protect against or require mitigation for associated impacts to their jurisdictions from any commercial cannabis activity on adjacent lands, including Tribal land.
  3. **Support** a statewide regulatory scheme for medical cannabis and/or adult use cannabis that ensures counties have the ability to set regulatory standards based on local needs and priorities, and seek to ensure the County is adequately resourced as regulations and state laws are implemented.
  4. **Support** efforts to study the impacts of cannabis use and legalization on the public's health, particularly on the impacts on youth brain development.
  5. **Support** legislation to increase cannabis surveillance, education, youth prevention, responsible adult use, and drugged driving prevention.
  6. **Support** efforts to mitigate community level harms from commercial cannabis operations, such as overconcentration as well as clustering with alcohol and tobacco retailers.
  7. **Support** continued Federal and State funding to aid local jurisdictions in the eradication of illegal, environmentally destructive marijuana grow operations on public and/or private land.
-



8. **Monitor** legislation establishing policy programming requirements for education and environmental prevention efforts for Cannabis.
9. **Oppose** policy programming requirements for education and environmental prevention efforts for Cannabis Tobacco Control funding that mirror those established for Tobacco Control funding.

## CHILD SUPPORT

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1. **Support** legislation that would protect existing State and Federal funding for local child support programs.
2. **Support** policies, funding and services for non-custodial parents that promote self-sufficiency and ability to care for their child(ren).
- 2-3. [Support legislation that would improve child support enforcement for tribal support agencies.](#)
4. **Oppose** any recommendations that would reduce Federal financial participation in child support programs.
- 3-5. [Oppose efforts to delay the implementation of the Internal Revenue Service's third-party payment application reporting requirements.](#)

## COUNTY OPERATIONS

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1. **Support** full funding of the Public Library Fund in future State budgets.
  2. **Support** legislation to provide opt-in as opposed to opt-out for receiving electronic sample ballots.
  3. **Support** legislation that requires counties to be reimbursed for the cost of special elections called by the Governor or Legislature.
  4. **Support** efforts to reinstate language directing the state to provide reimbursement to counties that hold a special election to replace a member of Congress or a member of the state Legislature to fill a vacancy, as well as for the cost of special elections called for other reasons.
  5. **Support** legislation that would authorize Federal and State Governments to assist counties in the purchase of voting equipment and technology.
  6. **Support** the continued exemption of rural counties from Organics Recycling Mandates.
  7. **Support** legislation that provides additional State park funding to rural counties.
  8. **Support** legislation that requires the Department of Resources Recycling and Recovery to consider the impacts on jurisdictions and their waste diversion programs caused by China's restrictions on imported recyclables and the resulting market loss.
  9. **Support** legislation, such as the California Beverage Container Recycling and Litter Reduction Act of 2018, to stabilize the recycling marketplace, provide immediate, temporary relief to California's retailers and grocers affected by the 2016 recycling center closures, and ensure consumers have local redemption opportunities.
-



10. **Support** legislation that provides the option for rural counties to conduct elections via “Vote by Mail while also enfranchising rural voters.

## GENERAL GOVERNMENT

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1. **Support** legislation that realigns governmental services in such a manner as to improve the delivery of services and make government more accountable to the people of Inyo County.
  2. **Support** collective bargaining legislation that:
    - Recognizes the responsibility of local elected officials to govern and manage the organization and to implement public policy; and
    - Minimizes conflict over procedural matters.
  3. **Support** legislation that recognizes the inherent disadvantage rural counties have as it applies to using a population-based criteria (per capita) for allocating State and Federal funds and minimizes and/or eliminates the reliance on this funding criteria.
  4. **Oppose** legislation that minimizes, restricts and/or eliminates local Boards of Supervisors control over collective bargaining and employer-employee relations.
  5. **Oppose** legislation that minimizes, restricts and/or eliminates local Boards of Supervisors control over the allocation of funds through the budget process.
  6. **Oppose** legislation that would require counties to share State expenses and liability on projects outside local jurisdiction.
  7. **Support** legislation that reduces State and Federal regulations that impede, or increase the cost of the delivery of services by local governments and special districts.
  8. **Monitor** closely any legislative efforts/initiatives regarding reform of the State Budget process.
  9. **Oppose** legislation that is unduly burdensome to private industry.
  10. **Support** protection of funding discretion and use bond funds.
  11. **Oppose** efforts by Federal and State government to adversely impact the ability of Volunteer Fire Departments to provide critical first response and ambulance services in rural communities, including but not limited to recruiting and retaining qualified EMTs.
  12. **Support** broadband expansion, broadband adoption, telecommunications improvements, technology infrastructure projects, and other technology advancements.
  13. **Support** full funding of disaster relief for all eligible counties, and a return to State assistance for the large portion of the costs of state or federally declared disasters.
  14. **Oppose** any changes to, or limitations upon, the eligibility for receipt of disaster costs, especially tying county land use processes and decision-making to disaster relief funding.
  15. **Support** State tax relief for those individuals and businesses who have losses due to disaster.
-



16. **Support** legislation that would allow “a contracting agency and the exclusive representative of employees of that agency to agree through collective bargaining that the employer contribution for employee and annuitant health benefits coverage for employees first hired on or after the effective date of a memorandum of understanding may differ from the employer contribution provided to existing employees and annuitants pursuant to Sections 22890 and 22892” and any other legislation that will permit the County to take advantage of a multi-tier benefit package through Public Employees Retirement System (PERS).
  17. **Oppose** legislation that would hinder, as a result of mandated redactions or any other alterations of recorded documents, a private citizen’s ability to establish ownership of real property or conduct private or commercial business operations.
  18. **Oppose** legislation that eliminates, diminishes, limits, or interferes with the nonprofit organizations that the County has membership in, i.e., the California State Association of Counties (CSAC), Rural County Representatives of California (RCRC), State Sheriff’s Association, Chief Probation Officers Association, State Welfare Directors Association, etc., in actively participating in the legislative and ballot measure processes. *(Added by Board Order 8-20-13)*
  19. **Oppose** legislation that increases the County’s exposure to litigation.
  20. **Oppose** legislation that removes local governments’ discretion over wireless structures or restricts such discretion to the point that it could negatively impact rural communities’ aesthetics, public safety, the environment, and property values, and/or prevent local governments from negotiating either rates or improved broadband services as a condition of a “small cell” permit.
  21. **Support** legislation and regulations that preserve – and do not impair – the ability of counties to provide public health, safety, welfare or environmental services by local government.
  22. **Support** expanded permission to use private contracts to provide local services in justifiable areas as a means of achieving efficiency and economy.
  - 22-23. **Support** continued funding of programs that would improve cybersecurity and cloud-based security programs for local governments.
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## HEALTH AND HUMAN SERVICES

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1. **Monitor** State and Federal health care reform proposals with fiscal impacts to the County and private employers and citizens, and that limit, reduce or discontinue health care coverage for Inyo County residents.
  2. **Monitor** the California Children's Services program and seek protections against increased county program costs.
  3. **Monitor** legislation that funds pilot efforts in MediCal payment reform to result in whole person care and fully integrated behavioral health and health services.
  4. **Monitor** legislation to address opioid addiction, including the expansion of Medication Assisted Treatment and allows for Medicaid reimbursement in the jail setting.
  5. **Monitor** legislation to change the definition of "gravely disabled" and to clarify Welfare and Institutions code 5150.
  6. **Monitor** State and Federal health care proposals with fiscal impacts to the County and private employers.
  7. **Monitor** the County Medical Services Program (CMSP) program and **Support** efforts to protect funding, minimize the participation fee paid by counties, and sustain reasonable reimbursement rates to providers in an effort to retain them in small counties. (Ensure CMSP infrastructure is maintained in event unknown health care policy changes occur at Federal level.)
  8. **Monitor** legislation that further mandates increased benefits/salaries for the local In-Home Support Services Program (IHSS) that are not covered by the State.
  9. **Monitor** policy and legislative initiatives involving managed Medi-Cal to ensure rural, isolated counties medical caregiver capacity issues are not negatively impacted.
  10. **Monitor** the implementation of simplifying Medi-Cal and enrollment for participants and providers.
  11. **Support** blended funding across human service programs, i.e. non-categorical.
  12. **Support** legislation that allows maximum local flexibility to design human services programs, based on the needs of the communities served.
  13. **Support** increased allocation of subsidized childcare funding.
  14. **Support** legislation and local, State, and Federal programs that employ evidence-based best practice strategies to reduce the number of people experiencing homelessness by: preventing homelessness for those at risk; expanding affordable permanent housing; and promoting self-empowerment through counseling, job training, and other supportive services.
  15. **Support** funding of affordable short-term, transitional and permanent housing capacity.
  16. **Support** legislation that supports parity of funding for behavioral health issues, ensuring that both mental health and substance use disorder treatment are funded on par with physical health treatment needs.
-



17. **Support** legislation that provides or increases a minimum base allocation (MBA) to small counties to sustain treatment for alcohol and drug addiction.
  18. **Support** legislation that addresses behavioral health workforce needs, as statewide agencies are challenged in meeting treatment capacity in both Mental Health and Substance Use Disorder treatment providers. This would include legislation such as Peer (someone with lived experience) Certification (SB 906); Mental Health workforce planning (AB2108), which expands the persons eligible for educational loan repayment program; and Substance Use workforce expansion (AB2804), which creates one-year and five-year plans to expand the SUD treatment workforce with incentives like stipends and loan repayment programs for counselors, peers and licensed professionals.
  19. **Support** legislation that reduces administrative burden for small counties and allows for flexibility such as regionalization of administrative tasks.
  20. **Support** legislation that increases use of telehealth for Drug Medi-Cal services.
  21. **Support** the Stepping Up Initiative and legislation that diverts persons with mental illness from the criminal justice system.
  22. **Support** legislation that increases the transparency and consistency of financial reporting for the Mental Health Services Act.
  23. **Support** legislation to fund suicide prevention efforts, including those targeted at youth, LGBTQ and Veterans.
  24. **Support** legislation to build on Continuum of Care Reform to address foster youth crisis response.
  25. **Support** legislation that promotes service integration, such as development of automated, central statistical case records for all human service programs and information sharing across human service programs.
  26. **Support** legislation that allows for funding allocations to have increased local control and flexibility to design human services programs based on the needs of the communities served.
  27. **Support** and advocate for any “new” funding to have a base allocation formula for the Twenty Small Counties.
  28. **Support** and advocate for State to fully fund the administrative costs associated with all state mandated programs (e.g., Child Welfare, Medi-Cal, Public Assistance).
  29. **Support** legislation that fully funds the requirements of the Continuum of Care Reform (CCR) including Resource Family Approval, Level of Care Assessments, Child and Family Team Meetings and other services that protect the physical, emotional and mental health of children and youth; promote their educational development, and ensure the availability of support services for juveniles.
  30. **Support** legislation and budget initiatives that recognize the growth of needs in our aging population, including increased funding to support Adult Protective Services and other aging services programs.
  31. **Support** legislation that revamps In Home Supportive Services in a manner that reduces fiscal and administrative impact on counties and reduces risk of fraud/abuse.
  32. **Support** legislation that consolidates State offices providing administrative oversight, or otherwise streamlines and/or reduces the administrative costs of Health and Human Services programs.
-



33. **Support** and protect funding for public health mandates, and advocate for maintaining sufficient health realignment funding to ensure that Inyo County has the resources to meet its obligation to fulfill its statutory public health and indigent health care mandates.
  34. **Support** measures that enhance the communities' ability to deliver services through their hospitals and clinics; favor proposals that would provide for the continued expansion of community Federally Qualified Health Clinics (FQHCs).
  35. **Support** efforts to make and retain State or Federal financial participation available in the funding of medical facilities and medical care for inmates in county correctional facilities that were realigned to counties on October 1, 2011.
  36. **Support** increased and flexible State and Federal funding and resources directed at building the capacity of local public health departments to combat and control communicable diseases.
  37. **Support** proposals to expand access to dental health services for low-income Californians, including efforts to increase Denti-Cal reimbursement levels to encourage qualified dentists to participate in providing care to low-income children.
  38. **Support** strategies to streamline funding and program complexities of the California Children's Services (CCS) program in order to meet the demands of the complex medical care and treatment needs for children with certain physically disabling conditions.
  39. **Support** opportunities to "realign" county share of cost for the California Children's Services (CCS) program back to the State.
  40. **Support** and advocate for changes to laws and regulations governing prehospital emergency medical services, including ambulance services, that would increase the ability of volunteer EMS services to attract and retain qualified EMS staff.
  41. **Support** fair and equitable funding to local health departments for public health emergency preparedness (PHEP), ensuring there is a base level available for rural counties, and **Oppose** any funding reductions for PHEP at the federal level, as well as any efforts to shift program costs to local health departments.
  42. **Support** efforts to prevent or reduce the use of tobacco and its accompanying health and economic impacts on the state and its residents.
  43. **Oppose** any efforts to require counties to provide funding for the California Children's Services program beyond their Maintenance of Effort (MOE).
  44. **Oppose** any efforts to reduce funding to Inyo First 5 on the assumption that the First 5 commission will fill the revenue gap created by the withdrawal of State funds (i.e., supplantation).
  45. **Oppose** further Medicaid/Medi-Cal reductions at either the Federal or State level without data-driven analysis and advocate for sufficient resources provided to local jurisdictions to respond to changes in the health care landscape at the federal and state levels.
  46. **Oppose** proposals from the Centers for Medicare and Medicaid Services (CMS), Congress, or the Legislature to deny, reduce, cap, or eliminate Medi-Cal Administrative Activities/Targeted Case Management reimbursement or to make claiming more reimbursements administratively burdensome.
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47. **Oppose** legislation that further mandates increased employee benefits/salaries for the local In-Home Support Services Program (IHSS) that are not covered by the State.
48. **Opposes** legislative “fixes” to the Maintenance of Effort costs for In-Home Support Services Program that cause negative budget impacts to other Health and Human Services programming (Social Services, Health and Behavioral Health) does not experience negative budget impacts.
49. **Oppose** efforts that create disincentives to Medi-Cal enrollment and utilization, such as co-payments and premiums, seek ways to expand access to dental services, maximize Federal financial participation and increase provider rates.
50. **Oppose** any legislative efforts/initiatives to reopen the realignment legislation or legislation that negatively affects Inyo County’s health and human services realignment funds.

## TRANSPORTATION AND PUBLIC WORKS

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1. **Support** transportation funding legislation that:
    - Provides revenues without affecting funding sources of other county projects;
    - Continues Federal funding efforts for local transportation projects;
    - Reaffirms and continues State responsibility for highway financing;
    - Bolsters the multiple transportation funding sources that provide for improved transportation systems and multimodal networks, including SB 1 as enacted, and delivery of projects that rehabilitate and improve local roads;
    - Supports and encourages the use and development of transit facilities and infrastructure.
  2. **Support** any legislation efforts that assist the County in mitigating for the transportation of transuranic waste to the Nevada Test Site, Yucca Mountain, or other selected sites through California on routes located in or transecting Inyo County. Specifically, funding and assistance is needed in several areas including road and infrastructure improvements, first responder training, radiological detection instruments and training and emergency medical and hospital training.
  3. **Support** State legislators’ efforts to address identified State highway safety needs in our communities.
  4. **Support** State and Federal legislation efforts that benefit our local airports.
  5. **Oppose** legislation that changes public contracting laws in a manner in which it negatively impacts the County’s contract authority and/or increases costs to the County and/or unduly lengthens the time it takes for the County to enter into a Public Works Contract.
  6. **Support** legislation that enhances counties’ ability to designate appropriate uses of county roads.
  7. **Oppose** the effort to repeal SB 1, which would result in the loss of new transportation funds and make it more difficult to raise State and local transportation funds in the future.
  8. **Support** legislation that provides funding opportunities to coordinate Transportation Plans with the County’s General Plan.
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9. **Support** legislation that provides funding to sustain and expand the region's public transit system.
10. **Support** legislation that supports interregional and intercity bus lines that connect with the County's transit system.
11. **Support** reauthorization and implementation of federal aviation policy at the State level to ensure that California continues to receive and dedicate investments to support commercial and general aviation airports.

## RESOURCES AND ENVIRONMENT

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1. **Support** legislation to provide funding to local governments to create programs to protect river parkways and to reclaim damaged river habitat.
  2. **Monitor** legislation that protects and enhances rural counties' natural and developed resources that contribute to the economic and environmental well-being of Inyo County.
  3. **Support** legislation for the development of programs and strategies that will accomplish the non-land acquisition of reinvestment dollars for watershed management, groundwater basins, fisheries and waterways.
  4. **Support** Federal funding proposals that enhance County ability to acquire Federal and State funding for the purpose of managing watersheds et al.
  5. **Support** legislation that clarifies and/or preserves local authority to protect public roads.
  6. **Support** legislation to provide adequate funding for meeting all of the requirements of the California Global Warming Solutions Act of 2006 and the Sustainable Communities and Climate Protection Act of 2008.
  7. **Oppose** activities of the Federal and State government to acquire and transfer private lands to public ownership without continued mitigation for loss of local property tax revenue.
  8. **Oppose** Federal or State activities limiting public access to public lands.
  9. **Support** legislation which promotes and/or provides monetary aid to local jurisdictions for land use coordination with State and Federal agencies.
  10. **Oppose** any legislation which eliminates or diminishes the requirement for Federal and State land use agencies to coordinate with local government on decisions affecting the plans and policies of local jurisdictions.
  11. **Support** legislation which identifies the impacts of catastrophic wildfires and provides that wildfire mitigation and prevention are goals that meet the requirements of the California Global Warming Solutions Act.
  12. **Support** legislation which maintains Inyo County's ability to protect and enhance its land use authority to determine the use of its natural resources, including but not limited to mining, water storage, renewable energy, and agricultural resources.
  13. **Monitor** efforts to create additional or expand existing wilderness designations in the County.
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14. **Monitor** efforts by Federal and State government to increase fees for and reduce and/or eliminate fire protection services on public lands.
15. **Support** legislation that protects those local jurisdictions that operate and deliver and store water that recognize and address mussel infestation early on from liability as a result of mussel infestation.
16. **Oppose** any legislation that could negatively impact outdoor recreation. (Added by Board Order 8-21-2012).
17. **Support** State's Renewable Energy Portfolio Standard being re-calculated to include roof-top solar.
18. **Oppose** legislation that makes CEQA/NEPA requirements more burdensome and provides for less public notification in the county where the projects are located.
19. **Support** legislation that reforms wildfire suppression funding, prevents "fire transfers" within firefighting budgets, and gives agencies in charge of fire suppression more budget flexibility.
20. **Support** legislation that recognizes, funds and protects the ecological resources of the Sierra Nevada as part of the effort to reach California's Climate Change goals.
21. **Support** increased funding for public land management agencies to address deferred maintenance of infrastructure in forests, national parks, and reserves that rural counties depend on for tourism and recreation-based economies.
22. **Support** realistic federal policy and regulatory reforms that balance environmental protection with the preservation of life and property and that lead to better mitigation of wildfires on federal, State, and private lands.
23. **Support** legislation to remove State tax exemptions for solar energy development facilities.
24. **Support** and encourage efforts that streamline the process for obtaining permits from State, Federal and local land management agencies for activities such as livestock grazing, commercial filming, guiding and outfitting, packing, and special events.

## PLANNING AND LAND USE

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1. **Support** legislation and budget efforts that continue to maximize the Payment in Lieu of Taxes (PILT) revenue from the Federal and State government to counties and continues full funding of PILT without restrictions beyond the current authorization.
  2. **Oppose** legislation that minimizes and/or eliminates local control over land use decisions.
  3. **Support** legislative efforts to enable local governments, utilities, energy developers, California Native American tribal governments, affected landowners and members of the public to actively participate in the renewable energy and utility corridor planning processes.
  4. **Support** legislation which reduces and/or eliminates State requirements regarding the General Plan and its updates.
  5. **Oppose** legislation which limits or reduces the authority of counties under the State Mining and Reclamation Act (SMARA).
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6. **Support** legislation which promotes and/or provides monetary aid to local jurisdictions for land use coordination with State and Federal agencies.
7. **Oppose** any legislation which eliminates or diminishes the requirement for Federal and State land use agencies to coordinate with local government on decisions affecting the plans and policies of local jurisdictions.
8. **Support** legislation, which maintains Inyo County's ability to protect and enhance its land use authority to determine the highest and best use of its natural resources.
9. **Support** legislation that protects and/or reinstates the payment of geothermal royalties to local jurisdictions.
10. **Support** legislation that provides funding opportunities to local jurisdictions to implement State General Plan requirements.

## LAW, JUSTICE & PUBLIC SAFETY

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1. **Support** legislation that maximizes county discretion in developing programs for juveniles.
  2. **Support** legislation that eliminates the requirement that counties pay for court reporter transcripts.
  3. **Support** Federal and State funding to combat the impacts of controlled substance production, distribution, and use, including the ongoing opioid addiction crisis.
  4. **Support** legislation that would allow counties to enact an ordinance to allow up to a \$10 penalty assessment for every \$100 fine for criminal offense, including traffic fines, for the maintenance and purchase of Law Enforcement facilities and vehicles.
  5. **Oppose** any changes in the State criminal justice system that increases costs to counties for jail operations, including but not limited to early releases of prisoners, commutation of sentences and/or commutation of variable sentencing options (i.e., wobblers), without a corresponding dedicated long-term reliable revenue stream and the ability to administer it locally.
  6. **Watch** proposed changes to State and Federal water law.
  7. **Support** legislation that will complete the work initiated through the Trial Court Unification Act by making justice system costs that are controlled or imposed by the judiciary but inadvertently remain the responsibilities of the counties the clear responsibility of the State of California and the California Superior Court to fund.
  8. **Support** efforts to increase and/or preserve funding allocations to support criminal justice realignment costs including inmate healthcare and jail expense costs.
  9. **Support** Federal and State funding and programs to provide comprehensive, effective mental health and substance abuse treatment programs for criminal defendants, thereby reducing recidivism and protecting the public.
  10. **Watch** proposed bail system reform efforts in California to ensure full state funding of any new pre-trial release and supervision requirements.
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11. **Support** legislation and policies to improve re-entry options for adult and juvenile probationers, including housing.
12. **Support** legislation and policies to expand and enhance Evidence-Based Programs available to clients.
13. **Support** legislation and policies that will allow for continued investment in community corrections training.
14. **Support** legislation to bolster flexible policies and resources for drug treatment and mental health services for probationers.
15. **Support** legislation and policies to protect resources that support foster youth in Continuum of Care Reform.
16. **Support** legislation and policies that ensure resources for supervision, rehabilitative programming, and re-entry services for adult and juvenile offenders.
17. **Support** legislation and policies to preserve and provide resources at the Federal, State, and local level for effective community supervision practices.
18. **Support** legislation that enhances educational programs for adult and juvenile offenders.
19. **Support** legislation which will provide funding for probation services provided to drug offenders, and mentally ill incarcerated offenders.
20. **Support** legislation to authorize local probation departments to collect outstanding victim restitution through the civil process.

## TRIBE AND INTERGOVERNMENTAL RELATIONS

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1. **Support** the following goals for county-tribal intergovernmental relations:
    - facilitate intergovernmental agreements
    - develop mechanisms to mitigate for the off-reservation impacts of tribal developments on local government services and the environment
    - promote best practices and models of successful tribal-county relationships.
  2. **Support** the promotion and development of positive working relationships between the County and local tribes to the mutual benefit of both parties and the communities they respectively serve.
  3. **Support** legislation or policy that provides for or recognizes enforceable agreements between tribes and local governments concerning the mitigation of off-reservation impacts of development on tribal land.
  4. **Oppose** any federal or state limitation on the ability of tribes, counties and other local governments to reach mutually acceptable and enforceable agreements, including any federal prohibitions on deed restrictions mutually agreed to by tribal and local governments.
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## VETERANS' SERVICES

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1. **Support** legislation and efforts that ensure access to the services and benefits to which veterans are entitled, including housing, healthcare, employment, education and training, and community reintegration assistance.
2. **Support** legislation that provides funding for veterans housing programs, such as the Veterans and Affordable Housing Bond Act of 2018.
3. **Support** the development of specific strategies for intervention and service delivery to veterans through cooperation between federal, state, and local governments, as well as community and private organizations serving veterans.
4. **Support** coordination of services for veterans among all entities that serve this population, especially in housing, treatment, and employment training.



# Inyo County, CA

## 2024 Federal Platform

Approved by Board of Supervisors on INSERT DATE HERE





## County of Inyo, CA

### Board of Supervisors

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**Trina Orrill**

First District

**Jeff Griffiths**

Second District

**Scott Marcellin**

Third District

**Jennifer Roeser**

Fourth District

**Matt Kingsley**

Fifth District

***Nate Greenberg***  
***County Administrative Officer***  
County Administrative Center  
224 North Edwards  
Independence, CA 93526



# County of Inyo, CA

## 2024 Federal Priorities

Inyo County was established on March 22, 1866 and is the second largest county in California at 10,227 square miles. However, the County is sparsely populated with more than 19,000 calling it home. The community of Independence serves as the County Seat. Inyo County is a land of magnificent natural diversity, from Mount Whitney, the highest peak in the lower 48 states, to Death Valley, the lowest point in the U.S. Inyo County has a rich indigenous history, as well as a legacy that also traces its roots to pioneering, mining, railroading, ranching, and farming. Much of this history is not only on display today in museums and cultural centers throughout the County, but in the culture, livelihoods, and family trees of those who call Inyo County home. Robust in natural resources and beauty, Inyo County strives to support the cultural and historical values of its communities, protect and enhance its natural environment, and preserve a rural quality of life.



Rural and Isolated  
Communities



Economic  
Development



Resource & Land  
Management



Infrastructure



Agriculture



# Rural and Isolated Communities



Isolated Communities	<ul style="list-style-type: none"><li>• Seek funding and support programs that provide services to isolated communities including construction of community facilities.</li></ul>
Health and Well Being	<ul style="list-style-type: none"><li>• Seek funding and support programs to improve access to health services including mental health, substance abuse programs, emergency services, community health clinics, and hospitals.</li></ul>
Emergency Response	<ul style="list-style-type: none"><li>• Support and seek funding for projects and programs that support emergency and disaster preparedness, response and management.</li></ul>
Public Safety	<ul style="list-style-type: none"><li>• Support funding and programs for public safety initiatives including search and rescue activities, law enforcement communications, and public safety equipment.</li></ul>
Fire Protection	<ul style="list-style-type: none"><li>• Seek funding and support programs for fire protection enhancements including ensuring community access to fire stations and fire fighting services.</li></ul>
Community Facilities and Parks	<ul style="list-style-type: none"><li>• Support funding and programs for the construction programming of projects for community museums, libraries, and parks.</li></ul>
Youth Population	<ul style="list-style-type: none"><li>• Support programs that provide assistance to the County's younger populations including access to early childhood education services, afterschool programming, and juvenile justice programs.</li></ul>
Emergency Medical Services	<ul style="list-style-type: none"><li>• Sustaining Advanced Life Support (ALS) and Basic Life Support (BLS) ambulance service in rural and isolated communities is complex and expensive. Seek funding and support programs that develop and support the elements necessary to make such an initiative successful.</li></ul>
Veterans Services	<ul style="list-style-type: none"><li>• Seek funding to enhance services to the County's veterans, including through the veterans center and veterans housing.</li></ul>
Aging Population	<ul style="list-style-type: none"><li>• Support programs and seek funding for services that assist the County's aging population.</li></ul>

# Economic Development



## Opportunity Zones

- Support development of plan and strategy to encourage private investment in public infrastructure projects through programs such as the Opportunity Zone private tax incentives.

## U.S. Census

- Monitor U.S. Census development process in particular to definitions and impacts to rural communities.

## Digital 395 and Statewide Middle-Mile Initiatives

- Support development, expansion, and implementation of regional broadband initiatives which construct Middle Mile routes and focus on deployment of high-quality Last Mile broadband to customers.

## Bishop Airport

- Support development and expansion of Bishop Airport to increase services of commercial and general aviation uses that support and spur regional economic development.

## Housing

- Advocate and support initiatives and programs that provide additional housing and encourage diversity in housing availability in the County.

## Recreation and Tourism

- Support programs and activities that enhance and protect tourism in the region and recreation on federal lands and within federal parks. Support programs that provide assistance to local economies based on tourism and recreation.

## Tribal Partnerships

- Support programs and activities that prioritize funding for initiatives based on collaborative partnerships between local agencies and Tribal entities.

## Small Businesses

- Support programs and activities that provide assistance to small businesses and promote entrepreneurship.

# Resource and Land Management



## PILT Funding

- Support legislation and budget efforts that continue to maximize the Payment in Lieu of Taxes (PILT) and Secure Rural Schools (SRS) programs.

## Fuels Management

- Support programs that enhance fuel management activities on federal lands.

## Federal Lands Management

- Support funding for federal lands management agencies and programs.

## Wildfire Preparedness

- Support programs that help prevent, mitigate, and respond to wildfires.

## Recreation

- Seek funding and support programs that protect and enhance recreational activities on public lands.

## Federal Land Management Agencies

- Support efforts that foster partnerships and enhance relationships with local agencies and federal land management agencies including the Inyo National Forest, the National Park Service, and the Bureau of Land Management.

## Mining Industry

- Seek support of changes to mining claims forms that allow for efficient and timely filing of mining claims.

## Bishop Creek Waterway

- Seek funding and support legislation that would improve water quality in Bishop Creek and surrounding areas.

# Infrastructure



## Drinking Water

- Seek funding and support programs that delivery reliable and clean drinking water through resilient infrastructure.

## Wastewater Infrastructure

- Seek funding and support programs that provide wastewater treatment infrastructure and services to communities in a cost efficient matter.

## Local Transportation Projects

- Seek funding and support programs for local transportation projects throughout the County including those related to highways, local streets and roads, trails, transit, pedestrians, and electric vehicles.

## Broadband and Connectivity

- Seek funding for broadband expansion, broadband adoption, telecommunications improvements, technology infrastructure projects, and other technology advancements throughout the County. Seek funding and support programs to provide communication infrastructure, including broadband and cellular services to remote rural communities.

## Environmental Review and Project Delivery

- Support changes to federal law that encourage a more efficient and streamlined environmental review and project delivery process and allow public infrastructure projects to be constructed more efficiently and effectively.

## Electric and Power Utilities

- Seek funding and support programs that provide electric and power utility services to communities in a cost effecient manner.

# Agriculture



## Supplemental Nutrition Programs

- Seek funding for the hiring of personnel that can assist in the distribution of SNAP benefits and administer other federally funded nutrition programs. Support legislation that improves the administration of nutrition programs in rural areas.

## National Resource Conservation Service

- Support legislation that would exclusively provide resource conservation funding for small rural counties.

## Urban Agriculture

- Seek funding to support urban agriculture programs in Inyo County. Support legislation that would expand urban agriculture programs to include consideration for rural areas with land but without access to that land.

## Agricultural Protection

- Seek funding and support legislation that would protect the income of local farmers by preventing the import of certain agricultural products from foreign nations. Seek funding for programs that will develop alternative pesticide products to prevent destruction of crops from pests and other invasive species.

## Sustainable Agriculture

- Seek funding and support legislation that would allow the County to develop and utilize sustainable agricultural practices and grow a self-sustainable agricultural industry in Inyo County.

## Cannabis

- Support administrative and regulatory procedures, including banking, related to the cannabis industry that protect local authority and protect the public.



# County of Inyo, California

## 2024 Legislative Platform

The Inyo County Board of Supervisors recognizes the need to identify and advocate for its legislative and funding priorities in Sacramento and Washington, D.C. To be effective in this mission, the Board is pleased to present its 2024 Legislative Platform.

Inyo County's Legislative Platform is a summary of the priorities of the Board of Supervisors and establishes the basis for its advocacy efforts with the Executive and Legislative branches of the U.S. Government and the State of California regarding legislation and regulation.

Adopted annually, the Platform contains general principles held by the County of Inyo as well as the County's definitive stance on critical issues (especially as they related to rural counties) and, in some cases, specific proposals, programs, and pieces of legislation. The document is structured to proactively frame sponsorship, support, and advocacy regarding key legislative and regulatory priorities while also monitoring numerous bills.

In recent years, the Platform has been distributed to Inyo County's state and federal delegations to make legislators aware of our local, rural issues so they may better lobby for our interests. It also provides general direction to the County Administrator's Office and County departments and the public on positions of support or opposition to key policy initiatives which impact the way the County does business. Adoption of this document also allows each Board member the flexibility to take the position identified in the document, on behalf of the Board, without waiting for a full vote of the Board. Conversely, when confronted with an issue that is not listed in this document, that issue will need Board approval before an Inyo County position may be presented in a letter or other form of advocacy.

While the Platform explicitly states the County's position on numerous programs, proposals, principles, and pieces of legislation, it also offers implicit guidance for responding to related issues. If the County takes a support position on an issue, it must hold true that the County therefor opposes issues that conflict with the underlying principles and goals of the original position of support. For example, the Platform states that the County will oppose legislation that would diminish local authority over commercial cannabis regulation. Conversely, this means the County would then support legislation to increase local authority over commercial cannabis regulation.

Updates to this year's Platform have been made in consultation with department heads, other key staff, and the Board of Supervisors.

The Platform is adopted annually but can be updated at any time throughout the year by action of the Board.

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## AGRICULTURE/WEIGHTS & MEASURES

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1. **Support** full cost recovery for new agricultural programs.
2. **Support** continued funding of weed management programs.
3. **Support** continued funding of US Forest Service biomass fuel production programs.
4. **Support** authority for USDA to set up cooperative agreements with states for pest exclusion programs.
5. **Support** control and mitigation for the spread of invasive species to protect, conserve and restore public and private lands.
6. **Support** efforts to provide and protect local authority for device registration fees.
7. **Oppose** efforts by State agencies to usurp Agricultural Commissioner's permitting authority for the spraying of pesticides on irrigated lands.
8. **Oppose** efforts to ban the use of rodenticide for agricultural and public health purposes in California.

## CANNABIS

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1. **Oppose** legislation that would diminish local authority over commercial cannabis regulation.
  2. **Support** legislation that provides the state's tribes a mechanism for entering California's legal cannabis marketplace without sacrificing their sovereign status, while also preserving local governments' right to protect against or require mitigation for associated impacts to their jurisdictions from any commercial cannabis activity on adjacent lands, including Tribal land.
  3. **Support** a statewide regulatory scheme for medical cannabis and/or adult use cannabis that ensures counties have the ability to set regulatory standards based on local needs and priorities, and seek to ensure the County is adequately resourced as regulations and state laws are implemented.
  4. **Support** efforts to study the impacts of cannabis use and legalization on the public's health, particularly on the impacts on youth brain development.
  5. **Support** legislation to increase cannabis surveillance, education, youth prevention, responsible adult use, and drugged driving prevention.
  6. **Support** efforts to mitigate community level harms from commercial cannabis operations, such as overconcentration as well as clustering with alcohol and tobacco retailers.
  7. **Support** continued Federal and State funding to aid local jurisdictions in the eradication of illegal, environmentally destructive marijuana grow operations on public and/or private land.
  8. **Monitor** legislation establishing policy programming requirements for education and environmental prevention efforts for Cannabis.
  9. **Oppose** policy programming requirements for education and environmental prevention efforts for Cannabis Tobacco Control funding that mirror those established for Tobacco Control funding.
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## CHILD SUPPORT

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1. **Support** legislation that would protect existing State and Federal funding for local child support programs.
2. **Support** policies, funding and services for non-custodial parents that promote self-sufficiency and ability to care for their child(ren).
3. **Support** legislation that would improve child support enforcement for Tribal support agencies.
4. **Oppose** any recommendations that would reduce Federal financial participation in child support programs.
5. **Oppose** efforts to delay the implementation of the Internal Revenue Service's third-party payment application reporting requirements.

## COUNTY OPERATIONS

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1. **Support** full funding of the Public Library Fund in future State budgets.
  2. **Support** legislation to provide opt-in as opposed to opt-out for receiving electronic sample ballots.
  3. **Support** legislation that requires counties to be reimbursed for the cost of special elections called by the Governor or Legislature.
  4. **Support** efforts to reinstate language directing the state to provide reimbursement to counties that hold a special election to replace a member of Congress or a member of the state Legislature to fill a vacancy, as well as for the cost of special elections called for other reasons.
  5. **Support** legislation that would authorize Federal and State Governments to assist counties in the purchase of voting equipment and technology.
  6. **Support** the continued exemption of rural counties from Organics Recycling Mandates.
  7. **Support** legislation that provides additional State park funding to rural counties.
  8. **Support** legislation that requires the Department of Resources Recycling and Recovery to consider the impacts on jurisdictions and their waste diversion programs caused by China's restrictions on imported recyclables and the resulting market loss.
  9. **Support** legislation, such as the California Beverage Container Recycling and Litter Reduction Act of 2018, to stabilize the recycling marketplace, provide immediate, temporary relief to California's retailers and grocers affected by the 2016 recycling center closures, and ensure consumers have local redemption opportunities.
  10. **Support** legislation that provides the option for rural counties to conduct elections via "Vote by Mail while also enfranchising rural voters.
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## GENERAL GOVERNMENT

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1. **Support** legislation that realigns governmental services in such a manner as to improve the delivery of services and make government more accountable to the people of Inyo County.
2. **Support** collective bargaining legislation that:
  - Recognizes the responsibility of local elected officials to govern and manage the organization and to implement public policy; and
  - Minimizes conflict over procedural matters.
3. **Support** legislation that recognizes the inherent disadvantage rural counties have as it applies to using a population-based criteria (per capita) for allocating State and Federal funds and minimizes and/or eliminates the reliance on this funding criteria.
4. **Oppose** legislation that minimizes, restricts and/or eliminates local Boards of Supervisors control over collective bargaining and employer-employee relations.
5. **Oppose** legislation that minimizes, restricts and/or eliminates local Boards of Supervisors control over the allocation of funds through the budget process.
6. **Oppose** legislation that would require counties to share State expenses and liability on projects outside local jurisdiction.
7. **Support** legislation that reduces State and Federal regulations that impede, or increase the cost of the delivery of services by local governments and special districts.
8. **Monitor** closely any legislative efforts/initiatives regarding reform of the State Budget process.
9. **Oppose** legislation that is unduly burdensome to private industry.
10. **Support** protection of funding discretion and use bond funds.
11. **Oppose** efforts by Federal and State government to adversely impact the ability of Volunteer Fire Departments to provide critical first response and ambulance services in rural communities, including but not limited to recruiting and retaining qualified EMTs.
12. **Support** broadband expansion, broadband adoption, telecommunications improvements, technology infrastructure projects, and other technology advancements.
13. **Support** full funding of disaster relief for all eligible counties, and a return to State assistance for the large portion of the costs of state or federally declared disasters.
14. **Oppose** any changes to, or limitations upon, the eligibility for receipt of disaster costs, especially tying county land use processes and decision-making to disaster relief funding.
15. **Support** State tax relief for those individuals and businesses who have losses due to disaster.
16. **Support** legislation that would allow “a contracting agency and the exclusive representative of employees of that agency to agree through collective bargaining that the employer contribution for employee and annuitant health benefits coverage for employees first hired on or after the effective date of a memorandum of understanding may differ from the employer contribution provided to existing employees



and annuitants pursuant to Sections 22890 and 22892” and any other legislation that will permit the County to take advantage of a multi-tier benefit package through Public Employees Retirement System (PERS).

17. **Oppose** legislation that would hinder, as a result of mandated redactions or any other alterations of recorded documents, a private citizen’s ability to establish ownership of real property or conduct private or commercial business operations.
  18. **Oppose** legislation that eliminates, diminishes, limits, or interferes with the nonprofit organizations that the County has membership in, i.e., the California State Association of Counties (CSAC), Rural County Representatives of California (RCRC), State Sheriff’s Association, Chief Probation Officers Association, State Welfare Directors Association, etc., in actively participating in the legislative and ballot measure processes. *(Added by Board Order 8-20-13)*
  19. **Oppose** legislation that increases the County’s exposure to litigation.
  20. **Oppose** legislation that removes local governments’ discretion over wireless structures or restricts such discretion to the point that it could negatively impact rural communities’ aesthetics, public safety, the environment, and property values, and/or prevent local governments from negotiating either rates or improved broadband services as a condition of a “small cell” permit.
  21. **Support** legislation and regulations that preserve – and do not impair – the ability of counties to provide public health, safety, welfare or environmental services by local government.
  22. **Support** expanded permission to use private contracts to provide local services in justifiable areas as a means of achieving efficiency and economy.
  23. **Support** continued funding of programs that would improve cybersecurity and cloud-based security programs for local governments.
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## HEALTH AND HUMAN SERVICES

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1. **Monitor** State and Federal health care reform proposals with fiscal impacts to the County and private employers and citizens, and that limit, reduce or discontinue health care coverage for Inyo County residents.
  2. **Monitor** the California Children's Services program and seek protections against increased county program costs.
  3. **Monitor** legislation that funds pilot efforts in MediCal payment reform to result in whole person care and fully integrated behavioral health and health services.
  4. **Monitor** legislation to address opioid addiction, including the expansion of Medication Assisted Treatment and allows for Medicaid reimbursement in the jail setting.
  5. **Monitor** legislation to change the definition of "gravely disabled" and to clarify Welfare and Institutions code 5150.
  6. **Monitor** State and Federal health care proposals with fiscal impacts to the County and private employers.
  7. **Monitor** the County Medical Services Program (CMSP) program and **Support** efforts to protect funding, minimize the participation fee paid by counties, and sustain reasonable reimbursement rates to providers in an effort to retain them in small counties. (Ensure CMSP infrastructure is maintained in event unknown health care policy changes occur at Federal level.)
  8. **Monitor** legislation that further mandates increased benefits/salaries for the local In-Home Support Services Program (IHSS) that are not covered by the State.
  9. **Monitor** policy and legislative initiatives involving managed Medi-Cal to ensure rural, isolated counties medical caregiver capacity issues are not negatively impacted.
  10. **Monitor** the implementation of simplifying Medi-Cal and enrollment for participants and providers.
  11. **Support** blended funding across human service programs, i.e. non-categorical.
  12. **Support** legislation that allows maximum local flexibility to design human services programs, based on the needs of the communities served.
  13. **Support** increased allocation of subsidized childcare funding.
  14. **Support** legislation and local, State, and Federal programs that employ evidence-based best practice strategies to reduce the number of people experiencing homelessness by: preventing homelessness for those at risk; expanding affordable permanent housing; and promoting self-empowerment through counseling, job training, and other supportive services.
  15. **Support** funding of affordable short-term, transitional and permanent housing capacity.
  16. **Support** legislation that supports parity of funding for behavioral health issues, ensuring that both mental health and substance use disorder treatment are funded on par with physical health treatment needs.
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17. **Support** legislation that provides or increases a minimum base allocation (MBA) to small counties to sustain treatment for alcohol and drug addiction.
  18. **Support** legislation that addresses behavioral health workforce needs, as statewide agencies are challenged in meeting treatment capacity in both Mental Health and Substance Use Disorder treatment providers. This would include legislation such as Peer (someone with lived experience) Certification (SB 906); Mental Health workforce planning (AB2108), which expands the persons eligible for educational loan repayment program; and Substance Use workforce expansion (AB2804), which creates one-year and five-year plans to expand the SUD treatment workforce with incentives like stipends and loan repayment programs for counselors, peers and licensed professionals.
  19. **Support** legislation that reduces administrative burden for small counties and allows for flexibility such as regionalization of administrative tasks.
  20. **Support** legislation that increases use of telehealth for Drug Medi-Cal services.
  21. **Support** the Stepping Up Initiative and legislation that diverts persons with mental illness from the criminal justice system.
  22. **Support** legislation that increases the transparency and consistency of financial reporting for the Mental Health Services Act.
  23. **Support** legislation to fund suicide prevention efforts, including those targeted at youth, LGBTQ and Veterans.
  24. **Support** legislation to build on Continuum of Care Reform to address foster youth crisis response.
  25. **Support** legislation that promotes service integration, such as development of automated, central statistical case records for all human service programs and information sharing across human service programs.
  26. **Support** legislation that allows for funding allocations to have increased local control and flexibility to design human services programs based on the needs of the communities served.
  27. **Support** and advocate for any “new” funding to have a base allocation formula for the Twenty Small Counties.
  28. **Support** and advocate for State to fully fund the administrative costs associated with all state mandated programs (e.g., Child Welfare, Medi-Cal, Public Assistance).
  29. **Support** legislation that fully funds the requirements of the Continuum of Care Reform (CCR) including Resource Family Approval, Level of Care Assessments, Child and Family Team Meetings and other services that protect the physical, emotional and mental health of children and youth; promote their educational development, and ensure the availability of support services for juveniles.
  30. **Support** legislation and budget initiatives that recognize the growth of needs in our aging population, including increased funding to support Adult Protective Services and other aging services programs.
  31. **Support** legislation that revamps In Home Supportive Services in a manner that reduces fiscal and administrative impact on counties and reduces risk of fraud/abuse.
  32. **Support** legislation that consolidates State offices providing administrative oversight, or otherwise streamlines and/or reduces the administrative costs of Health and Human Services programs.
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33. **Support** and protect funding for public health mandates, and advocate for maintaining sufficient health realignment funding to ensure that Inyo County has the resources to meet its obligation to fulfill its statutory public health and indigent health care mandates.
  34. **Support** measures that enhance the communities' ability to deliver services through their hospitals and clinics; favor proposals that would provide for the continued expansion of community Federally Qualified Health Clinics (FQHCs).
  35. **Support** efforts to make and retain State or Federal financial participation available in the funding of medical facilities and medical care for inmates in county correctional facilities that were realigned to counties on October 1, 2011.
  36. **Support** increased and flexible State and Federal funding and resources directed at building the capacity of local public health departments to combat and control communicable diseases.
  37. **Support** proposals to expand access to dental health services for low-income Californians, including efforts to increase Denti-Cal reimbursement levels to encourage qualified dentists to participate in providing care to low-income children.
  38. **Support** strategies to streamline funding and program complexities of the California Children's Services (CCS) program in order to meet the demands of the complex medical care and treatment needs for children with certain physically disabling conditions.
  39. **Support** opportunities to "realign" county share of cost for the California Children's Services (CCS) program back to the State.
  40. **Support** and advocate for changes to laws and regulations governing prehospital emergency medical services, including ambulance services, that would increase the ability of volunteer EMS services to attract and retain qualified EMS staff.
  41. **Support** fair and equitable funding to local health departments for public health emergency preparedness (PHEP), ensuring there is a base level available for rural counties, and **Oppose** any funding reductions for PHEP at the federal level, as well as any efforts to shift program costs to local health departments.
  42. **Support** efforts to prevent or reduce the use of tobacco and its accompanying health and economic impacts on the state and its residents.
  43. **Oppose** any efforts to require counties to provide funding for the California Children's Services program beyond their Maintenance of Effort (MOE).
  44. **Oppose** any efforts to reduce funding to Inyo First 5 on the assumption that the First 5 commission will fill the revenue gap created by the withdrawal of State funds (i.e., supplantation).
  45. **Oppose** further Medicaid/Medi-Cal reductions at either the Federal or State level without data-driven analysis and advocate for sufficient resources provided to local jurisdictions to respond to changes in the health care landscape at the federal and state levels.
  46. **Oppose** proposals from the Centers for Medicare and Medicaid Services (CMS), Congress, or the Legislature to deny, reduce, cap, or eliminate Medi-Cal Administrative Activities/Targeted Case Management reimbursement or to make claiming more reimbursements administratively burdensome.
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47. **Oppose** legislation that further mandates increased employee benefits/salaries for the local In-Home Support Services Program (IHSS) that are not covered by the State.
48. **Opposes** legislative “fixes” to the Maintenance of Effort costs for In-Home Support Services Program that cause negative budget impacts to other Health and Human Services programming (Social Services, Health and Behavioral Health) does not experience negative budget impacts.
49. **Oppose** efforts that create disincentives to Medi-Cal enrollment and utilization, such as co-payments and premiums, seek ways to expand access to dental services, maximize Federal financial participation and increase provider rates.
50. **Oppose** any legislative efforts/initiatives to reopen the realignment legislation or legislation that negatively affects Inyo County’s health and human services realignment funds.

## TRANSPORTATION AND PUBLIC WORKS

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1. **Support** transportation funding legislation that:
    - Provides revenues without affecting funding sources of other county projects;
    - Continues Federal funding efforts for local transportation projects;
    - Reaffirms and continues State responsibility for highway financing;
    - Bolsters the multiple transportation funding sources that provide for improved transportation systems and multimodal networks, including SB 1 as enacted, and delivery of projects that rehabilitate and improve local roads;
    - Supports and encourages the use and development of transit facilities and infrastructure.
  2. **Support** any legislation efforts that assist the County in mitigating for the transportation of transuranic waste to the Nevada Test Site, Yucca Mountain, or other selected sites through California on routes located in or transecting Inyo County. Specifically, funding and assistance is needed in several areas including road and infrastructure improvements, first responder training, radiological detection instruments and training and emergency medical and hospital training.
  3. **Support** State legislators’ efforts to address identified State highway safety needs in our communities.
  4. **Support** State and Federal legislation efforts that benefit our local airports.
  5. **Oppose** legislation that changes public contracting laws in a manner in which it negatively impacts the County’s contract authority and/or increases costs to the County and/or unduly lengthens the time it takes for the County to enter into a Public Works Contract.
  6. **Support** legislation that enhances counties’ ability to designate appropriate uses of county roads.
  7. **Oppose** the effort to repeal SB 1, which would result in the loss of new transportation funds and make it more difficult to raise State and local transportation funds in the future.
  8. **Support** legislation that provides funding opportunities to coordinate Transportation Plans with the County’s General Plan.
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9. **Support** legislation that provides funding to sustain and expand the region's public transit system.
10. **Support** legislation that supports interregional and intercity bus lines that connect with the County's transit system.
11. **Support** reauthorization and implementation of federal aviation policy at the State level to ensure that California continues to receive and dedicate investments to support commercial and general aviation airports.

## RESOURCES AND ENVIRONMENT

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1. **Support** legislation to provide funding to local governments to create programs to protect river parkways and to reclaim damaged river habitat.
  2. **Monitor** legislation that protects and enhances rural counties' natural and developed resources that contribute to the economic and environmental well-being of Inyo County.
  3. **Support** legislation for the development of programs and strategies that will accomplish the non-land acquisition of reinvestment dollars for watershed management, groundwater basins, fisheries and waterways.
  4. **Support** Federal funding proposals that enhance County ability to acquire Federal and State funding for the purpose of managing watersheds et al.
  5. **Support** legislation that clarifies and/or preserves local authority to protect public roads.
  6. **Support** legislation to provide adequate funding for meeting all of the requirements of the California Global Warming Solutions Act of 2006 and the Sustainable Communities and Climate Protection Act of 2008.
  7. **Oppose** activities of the Federal and State government to acquire and transfer private lands to public ownership without continued mitigation for loss of local property tax revenue.
  8. **Oppose** Federal or State activities limiting public access to public lands.
  9. **Support** legislation which promotes and/or provides monetary aid to local jurisdictions for land use coordination with State and Federal agencies.
  10. **Oppose** any legislation which eliminates or diminishes the requirement for Federal and State land use agencies to coordinate with local government on decisions affecting the plans and policies of local jurisdictions.
  11. **Support** legislation which identifies the impacts of catastrophic wildfires and provides that wildfire mitigation and prevention are goals that meet the requirements of the California Global Warming Solutions Act.
  12. **Support** legislation which maintains Inyo County's ability to protect and enhance its land use authority to determine the use of its natural resources, including but not limited to mining, water storage, renewable energy, and agricultural resources.
  13. **Monitor** efforts to create additional or expand existing wilderness designations in the County.
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14. **Monitor** efforts by Federal and State government to increase fees for and reduce and/or eliminate fire protection services on public lands.
15. **Support** legislation that protects those local jurisdictions that operate and deliver and store water that recognize and address mussel infestation early on from liability as a result of mussel infestation.
16. **Oppose** any legislation that could negatively impact outdoor recreation. (Added by Board Order 8-21-2012).
17. **Support** State's Renewable Energy Portfolio Standard being re-calculated to include roof-top solar.
18. **Oppose** legislation that makes CEQA/NEPA requirements more burdensome and provides for less public notification in the county where the projects are located.
19. **Support** legislation that reforms wildfire suppression funding, prevents "fire transfers" within firefighting budgets, and gives agencies in charge of fire suppression more budget flexibility.
20. **Support** legislation that recognizes, funds and protects the ecological resources of the Sierra Nevada as part of the effort to reach California's Climate Change goals.
21. **Support** increased funding for public land management agencies to address deferred maintenance of infrastructure in forests, national parks, and reserves that rural counties depend on for tourism and recreation-based economies.
22. **Support** realistic federal policy and regulatory reforms that balance environmental protection with the preservation of life and property and that lead to better mitigation of wildfires on federal, State, and private lands.
23. **Support** legislation to remove State tax exemptions for solar energy development facilities.
24. **Support** and encourage efforts that streamline the process for obtaining permits from State, Federal and local land management agencies for activities such as livestock grazing, commercial filming, guiding and outfitting, packing, and special events.

## PLANNING AND LAND USE

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1. **Support** legislation and budget efforts that continue to maximize the Payment in Lieu of Taxes (PILT) revenue from the Federal and State government to counties and continues full funding of PILT without restrictions beyond the current authorization.
  2. **Oppose** legislation that minimizes and/or eliminates local control over land use decisions.
  3. **Support** legislative efforts to enable local governments, utilities, energy developers, California Native American tribal governments, affected landowners and members of the public to actively participate in the renewable energy and utility corridor planning processes.
  4. **Support** legislation which reduces and/or eliminates State requirements regarding the General Plan and its updates.
  5. **Oppose** legislation which limits or reduces the authority of counties under the State Mining and Reclamation Act (SMARA).
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6. **Support** legislation which promotes and/or provides monetary aid to local jurisdictions for land use coordination with State and Federal agencies.
7. **Oppose** any legislation which eliminates or diminishes the requirement for Federal and State land use agencies to coordinate with local government on decisions affecting the plans and policies of local jurisdictions.
8. **Support** legislation, which maintains Inyo County's ability to protect and enhance its land use authority to determine the highest and best use of its natural resources.
9. **Support** legislation that protects and/or reinstates the payment of geothermal royalties to local jurisdictions.
10. **Support** legislation that provides funding opportunities to local jurisdictions to implement State General Plan requirements.

## LAW, JUSTICE & PUBLIC SAFETY

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1. **Support** legislation that maximizes county discretion in developing programs for juveniles.
  2. **Support** legislation that eliminates the requirement that counties pay for court reporter transcripts.
  3. **Support** Federal and State funding to combat the impacts of controlled substance production, distribution, and use, including the ongoing opioid addiction crisis.
  4. **Support** legislation that would allow counties to enact an ordinance to allow up to a \$10 penalty assessment for every \$100 fine for criminal offense, including traffic fines, for the maintenance and purchase of Law Enforcement facilities and vehicles.
  5. **Oppose** any changes in the State criminal justice system that increases costs to counties for jail operations, including but not limited to early releases of prisoners, commutation of sentences and/or commutation of variable sentencing options (i.e., wobblers), without a corresponding dedicated long-term reliable revenue stream and the ability to administer it locally.
  6. **Watch** proposed changes to State and Federal water law.
  7. **Support** legislation that will complete the work initiated through the Trial Court Unification Act by making justice system costs that are controlled or imposed by the judiciary but inadvertently remain the responsibilities of the counties the clear responsibility of the State of California and the California Superior Court to fund.
  8. **Support** efforts to increase and/or preserve funding allocations to support criminal justice realignment costs including inmate healthcare and jail expense costs.
  9. **Support** Federal and State funding and programs to provide comprehensive, effective mental health and substance abuse treatment programs for criminal defendants, thereby reducing recidivism and protecting the public.
  10. **Watch** proposed bail system reform efforts in California to ensure full state funding of any new pre-trial release and supervision requirements.
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11. **Support** legislation and policies to improve re-entry options for adult and juvenile probationers, including housing.
12. **Support** legislation and policies to expand and enhance Evidence-Based Programs available to clients.
13. **Support** legislation and policies that will allow for continued investment in community corrections training.
14. **Support** legislation to bolster flexible policies and resources for drug treatment and mental health services for probationers.
15. **Support** legislation and policies to protect resources that support foster youth in Continuum of Care Reform.
16. **Support** legislation and policies that ensure resources for supervision, rehabilitative programming, and re-entry services for adult and juvenile offenders.
17. **Support** legislation and policies to preserve and provide resources at the Federal, State, and local level for effective community supervision practices.
18. **Support** legislation that enhances educational programs for adult and juvenile offenders.
19. **Support** legislation which will provide funding for probation services provided to drug offenders, and mentally ill incarcerated offenders.
20. **Support** legislation to authorize local probation departments to collect outstanding victim restitution through the civil process.

## TRIBE AND INTERGOVERNMENTAL RELATIONS

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1. **Support** the following goals for county-tribal intergovernmental relations:
    - facilitate intergovernmental agreements
    - develop mechanisms to mitigate for the off-reservation impacts of tribal developments on local government services and the environment
    - promote best practices and models of successful tribal-county relationships.
  2. **Support** the promotion and development of positive working relationships between the County and local tribes to the mutual benefit of both parties and the communities they respectively serve.
  3. **Support** legislation or policy that provides for or recognizes enforceable agreements between tribes and local governments concerning the mitigation of off-reservation impacts of development on tribal land.
  4. **Oppose** any federal or state limitation on the ability of tribes, counties and other local governments to reach mutually acceptable and enforceable agreements, including any federal prohibitions on deed restrictions mutually agreed to by tribal and local governments.
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## VETERANS' SERVICES

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1. **Support** legislation and efforts that ensure access to the services and benefits to which veterans are entitled, including housing, healthcare, employment, education and training, and community reintegration assistance.
2. **Support** legislation that provides funding for veterans housing programs, such as the Veterans and Affordable Housing Bond Act of 2018.
3. **Support** the development of specific strategies for intervention and service delivery to veterans through cooperation between federal, state, and local governments, as well as community and private organizations serving veterans.
4. **Support** coordination of services for veterans among all entities that serve this population, especially in housing, treatment, and employment training.



**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only:  
**AGENDA NUMBER**

- Consent       Departmental       Correspondence Action       Public Hearing  
 Scheduled Time for 1:00 p.m.       Closed Session       Informational

**FROM:** Inyo County Planning Commission and Planning Department

**FOR THE BOARD MEETING OF:** February 6, 2024

**SUBJECT:** Appeal No. 2023-02 (John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller) of Renewable Energy Permit (REP) 2022-01/Barker

**DEPARTMENTAL RECOMMENDATION:** Request the Board of Supervisors:

Conduct a Public Hearing regarding: Appeal No. 2023-02 (John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller) of Renewable Energy Permit (REP) 2022-01/Barker and deny the appeal (Attachment A - Appeal Letter).

**SUMMARY DISCUSSION:**

On September 19, 2022, the applicant, Robbie Barker, submitted two Renewable Energy Permit (REP) applications for two separate photovoltaic (PV) solar facilities on contiguous land. The applicant submitted two separate applications because each facility would connect separately to the existing Southern California Edison (SCE) 33-kv transmission line passing through the area, have different interconnection agreements, and therefore require two separate County permits to operate. The first application (No. 2022-01) is known to the applicant as "Trona 7" and is the subject of this agenda item (the proposed project). The second application (No. 2022-02) is known to the applicant as "Trona 4"

The Trona 7 project proposes a commercial scale PV solar facility within one 5-acre parcel that is contiguous (i.e., has a common corner) with the Trona 4 site. The facility would generate 1.2-Megawatts (MW) of electricity using approximately 2,300 single axis tracker solar panels. The Trona 7 project area is graded flat, or gently sloped and is highly disturbed with no natural vegetation, habitat, water features or structures. The project area is surrounded by private vacant land to the north and south. The land to the east consists of a developed commercial solar field, owned by the applicant, and the land to the west consists of a single-family residence. Approximately five residential structures are within 0.5 miles of the project area and are located mostly to the south and west.. Two of these structures are approximately 400 feet from the edge of the project area. Other land uses within 0.5 mile of the Project Area include storage of equipment, vehicles, scrap yards, and storage units (see Attachment B - Vicinity and Project Site maps).

REPs are subject to Inyo County Code (ICC) Title 21 as well as the Inyo County Renewable Energy General Plan Amendment (REGPA<sup>1</sup>) and all requirements thereof. The REGPA was adopted by the County in March 2015 as a plan to help guide and regulate renewable energy development throughout Inyo County. As part of the REGPA process, a Programmatic Environmental Impact Report (PEIR<sup>2</sup>) was prepared pursuant to section 15168 of the California Environmental Quality Act (CEQA) Guidelines to address state-mandated

<sup>1</sup> <https://www.inyocounty.us/sites/default/files/2020-04/FinalREGPA33015.pdf>

<sup>2</sup> <https://www.inyocounty.us/services/planning-department/environmental-reviews>

renewable energy demands and potential future utility-scale renewable energy projects within the County's footprint. The PEIR was certified by the County in 2015 alongside the REGPA and the proposed project is also subject to its terms. The proposed project is located within the Southern Solar Energy Development Area (SEDA) as approved and identified in the REGPA. The Southern SEDA allows for up to 600-acres of solar photo voltaic development.

Pursuant to section ES.7 of the PEIR, proposed solar energy projects *greater* than 20 MW are examined in light of the PEIR to determine whether any additional environmental document must be prepared while solar energy projects *up to* 20 MW may be exempt from further CEQA analysis, unless an event specified in Public Resources Code (PRC) section 21166 has occurred. Whether such an event has occurred is a determination to be made by a qualified County planner and if such a determination is made, a Supplemental EIR or other CEQA document *may* be required.

PRC section 21166 states:

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

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

Mr. Barker's project proposes to install only a 1.2 MW commercial scale photovoltaic solar facility and is therefore exempt from further environmental review pursuant to the express terms of the PEIR unless one of the triggering events in section 21166 exists. Staff determined that none of the triggering events listed in subsections (a), (b) or (c) of section 21166 existed such that a subsequent or supplemental environmental impact report was required. In other words, the PEIR prepared for the REGPA is legally sufficient and no further environmental review is required for this project.

Nevertheless, out of an abundance of caution, staff recommended a Negative Declaration be prepared to ensure a greater extent of analysis and, in particular, to review air quality as the Trona area is prone to dust events. Accordingly, in December 2022, an Initial Study with a Mitigated Negative Declaration (ISMND)<sup>3</sup> was prepared by staff to consider possible significant impacts to environmental resources for the project. The project site was devoid of natural habitat/vegetation at the time the application was submitted so it was determined that neither a biological survey nor a cultural resources report were required. The State review period for the ISMND ended on December 27, 2022. The County received numerous public comments, but no comments were received from any local or state agencies, including the California Department of Fish and Wildlife or the Great Basin Unified Air Pollution Control District.

Based on the public comments received in response to the ISMND, the applicant decided to have a biological survey and air quality report prepared even though they were not required. The applicant requested staff revise and recirculate the ISMNDs<sup>4</sup> through the CEQA State Clearinghouse with the new

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<sup>3</sup> <https://www.inyocounty.us/services/planning-department/current-projects>

<sup>4</sup> <https://www.inyocounty.us/services/planning-department/current-projects>

information. Since the biological survey and air quality report were prepared for both projects as one, staff prepared the recirculated ISMNDs as a combined project, but submitted them to the CEQA Clearinghouse with two ISMNDs – one for each project – to ensure each separate permit application was processed correctly. The State review period for the recirculated ISMND ended on August 17, 2023. Like the first circulation, no comments were received from any local or state agencies though, again, numerous public comments were submitted by community members opposed to the project, including comments from attorneys retained by these community members.<sup>5</sup>

The additional surveys found no special status species on the project site; however, the bio-survey identified potential habitat for nesting birds and a possible wildlife corridor for the Desert Kit Fox. This led staff to add conditions of approval to the project to mitigate any potential impacts related to the nesting birds and wildlife corridor. The air quality study likewise did not identify any issues, but staff added conditions of approval to mitigate air quality during construction to minimize fugitive dust. Conditions of approval were also added for noise during construction. These conditions were put into a Mitigation, Monitoring Report table format to help make them more understandable to the public. (See Attachment D – Planning Commission Staff Report).

On October 25, 2023, the proposed project was presented to the Planning Commission and a duly noticed public hearing was held. During the public hearing the Commission heard from staff, the applicant, and several members of the public on various aspects of the project, including easements, fire risk, noise, dust in the area, and visual resources. The neighbors raised objections and opposed the project but did not request or accept any additional or modified conditions of approval, including, for example, the suggestion of a privacy fence to help mitigate visual impacts. After considering all evidence presented to it during the hearing, the Planning Commission approved REP 2022-01/Barker with Findings and Conditions of Approval. A Notice of Decision and Notice of Determination were filed for the project soon after (Attachment E – Notice of Decision and Determination) (Attachment F – Planning Commission Minutes).

The Planning Commission's decision was timely appealed by John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller (Appeal 2023-02). In their November 8, 2023, Appeal Letter, Appellants assert the following nine grounds as the basis for their appeal. Note that essentially all the appeal points are repeated from the CEQA comments submitted by the Appellants earlier in the process and the majority of staff responses below are taken directly from staff and applicant responses provided to the Planning Commission (see Attachment D)

- 1. Failure to approve a reclamation plan and financial assurances for the REPs. (County Code, §§ 21.20.030, -040, -070; REGPA Implementation Policy 10; General Plan Policy MER-2.8; REGPA mitigation measure Bio-3).**

**Response:**

ICC Chapter 21.20.030 states in pertinent part:

*Any person who submits an application for a renewable energy impact determination or a renewable energy permit shall, at the time of the submission of the application, submit a*

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<sup>5</sup> Most of the comments raised perceived CEQA issues, which issues were promptly responded to by staff and the applicant's attorney. These comments and all responses were included in the materials provided to the Planning Commission (Attachment C - Comments and Responses regarding the CEQA documents).

*plan for reclamation/revegetation of the site of the facility once the facility is decommissioned or otherwise ceases to be operational. The reclamation plan shall be based upon the character of the surrounding area and such characteristics of the property as type of native vegetation, soil type, habitat, climate, water resources, and the existence of public trust resources...*

*...the county planning commission ... in the case of a renewable energy permit, shall impose as a condition of approval, a plan for the reclamation/revegetation of the site of the facility at the time that the facility is decommissioned, or otherwise ceases to be operational, and shall establish site-specific criteria for evaluating and monitoring compliance with the approved reclamation plan.*

In compliance with the above, Mr. Barker submitted a draft reclamation<sup>6</sup> plan with his initial application packet in February 2023. However, due to the continuing changes to the project – primarily the recirculation of the ISMND – the applicant was given additional time to finalize this plan, and on October 25, 2023, the Planning Commission approved the Trona 7 project with the following conditions of approval:

3. *Decommissioning Plan and Financial Assurance*

- *As per section 21.20.030 of ICC, the owner/developer shall submit a staff approved decommissioning plan prior to the issuance of grading or building permits.*
- *As per section 21.20.040 of ICC, the owner/developer shall have secured financial assurances/surety bond prior to the issuance of grading or building permits.*
- *The owner/developer shall submit an updated reclamation plan and updated financial assurance/surety bond to the Inyo County Planning Department every 5 years.*

Chapter 21.20.030 does not require the reclamation plan to be in its final form at the time it is submitted or at the time the Planning Commission considers the REP application for approval. It also does not require the Planning Commission to review the draft plan. Instead, it simply directs the Planning Commission to condition approval of the REP on the existence of said plan. Here, by imposing, as a condition of approval, the requirement that Mr. Barker submit a staff-approved decommissioning plan prior to the issuance of grading or building permits, the Planning Commission did what the code required.

Pursuant to ICC Chapter 21.20.040, as a condition to the approval of a renewable energy permit, and in order to ensure reclamation will be effectuated, the Planning Commission must also require financial assurances from the applicant that meet the criteria listed in subsections A-F of the same. The Planning Commission included this condition as required by the ICC.

ICC Chapter 21.20.070 states as follows:

*Prior to the issuance of a renewable energy impact determination or the granting of a renewable energy permit, the county planning commission must find that, through the imposition of mitigation measures, the approval of a reclamation plan, the receipt of*

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<sup>6</sup> Reclamation and decommissioning are used interchangeably throughout.

*adequate financial assurances, and by other conditions incorporated into the determination or imposed upon the permit, the health, safety and welfare of the county's citizens, the county's environment, including its public trust resources, and the county's financial well-being, have been adequately safeguarded.*

The Planning Commission adopted REP 2022-01 with conditions of approval directly addressing mitigation measures, approval of a reclamation plan, and receipt of adequate financial assurances. By considering these conditions as presented by staff during public the hearing, and adopting them, the Planning Commission determined that the conditions of approval addressing all elements listed in Chapter 21.20.070 adequately safeguarded the public health welfare and safety<sup>7</sup>.

General Plan Policy MER-2.8. mandates staff to work with applicants to develop their reclamation plans and ensure those plans contain certain elements and meet certain criteria. These are the guidelines staff follow when approving the final reclamation plan (which in this case will occur before Mr. Barker qualifies for building or grading permits). The REGPA Implementation Policy #10 requires staff to “*Review and approve reclamation plans and financial assurances at the onset of renewable energy solar facility development projects and oversee the full implementation of reclamation plans at the decommissioning and termination of renewable energy solar facilities.*” The Condition of Approval that requires a reclamation plan and financial assurances prior to the issuance of grading or building permits meets this requirement since it is with those permits that development will begin. Nothing in MER-2.8 or Policy #10 suggests the County acted inappropriately or in violation of its own codes and regulations in the processing of Mr. Barker's application.

With regard to Mitigation Measure BIO-3, it does not apply to the Trona 7 project because it, like all the mitigation measures in the PEIR, applies to solar photovoltaic projects located in designated SEDAs that produce *more than* 20MW of electricity. An exception to this rule exists if a specified event in section 21166 has occurred. Staff determined no such event had occurred.

The Final PEIR Volume II, page 4.4-122 states:

*“Biological resources mitigation measures have been developed for solar energy development projects **producing more than 20 MW** of electricity for off-site use (**utility scale**) and would be implemented to mitigate adverse impacts to biological resources. As previously mentioned, small scale solar energy projects are considered to result in no impacts under CEQA; however, all individual solar energy facility project applications (including small scale, community scale, and distributed generation commercial scale) **shall be reviewed by the County, and the need for implementation of the following mitigation measures shall be determined based on the professional judgment of a qualified county planner, pursuant to ICC Title 21 and State CEQA Guidelines.** For example, community scale solar developments (i.e., roof- or ground-mounted PV panels for a specific community's use) may be determined by a qualified county planner to have no potential impact on biological resources and would not require a biological resource evaluation or implementation of the biological resources mitigation measures listed in this section. **In***

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<sup>7</sup> See also Attachment E - Notice of Decision and Determination, Finding #6 wherein the Planning Commission made a health, welfare and safety finding supported by Environmental Health. This finding, along with the conditions of approval, adequately address 21.20.070.



*such cases, the County shall document that no impacts to biological resources would occur and no mitigation measures are necessary in lieu of the biological resources evaluations required in Mitigation Measures BIO-1 through BIO-3". (emphasis added)*

Based on this language, the Trona 7 project (producing less than 20 MW) is exempt from Mitigation Measure BIO-3. Nevertheless, a qualified biologist conducted a plant and wildlife (biological) survey of the proposed project site and found no special status plant or animal species. Potential habitat and a wildlife corridor were identified, and a mitigation and monitoring program was prepared for the project based on the biologist's findings. No further obligation to the mitigation and monitoring program set forth in the PEIR was required due to the county's actions regarding the project's CEQA evaluation with the ISMND.

**2. Piecemealed CEQA review by splitting the overall renewable energy project (comprised of both REP 22-01 and 22-02) into two separate MNDs.**

**Response:** The Appellants assert the County analyzed the two separate applications (REP 22-01 and 22-02) in a "piecemeal" manner that is prohibited by CEQA. Section 15378 of the CEQA Guidelines broadly defines a project under CEQA as "the whole of the action" that may result either directly or indirectly in physical changes to the environment. Impermissible piecemeal review occurs when a large project is broken up into one or more smaller ones – each with minimal potential impact on the environment – which cumulatively may have significant consequences (*Planning & Conservation League v. Castaic Lake Water Agency* (2009) 180 Cal.App.4<sup>th</sup> 210, 235).

In this case, two ISMNDs were circulated for the two projects. The first set resulted in public comments regarding possible biological and air-quality impacts. This caused the applicant to have a bio-survey and air quality report conducted for the projects, which were prepared as if this was one project. The applicant then requested that staff recirculate the ISMNDs. This does not qualify as piecemealing for two distinct reasons:

1. Mr. Barker filed two separate REP applications for two separate solar facilities on contiguous land (Trona 7 and Trona 4). Each facility connects separately to the SCE utility grid and has its own energy contract, therefore each needs to have its own permit to operate.
2. Because the two proposed facilities have a common applicant, are in proximity to each other, and would have similar impacts, the second Initial Study evaluated the environmental impacts of both applications as one Project, but again 2 ISMNDs were resubmitted to the State Clearinghouse one for each project, meaning Trona 7 was evaluated along with Trona 4 and Trona 4 was evaluated along with Trona 7. Throughout the recirculated Initial Study process and all supporting documents, the two separate projects are treated and referred to as one single project. Piecemealing occurs when one large project is cut into smaller portions in order to analyze smaller segments. In this case, the County took two individual projects and analyzed them as one, single project.

Furthermore, the County's decision to prepare two separate approvals was based on its administrative need to render a decision on two separate applications. While Appellants incorrectly label this as piecemealing, they also fail to acknowledge that the ISMNDs are

identical in the subject matter and conclusions. Further, they fail to provide any legal authority prohibiting a lead agency from preparing multiple approvals, each supported by a separate ISMND, for multiple applications supported by a single, combined environmental review.

**3. Failure to include draft mitigation monitoring and reporting plans ("MMRP") in the MNDs for public review and comment as required by the ICC.**

**Response:**

ICC 15.44.020 states as follows:

*Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment. The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR.*

This language requires the County to ensure the MMRP is available to the public for review and comment and that the plan is included in the proposed MND and adopted at the time the MND is adopted. This language does not require the County to circulate the MMRP with a MND and the Appellants incorrectly suggest it does. Further, nowhere in the CEQA Guidelines does it require an agency to include the reporting/monitoring plan in the draft MND. (See CEQA Guidelines, §§ 15073, 15073.5, and 15097.)

In this case, the County complied with all applicable laws and regulations in its treatment of the MMRP. Specifically, the MMRP, along with the ISMND, was made available to the public via the County's website on October 14, 2023, through the notice of hearing published for the Planning Commission meeting that took place on October 25, 2023 (this is more than the ten days required by law for notice). The notice included a direct link to the Planning Commission materials which included the MMRP and ISMND. These materials were also made available to the public at the Planning Department office. Following the public hearing on October 25, 2023, the Planning Commission approved the project along with the MMRP and the MND.

**4. Failure to properly incorporate the REGPA Programmatic EIR and its MMRP into the County's CEQA review for the Project.**

**Response:** This was not necessary per the Final PEIR Volume II prepared pursuant to section 15168 of the CEQA Guidelines for the REGPA. Specifically, page ES.7 of the PEIR states:

*"This document has been prepared as a program-level EIR pursuant to Section 15168 of the State CEQA Guidelines to document the environmental impacts of solar energy development within the County. The contents of this PEIR represent the independent judgment of the County (State CEQA Guidelines Section 15050). Subsequent, proposed solar energy projects greater than 20 MW would be examined in the light of this PEIR to determine whether any additional environmental document must be prepared (State CEQA Guidelines Section 15168(c)). Solar energy projects up to 20 MW may be exempt from further CEQA analysis, unless an event specified in Public Resources Code Section 21166 occurs as determined by a qualified County planner, in which case a Supplemental EIR or other CEQA document may be required."*

The County determined the PEIR to sufficiently address certain potential impacts of the project and those that were thought to require site-specific analysis were properly assessed with an ISMND that integrates enforceable mitigation measures based on the recirculated initial study. This falls directly under the direction of ES-7 as a qualified planner made the decision to require an “*other CEQA document.*”

**5. Violating CEQA by conflating analysis of Project impacts and mitigation measures.**

**Response:** Appellants raise this same issue in their comment letter to the Planning Commission and based on that letter it would appear they are incorrectly applying EIR-level standards to the initial study prepared for this project. In other words, they seem to imply that an IS needs to contain the same level of detail and analysis required for an EIR and on that basis claim the County erred in its preparation of the MND.

Pursuant to CEQA Guidelines section 15063(a)(3), an initial study is “*neither intended nor required to include the level of detail included in an EIR*”. Further, in this case the IS prepared for this project indicated “No Impact” or “Less than Significant Impact” for nearly all applicable categories. The checklist made a finding of “Less Than Significant with Mitigation Incorporated” for only three categories and appropriate mitigation measures were put into place for all three – biological resources (nesting birds and Kit Fox travel through the site), air quality (dust), and noise during construction. This was done by conditioning the project with pre-construction bio-surveys, dust management and suppression during construction and operation, and noise suppression during construction. Failure of the applicant to meet any of the conditions of approval, including the mitigation measures, may result in revocation of the REP.

The IS did not make any findings of “Potentially Significant Impact” and therefore an EIR was not required. The use and preparation of the MND was appropriate and done in compliance with the PEIR and CEQA Guidelines.

**6. Failure to prepare EIRs despite the existence of a fair argument of significant environmental impacts.**

**Response:** Again, the Trona 7 project is exempt from further CEQA analysis pursuant to the express terms of the PEIR. Staff elected to conduct further environmental review anyway and prepared a MND. A MND is appropriate when the environmental effects of the project can be avoided or mitigated to the point where clearly no substantial evidence, in light of the whole record, is presented that the project may have a significant effect (CEQA Guidelines § 15064(f)(2)). In this case, no impacts were identified in the IS that met the threshold to trigger an EIR. The use and preparation of the MND was appropriate and done in compliance with the PEIR and CEQA Guidelines.

Ignoring this, the Appellants claim a “fair argument” exists such that an EIR must be prepared. Pursuant to CEQA Guidelines section 15064(f)(1), the fair argument standard means that if a “fair argument” can be made that a project may have a significant effect on the environment, an EIR must be prepared. Pursuant to CEQA Guidelines section 15384, to support the existence of a fair argument of significant environmental impacts, the Appellants must provide substantial evidence that includes facts, reasonable assumptions predicated upon facts, and expert opinion

supported by facts. The Appellants incorrectly rely on argument, speculation, and unsubstantiated opinion and narrative and fail to provide any evidence, let alone substantial evidence, to support their claim that the Trona 7 project may have significant effects on the environment to necessitate the preparation of an EIR.

**7. Reliance on mitigation measures that are inadequately defined, unenforceable, and of unknown effectiveness to conclude that environmental impacts are less than significant.**

**Response:** The mitigation measures set forth for the project, and included as conditions of approval, were derived from the biological survey and air quality study conducted. The biological survey suggested mitigation measures which were prepared by a qualified biologist and the air quality study suggested mitigation measures prepared by a consulting firm that specializes in air quality and greenhouse gas impacts. Based on these experts' opinions, the mitigation measures created for the project would result in environmental impacts that are less than significant. Like all the conditions of approvals, these mitigation measures are fully enforceable<sup>8</sup>. If the applicant fails to follow or properly implement any of the conditions, the REP may be revoked.

Appellants fail to specify which mitigation measures they take issue with. They also fail to provide any facts, substantial evidence, or compelling argument and rely on vague, conclusory statements to support their contention that one or all of the mitigation measures are deficient. (See CEQA Guidelines § 15384.).

**8. Inadequate identification of cumulative projects and analysis of cumulative impacts.**

**Response:** Appellants raise this same issue in their comment letter to the Planning Commission and based on the language in that letter it would appear that they fail to recognize the difference between a cumulative analysis required for an EIR and that which is required for an initial study supporting a negative declaration. To argue their point, Appellants rely on CEQA Guidelines sections 15130 and 15355, which govern the cumulative impacts analysis in an EIR. An EIR was not prepared for this project because it was not required to be prepared therefore requirements for an EIR do not apply.

In response to the comment letter, on this discrete point, the applicant's attorney explained:

*The correct method for assessing – in an initial study – whether impacts are cumulatively considerable is described in Section 15065(a)(3) of the CEQA Guidelines, as interpreted and applied by San Joaquin Raptor/Wildlife Rescue Center and related cases. The question is whether the “incremental effects” of a project are “considerable” when evaluated against the backdrop of environmental effects of other projects. (San Joaquin Raptor, 42 Cal.App.4th at pp. 623-624.) Where the initial study concludes that these effects are absent, a challenger must point to some substantial evidence that a cumulatively considerable incremental effect exists. (See response letter from Harrison, Temblador, Hungerford & Guernsey at Attachment C).*

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<sup>8</sup> The mitigation and monitoring program provides direction for what particular agency or county department is responsible for particular aspects of the project monitoring and when it should occur.

The IS is supported by substantial evidence showing that the Projects will have no considerable incremental effects requiring the preparation of an EIR and Appellants have failed to show otherwise.

**9. Inadequate analysis and disclosure of environmental impacts.**

**Response:** Pursuant to the REGPA, staff reviewed the project first under the lens of the PEIR and although not necessary, decided to produce an ISMND for the project, primarily to address possible dust in the area. Based on public comment, and at the applicant's request, a recirculated ISMND was subsequently created to further evaluate possible environmental impacts. A biological survey and an air quality analysis were also conducted for the ISMND. All possible impacts were evaluated, disclosed, and where appropriate, mitigated through the ISMND process. These documents were also circulated pursuant to CEQA Guidelines and sent to the State Clearinghouse for State Agency review and the County Recorder for public comment. As already stated, public comment was addressed.

This project is expressly allowed by virtue of its location within an adopted SEDA as set forth in the Inyo County REGPA. The County determined no further environmental review was required pursuant to the PEIR but still prepared an ISMND, which was circulated and then recirculated again with a biological and air quality study. Based on the ISMND, and the administrative record as a whole, substantial evidence that the project has a significant impact on the environment does not exist.

Further, as evidenced in the record, the applicant has gone above and beyond that which is legally required to appease the appellants throughout this process, including supporting additional (un-mandated) environmental reviews, supporting a second circulation of the ISMND with a biological survey and air quality report, and remaining open to additional conditions of approval as were discussed during the Planning Commission's public hearing.

The County's preparation and use of the ISMND was proper and complied with all applicable laws and regulations and the Appellants have failed to show otherwise.

**Recommended Actions:**

Staff recommends the Board deny the appeal and uphold the Planning Commission's decision to approve REP 2022-01/Barker

**ALTERNATIVES:** The Board may consider the following alternatives.

1. Do NOT approve the requested actions. (Denial of the Appeal and upholding the Planning Commission decision to approve is recommended.)
2. Return to staff with direction.

**OTHER AGENCY INVOLVEMENT:** N/A

**FINANCING:** Costs to process the application and appeal are paid for by the applicant and the \$300 appeal fee was paid for by the appellants.

<b><u>APPROVALS</u></b>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

***DEPARTMENT HEAD SIGNATURE:***

(Not to be signed until all approvals are received)

\_\_\_\_\_ Date: \_\_\_\_\_

Attachments:

ATTACHMENT- A

APPEAL LETTER

November 8, 2023

**SENT VIA EMAIL AND OVERNIGHT MAIL**

(boardclerk@inyocounty.us)

Inyo County Board of Supervisors  
Attention: Clerk of the Board  
P.O. Drawer N  
Independence, California 93526

**Re: Appeal of Planning Commission's October 25, 2023  
Actions on Action Items 5 and 6:  
Renewable Energy Permit 2022-01/Barker,  
and Renewable Energy Permit 2022-02/Barker**

Dear Inyo County Board of Supervisors:

On behalf of John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller ("Appellants"), this letter appeals the Planning Commission's actions regarding Action Items 5 and 6 on the October 25, 2023 agenda, which include approvals of the Renewable Energy Permit ("REP") 2022-01/Barker and REP 2022-02/Barker (collectively, the "Project") and adoption of two separate mitigated negative declarations ("**MND**") for the Project ("Appeal"). The Appeal is submitted pursuant to Inyo County Code ("ICC") Chapters 15 and 18.

Appellants are "interested person[s]" and "adversely affected" by the Planning Commission's actions. As explained in earlier communications, Appellants own property and reside in close proximity to the Project site and would be negatively impacted by the County's failure to adequately analyze and mitigate the Project's various environmental impacts in violation of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq. ["CEQA"]), the County's General Plan, Renewable Energy General Plan Amendment ("REGPA"), and County Code as set forth herein and in earlier comment letters. Further, Appellants previously provided comments regarding the adequacy of the MNDs as required by ICC section 15.52.010.



Applicants appeal the Planning Commission's actions<sup>1</sup> on the following grounds:

1. Failure to approve a reclamation plan and financial assurances for the REPs.(County Code, §§ 21.20.030, -040, -070; REGPA Implementation Policy 10; General Plan Policy MER-2.8; REGPA mitigation measure Bio-3);
2. Piecemealed CEQA review by splitting the overall renewable energy project (comprised of both REP 22-01 and 22-02) into two separate MNDs;
3. Failure to include draft mitigation monitoring and reporting plans ("MMRP") in the MNDs for public review and comment as required by the ICC;
4. Failure to properly incorporate the REGPA Programmatic EIR and its MMRP into the County's CEQA review for the Project;
5. Violating CEQA by conflating analysis of Project impacts and mitigation measures;
6. Failure to prepare EIRs despite the existence of a fair argument of significant environmental impacts;
7. Reliance on mitigation measures that are inadequately defined, unenforceable, and of unknown effectiveness to conclude that environmental impacts are less than significant;
8. Inadequate identification of cumulative projects and analysis of cumulative impacts;
9. Inadequate analysis and disclosure of environmental impacts.

The above grounds for appeal are supported by numerous public comments previously submitted by this firm and directly by Appellants. That said, Appellants will also submit additional briefing and supporting evidence in accordance with Inyo County's *Board Governance and Rules of Procedure*, Rule 22. Such additional briefing

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Since the County has prepared substantively identical staff reports and CEQA documents for the REP 22-01 and 22-02, these grounds for appeal apply to both approvals. Further, in an abundance of caution, Appellants have tendered two \$300 checks for appeal fees.

County of Inyo  
Board of Supervisors  
November 8, 2023  
Page 3 of 3

will include detailed responses to the applicant's recent letter purporting to address public comments on the Project and MND.

Very truly yours,

**SOLURI MESERVE**  
**A Law Corporation**

By:



Patrick M. Soluri

cc via email:

Darcy Ellis, Assistant Clerk of the Board, [dellis@inyocounty.us](mailto:dellis@inyocounty.us)  
Cynthia Draper, Assistant Planner, [cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)  
Inyo County Planning Department, [inyoplan ni ng@inyocou nty.us](mailto:inyoplan ni ng@inyocou nty.us)

Attachments via overnight delivery:

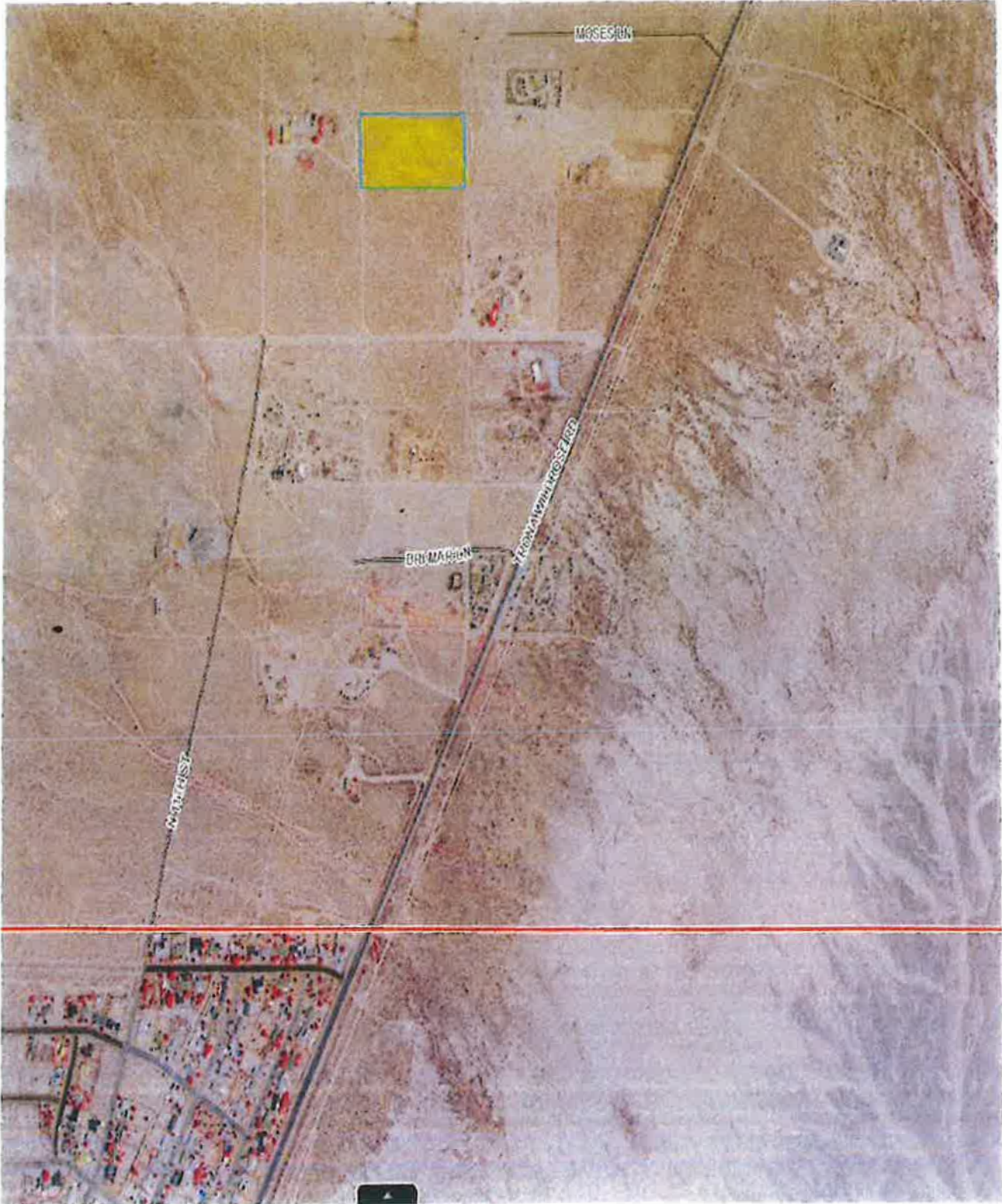
Check numbers 4391, 4392 in the amount of \$300 each

ATTACHMENT- B

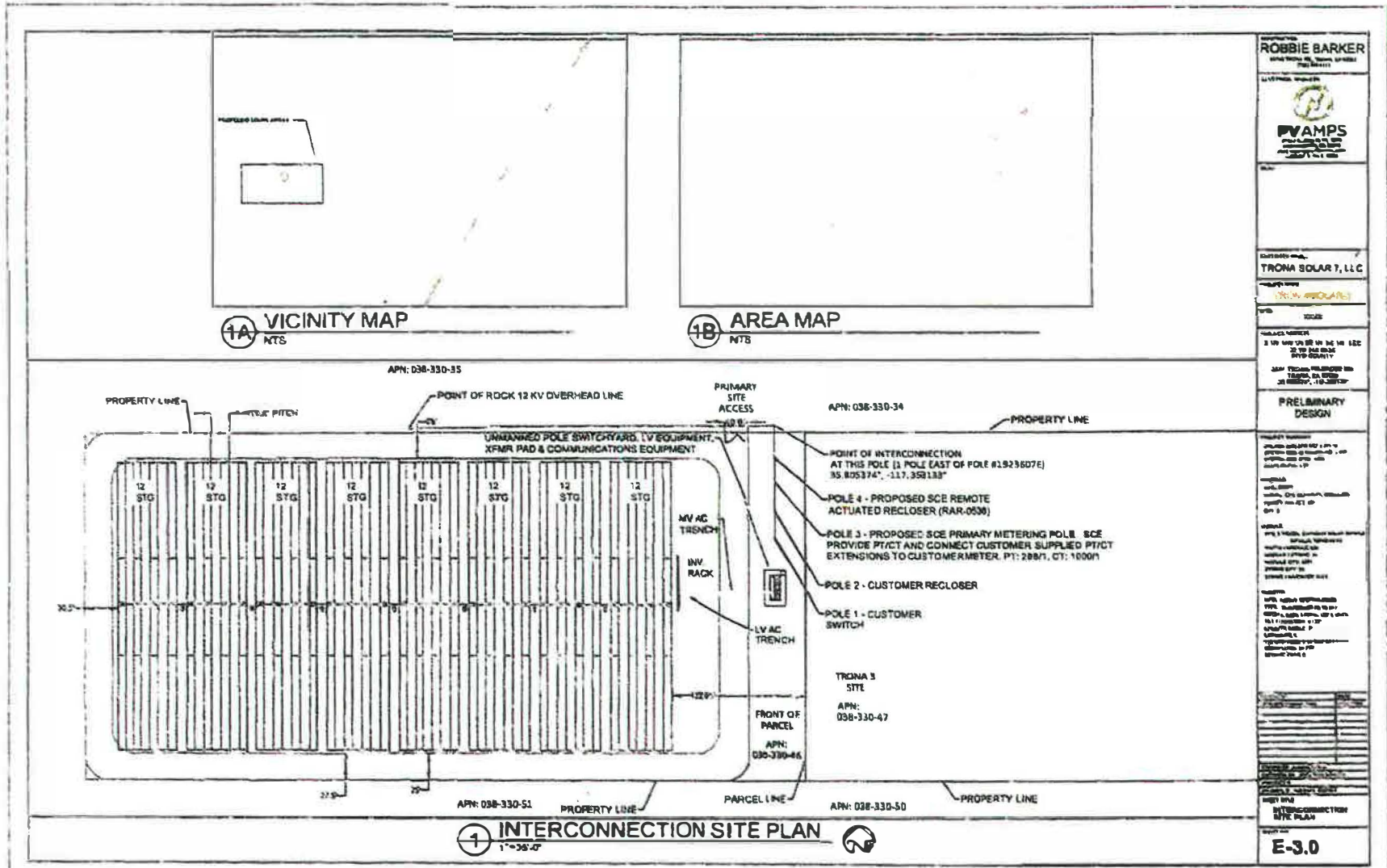
VICINITY MAP  
AND SITE PLAN

# VICINITY MAP

REP 2022-01/ BARKER  
APN 038-330-46



# REP 2022-01/BARKER SITE PLAN



**ROBBIE BARKER**  
 1515 W. 10th St., Suite 100  
 Phoenix, AZ 85001



**TRONA SOLAR, LLC**

**PRELIMINARY DESIGN**

**DESIGNER'S RESPONSIBILITY**  
 The designer shall be responsible for the design and construction of the solar array and associated electrical equipment, including but not limited to the solar panels, inverters, and associated wiring and equipment. The designer shall also be responsible for obtaining all necessary permits and approvals from the appropriate authorities.

**OWNER'S RESPONSIBILITY**  
 The owner shall be responsible for providing all necessary information and data to the designer, including but not limited to the site location, access, and any existing utilities or structures. The owner shall also be responsible for obtaining all necessary permits and approvals from the appropriate authorities.

NO.	REVISION	DATE

ATTACHMENT- C

CEQA COMMENTS



**California Program Office**

P.O. Box 401, Folsom, California 95763 | 916-313-5800

[www.defenders.org](http://www.defenders.org)

August 25, 2023

Cynthia M. Draper, Assistant Planner  
Inyo County Planning Department  
168 N. Edwards Street  
Independence, CA 93526  
Delivered via email to: [cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)

RE: Renewable Energy Permit – Barker-Trona 4 (SCH 2022110323) and  
Renewable Energy Permit – Barker-Trona 7 (SCH 2022110344)

Dear Ms. Draper:

Thank you for the opportunity to provide comments in response to the Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Studies (DMND) for the proposed Barker-Trona 4 Solar and Barker-Trona 7 Solar Farms (collectively, the “Projects”). Defenders of Wildlife (Defenders) is dedicated to protecting all wild animals and plants in their natural communities and has nearly 2.1 million members and supporters in the United States, with more than 316,000 residing in California. We strongly support renewable energy development that will help meet California’s emission reduction goals and avoids destruction of important wildlife habitat and the loss of at-risk species. Achieving a low-carbon energy future is critical for protecting California’s internationally treasured wildlife, landscapes and diverse habitats.

The proposed Projects are solar photovoltaic PV electricity generating facilities and associated infrastructure: Barker-Trona 4 would generate 3.0 MW of renewable energy on a 15-acre parcel and Barker-Trona 7 would generate 1.2 MW on an adjacent 5-acre parcel, located in Inyo County west of Trona Wildrose Road, between the Trona Airport and the border of San Bernardino County. The Projects were submitted under separate applications due to their separate interconnections to the existing Southern California Edison 33kV transmission line that passes through the area. The Project site is zoned as rural residential, and the area of both Projects is described as graded and “highly disturbed,” with “no natural vegetation, habitat, water features, or structures.” Portions of the Barker-Trona 4 site were previously used as “a private dirt track and a junk yard.” Additionally, the Projects are located within a designated Inyo County Solar Energy Development Area,<sup>1</sup> and are not located within Natural Landscape Blocks,<sup>2</sup>

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<sup>1</sup> See <https://databasin.org/maps/new/#datasets=d035971f69f84ba9b3fdb2ed551a442>

<sup>2</sup> See <https://databasin.org/maps/new/#datasets=e1bb8c9a9631413f97b28cc72a5efe93>

Essential Connectivity Areas,<sup>3</sup> mapped critical habitat,<sup>4</sup> or state or global Important Bird Areas.<sup>5</sup> While the site lies partially in areas designated as modeled predicted occupied habitat for the desert tortoise,<sup>6</sup> Defenders concurs with the Projects' Biological Resource Evaluation, which concluded that neither tortoises nor suitable habitat are present on the site.

As we transition toward a clean energy future, it is imperative that we consider the near-term impact of solar development on our biodiversity, fish and wildlife habitat, and natural landscapes while addressing the long-term impacts of climate change. Therefore, renewable energy projects must be planned, sited, developed and operated to avoid, minimize and mitigate adverse impacts on wildlife and lands with known high-resource values. Defenders finds the Projects are fully consistent with these criteria through being sited on previously distributed lands and applying appropriate mitigation measures to reduce the impact on special-status species in the region, including desert kit fox and birds protected by the Migratory Bird Treaty Act, as outlined on page 6-18 of the Biological Resource Evaluation. These measures include conducting pre-activity surveys and equipment inspections, avoidance buffers, worker training, speed limits, covering of holes and trenches, and proper waste management processes. We encourage the County to continue siting renewable energy projects in low-conflict areas in order to avoid or minimize impacts on sensitive species.

Thank you once again for the opportunity to provide comments on the DMND for the Barker-Trona 4 and 7 projects and for considering our comments. We look forward to reviewing the Final Environmental Documents for the Projects and request to be notified when they are available. Please feel free to contact us with any questions.

Respectfully submitted,



Aimee Delach  
Senior Policy Analyst, Climate Adaptation  
202-682-9400 x271  
[ADelach@defenders.org](mailto:ADelach@defenders.org)



Sophia Markowska  
Senior California Representative  
408-603-4694  
[SMarkowska@defenders.org](mailto:SMarkowska@defenders.org)

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<sup>3</sup> See <https://databasin.org/maps/new/#datasets=c57212b3aa1243d28216a1b7db18a1ca>

<sup>4</sup> Per Figure 4-1, Trona 4 and 7 Solar Project Biological Resource Evaluation, at <https://ceqanet.opr.ca.gov/2022110323/2>

<sup>5</sup> See <https://databasin.org/maps/new/#datasets=1180b50bafce4871a019245da1c8b6b2>

<sup>6</sup> See <https://databasin.org/maps/new/#datasets=a1f5e25b9b944f9fa6aa3be8f54f8a2e>





August 25, 2023

FROM: John Mays

85517 12<sup>th</sup> St. (P.O. Box 583)

Trona, CA 93592

TO: Inyo County Planning Department via email [inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us)

Attn: Cynthia Draper [cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)

CC: Patrick Soluri [patrick@semlawyers.com](mailto:patrick@semlawyers.com), Tom Kidder [tkidder85@gmail.com](mailto:tkidder85@gmail.com), Amanda Mcnamara-Ball [akmcmamara80@gmail.com](mailto:akmcmamara80@gmail.com), Brian McNamara [b.mcnamara1951@gmail.com](mailto:b.mcnamara1951@gmail.com)

RE: Comments on Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Study (Initial Study) dated July 19, 2023, for REP 2022-01 and REP 2022-02

1.) The new documents fail to sufficiently address any comments previously submitted on REP 2022-01 and REP 2022-02 by myself, the others included on this email, or by my legal representation. All of these comments are resubmitted here by reference including those by Tom Kidder, Amanda, McNamara-Ball, and Brian McNamara. The additional comments herein are also being submitted on their behalf. Also, we wish to incorporate all our complaints sent to Inyo County regarding these projects since 2021 by reference.

2.) The Initial Study shows Inyo County Planning Departments repeated reluctance to perform the necessary CEQA analysis as guided by the Renewable Energy General Plan Amendment Final Programmatic Environmental Impact Report dated March 2015 (PEIR). Inyo County has failed to comply with CEQA requirements and effectively bypassed CEQA requirements by not performing the necessary environmental analyses that are enumerated by the PEIR. Compounded by the lack of enforcement and the repeated disregard for permitting procedures, destruction of environmental resources and endangerment of human health has occurred. The Inyo County Planning Department should not be allowed to conduct any such approval for solar permits until it can demonstrate proper compliance with CEQA requirements and its own regulations.

3.) The new biological evaluation as provided with the new Initial Study is a grossly insufficient analysis designed only to advance the project. It represents a token glance done in only 58 minutes at the project site. The necessary biological evaluation that is needed to accurately assess biological impacts is described in detail by the PEIR and has been mentioned at length in previous comments. A representative evaluation would require multiple visits over the full year to account for seasonal variations of wildlife and plant species and multiple observations to substantiate the presence of or lack of any species. The authors' own comments confirm that the study is insufficient, stating it is "limited by the scope of work performed" and "limited by conditions present at the time of the study." The US FWS

letter appears to be a form letter automatically generated on the same day of the study and represents no actual consultation with US FWS. All of this is typical of the methods of cursory review repeatedly applied by the Inyo County Planning Department. This has nothing to do with accurately assessing impacts but purely designed to avoid substantial review by understating the impacts on the ecology of the project.

4.) The biological evaluation does, however, strongly document the destruction of wildlife habitat and plant life caused by the illegal and repeated pre-permit construction efforts. Despite numerous reports and documentation provided, Inyo County has continued to allow this site destruction repeatedly throughout the permit process. This directly subverts the environmental laws of the State of California and requirements of CEQA. Clearly, the lack of concern for wildlife being present at the project and minimal impacts on wildlife and plants within the biological evaluation resides primarily on the fact that the project “has been disked and exhibits little vegetation regrowth” and is thus devoid of habitat. In fact, the site has been graded with vegetation removed so extensively that it represents an intentional farming practice that completely turns the soil. Such disking destroys any animal burrows which would be evidence of food sources or homes for species. It also destroys the vegetation on which such Endangered or Special Status Species live upon or within.

5.) The eye-blink biological evaluation is essentially certain to have overlooked species which may have been just simply missed, transient, or seasonal to the site including Mojave Ground Squirrel, Burrowing Owl, Desert Tortoise, and other Endangered and Special Status Species as listed by US FWS as potentially occurring in the area. These are all typical in the region, have been reported by the observations of residents, and not addressed by the Initial study or mitigation provided.

6.) The new biological evaluation states that more detailed additional studies be done before construction. However, realistic, comprehensive biological studies need to be done before permit approval to ensure proper mitigation has been put in place before the permit can be issued.

As proposed by the approach in the biological evaluation, a vast number of species with potential to be present but that were not observed in this single 58-minute survey would not be protected. The biological evaluation recommends only surveying and mitigation for the desert kit fox and migratory birds but does not detail surveys or mitigation for numerous other wildlife and vegetation species which US FWS say could be present. This grossly avoids substantial mitigations required to protect wildlife and vegetation and thus increases the potential for a take. For this reason, complete biological studies must be completed in advance of a permit approval so that proper mitigation is in place.

7.) A report with analysis on dust generated provided by the new Initial Study is insufficient. It does not account for:

- dust generated from bare grounds during high winds
- actual conditions where dust control is not implemented
- a realistic construction period which is much greater than the assumed overall period of 2 months and 2 weeks of “minor” grading. This is especially overly optimistic as no grading or drainage plan has been envisioned. There is no provision for removal of large boulders which are prevalent through the subsurface and cause major difficulties in drilling the panel supports.

- dust generated from accumulated sand dune deposits at project fencing as evidenced in examples of California City solar plants as provided with previous comments. Does not account for fence construction and maintenance for windblown sand accumulations.

- does not account for heavy truck traffic on local roads to deliver project construction materials and operating supplies. Does not provide location of roads to be traveled as no access or road plan is provided. If using local dirt roads, this could be within a few feet of residences.

- does not assess the long-term and short-term effects on several nearby receptors which are residences within less than 500 ft, especially during wind events

- incorrectly steps the facility footprint substantial back from parcel boundaries although this is not the design, and no permit conditions require this. (fig.1). This improper mechanism to avoid dust and pollutants traveling across the project boundary.

- does not include the existing operating facility in its assessment of long-term and short-term impacts, REP 2021-01

The current solar facility, REP 2021-01, which is less than half the size of these proposed permits, has taken at least a couple of years to be constructed. Even now apparently, construction is still not finished. The project currently has stockpiled earthen materials and construction equipment on site. There has been grading of the site and placement of gravel during recent months.

As documented to Inyo County Planning Department, as reported January 13, 2022, all the surface of REP 2022-01 and REP 2022-02 was graded without dust control methods being applied and has been left that way since that date. Additional construction work with no dust control has been documented and reported in the last few months. Video was provided to Inyo County officials documenting extreme dust generation during high wind events.

An evaluation of impacts from dust generation and resulting health and equity impacts have not been sufficiently addressed by the new Initial Study and are grossly understated by the new analysis.

7.) The Initial Study does not address the fact that Inyo County is unable and unwilling to enforce dust control at the current operating solar facility and the proposed sites. It has been demonstrated by numerous reports that dust control procedures are not being followed and other unlawful construction practices are being allowed by the Inyo County without recourse. This negates any mitigation provided in the Initial Study proclaiming that dust control measures will be implemented and negates the determinations made by Inyo County in the Initial Study on impacts from dust.

8.) Attached is evidence of other complaints on Facebook regarding another solar site in Inyokern. This site is owned and being developed by the same owner/developer as REP 2022-01 and REP 2022-02 on July 22, 2023. This was during the same time when complaints were made regarding the Trona facility. The developer's repeated lack of compliance must be enforced otherwise there is no substance to mitigation that the Initial study is based upon. Inyo County cannot proceed with these permits until it can demonstrate proper management of its solar facilities, it has set a precedent to the contrary. Otherwise, substantial impacts to public health can occur.



WTF IS HAPPENING IN RIDGECREST · ...

Follow

Russ Lester · Jun 22 at 17:45 · 🌐

To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that...

See more 🗨️

To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that everyone has to drive thru. Just sayin

👍👎🗨️ 41

25 comments

👍 Like

🗨️ Comment

➤ Send

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15 comments

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👍 23 >

Top comments


**Kady Buckholz**  
I was just talking about this.  
1h Like Reply


**Jamie Weston**  
😂😂😂 I saw that the other day when I was doing a delivery.  
1h Like Reply

**Maria Jordan**  
Lamooo that's dumb lol like we can control when the wind blows  
49m Like Reply

**Donald Hitt**  
Solar field going in  
39m Like Reply

**Sharon Boyer**  
Drove through it!!  
1h Like Reply


**Mindy Spivey**  
  
1h Like Reply

**Ginger Brown**  
  
40m Like Reply

**Amanda McNamara**  
Call Kern County Planning Commission and complain. It's an air permit violation. They are supposed to keep a water truck on it all the time.  
2m Like Reply

**Tina Flanigan**  
Solar power.  
1h Like Reply

**Tamy Rice**  
Agreed  
1h Like Reply

**Ginger Brown**  
Call the county...valley fever because of clearing land like this ...o the county forgot to tell us ... U have to request the test if u have symptoms....and they need to water truck this to keep the dust down...they also must have a permit....people need to call...here is your info...  
  
40m Like Reply

**Anthony Levesque**  
No  
10m Like Reply

**Robbie Harper**  
Or at least plow the north 40 at less than 60!  
1h Like Reply

Write a comment...

9:02 [status icons] [Login]

LLC (202130910556)		
M&S INYOKERN CORP. (4661667)	> 11/05/2020	Active
RB INYOKERN SOLAR LLC (201615410405)	> 05/25/2016	Suspended - FTB
RB INYOKERN SOLAR WDAT 1203 LLC (202206311083)	> 03/02/2022	Active
RB INYOKERN SOLAR WDAT 1281 LLC (202206311152)	> 03/02/2022	Active
RIDGECREST INYOKERN RD, LLC (201623510120)	> 08/15/2016	Active
SIERRA PACIFIC INDUSTRIES, INYOKERN DIVISION (375961)	> 05/25/1959	Suspended - FTB
TA - INYOKERN, LLC (200932310149)	> 11/13/2009	Terminated

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9.) A full EIR is prescribed by CEQA for these projects and is required for these projects to advance. This was required by Kern County Planning for the owner/developer's solar facility in Inyokern. That study may be found here and serves as an example of the more extensive impact evaluation and coordination on biological evaluation necessary. This permitting action required incidental take permits for the Desert

Tortoise and Mojave ground squirrel. Since Inyo County allowed pre-permit construction this take may have already occurred.

<https://kernplanning.com/environmental-doc/rb-inyokern-solar-project/>







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510 8th Street · Sacramento, CA 95814

August 25, 2023

**SENT VIA EMAIL**

(inyoplanning@inyocounty.us;  
Cynthia Draper, Assistant Planner, cdraper@inyocounty.us)

County of Inyo  
Planning Commission  
168 North Edwards Street  
Post Office Drawer L  
Independence, California 93526

**Re: Recirculated MNDs for Renewable Energy Permit 2022-01/Barker and  
Renewable Energy Permit 2022-02/Barker**

Dear Ms. Draper:

On behalf of our client, John Mays, this letter provides comments regarding the two recirculated mitigated negative declarations (“RMND”) for Renewable Energy Permit (“REP”) 2022-01/Barker and REP 2022-02/Barker (collectively, the “Project”).

We previously submitted comments identifying numerous procedural and substantive violations of the California Environmental Quality Act (“CEQA”) associated with the two mitigated negative declarations (“MND”) previously prepared and circulated for the Project. We understand that the County has prepared the RMNDs that purport to correct some of the previously-identified deficiencies in the MNDs. For example, the RMND includes an appendix containing some “representative photographs” of existing conditions, a biological resources assessment and an air quality (“AQ”)/greenhouse gas emission report. Even with this new information, serious informational deficiencies persist. As described below, the RMNDs violate CEQA and cannot provide adequate environmental review for the Project.

**A. The RMNDs Fail to Include Mitigation Monitoring and Reporting Plans**

Although clearly identifying each document as an “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeatedly checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County fails to prepare Mitigation Monitoring and Reporting Program(s) (“MMRP”(s)). This violates

CEQA (CEQA Guidelines, § 15097) and also the Inyo County Code. (County Code, Ch. 15.44.) To wit:

15.44.005 General.

The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)

15.44.010 Application.

A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)

15.44.020 Timing.

***Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment.*** The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)

15.44.030 Contents.

The monitoring plan shall contain, at a minimum, the following:

- A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;
- B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);
- C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;
- D. Identification of the person or entity responsible for monitoring and verification;
- E. The method of reporting monitoring results to the county. (Ord. 957 § 1 (part), 1995.)

15.44.040 Enforcement.

Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)

Setting aside the RMND's practice of not identifying mitigation measures required to reduce Project impacts, the RMND's expressly identify mitigation measures in Sections IV(a), XIII(a) and XXI(a). Thus, the RMND's require a draft MMRP that is circulated for public comment. The RMND's are therefore procedurally invalid. A new RMND or EIR must be recirculated for public review along with the required MMRP.

**B. Project Piecemealing**

CEQA's conception of the term "project" is broad to maximize protection of the environment. (*Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist.* (2007) 147 Cal.App.4th 643, 653; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730. "This big picture approach to the definition of a project (i.e., including "the whole of an action") prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project into smaller components which, when considered separately, may not have a significant environmental effect." (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 270-271.)

The County is dividing a project into smaller components. The Project consists of two REPs for photovoltaic solar power generation on adjacent parcels owned by the same person, Robbie Barker. The RMNDs explain, "This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts." (RMND, p. 3.) Notwithstanding this, the County has prepared two separate RMNDs for the Project. These RMNDs include:

- "RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-01/Barker- Trona 7" (See Exhibit 1.)
- "RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-02/Barker- Trona 4" (See Exhibit 2.)

Dividing a single project into two CEQA documents violates CEQA. The relevant test is whether the activities have “substantial independent utility.” (*Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal.App.4th 712, 736.) It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by preparing two separate RMNDs for what it concedes is a single project under CEQA. A reviewing court would exercise its independent judgment on this issue with no deference to the agency. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)

We previously commented on this issue, and the RMNDs provided make the case for piecemealed review even stronger. Both RMND’s technical reports analyze the two REPs as a single project. The air quality report explains, “Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site (collectively referred to herein as the ‘Project’).” Similarly, the biological resources report states, “Biological Resource Evaluation – Trona 4 and 7 Solar Project.” The RMNDs themselves explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)

It appears that the County now recognizes the two REPs constitute a single CEQA project. If so, the County must prepare a single CEQA document for that single project. The County’s continued reliance on two separate CEQA documents for a single CEQA project violates CEQA.

### **C. Failure to Adequately Analyze Cumulative Impacts**

A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an environmental impact report (“EIR”). (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear

insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.)

Despite this mandate, the two RMNDs’ cumulative impacts analyses continue to be impermissibly cursory. Each RMND’s cumulative impact analysis provide in full:

No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note ***in the vicinity are PV solar projects within the Trona SEDA***, but the overall number and size of these projects are ***likely to be less than analyzed in the PEIR***. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.

(RMND, § XXI(b), emphasis added.)

This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) Here, the RMNDs appear to limit the scope of cumulative projects to those “within the Trona SEDA.” The RMNDs fail to explain this limitation, which violates CEQA. (CEQA Guidelines, § 15130, subd. (b)(3) [“Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used”].) The EIR for the Inyo County Renewable General Plan Amendment (“REGPA”) provided a reasonably expansive list of cumulative projects. (REGPA EIR, Table 5-1.) The County could have relied on that list of projects so long as it complied with CEQA’s requirements for tiering/incorporation by reference as well as updating a cumulative project list, but the County did not follow that procedure. (CEQA Guidelines, § 15130, subd. (b)(1); § 15150, subd. (c); § 15152.)

Similarly, the RMNDs appear to limit the scope of cumulative projects by stating that PV solar projects are the only projects “of note.” The RMNDs fails to explain what is meant by limiting cumulative projects to only those “of note.” CEQA includes no such limitation, and instead requires a CEQA document to set forth “[a] list of past, present, and probably future projects producing related or cumulative impacts.” (CEQA Guidelines, § 15130, subd. (b)(1)(A).) For example, the Project will unquestionably

result in dust generation. Projects other than PV solar projects may also generate dust and therefore must be identified as cumulative projects.

#### **D. The RMNDs Failed to Adequately Analyze and Mitigate Project Impacts**

The RMNDs failed to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 74 (*No Oil I*.) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (*Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (*No Oil I, supra*, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (*Id.* at p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.

In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This is assured by incorporation into an MMRP. (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation of Hillside & Canyon v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 (*Federation*).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See *San Bernardino Valley Audubon Society v. Metropolitan Water District* (1999) 71 Cal.App.4th 382, 392.)

Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (*Sundstrom v. County of Mendocino* (1988) 202

Cal.App.3d 296, 311 (*Sundstrom*.) For example, in *Sundstrom* the court held that the absence of information explaining why no alternative sludge disposal site is available “permits the reasonable inference that sludge disposal presents a material environmental impact.” (*Ibid.*) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.

**1. *The RMNDs impermissibly conflate analysis of impacts and mitigation.***

For every resource area, the RMNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 658 (*Lotus*) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.

For example, with respect to whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the RMNDs assert, “No . . . The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) CEQA requires the RMNDs to disclose the significance of the impact without regard for mitigation, separately identify all feasible mitigation measures and assess their effectiveness at reducing the impact. (*Lotus, supra*, 223 Cal.App.4th at 655-656 [“Caltrans compounds this omission by incorporating the proposed mitigation measures into its description of the project and then concluding that any potential impacts from the project will be less than significant. . . . By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA”].) The RMNDs follow this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural

resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.

**2. *Mitigation Measures are not adequately defined, effective or enforceable.***

CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (*Federation, supra*, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound in the RMNDs. Just a few representative examples are provided.

The RMNDs claim that construction air quality will be less than significant because “[t]he applicant will control dust during construction by *standard techniques* that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) The RMNDs fail to adequately define these “standard techniques.” Are the “standard techniques” limited to the three identified techniques? If so, why are the RMNDs excluding other techniques disclosed in mitigation measure AQ-2 of the REGPA EIR? Further, the RMNDs fail to adequately describe the mere three techniques mentioned that would allow an assessment of their effectiveness. For example, how frequently will water trucks be used? Is there a standard for when water trucks will be required during construction? How is limestone used effectively to reduce dust? How are dust suppressants used? Are there other possible dust suppressants other than EarthGlue? If so, are any of these other dust suppressants more effective than EarthGlue? What are the tests or triggers for application of limestone or dust suppressants?



Addressing some or all of these questions is necessary for the RMNDs to adequately inform the public and decision-makers that mitigation is effective to reduce the impact to less than significant on sensitive receptors such as the adjacent residential properties. An MND cannot rely on a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (*King & Gardiner Farms, supra*, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 511.) The RMNDs have failed to provide evidence that its vague mitigation will be effective. Further, the RMNDs also failed to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant’s REP 2018-01 that was issued in 2018.

The RMNDs also improperly assume, without adequate project-specific analysis, that regulatory compliance will mitigate impacts. Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the RMNDs assert, “No . . . The applicant will be conditioned to obtain any required permits, and follow best management practices required by the GBUAPCD.” (RMND, § III(a).) This is inadequate under CEQA because a determination that regulatory compliance is adequate must be based on project-specific analysis. (*Californians for Alternatives to Toxics v. Dept. of Food and Agriculture* (2005) 136 Cal.App.4th 1.) Here, the RMNDs do not even identify what is required by the Great Basin Unified Air Pollution Control District (“GBUAPCD”), much less provide a project-specific analysis of how those requirements would be effective here. While the County may be inclined to point to an Air Quality Memorandum as supplying that missing analysis, this effort fails for two reasons. First, the analysis does not provide the missing information, explaining only, “Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollution emissions, including those required under their new source review requirements.” (AQ Memorandum, p. 7.) Thus discussion fails to describe applicable requirements, much less how those requirements applied here would effectively mitigate impacts. Second, even if the Air Quality Memorandum did provide some additional information, CEQA caselaw explains that such information cannot be buried in an appendix. (*Vineyard Area Citizens, supra*, 40 Cal.4th at 442. [information “buried in an appendix is not a substitute for good faith reasoned analysis”].)

The RMNDs then attempts to cite to the REGPA programmatic EIR (“PEIR”) and its MMRP in an attempt to dismiss significance of these impacts. (RMND, §III(a).) The plain language of the PEIR refutes this effort:

The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. However, since the air basin is within the Owens Valley PM10 Planning Area, ***fugitive dust emissions from construction must be mitigated.***

(PEIR, p. 4.3-10, emphasis added.) Here, however, there is no such mitigation. For example, the AQ-2 includes such measures as “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph.” The RMNDs conspicuously fail to mention these additional mitigation measures, much less identify them as such in an enforceable MMRP for the Project.

Finally, the RMNDs claim that PEIR mitigation measures AQ-1 through -3 “applied to utility-scale projects of greater than 20 MW and did not apply to smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner.” This is inexcusably false. The plain language of AQ-1 though -3 as revised and approved does not include such limitations. (Exhibit 3, March 2015 MMRP.)

PEIR AQ-1 states, “AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report.” The RMNDs violate this mandate because the Air Quality report does not incorporate the specific requirements of AQ-2 and AQ-3. It merely states, “[T]he Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.” PEIR mitigation measures AQ-1, -2 and -3 are not “goals and policies” of the REGPA; they are mitigation measures under CEQA. The Air Quality report does not even identify these mitigation measures, much less “incorporate” them into its “site-specific technical report.” At best, the Air Quality Memo states:

[F]ugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment trackout onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout

the life of the Project, which will in turn ensure impacts remain less than significant.

(Air Quality Memo, p. 12.0.)

While this provides a general discussion of some mitigation measures that could be used to address dust emissions, this discussion fails to comply with CEQA. This discussion fails to correlate the identified measures to the requirements of the GBUAPCD or the PEIR. Are these measures the only ones that will be used to satisfy the requirements of the PEIR and GBUAPCD? If so, why does this discussion omit any reference to “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph” as set forth in AQ-2. Further, this discussion in the Air Quality Memo does not explain how this discussion is enforceable against the project. This is precisely the function of mitigation measures and an MMRP.

Finally, regulatory compliance is only permissible when it is reasonable to assume that they will actually be complied with. “[C]ompliance with regulations is a common and reasonable mitigation measure, and may be proper *where it is reasonable to expect compliance.*” (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906.) Here, the project applicant has repeatedly violated County and air district rules and permits with respect to this Project and earlier projects. These repeated violations have been documented by County staff and establish that it is not reasonable to simply assume that the project applicant will comply with such permit terms in the future.

In short, the RMNDs improperly rely on mitigation to avoid analysis of project impacts and fail to provide adequate information in order to determine whether mitigation is effective and enforceable. Without this necessary information, the RMND’s significance determinations are not supported by substantial evidence.

### **3. *The RMNDs inconsistently apply the PEIR’s mitigation measures.***

Our prior comment letter explains that the original MNDs appeared to have ignored literally dozens of mitigation measures adopted pursuant to the PEIR. The RMNDs now appear to incorporate the PEIR’s mitigation measures but have done so inconsistently and in violation of CEQA. For example, sections IV(a) (Biological Resources) and XIII(a) (Noise) appear to incorporate mitigation measures set forth in the PEIR in order to address the Project’s potentially significant impacts in those resource areas. Setting aside the procedural deficiency of not circulating an MMRP including these mitigation measures, the RMNDs fail to explain why the same procedure was not

followed in other resource areas<sup>1</sup> where the PEIR requires mitigation in order to support a less-than-significant determination. The leading CEQA treatise explains, “As activities within the program are approved, the agency must incorporate, if feasible, the mitigation measures and alternatives developed in the program EIR in its action approving the activity.” (1 Kostka and Zischke, Practice Under the Cal. Environmental Quality Act (2nd ed. 2023) § 10.16, p. 10-20.)

#### **E. The County Does not Explain Why Visual Simulations Have Not Been Prepared**

The RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR. AES-1 requires “site-specific visual studies . . . to assess potential visual impacts.” “Visual simulations shall be prepared to conceptually depict-post development views from the identified key observation points.” No such studies were prepared. Instead, Appendix A consists solely of low-quality “representative photographs” of apparently existing conditions.

The RMND states, “Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a qualified planner to not have a potential to impact visual resources, including a scenic vista.” The RMNDs conspicuously fails to provide any substantial evidence supporting this conclusion. The RMNDs fail to set forth any analysis, much less written report, supporting this conclusion. The RMNDs fail to identify the County planner purportedly making this determination, the date of the determination, the criteria followed by the County planner or any specific facts supporting this determination. There is no evidence, much less substantial evidence, supporting the MND’s conclusory assertion that an unspecified “qualified County planner” determined that the Project would not have the potential to impact visual resources.

#### **F. The RMNDs Fail to Include a Traffic Control Plan**

PEIR mitigation measure TRA-1 provides:

Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall,

---

<sup>1</sup> Examples include air quality, agricultural impacts, transportation, water quality and visual resources.

at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.

The RMNDs do not include the required traffic control plan, nor even mention mitigation measure TRA-1. While the RMNDs state that the Project “will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase,” there is no attempt to explain why these “few” construction vehicles do not require a traffic control plan to avoid conflicts with adjacent and nearby residents.

**G. The MNDs Fail to Address Impacts Associated with Noxious Weeds**

Mitigation measure AG-3 provides, “To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed.” In violation of this mitigation measure, no weed-abatement plan appears to have been prepared, and the RMNDs make no reference to such a plan.

\* \* \*

The RMNDs continue to suffer from procedural and substantive violations of the County Code and CEQA that require recirculation. We thank you for the opportunity to comment.

Very truly yours,

**SOLURI MESERVE**  
A Law Corporation

By:   
Patrick M. Soluri

cc: John Mays (johnmmays1@gmail.com)

Attachments:

Exhibit 1 Recirculated Initial Study with Mitigated Negative Declaration /  
Environmental Checklist Form / Renewable Energy Permit 2022-  
01/Barker- Trona 7

County of Inyo  
Planning Commission  
August 25, 2023  
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- Exhibit 2      Recirculated Initial Study with Mitigated Negative Declaration /  
Environmental Checklist Form / Renewable Energy Permit 2022-  
02/Barker- Trona 4
- Exhibit 3      Mitigation Monitoring and Reporting Program for the Inyo County  
Renewable Energy General Plan Amendment Program Environmental  
Impact Report (March 2015)

# **EXHIBIT 1**



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

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

RECIRCULATED

DRAFT MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT  
AND INITIAL STUDY

PROJECT TITLE: Renewable Energy Permit 2022-01/Barker- Trona 7

PROJECT LOCATION: The Project is located approximately 3 miles north of the unincorporated community of Trona, California. The Trona Airport sits roughly 1.3 miles to the northeast. The property is on private land owned by Robbie Barker, with an Assessor's Parcel Number of 038-330-46


PROJECT DESCRIPTION: The applicant is applying for a Renewable Energy Permit to construct a 1.2 Megawatt (MW) photovoltaic solar facility using approximately 2,300 single-axis tracker solar panels that will connect to the existing Southern California Edison (SCE) 33-kV transmission line passing through the area. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.

**FINDINGS:**

- A. The proposed project is consistent with goals and objectives of the Inyo County General Plan.
- B. The proposed project is consistent with the provisions of the Inyo County Zoning Ordinance.
- C. Potential adverse environmental impacts will not exceed thresholds of significance, either individually or cumulatively.
- D. Based upon the environmental evaluation of the proposed project, the Planning Department finds that the project does not have the potential to create a significant adverse impact on flora or fauna; natural, scenic, and historic resources; the local economy; public health, safety, and welfare. This constitutes a Mitigated Negative Finding for the Mandatory Findings required by Section 15065 of the CEQA Guidelines.

The 30-day public review period for this Draft Mitigated Negative Declaration will expire on August 25, 2023. Inyo County is not required to respond to any comments received after this date.

Additional information is available from the Inyo County Planning Department. Please contact Project Planner Cynthia Draper (760-878-0265) if you have any questions regarding this project.

  
Cathreen Richards  
Director, Inyo County Planning Department

7/19/2023  
Date





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

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

## **INYO COUNTY PLANNING DEPARTMENT**

### **APPENDIX G: CEQA INITIAL STUDY & ENVIRONMENTAL CHECKLIST FORM**

1. **Project title:** Renewable Energy Permit 2022-01/Barker-Trona 7
2. **Lead agency name and address:** Inyo County Planning Department, PO Drawer L, Independence, CA 93526
3. **Contact person and phone number:** Cynthia Draper: (760) 878-0265
4. **Project location:** The property is on private land owned by Robbie Barker, Assessor parcel number 038-330-46, in Trona California.
5. **Project sponsor's name and address:** Robbie Barker 82740 Trona Rd., Trona, CA 93562
6. **General Plan designation:** Residential Estate (RE), SEDA overlay
7. **Zoning:** Rural Residential (RR-5.0)
8. **Description of project:** The applicant proposes a photovoltaic (PV) solar facility on a five-acre parcel, consisting of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.
9. **Surrounding land uses and setting:** The property is surrounded by undeveloped land, sparse residential dwellings, and commercial uses (such as equipment storage). Developed areas include the Trona Airport, scattered residences, and scrap yards. The surrounding parcels are highly disturbed, devoid of plants or native habitat. Weed abatement has been performed throughout the area.

<b>Location:</b>	<b>Use:</b>	<b>Gen. Plan Designation</b>	<b>Zoning</b>
North	Vacant	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
South	Vacant	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
East	Vacant	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
West	Single family residence	Residential Estate (RE)	Rural Residential (RR-5.0-MH)

10. **Other public agencies whose approval is required:** Inyo County Building and Safety, Inyo County Environmental Health, Inyo County Public Works

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun?

In compliance with AB 52 and Public Resource Code Section 21080.3.1(b), tribes identified as being local to Inyo County were notified via certified letter about the project and the opportunity for consultation on this project. The tribes notified were as follows: The Cabazon Band of Mission Indians, the Torres Martinez Desert Cahuilla Indians, the Twenty-Nine Palms Band of Mission Indians, the Big Pine Paiute Tribe, the Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidential [https://library.qcode.us/lib/inyo\\_county\\_ca/pub/county\\_code/item/title\\_18-chapter\\_18\\_12?view=alliality](https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_18-chapter_18_12?view=alliality).

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

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

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

**DETERMINATION**

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

*Cynthia Draper*  
Cynthia Draper, Assistant Planner  
Inyo County Planning Department

*July 19-2023*  
Date.

# **RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION ENVIRONMENTAL CHECKLIST FORM**

## **Renewable Energy Permit 2022-01/Barker- Trona 7**

### **REGULATORY BACKGROUND**

The Inyo County General Plan provides a vision for Inyo County’s long-range physical and economic development, including resource development and conservation. The General Plan contains implementing strategies, policies and programs enabling this vision to be accomplished. On March 24, 2015, the Board of Supervisors adopted an amendment to the General Plan known as the Renewable Energy General Plan Amendment (“REGPA”). The REGPA regulates the type, siting, and size of renewable energy solar development projects in the County through adoption of land use policies consistent with the broader goals in the General Plan.

The REGPA differentiates renewable energy solar facilities based on their size and output. It defines “utility-scale” facilities as those generating at least 20 megawatts (MW) for off-site use, consumption or sale. Facilities that generate less than 20 MW may include “commercial-scale” or “community-scale” facilities, depending on whether electricity is produced for off-site use or for use by a specific community. The REGPA states that the County “shall encourage the development of” commercial and community-scale facilities.

The REGPA also designated seven different areas of the County, known as Solar Energy Development Areas (SEDAs), where renewable energy solar facilities would be allowed. Policy LU-1.17 permits utility-scale and commercial-scale facilities to be considered in SEDAs, subject to any necessary environmental review. Renewable energy solar development within a SEDA is allowed in any zoning classification. The Trona SEDA covers an approximately 7.1-mile area in the Searles Valley, north of the unincorporated community of Trona. The REGPA allows 600 acres of renewable energy development in the Trona SEDA.

When the County adopted the REGPA in 2015, it certified a Programmatic Environmental Impact Report (PEIR). The PEIR analyzed the impacts of renewable energy solar development throughout the County. It identified less-than-significant environmental impacts to agriculture and forestry resources, air quality, geology, and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, socioeconomics, transportation and circulation, and utilities and service systems. The PEIR identified potentially significant and unavoidable impacts to aesthetics, biological resources, and cultural resources, and included mitigation measures to reduce these impacts to the extent feasible.

### **ENVIRONMENTAL SETTING**

Inyo County covers approximately 10,200 square miles and is located on the east side of the Sierra Nevada Mountain range, within the east-central part of California. The County is primarily rural and undeveloped, characterized by open expanses, wide valleys and mountains ranging from low hills to jagged peaks. Elevations are from 282 feet below sea level within Death Valley National Park to 14,505 feet above sea level (amsl) in the Sierra Nevada

is arid to semi-arid, marked by low precipitation, abundant sunshine, frequent winds, moderate to low humidity, and high evapotranspiration.

The Project is located in the Searles Valley, at the southern edge of the County, north of the unincorporated Trona community, and in the Trona SEDA. As noted above, the SEDA covers approximately 7.1 square miles (4,550 acres). Most of the SEDA is undeveloped. Roughly 60 percent is managed by BLM, with the remainder under private ownership. Developed features include Trona Airport, scattered rural residences, and scrap yards. North of the airport lies Valley Wells, a state historical landmark, consisting of small buildings, abandoned recreational facilities, a desert golf course and well field. The Trona area is sparsely populated, containing less than 2,000 people.

Elevations within the Trona SEDA range from 2,100 feet to 1,650 feet amsl. The average January temperatures range from 32-58 degrees Fahrenheit, and in July from 73-105 degrees. Annual precipitation is low, averaging 3.98 inches. The habitat consists mainly of alkali desert scrub flats with ephemeral washes, with an open composition and canopy cover less than 50 percent.

Topography in the Trona SEDA, within the center of the northern Searles Valley, is generally level or gently sloped. Steeper terrain occurs to the west (the Argus Range), east, and north (the Slate Range). Surface exposures consist predominantly of late Quaternary alluvial/lake deposits, sandy to loamy topsoil with Mesozoic granitic intrusive rocks to the west, and areas to the east and north exhibiting an assemblage of Precambrian/Paleozoic metasediments, Mesozoic granitic intrusives, Mesozoic and Tertiary volcanics, and older Quaternary alluvial/sedimentary deposits. No mapped faults exist in the Searles Valley. The nearest mapped fault is the Panamint Fault, approximately 10 miles east.

The Trona SEDA is within the South Lahontan Basin, as designated in the 1995 (as amended) Lahontan RWQCB Water Quality Control Plan for the Lahontan Region (Basin Plan). The Trona SEDA is within the areal extent of the Searles Valley Groundwater Basin (Searles Basin), which includes an area of approximately 197,000 acres, and a water-bearing strata consisting of a thick (at least 750 feet) sequence of younger unconsolidated alluvial deposits and underlying (locally semi-consolidated) older alluvium.

Average reported municipal/irrigation well depths in the Searles Basin are approximately 300 feet (DWR 2003). Estimated groundwater storage capacity is 2.1 million acre-feet. Groundwater is characterized mainly as calcium-sodium-bicarbonate or sodium-calcium bicarbonate in nature, with groundwater near Searles Lake described as sodium-chloride in nature. The northwestern and southwestern portions of the Searles Basin exhibit generally good water quality (with locally elevated fluoride and nitrate levels), while areas near Searles Lake have poor water quality with TDS levels of between 12,000 and 420,000 mg/l (DWR 2003).

The Trona SEDA is within the Great Basin Valleys Air Basin (Air Basin). The Air Basin is named for its geological formation of valleys surrounded by mountains. Air rises and sinks due to the heat in the valleys and height of the mountains, which causes the air to settle in the valleys and low-lying areas. Areas in the Air Basin are under the jurisdiction of the Great Basin Unified Air Pollution Control District (GBUAPCD), which regulates air pollutant emissions for all stationary sources within the Air Basin.

In 1987, the Trona area was designated as a PM-10 nonattainment area by the United States EPA. The main source of PM-10 emissions in the region is the dry Owens Lake lakebed, which is located approximately 50 miles northwest of the Project. At the time, the Trona area was part of the Coso Junction Planning Area. In 2002, the US EPA redesignated the Searles Valley into three separate areas, and made a finding of attainment for Trona. (Federal Register, 2002a, 2002b.)

## **PROJECT DESCRIPTION**

The applicant has applied for two renewable energy permits for two separate photovoltaic (PV) solar facilities on contiguous land (“Project”). The applicant submitted two separate applications because each facility would separately connect to the existing Southern California Edison (SCE) 33-kV transmission line passing through the area. This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.

**The first application (No. 2022-01), known to the applicant as “Trona 7,” proposes a PV solar facility on a five-acre parcel, consisting of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.**

The second application (No. 2022-02), also known as Trona 4, proposes a PV solar facility within a 15-acre parcel that is contiguous (i.e., has a common corner) with the Trona 7 site. The facility would generate 3.0 MW of electricity utilizing approximately 6,000 single-axis tracker solar panels. The site also is previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.

Both proposed facilities (collectively, the 20-acre “Project Area”) are located approximately three miles north of the Trona community and one mile west of the Trona Airport. The elevation of the Project Area is approximately 1,700 feet amsl. It has no history of agricultural use and is not federally managed. According to FEMA, the Project Area is within an Area of Minimal Flood Hazard.

Zoning in the Project Area is rural residential. Approximately five residential structures are within 0.5 miles of the Project Area, located mostly south and west. Two of these structures are approximately 400 feet from the edge of the Project Area (most of the Project Area is farther to the east and extends up to approximately 2,300 feet distant from these structures). Other land use in 0.5 miles of the Project Area include storage of equipment and vehicles, scrap yards and storage units. Representative photographs are included in Appendix A. Agricultural use of surrounding land is minimal. Agriculture and farming are not significant land uses in the area.

Construction will consist of limited grading in some areas, as the Project Area is already predominantly level and graded. Appendix B (Biological Resources Evaluation) documents the onsite conditions. Shallow trenching will be required for underground conduits, and one 20x20-foot concrete pad will be placed on each site to support the transformers. Following grading and

trenching, metal poles or masts will be installed into the ground to support the solar panels. Grading and trenching will require approximately two days. Pole and panel installation will take an estimated two months. Appendix C contains an equipment list, operating hours and projected air emissions.

Dust control measures will be used at all times during construction, and during Project operations (the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity). Dust controls during construction will consist of a watering truck, the application of crushed limestone to the ground, and application of a non-toxic clay polymer known as EarthGlue (specifications in Appendix D). Stabilized construction entrance and exits will be used to reduce sediment trackout onto the adjacent public roadway. During operations, limestone and EarthGlue will control dust.

Once installed, the solar panels will reach a maximum height of 12 feet above the ground (or less, as the panels change slightly in height as they rotate slowly throughout the day to track the sun). Panels will feature anti-reflective coatings to reduce daytime glare and reflectivity. Each facility will be fenced to prevent unauthorized access. Representative photographs of the panels and tracker supports are in Appendix E, showing a recently constructed solar project located on adjacent land (described in more detail below) that uses the same equipment design and components to be used by the Project.

The Project is the second renewable energy solar project proposed for the Trona SEDA. The prior project, on 10 acres adjacent to the Project Area, was approved and has been constructed by the applicant (Nos. 2018-01 and 2021-01). Another 10-acre project is reportedly in development to the south. Combined, the existing, proposed and potential future renewable solar projects are 40 acres, and account for a small part of the 600 acres allocated by the REGPA to solar projects in the Trona SEDA. Future solar projects in the Trona SEDA may not be possible, however, according to the applicant, until SCE improves its transmission infrastructure to increase its transmission capacity.

## **AGENCY COORDINATION AND PUBLIC INVOLVEMENT**

Public notifications concerning the Project began approximately seven months ago. On November 14, 2022, the County gave public notice of the availability of a Draft Initial Study and Negative Declaration for each of the two applications. The 30-day review period ended on December 17, 2022. No comments were received.

A public hearing was set before the Planning Commission on March 23, 2023 to approve both applications. Two days before the hearing, the County received public comments from a nearby landowner, and as a result, the County postponed the hearing to May 3, 2023. Prior to the May hearing, the County received additional public comments. As a result, the County postponed the hearing again, revised the Initial Study and Mitigated Negative Declaration, and has recirculated the Initial Study and Mitigated Negative Declaration pursuant to Section 15073.5 of the CEQA Guidelines.

## **TRIBAL OUTREACH**

In accordance with AB 52 and Public Resource Code Section 21081.3.1(b) tribes identified as being local to Inyo County were notified via certified letter about the project and the opportunity for consultation on this project. The tribes were notified as follows: The Cabazon Band of

Mission Indians, the Torres Martinez Desert Cahuilla Indians, the Twenty-Nine Palms Band of Mission Indians, the Big Pine Paiute Tribe, the Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

### **TIERED DOCUMENT**

A program EIR evaluates the environmental consequences of a series of actions that together constitute a large project and share common geographic, regulatory and environmental attributes. (Cal. Code of Regs., tit. 14, § 15168(a).) If the program EIR facilitates the approval of activities within a program, the agency must scrutinize those activities, as they arise for approval, to determine if additional environmental review is needed.

An agency's assessment of the adequacy of a prior program EIR for the approval of specific activities involves an analysis of whether the activity falls within the scope of the prior EIR and whether the activity will give rise to environmental impacts that were not previously analyzed in the program EIR. (Cal. Code of Regs., tit. 14, § 15168(c).) If impacts were adequately assessed, the agency can avoid further environmental documentation. (Id., tit. 14, § 15168(c).) If further review is needed, the "tiered" document should analyze only those effects that may be significant but were not analyzed in the program EIR, or that were considered significant but can be mitigated or avoided through further analysis. (Id., tit. 14, § 15152(d); see also Pub. Resources Code, §§ 21081(a)(1), 21094(c).)

The PEIR was a program EIR pursuant to section 15168 of the CEQA Guidelines. The County has determined that certain of the Project's potential impacts are adequately addressed in the PEIR. Others require site-specific analysis and are properly assessed in a Mitigated Negative Declaration that will integrate enforceable mitigation measures from the PEIR to ensure that they are enforced at the Project level. The County is treating the Mitigated Negative Declaration as a tiered document under the PEIR. The PEIR can be found at the following website link, or by typing or pasting the following text into an internet browser:

<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volume%20II.pdf>



## CHECKLIST

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
--------------------------------	-----------------------------------------------------	------------------------------	-----------

### **I. AESTHETICS** – Would the project:

a) Have a substantial adverse effect on a scenic vista?

*No. The Project is not located near a scenic vista.*

*The Project is near the valley floor within an area that is visually characterized by junk yards, and outdoor storage of vehicles and equipment in a high desert environment. The Project is within the Trona SEDA, which has its location and boundaries in an area that lacks an abundance of scenic resources. (PEIR, 4.1-15.)*

*The Project is consistent with the PEIR analysis and mitigation measures. The potentially-applicable mitigation measures (AES-1 through 6, and 9) require that site-specific visual studies be prepared for utility-scale projects (i.e., generating greater than 20 MW) and for smaller-scale projects determined by a qualified county planner to have a potential to impact visual resources in individual SEDAs. Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a qualified planner to not have a potential to impact visual resources, including a scenic vista.*

<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volme%20II.pdf>

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

*No. The Project Area has previously been disturbed with roads, storage units, and weed abatement. It has previously been graded and is devoid of natural resources such as rock outcroppings and trees. No removal of vegetative life, rock outcroppings, or historic buildings within a scenic state highway will occur. It is not located within or adjacent to any designated scenic highways mapped by the California Department of Transportation. The Project involves the placement of PV solar panels that reach a maximum height of 12 feet.*

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly-accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

*No. The Project will not affect the overall scenic integrity of the area. The Project Area is barren of natural resources that provide scenic value. The Project is in a rural, non-urbanized area and surrounded by property owners that frequently use the area for storage and scrap yards. Public views are mainly from Trona-Wildrose Road, and the Project will not substantially*

*degrade the existing visual character of the area from the perspective of passing motorists as the area is characterized by scrap yards and outdoor storage of materials. (Appendix A.) The low height of the panels (12 foot maximum, comparable to a single-story house) would not obstruct views of the Argus range to the west or the Slate range to the east.*

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

*No. Due to the small size of the facilities, and their location and design, the Project will not significantly impact daytime or nighttime views. Construction will take place during the daytime hours only. Operation will not involve new light sources that affect nighttime views. The Project will use solar panels that integrate anti-reflective technology to minimize daytime glare, which is consistent with PEIR Mitigation Measure AES-6 (requiring that certain projects treat solar panels with anti-reflective coating). The boundaries and locations of SEDAs, including the Trona SEDA, were sited in areas without an abundance of scenic resources. (PEIR, 4.1-15.)*

\* \* \*

**II. AGRICULTURAL AND FOREST RESOURCES:** In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program (FMMP) of the California Resources Agency, to nonagricultural use?

*No, the Project is not located on land designated as farmland.*

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

*No, the Project is not located on land zoned exclusively for agriculture. Inyo County has no Williamson Act contracts.*

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

*No, the Project Area does not include forest land or timberland, or land zoned for forest land, timberland, or Timberland Production.*

d) Result in the loss of forest land or conversion of forest land to non-forest use?

*No, the Project is not located on forest land.*

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

*No, the Project is not located on farmland and is not conducive to future use as farmland. The Project Area has no history of agricultural production. To the extent that agricultural activities may exist on surrounding properties, the Project would have no impact on or interference with those activities.*

\* \* \*

**III. AIR QUALITY:** Where available, the significant criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?

*No. There is no applicable air quality plan for the area in which the Project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards. The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. (See Appendix C, Air Quality and Greenhouse Gas Memorandum). The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.*

*Additionally, the Project is consistent with the PEIR analysis and mitigation measures. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. (See PEIR, p. 4.3-10.) The potentially-applicable air quality mitigation measures (AQS-1 through 3) applied to utility-scale projects of greater than 20 MW and did not apply to*

*smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner. Here, the Project involves a small commercial-scale facility that does not present significant air quality impacts. (See Appendix C.) Due to the size, location, low emissions well below all applicable thresholds (Appendix C) and design that incorporates dust controls and suppressants, AQS-1 through 3 are unnecessary to apply.*

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

*No. The Project is located in an area in attainment for PM-10. The Project will be in compliance with air quality standards, as the applicant is conditioned to obtain any required permits and to follow best management practices as set forth by GBUAPCD. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) Project construction and operations will generate emissions that are well below all applicable air quality thresholds and standards. (See Appendix C.)*

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

*The Project is not in an area that is in non-attainment under any applicable standard. The operation of the solar project is not anticipated to result in a substantial increase in vehicular or stationary emissions once installed. As a result, long-term emissions resulting from Project operation are anticipated to be well below all applicable thresholds. (See Appendix C.) The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) The Project would not contribute to a cumulatively considerable net increase in non-attainment pollutants during operation, and impacts would be less than significant.*

d) Expose sensitive receptors to substantial pollutant concentrations?

*No, the proposed Project will not expose sensitive receptors to any new substantial pollutant concentrations. The construction process is low impact, involving minor leveling and digging of shallow trenches for placing underground conduits, and installation of a single 20'x20' concrete pad for a transformer. There are no nearby schools or hospitals. Few houses are in proximity to the Project Area. During construction, windblown dust will be controlled by watering, the application of limestone, and the application of a dust suppressant. Vehicle emissions will be well below applicable thresholds of significance during construction and operations. (See Appendix C.) During Project operation, the solar facility will not produce pollutants.*

e) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

*The proposed Project will not produce objectionable odors during the life of the operation. The Project will use typical construction techniques and the odors would be typical of most construction sites and temporary in nature.*

\* \* \*

#### **IV. BIOLOGICAL RESOURCES:**

Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

*No. The Project Area has been inspected by County planning staff and by a qualified biologist. No CDFW or USFWS designated special status species were found in Project Area. The Project Area is graded, cleared of any significant vegetation, and contains no native habitat. No impacts through habitat modification are anticipated.*

*A Biological Resource Evaluation (BRE) was performed by qualified biologists. (Appendix B.) The BRE surveyed the Project Area and a 250-foot buffer. No significant biological resources (plant or wildlife) were found present in the Project Area or buffer. In particular, the BRE found no evidence of desert tortoise (*Gopherus agassizii*) or suitable foraging habitat or other habitat for desert tortoise. The BRE also found no evidence of Mohave ground squirrel (*Xerospermophilus mohavensis*) or associated burrows and noted that the nearest population of Mohave ground squirrel is 8.2 miles southwest, and the nearest core population is 25 miles northwest.*

*The BRE concluded that the desert kit fox (*Vulpes macrotis arsipus*) could potentially visit the Project Area as a transient forager, but the Project Area and surroundings lack optimal denning habitat due to existing ground disturbance. The BRE also found a potential for nesting birds or raptors to forage and/or nest in the Project Area or buffer, using utility poles, although no active or inactive nests were observed. Nesting migratory birds and other raptors species, protected by the Migratory Bird Treaty Species Act, were not observed but have a potential to occur in or near the Project Area and surrounding areas. (Appendix B.)*

*To mitigate the potential for impacts to desert kit fox and protected bird species, the BRE recommended Best Management Practices and avoidance measures including: a pre-activity survey, a vehicle speed limit of 20mph, covering of trenches, and proper disposal of food items, as set forth more specifically in the BRE. With these measures, the Project is not expected to significantly impact candidate, sensitive, or special status species.*

*The Project is consistent with the PEIR. The biological resource mitigation measures identified in the PEIR apply to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under CEQA" and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.4-122-123.) If the planner determines, after review, that a proposed commercial-scale project has a potential to impact biological resources, the PEIR mitigation measures shall be implemented "as determined necessary" by the planner. (PEIR, p. 4.4-123.) Here, the Project has no potential to impact biological resources other than potential impacts to desert kit fox and bird species. The mitigation measures in the BRE will ensure that the potential impacts to desert kit fox and bird species are less than significant, and it is unnecessary to implement any additional mitigation measures from the PEIR.*

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

*No, there is no identified riparian habitat or other sensitive natural community in the Project Area or in close proximity that would be affected by the Project. The USFWS National Wetlands Inventory (USFWS 2014b) shows no freshwater wetlands near the Project Area. No protected natural areas are located within the Trona SEDA.*

c) Have a substantial adverse effect on state or federal protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

*No, there are no federally protected wetlands in or near the Project Area, nor would the nature of the Project cause fill material or Project contaminants to enter flowing water.*

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

*No, although the Project Area could potentially have occurrences of wildlife species, the Project will not interfere with migratory fish or wildlife species. As stated in the BRE, there are no known wildlife movement corridors or habitat linkages that intersect the Project Area. The Project Area is within a highly disturbed area and provides minimal linkage between suitable natural habitats for most wildlife species. The BRE anticipates no substantial movement of wildlife onto or from the Project Area.*

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

*No, there are no local policies or ordinances in place protecting biological resources that pertain to the Project Area.*

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

*No, there are no adopted habitat or conservation plans that affect the Project Area. The proposed Project is within an area specifically designated for solar energy development pursuant to the REGPA.*

**Mitigation Measures:** *The applicant shall implement all Best Management Practices recommended in Section 6 of the BRE (i.e., pre-activity surveys; avoidance buffers for desert kit fox; Worker Environmental Awareness Training Program; speed limit of 20-mph; covering of trenches deeper than two feet at the close of work day; inspection of pipes and culverts greater than four inches before burial; trash and food items onsite must be discarded into closed containers; no pets should be permitted onsite).*

\* \* \*

**V. CULTURAL RESOURCES:** Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?

*No, the Project will not cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5. The Project Area is vacant and undeveloped. It does not contain resources listed in, or determined to be eligible by, the State Historical Resources Commission for listing in, the California Register of Historical Resources, or any local register of historical resources. The Project Area also does not contain any known structures, features or sites that may be historically significant.*

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?

*No, the Project does not contain any known archaeological resources, and will not cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5. Project construction requires limited ground-disturbance on land that is already flat, making the disturbance or discovery of unanticipated cultural, archaeological, or historical resources unlikely.*

*If any archaeological or cultural resources are inadvertently discovered in the Project Area, work shall immediately desist and County staff shall be immediately notified per Chapter 9.52, Disturbance of Archaeological, Paleontological and Historical Features of the Inyo County Code. The County will then work with the operator and local tribal members, including tribal THPOs, to develop a plan for preservation, protection, or relocation of the resource. With this mitigation measure, the Project will not cause an adverse change in the significance of an archaeological resource pursuant to Section 15064.5*

c) Disturb any human remains, including those interred outside of dedicated cemeteries?

*No, there are no known human remains or burial sites in the Project Area. Additionally, it is unlikely that such remains would be discovered due to the minimal nature of earth-disturbance on the Project site. However, if human remains are uncovered, the discovery would be treated in the same manner as an archeological resource described in (V b) above (i.e., work would cease immediately and remain stopped until a plan was developed for preservation, protection, or removal).*

\* \* \*

**VI. ENERGY:** Would the project:

a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

*No, the Project is to construct a PV solar facility, totaling approximately 1.2 MW of generating capacity, that uses only a small amount of energy, and is required to meet California building standards including green and title 24 standards.*

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

*No, the Project is to construct a PV solar facility, totaling approximately 1.2 MW of generating capacity, located in one of the counties solar energy development areas (SEDAs), as identified by the General Plan. The project will generally advance state and local plans for renewable energy, rather than conflict with or obstruct such plans.*

\* \* \*

**VII. GEOLOGY AND SOILS:** Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:



i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

*No, the Project is not in an Alquist-Priolo zone. The Project operates with little human intervention and would not expose people to significant risk of injury. In addition, the nature of the solar panels, and their low height, does not make them readily susceptible to adverse effects during seismic activity. Also, subsequent to the approval of the permit, the applicant shall work with the Inyo County Department of Building and Safety to ensure any building activities meet State and County Codes.*

ii) Strong seismic ground shaking?

*No, the State Geologist has not mapped any faults in the Searles Valley in the vicinity of the Project. In addition, seismic activity and ground shaking can occur anywhere in the region, but compared to much of the rest of California, this is a less than average seismically active area. The California Building Code ensures that structures be constructed to required seismic standards in order to withstand such shaking.*

iii) Seismic-related ground failure, including liquefaction?

*No, the Project is not within an area of soils known to be subject to liquefaction.*

iv) Landslides?

*No, the Project Area is flat or gently sloping, and is not in an area prone to landslides.*

b) Result in substantial soil erosion or the loss of topsoil?

*No, Project construction is limited to trenching for conduits, and minor grading to level the ground surface as needed. The limited scale of ground disturbance is not expected to result in a risk of substantial soil erosion or loss of topsoil, and in addition, the placement of limestone will stabilize the surface to protect against the low risk of erosion.*

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or offsite landslide, lateral spreading, subsidence, liquefaction or collapse?

*No, the proposed Project is not located in an area with a geologic unit or soil that is known to be unstable. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.*

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

*No, the proposed Project is not located in an area with a known expansive soil type. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.*

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

*No, the soils are compatible with septic tanks and other wastewater disposal systems, although the Project is not designed to have either septic tanks or wastewater disposal systems.*

f) Directly or indirectly destroy a unique paleontological resource or site unique geologic feature?

*No, the Project Area does not include any unique paleontological or geologic features.*

\* \* \*

**VIII. GREENHOUSE GAS EMISSIONS:** Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

*No. GHGs generated during the construction phase would be minimal and below all applicable thresholds. (See Appendix C.) GHGs during Project operation would be virtually non-existent, and not present a significant impact, because the solar facilities do not generate any GHGs except for occasionally visits (estimated weekly) by the applicant in a light vehicle to monitor the facilities.*

*The Project is consistent with the PEIR. The PEIR identified mitigation measures applicable mainly to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under*

CEQA” and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.7-12.) If the planner determines, after review, that a proposed commercial-scale project has a potential to generate a significant GHG impact, the PEIR mitigation measures shall be implemented “as determined necessary” by the planner. (PEIR, p. 4.7-12.) Here, the Project has no potentially significant GHG impacts, in light of the small scale of the Project and limited GHG emissions that would occur during construction. (Appendix C.)

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

*No, the proposed Project will not conflict with any plan, policy or regulation adopted for the purpose of reducing GHG emissions. (Appendix C.)*

\* \* \*

**IX. HAZARDS AND HAZARDOUS MATERIALS:** Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

*No. The proposed Project will produce a small amount of waste associated with operational maintenance activities. PV wastes include broken and rusted metal, defective or malfunctioning modules, electrical materials, empty containers, and other miscellaneous solid materials. These wastes will be generated infrequently. Most of this material will be collected and delivered back to the manufacturer for recycling or disposed of according to legal requirements. The presence of such wastes onsite would not pose a risk to surrounding properties and transporting it off site poses no threat or risk due to the inert nature of the waste materials.*

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

*No. The proposed Project will not involve the use of a significant hazardous material. The operation of a PV solar facility does not involve the presence of any liquid wastes or hazardous materials readily capable of migrating to off-site properties. No battery storage will occur on site, or associated hazardous materials, as the solar facilities will connect directly to existing power lines operated by SCE. No significant hazard to the public or environment through a reasonably foreseeable upset or accident that could result in the release of hazardous materials is anticipated.*

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials,

substances, or waste within one-quarter mile of an existing or proposed school?

*No. The proposed Project is not within one-quarter mile of an existing or proposed school, nor will it emit hazardous emissions, nor involve the handling of acutely hazardous materials, substances, or waste.*

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

*No, the proposed Project is not located on a site included on a list of hazardous material sites compiled pursuant to Government Code section 65962.5.*

e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the project area?

*No. The Project operates passively and with little human intervention, and there will be no people typically working in the Project Area that could be affected by airport operations. The Project also does not pose a danger to Trona Airport maintenance workers because the airport is not a public use airport. Additionally, the airport is not used with enough frequency to pose a danger to anyone working in the Project Area.*

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

*No, the project will not physically interfere with an adopted emergency plan or emergency evacuation plan.*

g) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

*No, risk of loss, injury, and death involving wildland fires are not significant from this Project. Fire risks are identified as moderate at the Project Area, and no areas in proximity to it can be considered urbanized. Land surrounding the Project Area are not heavily vegetated and there are only a few residences in the proximity; therefore, the risk of loss, injury, or death involving*

wildland fires is less than significant, and any potential risk is further mitigated by compliance with California Building Standards.

\* \* \*

**X. HYDROLOGY AND WATER QUALITY:** Would the project:

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

*No. The Project will not violate any water quality standards or waste discharge requirements. The Project Area is pre-disturbed. The Project Area is in a region characterized by a low level of precipitation. Project construction will involve some trenching and minor grading to level the land, which does not present a significant risk of violating any water quality standards or substantially degrading surface or groundwater quality. The applicant intends to use stabilized construction entrance and exits would be installed at driveways to reduce tracking of sediment onto adjacent public roadways. The Project is subject to regulation by the Lahontan Regional Water Quality Control Board and the Inyo County Environmental Health Department and will meet all applicable requirements.*

b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

*No. The Project will not have any effect on local groundwater. The project will not use local groundwater for its water needs, which are limited to dust control. All groundwater needs will be supplied by mobile trucks supplying water to the job site. Water demands are estimated at 40,000 gallons/week for dust control and site preparation and water will be trucked in from the Searles Domestic Water Company, located in Trona. The Project will not introduce any significant new areas of impervious surfaces that will prevent groundwater recharge.*

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

i) Result in substantial erosion or siltation on or off-site?

*No. The Project proposes extremely minimal grading and no new impermeable or impervious surfaces. Other than installing a small concrete pad, no paving or other activities will increase the number of impermeable surfaces that could cause erosion or siltation. No drainage patterns*

*will be altered. Other than rare storm related overland run-off situations, no water passes over or through the Project Area.*

- ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off-site?

*No. The Project will not significantly change the landscape or existing runoff patterns or redirect or block flood flows. No drainage patterns or rates of runoff will be altered by the Project.*

- iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

*No. The Project is proposed in an area that is already disturbed and will have no substantial changes to runoff patterns. No increase in stormwater runoff will occur as a result of the Project.*

- iv) impede or redirect flood flows?

*No, the Project is in an area that is already disturbed and is not located in a flood hazard area.*

- d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

*No, the Project is in an area that is already disturbed, and is not located in a flood hazard, seiche or tsunami zone. Note that the BRE identified a potential surface water drainage based on prior mapping but no evidence of any such feature exists onsite and the mapping is therefore considered to be in error or outdated.*

- e) Conflict with or obstruct implementation of a water quality control plan or sustainable ground water management plan?

*No, the Project will not affect compliance with or implementation of the Lahontan Region water quality control plan and is not in an area included in a sustainable groundwater management plan.*

\* \* \*

**XI. LAND USE AND PLANNING:** Would the project:

a) Physically divide an established community?

*No, there is no established community in the vicinity of the Project, and the Project would not physically divide such a community.*

b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

*No, the Project is consistent with the current zoning and advances the goals for renewable energy generation for the southern portion of the county, as described in the REGPA. This part of the Trona area also is explicitly called out and designated for solar energy generation as part of the southern Trona SEDA.*

\* \* \*

**XII. MINERAL RESOURCES:** Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

*No. The Project Area has no known mineral resources of value to the region or state. The Project Area is not in a mapped area of regional or statewide significance by the State Mining and Geology Board. Development of the surface for solar generation would not in any event result in the permanent loss of mineral resources unexpectedly in this location.*

b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

*No, there are no known locally important mineral resources delineated in any land use plan that would be affected by the Project.*

\* \* \*

**XIII. NOISE:** Would the project:

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan

or noise ordinance, or other applicable standards of other agencies?

*All potential noise impacts are within the scope of the PEIR analysis and will be subject to the PEIR mitigation measures. The PEIR evaluated the impacts of construction noise, including the use of construction equipment for grading, trenching, mast installation, installation of concrete footings, movement of heavy equipment and transportation of materials by truck. The PEIR also listed the individual equipment types that would be used to install a solar panel array, and the estimated noise levels associated with each item of equipment. (See PEIR, pp. 4.12-16 – 4.12-18.) The Project would use construction equipment of the types listed in the PEIR, and follow a construction process consistent with, or less impactful than, that anticipated in the PEIR. In this regard, the PEIR focused on utility-scale solar projects. The Project is a smaller, commercial-scale Project that will utilize a construction process that is comparatively light and short term in comparison to utility-scale projects. Trenching and grading will take two days using one grader, one backhoe and a water truck. Panel installation will occur over an estimated two months. No nighttime construction will occur. The Project does not present noise impacts that substantially differ from, or that are more impactful than, those analyzed in the PEIR. As such, the Project is within the scope of the PEIR pursuant to CEQA Guidelines section 15168(c)(2).*

*The PEIR adopted Mitigation Measure MM NOI-2 (“Implement construction noise reduction measures”) to ensure that construction noise impacts are avoided or reduced below a level of significance and would have no significant unavoidable adverse impacts. (PEIR, pp. 4.12-18.) The PEIR listed the following five mitigation measures:*

*If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT’s Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:*

- Whenever feasible, electrical power will be used to run air compressors and similar power tools.*
- Equipment staging areas will be located as far as feasible from occupied residences or schools.*
- All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.*
- Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.*
- Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings.*

*NOI-2 incorporated certain best management practices (BMPs) from REAT’s Best Management Practices and Guidance Manual (REAT 2010) for desert renewable energy projects. In regard to potential noise impacts, the manual lists 10 BMPs:*



- 1) *Ensure noisy construction activities (including truck and rail deliveries, pile driving and blasting) are limited to the least noise-sensitive times of day (i.e., weekdays only 45 between 7 a.m. and 7 p.m.) for projects near residential or recreational areas.*
- 2) *Consider use of noise barriers such as berms and vegetation to limit ambient noise at plant property lines, especially where sensitive noise receptors may be present.*
- 3) *Ensure all project equipment has sound-control devices no less effective than those provided on the original equipment. All construction equipment used should be adequately muffled and maintained. Consider use of battery powered forklifts and other facility vehicles.*
- 4) *Ensure all stationary construction equipment (i.e., compressors and generators) is located as far as practicable from nearby residences.*
- 5) *If blasting or other noisy activities are required during the construction period, notify nearby residents and the permitting agencies 24 hours in advance.*
- 6) *Properly maintain mufflers, brakes and all loose items on construction and operation related vehicles to minimize noise and ensure safe operations. Keep truck operations to the quietest operating speeds. Advise about downshifting and vehicle operations in residential communities to keep truck noise to a minimum.*
- 7) *Use noise controls on standard construction equipment; shield impact tools. Consider use of flashing lights instead of audible back-up alarms on mobile equipment.*
- 8) *Install mufflers on air coolers and exhaust stacks of all diesel and gas-driven engines. Equip all emergency pressure relief valves and steam blow-down lines with silencers to limit noise levels.*
- 9) *Contain facilities within buildings or other types of effective noise enclosures.*
- 10) *Employ engineering controls, including sound-insulated equipment and control rooms, to reduce the average noise level in normal work areas.*

*The western and northwestern edge of the Project Area is approximately 400 feet from two residential structures located westerly of the Project Area. Under CEQA Guidelines section 15168(c)(3), the Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of the residential structures.*

*Once the Project is constructed, operational noise sources will be limited to pad-mounted transformers and tracker array motors. Transformers will be located farther than 500 feet from a residence or other noise-sensitive land use and would not require further analysis under MM NOI-1 in the PEIR. Tracker motors generate low noise levels (see PEIR Table 4.12-4) and are sufficiently far from noise-sensitive land uses to have no potential noise-related impacts and to not require further noise study or mitigation. (See PEIR, p. 4.12-19.) As such, the operational impacts are expected to be less than significant.*

b) Generation of excessive groundborne vibration or groundborne noise levels?

*No, the Project involves relatively light ground disturbance with few vehicles. No excessive groundborne vibration or groundborne noise is expected. Considering the types of equipment that will be used, impacts associated with groundborne noise or vibration would be within the scope of the PEIR and less than significant. (See PEIR p. 4.12-15.)*

c) For a project located within the vicinity of a private airstrip or, an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

*No. Trona Airport is not public, nor is it used with frequency, and it is typically used by light aircraft only. The proposed Project will have minimal noise levels due to its nature and will not create excessive noise levels for personnel working near the Project Area. The Project Area is not immediately below any established flight path and persons working at the Project Area would not be exposed to any significant level of aircraft noise.*

**Mitigation Measures:** *All potential impacts are within the scope of the PEIR analysis. The Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures.*

\* \* \*

**XIV. POPULATION AND HOUSING:** Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

*No. The Project is not likely to induce any population growth. The Project Area requires few maintenance personnel and will be monitored mostly remotely from offsite locations. No new residents are expected to result from the Project.*

b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

*No, the proposed Project will not displace existing housing or create a situation where replacement housing will be necessary. No housing currently exists in the Project Area. No existing housing will be removed to construct or operate the Project. The Project will have no effect on the level of housing in the Project Area or on surrounding properties.*

\* \* \*

**XV. PUBLIC SERVICES:** Would the project:

a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?

*No. The Project is not considered to be located in a high-risk area for fire protection. The Project Area has no trees or established vegetation. The San Bernardino Fire Department (which provides fire protection services in the Trona community) was consulted on the Project. No concerns related to the Project Area were given.*

Police protection?

*No. No new police service will be required because of the Project. Offsite private security measures will mostly be used to monitor the Project Area.*

Schools?

*No, no new students or residents, or associated school services, will be required because of this Project.*

Parks?

*No, no new parks will be required because of the Project.*

Other public facilities?

*No, the proposed Project will not create substantial adverse physical impacts associated with a need for any other foreseeable public services.*

\* \* \*

**XVI. RECREATION:** Would the project:

a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

*No, the proposed Project will not increase the use of existing recreational facilities. It is not anticipated that any portion of this Project will result in a change in the level of service required to provide parks or other recreational facilities.*

b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

*No, the proposed Project does not include recreational facilities, nor will it cause a need for an increase in parks or other recreational facilities that might have an adverse physical effect on the environment.*

\* \* \*

**XVII. TRANSPORTATION:**

a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?

*No. The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.*

b) Conflict or be inconsistent with CEQA Guidelines § 15064.3(b)?

*No. The project will not result in an adverse change with respect to vehicle miles traveled (VMT). The Project will not significantly increase passenger vehicle traffic or commuter traffic in the region. Construction related traffic generally will be light. When construction is complete, the Project will be remotely monitored and have maintenance personnel on-site as needed during daytime hours. The Project is not within one-half mile of either an existing major transit stop or high-quality transit corridor. The Project will result in less than significant impacts to this resource.*

c) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

*No. The proposed Project will not result in any design features that increase transportation hazards. No changes will occur to public roads, including the Trona Wildrose Road. No curves or dangerous intersections will be added to the existing unpaved access road leading to the Project Area. Automobiles and trucks will be accommodated in the Project Area.*

d) Result in inadequate emergency access?

*No, the Project is proposed on properties that are directly adjacent to, and accessible from, Trona Wildrose Road and emergency access is and will continue to be available.*

\* \* \*

**XVIII. TRIBAL CULTURAL RESOURCES:** Would the project:

a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

*No. The Project Area undeveloped and cleared of vegetation with no known tribal cultural resources. The proposed Project does not contain a resource eligible for listing in the California Register of Historical Resources, or in a local register for historical resources as defined in Public Resource Code section 5020.1(k). If any archeological or cultural resources are discovered on the site, work shall immediately stop, and Inyo County staff shall be immediately notified per Chapter 9.52 of the Inyo County Code.*

- ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

*The Project Area is vacant and undeveloped. It does not contain any resource determined by the County to be significant pursuant to criteria set forth in subdivision (c) of the Public Resource Code section 5024.1 (i.e., is associated with events that made a significant contribution to the state's cultural patterns, is associated with the lives of persons important in our past, embodies the distinctive characteristics of a type or period, or has yielded or may yield information important in prehistory or history).*

\* \* \*

**XIX. UTILITIES AND SERVICE SYSTEMS:** Would the project:

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

*No. The proposed Project is for the approval of a PV solar facility that will primarily be remotely monitored and involve no continuous human presence. The Project will not result in the construction or relocation of new or expanded utility, wastewater, or other utility service systems. The goal of the Project is to create a sustainable supply of electric power, and it will not increase demand for utilities whatsoever.*

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

*No impact. During operation, water needs will be no more than 1.0-acre feet per year and will be utilized primarily for panel washing 2-4 times annually. During active construction, light water consumption (relative to other construction uses) will be required for dust suppression. All water needs will be covered via trucking it in from Searles Domestic Water Company, located in Trona. No landscaping water will be required.*

c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

*No. The Project would not generate wastewater requiring disposal or contribute to demand for wastewater treatment.*

d) Generate solid waste in excess of state or local standards, or in excess of the capacity of soil infrastructure, or otherwise impair the attainment of solid waste reduction goals?

*No. The Project will not require changes to the current solid waste capacity to accommodate them. Solid waste needs for the project will be minimal. Most of the volume of solid waste (scrap metals, electrical equipment, and proprietary solar array features) will be collected and recycled.*

- e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

*No impact. The Project and any future development will comply with Inyo County's solid waste standards, as required by the Inyo County Department of Environmental Health.*

\* \* \*

**XX. WILDFIRE:**

- a) Substantially impact an adopted emergency response plan or emergency evacuation plan?

*No. There is not an adopted emergency response or evacuation plan for the area in which the Project is proposed.*

- b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

*No. The Project Area is on flat or gently-sloped land. It lacks vegetation and vegetation is sparse in the area, characterized mainly by desert scrub, making wildfire risks moderate to low. There will be no project occupants, and the project area is physically separated from surrounding structures. The proposed Project does little to add to the wildfire risk in the area. The risk of loss, injury or death involving wildland fires is less than significant at this site, and any potential risk is further mitigated by compliance with California Building Standards.*

- c) Require the installation or maintenance of associated infrastructure (such as roads, fuel break, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

*No. The Project will not cause the need for additional wildfire associated infrastructure.*

- d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

*No. The Project is on already graded and disturbed land. The addition of solar facilities will not create downslope or downstream flooding or landslides.*

\* \* \*



**XXI. MANDATORY FINDINGS OF SIGNIFICANCE:**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number, or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

*No, the Project will not impact or degrade the quality of the environment. The limited impact to resources in the Project Area can be mitigated to less than significant levels. Minimization measures have been written into the Mitigation Monitoring and Reporting Program for the permits and include: pre-activity surveys; avoidance buffers for desert kit fox; noise control measures subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures, dust mitigation measures to control air quality issues, and the monitoring efforts of a representative from local native American tribes in case native artifacts or human remains are uncovered.*

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a Project are considerable when viewed in connection with the effects of past Projects, the effects of other current Projects, and the effects of probable future Projects)?

*No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note in the vicinity are PV solar projects within the Trona SEDA, but the overall number and size of these projects are likely to be less than analyzed in the PEIR. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.*

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

*No, the Project has no known environmental effects that will cause substantial adverse effects on human beings either directly or indirectly.*

# **EXHIBIT 2**



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

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

RECIRCULATED  
DRAFT MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT AND  
INITIAL STUDY

**PROJECT TITLE:** Renewable Energy Permit 2022-02/Barker-Trona 4

**PROJECT LOCATION:** The Project site is located approximately 3 miles north of the unincorporated community of Trona, California. The property is on private land owned by Robbie Barker, Assessor parcel numbers 038-330-32, 038-330-33 and 038-330-34.

**PROJECT DESCRIPTION:** The applicant is applying for a Renewable Energy Permit to construct a 3.0 Megawatt (MW) photovoltaic solar facility using approximately 6,000 fixed single-axis tracker solar panels. The project site is located on 15-acres that are previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.

**FINDINGS:**

- A. The proposed project is consistent with goals and objectives of the Inyo County General Plan.
- B. The proposed project is consistent with the provisions of the Inyo County Zoning Ordinance.
- C. Potential adverse environmental impacts will not exceed thresholds of significance, either individually or cumulatively.
- D. Based upon the environmental evaluation of the proposed project, the Planning Department finds that the project does not have the potential to create a significant adverse impact on flora or fauna; natural, scenic, and historic resources; the local economy; public health, safety, and welfare. This constitutes a Mitigated Negative Finding for the Mandatory Findings required by Section 15065 of the CEQA Guidelines.

The 30-day public review period for this Draft Mitigated Negative Declaration will expire on August 25, 2023. Inyo County is not required to respond to any comments received after this date.

Additional information is available from the Inyo County Planning Department. Please contact Project Planner Cynthia Draper (760-878-0265) if you have any questions regarding this project.

  
Cathreen Richards  
Director, Inyo County Planning Department

7/19/2023  
Date



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

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

## **INYO COUNTY PLANNING DEPARTMENT**

### **APPENDIX G: CEQA INITIAL STUDY & ENVIRONMENTAL CHECKLIST FORM**

1. Project title: Renewable Energy Permit 2022-02/Barker- Trona 4
2. Lead agency name and address: Inyo County Planning Department, PO Drawer L, Independence, CA 93526
3. Contact person and phone number: Cynthia Draper: (760) 878-0265
4. Project location: The property is on private land owned by Robbie Barker, Assessor parcel numbers 038-330-32,038-330-33,038-330-34.
5. Project sponsor's name and address: Robbie Barker 82740 Trona Rd., Trona, CA 93562
6. General Plan designation: Residential Estate (RE), SEDA overlay
7. Zoning: Rural Residential (RR-5.0)
8. Description of project: The applicant is applying for a Renewable Energy Permit to construct a 3.0 Megawatt (MW) photovoltaic solar facility using approximately 6,000 fixed single-axis tracker solar panels. The project site is located on 15-acres that are previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.
9. Surrounding land uses and setting: The property is surrounded by undeveloped land, sparse residential dwellings, and commercial uses (such as equipment storage). Developed areas include the Trona Airport, scattered residences, and scrap yards. The surrounding parcels are highly disturbed, devoid of plants or native habitat. Weed abatement has been performed throughout the area.

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

10. Other public agencies whose approval is required: Inyo County Building and Safety, Inyo County Environmental Health, Inyo County Public Works

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun?

In compliance with AB 52 and Public Resource Code Section 21080.3.1(b), tribes identified as being local to Inyo County were notified via certified letter about the project and the opportunity for consultation on this project. The tribes notified were as follows: The Cabazon Band of Mission Indians, the Torres Martinez Desert Cahuilla Indians, the Twenty-Nine Palms Band of Mission Indians, the Big Pine Paiute Tribe, the Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidentiality.

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

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

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

**DETERMINATION**

On the basis of this initial evaluation:

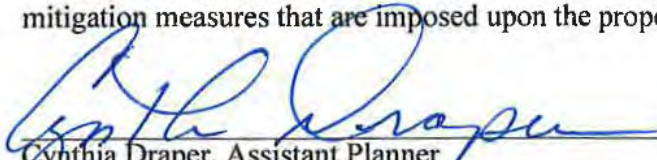
I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

  
Cynthia Draper, Assistant Planner  
Inyo County Planning Department

Date 7/19/23

**RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION  
ENVIRONMENTAL CHECKLIST FORM**

**Renewable Energy Permit 2022-02/Barker- Trona 4**

**REGULATORY BACKGROUND**

The Inyo County General Plan provides a vision for Inyo County’s long-range physical and economic development, including resource development and conservation. The General Plan contains implementing strategies, policies and programs enabling this vision to be accomplished. On March 24, 2015, the Board of Supervisors adopted an amendment to the General Plan known as the Renewable Energy General Plan Amendment (“REGPA”). The REGPA regulates the type, siting, and size of renewable energy solar development projects in the County through adoption of land use policies consistent with the broader goals in the General Plan.

The REGPA differentiates renewable energy solar facilities based on their size and output. It defines “utility-scale” facilities as those generating at least 20 megawatts (MW) for off-site use, consumption or sale. Facilities that generate less than 20 MW may include “commercial-scale” or “community-scale” facilities, depending on whether electricity is produced for off-site use or for use by a specific community. The REGPA states that the County “shall encourage the development of” commercial and community-scale facilities.

The REGPA also designated seven different areas of the County, known as Solar Energy Development Areas (SEDAs), where renewable energy solar facilities would be allowed. Policy LU-1.17 permits utility-scale and commercial-scale facilities to be considered in SEDAs, subject to any necessary environmental review. Renewable energy solar development within a SEDA is allowed in any zoning classification. The Trona SEDA covers an approximately 7.1-mile area in the Searles Valley, north of the unincorporated community of Trona. The REGPA allows 600 acres of renewable energy development in the Trona SEDA.

When the County adopted the REGPA in 2015, it certified a Programmatic Environmental Impact Report (PEIR). The PEIR analyzed the impacts of renewable energy solar development throughout the County. It identified less-than-significant environmental impacts to agriculture and forestry resources, air quality, geology, and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, socioeconomics, transportation and circulation, and utilities and service systems. The PEIR identified potentially significant and unavoidable impacts to aesthetics, biological resources, and cultural resources, and included mitigation measures to reduce these impacts to the extent feasible.

**ENVIRONMENTAL SETTING**

Inyo County covers approximately 10,200 square miles and is located on the east side of the Sierra Nevada Mountain range, within the east-central part of California. The County is primarily rural and undeveloped, characterized by open expanses, wide valleys and mountains ranging from low hills to jagged peaks. Elevations are from 282 feet below sea level within Death Valley National Park to 14,505 feet above sea level (amsl) in the Sierra Nevada

mountains. The climate typically is arid to semi-arid, marked by low precipitation, abundant sunshine, frequent winds, moderate to low humidity, and high evapotranspiration.

The Project is located in the Searles Valley, at the southern edge of the County, north of the unincorporated Trona community, and in the Trona SEDA. As noted above, the SEDA covers approximately 7.1 square miles (4,550 acres). Most of the SEDA is undeveloped. Roughly 60 percent is managed by BLM, with the remainder under private ownership. Developed features include Trona Airport, scattered rural residences, and scrap yards. North of the airport lies Valley Wells, a state historical landmark, consisting of small buildings, abandoned recreational facilities, a desert golf course and well field. The Trona area is sparsely populated, containing less than 2,000 people.

Elevations within the Trona SEDA range from 2,100 feet to 1,650 feet amsl. The average January temperatures range from 32-58 degrees Fahrenheit, and in July from 73-105 degrees. Annual precipitation is low, averaging 3.98 inches. The habitat consists mainly of alkali desert scrub flats with ephemeral washes, with an open composition and canopy cover less than 50 percent.

Topography in the Trona SEDA, within the center of the northern Searles Valley, is generally level or gently sloped. Steeper terrain occurs to the west (the Argus Range), east, and north (the Slate Range). Surface exposures consist predominantly of late Quaternary alluvial/lake deposits, sandy to loamy topsoil with Mesozoic granitic intrusive rocks to the west, and areas to the east and north exhibiting an assemblage of Precambrian/Paleozoic metasediments, Mesozoic granitic intrusives, Mesozoic and Tertiary volcanics, and older Quaternary alluvial/sedimentary deposits. No mapped faults exist in the Searles Valley. The nearest mapped fault is the Panamint Fault, approximately 10 miles east.

The Trona SEDA is within the South Lahontan Basin, as designated in the 1995 (as amended) Lahontan RWQCB Water Quality Control Plan for the Lahontan Region (Basin Plan). The Trona SEDA is within the areal extent of the Searles Valley Groundwater Basin (Searles Basin), which includes an area of approximately 197,000 acres, and a water-bearing strata consisting of a thick (at least 750 feet) sequence of younger unconsolidated alluvial deposits and underlying (locally semi-consolidated) older alluvium.

Average reported municipal/irrigation well depths in the Searles Basin are approximately 300 feet (DWR 2003). Estimated groundwater storage capacity is 2.1 million acre-feet. Groundwater is characterized mainly as calcium-sodium-bicarbonate or sodium-calcium bicarbonate in nature, with groundwater near Searles Lake described as sodium-chloride in nature. The northwestern and southwestern portions of the Searles Basin exhibit generally good water quality (with locally elevated fluoride and nitrate levels), while areas near Searles Lake have poor water quality with TDS levels of between 12,000 and 420,000 mg/l (DWR 2003).

The Trona SEDA is within the Great Basin Valleys Air Basin (Air Basin). The Air Basin is named for its geological formation of valleys surrounded by mountains. Air rises and sinks due to the heat in the valleys and height of the mountains, which causes the air to settle in the valleys and low-lying areas. Areas in the Air Basin are under the jurisdiction of the Great Basin Unified Air Pollution Control District (GBUAPCD), which regulates air pollutant emissions for all stationary sources within the Air Basin.



In 1987, the Trona area was designated as a PM-10 nonattainment area by the United States EPA. The main source of PM-10 emissions in the region is the dry Owens Lake lakebed, which is located approximately 50 miles northwest of the Project. At the time, the Trona area was part of the Coso Junction Planning Area. In 2002, the US EPA redesignated the Searles Valley into three separate areas, and made a finding of attainment for Trona. (Federal Register, 2002a, 2002b.)

## **PROJECT DESCRIPTION**

The applicant has applied for two renewable energy permits for two separate photovoltaic (PV) solar facilities on contiguous land ("Project"). The applicant submitted two separate applications because each facility would separately connect to the existing Southern California Edison (SCE) 33-kV transmission line passing through the area. This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.

The first application (No. 2022-01), known to the applicant as "Trona 7," proposes a PV solar facility on a five-acre parcel, consisting of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.

**The second application (No. 2022-02), also known as Trona 4, proposes a PV solar facility within a 15-acre parcel that is contiguous (i.e., has a common corner) with the Trona 7 site. The facility would generate 3.0 MW of electricity utilizing approximately 6,000 single-axis tracker solar panels. The site also is previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.**

Both proposed facilities (collectively, the 20-acre "Project Area") are located approximately three miles north of the Trona community and one mile west of the Trona Airport. The elevation of the Project Area is approximately 1,700 feet amsl. It has no history of agricultural use and is not federally managed. According to FEMA, the Project Area is within an Area of Minimal Flood Hazard.

Zoning in the Project Area is rural residential. Approximately five residential structures are within 0.5 miles of the Project Area, located mostly south and west. Two of these structures are approximately 400 feet from the edge of the Project Area (most of the Project Area is farther to the east and extends up to approximately 2,300 feet distant from these structures). Other land use in 0.5 miles of the Project Area include storage of equipment and vehicles, scrap yards and storage units. Representative photographs are included in Appendix A. Agricultural use of surrounding land is minimal. Agriculture and farming are not significant land uses in the area.

Construction will consist of limited grading in some areas, as the Project Area is already predominantly level and graded. Appendix B (Biological Resources Evaluation) documents the onsite conditions. Shallow trenching will be required for underground conduits, and one 20x20-foot concrete pad will be placed on each site to support the transformers. Following grading and

trenching, metal poles or masts will be installed into the ground to support the solar panels. Grading and trenching will require approximately two days. Pole and panel installation will take an estimated two months. Appendix C contains an equipment list, operating hours and projected air emissions.

Dust control measures will be used at all times during construction, and during Project operations (the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity). Dust controls during construction will consist of a watering truck, the application of crushed limestone to the ground, and application of a non-toxic clay polymer known as EarthGlue (specifications in Appendix D). Stabilized construction entrance and exits will be used to reduce sediment trackout onto the adjacent public roadway. During operations, limestone and EarthGlue will control dust.

Once installed, the solar panels will reach a maximum height of 12 feet above the ground (or less, as the panels change slightly in height as they rotate slowly throughout the day to track the sun). Panels will feature anti-reflective coatings to reduce daytime glare and reflectivity. Each facility will be fenced to prevent unauthorized access. Representative photographs of the panels and tracker supports are in Appendix E, showing a recently constructed solar project located on adjacent land (described in more detail below) that uses the same equipment design and components to be used by the Project.

The Project is the second renewable energy solar project proposed for the Trona SEDA. The prior project, on 10 acres adjacent to the Project Area, was approved and has been constructed by the applicant (Nos. 2018-01 and 2021-01). Another 10-acre project is reportedly in development to the south. Combined, the existing, proposed and potential future renewable solar projects are 40 acres, and account for a small part of the 600 acres allocated by the REGPA to solar projects in the Trona SEDA. Future solar projects in the Trona SEDA may not be possible, however, according to the applicant, until SCE improves its transmission infrastructure to increase its transmission capacity.

## **AGENCY COORDINATION AND PUBLIC INVOLVEMENT**

Public notifications concerning the Project began approximately seven months ago. On November 14, 2022, the County gave public notice of the availability of a Draft Initial Study and Negative Declaration for each of the two applications. The 30-day review period ended on December 17, 2022. No comments were received.

A public hearing was set before the Planning Commission on March 23, 2023 to approve both applications. Two days before the hearing, the County received public comments from a nearby landowner, and as a result, the County postponed the hearing to May 3, 2023. Prior to the May hearing, the County received additional public comments. As a result, the County postponed the hearing again, revised the Initial Study and Mitigated Negative Declaration, and has recirculated the Initial Study and Mitigated Negative Declaration pursuant to Section 15073.5 of the CEQA Guidelines.

## **TRIBAL OUTREACH**

In accordance with AB 52 and Public Resource Code Section 21081.3.1(b) tribes identified as being local to Inyo County were notified via certified letter about the project and the opportunity for consultation on this project. The tribes were notified as follows: The Cabazon Band of

Mission Indians, the Torres Martinez Desert Cahuilla Indians, the Twenty-Nine Palms Band of Mission Indians, the Big Pine Paiute Tribe, the Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

## **TIERED DOCUMENT**

A program EIR evaluates the environmental consequences of a series of actions that together constitute a large project and share common geographic, regulatory and environmental attributes. (Cal. Code of Regs., tit. 14, § 15168(a).) If the program EIR facilitates the approval of activities within a program, the agency must scrutinize those activities, as they arise for approval, to determine if additional environmental review is needed.

An agency's assessment of the adequacy of a prior program EIR for the approval of specific activities involves an analysis of whether the activity falls within the scope of the prior EIR and whether the activity will give rise to environmental impacts that were not previously analyzed in the program EIR. (Cal. Code of Regs., tit. 14, § 15168(c).) If impacts were adequately assessed, the agency can avoid further environmental documentation. (Id., tit. 14, § 15168(c).) If further review is needed, the "tiered" document should analyze only those effects that may be significant but were not analyzed in the program EIR, or that were considered significant but can be mitigated or avoided through further analysis. (Id., tit. 14, § 15152(d); see also Pub. Resources Code, §§ 21081(a)(1), 21094(c).)

The PEIR was a program EIR pursuant to section 15168 of the CEQA Guidelines. The County has determined that certain of the Project's potential impacts are adequately addressed in the PEIR. Others require site-specific analysis and are properly assessed in a Mitigated Negative Declaration that will integrate enforceable mitigation measures from the PEIR to ensure that they are enforced at the Project level. The County is treating the Mitigated Negative Declaration as a tiered document under the PEIR. The PEIR can be found at the following website link, or by typing or pasting the following text into an internet browser:

<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volme%20II.pdf>

## CHECKLIST

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
--------------------------------------	-----------------------------------------------------------------	------------------------------------	--------------

**I. AESTHETICS** – Would the project:

a) Have a substantial adverse effect on a scenic vista?                       

*No. The Project is not located near a scenic vista. The Project is near the valley floor within an area that is visually characterized by junk yards, and outdoor storage of vehicles and equipment in a high desert environment. The Project is within the Trona SEDA, which has its location and boundaries in an area that lacks an abundance of scenic resources. (PEIR, 4.1-15.)*

*The Project is consistent with the PEIR analysis and mitigation measures. The potentially-applicable mitigation measures (AES-1 through 6, and 9) require that site-specific visual studies be prepared for utility-scale projects (i.e., generating greater than 20 MW) and for smaller-scale projects determined by a qualified county planner to have a potential to impact visual resources in individual SEDAs. Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a qualified planner to not have a potential to impact visual resources, including a scenic vista.*  
<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volme%20II.pdf>

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?                       

*No. The Project Area has previously been disturbed with roads, storage units, and weed abatement. It has previously been graded and is devoid of natural resources such as rock outcroppings and trees. No removal of vegetative life, rock outcroppings, or historic buildings within a scenic state highway will occur. It is not located within or adjacent to any designated scenic highways mapped by the California Department of Transportation. The Project involves the placement of PV solar panels that reach a maximum height of 12 feet.*

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly-accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?                       

*No. The Project will not affect the overall scenic integrity of the area. The Project Area is barren of natural resources that provide scenic value. The Project is in a rural, non-urbanized area and surrounded by property owners that frequently use the area for storage and scrap yards. Public views are mainly from Trona-Wildrose Road, and the Project will not substantially*

*degrade the existing visual character of the area from the perspective of passing motorists as the area is characterized by scrap yards and outdoor storage of materials. (Appendix A.) The low height of the panels (12 foot maximum, comparable to a single-story house) would not obstruct views of the Argus range to the west or the Slate range to the east.*

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

*No. Due to the small size of the facilities, and their location and design, the Project will not significantly impact daytime or nighttime views. Construction will take place during the daytime hours only. Operation will not involve new light sources that affect nighttime views. The Project will use solar panels that integrate anti-reflective technology to minimize daytime glare, which is consistent with PEIR Mitigation Measure AES-6 (requiring that certain projects treat solar panels with anti-reflective coating). The boundaries and locations of SEDAs, including the Trona SEDA, were sited in areas without an abundance of scenic resources. (PEIR, 4.1-15.)*

\* \* \*

**II. AGRICULTURAL AND FOREST RESOURCES:** In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program (FMMP) of the California Resources Agency, to nonagricultural use?

*No, the Project is not located on land designated as farmland.*

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

*No, the Project is not located on land zoned exclusively for agriculture. Inyo County has no Williamson Act contracts.*

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

*No, the Project Area does not include forest land or timberland, or land zoned for forest land, timberland, or Timberland Production.*

d) Result in the loss of forest land or conversion of forest land to non-forest use?

*No, the Project is not located on forest land.*

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

*No, the Project is not located on farmland and is not conducive to future use as farmland. The Project Area has no history of agricultural production. To the extent that agricultural activities may exist on surrounding properties, the Project would have no impact on or interference with those activities.*

\* \* \*

**III. AIR QUALITY:** Where available, the significant criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?

*No. There is no applicable air quality plan for the area in which the Project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards. The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. (See Appendix C, Air Quality and Greenhouse Gas Memorandum). The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.*

*Additionally, the Project is consistent with the PEIR analysis and mitigation measures. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. (See PEIR, p. 4.3-10.) The potentially-applicable air quality mitigation measures (AQS-1 through 3) applied to utility-scale projects of greater than 20 MW and did not apply to*

*smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner. Here, the Project involves a small commercial-scale facility that does not present significant air quality impacts. (See Appendix C.) Due to the size, location, low emissions well below all applicable thresholds (Appendix C) and design that incorporates dust controls and suppressants, AQS-1 through 3 are unnecessary to apply.*

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

*No. The Project is located in an area in attainment for PM-10. The Project will be in compliance with air quality standards, as the applicant is conditioned to obtain any required permits and to follow best management practices as set forth by GBUAPCD. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) Project construction and operations will generate emissions that are well below all applicable air quality thresholds and standards. (See Appendix C.)*

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

*The Project is not in an area that is in non-attainment under any applicable standard. The operation of the solar project is not anticipated to result in a substantial increase in vehicular or stationary emissions once installed. As a result, long-term emissions resulting from Project operation are anticipated to be well below all applicable thresholds. (See Appendix C.) The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) The Project would not contribute to a cumulatively considerable net increase in non-attainment pollutants during operation, and impacts would be less than significant.*

d) Expose sensitive receptors to substantial pollutant concentrations?

*No, the proposed Project will not expose sensitive receptors to any new substantial pollutant concentrations. The construction process is low impact, involving minor leveling and digging of shallow trenches for placing underground conduits, and installation of a single 20'x20' concrete pad for a transformer. There are no nearby schools or hospitals. Few houses are in proximity to the Project Area. During construction, windblown dust will be controlled by watering, the application of limestone, and the application of a dust suppressant. Vehicle emissions will be well below applicable thresholds of significance during construction and operations. (See Appendix C.) During Project operation, the solar facility will not produce pollutants.*

e) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

*The proposed Project will not produce objectionable odors during the life of the operation. The Project will use typical construction techniques and the odors would be typical of most construction sites and temporary in nature.*

\* \* \*

#### **IV. BIOLOGICAL RESOURCES:**

Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

*No. The Project Area has been inspected by County planning staff and by a qualified biologist. No CDFW or USFWS designated special status species were found in Project Area. The Project Area is graded, cleared of any significant vegetation, and contains no native habitat. No impacts through habitat modification are anticipated.*

*A Biological Resource Evaluation (BRE) was performed by qualified biologists. (Appendix B.) The BRE surveyed the Project Area and a 250-foot buffer. No significant biological resources (plant or wildlife) were found present in the Project Area or buffer. In particular, the BRE found no evidence of desert tortoise (*Gopherus agassizii*) or suitable foraging habitat or other habitat for desert tortoise. The BRE also found no evidence of Mohave ground squirrel (*Xerospermophilus mohavensis*) or associated burrows and noted that the nearest population of Mohave ground squirrel is 8.2 miles southwest, and the nearest core population is 25 miles northwest.*

*The BRE concluded that the desert kit fox (*Vulpes macrotis arsipus*) could potentially visit the Project Area as a transient forager, but the Project Area and surroundings lack optimal denning habitat due to existing ground disturbance. The BRE also found a potential for nesting birds or raptors to forage and/or nest in the Project Area or buffer, using utility poles, although no active or inactive nests were observed. Nesting migratory birds and other raptors species, protected by the Migratory Bird Treaty Species Act, were not observed but have a potential to occur in or near the Project Area and surrounding areas. (Appendix B.)*

*To mitigate the potential for impacts to desert kit fox and protected bird species, the BRE recommended Best Management Practices and avoidance measures including: a pre-activity survey, a vehicle speed limit of 20mph, covering of trenches, and proper disposal of food items, as set forth more specifically in the BRE. With these measures, the Project is not expected to significantly impact candidate, sensitive, or special status species.*



*The Project is consistent with the PEIR. The biological resource mitigation measures identified in the PEIR apply to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under CEQA" and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.4-122-123.) If the planner determines, after review, that a proposed commercial-scale project has a potential to impact biological resources, the PEIR mitigation measures shall be implemented "as determined necessary" by the planner. (PEIR, p. 4.4-123.) Here, the Project has no potential to impact biological resources other than potential impacts to desert kit fox and bird species. The mitigation measures in the BRE will ensure that the potential impacts to desert kit fox and bird species are less than significant, and it is unnecessary to implement any additional mitigation measures from the PEIR.*

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

*No, there is no identified riparian habitat or other sensitive natural community in the Project Area or in close proximity that would be affected by the Project. The USFWS National Wetlands Inventory (USFWS 2014b) shows no freshwater wetlands near the Project Area. No protected natural areas are located within the Trona SEDA.*

c) Have a substantial adverse effect on state or federal protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

*No, there are no federally protected wetlands in or near the Project Area, nor would the nature of the Project cause fill material or Project contaminants to enter flowing water.*

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

*No, although the Project Area could potentially have occurrences of wildlife species, the Project will not interfere with migratory fish or wildlife species. As stated in the BRE, there are no known wildlife movement corridors or habitat linkages that intersect the Project Area. The Project Area is within a highly disturbed area and provides minimal linkage between suitable natural habitats for most wildlife species. The BRE anticipates no substantial movement of wildlife onto or from the Project Area.*

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

*No, there are no local policies or ordinances in place protecting biological resources that pertain to the Project Area.*

- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

*No, there are no adopted habitat or conservation plans that affect the Project Area. The proposed Project is within an area specifically designated for solar energy development pursuant to the REGPA.*

**Mitigation Measures:** *The applicant shall implement all Best Management Practices recommended in Section 6 of the BRE (i.e., pre-activity surveys; avoidance buffers for desert kit fox; Worker Environmental Awareness Training Program; speed limit of 20-mph; covering of trenches deeper than two feet at the close of work day; inspection of pipes and culverts greater than four inches before burial; trash and food items onsite must be discarded into closed containers; no pets should be permitted onsite).*

\* \* \*

**V. CULTURAL RESOURCES:** Would the project:

- a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?

*No, the Project will not cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5. The Project Area is vacant and undeveloped. It does not contain resources listed in, or determined to be eligible by, the State Historical Resources Commission for listing in, the California Register of Historical Resources, or any local register of historical resources. The Project Area also does not contain any known structures, features or sites that may be historically significant.*

- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?

*No, the Project does not contain any known archaeological resources, and will not cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5. Project construction requires limited ground-disturbance on land that is already flat, making the disturbance or discovery of unanticipated cultural, archaeological, or historical resources unlikely.*

*If any archaeological or cultural resources are inadvertently discovered in the Project Area, work shall immediately desist and County staff shall be immediately notified per Chapter 9.52, Disturbance of Archaeological, Paleontological and Historical Features of the Inyo County Code. The County will then work with the operator and local tribal members, including tribal THPOs, to develop a plan for preservation, protection, or relocation of the resource. With this mitigation measure, the Project will not cause an adverse change in the significance of an archaeological resource pursuant to Section 15064.5*

c) Disturb any human remains, including those interred outside of dedicated cemeteries?

*No, there are no known human remains or burial sites in the Project Area. Additionally, it is unlikely that such remains would be discovered due to the minimal nature of earth-disturbance on the Project site. However, if human remains are uncovered, the discovery would be treated in the same manner as an archeological resource described in (V b) above (i.e., work would cease immediately and remain stopped until a plan was developed for preservation, protection, or removal).*

\* \* \*

**VI. ENERGY:** Would the project:

a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

*No, the Project is to construct a PV solar facility, totaling approximately 3.0 MW of generating capacity, that uses only a small amount of energy, and is required to meet California building standards including green and title 24 standards.*

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

*No, the Project is to construct a PV solar facility, totaling approximately 3 MW of generating capacity, located in one of the counties solar energy development areas (SEDAs), as identified by the General Plan. The project will generally advance state and local plans for renewable energy, rather than conflict with or obstruct such plans.*

\* \* \*

**VII. GEOLOGY AND SOILS:** Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

- i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

*No, the Project is not in an Alquist-Priolo zone. The Project operates with little human intervention and would not expose people to significant risk of injury. In addition, the nature of the solar panels, and their low height, does not make them readily susceptible to adverse effects during seismic activity. Also, subsequent to the approval of the permit, the applicant shall work with the Inyo County Department of Building and Safety to ensure any building activities meet State and County Codes.*

- ii) Strong seismic ground shaking?

*No, the State Geologist has not mapped any faults in the Searles Valley in the vicinity of the Project. In addition, seismic activity and ground shaking can occur anywhere in the region, but compared to much of the rest of California, this is a less than average seismically active area. The California Building Code ensures that structures be constructed to required seismic standards in order to withstand such shaking.*

- iii) Seismic-related ground failure, including liquefaction?

*No, the Project is not within an area of soils known to be subject to liquefaction.*

- iv) Landslides?

*No, the Project Area is flat or gently sloping, and is not in an area prone to landslides.*

- b) Result in substantial soil erosion or the loss of topsoil?

*No, Project construction is limited to trenching for conduits, and minor grading to level the ground surface as needed. The limited scale of ground disturbance is not expected to result in a risk of substantial soil erosion or loss of topsoil, and in addition, the placement of limestone will stabilize the surface to protect against the low risk of erosion.*

- c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or offsite landslide, lateral spreading, subsidence, liquefaction or collapse?

*No, the proposed Project is not located in an area with a geologic unit or soil that is known to be unstable. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.*

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

*No, the proposed Project is not located in an area with a known expansive soil type. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.*

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

*No, the soils are compatible with septic tanks and other wastewater disposal systems, although the Project is not designed to have either septic tanks or wastewater disposal systems.*

f) Directly or indirectly destroy a unique paleontological resource or site unique geologic feature?

*No, the Project Area does not include any unique paleontological or geologic features.*

\* \* \*

**VIII. GREENHOUSE GAS EMISSIONS:** Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

*No. GHGs generated during the construction phase would be minimal and below all applicable thresholds. (See Appendix C.) GHGs during Project operation would be virtually non-existent, and not present a significant impact, because the solar facilities do not generate any GHGs except for occasionally visits (estimated weekly) by the applicant in a light vehicle to monitor the facilities.*

*The Project is consistent with the PEIR. The PEIR identified mitigation measures applicable mainly to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under*

CEQA” and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.7-12.) If the planner determines, after review, that a proposed commercial-scale project has a potential to generate a significant GHG impact, the PEIR mitigation measures shall be implemented “as determined necessary” by the planner. (PEIR, p. 4.7-12.) Here, the Project has no potentially significant GHG impacts, in light of the small scale of the Project and limited GHG emissions that would occur during construction. (Appendix C.)

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

*No, the proposed Project will not conflict with any plan, policy or regulation adopted for the purpose of reducing GHG emissions. (Appendix C.)*

\* \* \*

**IX. HAZARDS AND HAZARDOUS MATERIALS:** Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

*No. The proposed Project will produce a small amount of waste associated with operational maintenance activities. PV wastes include broken and rusted metal, defective or malfunctioning modules, electrical materials, empty containers, and other miscellaneous solid materials. These wastes will be generated infrequently. Most of this material will be collected and delivered back to the manufacturer for recycling or disposed of according to legal requirements. The presence of such wastes onsite would not pose a risk to surrounding properties and transporting it off site poses no threat or risk due to the inert nature of the waste materials.*

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

*No. The proposed Project will not involve the use of a significant hazardous material. The operation of a PV solar facility does not involve the presence of any liquid wastes or hazardous materials readily capable of migrating to off-site properties. No battery storage will occur on site, or associated hazardous materials, as the solar facilities will connect directly to existing power lines operated by SCE. No significant hazard to the public or environment through a reasonably foreseeable upset or accident that could result in the release of hazardous materials is anticipated.*

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials,

substances, or waste within one-quarter mile of an existing or proposed school?

*No. The proposed Project is not within one-quarter mile of an existing or proposed school, nor will it emit hazardous emissions, nor involve the handling of acutely hazardous materials, substances, or waste.*

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

*No, the proposed Project is not located on a site included on a list of hazardous material sites compiled pursuant to Government Code section 65962.5.*

e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the project area?

*No. The Project operates passively and with little human intervention, and there will be no people typically working in the Project Area that could be affected by airport operations. The Project also does not pose a danger to Trona Airport maintenance workers because the airport is not a public use airport. Additionally, the airport is not used with enough frequency to pose a danger to anyone working in the Project Area.*

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

*No, the project will not physically interfere with an adopted emergency plan or emergency evacuation plan.*

g) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

*No, risk of loss, injury, and death involving wildland fires are not significant from this Project. Fire risks are identified as moderate at the Project Area, and no areas in proximity to it can be considered urbanized. Land surrounding the Project Area are not heavily vegetated and there are only a few residences in the proximity; therefore, the risk of loss, injury, or death involving*

wildland fires is less than significant, and any potential risk is further mitigated by compliance with California Building Standards.

\* \* \*

**X. HYDROLOGY AND WATER QUALITY:** Would the project:

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

*No. The Project will not violate any water quality standards or waste discharge requirements. The Project Area is pre-disturbed. The Project Area is in a region characterized by a low level of precipitation. Project construction will involve some trenching and minor grading to level the land, which does not present a significant risk of violating any water quality standards or substantially degrading surface or groundwater quality. The applicant intends to use stabilized construction entrance and exits would be installed at driveways to reduce tracking of sediment onto adjacent public roadways. The Project is subject to regulation by the Lahontan Regional Water Quality Control Board and the Inyo County Environmental Health Department and will meet all applicable requirements.*

b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

*No. The Project will not have any effect on local groundwater. The project will not use local groundwater for its water needs, which are limited to dust control. All groundwater needs will be supplied by mobile trucks supplying water to the job site. Water demands are estimated at 40,000 gallons/week for dust control and site preparation and water will be trucked in from the Searles Domestic Water Company, located in Trona. The Project will not introduce any significant new areas of impervious surfaces that will prevent groundwater recharge.*

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

i) Result in substantial erosion or siltation on or off-site?

*No. The Project proposes extremely minimal grading and no new impermeable or impervious surfaces. Other than installing a small concrete pad, no paving or other activities will increase the number of impermeable surfaces that could cause erosion or siltation. No drainage patterns*



*will be altered. Other than rare storm related overland run-off situations, no water passes over or through the Project Area.*

- ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off-site?

*No. The Project will not significantly change the landscape or existing runoff patterns or redirect or block flood flows. No drainage patterns or rates of runoff will be altered by the Project.*

- iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

*No. The Project is proposed in an area that is already disturbed and will have no substantial changes to runoff patterns. No increase in stormwater runoff will occur as a result of the Project.*

- iv) impede or redirect flood flows?

*No, the Project is in an area that is already disturbed and is not located in a flood hazard area.*

- d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

*No, the Project is in an area that is already disturbed, and is not located in a flood hazard, seiche or tsunami zone. Note that the BRE identified a potential surface water drainage based on prior mapping but no evidence of any such feature exists onsite and the mapping is therefore considered to be in error or outdated.*

- e) Conflict with or obstruct implementation of a water quality control plan or sustainable ground water management plan?

*No, the Project will not affect compliance with or implementation of the Lahontan Region water quality control plan and is not in an area included in a sustainable groundwater management plan.*

\* \* \*

**XI. LAND USE AND PLANNING: Would the project:**

a) Physically divide an established community?

*No, there is no established community in the vicinity of the Project, and the Project would not physically divide such a community.*

b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

*No, the Project is consistent with the current zoning and advances the goals for renewable energy generation for the southern portion of the county, as described in the REGPA. This part of the Trona area also is explicitly called out and designated for solar energy generation as part of the southern Trona SEDA.*

\* \* \*

**XII. MINERAL RESOURCES:** Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

*No. The Project Area has no known mineral resources of value to the region or state. The Project Area is not in a mapped area of regional or statewide significance by the State Mining and Geology Board. Development of the surface for solar generation would not in any event result in the permanent loss of mineral resources unexpectedly in this location.*

b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

*No, there are no known locally important mineral resources delineated in any land use plan that would be affected by the Project.*

\* \* \*

**XIII. NOISE:** Would the project:

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan

or noise ordinance, or other applicable standards of other agencies?

*All potential noise impacts are within the scope of the PEIR analysis and will be subject to the PEIR mitigation measures. The PEIR evaluated the impacts of construction noise, including the use of construction equipment for grading, trenching, mast installation, installation of concrete footings, movement of heavy equipment and transportation of materials by truck. The PEIR also listed the individual equipment types that would be used to install a solar panel array, and the estimated noise levels associated with each item of equipment. (See PEIR, pp. 4.12-16 – 4.12-18.) The Project would use construction equipment of the types listed in the PEIR, and follow a construction process consistent with, or less impactful than, that anticipated in the PEIR. In this regard, the PEIR focused on utility-scale solar projects. The Project is a smaller, commercial-scale Project that will utilize a construction process that is comparatively light and short term in comparison to utility-scale projects. Trenching and grading will take two days using one grader, one backhoe and a water truck. Panel installation will occur over an estimated two months. No nighttime construction will occur. The Project does not present noise impacts that substantially differ from, or that are more impactful than, those analyzed in the PEIR. As such, the Project is within the scope of the PEIR pursuant to CEQA Guidelines section 15168(c)(2).*

*The PEIR adopted Mitigation Measure MM NOI-2 (“Implement construction noise reduction measures”) to ensure that construction noise impacts are avoided or reduced below a level of significance and would have no significant unavoidable adverse impacts. (PEIR, pp. 4.12-18.) The PEIR listed the following five mitigation measures:*

*If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT's Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:*

- Whenever feasible, electrical power will be used to run air compressors and similar power tools.*
- Equipment staging areas will be located as far as feasible from occupied residences or schools.*
- All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.*
- Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.*
- Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings.*

*NOI-2 incorporated certain best management practices (BMPs) from REAT's Best Management Practices and Guidance Manual (REAT 2010) for desert renewable energy projects. In regard to potential noise impacts, the manual lists 10 BMPs:*

- 1) *Ensure noisy construction activities (including truck and rail deliveries, pile driving and blasting) are limited to the least noise-sensitive times of day (i.e., weekdays only 45 between 7 a.m. and 7 p.m.) for projects near residential or recreational areas.*
- 2) *Consider use of noise barriers such as berms and vegetation to limit ambient noise at plant property lines, especially where sensitive noise receptors may be present.*
- 3) *Ensure all project equipment has sound-control devices no less effective than those provided on the original equipment. All construction equipment used should be adequately muffled and maintained. Consider use of battery powered forklifts and other facility vehicles.*
- 4) *Ensure all stationary construction equipment (i.e., compressors and generators) is located as far as practicable from nearby residences.*
- 5) *If blasting or other noisy activities are required during the construction period, notify nearby residents and the permitting agencies 24 hours in advance.*
- 6) *Properly maintain mufflers, brakes and all loose items on construction and operation related vehicles to minimize noise and ensure safe operations. Keep truck operations to the quietest operating speeds. Advise about downshifting and vehicle operations in residential communities to keep truck noise to a minimum.*
- 7) *Use noise controls on standard construction equipment; shield impact tools. Consider use of flashing lights instead of audible back-up alarms on mobile equipment.*
- 8) *Install mufflers on air coolers and exhaust stacks of all diesel and gas-driven engines. Equip all emergency pressure relief valves and steam blow-down lines with silencers to limit noise levels.*
- 9) *Contain facilities within buildings or other types of effective noise enclosures.*
- 10) *Employ engineering controls, including sound-insulated equipment and control rooms, to reduce the average noise level in normal work areas.*

*The western and northwestern edge of the Project Area is approximately 400 feet from two residential structures located westerly of the Project Area. Under CEQA Guidelines section 15168(c)(3), the Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of the residential structures.*

*Once the Project is constructed, operational noise sources will be limited to pad-mounted transformers and tracker array motors. Transformers will be located farther than 500 feet from a residence or other noise-sensitive land use and would not require further analysis under MM NOI-1 in the PEIR. Tracker motors generate low noise levels (see PEIR Table 4.12-4) and are sufficiently far from noise-sensitive land uses to have no potential noise-related impacts and to not require further noise study or mitigation. (See PEIR, p. 4.12-19.) As such, the operational impacts are expected to be less than significant.*

b) Generation of excessive groundborne vibration or groundborne noise levels?

*No, the Project involves relatively light ground disturbance with few vehicles. No excessive groundborne vibration or groundborne noise is expected. Considering the types of equipment that will be used, impacts associated with groundborne noise or vibration would be within the scope of the PEIR and less than significant. (See PEIR p. 4.12-15.)*

c) For a project located within the vicinity of a private airstrip or, an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

*No. Trona Airport is not public, nor is it used with frequency, and it is typically used by light aircraft only. The proposed Project will have minimal noise levels due to its nature and will not create excessive noise levels for personnel working near the Project Area. The Project Area is not immediately below any established flight path and persons working at the Project Area would not be exposed to any significant level of aircraft noise.*

**Mitigation Measures:** *All potential impacts are within the scope of the PEIR analysis. The Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures.*

\* \* \*

**XIV. POPULATION AND HOUSING:** Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

*No. The Project is not likely to induce any population growth. The Project Area requires few maintenance personnel and will be monitored mostly remotely from offsite locations. No new residents are expected to result from the Project.*

b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

*No, the proposed Project will not displace existing housing or create a situation where replacement housing will be necessary. No housing currently exists in the Project Area. No existing housing will be removed to construct or operate the Project. The Project will have no effect on the level of housing in the Project Area or on surrounding properties.*

\* \* \*

**XV. PUBLIC SERVICES:** Would the project:

a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?

*No. The Project is not considered to be located in a high-risk area for fire protection. The Project Area has no trees or established vegetation. The San Bernardino Fire Department (which provides fire protection services in the Trona community) was consulted on the Project. No concerns related to the Project Area were given.*

Police protection?

*No. No new police service will be required because of the Project. Offsite private security measures will mostly be used to monitor the Project Area.*

Schools?

*No, no new students or residents, or associated school services, will be required because of this Project.*

Parks?

*No, no new parks will be required because of the Project.*

Other public facilities?

*No, the proposed Project will not create substantial adverse physical impacts associated with a need for any other foreseeable public services.*

\* \* \*

**XVI. RECREATION:** Would the project:

a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

*No, the proposed Project will not increase the use of existing recreational facilities. It is not anticipated that any portion of this Project will result in a change in the level of service required to provide parks or other recreational facilities.*

b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

*No, the proposed Project does not include recreational facilities, nor will it cause a need for an increase in parks or other recreational facilities that might have an adverse physical effect on the environment.*

\* \* \*

**XVII. TRANSPORTATION:**

a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?

*No. The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.*

b) Conflict or be inconsistent with CEQA Guidelines § 15064.3(b)?

*No. The project will not result in an adverse change with respect to vehicle miles traveled (VMT). The Project will not significantly increase passenger vehicle traffic or commuter traffic in the region. Construction related traffic generally will be light. When construction is complete, the Project will be remotely monitored and have maintenance personnel on-site as needed during daytime hours. The Project is not within one-half mile of either an existing major transit stop or high-quality transit corridor. The Project will result in less than significant impacts to this resource.*

c) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

*No. The proposed Project will not result in any design features that increase transportation hazards. No changes will occur to public roads, including the Trona Wildrose Road. No curves or dangerous intersections will be added to the existing unpaved access road leading to the Project Area. Automobiles and trucks will be accommodated in the Project Area.*

d) Result in inadequate emergency access?

*No, the Project is proposed on properties that are directly adjacent to, and accessible from, Trona Wildrose Road and emergency access is and will continue to be available.*

\* \* \*

**XVIII. TRIBAL CULTURAL RESOURCES:** Would the project:



a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
- 

*No. The Project Area undeveloped and cleared of vegetation with no known tribal cultural resources. The proposed Project does not contain a resource eligible for listing in the California Register of Historical Resources, or in a local register for historical resources as defined in Public Resource Code section 5020.1(k). If any archeological or cultural resources are discovered on the site, work shall immediately stop, and Inyo County staff shall be immediately notified per Chapter 9.52 of the Inyo County Code.*

- ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.
- 

*The Project Area is vacant and undeveloped. It does not contain any resource determined by the County to be significant pursuant to criteria set forth in subdivision (c) of the Public Resource Code section 5024.1 (i.e., is associated with events that made a significant contribution to the state's cultural patterns, is associated with the lives of persons important in our past, embodies the distinctive characteristics of a type or period, or has yielded or may yield information important in prehistory or history).*

\* \* \*

**XIX. UTILITIES AND SERVICE SYSTEMS:** Would the project:

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

*No. The proposed Project is for the approval of a PV solar facility that will primarily be remotely monitored and involve no continuous human presence. The Project will not result in the construction or relocation of new or expanded utility, wastewater, or other utility service systems. The goal of the Project is to create a sustainable supply of electric power, and it will not increase demand for utilities whatsoever.*

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

*No impact. During operation, water needs will be no more than 1.0-acre feet per year and will be utilized primarily for panel washing 2-4 times annually. During active construction, light water consumption (relative to other construction uses) will be required for dust suppression. All water needs will be covered via trucking it in from Searles Domestic Water Company, located in Trona. No landscaping water will be required.*

c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

*No. The Project would not generate wastewater requiring disposal or contribute to demand for wastewater treatment.*

d) Generate solid waste in excess of state or local standards, or in excess of the capacity of soil infrastructure, or otherwise impair the attainment of solid waste reduction goals?

*No. The Project will not require changes to the current solid waste capacity to accommodate them. Solid waste needs for the project will be minimal. Most of the volume of solid waste (scrap metals, electrical equipment, and proprietary solar array features) will be collected and recycled.*

e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

*No impact. The Project and any future development will comply with Inyo County's solid waste standards, as required by the Inyo County Department of Environmental Health.*

\* \* \*

**XX. WILDFIRE:**

a) Substantially impact an adopted emergency response plan or emergency evacuation plan?

*No. There is not an adopted emergency response or evacuation plan for the area in which the Project is proposed.*

b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

*No. The Project Area is on flat or gently-sloped land. It lacks vegetation and vegetation is sparse in the area, characterized mainly by desert scrub, making wildfire risks moderate to low. There will be no project occupants, and the project area is physically separated from surrounding structures. The proposed Project does little to add to the wildfire risk in the area. The risk of loss, injury or death involving wildland fires is less than significant at this site, and any potential risk is further mitigated by compliance with California Building Standards.*

c) Require the installation or maintenance of associated infrastructure (such as roads, fuel break, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

*No. The Project will not cause the need for additional wildfire associated infrastructure.*

d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

*No. The Project is on already graded and disturbed land. The addition of solar facilities will not create downslope or downstream flooding or landslides.*

\* \* \*

**XXI. MANDATORY FINDINGS OF SIGNIFICANCE:**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number, or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

*No, the Project will not impact or degrade the quality of the environment. The limited impact to resources in the Project Area can be mitigated to less than significant levels. Minimization measures have been written into the Mitigation Monitoring and Reporting Program for the permits and include: pre-activity surveys; avoidance buffers for desert kit fox; noise control measures subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures, dust mitigation measures to control air quality issues, and the monitoring efforts of a representative from local native American tribes in case native artifacts or human remains are uncovered.*

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a Project are considerable when viewed in connection with the effects of past Projects, the effects of other current Projects, and the effects of probable future Projects)?

*No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note in the vicinity are PV solar projects within the Trona SEDA, but the overall number and size of these projects are likely to be less than analyzed in the PEIR. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.*

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

*No, the Project has no known environmental effects that will cause substantial adverse effects on human beings either directly or indirectly.*

**APPENDIX A**



**1**



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## **APPENDIX B**

**BIOLOGICAL RESOURCE EVALUATION**

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**VALLEY WIDE CONSTRUCTION SERVICES  
TRONA 4 AND 7 SOLAR PROJECT**



**MAY 2023**

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# BIOLOGICAL RESOURCE EVALUATION

## TRONA 4 AND 7 SOLAR PROJECT

### **Prepared for:**

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May 2023

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**EXECUTIVE SUMMARY**

This Biological Resource Evaluation (BRE) report provides the results of a biological survey conducted by QK for the Trona 4 and 7 Solar Projects (collectively, the Project) proposed by Valley Wide Construction Services. In order to comply with the California Environmental Quality Act (CEQA) a biological evaluation was conducted to identify the potential for sensitive biological resources to occur on or near the Project site.

The Project is located north of the unincorporated town of Trona, California (Figure 1-1). It consists of two separate applications for renewable energy permits, one covering approximately 15 acres (Trona 4) and the other covering approximately 5 acres (Trona 7) of contiguous land, all situated on Assessor Parcel Numbers (APNs) 038-330-32, 038-330-33, 038-330-34, and 038-330-46. The Project site, which for the purposes of this BRE consists of both the Trona 4 and Trona 7 project sites, is highly disturbed, has been disked and exhibits little native vegetation re-growth. The Project site is bordered by an existing solar facility to the south, scattered residential homes, abandoned vehicles, local trash and debris.

A review of available literature and agency databases was conducted to obtain information of the occurrences of natural communities, special-status plant and wildlife species known or have the potential to occur in the vicinity of the Project site. QK conducted a biological reconnaissance survey on May 8, 2023, to determine the locations and extent of current land use, natural vegetation communities, determine the potential for occurrences of special-status plant and wildlife species, and verify the presence or absence of wetlands and State and or federal jurisdictional waters.

No special-status plant species or special-status wildlife species, or diagnostic sign thereof, were observed during the survey, and one water feature, that intersects the Project site, was identified by the National Hydrology Database and National Wetlands Inventory databases.

Based on the literature and database search and the results current conditions of the survey, it was deemed that there is a potential for two special-status wildlife species to occur on the Project site: the desert kit fox (*Vulpes macrotis arsipus*), and foraging and nesting birds and raptors. Desert kit fox were not observed to be inhabitants on the Project site but may pass through as transients. There is a potential for nesting migratory birds and other raptors species, protected by the Migratory Bird Treaty Species Act, to occur on or near the Project site and surrounding areas. With the implementation of Best Management Practices and recommended avoidance measures, impacts during the construction of the Project are not expected or will be limited to special-status wildlife species and migratory birds and raptors. There is expected to be no impact to special-status plant species, sensitive natural communities, wetlands or water features, or any other sensitive biological resources. No operational impacts would occur because operations are passive and involve no ongoing land disturbance.

## **SECTION 1 - INTRODUCTION**

Valley Wide Construction Services proposes to construct and operate two solar facilities; Trona 4 is a 3 megawatt (MW) photovoltaic (PV) solar facility on approximately 15 acres; and Trona 7 is a 1 MW PV solar facility on approximately 5 acres located in Trona, Inyo County, California. For the analysis presented herein, the two contiguous sites have been combined into a single, 20-acre site for ease of discussion (Figures 1-1 and 1-2). The proposed solar project (Project) will include the vegetation removal, grading, trenching, and associated infrastructure to build the solar project. The Project would connect to the existing Southern California Edison (SCE) 33-kV transmission line that bisects the Project. To comply with the California Environmental Quality Act (CEQA), a biological evaluation was conducted to identify the potential for sensitive biological resources to occur on or near the Project site. This Biological Resource Evaluation (BRE) provides the basic biological information needed for the County of Inyo CEQA permitting process.

### **1.1 - Project Location**

The Project is located north of the town of Trona, California (Figure 1-1). It covers approximately 20 acres and is situated on Assessor Parcel Numbers (APNs) 038-330-32, 038-330-33, 038-330-34 (Trona 4), and 038-330-46 (Trona 7). The unincorporated town of Trona is located on the east side of the Searles Valley and is between the Panamint Range and Southern Sierra Mountain Range, and approximately 28-miles northeast of the City of Ridgecrest. The Project site is west of Trona Wildrose Road and south of Moses Lane (Figure 1-2). It is in the northeast  $\frac{1}{4}$  of Section 32, Township 24 South, Range 43 East, Mount Diablo Base and Meridian, and is within the *Trona East*, California U.S. Geological Survey (USGS) 7.5-minute quadrangle.

### **1.2 - Project Description**

The proposed Trona 4 Project will construct and operate a 3 MW PV solar facility on approximately 15 acres. The Project would install approximately 4,835 single-axis tracker solar panels on the site. The layout of the single axis tracker solar panels will be in an east-west direction. The maximum height of the would be up to 12 feet above grade at the beginning and end of each day. Each solar panel would be attached to embedded piers using a support structure. Module layout and spacing is typically optimized to balance energy production versus peak capacity and depends on the sun angles and shading due to the surrounding horizon of the site.

The proposed Trona 7 Project will construct and operate a 1 MW PV solar facility on approximately 5 acres. The Project would install approximately 2,300 single-axis tracker solar panels on the site.

### **1.3 - Purpose, Goals, and Objectives for this Report**

The BRE report includes the results of a biological reconnaissance survey and available biological and natural resource database search conducted by QK biologists at the Project

site. This report is consistent with the requirements for an analysis of impacts to biological resources.

The primary focus of this report is to provide information about the presence of sensitive biological resources on the Project and develop measures to avoid and minimize any potential impacts of the Project on those resources. To accomplish that goal, this BRE provides information on the condition and sensitivity of the sensitive biological resources potentially present on and adjacent to the Project site and evaluates Project impacts to those resources. This BRE focuses on providing information and sensitive natural communities, special-status species, wildlife movement corridors, and wetlands and waters by conducting a desktop analysis of site conditions and verifying those findings with an on-site biological survey.





**Figure 1-1**  
**Regional**  
**Trona 4 and 7 Solar Project,**  
**Inyo County, California**



**Figure 1-2**  
**Project Location**  
**Trona 4 and 7 Solar Project,**  
**Inyo County, California**

## **SECTION 2 - METHODS**

### **2.1 - Definition of Biological Study Area**

The Biological Study Area (BSA) includes the Project site and a 250-foot survey buffer surrounding the Project disturbance footprint (Figure 2-1).

### **2.2 - Literature Review and Database Analysis**

The following sources were reviewed for information on special-status biological resources in the Project vicinity:

- California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB; CDFW 2023a).
- CDFW's Biogeographic Information and Observation System (BIOS; CDFW 2023b).
- CDFW's Special Animals List (CDFW 2023c).
- CDFW's California Wildlife Habitat Relationships (CWHR) System (Mayer and Laudenslayer 1988).
- California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants of California (CNPS 2023).
- United States Fish and Wildlife Service (USFWS) Information for Planning and Consultation System (IPaC; USFWS 2023a).
- USFWS Critical Habitat Mapper (USFWS 2023b).
- USFWS National Wetlands Inventory (NWI; USFWS 2023c).
- USGS National Hydrography Dataset (NHD; USGS 2023).
- Federal Emergency Management Agency (FEMA) flood zone maps (FEMA 2023).
- United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Web Soil Survey (NRCS 2023a)
- Current and historical aerial imagery (Google LLC 2023; Netroline 2023).

The CNDDDB and CNPS queries focused on the *Trona East* USGS 7.5-minute quadrangle in which the Project is located, plus the surrounding eight quadrangles: *Copper Queen Canyon*, *Homewood Canyon*, *Manly Fall*, *Slate Range Crossing*, *Westend*, *Layton Spring*, *Seales Lake*, and *Trona West*. To satisfy other standard search criteria, CNDDDB records within a 10-mile radius of the project site were queried separately from the broader database search.



**Figure 2-1**  
**Biological Study Area**  
**Trona 4 and 7 Solar Project,**  
**Inyo County, California**

The CNDDDB provides element-specific spatial information on individual documented occurrences of special-status species and sensitive natural vegetation communities. The CNPS database provides similar information, but at a much lower spatial resolution, for additional sensitive plant species tracked by the CNPS. The CDFW Special Animals List and USFWS IPaC provide no spatial data on wildlife occurrences and provide only lists of species potentially present. Wildlife species designated as “Fully Protected” by California Fish and Game Code Sections 5050 (Fully Protected reptiles and amphibians), 3511 (Fully Protected birds), and 4700 (Fully Protected mammals) are also included on the final list of evaluated species. The database search results can be found in Appendix A.

A review of the NWI was completed to identify whether wetlands have previously been documented on or adjacent to the Project site. The NWI, which is operated by the USFWS, is a collection of wetland and riparian maps that depicts graphic representations of the type, size, and location of wetland, deep water, and riparian habitats in the United States. In addition to the NWI, regional hydrologic information from the NHD was obtained from the USGS to evaluate the potential occurrence of blueline streams within or near the Project site.

Soils data were obtained from the USDA NRCS Web Soil Survey, climate information was obtained from the Western Regional Climate Center, and land use information was obtained from available aerial imagery (NRCS 2023a; WRCC 2023; Google LLC 2023). Information about flood zones was obtained from the Federal Emergency Management Agency, Department of Homeland Security (FEMA 2023).

The results of the database inquiries were reviewed to extract pertinent information on site conditions and evaluate the potential for sensitive biological resources to occur within or near the proposed Project site. Only those resources with the potential to be present and affected by the Project were included and considered in this document. The potential presence of natural communities and special-status species was based on distributional ranges overlapping the Project site and the presence of habitat and/or primary constituent habitat elements.

### **2.3 - Reconnaissance-Level Field Surveys**

A biological reconnaissance survey of the BSA was conducted by QK Environmental Scientists Jeff Erway and Eric Madueno on May 8, 2023. The survey consisted of walking meandering pedestrian transects spaced 50 to 100 feet apart throughout the BSA, where accessible. Areas with suitable habitat that could not be accessed were surveyed by use of high-power binoculars.

Tasks completed during the survey included determining and documenting current land use, developing an inventory of plant species, wildlife species, and wildlife sign (e.g., scat, burrows, nests, feathers, tracks, etc.), characterizing vegetation associations and habitat conditions within the BSA, assessing the potential for federally, State-listed and other special-status plant and wildlife species that may occur on and near the Project site based on existing conditions, and assessing the potential for migratory birds and raptors to nest on and near the Project site. In addition, all historical wetland and water features documented

by NWI and NHD were field verified. All spatial data were recorded using Environmental Systems Research Institute (ESRI) Collector for ArcGIS software installed on an iPad. Site conditions were documented with representative photographs (Appendix B).

**SECTION 3 - ENVIRONMENTAL SETTING**

This section identifies the regional and local environmental setting of the Project and describes existing baseline conditions. The environmental setting of the BSA was obtained from various sources of literature, databases, and aerial photographs. Site conditions were verified and updated during the site reconnaissance survey conducted by QK Environmental Scientists (Table 3-1).

**Table 3-1  
Field Survey Personnel and Timing**

<b>Date</b>	<b>Personnel</b>	<b>Time</b>	<b>Weather Conditions</b>	<b>Temperature</b>
05/08/2023	Jeff Erway, and Eric Madueno	0947 - 1045	Sunny, Clear	61 - 67°F

**3.1 - Topography**

The BSA is in the southwestern portion of Inyo County. The BSA is relatively flat with little variation in topography and an elevation of about 1,690 feet above mean sea level.

**3.2 - Climate**

The BSA is within an area that has a Mediterranean climate of hot summers and mild, wet winters. Average high temperatures range from 58.2°F in January to 105.5°F in July, with daily temperatures often exceeding 100°F several days in the summer (WRCC 2023). Average low temperatures range from 33.2°F in December to 73.3°F in July. Precipitation occurs primarily as rain, most of which falls from November to April, with an average of 3.94 inches of rainfall per year. Rain rarely falls during the summer months.

**3.3 - Land Use**

The Project site is located approximately 0.8-miles north of the unincorporated town of Trona, California and adjacent to the major public road known as Trona Wildrose Road. Currently, the Project site is highly disturbed from urbanization, previous disking, illegal trash and debris dumping, and by abandoned vehicles. The Project site is situated among scattered residential properties to the north and west, an existing solar facility to the south, Trona Wildrose Road to the east, and an unpaved road identified as Moses Lane to the north.

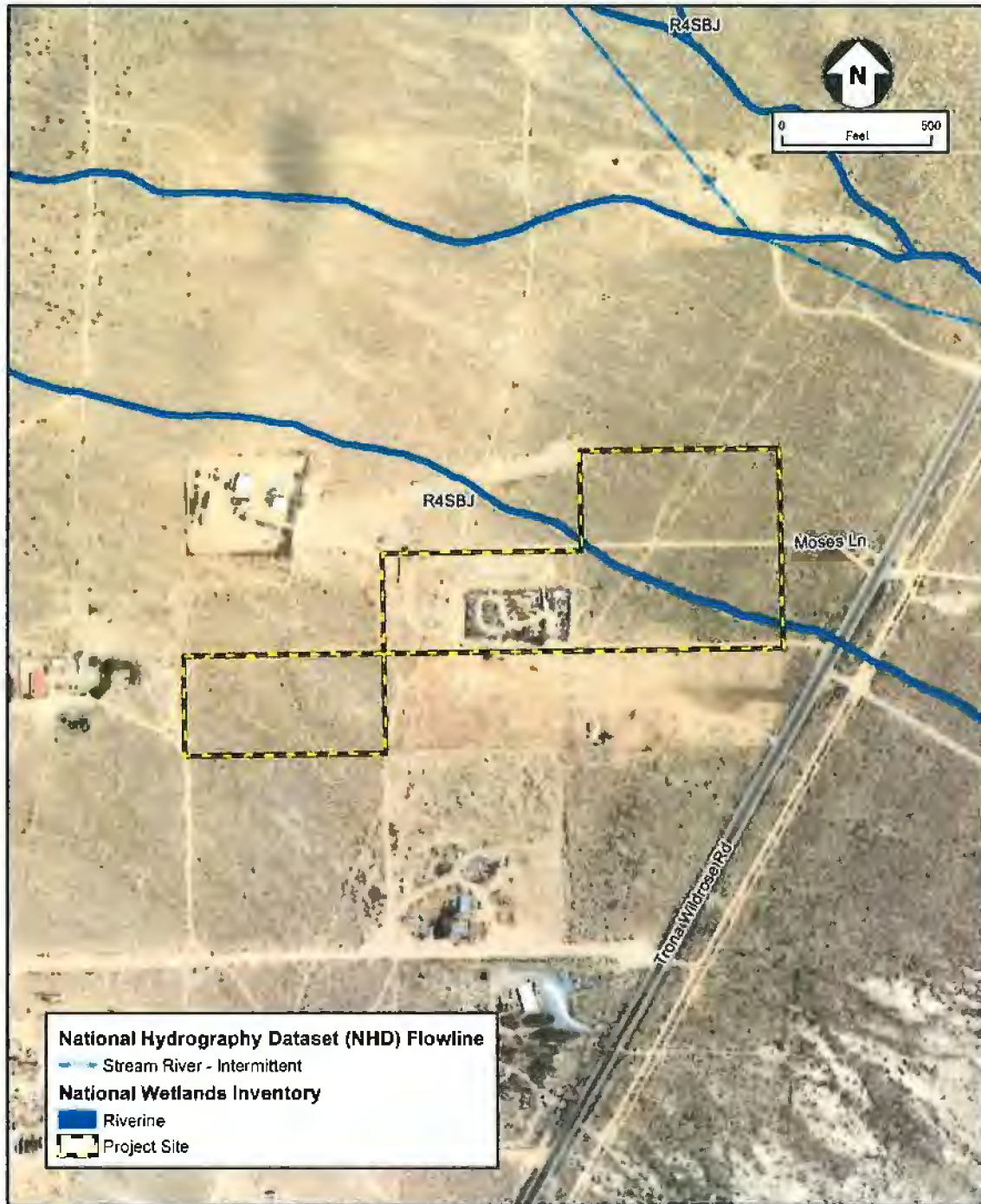
**3.4 - Soils**

The United States Department of Agriculture, Natural Resources Conservation Service (NRCS) Web Soil Survey database contains no digital data for the region the BSA is located.

**3.5 - Hydrology**

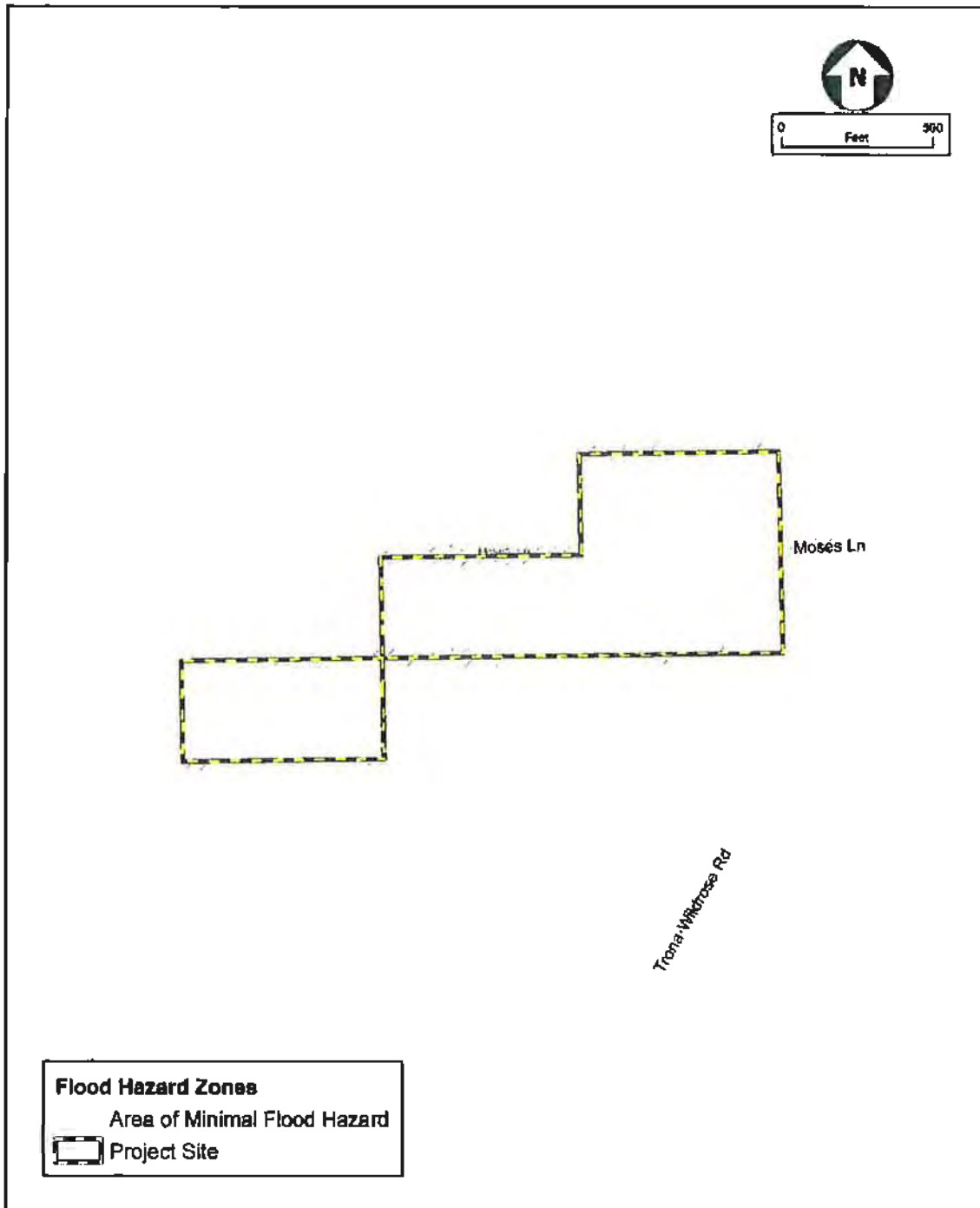
There is one record of a jurisdictional wetland feature within the BSA, as defined by the NWI (USFWS 2023c) (Figure 3-1). The jurisdictional wetland bisects a portion of the BSA, known as Trona 4, starting in the middle of the northwest area flowing southeast towards Trona Wildrose Road. The feature is described as an intermittent riverine. Features under the Riverine system include all wetlands and deepwater habitats contained within a channel, with two exceptions: 1) wetlands dominated by trees, shrubs, persistent emergent, emergent mosses, or lichens, and 2) habitats with water containing ocean-derived salts of 0.5 ppt or greater.

According to FEMA, the BSA is within an Area of Minimal Flood Hazard (Figure 3-2).



**Figure 3-1**  
**NWI and NHD Records of Aquatic Resources**  
**Trona 4 and 7 Solar Project,**  
**Inyo County, California**





**Figure 3-2**  
**FEMA Flood Zone Map**  
**Trona 4 and 7 Solar Project,**  
**Inyo County, California**



### **3.6 - General Biological Conditions**

The entirety of the Project site consists of an open, previously disked desert and alkali desert scrub habitat that has been disturbed by urbanization and residential development. The Project site is bordered by scattered residential properties and Moses Lane to the north, and existing solar facility of the south, Trona Wildrose Road to the east, and scattered residential properties and open desert and alkali desert scrub habitat to the west.

No sensitive natural plant communities occur within the BSA. Vegetation observed included saltbush (*Atriplex polycarpa*), white bursage (*Ambrosia dumosa*), desert calico (*Loeseliastrum matthewsii*), desert five spot (*Eremalche rotundifolia*), and creosote (*Larrea tridentata*).

No avian nests were observed within the Project site, but the existing transmission and utility poles near the BSA could support nesting birds and/or raptors. A migratory bird species observed included common raven (*Corvus corax*).

No small mammal burrows, dens, or larger mammal dens that could be utilized by desert kit fox, Mohave ground squirrel (*Xerospermophilus mohavensis*) or desert tortoise (*Gopherus agassizii*) were observed within the BSA. A complete list of plant and wildlife species observed within the BSA during the biological reconnaissance survey is included in Appendix C.

## **SECTION 4 - FINDINGS**

### **4.1 - Sensitive Natural Communities**

#### **4.1.1 - RESULTS OF LITERATURE REVIEW AND DATABASE SEARCHES**

Literature results from the nine-quadrangle queries for the Project site were conducted and provide information for the potential of occurrence and verified during the field survey.

#### **4.1.2 - PRESENCE OF SENSITIVE NATURAL COMMUNITIES**

No sensitive natural vegetation communities were identified within the BSA. In addition, the BSA does not provide habitat that would support these communities.

### **4.2 - Special-Status Plants**

#### **4.2.1 - RESULTS OF LITERATURE REVIEW AND DATABASE SEARCHES**

There were 7 special-status plant species identified in the literature and database review that are known or have the potential to occur within the nine-quadrangle queries centered on the Project site (Table 4-1). There are no CNDDDB records of special-status plant species that overlap the BSA.

**Table 4-1  
Special-Status Plant Species Occurring in the Region of the BSA**

(Source: CNDDB 2023, CNPS 2023,	Common Name	Status
<i>Aliciella ripleyi</i>	Ripley's Aliciella	2B.3
<i>Astragalus atratus var. mensanus</i>	Darwin Mesa milk-vetch	1B.1
<i>Castela emoryi</i>	Emory's crucifixion-thorn	2B.2
<i>Cryptantha clokeyi</i>	Clokey's cryptantha	1B.2
<i>Eremothera boothii ssp. boothii</i>	Booth's evening-primrose	2B.3
<i>Penstemon fruticiformis var. amargosae</i>	Amargosa beardtongue	1B.3
<i>Yucca hrevifolia</i>	Joshua tree	SC

1A Presumed Extinct in California.

1B Rare, Threatened, or Endangered in California and elsewhere.

2A Plants presumed extirpated in California, but more common elsewhere.

2B Plants Rare, Threatened, or Endangered in California, but more common elsewhere.

CRPR Threat Code Extension:

.1 Seriously endangered in California (over 80% of occurrences threatened / high degree and immediacy of threat)

.2 Fairly endangered in California (20-80% occurrences threatened)

.3 Not very endangered in California (<20% of occurrences threatened) Abbreviations:

Abbreviations:

FC Federal Candidate

FE Federal Endangered Species

FT Federal Threatened Species

SFP Fully Protected Animal, CDFW

SE California Endangered Species

ST California Threatened Species

SC California Candidate Species

SSC California Department of Fish and Game Species of Special Concern

#### 4.2.2 - PRESENCE OF SPECIAL-STATUS PLANTS

No special-status plant species were observed within the BSA. The surveys coincided with some, but not all of the plant species' optimal blooming periods; however, none of the species identified in the database queries are expected to occur on-site due to the lack of suitable habitat conditions (disturbed site conditions, plant associations and soil types) and/or because the BSA is located outside of the species' known range. The Project site has been highly disturbed with urbanization and disking; however, a few native plant species have revegetated on site.

A complete list of plant species observed during the biological reconnaissance survey is included in Appendix C.

#### 4.3 - Special-Status Wildlife

##### 4.3.1 - RESULTS OF LITERATURE REVIEW AND DATABASE SEARCHES

There were 15 special-status wildlife species identified in the literature and database review that are known or have the potential to occur within the nine-quad search area centered on

the Project (Table 4-2). There is one historical CNDDDB record for prairie falcon (*Falco mexicanus*) that overlaps with the BSA.

**Table 4-2**  
**Special-Status Wildlife Species Occurring in the Region of the BSA**  
(Source: CNDDDB 2023, and USFWS 2023)

Scientific Name	Common Name	Status
<b>Invertebrates</b>		
<i>Danaus plexippus</i>	monarch butterfly	FC, -
<b>Reptiles</b>		
<i>Elgaria panamintina</i>	Panamint alligator lizard	-, SSC
<i>Gopherus agassizii</i>	desert tortoise	FT, ST
<b>Birds</b>		
<i>Asio otus</i>	long-eared owl	-, SSC
<i>Athene cunicularia</i>	burrowing owl	-, SSC
<i>Charadrius nivosus nivosus</i>	western snowy plover	FT, SSC
<i>Falco mexicanus</i>	prairie falcon	-, WL
<i>Gymnogyps californianus</i>	California condor	FE, SE
<i>Pipilo crissalis eremophilus</i>	Inyo California towhee	FT, SE
<i>Toxostoma lecontei</i>	Le Conte's thrasher	-, ST
<b>Mammals</b>		
<i>Antrozous pallidus</i>	pallid bat	-, SSC
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat	-, SSC
<i>Eumops perotis californicus</i>	western mastiff bat	-, SSC
<i>Ovis canadensis nelsoni</i>	desert bighorn sheep	-, FP
<i>Xerospermophilus mohavensis</i>	Mohave ground squirrel	-, FT
<i>Vulpes macrotis arsipus</i>	desert kit fox	-, FGC

Abbreviations:

FC	Federal Candidate
FE	Federal Endangered Species
FGC	Fish and Game Code
FT	Federal Threatened Species
SFP	Fully Protected Animal, CDFW
SE	California Endangered Species
ST	California Threatened Species
SSC	California Department of Fish and Game Species of Special Concern

#### 4.3.2 - PRESENCE OF SPECIAL-STATUS WILDLIFE

There is no roosting habitat for monarch butterfly (*Danaus plexippus*) present within the BSA, although this species may travel through the BSA as a transient. Additionally, no milkweed (*Asclepias* sp.) was observed within the BSA, which is a required food source for larval monarch butterflies. No wetland, marsh, or riparian habitat exists within the BSA to support nesting or foraging Inyo California towhee (*Pipilo crissalis eremophilus*) or

Panamint alligator lizard (*Elgaria panamintina*) which inhabits riparian areas in the desert at the bottom of rocky canyons, near streams and springs.

No desert tortoise sign (e.g., scat, tracks, or burrows) were observed within the BSA. The nearest CNDDDB recorded occurrence (EONDX 110170) is approximately 1.2-miles north of the BSA (CDFW 2023a). The occurrence was for an adult desert tortoise crossing a dirt road in March 2017. The BSA is highly disturbed from disking, construction of an existing solar field, and urbanization (e.g., dirt roads and debris) from the residences in the vicinity. The disturbance in the vicinity has resulted in historical ground disturbance that results in no potential for foraging, or habitation of desert tortoise in the BSA.

There are no dense woodlands with coniferous or broadleaved trees near a water source that could provide suitable habitat for long-eared owl (*Asio otus*). Burrowing owl (*Athene cunicularia*) inhabit grassland, open bare ground, and utilize existing small mammal burrows, typically created by California ground squirrel, for breeding and shelter. There were no burrows or diagnostic sign (e.g., whitewash, tracks, prey remains) of burrowing owl observed within the BSA. Due to a lack of suitable burrows on site and highly disturbed condition of the site the likelihood of a resident burrowing owl on site is extremely unlikely.

No suitable foraging or nesting habitat is present within the BSA, due to the highly disturbed condition of the BSA, for western snowy plover (*Charadrius nivosus nivosus*), California condor (*Gymnogyps californianus*), prairie falcon, or Le Conte's thrasher (*Toxostoma lecontei*). The CNDDDB recorded occurrence (EONDX 26139), for prairie falcon, that overlaps with the BSA is from 1975 which is presumed extant. No additional data was recorded for this occurrence. There are no rocky outcroppings, mines or caves, cliff faces, tree hollows, buildings, or bridges within the BSA that would support the pallid bat (*Antrozous pallidus*), the western mastiff bat (*Eumops perotis californicus*), or the Townsend's big-eared bat (*Corynorhinus townsendii*).

The BSA is too low in elevation and does not provide suitable foraging habitat for desert bighorn sheep (*Ovis canadensis nelsoni*). There are no steep, rugged mountainous terrain within the BSA that would provide climbing habitat for the desert bighorn sheep to avoid predators. Desert bighorn sheep are known to cross valley floors to neighboring mountainous regions but due to the urbanization and highly disturbed condition of the BSA it is unlikely for desert bighorn sheep to cross within the BSA.

No small mammal burrows, with appropriate configuration in size and shape, or diagnostic sign for Mohave ground squirrel (*Xerospermophilus mohavensis*) were observed within the BSA. According to CDFW, the closest known population is located approximately 8.2-miles southwest of the BSA (CDFW 2023b). This area surrounds the town of Ridgecrest and moves east on State Route (SR) 178 towards the area known as Pinnacles Entrance. Additionally, the closest core population of Mohave ground squirrel is the Coso Range-Olancha core population approximately 25.0-miles northwest of the BSA.

The desert kit fox (*Vulpes macrotis arsipus*) could be present as a transient forager within the BSA. There are no CNDDDB records of this species because CNDDDB does not record

sightings due to the species not being listed State or federally listed as endangered, threatened, or species of special concern. However, the species is protected as a fur-bearing mammal under Fish and Game Code § 4000.

The Project site lacks optimal suitable denning habitat for the species due to the past and current level of disturbance and the surrounding BSA has been similarly degraded. However, kit foxes, in general, are highly adaptable and can forage from the nearby residential houses. No desert kit fox or diagnostic sign of the species (e.g., tracks, dens, scat, prey remains) were observed during the field survey, and the lack of small mammal burrows observed indicates the site does not support an adequate prey base. Surrounding land use and habitat conditions make it unlikely that the desert kit fox would be present, other than as a transient forager.

#### **4.3.3 - NESTING MIGRATORY BIRDS AND RAPTORS**

There were no active nests observed within the BSA during the survey. The transmission and utility poles outside the BSA could support a variety of nesting bird species, including larger species such as raptors and common raven.

### **4.4 - Critical Habitat, Movement Corridors, and Linkages**

#### **4.4.1 - PRESENCE OF CRITICAL HABITAT**

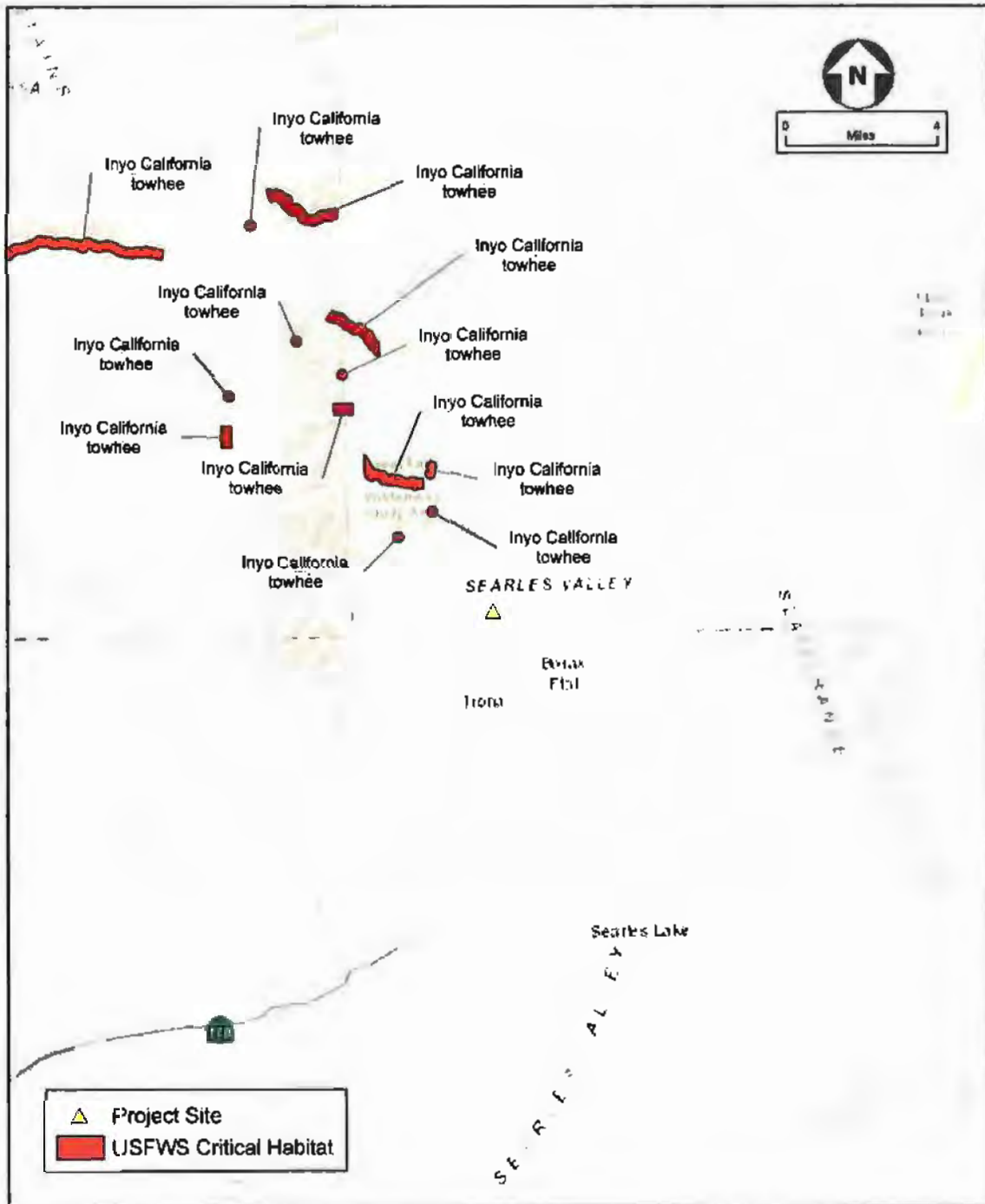
No designated critical habitat occurs within the BSA. The nearest USFWS designated critical habitat is for Inyo California towhee located approximately 3.1 miles northwest of the BSA (Figure 4-1).

#### **4.4.2 - PRESENCE OF MOVEMENT CORRIDORS AND LINKAGES**

There are no known wildlife movement corridors or habitat linkages that intersect the BSA. The Project is situated within a highly disturbed area that is predominately used for urban development and provides minimal linkage between suitable natural habitats for most wildlife species. Due to the highly disturbed condition of the Project, there is no substantial movement of wildlife onto or off of the BSA.

### **4.5 - Wetlands and Other Waters**

The feature identified by the NHD that bisects the portion of the BSA, known as Trona 4, through in the middle of the northwest area that flows southeast towards Trona Wildrose Road was not observed during the survey. No stream indicators such as mud cracks, bed, or bank were identified. No hydrologic, topographic features or aquatic plant species were observed to indicate an intermittent riverine feature. The feature described in the NHD data does not currently exist on the Project site.



**Figure 4-1**  
**Mapped Critical Habitat in the Project Vicinity**  
**Trona 4 and 7 Solar Project,**  
**Inyo County, California**

## **SECTION 5 - POTENTIAL PROJECT IMPACTS**

The purpose of this section is to present an evaluation of the potential for Project-related impacts to sensitive biological resources to occur resulting from Project construction activities. Although the potential for impacts of the Project is anticipated to be minor because the Project site is highly disturbed, there are some risks of Project impacts. These are discussed below.

### **5.1 - Potential Impacts to Sensitive Vegetation Communities**

No sensitive vegetation communities occur within the BSA. The Project would not impact sensitive natural communities.

### **5.2 - Potential Impacts to Special-Status Plant Species**

No special-status plant species occur within the BSA and there is no suitable habitat for any special-status plant species on or near the BSA. The Project would not impact any special-status plant species.

### **5.3 - Potential Impacts to Special-Status Wildlife Species**

Two special-status wildlife species, desert kit fox, and nesting birds were determined to have potential to occur within the BSA as transients. Available habitat within the BSA fulfilling the foraging requirements of these species is limited to none. No potential desert kit fox dens were observed within the BSA and the potential for future habitation by foxes is limited due to the highly disturbed condition of the site. There was no diagnostic sign of nesting birds or raptors during the survey; however, existing transmission and utility poles are located outside the BSA, which would not be affected by the Project, could provide suitable stick nest building structures for nesting birds.

Any special-status species that use the Project as a movement corridor could be indirectly impacted by Project activities, though little wildlife was observed in or near BSA during the reconnaissance survey conducted for the Project.

### **5.4 - Potential Impacts to Nesting Birds and Raptors**

No nests were observed within the BSA. There is potential for birds to forage and nest within the BSA in existing structures, and in tress and utility poles in the surrounding urban areas. If there are active nests present during Project activities, nests could be destroyed, and Project activities could interfere with normal breeding behaviors, which could discourage breeding or lead to nest abandonment or failure.



## **5.5 - Potential Impacts to Critical Habitat, Movement Corridors and Linkages**

### **5.5.1 - POTENTIAL IMPACTS TO CRITICAL HABITAT**

The Project would not impact any designated critical habitat.

### **5.5.2 - POTENTIAL IMPACTS TO MOVEMENT CORRIDORS AND LINKAGES**

Project activities would not impact any movement corridors or habitat linkages.

## **5.6 - Potential Impacts to Wetlands and Waters**

As noted previously, there is one record of a jurisdictional wetland feature within the BSA, as defined by the NWI (USFWS 2023c). However, this feature was not observed during the survey, and it is not currently present on the Project site. There were no other visible signs of waters or wetland features within the BSA, and there would be no impacts to wetland resources.

**SECTION 6 - RECOMMENDATIONS**

The Project is anticipated to have no impacts to sensitive natural communities, special-status plants, wetlands and water features, Critical Habitat, or migratory corridors. There is a low potential for Project activities to desert kit fox and nesting and foraging birds and raptors. To avoid or minimize impacts to these species and incidental impacts to other common, non-sensitive wildlife species, we recommend that the following measures be implemented as Best Management Practices (BMPs) during Project construction activities:

- A pre-activity survey of the Project and a 250-foot buffer for desert kit fox and nesting migratory birds and a 500-foot buffer for nesting raptors surrounding the Project footprint should be conducted. The survey should occur no less than 14 days prior to the start of construction activities and no more than 30 days prior to the start of construction activities. If construction is delayed beyond 30 days from the time of the survey, then another survey would need to be conducted. The survey should be conducted by a qualified biologist with adequate training and experience conducting surveys for special-status wildlife species.
- If dens or burrows that could support desert kit fox are discovered during the pre-activity survey, appropriate avoidance buffers, as outline in Table 6-1, should be established. No work should occur within these buffers unless a qualified biologist approves and monitors the activity.

**Table 6-1  
Disturbance Buffers for Desert Kit Fox Dens**

<b>Sensitive Resource</b>	<b>Buffer Zone from Disturbance (feet)</b>
Potential desert kit fox den	50
Known desert kit fox den	100
Natal desert kit fox den	500

- A Worker Environmental Awareness Training Program should be prepared and presented to all workers that will be on-site during construction activities to minimize or eliminate impacts to sensitive biological resources.
- Project-related vehicles should observe a 20-mph speed limit in all Project areas, except on county roads and state and federal highways; this is particularly important at night when kit foxes, and other animals are most active. To the extent possible, nighttime construction should be minimized. Off-road traffic outside of designated project areas should be prohibited.
- To prevent inadvertent entrapment of kit foxes, and other wildlife species during work activities, the contractor should cover all excavated, steep-walled holes or trenches more than 2 feet deep at the close of each working day with plywood or similar materials or provide one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, the contractor should thoroughly inspect them for trapped wildlife.

- Kit foxes and other wildlife species are attracted to den-like structures such as pipes and may enter stored pipes, becoming trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4 inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for wildlife before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the designated biologist has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved once to remove it from the path of construction activity until the fox has escaped.
- All trash and food items that attract wildlife should be discarded into closed containers and properly disposed of at the end of each workday.
- To prevent harassment or mortality of listed species, no pets should be permitted on the Project site.

To protect nesting migratory birds and raptors, it is recommended that:

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

**SECTION 7 - SUMMARY AND CONCLUSIONS**

Land within the Project site is highly disturbed and contains no habitat that would support special-status plant species or sensitive natural communities. There are no designated Critical Habitats, movement corridors, wetlands, or water features that would be impacted by the Project.

Based on the literature and database searches and results of the site survey, there is potential for special-status species to occur on the site: desert kit fox and nesting birds. Due to the disturbed nature of the Project, surrounded by residential development, a main roadway and urban uses, and the lack of a suitable prey base, impacts to the desert kit fox are not anticipated to occur. Desert kit foxes would likely be only transient visitors to the Project site. If nesting birds were to nest in the vicinity of the Project, impacts to the species could occur. Implementation of the recommended BMPs and avoidance measures outlined in Section 6 would minimize any Project impacts to these species.

This BRE has been performed in accordance with professionally accepted biological investigation practices conducted at this time and in this geographic area. The findings and opinions conveyed in this report are based on findings derived from specified historical and literary sources and a biological survey of the Project site and surrounding area. The biological investigation was limited by the scope of work performed. The biological survey was also limited by the environmental conditions present at the time of the survey. In addition, general biological (or protocol) surveys do not guarantee that the organisms are not present and would not be discovered in the future within the site. Mobile wildlife species could occupy the site on a transient basis or re-establish populations in the future. No other guarantees or warranties, expressed or implied, are provided.

**SECTION 8 - REFERENCES**

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**APPENDIX A**

**SPECIAL-STATUS SPECIES DATABASE SEARCH RESULTS**

**TRONA 4 AND 7 SOLAR PROJECT**



## Selected Elements by Common Name

California Department of Fish and Wildlife

California Natural Diversity Database



**Query Criteria:** `Quail<span style="color:Red"> IS </span><span style="color:Red"> (Homewood Canyon (3511784)<span style="color:Red"> OR </span><span style="color:Red"> (Slute Range Crossing (3511783)<span style="color:Red"> OR </span><span style="color:Red"> (Manly Fall (3511782)<span style="color:Red"> OR </span><span style="color:Red"> (Trona East (3511773)<span style="color:Red"> OR </span><span style="color:Red"> (Trona West (3511774)<span style="color:Red"> OR </span><span style="color:Red"> (Copper Queen Canyon (3511772)<span style="color:Red"> OR </span><span style="color:Red"> (Wasland (3511784)<span style="color:Red"> OR </span><span style="color:Red"> (Searles Lake (3511783)<span style="color:Red"> OR </span><span style="color:Red"> (Layton Spring (3511782))`



Selected Elements by Common Name  
 California Department of Fish and Wildlife  
 California Natural Diversity Database



Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
Amargosa beardtongue <i>Pendleton fulvicornis</i> var. <i>amargosae</i>	PDSCR1L2F2	None	None	G4T3	S2	1B.3
Booth's evening-primrose <i>Eriogonum boothii</i> ssp. <i>boothii</i>	PDONA03052	None	None	G5T4	S3	2B.3
burrowing owl <i>Athene cunicularia</i>	ABNSB10010	None	None	G4	S3	SSC
Chesley's crysanthemum <i>Cryptantha chesleyi</i>	PDBOR0A3M0	None	None	G3	S3	1B.2
Darwin Mesa milk-vetch <i>Astragalus atratus</i> var. <i>mensanus</i>	PDFAB0F0Z3	None	None	G4G5T2	S2	1B.1
desert bighorn sheep <i>Ovis canadensis nelsoni</i>	AMALE04013	None	None	G4T4	S3	FP
desert tortoise <i>Gopherus agassizii</i>	ARAAP01012	Threatened	Threatened	G3	S2S3	
Emory's crucifixion-thorn <i>Castilleja emoryi</i>	PDSIM03030	None	None	G3G4	S2S3	2B.2
Inyo California towhee <i>Melospiza crissalis eremophilus</i>	ABPEX74071	Threatened	Endangered	G4C5T2	S2	
Le Conte's thrasher <i>Toxostoma lecontei</i>	ABPBK08100	None	None	G4	S3	SSC
long-eared owl <i>Aelo cyus</i>	ABNSB13010	None	None	G5	S3?	SSC
Mohave ground squirrel <i>Xerospemophilus mohavensis</i>	AMAFB05150	None	Threatened	G3	S2	
Morrison bumble bee <i>Bombus morrisoni</i>	IIHYM24460	None	None	G3	S1S2	
palmyr bat <i>Antrozous pallidus</i>	AMACC10010	None	None	G4	S3	SSC
Panamint alligator lizard <i>Elgaria panamintina</i>	ARACB01050	None	None	G3	S3	SSC
prairie falcon <i>Falco mexicanus</i>	ABNKD08080	None	None	G5	S4	WL
Ripley's screech owl <i>Alicia ripleyi</i>	PDPLM041E0	None	None	G3	S2	2B.3
Townsend's big-eared bat <i>Corynorhinus townsendi</i>	AMACC08010	None	None	G4	S2	SSC
western mastiff bat <i>Eumops perotis californicus</i>	AMACD02011	None	None	G4G5T4	S3S4	SSC
western small-footed myotis <i>Myotis californicus</i>	AMACC03230	None	None	G5	S3	
western snowy plover <i>Charadrius nivosus nivosus</i>	ABNNE03031	Threatened	None	G3T3	S3	SSC

Record Count: 21








**Search Results**

12 matches found. Click on scientific name for details

Search Criteria: 9-Quad Include [511773:3511772:3511784:3511782:3511783:3511764:3511762:3511763:3511774]

▲ SCIENTIFIC NAME	COMMON NAME	FAMILY	LIFEFORM	BLDGING PERIOD	FED LIST	STATE LIST	GLOBAL RANK	STATE RANK	CA RARE PLANT RANK	CA ENDEMIC	DATE ADDED	PHOTO
<a href="#">Ailanthus altissima</a>	Ripley's ailanthella	Polemoniaceae	perennial herb	May-Jul	None	None	G3	S2	2B.3		1974-01-01	 © 2020 Joey Malone
<a href="#">Astragalus strabus</a> var. <a href="#">metescus</a>	Darwin Mesa milk-vetch	Fabaceae	perennial herb	Apr-Jun	None	None	G4G5T2	S2	1B.1	Yes	1980-01-01	No Photo Available
<a href="#">Astragalus ferrugineus</a> var. <a href="#">horreyanus</a>	Bonago milk-vetch	Fabaceae	annual herb	Feb-May	None	None	G5T67	S4	4.3		1974-01-01	No Photo Available
<a href="#">Ceanothus emeryi</a>	Emery's ceanothion	Simarubaceae	perennial deciduous shrub	(Apr)Jun-Jul(Sep-Oct)	None	None	G3G4	S2S3	2B.2		1974-01-01	No Photo Available
<a href="#">Coryphantha eremicus</a> ssp. <a href="#">eremicus</a>	desert birds-beak	Orobanchaceae	annual herb (hemiparasitic)	Jul-Oct	None	None	G3T9	S3	4.3	Yes	1980-01-01	No Photo Available
<a href="#">Cryptantha clokeyi</a>	Clokey's cryptantha	Boraginaceae	annual herb	Apr	None	None	G3	S3	1B.2	Yes	1994-01-01	No Photo Available
<a href="#">Diploplos ruficalva</a>	Death Valley monkeyflower	Phymaceae	perennial herb	Feb-Jun	None	None	G4	S4	4.3	Yes	1974-01-01	 © 2015 James Morefield
<a href="#">Eriophora boothii</a> ssp. <a href="#">boothii</a>	Booth's evening-primrose	Onagraceae	annual herb	Apr-Sep	None	None	G5T4	S3	2B.3		1980-01-01	No Photo Available
<a href="#">Lycium torreyi</a>	Torrey's box-thorn	Solanaceae	perennial shrub	(Jan-Feb)Mar-Jun(Sep-Nov)	None	None	G4G6	S3	4.2		2015-05-05	No Photo Available
<a href="#">Penstemon brevidentatus</a> var. <a href="#">amargosae</a>	Amargosa beardtongue	Plantaginaceae	perennial herb	Apr-Jun	None	None	G4T3	S2	1B.3		1980-01-01	 Steve Malcom 2017

<i>Bryum violaceum</i>	wine-colored tuft moss	Bryaceae	moss	None	None	Q3G4	S3S4	4 2	2014- 06-10	No Photo Available
<i>Funaria brevipila</i>				OC	GNR	SNR	CBR		2011- 12-13	No Photo Available

Showing 1 to 12 of 12 entries

**Suggested Citation:**

California Native Plant Society, Rare Plant Program. 2023. Rare Plant Inventory (online edition, v9.5). Website <https://www.careplants.org> [accessed 8 May 2023].



United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Carlsbad Fish And Wildlife Office  
2177 Salk Avenue - Suite 250  
Carlsbad, C A 92008-7385  
Phone: (760) 431-9440 Fax: (760) 431-5901



In Reply Refer To:  
Project Code: 2023-0079069  
Project Name: Trona

May 08, 2023

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A biological assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a biological assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a biological assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found at the Fish and Wildlife Service's Endangered Species Consultation website at:

<https://www.fws.gov/endangered/what-we-do/faq.html>

**Migratory Birds:** In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/eo-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

05/08/2023

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**Attachment(s):**

- Official Species List

## **OFFICIAL SPECIES LIST**

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**Carlsbad Fish And Wildlife Office**  
2177 Salk Avenue - Suite 250  
Carlsbad, CA 92008-7385  
(760) 431-9440

**PROJECT SUMMARY**

Project Code: 2023-0079069  
Project Name: Trona  
Project Type: New Constr - Above Ground  
Project Description: Trona Project  
Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.80623905,-117.350854358784,14z>



Counties: Inyo County, California

## ENDANGERED SPECIES ACT SPECIES

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

- 
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

### BIRDS

NAME	STATUS
California Condor <i>Gymnogyps californianus</i> Population: U.S.A. only, except where listed as an experimental population There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/8193">https://ecos.fws.gov/ecp/species/8193</a>	Endangered
Inyo California Towhee <i>Pipilo crissalis eremophilus</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/3912">https://ecos.fws.gov/ecp/species/3912</a>	Threatened

### REPTILES

NAME	STATUS
Desert Tortoise <i>Gopherus agassizii</i> Population: Wherever found, except AZ south and east of Colorado R., and Mexico There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/4481">https://ecos.fws.gov/ecp/species/4481</a>	Threatened

### INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a>	Candidate



**CRITICAL HABITATS**

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

**IPAC USER CONTACT INFORMATION**

Agency: QK, Inc.  
Name: Karlssa Denney  
Address: 5080 California Avenue  
Address Line 2: Suite 220  
City: Bakersfield  
State: CA  
Zip: 93309  
Email: karlssa.denney@qkinc.com  
Phone: 6616162600

**APPENDIX B**  
**REPRESENTATIVE PHOTOGRAPHS OF THE**  
**TRONA 4 AND 7 SOLAR PROJECT**



**Photograph 1:** Northeast corner of the Project site, facing south.  
GPS Coordinates: 35.807173, -117.348633.  
Photograph taken by Eric Madueno on May 8, 2023.



**Photograph 2:** Northwest corner of the Project site, facing east.  
GPS Coordinates: 35.806347, -117.350748.  
Photograph taken by Eric Madueno on May 8, 2023.



**Photograph 3:** Center of the Project site, facing south.  
GPS Coordinates: 35.805690, -117.351008.  
Photograph taken by Eric Madueno on May 8, 2023.



**Photograph 4:** Southeast corner of the Project site, facing west.  
GPS Coordinates: 35.805503, -117.348542.  
Photograph taken by Eric Madueno on May 8, 2023.



**Photograph 5:** Southwest corner of the Project site, facing east.  
GPS Coordinates: 35.805426, -117.353007.  
Photograph taken by Eric Madueno on May 8, 2023.



**Photograph 6:** Southwest portion of the Project site, facing north.  
GPS Coordinates: 35.804793, -117.354196.  
Photograph taken by Eric Madueno on May 8, 2023.



**Photograph 7:** Northern portion of the Project site, facing north.  
GPS Coordinates: 35.807118, -117.349915.  
Photograph taken by Eric Madueno on May 8, 2023.

**APPENDIX C**  
**PLANT AND WILDLIFE SPECIES OBSERVED**  
**TRONA 4 AND 7 SOLAR PROJECT**



**Table C - 1  
Plant and Wildlife Species Observed within the BSA**

<b>Scientific Name</b>	<b>Common Name</b>	<b>Status</b>
<b>Plants</b>		
<i>Ambrosia salsola</i>	cheesebush	None
<i>Chaenactis</i> sp.	pincushion	None
<i>Chylisma claviformis</i>	brown eyes	None
<i>Cryptantha</i> sp.	cryptantha	None
<i>Descurainia pinnata</i>	western tansymustard	None
<i>Grayia spinosa</i>	spiny hopsage	None
<i>Larrea tridentata</i>	creosote	None
<i>Lepidium flavum</i>	yellow pepper grass	None
<i>Loesellastrum matthewsii</i>	desert calico	None
<i>Malacothrix glabrata</i>	desert dandelion	None
<i>Salsola</i> sp.	Russian thistle	None
<i>Suaeda nigra</i>	bush seepweed	<del>None</del>

## **APPENDIX C**

374 Poli Street, Suite 200 • Ventura, California 93003  
 Office (805) 275-1515 • Fax (805) 667-8104

**Date:** June 21, 2023

**To:** Valley Wide Engineering & Construction Services

**From:** Graham Stephens; and, Andre Almeida, P.E. – Sespe Consulting, Inc.

**Re:** CEQA Air Quality and Greenhouse Gas Analysis Memorandum for the Barker Photovoltaic Solar Project in Inyo County, California

Sespe Consulting, Inc. (“Sespe”) has prepared the following memorandum to evaluate the potential air quality and greenhouse gas impacts resulting from the construction and operation of two proposed photovoltaic (PV) solar facilities located in Inyo County, California. Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site (collectively referred to herein as the “Project”). See Figure 1 in Attachment A which shows the Project Area boundaries, and the surrounding environmental setting.

The California Environmental Quality Act (CEQA) requires an environmental analysis, including those related to air quality and greenhouse gases (GHG), for projects requiring discretionary approval by a local lead agency with land use authority, which in this case is Inyo County (the “County”). Therefore, pursuant to CEQA, this memorandum describes and analyzes the proposed Project’s estimated air and GHG emissions and associated impacts. Potential air toxics emissions and associated health risks are also evaluated. Table 1 below summarizes the applicable CEQA Appendix G – Environmental Checklist Form questions that are used as criteria against which to evaluate the significance of the Project impacts related air quality and GHG resources, as well as the corresponding significance thresholds determinations.

**Table 1: Summary of CEQA Significance Determinations**

CEQA Threshold	Impact Determination
AIR QUALITY-1: Would the Project conflict with or obstruct implementation of the applicable air quality plan?	Less Than Significant
AIR QUALITY-2: Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	Less Than Significant
AIR QUALITY-3: Would the Project expose sensitive receptors to substantial pollutant concentrations?	Less Than Significant
AIR QUALITY-4: Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	Less Than Significant

CEQA Threshold	Impact Determination
GREENHOUSE GAS EMISSIONS-1: Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	Less Than Significant
GREENHOUSE GAS EMISSIONS-2: Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	No Impact

**PROJECT SUMMARY**

The Project is located on contiguous County parcels (assessor’s parcel numbers [APNs] 038-330-32, 038-330-33, 038-330-34 and 038-330-46), located north of the unincorporated town of Trona, California. The Project consists of two separate applications for renewable energy permits, one covering approximately 15 acres (referred to as the Trona 4 site) and the other covering approximately 5 acres (referred to as the Trona 7 site). Both the Trona 4 and Trona 7 solar arrays will connect to the existing Southern California Edison (SCE) 33-kilovolt (kV) transmission line that passes through the Project area with separate connections.

The Trona 7 PV solar facility would consist of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The Trona 4 site would also generate approximately 3.0 MW of electricity utilizing approximately 6,000 single-axis tracker solar panels. Both sites are currently graded and highly disturbed with little to no natural vegetation, habitat, water features or structures. A private dirt track and a junk yard also existed within the western portion of the Trona 4 site, but both features have been recently removed.

The Project Area is located approximately 3.0 miles north of the unincorporated Trona community, and approximately 1.0 mile west of the Trona Airport. Surrounding areas are generally undeveloped, flat or gently sloped, graded and without significant vegetation. The Project Area is bordered by an existing solar facility to the south, scattered residential homes to the west, and miscellaneous abandoned vehicles, local trash and debris. Access to the site is provided by dirt roads connecting to Trona Wildrose Road to the east of the site. See Figure 1 (Attachment A) which shows the Project Area and adjacent land uses.

**Project Construction**

Project construction will involve minor land disturbance, consisting of minor leveling, digging of shallow trenches for placing underground conduits, and installation of a 20-foot by 20-foot concrete pad for a transformer. Site preparation will require approximately two days using a grader and a backhoe. Water trucks will also be utilized as needed to control dust throughout the construction phase. In addition to regular watering using the mobile water trucks, further dust controls will include the placement of crushed limestone on the ground, and the application of a non-toxic clay polymer compound, such as EarthGlue, to provide further dust suppression as needed. Stabilized construction entrance and exits will also be installed and maintained at driveways to reduce sediment track-out onto the adjacent public roadway.

Following the trenching and leveling, metal pole supports will be installed on which the solar panels will be mounted. Poles will be driven directly into the ground using a compact, lightweight pile driver. A forklift may also

be used onsite during this construction phase. Installation of the mounting poles, solar panels and related infrastructure (transformer, connection to adjacent SCE lines, etc.) will take approximately two months. Regular watering, limestone base, and chemical binders (e.g., EarthGlue) will continue to be used onsite to control dust during this phase of construction. Once operational, onsite control of fugitive dust is critical to solar operations, as solar panels coated by dust do not function at full capacity. As such, dust controls such the limestone base and/or EarthGlue binder will remain in place and be maintained post-construction.

Once installed, the solar panels will reach a maximum height of 12-feet above the ground surface (or less, as the panels change slightly in height as they rotate slowly throughout the day to track the sun). The solar panels will also feature anti-reflective coatings to minimize daytime glare and reflectivity. Both the Trona 4 and 7 sites will be fenced and gated to prevent unauthorized access.

Per information provided by the Applicant, Table 2 below summarizes the types of equipment that would operate onsite during the Project’s construction phase, as well as the activity levels. This information is utilized to quantify the Project’s air emissions resulting from onsite construction activities.

**Table 2: Project Construction Equipment List and Activity Level**

Equipment	Engine Tier	Total Duration of Operations		Onsite Location
		Total Weeks	Total Hours	
Grader	Tier 4	2	40	Trona 4 (former track area)
Bulldozer	Tier 4	2	40	Trona 4 (former track area)
Water truck (4,000 gal.)	Tier 4	8	150	Throughout Site
Water truck (4,000 gal.)	Tier 4	8	150	Throughout Site
Forklift (Reach)	Tier 4	8	150	Throughout Site
PD5 Pile Driver	Tier 4	8	150	Throughout Site
Light-Duty Pickups	Tier 4	8	150	Throughout Site
Light-Duty Pickups	Tier 4	8	150	Throughout Site

**Project Operations**

After construction is complete, the PV solar facilities will be placed into commercial operation. Unlike construction, operation of the PV Solar Facilities will not require permanent onsite personnel, as control of the solar array would be automated and/or controlled remotely. At times, operations staff would come to the site to conduct routine maintenance and inspections, but these activities would be infrequent, and would only require one light-duty work vehicle travelling to and from the site (assume approximately 15 vehicle miles travelled round trip per site inspection). At most, it’s assumed that up to one site inspection will occur per week during normal facility operations. Table 3 below summarizes the vehicle activity levels used to quantify operational emissions.

**Table 3: Project Operations Vehicle Activity Level**

Vehicle Type	Engine Tier	Roundtrips per Year	VMT's per Roundtrip	Notes / Assumptions
Light-Duty Pickup Truck	Tier 4	52	15	Assume vehicle would originate from nearby Ridgecrest (approximately 15 miles roundtrip). To conservatively estimate vehicle emissions, the analysis assumed up to one inspection/maintenance trip could occur per week (in reality, periodic inspections would most likely be far less).

Note that in addition to fuel combustion in off-road construction equipment and on-road vehicles, electricity consumption is also considered an indirect source of GHG emissions under CEQA. However, because the Project involves PV solar facilities, it would therefore be a net producer of renewable electricity, and the Project would therefore not produce indirect GHG's as a result of electricity consumption. See the discussion below for additional detail.

**APPLICABLE CEQA METHODOLOGIES AND SIGNIFICANCE THRESHOLDS**

The Project Area is located in the Great Basin Valleys Air Basin (GBVAB), and is within the jurisdictional boundaries of the Great Basin Unified Air Pollution Control District (GBUAPCD). While the GBUAPCD has regulatory authority over stationary air emissions sources and administers permits limiting emissions of criteria air pollutants and toxic air contaminants (TACs) within the GBVAB, they have yet to establish numerical significance thresholds or publish guidance for evaluating air quality and GHG impacts under CEQA. Similarly, Inyo County also has no established thresholds or CEQA guidance. Therefore, in lieu of appropriate local thresholds, numerical standards published by the Mojave Desert Air Quality Management District (MDAQMD) and the South Coast Air Quality Management District (SCAQMD) are utilized within this memorandum to determine the significance of Project impacts. Use of the MDAQMD and SCAQMD thresholds is also consistent with other CEQA documents certified by both the County and GBUAPCD, including the Environmental Impact Report (EIR) certified by the County in 2015 for their Renewable Energy General Plan Amendment (REGPA) (Inyo County, 2015).

MDAQMD's *California Environmental Quality Act (CEQA) and Federal Conformity Guidelines* (MDAQMD, 2020) contains various significance thresholds that can be applied to the Project. Specifically, MDAQMD guidance states that a project would have a potentially significant air quality impact under CEQA if it:

1. Generates total emissions (direct and indirect) in excess of the thresholds given in Table 4;
2. Generates a violation of any ambient air quality standard when added to the local background;
3. Does not conform with the applicable attainment or maintenance plan(s)<sup>1</sup>;
4. Exposes sensitive receptors to substantial pollutant concentrations, including those resulting in a cancer risk greater than or equal to 10 in a million and/or a Hazard Index (HI) (non-cancerous) greater than or equal to 1.

<sup>1</sup> A project is deemed to not exceed this threshold, and hence not be significant, if it is consistent with the existing land use plan. Zoning changes, specific plans, general plan amendments and similar land use plan changes which do not increase dwelling unit density, do not increase vehicle trips, and do not increase vehicle miles traveled are also deemed to not exceed this threshold (MDAQMD, 2020).

**Table 4: MDAQMD CEQA Numeric Emissions Thresholds**

Criteria Pollutant	Annual Threshold (short tons)	Daily Threshold (pounds)
Greenhouse Gases (CO <sub>2</sub> e)	100,000	548,000
Carbon Monoxide (CO)	100	548
Oxides of Nitrogen (NO <sub>x</sub> )	25	137
Volatile Organic Compounds (VOC)	25	137
Oxides of Sulfur (SO <sub>x</sub> )	25	137
Particulate Matter (PM <sub>10</sub> )	15	82
Particulate Matter (PM <sub>2.5</sub> )	12	65
Hydrogen Sulfide (H <sub>2</sub> S)	10	54
Lead (Pb)	0.6	3

In addition to the MDAQMD thresholds summarized above, additional guidance and thresholds published by the SCAQMD are also utilized. Specifically, SCAQMD’s health risk screening tool is utilized to address CEQA Guidelines Appendix G, Air Quality Threshold Criteria (c) below.

With respect to GHG emissions, most requirements for sources and projects to reduce GHG emissions in California originate from the Assembly Bill (AB) 32 Scoping Plan (the “Scoping Plan”) and associated programs administered by the California Air Resources Control Board (CARB). The Scoping Plan is the State’s blueprint for how GHG reductions will be achieved. Local jurisdictions may have requirements as well, but the overall effort is centralized with CARB. Therefore, potential GHG impacts under CEQA can be determined based on whether a specific project may conflict with the current Scoping Plan.

In addition to the state-wide Scoping Plan, in 2008 the SCAQMD adopted the Interim GHG Significance Threshold which takes a tiered approach whereby individual projects can be “screened-out” and found to have less than significant CEQA GHG impacts by one of the following five methods: exemption from CEQA, GHG emissions already analyzed in GHG budgets from in approved regional plans, having emissions less than the 10,000 metric tons of CO<sub>2</sub> equivalent emissions per year (MT CO<sub>2</sub>e/year) screening level for industrial projects, meeting best performance standards, or purchase GHG emissions offsets by funding projects or buying them outright. Projects with incremental increases less than these thresholds can be screened out of further analysis and are not cumulatively considerable.

In the decade since the SCAQMD adopted this Interim GHG Significance Threshold, several new laws and executive orders were adopted that require additional reductions in years after 2020. For instance, Senate Bill 32 (Lara, 2016) requires that GHG emissions be 40% less than 1990 levels by 2030. Senate Bill 100 (de Leon, 2018), which was signed by the Governor, requires 100% zero-carbon electricity by 2045. On the day SB 100 was signed into law, the Governor also signed Executive Order B-55-18 which commits California to total, economy-wide carbon neutrality by 2045.

For these reasons, Project’s GHG emissions levels and the use of the MDAQMD and SCAQMD screening threshold presented below are for disclosure purposes as well as CEQA compliance, because this impact analysis for the Project follows the approach certified by SCAQMD for other projects. The approach used by SCAQMD to assess GHG impacts from those project recognized that consumers of electricity and transportation fuels are, in effect, regulated by requiring providers and importers of electricity and fuel to participate in the GHG Cap-and-Trade Program and other state/sector-wide programs (e.g., low carbon fuel standard, renewable portfolio standard, etc.). Each such sector-wide program exists within the framework of AB 32 and its descendant laws the purpose of which is to achieve GHG emissions reductions consistent with the AB 32 Scoping Plan.

**EMISSIONS QUANTIFICATION METHODOLOGIES**

This assessment incorporates the following methodologies in the quantification of criteria pollutant, toxic air contaminant (TAC) and GHG emissions during the Project’s construction and operation phases. Additionally, health risk screening was performed as outlined in this section. Detailed emissions calculations can be found in Attachment B, and documentation related to the health risk screening can be found in Attachment C.

Onsite Project construction phase emissions were determined using CARB’s California Emissions Estimator Model (CalEEMod®) and the equipment and activity levels summarized in Table 2 above. Attachment D contains the CalEEMod output results and documentation for the Project. Off-site construction phase vehicle exhaust emissions were calculated separately, assuming up to ten contractors would drive 15 miles round trip per day, for up to 25 total days of construction. Similarly, operation phase vehicle exhaust emissions were calculated assuming up to one employee trip per day, travelling a total of 1S miles to and from the site, as well as 1 mile within the site boundaries. Employee truck emissions were estimated using CARB’s Emissions Factors (EMFAC) 2021 model, assuming each employee would utilize a “light-duty truck (LDT2)” with a diesel engine vehicle. Lastly, road dust emissions from onsite vehicle traffic were calculated using the unpaved road emissions factor outlined in AP-42 Section 13.2.2 published by the Environmental Protection Agency (EPA). TACs from road dust emissions were quantified using San Diego Air Pollution Control District (SDAPCD) speciation profile R01 – *Haul Roads, General* (SDAPCD, 2021).

Health risk screening was performed using the SCAQMD Risk Tool V1.105 (the “Risk Tool”). A Tier 2 analysis was performed per SCAQMD Risk Assessment Procedures version 8.1. The analysis represents a highly conservative risk assessment used to determine if more complex assessment (i.e., modeling) is necessary. Per SCAQMD Risk Assessment Procedures version 8.1:

*Tier 2 is a screening risk assessment, which includes procedures for determining the level of risk from a source for cancer risk, cancer burden, HIA, HIC8, and HIC. If the estimated risk from Tier 2 screening is below Rule 1401 limits, then a more detailed evaluation is not necessary.*

In order to perform health risk screening for each risk type (e.g., cancer, chronic, and acute impacts) over the course of the Project, the screening analysis for the Project was divided into four phases as outlined in Table 5 below. Also see Attachment C for additional detail.

**Table 5: Screening Health Risk Assessment Phases**

Health Risk Screening Phase Title	Project Phase	Risk Type Assessed	Model Duration (Years)
Screen 1	Construction	Acute	2
Screen 2a	Construction	Cancer/Chronic	2
Screen 2b	Operation	Cancer/Chronic	30
Screen 3	Operation	Acute	2

Notes: Total Project cancer risk is determined by combining risk from Screen 2a and Screen 2b. Attachment B contains TAC emissions quantified by Project phase. Attachment C contains SCAQMD Risk Tool output documentation.

Model duration used in the health screening was conservatively chosen based on the available model duration options. Although onsite construction activities would not last longer than a single year (i.e., estimate to take approximately 2 months total), in the Risk Tool two years is the shortest duration available, and 30 years is the longest. Project health risk emissions were conservatively modeled using a point source in the Tier 2 analysis. Meteorological data from the “Desert Hot Springs Airport” was used in the risk tool, as the climate in Desert Hot



Springs area is similar to that of Inyo County. Residential receptor distance was set to 130 meters (i.e., 425-feet) and commercial distance was set to 1,000 meters (i.e., 3,280-feet).

### **CEQA IMPACT ANALYSIS**

The following section summarizes the Project's potential impacts with respects to air quality and GHGs, which address the specific impact statements outlined in the current CEQA Guidelines Appendix G Environmental Checklist Form (California Code of Regulations, Title 14). As discussed above, this analysis primarily uses the MDAQMD approved methods and thresholds to quantify the impacts associated with the Project. Methods or guidance provided by the SCAQMD were also used in certain cases to supplement MDAQMD guidance when applicable.

#### **Air Quality**

**Air Quality-1:** *Would the Project conflict with or obstruct implementation of the applicable air quality plan? (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (a))*

The Project would be required to comply with regional air quality rules promulgated by the GBUAPCD and participate in reducing air pollutant emissions. As the local air district with jurisdiction over the Project, the GBUAPCD is the applicable agency tasked with implementing programs and regulations required by the Clean Air Act (CAA) and the California Clean Air Act (CCAA). In that capacity, the GBUAPCD has prepared plans to attain Federal and State ambient air quality standards. Pursuant to the CAA, the GBUAPCD is required to reduce emissions of criteria pollutants for which the GBVAB is in nonattainment. While portions of Inyo County are in nonattainment for particulate matter (i.e., PM<sub>10</sub>), the Project Area is located within the Coso Junction PM<sub>10</sub> State Implementation Plan (SIP) (GBUAPCD, 2021), which was redesignated as in attainment by the EPA in 2010 per the National Ambient Air Quality Standards (NAAQS). While the Project is not located in a nonattainment area for PM<sub>10</sub>, the GBUAPCD still maintains established thresholds of significance for criteria pollutant emissions for any new stationary source or modification of an existing stationary source as part of their "New Source Review Requirements for Determining Impact on Air Quality" (Rule 216).

As discussed above, the Project proposes to develop PV solar facilities on an approximately 20-acre Project Area, located north of the town of Trona. Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollutant emissions, including those required under their new source review requirements. Further, development of renewable solar projects in Inyo County was contemplated as part of the County's REGPA, and the Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.

The primary air emissions associated with the Project would be fugitive dust emissions during facility construction, and to a lesser extent fugitive dust due to vehicles travelling on unpaved roadways during facility operations. Fugitive dust is addressed under GBUAPCD Rules 401 and 402, and the Applicant would be required to comply with applicable provisions found therein. While some grading and clearing would be required to prepare the site for installation of the solar panels, because the site is already relatively flat, and because much of the site has already been prepared, only minimal grading would be required. In accordance with GBUAPCD rules, mobile water trucks will also be used onsite throughout the entirety of the construction phase to control fugitive dust. Limestone base materials and/or soil binders such as EarthGlue will also be used onsite to control dust emissions, and will remain on certain portions of the site to reduce dust once the facility is put into normal operation. Note,

implementation of these dust control measures is consistent with applicable GBUAPCD rules, as well as the standard mitigations measures described within the EIR prepared by Inyo County in support of the REGPA.

Through compliance with GBUAPCD's new source review for stationary sources, and through implementation of onsite fugitive dust control measures consistent with GBUAPCD's Rule 401 and 402 requirements, as well as the programmatic mitigations described within the EIR prepared by the County for their REGPA, the Project would be consistent with applicable air quality plans adopted by the GBUAPCD. Therefore, the Project would not obstruct implementation of applicable air quality plans, and impacts would therefore be less than significant with no mitigation required.

**Air Quality-2:** *Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard? (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (b))*

CEQA defines cumulative impacts as two or more individual effects which, when considered together, are either significant or "cumulatively considerable", meaning they add considerably to a significant environmental impact. An adequate cumulative impact analysis considers a project over time and in conjunction with other past, present, and reasonably foreseeable future projects whose impacts might compound those of the project being assessed.

By its very nature, air pollution is largely a cumulative impact, and is a result of past and present development. Similarly, the application of thresholds of significance for criteria pollutants, such as those promulgated by the MDAQMD, is also relevant to the determination of whether a project's individual emissions would have a cumulatively significant impact on air quality.

A CEQA lead agency, in this case Inyo County, may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program, including but not limited to an air quality attainment or maintenance plan that provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area in which the project is located (CCR §15064(h)(3)).

Thus, if project emissions (i.e., change from baseline) exceed the MDAQMD thresholds for carbon monoxide (CO), Oxides of Nitrogen (NO<sub>x</sub>), Volatile Organic Compounds (VOC), Oxides of Sulfur (SO<sub>x</sub>), and particulate matter (PM<sub>10</sub> or PM<sub>2.5</sub>), hydrogen sulfide (H<sub>2</sub>S), or lead (Pb), summarized previously in Table 4 above, then a project would potentially result in a cumulatively considerable net increase of a criteria pollutant. The applicable MDAQMD significance criteria as well as the Project's worst-case annual and daily emissions are presented in Table 6 and Table 7 below. Note that the Project year and day with the maximum amount of emissions were compared to the applicable thresholds to determine the potential significance of Project criteria pollutant emissions. See the emissions summaries in Attachment B, as well as the CalEEMod output files in Attachment D, for additional detail.

**Table 6: Project Criteria Pollutant Increase (Annual Emissions)**

Pollutant	Maximum Project Emissions (tons/year)	Significance Threshold (tons/year)	Exceeds Criteria?
Carbon Monoxide (CO)	0.4	100	No
Oxides of Nitrogen (NO <sub>x</sub> )	0.2	25	No
Volatile Organic Compounds (VOC)	0.009	25	No
Oxides of Sulfur (SO <sub>x</sub> )	0.001	25	No
Particulate Matter (PM <sub>10</sub> )	0.13	15	No
Particulate Matter (PM <sub>2.5</sub> )	0.028	12	No
Hydrogen Sulfide (H <sub>2</sub> S)	0	10	No
Lead (Pb)	3.0E-06	0.6	No

Note, none of the Project's construction or operational emissions sources would emit Hydrogen Sulfide (H<sub>2</sub>S).

**Table 7: Project Criteria Pollutant Increase (Daily Emissions)**

Pollutant	Maximum Project Emissions (pounds/day)	Significance Threshold (pounds/day)	Exceeds Criteria?
Carbon Monoxide (CO)	32	548	No
Oxides of Nitrogen (NO <sub>x</sub> )	16	137	No
Volatile Organic Compounds (VOC)	0.8	137	No
Oxides of Sulfur (SO <sub>x</sub> )	0.1	137	No
Particulate Matter (PM <sub>10</sub> )	0.001	82	No
Particulate Matter (PM <sub>2.5</sub> )	0.5	65	No
Hydrogen Sulfide (H <sub>2</sub> S)	0	54	No
Lead (Pb)	0.0001	3	No

Note, none of the Project's construction or operational emissions sources would emit Hydrogen Sulfide (H<sub>2</sub>S).

Table 6 and Table 7 above show that the Project's estimated daily and annual emissions are well below established MDAQMD thresholds. Therefore, the Project would not result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable Federal or State ambient air quality standard, and impacts would be less than significant with no mitigation required.

**Air Quality-3: Would the Project expose sensitive receptors to substantial pollutant concentrations? (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (c))**

Determination of whether project emissions would expose receptors to substantial pollutant concentrations is a function of assessing potential health risks. Sensitive receptors are facilities that house or attract children, the elderly, people with illnesses, or others who are especially sensitive to the effects of air pollutants. Hospitals, schools, convalescent facilities, and residential areas are examples of sensitive receptors. When evaluating whether a project has the potential to result in localized impacts, the nature of the air pollutant emissions, the proximity between the emitting facility and sensitive receptors, the direction of prevailing winds, and local topography must be considered.

A Health Risk Screening was performed to evaluate the effects of TACs, including diesel particulate matter (DPM) from vehicle engines, and various substances found in fugitive dust emissions (i.e., metals and respirable crystalline silica). Health risks associated with the Project are presented in Table 8, which shows impacts are well

below applicable SCAQMD screening thresholds. Therefore, there would be no new or significant health risk impacts from the Project, with no mitigation required. See the health risk screening results in Attachment C for additional detail.

**Table 8: Project Health Risk Screening Results**

Health Risk Screening Phase	Risk Type Assessed	Risk Units	Maximum Risk Value	Risk Threshold	Threshold Exceeded?
Screen 1	Acute	Hazard Index	0.0003	1.0	No
Screen 2a	Chronic	Hazard Index	0.0009	1.0	No
	Cancer	MICR Per Million Exposed	1.9	10	No
Screen 2b	Chronic	Hazard Index	0.0006	1.0	No
	Cancer	MICR Per Million Exposed	0.009	10	No
Screen 2 (Total)	Cancer	MICR Per Million Exposed	1.9	10	No
Screen 3	Acute	Hazard Index	0.0007	1.0	No

Notes: See Attachment C for the risk tool output files. Values in the table above may differ slightly from the attached values due to rounding. MICR = "Maximum Individual Cancer Risk".

**Air Quality-4:** *Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?* (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (d))

Due to the subjective nature of odor impacts, the number of variables that can influence the potential for an odor impact, and the variety of odor sources, there are no quantitative or formulaic methodologies to determine the presence of a significant odor impact. The intensity of an odor source's operations and its proximity to sensitive receptors influences the potential significance of odor emissions. Substantial odor-generating operations generally include wastewater treatment facilities, composting facilities, agricultural operations, and heavy industrial operations. Note, the Project would not involve any activities with the potential to generate odor impacts. While diesel exhaust from mobile equipment/vehicles, such as those that would be used onsite during construction, has a slight odor, odor intensity would decrease rapidly with distance and is not expected to be frequently (or at all) detectable at locations outside of the Project Area boundaries. No other potential source of odors are associated with the Project construction activities or ongoing operations. Further, the Project would comply with GBUAPCD's nuisance rules, including those related to odor. As such, the Project will not result in other emissions (such as those leading to odors) that could adversely affect a substantial number of people, and therefore the Project impacts were determined to be less than significant with no mitigation required.

**Greenhouse Gases**

**Greenhouse Gas Emissions-1:** *Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?* (CEQA Guidelines Appendix G, Greenhouse Gas Threshold Criteria (a))

In general, it is widely recognized that no single project could generate enough GHG emissions to noticeably change the global climate temperature; however, the combination of GHG emissions from past, present, and future projects could contribute substantially to global climate change. GHG emissions, and their associated contribution to climate change, are inherently a cumulative impact issue.

This concept is also reflected in California’s 2022 *Scoping Plan for Achieving Carbon Neutrality* (CARB, 2022). Specifically, regulations are implemented in order to reduce the cumulative impact of GHG emissions on a statewide level, and generally not at the project-level. Sources of GHG emission associated with the Project include fuel combustion within construction equipment and vehicles travelling to and from the site, and indirect GHG’s emitted through electricity consumption. Fuel is regulated at a level in the supply chain above an individual project, such that any project has no choice but to purchase and use fuel energy in California which is already regulated. The Project therefore is simply a location in which GHG emissions are emitted by consuming fuel that was already regulated through Cap-and-Trade, applicable Low-Carbon Fuel Standards (GHG) and other applicable regulations higher up the supply chain.

To comply with CEQA, GHG emissions impacts from implementing the Project were calculated at the Project-specific level for construction and operations, and compared to applicable significance thresholds published by the MDAQMD and the SCAQMD. Impact analysis for the Project follows the approach certified by SCAQMD for other projects, which takes into account the cumulative nature of the energy industry and recognizes that consumers of electricity and diesel fuel are, in effect, regulated by higher level emissions restrictions on the producers of these energy sources. As shown in Table 9 below, the Project’s worst case annual GHG emissions are well below the applicable MDAQMD and the SCAQMD screening thresholds.

**Table 9: Project GHG Emissions**

Source / Parameter	CO <sub>2</sub> e (MT/year)
Total Project Emissions	63
MDAQMD Screening Threshold	100,000
Exceed?	No
SCAQMD Screening Threshold	10,000
Exceed?	No

For the reasons outlined above, the proposed Project would have a less than significant GHG impact, with no mitigation measures required.

**Greenhouse Gas Emissions-2: *Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?*** (CEQA Guidelines Appendix G, Greenhouse Gas Threshold Criteria (b))

Project emissions of GHGs are presented in Table 9 above. The Project would emit GHGs from fuel burned in mobile equipment and vehicle engines; however, the quantity of fuel consumed would be minimal. Specifically, onsite construction activities would be temporary in nature (take approximately two months to complete). Similarly, because the facility would be monitored remotely once placed into operation, operational fuel consumption would also be minimal (estimate a maximum of up to one inspection per week). Transportation fuel suppliers and importers, such as the ones the Applicant would use during both construction and operation, are required to report emissions under the Cap-and-Trade which is designed to reduce GHG emissions as needed to achieve emissions reductions described in related planning documents, which primarily consists of the AB 32 Scoping Plan(s), described previously. Thus, the emissions reductions will occur at a level in the supply chain above

the Project which will have no choice but to use fuels with GHG intensities that are consistent with the CARB's Scoping Plan.

Furthermore, because the Project involves renewable PV solar facilities, development of the Project would help California meet their state-wide climate change goals by producing clean renewable electricity within Inyo County. Energy generated by the Project likely would replace energy produced by the burning of fossil fuels elsewhere in the region, thereby resulting in a net reduction of GHG emissions. For example, based upon data described within the EIR published for the County's REGPA, a renewable solar project with a capacity of 900 MW could offset up to 1 million MT of CO<sub>2</sub>e per year. As noted above, collectively the Project would have a total capacity of approximately 4.2 MW, which would result in significant GHG offsets per the REGPA methodology.

In summary, the GHGs associated with the Project would be consistent with the AB 32 Scoping Plan and applicable County and GBUAPCD policies. Conversely, by generating sustainable solar electricity, the Project is expected to offset GHG emissions that would otherwise result due to the burning of fossil fuels at other power generating facilities, which would therefore result in a beneficial impact. Therefore, the Project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases, and there would be no impact.

#### **CONCLUSIONS**

In summary, the Project would generate a small amount of air quality and GHG emissions due to fuel combustion within offroad construction equipment and on-road vehicles. These impacts will be less than significant per the applicable CEQA guidance and significance thresholds. Specifically, onsite equipment and offsite vehicles travelling to and from the site during the Project's construction phase would generate minimal and short-term air emissions over an approximately two month period, and onsite construction emissions were found to be below applicable numeric thresholds.

Once the facility is constructed and put into operation, long-term air emissions would also be minimal and well below applicable CEQA thresholds. Because the solar facilities would be monitored remotely and would generally operate without the need for a permanent onsite staff, at most is estimated that a single-light duty truck would travel to and from the site no more than once per week to conduct routine inspections and maintenance. As such, air emissions associated with ongoing operations were also found to be less than significant.

In addition to combustion emissions, fugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment track-out onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout the life of the Project, which will in turn ensure impacts remain less than significant.

Lastly, because the proposed facility is a renewable energy project, the Project would have a beneficial impact related to GHG emissions and climate change. The County, through adoption of their REGPA, is promoting

renewable solar development to reduce GHG emissions and help the region and state meet their aggressive climate change goals. Once operational, the Project would provide a renewable source of electricity that would offset existing electrical generating facilities that rely upon the combustion of fossil fuels. As such, the Project would be consistent with the County's REGPA and would have a beneficial effect related to GHG.

#### **REFERENCES**

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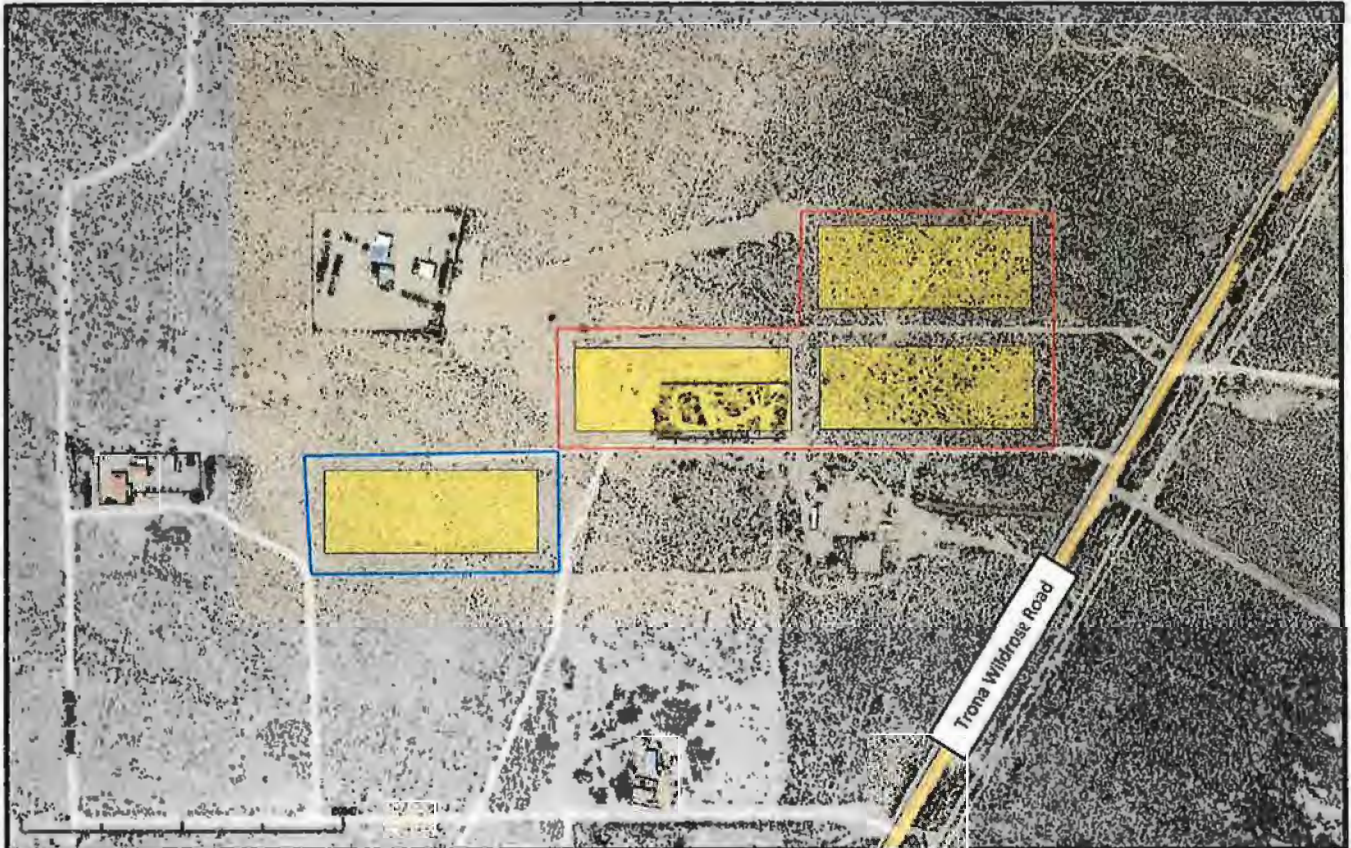
#### **ATTACHMENTS**

- A. Figures
- B. Project Emissions Summary (Construction and Operations)
- C. SCAQMD's Health Risk Screening Tool Output File/Results
- D. CalEEMod Output File/Results

**ATTACHMENT A**

Figures





Source: Google Earth™ (2023)

- Project Site Boundary - Trona 4 (approx.)
- Project Site Boundary - Trona 7 (approx.)
- Proposed Solar Array Footprint/Construction Area (approx.)



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FIGURE

1

PROJECT OVERVIEW

Inyo County Solar Project  
Trona Wildrose Road  
Inyo County, California

PROJECT #:	230510-0036	DATE:	6/5/23
SCALE:	See Above	DRAWN BY:	GPS

**ATTACHMENT B**

Project Emissions Summary (Construction and Operations)

<b>Summary of Project Emissions</b>						
<b>Criteria Pollutant</b>	<b>Annual Threshold (short tons)<sup>A</sup></b>	<b>Maximum Year Project Emissions (short tons)</b>	<b>Annual Threshold Exceeded?</b>	<b>Daily Threshold (pounds)<sup>A</sup></b>	<b>Max Day Project Emissions (pounds)</b>	<b>Daily Threshold Exceeded?</b>
Greenhouse Gases (CO <sub>2</sub> e)	100,000	63	No	548,000	6,388	No
Carbon Monoxide (CO)	100	0.4	No	548	32	No
Oxides of Nitrogen (NO <sub>x</sub> )	25	0.2	No	137	16	No
Volatile Organic Compounds (VOC)	25	0.009	No	137	0.8	No
Oxides of Sulfur (SO <sub>x</sub> )	25	0.001	No	137	0.1	No
Particulate Matter (PM <sub>10</sub> )	15	0.130	No	82	0.001	No
Particulate Matter (PM <sub>2.5</sub> )	12	0.028	No	65	0.5	No
Hydrogen Sulfide (H <sub>2</sub> S) <sup>B</sup>	10	0	No	54	0	No
Lead (Pb)	0.6	3.0E-06	No	3	0.0001	No

Footnotes:

A - Annual and daily thresholds taken from MDAQMD's *California Environmental Quality Act (CEQA) and Federal Conformity Guidelines* (February 2020).

B - Note, none of the Project's construction or operational emissions sources would emit Hydrogen Sulfide (H<sub>2</sub>S).

**Onsite Construction Phase Emissions (from CalEEMod)**

**2. Emissions Summary**

**2.1 Construction Emissions Compared Against Thresholds**

	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	TOG	NOx	CO	SO <sub>2</sub>	CO <sub>2</sub>
Daily, Winter (Max) Unmit. (lbs)	0.1150	0.1493	0.2643	0.1150	0.0150	0.1500	0.3172	16.0921	32.2832	0.0562	6282.57
Average Daily (Max) Unmit. (lbs)	0.0068	0.0088	0.0156	0.0068	0.0021	0.0069	0.0479	0.9552	1.9178	0.0033	371.23
Annual (Max) Unmit. (tons)	0.0012	0.0016	0.0028	0.0012	0.0004	0.0016	0.0087	0.1743	0.3500	0.0006	61.46

**Offsite Construction Phase Emissions (Calculated)**

Construction Emissions	PM10 (total)	PM10 (Dust)	Exhaust Emissions								
			PM10	PM2.5	NOx	CO <sub>2</sub>	N <sub>2</sub> O	ROG	TOG	CO	SO <sub>2</sub>
Offsite Emissions (lbs/day)	0.00665278	N/A	5.87E-03	0.00188557	0.01582079	109,879,352.4	0.000283472	0.016681332	0.006102966	0.006947864	0.0608884
Offsite Emissions (lbs/yr)	0.171631949	N/A	0.17163	0.007272	0.49702	2646.98331	0.00709	0.41709	0.15257	0.17970	1.52221

Off-site operation - LD12 Miles Per Day: 150 (Emissions based on 150 Miles Per Day)

Off-site operation - LD12 Miles Per Year: 3750 (Emissions based on 3750 Miles Per Year)

**Onsite and Offsite Operation Phase Emissions (Calculated)**

Operation Emissions	PM10 (total)	PM10 (Dust)	Exhaust Emissions								
			PM10	PM2.5	NOx	CO <sub>2</sub>	N <sub>2</sub> O	ROG	TOG	CO	SO <sub>2</sub>
Onsite Emissions (lbs/hr)	2.6	2.6	4.58E-05	2.19E-05	1.06E-04	7.06E-01	1.89E-06	1.11E-04	4.07E-05	4.53E-05	4.06E-04
Onsite Emissions (lbs/day)	2.6	2.6	4.58E-05	2.12577E-05	0.00010587	0.705862216	1.88981E-06	0.000111209	4.06866E-05	4.6319E-05	0.0004056
Onsite Emissions (lbs/yr)	260	260	0.011899815	0.005527005	0.0275267	183.5241762	0.000491352	0.028934309	0.010578509	0.01204293	0.1058399
Offsite Emissions (lbs/day)	0.00069	N/A	5.87E-06	0.000318666	0.00156906	10.58793324	2.83472E-05	0.001668133	0.000610799	0.000694784	0.0068884
Offsite Emissions (lbs/yr)	0.11	N/A	0.17497227	0.022905075	0.41290054	2752.662643	0.007370273	0.43321463	0.15867764	0.18064984	1.5830921

Onsite operation - LD12 Miles Per Day Traveled: 1

Off-site operation - LD12 Miles Per Day Traveled: 15

**Health Risk Screening Inputs**

Onsite Pollutant Emissions	Construction Acute (Screen 1)	Cancer/Chronic (Screen 2a)	Cancer/Chronic (Screen 2b)	Operation Acute (Screen 3)
	Max Day Emissions Rate - Construction (lbs/hr)	Max Year Average Emissions Rate - Construction (lbs/hr)	Max Year Average Emissions Rate - Operation (lbs/hr)	Max Day Emissions Rate - Construction (lbs/hr)
Arsenic and Compounds (Inorganic)	3.73317E-07	7.34124E-09	2.73973E-07	3.16022E-05
Beryllium and Compounds	1.86658E-08	3.67062E-10	1.36986E-08	2.58011E-06
Cadmium and Compounds	1.86658E-06	3.67062E-10	1.36986E-08	2.58011E-05
Copper and Compounds	1.86658E-06	3.67062E-08	1.36986E-06	0.000758011
Lead and Compounds (Inorganic)	9.33292E-07	1.83531E-08	6.84932E-07	0.000129005
Manganese and Compounds	9.33292E-06	1.83531E-07	6.84932E-06	0.001290055
Nickel and Compounds	3.73317E-07	7.34124E-09	2.73973E-07	5.16022E-05
Selenium and Compounds	9.33292E-08	1.83531E-09	6.84932E-08	1.29005E-05
Total Particulate (PM)	0.014372816	0.000283404	1.35843E-06	4.58E-05

Screen 1 - Acute Onsite Emissions and Hourly Emissions Rate for the first hour of the day, construction activity from the site only (not including off-site operation).  
 Screen 2a - Cancer/Chronic (44) - Maximum Yearly Emissions Rate - Construction (lbs/hr) based on the maximum daily rate from all activities.  
 Screen 2b - Cancer/Chronic (44) - Maximum Yearly Emissions Rate - Operation (lbs/hr) based on the average annual operation emissions.  
 Screen 3 - Acute Onsite Emissions and Hourly Emissions Rate for the first hour of the day, construction activity from the site only (not including off-site operation).

**On-Road Vehicle Emissions Factors (EMFAC DATA):**

Source: EMFAC2021 (v1.0.2) Emissions Inventory

Region Type: Sub-Area

Region: Inyo (GBV)

Calendar Year: 2024

Season: Annual

Vehicle Classification: EMFAC202x Categories

Units: miles/day for CVMT and EVMT, trips/day for Trips, kWh/day for Energy Consumption, tons/day for Emissions, 1000 gallons/day for Fuel Consumption

Region	Calendar Year	Vehicle Category	Model Year	Speed	Fuel	Population	Total VMT	CVMT	EVMT	Trips	Energy Consumption
Inyo (GBV)	2024	LDT2	Aggregate	Aggregate	Diesel	50,696,9863	2134,2364	2134,2364		0 241,24064	0

NOx_TOTEX	PM2.5_TOTAL	PM10_TOTAL	CO2_TOTEX	CH4_TOTEX	N2O_TOTEX	ROG_TOTAL	TOG_TOTAL	CO_RUNEX	CO_TOTEX	SOx_TOTEX	NH3_RUNEX
0.000112978	2.26845E-05	4.88404E-05	0.7532384	2.017E-06	0.00011867	4.3417E-05	4.943E-05	0.0004332	0.0004332	7.137E-06	7.29304E-06

**Calculated Emissions Factors (lb/vmt)**

PM10	PM2.5	NOx	CO2	N2O	ROG	TOG	CO	SOx
4.57685E-05	2.12577E-05	0.000105872	0.7058622	1.89E-06	0.00011121	4.0687E-05	4.632E-05	0.0004059

**Haul Road Fugitive Dust Factors**

**Fugitive Dust Speciation Profile**

Pollutant	Concentration (ppm)	Concentration
Arsenic	20	0.00002
Beryllium	1	0.000001
Cadmium	1	0.000001
Copper	100	0.0001
Lead	50	0.00005
Manganese	500	0.0005
Nickel	20	0.00002
Selenium	5	0.000005
Zinc	200	0.0002

Source: San Diego APCD Table R01 - HAUL ROADS, GENERAL PAVED & UNPAVED, WITH DEFAULT TRACE METAL COMPOSITION

Note: The table above includes toxic air contaminants presented in both the SDAPCD speciation profile, and the SCAQMD Risk Tool

**Unpaved Road Emission Factors**

Unpaved Road emissions factor from AP42 Section 13.2.2

$EF (lb/VMT) = 4.9 * (S/12)^{0.7} + (W/3)^{0.45}$

S = silt content (%) =

W = avg truck weight

EF (lb/VMT) =

Control Efficiency =

Emission Factor (lb/VMT) =

Silt content based on green Sand and Gravel Processing from AP-42 Table 13.2.2-1.

PM2.5 emissions are 21.2% of PM10 for unpaved roads (SCAQMD Updated CEIDARS Table)

On-Road Light Truck	
PM10	PM2.5
4.8	
3	
2.58	0.55
0%	0%
2.58	0.55

**ATTACHMENT C**

SCAQMD's Health Risk Screening Tool Output

**TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT**

*(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool V1.105*

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

1. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wks/yr
Control Efficiency	0.000	
Does source have T-BACT?	NO	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
	5000	
Distance-Residential	130	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	2	years

Conversion Units (select unit)  
 From  feet  
 To  meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	3.73E-07	74.92	3.73E-07	0.00000	3.73317E-07
B8	Beryllium and Compounds	1.87E-08	9.012	1.87E-08	0.00000	1.86658E-08
C1	Cadmium and Compounds	1.87E-08	112.41	1.87E-08	0.00000	1.86658E-08
C23	Copper and Compounds	1.87E-06	63.55	1.87E-06	0.00000	1.86658E-06
L1	Lead and Compounds (Inorganic)	9.33E-07	207.2	9.33E-07	0.00000	9.33292E-07
M2	Manganese and Compounds	9.33E-06	54.938	9.33E-06	0.00000	9.33292E-06
N12	Nickel and Compounds	3.73E-07	58.71	3.73E-07	0.00000	3.73317E-07
S1	Selenium and Compounds	9.33E-08	78.96	9.33E-08	0.00000	9.33292E-08
P1	Particulate Emissions from Diesel-Fueled Engines	1.44E-02	350	1.44E-02	0.00000	0.014372816

6. Hazard Index Summary

A/N: N/A

Application deemed complete date: 06/08/21

HIA = (Q(lb/yr) \* (X/Q)max \* MWAF) / Acute REL  
 HIC = (Q(lb/yr) \* (X/Q) \* MP \* MWAF) / Chronic REL  
 HIC 8-hr = (Q(lb/yr) \* (X/Q) \* WAF \* MWAF) / 8-hr Chronic REL

Target Organs	Acute	Chronic	8-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	8-hr Chronic Pass/Fail
Alimentary system (liver) - AL		6.97E-05		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	2.53E-04	4.27E-02	4.85E-04	Pass	Pass	Pass
Developmental - DEV	1.53E-04	4.32E-02	4.85E-04	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eye				Pass	Pass	Pass
Hematopoietic system - HEM		5.19E-04		Pass	Pass	Pass
Immune system - IMM	2.53E-04	5.19E-05	1.21E-04	Pass	Pass	Pass
Kidney - KID		3.59E-05		Pass	Pass	Pass
Nervous system - NS	2.53E-04	4.47E-02	1.55E-03	Pass	Pass	Pass
Reproductive system - REP	2.53E-04	4.32E-02	4.85E-04	Pass	Pass	Pass
Respiratory system - RESP	2.53E-06	9.93E-02	6.06E-04	Pass	Pass	Pass
Skin		4.27E-02	4.85E-04	Pass	Pass	Pass



**TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT**

*(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool V1.105*

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

1. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wks/yr
Control Efficiency	0.000	
Does source have T-BACT?	YES	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
	5000	ft
Distance-Residential	130	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	2	years

**Conversion Units (select units)**  
 From  feet  
 To  meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	7.34E-09	74.92	7.34E-09	0.00000	7.34124E-09
B8	Beryllium and Compounds	3.67E-10	9.012	3.67E-10	0.00000	3.67062E-10
C1	Cadmium and Compounds	3.67E-10	112.41	3.67E-10	0.00000	3.67062E-10
C23	Copper and Compounds	3.67E-08	63.55	3.67E-08	0.00000	3.67062E-08
L1	Lead and Compounds (Inorganic)	1.84E-08	207.2	1.84E-08	0.00000	1.83531E-08
M2	Manganese and Compounds	1.84E-07	54.938	1.84E-07	0.00000	1.83531E-07
N12	Nickel and Compounds	7.34E-09	58.71	7.34E-09	0.00000	7.34124E-09
S1	Selenium and Compounds	1.84E-09	78.96	1.84E-09	0.00000	1.83531E-09
P1	Particulate Emissions from Diesel-Fueled Engines	2.83E-04	350	2.83E-04	0.00000	0.000283404

**5a. MICR**

MICR Resident = CP (mg/(kg-day))<sup>-1</sup> \* Q (ton/yr) \* (X/Q) Resident \* CEF Resident \* MF Resident \* 1e-6 \* MWAF

MICR Worker = CP (mg/(kg-day))<sup>-1</sup> \* Q (ton/yr) \* (X/Q) Worker \* CEF Worker \* MF Worker \* WAF Worker \* 1e-6 \* MWAF

Compound	Residential	Commercial
Arsenic and Compounds (Inorganic)	6.99E-09	6.70E-13
Beryllium and Compounds	1.87E-11	5.42E-15
Cadmium and Compounds	3.34E-11	9.67E-15
Copper and Compounds		
Lead and Compounds (Inorganic)	7.12E-11	7.62E-15
Manganese and Compounds		
Nickel and Compounds	4.05E-11	1.17E-14
Selenium and Compounds		
Particulate Emissions from Diesel-Pooled En	1.89E-06	5.48E-10
<b>Total</b>	<b>1.90E-06</b>	<b>5.48E-10</b>
	<b>PASS</b>	<b>PASS</b>

**5b. Is Cancer Burden Calculation Needed (MICR > 1E-07)**

**YES**

New X/Q at which MICR<sub>0.05</sub> is one-in-a-million [(µg/m³)/(ton/yr)]:

9.54E-01

New Distance, interpolated from X/Q table using New X/Q (miles):

284.01

Zone Impact Area (km²):

2.53E-01

Zone of Impact Population (7000 person/km²):

1.77E+03

Cancer Burden:

8.29E-03

Cancer Burden is less than or equal to 0.5

**PASS**

6. Hazard Index Summary

HIA =  $(C(\text{lb/hr}) * (D/Q)_{\text{air}} * MWAF) / \text{Acute REL}$

HIC =  $(C(\text{ton/yr}) * (D/Q) * MF * MWAF) / \text{Chronic REL}$

HIC 3-hr =  $(C(\text{ton/yr}) * (D/Q) * WAF * MWAF) / \text{3-hr Chronic REL}$

A/N: N/A

Application deemed complete date: 06/04/23

Target Organs	Acute	Chronic	3-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	3-hr Chronic Pass/Fail
Adipose system (liver) - AL		1.37E-06		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	4.98E-06	4.40E-04	9.53E-06	Pass	Pass	Pass
Developmental - DEV	4.98E-06	4.50E-04	9.53E-06	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eyes				Pass	Pass	Pass
Hematopoietic system - HEM		1.02E-05		Pass	Pass	Pass
Immune system - IMM	4.98E-06	1.02E-06	2.38E-06	Pass	Pass	Pass
Kidney - KID		2.05E-07		Pass	Pass	Pass
Nervous system - NS	4.98E-06	2.79E-04	3.06E-05	Pass	Pass	Pass
Reproductive system - REP	4.98E-06	8.50E-04	9.53E-06	Pass	Pass	Pass
Respiratory system - RESP	4.98E-06	1.96E-03	1.19E-05	Pass	Pass	Pass
Skin		4.30E-04	9.53E-06	Pass	Pass	Pass

**TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT**

*(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool V1.105*

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

I. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wks/yr
Control Efficiency	0.000	
Does source have T-BACT?	NO	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
Building Area		
Distance-Residential	1000	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	30	years

Conversion Units (select units)

From  feet

To  meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	2.74E-07	74.92	2.74E-07	0.00000	2.73973E-07
B8	Beryllium and Compounds	1.37E-08	9.012	1.37E-08	0.00000	1.36986E-08
C1	Cadmium and Compounds	1.37E-08	112.41	1.37E-08	0.00000	1.36986E-08
C23	Copper and Compounds	1.37E-06	63.55	1.37E-06	0.00000	1.36986E-06
L1	Lead and Compounds (Inorganic)	6.85E-07	207.2	6.85E-07	0.00000	6.84932E-07
M2	Manganese and Compounds	6.85E-06	54.938	6.85E-06	0.00000	6.84932E-06
N12	Nickel and Compounds	2.74E-07	58.71	2.74E-07	0.00000	2.73973E-07
S1	Selenium and Compounds	6.85E-08	78.96	6.85E-08	0.00000	6.84932E-08
P1	Particulate Emissions from Diesel-Fueled Engines	1.36E-06	350	1.36E-06	0.00000	1.35843E-06

**5a. MICH**

MICR Resident = CP (mg/kg-day)<sup>-1</sup> \* Q (ton/yr) \* (X/Q) Resident \* CEF Resident \* MP Resident \* 1e-6 \* MWAF

MICR Worker = CP (mg/kg-day)<sup>-1</sup> \* Q (ton/yr) \* (X/Q) Worker \* CEF Worker \* MP Worker \* WAF Worker \* 1e-6 \* MWAF

Compound	Residential	Commercial
Arsenic and Compounds (Inorganic)	8.50E-09	3.26E-10
Beryllium and Compounds	3.06E-11	2.53E-12
Cadmium and Compounds	5.47E-11	4.51E-12
Copper and Compounds		
Lead and Compounds (Inorganic)	8.74E-11	3.68E-12
Manganese and Compounds		
Nickel and Compounds	6.64E-11	5.47E-12
Selenium and Compounds		
Particulate Emissions from Diesel-Fueled Ev	3.98E-10	3.28E-11
<b>Total</b>	<b>9.14E-09</b>	<b>3.75E-10</b>
	<b>PASS</b>	<b>PASS</b>

5b. Is Cancer Burden Calculation Needed (MICH > 1E-6)?

NO

New X/Q at which MICR<sub>100</sub> is one-in-a-million [(ug/m<sup>3</sup>)(ton/yr)]:

New Distance, interpolated from X/Q table using New X/Q (meter):

Zone Impact Area (km<sup>2</sup>):

Zone of Impact Population (7000 persons/km<sup>2</sup>):

Cancer Burden:

6. Hazard Index Summary

A/N: N/A

Application derived complete date: 06/08/23

HIA =  $[Q(\text{b/hr}) * (X/Q)_{\text{max}} * MWF] / \text{Acute REL}$

HIC =  $[Q(\text{mg/yr}) * (X/Q) * MP * MWF] / \text{Chronic REL}$

HIC 8-hr =  $[Q(\text{mg/yr}) * (X/Q) * WAF * MWF] / \text{8-hr Chronic REL}$

Target Organs	Acute	Chronic	8-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	8-hr Chronic Pass/Fail
Alimentary system (liver) - AL		1.03E-06		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	3.67E-06	6.37E-04	7.18E-06	Pass	Pass	Pass
Developmental - DEV	3.67E-06	6.40E-04	7.18E-06	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eye				Pass	Pass	Pass
Hematopoietic system - HEM		7.69E-06		Pass	Pass	Pass
Immune system - IMM	3.67E-06	7.69E-07	1.80E-06	Pass	Pass	Pass
Kidney - KID		3.37E-07		Pass	Pass	Pass
Nervous system - NS	3.67E-06	6.62E-04	2.30E-05	Pass	Pass	Pass
Reproductive system - REP	3.67E-06	6.40E-04	7.18E-06	Pass	Pass	Pass
Respiratory system - RESP	3.67E-06	6.41E-04	8.98E-06	Pass	Pass	Pass
Skin		6.32E-04	7.18E-06	Pass	Pass	Pass

**TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT**

*(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool VI.105*

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

1. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wka/yr
Control Efficiency	0.000	
Does source have T-BACT?	NO	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
Building Area		
Distance-Residential	1000	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	2	years

Conversion Units (select unit)

From  feet

To  meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	5.16E-05	74.92	5.16E-05	0.00000	5.16022E-05
B8	Beryllium and Compounds	2.58E-06	9.012	2.58E-06	0.00000	2.58011E-06
C1	Cadmium and Compounds	2.58E-06	112.41	2.58E-06	0.00000	2.58011E-06
C23	Copper and Compounds	2.58E-04	63.55	2.58E-04	0.00000	0.000258011
L1	Lead and Compounds (Inorganic)	1.29E-04	207.2	1.29E-04	0.00000	0.000129005
M2	Manganese and Compounds	1.29E-03	54.938	1.29E-03	0.00000	0.001290055
N12	Nickel and Compounds	5.16E-05	58.71	5.16E-05	0.00000	5.16022E-05
S1	Selenium and Compounds	1.29E-05	78.96	1.29E-05	0.00000	1.29005E-05
P1	Particulate Emissions from Diesel-Fueled Engines	4.58E-05	350	4.58E-05	0.00000	4.57685E-05

6. Hazard Index Summary

A/N: N/A

Application deemed complete date: 06/08/13

HIA =  $[Q(\text{hr}) * (X/Q)_{\text{max}} * MWAF] / \text{Acute REL}$

HIC =  $[Q(\text{month}) * (X/Q) * MP * MWAF] / \text{Chronic REL}$

HIC 8-hr =  $[Q(\text{8-hr}) * (X/Q) * WAF * MWAF] / \text{8-hr Chronic REL}$

Target Organs	Acute	Chronic	8-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	8-hr Chronic Pass/Fail
Alimentary system - AL		1.94E-04		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	6.91E-04	1.19E-01	1.35E-03	Pass	Pass	Pass
Developmental - DEV	6.91E-04	1.20E-01	1.35E-03	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eye				Pass	Pass	Pass
Hematopoietic system - HEM		1.45E-03		Pass	Pass	Pass
Immune system - IMM	6.91E-04	1.45E-04	3.39E-04	Pass	Pass	Pass
Kidney - KID		1.00E-04		Pass	Pass	Pass
Nervous system - NS	6.91E-04	1.25E-01	4.34E-03	Pass	Pass	Pass
Reproductive system - RBP	6.91E-04	1.20E-01	1.35E-03	Pass	Pass	Pass
Respiratory system - RESP	6.91E-06	1.21E-01	1.62E-03	Pass	Pass	Pass
Skin		1.19E-01	1.35E-03	Pass	Pass	Pass



6a. Hazard Index Acute - Resident  
 HIA = (Q/Tbhc) \* (C/Q)max resident \* MWAF / Acute REL

A/N: N/A

Application deemed complete date: 2/6/2023

Compound	HIA - Residential									
	AL	CV	DEV	EYE	HBM	IMM	NS	REP	RESP	SKIN
Arsenic and Compounds (Inorganic)		6.91E-04	6.91E-04				6.91E-04	6.91E-04		
Beryllium and Compounds										
Cadmium and Compounds									6.91E-06	
Copper and Compounds										
Lead and Compounds (Inorganic)										
Manganese and Compounds						6.91E-04				
Nickel and Compounds										
Selenium and Compounds										
Particulate Emissions from Diesel-Fueled En										
<b>Total</b>		6.91E-04	6.91E-04			6.91E-04	6.91E-04	6.91E-04	6.91E-06	

**ATTACHMENT D**

CalEEMod Output Files

# Inyo Solar Summary Report

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- 1. Basic Project Information
  - 1.1. Basic Project Information
  - 1.2. Land Use Types
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  - 7.5. Evaluation Scorecard

## 1. Basic Project Information

### 1.1. Basic Project Information

Data Field	Value
Project Name	Inyo Solar
Construction Start Date	1/1/2024
Lead Agency	—
Land Use Scale	Project/site
Analysis Level for Defaults	County
Windspeed (m/s)	3.70
Precipitation (days)	9.60
Location	100 Mooses Ln, Trona, CA 93562, USA
County	Inyo
City	Unincorporated
Air District	Great Basin UAPCD
Air Basin	Great Basin Valleys
TAZ	3013
EDFZ	10
Electric Utility	Southern California Edison
Gas Utility	—
App Version	2022.1.1.14

### 1.2. Land Use Types

Land Use Subtype	Size	Unit	Lot Acreage	Building Area (sq ft)	Landscape Area (sq ft)	Special Landscape Area (sq ft)	Population	Description
User Defined Industrial	20.0	User Defined Unit	20.0	0.00	0.00	—	—	—

### 1.3. User-Selected Emission Reduction Measures by Emissions Sector

No measures selected

## 2. Emissions Summary

### 2.1. Construction Emissions Compared Against Thresholds

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Un/Mit.	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e	
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.82	0.81	16.0	32.4	0.03	0.11	0.15	0.26	0.11	0.04	0.15	—	6,260	6,260	0.25	0.06	0.02	6,283	
Average Daily (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.05	0.05	0.98	1.92	< 0.005	0.01	0.01	0.02	0.01	< 0.005	0.01	—	370	370	0.02	< 0.005	0.02	371	
Annual (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.01	0.01	0.17	0.35	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	—	61.2	61.2	< 0.005	< 0.005	< 0.005	61.5	

## 6. Climate Risk Detailed Report

### 6.2. Initial Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	1	0	0	N/A
Sea Level Rise	N/A	N/A	N/A	N/A
Wildfire	1	0	0	N/A
Flooding	N/A	N/A	N/A	N/A

Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	0	0	0	N/A
Air Quality Degradation	N/A	N/A	N/A	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores do not include implementation of climate risk reduction measures.

### 6.3. Adjusted Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	1	1	1	2
Sea Level Rise	N/A	N/A	N/A	N/A
Wildfire	1	1	1	2
Flooding	N/A	N/A	N/A	N/A
Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	1	1	1	2
Air Quality Degradation	N/A	N/A	N/A	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores include implementation of climate risk reduction measures.

## 7. Health and Equity Details

### 7.3. Overall Health & Equity Scores

Metric	Result for Project Census Tract
CalEnviroScreen 4.0 Score for Project Location (a)	46.0

Healthy Places Index Score for Project Location (b)	51.0
Project Located In a Designated Disadvantaged Community (Senate Bill 635)	No
Project Located in a Low-Income Community (Assembly Bill 1550)	Yes
Project Located In a Community Air Protection Program Community (Assembly Bill 617)	No

a: The maximum CalEnviroScreen score is 100. A high score (i.e., greater than 50) reflects a higher pollution burden compared to other census tracts in the state.

b: The maximum Health Places Index score is 100. A high score (i.e., greater than 50) reflects healthier community conditions compared to other census tracts in the state.

### 7.5. Evaluation Scorecard

Health & Equity Evaluation Scorecard not completed.

# **EXHIBIT 3**



**INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT  
PROGRAM ENVIRONMENTAL IMPACT REPORT**

**Mitigation Monitoring and Reporting Program**

*Prepared for:*

County of Inyo  
168 N. Edwards Street  
Independence, CA 93526

*Prepared by:*

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**March 2015**

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The California Environmental Quality Act (CEQA), Public Resources Code Section 21081.6, requires that a Mitigation Monitoring and Reporting Program (MMRP) be established upon completing findings. CEQA stipulates that “the public agency shall adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation.”

This MMRP has been developed in compliance with Section 21081.6 of CEQA. The County of Inyo (County) is the lead agency for the project under CEQA and will administer and implement the MMRP. The County is responsible for review of all monitoring reports, enforcement actions, and document disposition. The County will rely on information provided by the project site observers/monitors (e.g., construction manager, project manager, biologist, archaeologist, etc.) as accurate and up-to-date and will provide personnel to field check mitigation measure status, as required.

The mitigation measures in this MMRP are derived from the Program Environmental Impact Report (PEIR) for the proposed Renewable Energy General Plan Amendment (REGPA) project (proposed project) dated November 2014. To sufficiently track and document the status of mitigation measures for the proposed project, a mitigation matrix (Table 1) has been prepared and includes the following items:

- Mitigation Measure Number
- Mitigation Measure (text)
- Phase of Implementation / Mitigation Timing
- Frequency and/or Duration of Required Monitoring
- Enforcement or Reporting Agency / Action Notes
- Record Document Location

Mitigation measure timing has been noted in several specific timing increments, the most common being:

- During the design phase
- Prior to permit issuance
- During construction
- At completion of construction

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**Table 1**  
**INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR**  
**MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
<b>AESTHETICS</b>				
<p><b>AES-1: Prepare visual studies that include existing views, scenic vistas, and visual resources and evaluate the potential impacts to existing visual resources.</b></p> <p>Site-specific visual studies shall be prepared to assess potential visual impacts for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA. The visual study shall include assessment of the existing visual environment, including existing views, scenic vistas, and visual resources, and evaluate the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. The study shall include assessment of public views from key observation points, the locations of which shall be determined in consultation with County staff and, if applicable, other public agencies with jurisdiction over the project site (e.g., BLM). Visual simulations shall be prepared to conceptually depict post-development views from the identified key observation points.</p> <p>The analysis and results of the study shall be documented in a memorandum that will include: (1) an assessment of the existing visual environment, including existing views, scenic vistas, and visual resources and (2) an evaluation of the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. Applicable recommendations from the project-specific visual analysis shall be incorporated into the associated individual project design to address identified potential visual impacts.</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department, and/or other applicable agencies.</p>	

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<b>AESTHETICS (cont.)</b>				
<p><b>AES-2: Reduce potential effects of glare by preparing site-specific glare studies that inform project design.</b></p> <p>Site-specific glare studies shall be prepared for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA to assess potential glare impacts. Applicable results and recommendations from the project specific glare study shall be incorporated into the associated individual project designs to address identified potential visual impacts.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department	
<p><b>AES-3: Minimize visual contrast using colors that blend with surrounding landscape and do not create excessive glare.</b></p> <p>For proposed solar energy projects that are greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources, the surfaces of structures and buildings that are visible from public viewpoints shall be treated so that (1) their colors minimize visual contrast by blending with the surrounding landscape and (2) their colors and finishes do not create excessive glare. Surface color treatments shall include painting or tinting in earth tone colors to blend in with the surroundings desert and mountains. Materials, coatings, or paints having little or no reflectivity shall be used.</p>	Prior to / during construction	Prior to construction	Inyo County Planning Department and/or other applicable agencies.	
<p><b>AES-4: Install natural screens to protect ground-level views into the project.</b></p> <p>For all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, and where existing screening topography and vegetation are absent or minimal, natural-looking earthwork landforms (such as berms or contour slopes), vegetative, or architectural screening shall be installed to screen ground-level views into the project site. The</p>	Prior to / during construction	Prior to construction	Inyo County Planning Department	

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<p>shape and height of the earthwork landforms shall be context sensitive and consider distance and viewing angle from nearby public viewpoints.</p>				
<p><b>AES-5: Prepare lighting plan using BMPs consistent with the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010) to reduce night lighting during construction and operation.</b></p> <p>The project applicant shall prepare a lighting plan for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA that documents how project lighting would be designed and installed to minimize night sky impacts during construction and operation. The lighting plan shall include, at minimum, the following lighting design parameters:</p> <ul style="list-style-type: none"> <li>• Lighting shall be of the minimum necessary brightness consistent with operational safety and security requirements.</li> <li>• Lighting shall incorporate fixture hoods/shielding with light directed downward and toward the area to be illuminated.</li> <li>• Light fixtures that are visible from beyond the project boundary shall have cutoff angles that are sufficient to prevent lamps and reflectors from being visible beyond the project boundary, except where necessary for security.</li> <li>• Project lighting shall be kept off when not in use whenever feasible and consistent with safety and security requirements.</li> </ul>	<p>Prior to construction</p>	<p>Prior to construction</p>	<p>Inyo County Planning Department</p>	
<p><b>AES-6: Treat PV solar panel glass with anti-reflective coating.</b></p> <p>For proposed PV facilities greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, glass used to cover solar panels shall be treated with an anti-reflective coating to further decrease reflection and increase the transmission of light through the glass to the cells.</p>	<p>Prior to / during construction</p>	<p>Prior to construction</p>	<p>Inyo County Planning Department</p>	

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<p><b>AES-7: Coordinate with the Federal Aviation Administration when considering the use of audio visual warning systems.</b></p> <p>For projects requiring aircraft warning lights, the project applicant shall coordinate with the Federal Aviation Administration (FAA) to consider the use and installation of audio visual warning systems technology on tower structures. If the FAA denies a permit for the use of audio visual warning systems, the project applicant shall limit lighting to the minimum required to meet FAA safety requirements.</p>	Prior to / during construction	Prior to construction	Inyo County Planning Department and/or other applicable agencies.	
<p><b>AES-8: Projects on federal land will comply with the respective federal agency’s visual guidelines and policies.</b></p> <p>Solar energy projects proposed on federal land within individual SEDAs and the OVSA shall be coordinated with the federal agency that is responsible for the management of the land and shall comply with the respective federal agency’s visual guidelines and policies.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	
<p><b>AES-9: The project will implement BMPs and measures during construction to reduce the visual and aesthetic effects of the construction site.</b></p> <p>The following measures shall be implemented for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA during construction:</p> <ul style="list-style-type: none"> <li>• Construction boundaries and staging areas shall be clearly delineated and where appropriate fenced to prevent encroachment onto adjacent natural areas.</li> <li>• Construction staging and laydown areas visible from nearby roads, residences, and recreational areas shall be visually screened using temporary fencing. Fencing shall be of an appropriate design and color to visually blend with the site's surroundings.</li> <li>• Existing native vegetation shall be preserved to the greatest extent possible.</li> <li>• Project grading shall utilize undulating surface edges and contours</li> </ul>	During construction	During construction	Inyo County Planning Department Inyo County Department of Public Works	



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<p>that repeat the natural shapes, forms, textures, and lines of the surrounding landscape.</p> <ul style="list-style-type: none"> <li>• Exposed soils shall be restored to their original contour and vegetation.</li> <li>• Stockpiled topsoils shall be reapplied to disturbed surfaces.</li> </ul>				
<p><b>AES-10: Projects requiring overhead electrical transmission connections will consider design and installation techniques that reduce visual impacts.</b></p> <p>For projects that require overhead electrical transmission connections to existing transmission lines and for the potential off-site transmission corridor to serve the Trona, Chicago Valley, and Charleston View SEDAs, the following shall be considered in the design and alignment of the transmission line connections:</p> <ul style="list-style-type: none"> <li>• Avoid placing transmission towers and structures along ridgelines, peaks, or other locations where skylining effects would occur such that they would silhouette against the sky.</li> <li>• Place transmission corridor connection alignments along edges of clearings or at transition areas (i.e., natural breaks in vegetation or topography).</li> <li>• To the extent practicable, treat transmission towers and structures with color and surfaces to reduce visual contrast with the surrounding visual landscape. Alternative methods to reduce visual impacts may be considered for structures that cannot use conventional methods of painting without impeding electrical conveyance or without causing long-term environmental impacts through the constant reapplication of paint. These methods may include, but shall not be limited to, galvanizing or similar factory-applied conductive non-paint treatments.</li> <li>• Use of appropriate and context-sensitive transmission tower types (i.e., lattice structures compared to monopoles) to reduce visual contrast with the surrounding visual landscape.</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<b>AGRICULTURE AND FORESTRY RESOURCES</b>				
<p><b>AG-1: Review development proposals for potential impacts to agricultural operations.</b></p> <p>The County Agricultural Commissioner shall be responsible for reviewing new development proposals adjacent to agricultural operations to ensure they do not significantly impact agricultural operations.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Agriculture Commissioner/ Planning Department/	
<p><b>AG-2: Conduct site-specific investigations for agricultural lands.</b></p> <p>Site-specific agricultural resource investigations shall be completed for proposed solar development projects within the individual SEDAs and the OVSA that are located on lands utilized for agricultural operations prior to final project design approval. If agricultural operations are identified within the project area, alternative designs should be implemented to avoid and/or minimize impacts to those resources. This may include mitigating conversion of agricultural lands based on the mitigation ratios identified in consultation with affected agencies at the cost of the project applicant to the satisfaction of the County. Mitigation ratios and impact fees assessed, if any, shall be outlined in the Renewable Energy Development Agreement, Renewable Energy Permit, or Renewable Energy Impact Determination.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department Inyo County Agriculture Commissioner	
<p><b>AG-3: Invasive plant species or noxious weeds.</b></p> <p>To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> <li>• The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes.</li> <li>• Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site.</li> <li>• Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored.</li> </ul>	Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation	Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> <li>• The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned.</li> <li>• Native vegetation shall be re-established as quickly as practicable on disturbed sites.</li> <li>• Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions.</li> <li>• Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations.</li> </ul>				
<b>AIR QUALITY</b>				
<p><b>AQ-1: Prepare site-specific air quality technical report.</b></p> <p>Prior to issuance of Major Use Permits for solar energy projects, a site-specific air quality technical report shall be prepared and approved by the County, which will verify compliance with County and Great Basin Unified Air Pollution Control District standards during construction and operation of the solar project.</p> <p>Mitigation Measures AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report, and will be implemented during construction and operation of future projects. These measures require implementation of dust control practices during construction activities and solar project operations.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	
<p><b>AQ-2: Reduce fugitive dust and particulate matter emissions during construction.</b></p> <p>To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rules 401 and 402 as well as applicable best management practices (BMP)s from the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010), solar projects shall implement fugitive dust and particulate matter emissions control measures including, but not limited to the following:</p> <ul style="list-style-type: none"> <li>• Water and/or coarse rock all active construction areas as necessary and indicated by soil and air conditions;</li> <li>• Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;</li> </ul>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> <li>• Pave or apply (non-toxic) soil stabilizers on all unpaved access roads;</li> <li>• Sweep daily (with water sweepers) all paved access roads; Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;</li> <li>• Suspend excavation and grading activity when sustained winds make reasonable dust control difficult to implement, e.g., for winds over 25 miles per hour (mph).</li> <li>• Limit the speed of on-site vehicles to 15 mph.</li> </ul>				
<p><b>AQ-3: Implement dust control measures during operation.</b></p> <p>To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rule 401 and 402 as well as applicable BMPs from REAT’s Best Management Practices and Guidance Manual (REAT 2010), solar projects shall incorporate feasible dust control measures into the site design including, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Incorporate perimeter sand fencing into the overall design to prevent migration of exposed soils into the surrounding areas. The perimeter fence is intended to provide long-term protection around vulnerable portions of the site boundary; it is also intended to prevent off-road site access and sand migration across site boundaries and the associated impacts.</li> <li>• Incorporate wind deflectors intermittently across solar project sites. The solar panels themselves, especially where installed to transverse primary wind direction, will provide some measure of protection of the ground surface. Wind deflectors enhance this effect by lifting winds that may otherwise jet beneath panels, thereby disrupting long wind fetches, and reducing surface wind velocities and sand migration.</li> <li>• Orient infrastructure/solar panels perpendicular to primary wind directions.</li> <li>• Adjust panel operating angles to reduce wind speeds under panels.</li> <li>• Perform revegetation in areas temporarily denuded during construction. These areas would be replanted with native plant species that exist on the site presently. Irrigation would be applied temporarily during the plant establishment period (typically multiple</li> </ul>	During operation	During operation	Inyo County Planning Department and/or other applicable agencies.	

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<p>years), but after establishment it is expected that these areas would require little or no maintenance. Vegetation provides dust control by protecting and preventing threshold wind velocities at the soil surface. Studies have shown that an 11 to 54 percent vegetation cover on a site can provide up to 99 percent PM10 control efficiency (GBUAPCD 2008).</p> <ul style="list-style-type: none"> <li>As the installation of solar panels and associated equipment progresses, each area that is completed (i.e. where no further soil disturbance is anticipated) will be treated with a dust palliative to prevent wind erosion. CARB certifications indicate that the application of dust suppressants can reduce PM10 emissions by 84 percent or more (CARB 2011).</li> </ul>				
<b>BIOLOGICAL RESOURCES</b>				
<p><b>BIO-1: Prepare project level biological resources evaluation and mitigation and monitoring plan.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact biological resources as determined by a qualified biologist (defined as a biologist with documented experience or training related to the subject species), a project level biological resource evaluation shall be prepared by a qualified biologist for the project. The biological resource evaluation shall include field reconnaissance and focused surveys as determined necessary by a qualified biologist to identify special status species and natural communities present or having the potential to occur on the site, an evaluation of the extent of those habitats, an evaluation of the potential for impacts to each special status species and/or habitat, and shall prescribe specific mitigation measures to avoid impacts to biological resources to the maximum extent practicable. The qualifications of any biologists conducting special status species surveys or focused habitat assessments will be submitted to CDFW prior to conducting fieldwork. The level of biological resource analysis will be based on factors such as the size of the proposed project, the extent of impacts to biological resources, and the sufficiency of existing data to determine impacts.</p> <p>An evaluation of the potential for off-site impacts to special status species and sensitive habitats will be included in the biological resources</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>evaluation, especially for projects involving groundwater pumping. Chapter 2 of the Basin Plan protects beneficial uses for groundwater with respect to groundwater recharge and freshwater replenishment and beneficial uses for wildlife habitats and flora and fauna including cold freshwater habitat, warm freshwater habitat, wildlife habitat, rare, threatened, or endangered species, spawning, reproduction, and development, preservation of biological habitats of special significance, and migration of aquatic organisms (RWQCB 1995). A project-specific evaluation of potential impacts to beneficial uses for groundwater as specified in the Basin Plan will be included in the biological resources evaluation.</p> <p>For projects in the Chicago Valley or Charleston View SEDAs, potential impacts to special status species and/or riparian and other groundwater dependent habitat in the Amargosa Watershed will be evaluated. If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch. USFWS and CDFW shall be contacted during preparation of the biological resources evaluation to obtain the best available scientific data on such potential impacts including existing hydrologic studies (e.g., the unpublished State of the Basin Report-2014 prepared by Zdon and Associates, Inc.).</p> <p>For projects with the potential to impact on- or off-site special status species or habitats as determined in the biological resources evaluation, a project-specific biological resources mitigation and monitoring plan shall be prepared that meets the approval of permitting agencies. The plan shall be implemented during all phases of the project and shall identify appropriate mitigation levels to compensate for significant direct, indirect, and cumulative impacts, including habitat, special status plant, and wildlife species losses as well as impacts to groundwater dependent vegetation or off-site impacts to special status species or sensitive habitats due to groundwater pumping. The plan shall address at a minimum:</p> <ul style="list-style-type: none"> <li>• Biological resource avoidance and minimization measures and mitigation, monitoring and compliance measures required by federal, state, and local applicable permitting agencies.</li> </ul>				

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<ul style="list-style-type: none"> <li>• Documentation (based on surveys) of sensitive plant and wildlife expected to be affected by all phases of the project (project construction, operation, abandonment, and decommissioning). Agencies may request additional surveying, based on the documentation or past experience working with the resources. Include measures to avoid or minimize impacts to species and habitat.</li> <li>• A detailed description of measures to minimize or mitigate permanent and temporary disturbances from construction activities.</li> <li>• All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction.</li> <li>• Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities.</li> <li>• Duration for each type of monitoring and a description of monitoring methodologies and frequency.</li> <li>• Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful.</li> <li>• All standards and remedial measures to be implemented if performance standards and criteria are not met.</li> <li>• A closure/decommissioning or abandonment plan, including a description of funding mechanism(s).</li> <li>• A process for proposing plan modifications to the County project manager.</li> <li>• All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction.</li> <li>• Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities.</li> <li>• Duration for each type of monitoring and a description of monitoring methodologies and frequency.</li> <li>• Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful.</li> <li>• All standards and remedial measures to be implemented if performance standards and criteria are not met.</li> <li>• A closure/decommissioning or abandonment plan, including a</li> </ul>				

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<p>description of funding mechanism(s).</p> <ul style="list-style-type: none"> <li>A process for proposing plan modifications to the County project manager.</li> </ul>				
<p><b>BIO-2: Minimize impacts to special status plants.</b></p> <ul style="list-style-type: none"> <li>Prior to the approval of any solar development projects or related infrastructure under the REGPA, a CDFW-approved botanist shall evaluate the potential for special status plant species to occur on the site and conduct surveys, if necessary, to determine presence or infer absence of special status plants on the site following the November 24, 2009 <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities</i> or the most current guidelines. When special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, to the maximum extent feasible, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs.</li> </ul> <p>If special status plants are identified in the project area and complete avoidance of direct and indirect impacts is not feasible as determined by the County, the following measures shall be implemented to avoid and minimize impacts on special status plants:</p> <ul style="list-style-type: none"> <li>If feasible, when special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs. For projects that are determined to have the potential to result in "take" of state or federally-listed plant species, consultation shall be conducted with CDFW or USFWS</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	



**Table 1  
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<b>Mitigation Measure</b>	<b>Phase of Implementation / Mitigation Timing</b>	<b>Frequency and/or Duration of Required Monitoring</b>	<b>Enforcement or Reporting Agency / Action Notes</b>	<b>Record Document Location</b>
<p>respectively prior to project commencement, and appropriate mitigation measures developed if necessary.</p> <ul style="list-style-type: none"> <li>When individuals of a special status species occur within an area proposed for construction and take cannot be avoided, mitigation shall be developed in coordination with USFWS and/or CDFW to reduce impacts on the local population of the special status species. Mitigation measures approved by USFWS and/or CDFW may include transplantation under the direction of a CDFW-approved botanist if transplantation of such species is deemed likely to succeed, or seed shall be collected prior to destruction of the plants and dispersed in suitable habitats not impacted by construction, if such habitats exist and seed collection is deemed likely to be successful by a CDFW-approved botanist with experience propagating the species in question. In all cases, CDFW will be notified at least 10 days prior to removal of any special status plant to allow transplantation or collection of seed at their discretion. If transplanting is proposed, the botanist shall coordinate with the appropriate resource agencies and local experts to determine whether transplantation is feasible. If the agencies concur that transplantation is a feasible mitigation measure, the botanist shall develop and implement a transplantation plan through coordination with the appropriate agencies. The special status plant transplantation plan shall involve identifying a suitable transplant site; moving some or all of the plant material and seed bank to the transplant site; collecting seed material and propagating it in a nursery (in some cases it is appropriate to keep plants onsite as nursery plants and sources for seed material); and monitoring the transplant sites to document recruitment and survival rates. Monitoring shall be conducted for a period of five years and transplantation shall be considered successful if an 80 percent survival rate has been achieved by the end of the five-year monitoring period.</li> <li>A mitigation and monitoring plan shall be developed by a qualified botanist/ restoration ecologist and submitted to CDFW for approval prior to approval of the proposed project. The mitigation and monitoring plan will dictate appropriate avoidance and minimization measures, compensatory mitigation, and monitoring requirements as</li> </ul>				

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<p>pertinent to the specific species and level of impact(s). Mitigation shall include, but is not limited to 1) protection of special status plant populations not directly impacted by construction or implementation of the project as stated above; 2) transplantation and/or collection of seed from impacted plants if feasible, as stated above; and 3) the preservation in perpetuity of an equivalent or larger off-site population for every individual or population of special status plant impacted including sufficient land surrounding the preserved population to ensure its survival in perpetuity as determined by a qualified botanist/ restoration ecologist. The qualified botanist/ restoration ecologist shall include plans to restore and enhance the preserved populations to the extent feasible.</p> <ul style="list-style-type: none"> <li>• If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch, pursuant to Mitigation Measure HYD-2 in Section 4.9, Hydrology and Water Quality. If any solar development projects are proposed in the Chicago Valley or Charleston View SEDAs that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for down-watershed impacts to the habitats for special status plants in the Amargosa Watershed including the portion of the Amargosa River that has been designated by Congress as "Wild and Scenic." If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status plant species (e.g., Fish Slough, marshes, riparian areas, alkaline flats in the Amargosa Watershed and the portion of the Amargosa River that has been designated by Congress as "Wild and Scenic"), a management plan will be prepared in coordination with the County and submitted to the appropriate resource agency with oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on off-site habitat for special status plants such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County.</li> </ul>				

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<p><b>BIO-3: Minimize impacts to special status wildlife.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact special status wildlife as determined by a qualified biologist, a CDFW-approved wildlife biologist shall conduct a survey to document the presence or absence of suitable habitat for special status wildlife in the project site. The following steps shall be implemented to document special status wildlife and their habitats for each project, as determined by the CDFW-approved wildlife biologist:</p> <ul style="list-style-type: none"> <li>• Review Existing Information. The wildlife biologist shall review existing information to develop a list of special status wildlife species that could occur in the project area or be impacted by the proposed project, either directly or indirectly (e.g., groundwater pumping could result in indirect impacts to off-site habitats for special status wildlife). The following information shall be reviewed as part of this process: the USFWS special status species list for the project region, CDFW's CNDDDB, previously prepared environmental documents, and USFWS issued biological opinions for previous projects. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of special status wildlife from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.</li> <li>• Coordinate with State and Federal Agencies. The wildlife biologist shall coordinate with the appropriate agencies (CDFW, USFWS, BLM) to discuss wildlife resource issues in the project region and determine the appropriate level of surveys necessary to document special status wildlife and their habitats.</li> <li>• Conduct Field Studies. The wildlife biologist shall evaluate existing habitat conditions and determine what level of biological surveys may be required. The type of survey required shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on the existing conditions in the project area and the proposed construction activity, one or a combination of the following</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>levels of survey may be required:</p> <ul style="list-style-type: none"> <li>• <b>Habitat Assessment.</b> A habitat assessment determines whether suitable habitat is present. The wildlife biologist shall conduct project-specific habitat assessments consistent with protocols and guidelines issued by responsible agencies for certain special status species (e.g., USFWS' 2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California). Habitat assessments are used to assess and characterize habitat conditions and to determine whether return surveys are necessary. If no suitable habitat is present for a given special status species, no additional species-focused or protocol surveys shall be required.</li> <li>• <b>Species-Focused Surveys.</b> Project-specific species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status wildlife and if it is necessary to determine the presence or absence of the species in the project area. The wildlife biologist shall conduct project-specific surveys focusing on special status wildlife species that have the potential to occur in the region. The surveys shall be conducted during a period when the target species are present and/or active.</li> <li>• <b>Protocol-Level Wildlife Surveys.</b> The wildlife biologist shall conduct project specific protocol level surveys for special status species with the potential to be impacted by the proposed project. The surveys shall comply with the appropriate protocols and guidelines issued by responsible agencies for the special status species. USFWS and CDFW have issued survey protocols and guidelines for several special- status wildlife species that could occur in the project region, including (but not limited to): bald eagle, burrowing owl, golden eagle, Swainson's hawk, least Bell's vireo, willow flycatcher, desert tortoise, and desert kit fox. The protocols and guidelines may require that surveys be conducted during a particular time of year and/or time of day when the species is present and active. Many survey protocols require that only a USFWS- or CDFW-approved biologist perform the surveys. The project proponent shall coordinate with the appropriate state or federal agency biologist before the initiation of protocol-level surveys to</li> </ul>				

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<p>ensure that the survey results would be valid. Because some species can be difficult to detect or observe, multiple field techniques may be used during a survey period and additional surveys may be required in subsequent seasons or years as outlined in the protocol or guidelines for each species.</p> <ul style="list-style-type: none"> <li>• Habitat Mapping. The wildlife biologist shall map special status wildlife or suitable habitat identified during the project-specific field surveys.</li> <li>• A Scientific Collecting Permit is required to take, collect, capture, mark, or salvage, for scientific, educational, and non-commercial propagation purposes, mammals, birds and their nests and eggs, reptiles, amphibians, fishes and invertebrates (Fish and Game Code Section 1002 and Title 14 Sections 650 and 670.7). All biologists will be required to obtain a Scientific Collecting Permit that may be required to handle any live or dead animals during construction or operation of a project.</li> </ul> <p>In addition, the following measures should be implemented to avoid and minimize impacts on special status species and their habitats if they occur within a site:</p> <ul style="list-style-type: none"> <li>• For projects that are determined to have the potential to result in "take" of state or federally-listed animal species, consultation shall be conducted with CDFW or USFWS respectively and appropriate mitigation measures developed as necessary, and take authorization shall be obtained prior to project commencement, if relevant.</li> <li>• If ground disturbing activities are required prior to site mobilization, such as for geotechnical borings or hazardous waste evaluations, a CDFW-approved biologist shall be present to monitor any actions that could disturb soil, vegetation, or wildlife.</li> <li>• In areas that could support desert tortoise or any other sensitive wildlife species, a qualified biologist with the appropriate CDFW and/or USFWS approvals for the species being relocated shall be onsite and respond accordingly should an animal need to be relocated...</li> </ul>				

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<ul style="list-style-type: none"> <li>• Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. Vehicles shall not exceed 25 mph on the project site. Vehicles shall abide by posted speed limits on paved roads.</li>   <li>• A CDFW-approved biologist shall be designated to oversee compliance with biological resources avoidance and minimization measures during mobilization, ground disturbance, grading, construction, operation, and closure/decommissioning, or project abandonment, particularly in areas containing or known to have contained sensitive biological resources, such as special status species and unique plant assemblages. The CDFW-approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The boundaries of all areas to be disturbed (including staging areas, access roads, and sites for temporary placement of spoils) shall be delineated with stakes and flagging prior to construction activities in consultation with the biological monitor. Spoils shall be stockpiled in disturbed areas lacking native vegetation and which do not provide habitat for special status species. Parking areas, staging and disposal site locations shall also be located in areas without native vegetation or special status species habitat. All disturbances, vehicles, and equipment shall be confined to the flagged areas. The CDFW-approved biologist shall be responsible for actions including, but not limited to, the following:           <ul style="list-style-type: none"> <li>○ Clearly marking sensitive biological resource areas and inspecting the areas at appropriate intervals for meeting regulatory terms and conditions.</li> <li>○ Inspecting, daily, active construction areas where wildlife may have become trapped (for example, trenches, bores, and other excavation sites that constitute wildlife pitfalls outside the permanently fenced area) before beginning construction. At the end of the day, conducting wildlife inspections of installed structures that would entrap or not allow escape during periods of construction inactivity. Periodically inspecting areas with</li> </ul> </li> </ul>				

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<p>high vehicle activity (such as parking lots) for wildlife in harm's way.</p> <ul style="list-style-type: none"> <li>○ Periodically inspect stockpiled material and other construction material and equipment (including within the fenced areas) throughout the day as some species such as desert kit fox may enter the project site at any time.</li> <li>○ Overseeing special status plant salvage operations.</li> <li>○ Immediately recording and reporting hazardous spills immediately as directed in the project hazardous materials management plan.</li> <li>○ Coordinating directly and regularly with permitting agency representatives regarding biological resources issues, and implementation of the biological resource avoidance and minimization measures.</li> <li>○ Maintaining written records regarding implementation of the biological resource avoidance and minimization measures, and providing a summary of these records periodically in a report to the appropriate agencies.</li> <li>○ Notifying the project owner and appropriate agencies of non-compliance with biological resource avoidance and minimization measures.</li> <li>○ At the end of each work day, the biological monitor shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled or if backfilling is not feasible, the biological monitor shall ensure that all trenches, bores, and other excavations are sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with desert tortoise-exclusion fencing. All trenches, bores, and other excavations outside the areas permanently fenced with desert tortoise exclusion fencing shall be inspected periodically, but no less than three times, throughout the day and at the end of each workday by the CDFW-approved biologist. Should a tortoise or other wildlife become trapped, the CDFW and USFWS-approved desert tortoise biologist shall remove and relocate the individual as described in the project's Desert Tortoise Relocation/Translocation Plan. Any wildlife encountered during</li> </ul>				

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<p>the course of construction shall be allowed to leave the construction area unharmed.</p> <ul style="list-style-type: none"> <li>○ Any construction pipe, culvert, or similar structure with a diameter greater than 1 inch, stored less than 8 inches aboveground, and within desert tortoise habitat (i.e., outside the permanently fenced area) for one or more nights, shall be inspected by the biological monitor for desert tortoises or other special status species such as fringe-toed lizard, before the material is moved, buried, or capped. As an alternative, all such structures may be capped before being stored outside the fenced area, or placed on pipe racks. These materials would not need to be inspected or capped if they are stored within the permanently fenced area after the clearance surveys have been completed.</li> <li>● Access roads, pulling sites, storage and parking areas outside of the fenced solar facility area shall be designed, installed, and maintained with the goal of minimizing impacts to native plant communities and sensitive biological resources. Transmission lines and all electrical components shall be designed, installed, and maintained in accordance with the APLIC Suggested Practices for Avian Protection on Power Lines (APLIC 2006) and Mitigating Bird Collisions with Power Lines (APLIC 2004) to reduce the likelihood of bird electrocutions and collisions.</li> <li>● Facility lighting shall be designed, installed, and maintained to direct light downwards towards the project site and avoid light spillover to wildlife habitat.</li> <li>● Construction and operation related noise levels shall be minimized to minimize impacts to wildlife.</li> <li>● All vertical pipes shall be capped to prevent the entrapment of birds and other wildlife.</li> <li>● All vehicles and equipment shall be maintained in proper working condition to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials. The biological monitor shall be informed of any hazardous spills immediately. Hazardous spills shall be immediately cleaned up and</li> </ul>				



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<p>the contaminated soil properly disposed of at a licensed facility. Servicing of construction equipment shall take place only at a designated area. Service/maintenance vehicles shall carry a bucket and pads to absorb leaks or spills.</p> <ul style="list-style-type: none"> <li>• Road surfacing and sealants as well as soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants. Anticoagulants shall not be used for rodent control. Pre-emergents and other herbicides with documented residual toxicity shall not be used. Herbicides shall be applied in conformance with federal, state, and local laws and according to the guidelines for wildlife- safe use of herbicides in BIO 24 (Weed Management Plan).</li> <li>• The following measures shall be implemented to minimize attractants to wildlife:             <ul style="list-style-type: none"> <li>○ If the application of water is needed to abate dust in construction areas and on dirt roads, use the least amount needed to meet safety and air quality standards and prevent the formation of puddles, which could attract wildlife to construction sites. The biological monitor shall patrol these areas to ensure water does not puddle and attract desert tortoise, common ravens, and other wildlife to the site and shall take appropriate action to reduce water application where necessary.</li> <li>○ Water shall be prohibited from collecting or pooling for more than 24 hours after a storm event within the project retention basin. Standing water within the retention basin shall be removed, pumped, raked, or covered. Alternative methods or the timeframe for allowing the water to pool may be modified with the approval of the biological monitor.</li> <li>○ Dispose trash and food-related items in self-closing, sealable containers with lids that latch to prevent wind and wildlife from opening containers. Empty trash containers daily and remove from the project site those associated with construction when construction is complete.</li> <li>○ To avoid attracting insectivorous birds and bats, prepare a facility vector (such as mosquitoes or rodents) control plan, as appropriate, that meets the permitting agency approval and</li> </ul> </li> </ul>				

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<p>would be implemented during all phases of the project.</p> <ul style="list-style-type: none"> <li>• Workers or visitors, while on project property, shall be prohibited from feeding wildlife, bringing domestic pets to the project site, collecting native plants, or harassing wildlife.</li> <li>• To reduce the potential for the transmission of fugitive dust the project proponent shall implement dust control measures. These shall include: <ul style="list-style-type: none"> <li>○ The project proponent shall apply non-toxic soil binders, equivalent or better in efficiencies than the CARB- approved soil binders, to active unpaved roadways, unpaved staging areas, and unpaved parking area(s) throughout construction to reduce fugitive dust emissions.</li> <li>○ Water the disturbed areas of the active construction sites at least three times per day and more often if uncontrolled fugitive dust is noted. Enclose, cover, water twice daily, and/or apply non-toxic soil binders according to manufacturer's specifications to exposed piles with a 5 percent or greater silt content. Agents with known toxicity to wildlife shall not be used.</li> <li>○ Establish a vegetative ground cover (in compliance with biological resources impact mitigation measures above) or otherwise create stabilized surfaces on all unpaved areas at each of the construction sites within 21 days after active construction operations have ceased.</li> <li>○ Increase the frequency of watering, if water is used as a soil binder for disturbed surfaces, or implement other additional fugitive dust mitigation measures, to all active disturbed fugitive dust emission sources when wind speeds (as instantaneous wind gusts) exceed 25 mph.</li> </ul> </li> <li>• A project-specific worker environmental awareness program (WEAP) shall be developed and carried out during all phases of the project (site mobilization, ground disturbance, grading, construction, operation, closure/decommissioning, or project abandonment, and restoration/reclamation activities). The WEAP shall include the biological resources present and the measures for minimizing impacts</li> </ul>				

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<p>to those resources. Interpretation for non-English speaking workers shall be provided, and all new workers shall be instructed in the WEAP. The project field construction office files will contain the names of onsite personnel (for example, surveyors, construction engineers, employees, contractors, contractor's employees/ subcontractors) who have participated in the education program. All employees and contractors shall be trained to carry out the WEAP and on their role in ensuring the effectiveness of implementing the Plan. At a minimum, the WEAP shall including the following:</p> <ul style="list-style-type: none"> <li>○ Photos and habitat descriptions for special status species that may occur on the project site and information on their distribution, general behavior, and ecology.</li> <li>○ Species sensitivity to human activities.</li> <li>○ Legal protections afforded the species.</li> <li>○ Project measures for protecting species.</li> <li>○ State and federal law violation penalties.</li> <li>○ Worker responsibilities for trash disposal and safe/ humane treatment of special status species found on the project site, associated reporting requirements, and specific required measures to prevent taking of threatened or endangered species.</li> <li>○ Handout materials summarizing the contractual obligations and protective requirements specified in project permits and approvals.</li> <li>○ Project site speed limit requirements and penalties.</li> </ul> <ul style="list-style-type: none"> <li>● A project specific restoration, re-vegetation, and reclamation plan that meets the approval of permitting agencies shall be prepared and carried out for all projects. The plan shall address at a minimum:           <ul style="list-style-type: none"> <li>○ Minimizing natural vegetation removal and the consideration of cutting or mowing vegetation rather than total removal, whenever possible.</li> <li>○ Salvage and relocation of cactus and yucca from the site before beginning construction.</li> <li>○ Identification of protocols to be used for vegetation salvage.</li> <li>○ Reclaiming areas of temporarily disturbed soil using certified weed free native vegetation and topsoil salvaged from</li> </ul> </li> </ul>				

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<p>excavations and construction activities.</p> <ul style="list-style-type: none"> <li>○ Restoration and reclamation of temporarily disturbed areas, including pipelines, transmission lines, staging areas, and temporary construction-related roads as soon as possible after completion of construction activities. The actions are recommended to reduce the amount of habitat converted at any one time and promote recovery to natural habitats.</li> <li>○ Specifying proper seasons and timing of restoration and reclamation activities to ensure success.</li> </ul> <ul style="list-style-type: none"> <li>● If any solar development projects are proposed that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for indirect off-site impacts to special status wildlife species and/or their habitats. If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status wildlife species (e.g., Amargosa vole, Ash Meadows naucorid), a management plan will be prepared in coordination with the County and submitted for approval to the appropriate resource agency with regulatory oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on off-site habitat for special status wildlife such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County.</li> </ul>				
<p><b>BIO-4: Minimize impacts to special status fish.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status fish, a project-specific groundwater impact analysis will be conducted to address potential impacts to habitat for special status fish. In addition, consultation with USFWS shall be conducted for projects with the potential to impact federally listed species including Owens pupfish or Owens tui chub and coordination with CDFW will be conducted for projects with the potential to impact state listed species or CDFW species of special concern including Owens sucker and Owens</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>speckled dace. For projects that are determined to have the potential to result in “take” of state or federally listed fish species, consultation shall be conducted with CDFW or USFWS respectively and take authorization obtained prior to project commencement.</p> <p>For all projects proposed in the Charleston View and Chicago Valley SEDAs, an analysis of potential down-watershed impacts to special-status fish species in the Amargosa Watershed will be conducted prior to project approval, if the project involves impacts to groundwater and/or requires pumping of groundwater (e.g. solar thermal projects). If the project is determined to have the potential to result in down-watershed impacts that could alter the hydrology of habitats for special-status fish species, a mitigation and monitoring plan will be prepared by the applicant to address potential impacts to groundwater and down-watershed biological resources and submitted to USFWS and CDFW for approval prior to project implementation. Mitigation measures will be developed in coordination with USFWS and CDFW to offset these impacts. Mitigation measures should include but are not limited to 1) a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio; 2) hydrological and biological monitoring of the impacts of groundwater pumping on the groundwater system and the sensitive habitats down-watershed; and 3) adaptive management to increase the ratio of water rights purchased and retired and restore habitats down-watershed if hydrological and biological monitoring indicates that the projects groundwater pumping is having detrimental effects to sensitive biological resources (e.g., special status species or sensitive natural communities as designated by USFWS, CDFW, or CNPS) within the watershed as determined by a qualified hydrologist/hydrogeologist or biologist in coordination with USFWS and/or CDFW.</p>				
<p><b>BIO-5: Minimize impacts to amphibians.</b></p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status amphibians.</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<b>Mitigation Measure</b>	<b>Phase of Implementation / Mitigation Timing</b>	<b>Frequency and/or Duration of Required Monitoring</b>	<b>Enforcement or Reporting Agency / Action Notes</b>	<b>Record Document Location</b>
<ul style="list-style-type: none"> <li>• Surveys for special status amphibians including but not limited to northern leopard frog, Owens Valley web-toed salamander, and Inyo Mountains slender salamander shall be conducted by a CDFW-approved biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction.</li> <li>• If any of these species are found on a project site during the surveys, CDFW shall be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats.</li> <li>• If federal or state-listed amphibians not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project, consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species. For projects that are determined to have the potential to result in "take" of state or federally-listed amphibian species, consultation shall be conducted with CDFW or USFWS respectively and take authorization shall be obtained prior to project commencement.</li> </ul>				
<p><b>BIO-6: Minimize impacts to desert tortoise.</b></p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>BIO-1) to have the potential to affect desert tortoise in order to avoid, minimize, and mitigate for impacts:</p> <ul style="list-style-type: none"> <li>• Consultation shall be conducted with CDFW and USFWS for any projects where desert tortoise or signs of their presence is found on the site and/or the project is determined by a CDFW-approved biologist to have the potential to impact desert tortoise. In such cases, permits under Section 2080 of the Fish and Game Code and Section 7/10 of FESA authorizing incidental take of desert tortoise will be obtained from CDFW and USFWS respectively prior to implementation of the project, including any project-related ground disturbing activities. All requirements of the 2081/2080.1 permit and the Biological Opinion shall be implemented.</li> <li>• The project proponent shall fully mitigate for habitat loss and potential take of desert tortoise. The project specific mitigation shall be developed in coordination with CDFW and USFWS, and would be reflective of the mitigation measures described in the Biological Opinion prepared by the USFWS for the project.</li> <li>• The project developer shall provide funds for regional management of common ravens through the payment of a per-acre fee as determined in consultation with the USFWS. The fee shall be commensurate with current per-acre fees (at the time of project approval) required by the BLM and the CEC for development projects in the desert with the potential to provide subsidies to common ravens such as shelter, perching sites, and food. The fee shall be used by the Desert Managers Group to manage common ravens in the California desert with the goal of reducing their predation on desert tortoises.</li> <li>• Projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, Areas of Critical Environmental Concern, Desert Wildlife Management Areas, Priority Connectivity Areas, and other areas or easements managed for desert tortoises).</li> </ul>				

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<ul style="list-style-type: none"> <li>• On project sites containing desert tortoise, consultation shall be conducted with USFWS and CDFW to determine the need for and/or feasibility of conducting desert tortoise translocation (changing location or position) to minimize the taking of the tortoises, if they are observed within the proposed project area. See <a href="http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/">http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/</a> for federal translocation plan guidance. Translocation plan development and implementation may require, but not be limited to: additional surveys of potential recipient sites; translocated and resident tortoise disease testing and health assessments; monitoring protocols; and consideration of climatic conditions at the time of translocation. Due to the potential magnitude of proposed renewable energy project impacts on desert tortoises, USFWS and CDFW must evaluate translocation efforts on a project by project basis in the context of cumulative effects.</li> <li>• A desert tortoise authorized biologist approved by CDFW and USFWS shall be contracted to oversee and be responsible for ensuring compliance with desert tortoise avoidance and minimization measures before initiation of and during ground-disturbing activities. The desert tortoise biologist shall conduct clearance surveys, tortoise handling, artificial burrow construction, egg handling, and other procedures in accordance with the Guidelines for Handling Desert Tortoise During Construction Projects (Desert Tortoise Council 1999) or the most current USFWS guidance. The desert tortoise biologist shall be present on site from March 15 through October 31 (active season) during ground-disturbing activities in areas outside the tortoise exclusion fencing. It is recommended that the biologist be on call from November 1 to March 14 (inactive season) and checks such construction areas immediately before construction activities begin.</li> <li>• Refer to the Ventura Fish and Wildlife Office website &lt;<a href="http://www.fws.gov/ventura/endangered/species/surveys-protocol.html">http://www.fws.gov/ventura/endangered/species/surveys-protocol.html</a>&gt; for desert tortoise authorized biologist and monitor responsibilities and qualifications, and survey and translocation guidance, and refer to the Nevada Fish and Wildlife Office (desert</li> </ul>				



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<p>tortoise recovery office) website &lt;<a href="http://www.fws.gov/nevada/desert_tortoise/dtro/.html">http://www.fws.gov/nevada/desert_tortoise/dtro/.html</a>&gt; for desert tortoise federal recovery plan documents. Methods for clearance surveys, fence specification and installation, tortoise handling, artificial burrow construction, egg handling and other procedures shall be consistent with those described in the 2013 USFWS Desert Tortoise Field Manual available at the Ventura Fish and Wildlife Office website listed above, or more current guidance provided by CDFW and USFWS. All terms and conditions described in the Biological Opinion for the project prepared by the USFWS shall be implemented.</p> <ul style="list-style-type: none"> <li>• The project owner shall undertake appropriate measures to manage the construction site and related facilities in a manner to avoid or minimize impacts to desert tortoise. These measures include, but are not limited to, the following:           <ul style="list-style-type: none"> <li>○ The project applicant shall notify the USFWS and CDFW prior to project commencement and prior to the commencement of any ground disturbing activities.</li> <li>○ Before starting project ground disturbing activities, the project proponent shall avoid potential desert tortoise harm by incorporating desert tortoise exclusion fencing into permanent fencing surrounding the proposed facility, and installing desert tortoise exclusion fencing around temporary project construction areas such as staging area, storage yards, excavations, and linear facilities. The tortoise exclusion fencing shall be constructed consistent with the USFWS 2010 Desert Tortoise Exclusion Fence Specifications or the most current guidance provided by USFWS and CDFW, and should be constructed in late winter or early spring to minimize impacts to desert tortoise and accommodate subsequent tortoise surveys.</li> <li>○ Within 24 hours before starting tortoise exclusion fence construction, the desert tortoise biologist shall survey the fence alignment and utility right-of-way alignments and clear desert tortoises from the area. The surveys and relocation methods shall be conducted using techniques approved by the CDFW and USFWS. Following construction of the tortoise exclusion fence,</li> </ul> </li> </ul>				

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<p>the desert tortoise biologist shall conduct clearance surveys within the fenced area to ensure as many desert tortoises as possible have been removed from the site. Burrows and tortoises identified within the project area shall be handled according to the 2013 USFWS Desert Tortoise Field Manual, and tortoises requiring relocation shall be handled in accordance with the project Desert Tortoise Relocation/Translocation Plan.</p> <ul style="list-style-type: none"> <li>○ Heavy equipment may enter the project site following the completion of project area desert tortoise clearance surveys by the desert tortoise biologist. Monitoring initial clearing and grading activities by the biologist will help ensure that tortoises missed during the initial clearance survey are moved from harm's way.</li> <li>○ The desert tortoise biologist shall be responsible for appropriate documentation and reporting to the permitting agencies for desert tortoises handled, in accordance with the project Desert Tortoise Relocation/Translocation Plan.</li> <li>○ Security gates shall be designed with minimal ground clearance to deter ingress by tortoises. The gates shall be kept closed, except for the immediate passage of vehicles, to prevent desert tortoise passage into the project area.</li> <li>○ Following installation of the desert tortoise exclusion fencing – both the permanent site fencing and temporary fencing in the utility corridors – the fencing shall be regularly inspected by the biological monitor. The biological monitor shall ensure that damage to the permanent or temporary fencing is immediately blocked to prevent tortoise access and permanently repaired within 72 hours between March 15 and October 31, and within 7 days between November 1 and March 14. The biological monitor shall inspect permanent fencing quarterly and after major rains to ensure fences are intact and there is no ground clearance under the fence that would allow tortoises to pass. The biologist shall inspect construction pipes, culverts, or similar structures: (a) with a diameter greater than 3 inches, (b) stored for one or more nights, (c) less than 8 inches aboveground, and (d) within desert tortoise habitat (outside the permanently fenced area), before the materials are moved, buried, or capped. As an</li> </ul>				

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<p>alternative, the materials may be capped before storing outside the fenced area or placing on pipe racks. Inspection or capping is not necessary if the materials are stored within the permanently fenced area after completing desert tortoise clearance surveys.</p> <ul style="list-style-type: none"> <li>○ The project proponent shall ensure vehicular traffic does not exceed 25 miles per hour within the delineated project areas or on access roads in desert tortoise habitat. On unpaved roads suppress dust and protect air quality by observing a 10-mile per hour speed limit.</li> <li>○ To avoid vehicle impacts to desert tortoise, workers shall be responsible for inspecting the ground under the vehicle for the presence of desert tortoise any time a vehicle or construction equipment is parked in desert tortoise habitat outside the permanently fenced area. If a desert tortoise is seen, it may move on its own. If it does not move within 15 minutes, the desert tortoise biologist may remove and relocate the animal to a safe location.</li> <li>● The project proponent shall develop and implement a Desert Tortoise Relocation/Translocation Plan that is consistent with current USFWS approved guidelines. The goal of the plan will be to safely exclude desert tortoises from within the fenced project area and relocate/translocate them to suitable habitat capable of supporting them, while minimizing stress and potential for disease transmission. The plan shall be developed in consultation with the USFWS to ensure the document does not conflict with conditions issued under an Incidental Take Statement. The plan will utilize the most recent USFWS guidance on translocation that includes siting criteria for the translocation site and control site, methods for translocation/relocation including the holding pen, and post translocation/relocation monitoring. Development and implementation of a translocation plan may require, but may not be limited to, additional surveys of potential recipient sites; disease testing and health assessments of translocated and resident tortoises; and consideration of climatic conditions at the time of translocation. The plan shall designate a relocation site as close as possible to the disturbance site that provides suitable conditions for long term</li> </ul>				

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<p>survival of the relocated desert tortoise and outline a method for monitoring the relocated tortoise.</p> <ul style="list-style-type: none"> <li>• The Desert Tortoise Relocation/Translocation Plan must be approved by the County, CDFW and USFWS prior to any project-related ground disturbing activity.</li> <li>• Within 30 days after initiation of relocation and/or translocation activities, the Designated Biologist shall provide to the Project Manager for review and approval, a written report identifying which items of the plan have been completed, and a summary of all modifications to measures made during implementation of the plan. Written monthly progress reports shall be provided to the Project Manager for the duration of the plan implementation.</li> <li>• The project proponent shall design and implement a Raven Monitoring, Management, and Control Plan that is consistent with the most current USFWS raven management guidelines. The goal of the plan shall be to minimize predation on desert tortoises by minimizing project-related increases in raven abundance. The plan shall be approved by the County, CDFW and USFWS prior to the start of any project-related ground disturbing activities.</li> </ul>				
<p><b>BIO-7: Minimize impacts to special status reptiles (except desert tortoise).</b></p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status reptiles (with the exception of desert tortoise which has separate mitigation measures):</p> <ul style="list-style-type: none"> <li>• Surveys for special status reptiles including but not limited to northern sagebrush lizard, Panamint alligator lizard, and Mojave fringe-toed lizard shall be conducted by a CDFW-approved biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction.</p> <ul style="list-style-type: none"> <li>• If any of these species are found on a project site during the surveys, CDFW will be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats.</li> <li>• If federal or state-listed reptiles not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project, consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species.</li> </ul>				
<p><b>BIO-8: Minimize impacts to Swainson’s hawk.</b></p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect Swainson’s hawk:</p> <ul style="list-style-type: none"> <li>• Surveys shall be conducted for Swainson’s hawk by a CDFW-approved biologist according to the 2010 Swainson’s Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (California Department of Fish and Game [CDFG] 2010) or more recent guidance, unless otherwise directed by CDFW. This guidance dictates survey methods for detecting Swainson’s hawk nesting in or in the vicinity of a project site and measure to avoid and/or reduce impacts to nesting Swainson’s hawk if they are found. The project applicant shall be</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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responsible for coordinating with CDFW and ensuring that the CDFW guidance is implemented.				
<p><b>BIO-9: Minimize impacts to burrowing owl.</b></p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect burrowing owl, unless otherwise directed by CDFW:</p> <ul style="list-style-type: none"> <li>• In the calendar year that construction is scheduled to commence, surveys will be conducted by a CDFW-approved biologist to determine presence/absence of burrowing owls and/or occupied burrows in the project site and accessible areas within 500 feet according to the <i>CDFW's Staff Report on Burrowing Owls</i> (CDFG 2012). A non-breeding season survey will be conducted between December 1 and January 31 and a breeding season survey will be conducted between April 15 and July 15 according to established protocols (CDFG 2012). Pre-construction surveys will also be conducted within 30 days prior to construction to ensure that no additional burrowing owls have established territories since the initial surveys. If no burrowing owls are found during any of the surveys, no further mitigation will be necessary. If burrowing owls are found, then the following measures shall be implemented prior to the commencement of construction: <ul style="list-style-type: none"> <li>○ During the non-breeding season (September 1 through January 31) burrowing owls should be evicted by passive relocation as described in the Staff Report on Burrowing Owls (CDFG 2012).</li> <li>○ Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) occupied burrows shall not be disturbed and shall be provided with a 75-meter protective buffer unless a qualified biologist approved by CDFW verifies through non-invasive means that either: (1) the birds have not begun egg laying or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival.</li> </ul> </li> </ul>	Prior to approval and/or issuance of Major Use Permits / prior to construction	Prior to approval and/or issuance of Major Use Permits / prior to construction	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> <li>○ If on-site avoidance is required, the location of the buffer zone will be determined by a qualified biologist. The developer shall mark the limit of the 75-meter buffer zone with yellow caution tape, stakes, or temporary fencing. The buffer will be maintained throughout the construction period.</li> <li>○ Where on-site avoidance is not possible, CDFW should be consulted regarding the appropriate avoidance and minimization measures to avoid impacts to this species.</li> </ul>				
<p><b>BIO-10: Minimize impacts to western snowy plover, western yellow-billed cuckoo, Inyo California towhee, and bank swallow.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect federally-listed bird species for which survey protocols have not been published, including the western snowy plover, Inyo California towhee, and bank swallow, the USFWS shall be contacted to develop project specific measures to determine the potential for presence/absence of the species in the project area and appropriate avoidance and mitigation measures. For projects in the desert portions of the County, contact the Palm Springs Fish and Wildlife Office. For projects in the forested portions of the County or the Owens Valley, contact the Nevada Fish and Wildlife Office. Mitigation measures shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take” of federally-listed bird species, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. Western yellow-billed cuckoo, Inyo California towhee, and bank swallow are also state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of these species (as</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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defined by the Fish and Game Code).				
<p><b>BIO-11: Minimize impacts to southwestern willow flycatcher.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect southwestern willow flycatcher, surveys shall be conducted according to Southwestern Willow Flycatcher Protocol Revision 2010 (<a href="http://www.fws.gov/mountain-prairie/endspp/protocols/SWWFReport.pdf">http://www.fws.gov/mountain-prairie/endspp/protocols/SWWFReport.pdf</a>) following the guidelines for the revised protocol for project-related surveys or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office. For projects that are determined to have the potential to result in “take” of southwestern willow flycatcher, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. Southwestern willow flycatcher is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as defined by the Fish and Game Code). Mitigation measures shall be implemented and shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	
<p><b>BIO-12: Minimize impacts to bald and golden eagle.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect bald and golden eagles, the project proponent shall implement the following measures to avoid and offset impacts:</p> <ul style="list-style-type: none"> <li>• Site specific surveys and monitoring of known or suspected eagle nesting and foraging habitat in areas where eagles occur (i.e., all of California) shall be conducted to provide background information</li> </ul>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	



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<p>related to bald eagle take permits (golden eagle is fully protected pursuant to Fish and Game Code and no permits may be issued for their take). Surveys shall be conducted using (at least) methods and qualified personnel as recommended by CDFW and USFWS. Surveys shall be conducted according to the USFWS 2010 Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations (available online at <a href="http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/usfws_interim_goea_monitoring_protocol_10march2010.pdf">http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/usfws_interim_goea_monitoring_protocol_10march2010.pdf</a>), the USFWS's 2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California and CDFW's 2010 Bald Eagle Breeding Survey Instructions (both documents are available online at <a href="http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html">http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html</a>) or the most recent guidance regarding non-breeding season surveys for winter, migratory, and floating populations of eagles determined in coordination with CDFW and USFWS.</p> <ul style="list-style-type: none"> <li>• Where proposed projects may result in take of bald eagles, the USFWS shall be consulted to determine the standards and requirements for the permit titled "Eagle Take - Necessary to Protect Interests in a Particular Locality." Bald eagle take permits are performance based and will hinge on the merits of the application. The permit application form and related information are on the USFWS website: <a href="http://www.fws.gov/migratorybirds/baldeagle.htm">http://www.fws.gov/migratorybirds/baldeagle.htm</a>. The final rule (Federal Register / Vol. 74, No. 175, September 11, 2009), Environmental Assessment (<a href="http://www.fws.gov/migratorybirds/CurrentBirdIssues/BaldEagle/EA_EagleTakePermit_Final.pdf">http://www.fws.gov/migratorybirds/CurrentBirdIssues/BaldEagle/EA_EagleTakePermit_Final.pdf</a>), implementation and protocol documents, and consultations with USFWS will provide additional guidance.</li> <li>• Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas</li> </ul>				

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<p>used by eagles for thermal or orographic lift.</p> <ul style="list-style-type: none"> <li>Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas used by eagles for thermal or orographic lift.</li> <li>Projects shall incorporate actions to avoid eagle disturbance (refer to the USFWS National Bald Eagle Management Guidelines, May 2007 and Interim Golden Eagle Technical Guidance: Inventory and Monitoring Protocols; and Other Recommendations in Support of Golden Eagle Management and Permit Issuance, Attachment II) in consultation with the USFWS to obtain the most current guidance and measures.</li> </ul>				
<p><b>BIO-13: Minimize impacts to least Bell’s vireo.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to contain habitat for least Bell’s vireo on or adjacent to the site, surveys shall be conducted according to the USFWS’s Least Bell’s Vireo Survey Guidelines (<a href="http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/LBVireo.2001.protocol.pdf">http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/LBVireo.2001.protocol.pdf</a>) or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office.</p> <p>For projects that are determined to have the potential to result in “take” of least Bell’s vireo, either on or off-site due to direct or indirect impacts, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. Least Bell’s vireo is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>defined by the Fish and Game Code).</p> <p>For projects with the potential to result in direct or indirect impacts to least Bell’s vireo or its habitat, mitigation measures shall be developed in consultation with USFWS and CDFW and shall be implemented prior to project implementation. Such measures shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, habitat restoration, and compensatory mitigation for loss of habitat that may include implementation of captive breeding programs</p>				
<p><b>BIO-14: Minimize impacts to bighorn sheep.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect bighorn sheep, the project applicant shall retain a qualified biologist, approved by the USFWS and CDFW, to conduct preconstruction surveys for Sierra Nevada bighorn sheep and/or Peninsular and Mojave bighorn sheep depending on the location of the project. Due to low detection probabilities, the following data shall be used when evaluating potential projects impacts to the species: data relative to historic ranges of bighorn sheep; known and potential wildlife corridors (such as, those identified in the BLM Mojave and Colorado deserts land use plans); point location data; and existing literature. If bighorn sheep or their migration routes exist, are known or likely to occur on or in the vicinity of the project site, and may be affected by project-related activities, consultation shall be conducted with USFWS, CDFW, and other stakeholders, as appropriate, regarding avoidance, minimization, compensatory mitigation, or site abandonment.</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	
<p><b>BIO-15: Minimize impacts to Sierra Nevada red fox.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect Sierra Nevada red fox, CDFW shall be contacted to</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>develop project specific measures to determine the potential for presence/absence of this species in the project area and appropriate avoidance and mitigation measures. Mitigation measures shall include, but are not limited to, a species specific habitat assessment and/or focused surveys to determine whether Sierra Nevada red fox or its habitat is present in or adjacent to the project site, measures to avoid or minimize impacts to this species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take,” consultation will be conducted with CDFW under the California Endangered Species Act and incidental take authorization will be obtained prior to project commencement.</p>				
<p><b>BIO-16: Minimize impacts to Mohave ground squirrel.</b></p> <p>Protocol Mohave ground squirrel surveys shall be required for projects that propose impacts to habitat with potential to support Mohave ground squirrel or are within or adjacent to the species’ known range. Mohave ground squirrel surveys consist of a visual survey followed by 3 trapping sessions of 5 nights each (CDFW 2003). Each trapping session must be conducted during a specific time frame. The first session must be conducted between March 15 and April 30; the second between May 1 and May 31; and the third between June 15 and July 15. Trapping can be discontinued if a Mohave ground squirrel is trapped or observed, in which case the survey area is deemed to be occupied. If survey results are negative, the survey area will be deemed to be unoccupied for one year during which pre-construction surveys are not required. If survey results are positive, the project shall obtain an incidental take permit from CDFW under CESA Section 2081.</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	
<p><b>BIO-17: Minimize impacts to American badger and kit fox.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect American badger and/or kit fox, the following measures shall be implemented to avoid, minimize, and mitigate for impacts to these species:</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<ul style="list-style-type: none"> <li>• The project proponent shall prepare and implement an American badger and/or kit fox management plan. The plan shall be prepared in accordance with the most current CDFW guidelines for these species. The plan shall be approved by CDFW prior to implementation. The plan shall include the following components:               <ul style="list-style-type: none"> <li>○ Preconstruction surveys and mapping efforts: biological monitors shall perform pre- construction surveys for badger and kit fox dens in the project area, including areas within 250 feet of all project facilities, utility corridors, and access roads. If dens are detected, each den shall be classified as inactive, potentially active, or definitely active, including characterization of den type for kit fox (natal, pupping, likely satellite, atypical) per CDFW guidance, and mapped along with major project design elements.</li> <li>○ Inactive dens that would be directly impacted by construction activities shall be excavated by hand and backfilled to prevent reuse by badgers or kit fox. Excavation and filling activities shall be performed by a CDFW-approved biologist. Potentially and confirmed active dens shall not be disturbed during the whelping/pupping season (February 1 to September 30).</li> <li>○ Monitoring requirements. Potentially and definitely active dens that would be directly impacted by construction activities shall be monitored by the CDFW-approved biologist for three consecutive nights (during weather conditions favorable for detection) using a tracking medium (such as diatomaceous earth or fire clay) and/or infrared camera stations at the entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand. If tracks are observed, the den shall be progressively blocked with natural materials (rocks, dirt, sticks, and vegetation piled in front of the entrance) for the next three to five nights to discourage the badger or kit fox from continued use. After verification that the den is unoccupied it shall then be excavated and backfilled by hand to ensure that no badgers or kit fox are trapped in the den.</li> <li>○ Passive relocation strategies. The management plan shall contain, at a minimum, several strategies to passively relocate</li> </ul> </li> </ul>				

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<p>animals from the site. These methods may entail strategic mowing, fencing, or other feasible construction methods to assist in moving animals offsite toward desirable land. The plan shall address location of preferred offsite movement of animals, based on CDFW data and land ownership. Even with permission from the landowner, private land is to be avoided to the maximum extent practicable.</p> <ul style="list-style-type: none"> <li>○ Escape dens shall be installed along the perimeter fencing to reduce predation risk.</li> <li>○ Kit fox disease prevention measures. The CDFW-approved biologist shall notify the County project manager and CDFW within 24 hours if a dead kit fox is found or appears sick. The plan must also detail a response to a kit fox injury, including a necropsy plan, reporting methods, and scope of adaptive methods in the event of a known or suspected outbreak. The project owner will pay for any necropsy work.</li> </ul>				
<p><b>BIO-18: Minimize impacts to other special status birds, raptors, migratory birds, nesting birds and bats.</b></p> <p>The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact nesting birds and/or bats and shall be implemented to avoid, minimize, and mitigate for impacts to birds and bats. These measures are for bird species without established protocols and non-listed bird species that lack species-specific mitigation measures (not applicable to the common raven). For future development proposed to be located on or near land with old mines, specific survey protocols and mine closure considerations shall be developed.</p> <p><b>Pre-Construction Bird Surveys and Avoidance Measures</b>        If project construction occurs between roughly February 1 and August 31, a CDFW-approved biologist shall conduct preconstruction surveys for nesting birds. The biologist(s) conducting the surveys shall be experienced bird surveyors and familiar with standard nest-locating techniques. Surveys shall be conducted in accordance with the following guidelines:</p> <ul style="list-style-type: none"> <li>• CDFW and/or USFWS (depending on the avian species in question)</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction / during operation</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction / during operation</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>shall be contacted to obtain approval of pre-construction survey methodology prior to commencement of the surveys.</p> <ul style="list-style-type: none"> <li>• Surveys shall cover all potential nesting habitat in the project site and within 500 feet of the project site and linear facilities boundaries - inaccessible areas outside of the project boundary may be surveyed from within the project site or publicly accessible land with the aid of binoculars.</li> <li>• Vegetation removal or other ground disturbing activities should be avoided between February 1 and August 31; however if it cannot be avoided, the CDFW-approved biologist shall survey breeding/nesting habitat within the survey radius described within one week prior to the start of project activities.</li> <li>• CDFW and/or USFWS must provide concurrence with the survey findings prior to the start of construction. Site preparation and construction activities may begin after receiving the concurrence and if no breeding/nesting birds are observed. Additional follow up surveys shall be conducted if periods of construction inactivity exceed one week in any given area, an interval during which birds may establish a nesting territory and initiate egg laying and incubation.</li> </ul> <p>If active nests are detected during the survey, a no-disturbance buffer zone (protected area surrounding the nest, the size of which is to be determined by the project biologist in consultation with CDFW and/or USFWS) and a monitoring plan shall be developed. The nesting bird plan shall identify the types of birds that may nest in the project area, the proposed buffers, monitoring requirements, and reporting standards that will be implemented to ensure compliance with the MBTA and Fish and Game Codes 3505 and 3505.3. The CDFW-approved biologist shall monitor the nest until he or she determines that nestlings have fledged and dispersed.</p> <p><b>Pre-Construction Bat Surveys and Avoidance Measures</b>          Preconstruction bat surveys shall be conducted by a CDFW-approved biologist(s) familiar with standard bat survey techniques. If night or day roosting bats are identified in project structures they shall not be disturbed and a 100 foot non-disturbance buffer shall be placed between the roost and</p>				

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<p>the construction activities until a determination is made whether the roost is a maternity roost or a non-breeding roost. Maternity colonies shall not be disturbed until coordination with CDFW is conducted to determine appropriate measures including an appropriate no-disturbance buffer. If the CDFW-approved bat biologist determines roosting bats consist of a non-breeding roost, the individuals shall be safely evicted under the direction of a CDFW-approved bat biologist. CDFW shall be notified of any bat evictions within 48 hours.</p> <p><b>Bat and Avian Protection Plan</b>            A bird and bat conservation strategy (BBCS) shall be prepared to reduce potential project impacts on migratory birds. The BBCS shall describe proposed actions to avoid, minimize, and mitigate adverse effects to migratory birds protected under the MBTA during construction and operations of the proposed project. The BBCS shall be submitted to USFWS and CDFW for approval prior to the start of ground disturbing activities. The BBCS shall address buffer distances for specific bird species and include a robust, systematic monitoring protocol to document mortality and habitat effects to birds. The monitoring protocol should incorporate the following objectives at a minimum: (1) a minimum of weekly monitoring for mortality and immediate necropsy to determine cause of death, both during construction and throughout the life of the project; (2) systematic data collection and reporting of bird mortality including data on the following: species, date, time, how the animal died (e.g., exhaustion, trauma), as well as any information on what might be attracting animals to the photovoltaic cells (light, insects, etc.); (3) a method to estimate the overall annual avian mortality rate associated with the facility, including mortality associated with all the features of the project that are likely to result in injury and mortality (e.g., fences, ponds, solar panels); and (4) methods to determine whether there is spatial differentiation within the solar field in the rates of mortality (i.e., panels on the edge of the field versus interior of the field). Biologists performing this work would be required to have a Scientific Collecting Permit from CDFW. Standardized and systematic data on bird and bat mortalities will be collected to contribute to the improvement of the scientific communities' understanding of both baseline and photovoltaic related mortality that occurs in solar projects in the desert and is needed in order to identify improved methods</p>				



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<p>to minimize adverse effects on migrating birds and bats.</p> <p>In the absence of a permit from the USFWS, the temporary or permanent possession of protected migratory birds and their carcasses is a violation of the MBTA. Because of the need for carcass collection to adequately monitor avian impacts during BBCS implementation and to reduce the food subsidy that carcasses may provide to common ravens (<i>Corvus corax</i>) and other predators, developers shall be required to obtain a special purpose utility permit from the USFWS allowing the collection of migratory birds and/or their carcasses prior to implementation of the monitoring protocol.</p> <p><b>General Bird Mortality Avoidance Measures</b>  The following measures shall be implemented to minimize bird mortality from birds attracted to solar facilities:</p> <ul style="list-style-type: none"> <li>• All potential nesting vegetation (e.g., trees, shrubs) shall be removed within the fenced area of the facility to decrease attractive habitat.</li> <li>• The most current science regarding visual cues to birds that the solar panel is a solid structure shall be implemented. This may include but is not limited to UV-reflective or solid, contrasting bands spaced no further than 28 centimeters from each other. An adaptive management approach for reducing bird collisions with solar panels shall be implemented in coordination with the USFWS so that measures used are systematically tested and modified as appropriate.</li> <li>• Projects with documented avian mortality shall work with the USFWS to conduct additional research to test measures for reducing avian mortality. Such measures could include, but are not limited to, experimental lighting within the solar field and use of detection and deterrent technologies.</li> <li>• Developers of power tower operations shall implement adaptive management in consultation with the USFWS should mortality monitoring indicate that suspension of power tower operations during certain periods is necessary to reduce impacts on local or regional bird populations. Such measures may include, but are not limited to, suspending or reducing project operations during peak migration</li> </ul>				

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<p>seasons.</p> <ul style="list-style-type: none"> <li>Vertical orientation of mirrors shall be avoided whenever possible (for example, mirrors shall be tilted during washing). Perch deterrent devices shall be placed on tower railings.</li> <li>Exclusionary measures shall be employed to prevent bats from roosting in and around the facility.</li> </ul> <p><b>Minimize Impacts from Solar Flux</b>            The following mitigation measures shall be implemented in order to minimize avian impacts from solar flux:</p> <ul style="list-style-type: none"> <li>Solar thermal developments utilizing solar power tower technologies shall be sited a minimum of 1,000 feet from Important Bird Areas, the OVSA, or riparian or other aquatic habitats including lakes, ponds, rivers, streams, and perennial wetland habitats unless potentially significant impacts are avoided, although the appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies. This requirement generally does not apply to seasonal or ephemeral wetland habitats unless deemed necessary by a qualified biologist in light of the wetland’s specific habitat value for bird species.</li> <li>The County shall require developers proposing solar power tower technology to coordinate with the USFWS during project planning. As part of that coordination process, and in conjunction with the project’s next tier of CEQA review, the USFWS will advise the County whether a Bird and Bat Conservation Strategy would be necessary for the project, and if required, would adequately reduce the effects of the project on migratory birds and bats.</li> </ul> <p><b>Minimize Impacts from Open Evaporation Ponds</b>            The following mitigation measures shall be implemented for projects that require the use of open evaporation ponds:</p> <ul style="list-style-type: none"> <li>An evaporation pond management plan shall be prepared and submitted to CDFW for approval prior to project approval.</li> </ul>				

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<ul style="list-style-type: none"> <li>• If the use of open evaporation ponds is permitted for the project and especially if the water would be considered toxic to wildlife, ponds shall be designed to discourage bird and other wildlife use by properly netting or otherwise covering the pond.</li> </ul> <p><b>Avoid Impacts from Electric Lines and Lights</b>  The following design measures shall be implemented for applicable projects to minimize impacts to bats and birds:</p> <ul style="list-style-type: none"> <li>• Transmission lines and electrical components shall be installed and maintained in accordance with the Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006 (APLIC 2006) or the most recent guidance to reduce the likelihood of electrocutions of raptors and other large birds, .</li> <li>• Transmission lines and electrical components shall be installed and maintained in accordance with the APLIC's <i>Reducing Avian Collisions with Power Lines: The State of the Art in 2012</i> (Edison Electric Institute 2012) or the most recent guidance to reduce the likelihood of bird collisions.</li> <li>• Low and medium voltage connecting power lines shall be placed underground, if feasible. If burial of the lines is not feasible due to cost or other logistical reasons (for example in shallow bedrock areas) or may cause unacceptable impacts to biological habitats and their dependent species, overhead lines may be installed in compliance with the following requirements: <ul style="list-style-type: none"> <li>○ low and medium voltage overhead lines shall be sited away from high bird crossing locations, such as between roosting and feeding areas or between lakes, rivers, and nesting areas; and/or</li> <li>○ low and medium voltage overhead lines shall be installed parallel to tree lines or be otherwise screened so that collision risk is reduced.</li> </ul> </li> <li>• Permanent communication towers and permanent meteorological towers shall not be constructed with guy wires, if feasible. If guy wires are necessary for permanent or temporary towers, bird flight diverters or high visibility marking devices shall be used. In such</li> </ul>				

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<p>cases a monitoring plan shall be developed and carried out to determine the diverters'/devices' effectiveness in reducing bird and bat mortality.</p> <ul style="list-style-type: none"> <li>• Facility lighting shall be installed and maintained to prevent upward and side casting of light towards wildlife habitat and motion sensors shall be used. If the FAA requires turbine or tower lighting to alert aircraft, red or white strobe lights shall be used on the structures to minimize avian collision risks. The strobes shall be on for as brief of a period as possible and the time between strobe or flashes shall be the longest allowable. Strobes shall be synchronized so that a strobe effect is achieved and towers are not constantly illuminated.</li> <li>• Lights with sensors and switches shall be used to keep lights off when not required.</li> <li>• The use of high-intensity lighting, steady-burning, or bright lights such as sodium vapor or spotlights shall be minimized.</li> </ul> <p><b>Compensatory Mitigation for the Cumulative Loss of Migratory Bird Habitat along the Pacific Flyway</b>  The County shall require solar development projects implemented under the REGPA to mitigate for the loss of habitat by funding activities to restore, enhance, or conserve important habitat for migratory birds or to remove other mortality sources from the Pacific Flyway. Such funding may be directed to the Sonoran Joint Venture (<a href="http://sonoranjv.org">http://sonoranjv.org</a>), Central Valley Joint Venture (<a href="http://www.centralvalleyjointventure.org">http://www.centralvalleyjointventure.org</a>), or Intermountain West Joint Venture (<a href="http://iwjv.org">http://iwjv.org</a>), or other groups able to implement conservation of migratory birds within the Pacific Flyway. The amount of funding will be determined by the County in coordination with USFWS and shall be commensurate with the level of impact.</p>				
<p><b>BIO-19: Minimize impacts to special status natural communities and protected natural areas.</b></p> <p>Solar development authorized under the REGPA will not be sited within any special status natural communities or protected natural areas. If solar development is sited adjacent to any special status natural communities or protected natural areas or is determined to have the potential to impact any</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>off-site special status natural communities or protected natural areas during the project level biological resources evaluation (e.g., projects in the Laws SEDA could impact the hydrology of critical habitat for Fish Slough milk-vetch; projects in the Chicago Valley SEDA could negatively impact off-site mesquite bosque by altering drainage patterns or altering groundwater levels; projects in the Charleston View and Chicago Valley SEDAs could impact down-watershed habitats in the Amargosa Watershed (including habitats within the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic.”), a management plan will be developed in consultation with CDFW and/or USFWS. The management plan will address the potential offsite effects of the construction and on-going operations of the facility on special status species including but not limited to the effects of human disturbance, noise, nighttime maintenance activities, increased lighting, increased traffic on desert roads, and barriers to movement for special status species. The management plan will also address potential mechanisms of offsite habitat degradation such as introduction of invasive weeds, introduction or attraction of feral animals or other species attracted to areas with anthropogenic disturbance, hydrologic disruption due to groundwater impacts or alteration of surface drainage patterns, and increased risk of wildfires. The management plan will also outline the specific measures to be undertaken to avoid and/or minimize indirect effects of the solar development on the adjacent sensitive habitat and special status species and include a plan for long term monitoring of the adjacent habitat as well as an adaptive management plan.</p> <p>If riparian communities (other than water birch riparian scrub – a special status natural community that must be avoided) are present in a project area, impacts to riparian communities shall be avoided or minimized by implementing the following measures:</p> <ul style="list-style-type: none"> <li>• The project shall be redesigned or modified to avoid direct and indirect impacts on riparian communities, if feasible.</li> <li>• Riparian communities adjacent to the project site shall be protected by installing environmentally sensitive area fencing, if necessary, in coordination with the project biologist.</li> <li>• The potential for long term loss of riparian vegetation shall be</li> </ul>				

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<p>minimized by trimming vegetation rather than removing the entire shrub. Shrub vegetation shall be cut at least 1 foot above ground level to leave the root systems intact and allow for more rapid regeneration of the species. Cutting shall be limited to a minimum area necessary within the construction zone. This type of removal shall be allowed only for shrub species (all trees shall be avoided) in areas that do not provide habitat for sensitive species (e.g., willow flycatcher).</p> <ul style="list-style-type: none"> <li>If riparian vegetation is removed as part of a project, the loss of riparian vegetation shall be mitigated to ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW and USFWS). Compensation shall be provided at a minimum 1:1 ratio (1 acre restored or created for every 1 acre removed) and may be a combination of on-site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented that describes how riparian habitat shall be enhanced or recreated and monitored over a minimum period of time, as determined by the appropriate state and federal agencies.</li> </ul>				
<p><b>BIO-20: Minimize impacts to waters of the US/State, including wetlands.</b></p> <p>The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact waters of the US or waters of the State, including wetlands, and shall be implemented to avoid, minimize, and mitigate for such impacts. These measures shall be incorporated into contract specifications and implemented by the construction contractor. In addition, the project proponent shall ensure that the contractor incorporates all state and federal permit conditions into construction specifications.</p> <ul style="list-style-type: none"> <li>Wetlands and other waters of the US/state shall be delineated on the project site using both USACE and CDFW definitions of wetlands. USACE jurisdictional wetlands shall be delineated using the methods outlined in the USACE 1987 Wetlands Delineation Manual and the</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>Arid West Manual, or the most recent guidance. This information shall be mapped and documented as part of the CEQA documentation, as applicable, and in wetland delineation reports. All applicable permits shall be obtained prior to impacting waters of the US/State including CWA Section 404 and 401 permits from the USACE and the RWQCB respectively and a Streambed Alteration Agreement from CDFW.</p> <ul style="list-style-type: none"> <li>• The project shall be redesigned or modified to avoid direct and indirect impacts on waters of the U.S./State, if feasible.</li> <li>• Standard erosion control measures shall be implemented for all phases of construction and operation where sediment runoff from exposed slopes threatens to enter waters of the State and/or waters of the US. Sediment and other flow-restricting materials shall be moved to a location where they shall not be washed back into the stream. All disturbed soils and roads within the project site shall be stabilized to reduce erosion potential, both during and following construction. Areas of disturbed soils (access and staging areas) with slopes trending towards a drainage shall be stabilized to reduce erosion potential.</li> <li>• Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing, if necessary, in coordination with the project biologist.</li> <li>• All construction vehicles and equipment shall use existing roadways to the extent feasible to avoid or reduce impacts to waters of the U.S./State.</li> <li>• Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used.</li> <li>• Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing at least 20 feet from the edge of the wetland. Depending on site-specific conditions and</li> </ul>				

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<p>permit requirements, this buffer may be wider than 20 feet in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within the fenced environmentally sensitive area.</p> <ul style="list-style-type: none"> <li>• Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used.</li> <li>• Where determined necessary by resource specialists, geotextile cushions and other materials (e.g., timber pads, prefabricated equipment pads, or geotextile fabric) shall be used in saturated conditions to minimize damage to the substrate and vegetation.</li> <li>• Exposed slopes and stream banks shall be stabilized immediately on completion of installation activities. Other waters of the US shall be restored in a manner that encourages vegetation to reestablish to its pre-project condition and reduces the effects of erosion on the drainage system.</li> <li>• In highly erodible stream systems, banks shall be stabilized using a non-vegetative material that will bind the soil initially and break down within a few years. If the project engineers determine that more aggressive erosion control treatments are needed, geotextile mats, excelsior blankets, or other soil stabilization products shall be used.</li> <li>• During construction, trees, shrubs, debris, or soils that are inadvertently deposited below the ordinary high-water mark of drainages shall be removed in a manner that minimizes disturbance of the drainage bed and bank.</li> <li>• If wetlands are filled or disturbed as part of the solar project, compensation will be implemented for the loss of wetland habitat to</li> </ul>				



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<p>ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW, USFWS, and USACE). The compensation shall be at a minimum 1:1 ratio (1 acre restored or created for every 1 acre filled) and may be a combination of on site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented if onsite or offsite restoration or creation is chosen. The plan shall describe how wetlands shall be created and monitored for the duration established by the regulatory agency.</p> <ul style="list-style-type: none"> <li>For solar projects proposing groundwater pumping, hydrological studies shall be performed to assess the potential for off-site impacts to jurisdictional waters that depend on groundwater. Projects shall be designed to avoid and/or minimize impacts to groundwater-dependent jurisdictional resources off-site, and all proposed impacts to such resources shall be reviewed by the agencies with jurisdiction over the affected resources, and mitigated according to those agencies' requirements.</li> </ul>				
<p><b>BIO-21: Minimize impacts to movement or migratory corridors or native wildlife nursery sites.</b></p> <p>The following mitigation measures will be implemented to minimize impacts to movement or migratory corridors or native wildlife nursery sites:</p> <ul style="list-style-type: none"> <li>Solar development authorized under the REGPA shall not be sited in or within 1,000 feet of any areas determined by the County in consultation with responsible and trustee agencies to be Important Bird Areas, essential connectivity areas or linkages identified in the 2001 Missing Links in California's Landscape Project (Penrod et al. 2001), or tule elk and mule deer movement corridors unless potentially significant impacts are avoided. The appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies.</li> <li>Any proposed solar development projects in the OVSA shall be</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>required to study the potential impact of the project on tule elk and mule deer movement corridors prior to project approval. If a proposed project is determined to be located within an important tule elk and mule deer movement corridor, the applicant shall be responsible for the preparation of a plan to avoid and/or minimize impacts to such corridors in coordination with CDFW.</p> <ul style="list-style-type: none"> <li>As stated in Mitigation Measure BIO-6, projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Draft Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, ACECs, DWMAs, priority connectivity areas, and other areas or easements managed for desert tortoises)</li> </ul>				
<p><b>BIO-22: Minimize impacts to invasive plant species or noxious weeds.</b></p> <p>For projects implemented under the REGPA that are determined during the project level biological resource evaluation to have the potential to result in the spread of invasive plant species or noxious weeds, the following mitigation measures shall be implemented.</p> <p>To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> <li>The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes.</li> <li>Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site.</li> <li>Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored.</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<ul style="list-style-type: none"> <li>• The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned.</li> <li>• Native vegetation shall be re-established quickly on disturbed sites.</li> <li>• Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions.</li> <li>• Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations.</li> </ul>				
<p><b>BIO-23: Implement general design guidelines to minimize impacts to biological resources.</b></p> <p>All projects authorized under the REGPA will incorporate the following design guidelines as applicable in coordination with the County:</p> <ul style="list-style-type: none"> <li>• Design and site the project, in consultation with the permitting agencies, to avoid or minimize impacts to sensitive and unique habitats and wildlife species. Locate energy generation facilities, roads, transmission lines, and ancillary facilities in the least environmentally sensitive areas (such as away from riparian habitats, streams, wetlands, vernal pools, drainages, sand dunes, critical wildlife habitats, wildlife conservation, management, other protected areas, or unique plant assemblages).           <ul style="list-style-type: none"> <li>○ Design facilities to use existing roads and utility corridors as much as possible to minimize the number and length/size of new roads, laydown, and borrow areas.</li> <li>○ Design transmission line poles, access roads, pulling sites, storage, and parking areas to avoid special status species or unique plant assemblages adjacent to linear facilities.</li> <li>○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions.</li> <li>○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions.</li> <li>○ Design facilities to discourage their use as bird perching, drinking, or nesting sites.</li> <li>○ Design facility lighting to prevent side casting of light toward wildlife habitat and skyward protection of light that may</li> </ul> </li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>disorient night-migrating birds.</p> <ul style="list-style-type: none"> <li>○ Avoid using or degrading high value or large intact habitat areas, such as areas identified as sensitive natural habitat, Wilderness Areas, Areas of Critical Environmental Concern, critical habitat; riparian, sand dunes.</li> <li>○ Avoid severing movement and connectivity corridors. Consider existing conservation investments such as protected areas and lands held in trust for conservation purposes.</li> <li>○ Locate facilities so they do not disrupt sand transport processes nor remove some or all of a sand source that contributes to sand dune systems harboring listed or otherwise sensitive species. Avoid armoring nearby dune system.</li> </ul>				
<p><b>BIO-24: Minimize impacts to groundwater dependent vegetation.</b></p> <p>Any solar development projects or related infrastructure implemented under the REGPA which are located on City of Los Angeles-owned land or which could affect City of Los Angeles-owned land shall comply with the terms of the Agreement. A qualified biologist/botanist with experience in Inyo County shall evaluate the potential for any project implemented under the REGPA to impact groundwater dependent vegetation or ecosystems located on City of Los Angeles-owned land. If the qualified biologist/botanist determines that the project has the potential to impact groundwater dependent vegetation or ecosystems, a groundwater dependent vegetation management plan will be prepared. The plan will include an evaluation of the potential impacts to groundwater dependent vegetation or ecosystems and appropriate measures to avoid or reduce the impacts to the extent feasible. The plan shall be prepared in coordination with the County and LADWP and should describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on groundwater dependent vegetation or ecosystems as deemed appropriate by the qualified biologist in coordination with the County and LADWP. Projects that are likely to affect groundwater resources in a manner that would result in a substantial loss of riparian or wetland natural communities and/or habitat for sensitive flora and fauna associated with such habitats shall be avoided to the extent feasible and impacts shall be mitigated to a level determined to be acceptable by the County. The project and vegetation management plan</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department          Inyo County Water Department and/or other applicable agencies.</p>	

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shall be approved by both the County and LADWP prior to implementation.				
<p><b>MM BIO-25: Minimize potential indirect impacts due to groundwater pumping.</b></p> <p>Mitigation measures for potential indirect impacts due to groundwater pumping are included in Mitigation Measure BIO-1, Mitigation Measure BIO-2, Mitigation Measure BIO-3, and Mitigation Measure BIO-4. Prior to approval of any project under the REGPA requiring groundwater pumping, the potential effects of the groundwater pumping on biological resources will be evaluated during preparation of the project-specific biological resources evaluation and will be based on the results of the hydrologic study conducted as a requirement of Mitigation Measure HYD-2 in Section 4.9, Hydrology and Water Quality. If groundwater pumping is determined to have the potential to result in off-site impacts to biological resources, measures will be included in the project-specific biological resources mitigation and monitoring plan to avoid, minimize, and mitigate for any such impacts. The measures will be commensurate with the resource and level of impact and may include but are not limited to vegetation and/or water table monitoring, preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County, and a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department Inyo County Water Department and/or other applicable agencies.	
<b>CULTURAL RESOURCES</b>				
<p><b>CUL-1: Minimize impacts to cultural resources.</b></p> <p>Adverse effects to historical resources (CRHP-eligible cultural resources) would be resolved on a project-specific level. As part of this process, resource identification efforts including pedestrian surveys, formal government-to-government tribal consultation with state lead agencies, and engagement with Native American communities would be necessary. Examples of ways to resolve adverse effects include:</p> <ul style="list-style-type: none"> <li>• Plan ground disturbance to avoid cultural resources.</li> <li>• Deed cultural resources into permanent conservation easements.</li> <li>• Cap or cover archaeological resources with a layer of soil before building on the location.</li> </ul>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> <li>• Plan parks, greenspace, or other open space to incorporate cultural resources.</li> <li>• Write synthetic documents summarizing the current understanding of the history and prehistory of the project area and vicinity.</li> <li>• Recover data for archaeological resources.</li> <li>• Develop interpretive material to correspond with recreational uses to educate the public about protecting cultural resources and avoiding disturbance of sensitive resources.</li> <li>• Develop partnerships to assist in the training of groups and individuals to participate in site stewardship programs.</li> <li>• Coordinate with visual resources staff to ensure visual management standards consider cultural resources and tribal consultation to include landmarks of cultural significance to Native Americans (e.g., TCPs, trails).</li> <li>• Measures to address visual impacts to the setting of built-environment resources include:               <ul style="list-style-type: none"> <li>○ Existing mature plant specimens shall be used for screening during construction, operation, and decommissioning phases. The identification of plant specimens that are determined to be mature and retained shall occur as part of the design phase and mapped/identified by a qualified plant ecologist or biologist and integrated into the final design and project implementation.</li> <li>○ Revegetation of disturbed areas within the project area shall occur as various activities are completed. Plans and specifications for revegetation shall be developed by a qualified plant ecologist or biologist before any extant vegetation is disturbed. The revegetation plan shall include specification of maintenance and monitoring requirements, which shall be implemented for a period of 5 years after project construction or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist. Plant material shall be consistent with surrounding native vegetation.</li> <li>○ The color of the wells, pipelines, storage tanks, control structures, and utilities shall consist of muted, earth-tone colors that are consistent with the surrounding natural color palette. Matte finishes shall be used to prevent reflectivity. For example,</li> </ul> </li> </ul>				

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<p>integral color concrete should be used in place of standard gray concrete.</p> <ul style="list-style-type: none"> <li>○ The final revegetation and painting plans and specifications shall be reviewed and approved by an architect, landscape architect, or allied design professional licensed in the State of California to ensure that the design objectives and criteria are being met.</li> <li>○ Specific impact identification and adjustments to finish specifications shall occur during project design. Implementation of the revegetation and coloration plans shall occur during oilfield development. Maintenance and monitoring requirements shall be implemented after initial project construction for a period of 5 years, or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist.</li> </ul> <ul style="list-style-type: none"> <li>● Protective measures and monitoring protocols can be implemented for built environment resources located in close proximity to a project but that are not anticipated to be directly impacted by demolition or development but which may be subject to other direct impacts such as change in historic setting, vibration, noise, or inadvertent damage include:           <ul style="list-style-type: none"> <li>○ Historic Structures Reports (HSR) shall be prepared for buildings and structures adjacent to the project area for which detailed information is required to develop protection measures. Reports shall be completed for buildings and structures that appear to be in poor condition and, therefore, potentially sensitive to development-related activities such as vibration. These reports shall determine if predevelopment stabilization through temporary shoring and bracing of these buildings is warranted.</li> <li>○ Predevelopment condition assessments shall be prepared for buildings and structures that qualify as historical resources that are adjacent to the project area and are structurally stable, but could be unintentionally damaged during development. Should there be any question as to whether the project caused damage, these condition assessments will provide confirmation of the predevelopment condition.</li> </ul> </li> </ul>				

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<ul style="list-style-type: none"> <li>○ Precautions to protect built environment historical resources from construction vehicles, debris, and dust may include fencing or debris meshing. Temporary mothballing, and fire and intrusion protection may be needed if the buildings are unoccupied during oil and gas field development.</li> <li>○ Protective measures shall be field checked as needed during development by a qualified architectural historian with demonstrated experience conducting monitoring of this nature. Vibration monitoring may be required for buildings determined susceptible to vibration damage located in close proximity to development activities or machinery that cause vibration.</li> <li>○ These measures are designed to avoid direct impacts such as vibration that may result in structural damage or inadvertent direct impacts. Structural damage or demolition would otherwise potentially result in a significant impact because character-defining features and aspects of historic integrity that convey the resource’s significance could be materially impaired.</li> <li>○ Redesign of relevant facilities shall be used to avoid destruction or damage where feasible.</li> <li>● For built resources that will be directly and significantly impacted, mitigation typically includes:           <ul style="list-style-type: none"> <li>○ Historic American Building Survey (HABS), Historic American Engineering Record (HAER), and Historic American Landscape Survey (HALS) records will be prepared for historical resources that will be demolished. The HABS/HAER/HALS documentation will be prepared as appropriate for the impacted historical resource with HABS normally completed at Level II. These reports will include written and photographic documentation of the significant and character-defining features of these properties. While this documentation will not reduce impacts to a less than a significant level, it is needed to capture and preserve a description of the significant information and characteristics associated with the resource.</li> <li>○ All HABS/HAER/HALS reports are subject to review and approval by the NPS. Following approval, the lead agencies will produce sufficient copies for distribution to identified</li> </ul> </li> </ul>				



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<p>repositories, including the Library of Congress, the California State Library, the University of California Water Resources Center Archives, and any local repositories, as appropriate and agreed upon with the County Planning Department and interested parties. Distribution will ensure the formal documentation is retained and conveyed to a wide audience.</p> <ul style="list-style-type: none"> <li>○ Deconstruction and salvage of materials from demolished buildings will be performed to the extent feasible to enable the restoration of similar buildings and structures outside of the area of direct impact. Deconstruction and salvage will not reduce impacts to a less than significant level, but will help to ensure that similar resources are restored and maintained in manner that will ensure that examples of the resource type are preserved.</li> <li>○ Relocate historically significant resources for which demolition cannot be feasibly avoided by development. In such circumstances, relocation must meet the requirements for the Special Criteria Consideration for Moved Buildings, Structures, and Objects to ensure the significance of the building is retained.</li> <li>○ Require that the preservation or reuse of an eligible structure follow Department of the Interior (DOI) Standards and Guidelines for Archeology and Historic Preservation. If the building is considered a historic resource under CEQA, the local building inspector must grant code alternatives under the State Historic Building Code.</li> <li>○ In a case where HABS/HAER documentation does not provide adequate mitigation to reduce impacts to a less than significant level, projects would normally be required to take additional steps to capture the history and memory of the resource and share this information with the public using various methods such as Web media, static displays, interpretive signs, use of on-site volunteer docents, or informational brochures.</li> </ul> <ul style="list-style-type: none"> <li>● Avoidance and minimization are the preferred means by which the County would prevent potential impacts to cultural resources, including cultural landscapes. Preservation in place is the preferred manner to avoid and minimize impacts to historical and archaeological resources. All impacts to cultural resources that are</li> </ul>				

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<p>eligible or potentially eligible for listing on the CRHR shall be avoided, to the greatest extent possible. Preservation in place may be accomplished by, but is not limited to, the following: Avoidance of significant or potentially significant cultural resources through project redesign and the relocation of project element.</p> <ul style="list-style-type: none"> <li>• Following avoidance and minimization, measures to address impacts to cultural resources at a landscape scale should follow the guidance in <i>A Strategy for Improving Mitigation Policies and Practices of the Department of the Interior</i> (DOI 2014) and the National Park Service Preservation Brief 36 - Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes, including but not limited to:           <ul style="list-style-type: none"> <li>○ Document the individual landscape characteristics and features in the context of the landscape as a whole in a Cultural Landscape Report, including contributing and non-contributing features.</li> <li>○ Develop compensatory mitigation.</li> <li>○ Coordinate with other agencies.</li> <li>○ Monitor and evaluate the progress of long-term mitigation.</li> <li>○ Develop and maintain geospatial information systems for use in identifying existing and potential conservation strategies and development opportunities.</li> </ul> </li> </ul>				
<p><b>CUL-1a: Designate project Cultural Resources Staff.</b>  <u>Project Cultural Resources Specialist.</u> Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County Planning Department, a cultural resources specialist whose training and background conforms to the US Secretary of Interior’s Professional Qualifications Standards, as published in Code of Federal Regulations Title 36, part 61 shall be retained by the project owner to conduct a cultural resources inventory, evaluate any resources, produce a Cultural Resources Management and Treatment Plan and other related plans for the approved project and to implement any required plans and mitigation, as necessary as determined by the cultural resource specialist. Their qualifications shall be appropriate to the needs of</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>the project, and shall include local knowledge. If the project primarily impacts resources archaeological in nature, the cultural resources specialist shall have a background in archaeology, anthropology or cultural resource management. If the project impacts primarily built environment resources, the cultural resources specialist shall have a background in architectural history. Resumes of the proposed cultural resources staff shall be submitted to the County Planning Department or other CEQA lead agency for review and approval. The Monitoring and Treatment Plan (mitigation measure CUL-1c) shall be prepared and implemented under the direction of the cultural resources specialist and shall address and incorporate CUL-1a through CUL 1g.</p> <p><u>Additional Cultural Resources Staff.</u> The project’s cultural resources specialist may obtain the services of specialists, cultural resources monitors and field crew if needed, to assist in identification, evaluation, mitigation, monitoring, and curation activities. Cultural Resources Staff shall have a Bachelor’s degree in anthropology, archaeology, history, architectural history or related field, and demonstrated field experience. These individuals must also meet local lead agency qualifications and their resumes must be reviewed and approved by local lead agency staff prior to beginning work.</p>				
<p><b>CUL-1b: Draft a Historical Resources Treatment Plan.</b></p> <p>To mitigate the potential impacts on historical resources identified during inventory of the project area, a treatment plan for historical resources shall be developed by, depending on the nature of the resources identified, an archaeologist and/or architectural historian who meets the Secretary of Interior’s Professional Qualifications Standards. This treatment plan would include data recovery plans that would address National Register of Historic Places/California Register for Historic Resources-eligible cultural resources that would be impacted by the project by requiring some level of extracting the scientific value and analysis of the resources prior to development.</p>	Prior to construction	Prior to construction / during inventory of the project area	Inyo County Planning Department and/or other applicable agencies.	

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<p><b>CUL-1c: Draft a Monitoring and Treatment Plan.</b></p> <p>To mitigate the potential impacts related to inadvertent discovery of archaeological resources during construction, the project proponents shall have a Secretary of the Interior-qualified archaeologist implement a monitoring program and an unanticipated archaeological resource treatment plan. The qualified archaeologist will evaluate any resources uncovered during ground disturbing activities implement appropriate treatment as specified in the archaeological resource treatment plan. During all phases of the project that include ground disturbance, these ground-disturbing activities will be observed by an archaeological monitor, as determined necessary by the archaeologist.</p> <ol style="list-style-type: none"> <li>a. If, during the course of monitoring, a potentially significant resource is discovered, the qualified archaeologist will have the authority to stop or redirect ground disturbing activities away from the resource until it can be evaluated.</li> <li>b. If previously unknown cultural deposits are discovered during the course of construction, such as previously undiscovered stratified cultural deposits, a testing program will be implemented to evaluate the stratified cultural deposit.</li> <li>c. A separate Native American monitor shall be retained by the project proponent to monitor ground disturbing activities in and around archaeological resources. The Native American monitor shall be selected through consultation with Native American tribal groups. The Native American monitor shall work in conjunction with the qualified archaeologist.</li> </ol>	Prior to / during construction	Prior to / during construction	Inyo County Planning Department and/or other applicable agencies.	
<p><b>CUL-1d: Authority to halt project activities.</b></p> <p>Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County or the relevant CEQA lead agency, the project owner shall submit a written document granting authority to halt project related activities to the project's cultural resources specialist (as defined in mitigation measure CUL-1a) and cultural resources monitors in the event of a discovery or possible damage to a cultural resource. Redirection of project related activities shall be accomplished under the direction of the project supervisor in consultation with the cultural resources specialist. The details of this</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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agreement shall be stipulated in the Cultural Resources Management and Treatment Plan as required in mitigation measure CUL-1b.				
<p><b>CUL-1e: Cultural Resources Worker Environmental Awareness Program.</b></p> <p>Prior to and for the duration of project activities, the project owner shall provide WEAP training to all new workers within their first week of employment at the project site. The training shall be prepared by the Project cultural resources specialist (as defined in CUL-1) in consultation with local Native Americans and shall incorporate the traditions and beliefs of local Native American groups into the presentation. The presentation may be conducted by any qualified cultural resources specialist and a Native American, if possible, and may be presented in the form of a video. A consulting fee or honorarium shall be negotiated with the local Native American consultants and presenter and paid to them for their participation. The training may be discontinued when project activities are completed or suspended, but must be resumed when project activities resume.</p> <p>The training shall include:</p> <ol style="list-style-type: none"> <li>1. A discussion of applicable laws and penalties under the law;</li> <li>2. Samples or visuals of artifacts that might be found in the project vicinity;</li> <li>3. A discussion of what such artifacts may look like when partially buried, or wholly buried and then freshly exposed;</li> <li>4. A discussion of what prehistoric and historical archaeological deposits look like at the surface and when exposed during ground-disturbance, and the range of variation in the appearance of such deposits;</li> <li>5. A discussion of what local Native American beliefs are, how those beliefs are related to cultural resources that may be found in the area, and the appropriate respectful behavior towards sacred places and objects;</li> <li>6. Instruction that all cultural resources specialists have the authority to halt ground disturbance in the area of a discovery to an extent sufficient to ensure that the resource is protected from further impacts, as determined by the project cultural resources specialist (as defined in CUL-1);</li> </ol>	Prior to / during construction	Prior to / during construction / for the duration of project activities	Inyo County Planning Department and/or other applicable agencies.	

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<p>7. Instruction that employees are to avoid areas flagged as sensitive for cultural resources;</p> <p>8. Instruction that employees are to halt work on their own in the vicinity of a potential cultural resources discovery and shall contact their supervisor and the project cultural resources specialist (as defined in CUL-1), and that redirection of work would be determined by the project supervisor and the project cultural resources specialist;</p> <p>9. An informational brochure that identifies reporting procedures in the event of a discovery;</p> <p>10. An acknowledgement form signed by each worker indicating that they have received the training which shall be submitted to the County Planning Department and any other CEQA lead agency; and</p> <p>11. A sticker that shall be placed on hard hats indicating that environmental training has been completed.</p>				
<p><b>CUL-1f: Conduct cultural resources reporting.</b></p> <p>The project cultural resources specialist shall document results in interim and final reports as necessary. The contents and timing of these reports shall be stipulated in the Cultural Resources Management and Treatment Plan (CUL-1b).</p> <p>Final reports for archaeological resources, human remains, and some landscapes, shall be written by or under the direction of a Secretary of the Interior qualified archaeologist or architectural historian as appropriate for the project. Reports shall be provided in the California Office of Historic Preservation’s Archaeological Resource Management Reports: Recommended Contents and Format and local agency formats. Final documents shall report on all field activities including dates, times and locations, results, samplings, and analyses. All survey reports, Department of Parks and Recreation 523 series forms, data recovery reports, and any additional research reports not previously submitted to the California Historical Resource Information System and the State Historic Preservation Officer shall be included as appendices.</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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<p><b>CUL-1g: Proper curation of cultural resources collections.</b></p> <p>All archaeological materials retained as a result of the cultural resources investigations (survey, testing, data recovery) shall be curated in accordance the California State Historical Resources Commission’s <i>Guidelines for the Curation of Archaeological Collections</i>, into a retrievable storage collection in a public repository or museum. Additionally, all collection and retention of archaeological materials as a result of cultural resources investigations must comply with the regulations and policies of the land managing agency or property owner.</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	
<p><b>CUL-2: Implement proper actions in the event of the incidental discovery of human remains.</b></p> <p>In accordance with Section 7050.5 of the California Health and Safety Code, if human remains are found, the County Coroner shall be notified within 24 hours of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie potential remains shall occur until the County Coroner has determined, within two working days of notification of the discovery, the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains are or are believed to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with Section 5097.98 of the California Public Resources Code, the NAHC must immediately notify those persons it believes to be the most likely descendant of the deceased Native American. The descendants shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the County, the disposition of the human remains.</p> <p>Should human remains be discovered at any time during construction of the project, construction in the vicinity would halt and the County Coroner would be contacted immediately. If the Coroner determines that the remains do not require an assessment of cause of death and are probably Native American, then the NAHC would be contacted to identify the Most Likely Descendant.</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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<p><b>PALEO-1a: Protect paleontological resources.</b></p> <p>Project developers shall document in a paleontological resources assessment report whether paleontological resources exist in a project area on the basis of the following: the geologic context of the region and site and its potential to contain paleontological resources (including the fossil yield potential), a records search of institutions holding paleontological collections from California desert regions, a review of published and unpublished literature for past paleontological finds in the area, and coordination with paleontological researchers working locally in potentially affected geographic areas (or studying similar geologic strata).</p> <p>If paleontological resources are present at the site or if the geologic units to be encountered by the project (at the surface or the subsurface) have a high/very high or moderate/unknown fossil yield, a Paleontological Resources Management Plan shall be developed.</p> <p>The plan shall include the following types of requirements:</p> <ol style="list-style-type: none"> <li>1. The qualifications of the principal investigator and monitoring personnel</li> <li>2. Construction crew awareness training content, procedures, and requirements</li> <li>3. Any measures to prevent potential looting, vandalism, or erosion impacts</li> <li>4. The location, frequency, and schedule for on-site monitoring activities</li> <li>5. Criteria for identifying and evaluating potential fossil specimens or localities</li> <li>6. A plan for the use of protective barriers and signs, or implementation of other physical or administrative protection measures</li> <li>7. Collection and salvage procedures</li> <li>8. Identification of an institution or museum willing and able to accept any fossils discovered</li> <li>9. Compliance monitoring and reporting procedures</li> </ol> <p>If the geologic units that would be affected by the project have been determined to have low fossil yield potential, paleontological resources shall</p>	<p>Prior to / during construction</p>	<p>Prior to / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	



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<p>be included as an element in construction worker awareness training. The training shall include measures to be followed in the event of unanticipated discoveries, including suspension of construction activities in the vicinity.</p> <p>The Paleontological Resources Management Plan shall evaluate all of the construction methods proposed, including destructive excavation techniques. Where applicable, the principal investigator shall include in the plan an evaluation of the potential for such techniques to disturb or destroy paleontological resources, an evaluation of whether loss of such fossils would represent a significant impact, and discussion of mitigation or compensatory measures (such as recordation/recovery of similar resources elsewhere on the site) that are necessary to avoid or substantially reduce the impact.</p>				
<b>GEOLOGY AND SOILS</b>				
<p><b>GEO-1: Conduct site-specific geotechnical investigations.</b></p> <p>Site-specific geotechnical investigations will be completed for all applicable proposed development within the individual SEDAs and the OVSA, and the potential off-site transmission corridors associated with the Charleston View, Chicago Valley, and Trona SEDAs (if applicable), prior to final project design approval. These investigations will identify site-specific criteria related to considerations such as grading, excavation, fill, and structure/facility design. All applicable results and recommendations from the geotechnical investigations will be incorporated into the associated individual project design documents to address identified potential geologic and soil hazards, including but not necessarily limited to: ground rupture; ground acceleration (ground shaking); soil liquefaction (and related issues such as dynamic settlement and lateral spreading); landslides/slope instability; geologic and soil instability (including compressible/collapsible soils, subsidence, and corrosive soils); and expansive soils. The final project design documents will also encompass applicable standard design and construction practices from sources including the California Building Code (CBC), International Building Code (IBC), and County standards, as well as the results/recommendations of County plan review and on-the-ground geotechnical observations and testing to be conducted during project excavation, grading and construction activities (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of remedial measures</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>typically associated with identified potential geologic and soil hazards, pursuant to applicable regulatory and industry standards (as noted), is provided below. The remedial measures identified/recommended as part of the described site-specific geotechnical investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p>				
<ul style="list-style-type: none"> <li>• <b>Ground Rupture:</b> (1) locate (or relocate) applicable facilities away from known active (or potentially active) faults and outside of associated CGS Earthquake Fault Zones; and (2) require appropriate (typically 50-foot) building exclusion buffers on either side of applicable fault traces.</li> <li>• <b>Ground Acceleration (Ground Shaking):</b> (1) incorporate applicable seismic loading factors (e.g., IBC/CBC criteria) into the design of facilities such as structures, foundations/slabs, pavement, utilities, manufactured slopes, retaining walls and drainage facilities; (2) use remedial grading techniques where appropriate (e.g., removing/replacing and/or reconditioning unsuitable soils); and (3) use properly engineered fill per applicable industry/regulatory standards (e.g., IBC/CBC), including criteria such as appropriate fill composition, placement methodology, compaction levels, and moisture content.</li> <li>• <b>Liquefaction and Related Effects:</b> 1) remove unsuitable soils and replace with engineered fill (as previously described), per applicable regulatory/industry standards (e.g., IBC/CBC); (2) employ measures such as deep soil mixing (i.e., introducing cement to consolidate loose soils) or use of subsurface structures (e.g., stone columns or piles) to provide support (i.e., by extending structures into competent underlying units); (3) use subdrains in appropriate areas to avoid or reduce near-surface saturation; and (4) design for potential settlement of liquefiable materials through means such as use of post-tensioned foundations and/or flexible couplings for utility connections.</li> <li>• <b>Landslides/Slope Instability:</b> (1) construct properly drained shear keys and/or replace susceptible deposits with manufactured buttress fills where appropriate; (2) employ applicable slope laybacks (i.e., shallower slopes) and/or structural setbacks; (3) incorporate structures such as retaining walls and stability fills where appropriate</li> </ul>				

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<p>to provide support; and (4) implement proper slope drainage and landscaping where applicable per established regulatory/industry standards (e.g., IBC/CBC).</p> <ul style="list-style-type: none"> <li>• <b>Geologic and Soil Instability:</b> (1) use standard efforts such as over-excavation and recompaction or replacement of unsuitable soils with engineered fill, and enhanced foundation design in applicable areas (e.g., post-tensioned or mat slab foundations); (2) use engineered fill, subdrains, surcharging (i.e., loading prior to construction to induce settlement) and/or settlement monitoring (e.g., through the use of settlement monuments) in appropriate areas; (3) implement groundwater withdrawal monitoring/restrictions per established legal/regulatory/industry standards (if applicable); and (4) remove unsuitable deposits and replace with non-corrosive fill, use corrosion-resistant construction materials (e.g., corrosion-resistant concrete and coated or non-metallic facilities), and install cathodic protection devices (e.g., use of a more easily corroded “sacrificial metal” to serve as an anode and draw current away from the structure to be protected) per established regulatory/industry standards (e.g., IBC/CBC).</li> <li>• <b>Expansive Soils:</b> (1) replace and/or mix expansive materials with non-expansive fill; and (2) cap expansive soils in place with an appropriate thickness of non-expansive fill per established regulatory/industry standards (e.g., IBC/CBC).</li> </ul>				
<b>GREENHOUSE GAS EMISSIONS</b>				
<p><b>GHG-1: Prepare site-specific Greenhouse Gas Report.</b></p> <p>Prior to approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination for a solar energy project, a site-specific greenhouse gas technical report will be prepared and approved by the County. The site-specific technical report will identify project-specific emissions to ensure compliance with the interim SCAQMD GHG thresholds, as well as measures to reduce operational greenhouse gas emissions. The technical report will be completed and approved by the County prior to the County’s action.</p>	<p>Prior to approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination</p>	<p>Prior to approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination</p>	<p>Inyo County Planning Department</p>	

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<b>HAZARDS AND HAZARDOUS MATERIALS</b>				
<p><b>HAZ-1: Conduct site-specific Phase I ESA.</b></p> <p>Site-specific Phase I Environmental Site Assessments (ESAs) shall be completed for all proposed development projects within the nine individual SEDAs and the OVSA, as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. Specifically, Phase I ESA investigations shall be conducted for the noted areas to identify the potential occurrence of hazardous materials and Recognized Environmental Conditions, (RECs, as defined in ASTM International E1527-05, Section 1.1.1), potentially involving the presence of contaminated soil or groundwater, and/or structures or facilities containing hazardous materials such as asbestos insulation, lead-based paint and polychlorinated biphenyls. Phase I investigations shall include: (1) appropriate regulatory database records review; (2) site reconnaissance; (3) review of appropriate maps, aerial photographs and other pertinent documents; (4) interviews with current/previous property owners, local government/industry officials, and other individuals with knowledge of the property and/or local environmental conditions; (5) documentation of known or potential RECs; and (6) identification of recommendations to address RECs or other concerns, if applicable (including Phase II ESA investigations, as outlined below).</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department and/or other applicable agencies.	
<p>Depending on the results of the described Phase I ESAs, one or more Phase II ESA investigations shall be conducted if identified as part of the Phase I recommendations. Phase II ESAs consist of “intrusive” investigations, in which original samples of soil, groundwater and/or building materials are collected and submitted for laboratory analysis to identify applicable contaminants. Based on the results of this testing, the Phase II ESAs shall identify the type and extent of REC (or other) contamination, and provide appropriate remedial measures to address associated hazards. Typical remedial measures may include efforts such as removal and proper disposal of contaminated materials (or on-site treatment and reuse, if applicable), or in situ treatments such as oxidation (use of aerobic bacteria to accelerate natural attenuation of organic contaminants) or bioremediation (e.g., using bacteria to remove contaminants from groundwater).</p> <p>All ESAs conducted for the proposed project shall be prepared in</p>				

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<p>conformance with applicable regulatory and industry standards, including ASTM International E1527-05 Standard Practice for Environmental Site Assessments, and Code of Federal Regulations Part 312, Standards and Practices for All Appropriate Inquiries. Applicable results and recommendations from the described Phase I and Phase II investigations shall be incorporated into the associated individual final project design documents to address identified potential hazardous material concerns.</p>				
<p><b>HAZ-2: Conduct site-specific Airport Safety Investigations.</b>          Site-specific Airport Safety Investigations shall be completed for all proposed development projects in the Laws, Trona, Charleston View, and Sandy Valley SEDAs, the OVSA, and related potential off-site transmission line corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs that are within two miles of a public or private airport prior to final project design approval. These investigations will assess the site-specific design and location of proposed facilities to determine if they are compatible with existing and planned future activities at nearby airports. The Airport Safety Investigations shall utilize applicable criteria from proposed project design information (e.g., facility locations and heights), airport comprehensive land use plans and/or management plans (if applicable), the Inyo County Airport Hazard Overlay Ordinance, and/or other pertinent information related to considerations such as airport hazard zones and traffic patterns, to identify potential safety conflicts. If such conflicts are identified, the Airport Safety Investigations shall provide remedial measures to address these concerns, potentially including efforts such as relocating and/or redesigning proposed facilities to avoid potential hazards. Applicable results and recommendations from the described Airport Safety Investigations shall be incorporated into the associated individual final project design documents to address identified potential airport-related concerns.</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	
<p><b>HAZ-3: Conduct site-specific School Safety Investigations.</b>          Site-specific School Safety Investigations shall be completed for all proposed development projects in the OVSA that are within one-quarter mile of an existing or proposed school, prior to final project design approval. These investigations will assess the site-specific design and location of proposed facilities to determine if they are compatible with</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department</p>	

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<p>existing and planned future activities at schools located within one-quarter mile. The School Safety Investigations shall utilize applicable criteria from proposed project design information, such as proposed hazardous material use/storage, associated facility locations, and required measures in Hazardous Materials Business Emergency/Contingency Plans and/or Risk Management Plans (e.g., proper inventory documentation, storage/containment, transport, employee training, and spill response/clean-up measures) to assess potential hazards to local schools from the use or emission of hazardous materials or wastes. If such hazards are identified, the School Safety Investigations shall provide remedial measures to address these concerns, potentially including efforts such as relocating (i.e., outside of the one quarter mile boundary) and/or redesigning proposed facilities (e.g., providing enclosures or secondary containment) to avoid potential hazards. Applicable results and recommendations from the described School Safety Investigations shall be incorporated into the associated individual final project design documents to address identified potential school-related concerns.</p>				
<p><b>HAZ-4: Conduct site-specific Wildfire Safety Investigations.</b></p> <p>Site-specific Wildfire Safety Investigations shall be completed for all proposed projects within the nine individual SEDAs and the OVSA, as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), that are in areas rated as moderate or high for wildfire hazards by California Department of Forestry and Fire Protection prior to final project design approval. Specifically, the Wildfire Safety Investigations shall be conducted for the noted areas to identify site-specific fire hazard ratings and associated risks to people and structures at proposed development sites. The Wildfire Safety Investigations shall include assessment of the following criteria for the noted areas and surrounding environments: (1) fire history; (2) fuel (vegetation) types; (3) climatic conditions (including wind patterns); (4) projected fire behavior (including flame lengths) from computer modeling (e.g., BehavePlus Fire Modeling System 5.0.4); (5) documentation of known or potential wildfire hazards to on-site people and structures; and (6) identification of remedial measures, if applicable (per applicable regulatory standards such as the California Building, Fire, and Residential Codes), potentially including efforts such as the use of fuel</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>modification, structural features (e.g., non-combustible materials and fire/ember/smoke barriers), alarm systems, and/or automatic sprinklers. Applicable results and recommendations from the described Wildfire Safety Investigations shall be incorporated into the associated individual final project design documents to address identified potential wildfire-related concerns.</p>				
<b>HYDROLOGY AND WATER QUALITY</b>				
<p><b>HYD-1: Conduct site-specific hydrologic investigations.</b></p> <p>Site-specific hydrologic investigations will be completed for proposed utility scale solar facility development projects within the individual SEDAs and the OVSA (i.e., those with grading, excavation or other activities potentially affecting hydrologic conditions, as determined by the County), as well as the potential off site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential hydrologic concerns, including but not necessarily limited to: drainage alteration, runoff rates and amounts, flood hazards, and existing/planned storm drain system capacity. The final project design documents will also encompass applicable standard design and construction practices from sources including NPDES, Basin Plan and County standards, as well as the results/recommendations of County plan review (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of remedial measures typically associated with identified potential hydrologic concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The remedial measures identified/recommended as part of the described site-specific hydrologic investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> <li>• Drainage Alteration: (1) locate applicable facilities and activities (e.g., staging areas and soil/material stockpiles) outside of surface drainage courses and drainage channels; (2) re-route surface around applicable facilities, with such rerouting to be limited to the smallest</li> </ul>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department          Inyo County Department of Public Works          Inyo County Water Department          Inyo County Department of Environmental Health and/or other applicable agencies.</p>	

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<p>area feasible and re-routed drainage to be directed back to the original drainage course at the closest feasible location (i.e., the closest location to the point of diversion); and (3) use drainage structures to convey flows within/through development areas and maintain existing drainage patterns.</p> <ul style="list-style-type: none"> <li>• Runoff Rates and Amounts: (1) minimize the installation of new impervious surfaces (e.g., by surfacing with pervious pavement, gravel or decomposed granite); and (2) use flow regulation facilities (e.g., detention/retention basins) and velocity control structures (e.g., riprap dissipation aprons at drainage outlets), to maintain pre-development runoff rates and amounts.</li> <li>• Flood Hazards: (1) work to locate proposed facilities and activities outside of mapped 100 year floodplain boundaries; (2) based on technical analyses such as Hydrologic Engineering Center-River Analysis System (HEC-RAS) studies, restrict facility locations to avoid adverse impacts related to impeding or redirecting flood waters; and (3) based on HEC RAS studies, use measures such as raised fill pads to elevate proposed structures above calculated flood levels, and/or utilize protection/containment structures (e.g., berms, barriers or waterproof doors) to avoid flood damage.</li> <li>• Storm Drain System Capacity: (1) implement similar measures as noted above for runoff rates and amounts; and (2) utilize additional and/or enlarged facilities to ensure adequate on- and off-site storm drain system capacity.</li> </ul>				
<p><b>HYD-2: Conduct site-specific groundwater investigations.</b></p> <p>Site-specific groundwater investigations will be completed for all proposed solar facility development projects within the individual SEDAs and the OVSA proposing to utilize groundwater resources, prior to final project design approval. These investigations will identify site-specific criteria related to considerations such as local aquifer volumes and hydrogeologic characteristics, current/proposed withdrawals, inflow/recharge capacity, and potential effects to local aquifer and well levels from proposed project withdrawals. All applicable results and recommendations from these investigations will be incorporated into the associated individual project design documents to address identified potential impacts to groundwater</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department</p> <p>Inyo County Water Department and/or other applicable agencies.</p>	



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<p>resources (per applicable regulatory standards), with all related requirements to be included in associated engineering/design drawings and construction contract specifications. A summary of the types of remedial measures typically associated with identified potential effects to groundwater resources is provided below. The remedial measures identified/recommended as part of the described site-specific groundwater investigations will take priority over the more general types of standard measures listed below.</p> <ul style="list-style-type: none"> <li>• Aquifer/Well drawdown: (1) monitor local aquifer and private/production well levels to verify the presence or absence of project-related effects during pre-construction, construction, and operation periods (based on a methodology and monitoring schedule approved by the RWQCB and County); (2) document background and pre-construction groundwater conditions and comparable project-related construction and operation trends, along with related factors such as precipitation levels and groundwater budgets; (3) prepare scaled maps depicting the associated site(s), existing and proposed monitoring well locations, relevant natural (e.g., springs and groundwater-dependent vegetation) and other features (e.g., reservoirs), and pre- post-project groundwater contours, along with a description of cumulative water level changes; (4) restrict project-related groundwater withdrawals to appropriate levels to avoid significant adverse effects to local aquifers/wells and/or other groundwater-dependent uses (e.g., vegetation, springs or other related surface water features), based on thresholds approved by the RWQCB and County; and (5) provide mitigation for affected wells or other uses where applicable, potentially including well modifications (e.g., deepening pumps or wells) and/or financial compensation.</li> <li>• Groundwater Recharge Capacity: (1) reduce the area of on-site impervious surface if appropriate, through increased use of surfacing materials such as gravel, decomposed granite, or pervious pavement; and (2) use facilities such as retention/percolation basins and unlined drainage facilities to increase local infiltration and groundwater recharge. The County may employ water injection as a method of groundwater recharge</li> </ul>				

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<p>as deemed appropriate on a case by case basis. This decision would be made during project specific CEQA analysis for a given solar energy development proposal.</p>				
<p><b>HYD-3: Conduct site-specific water quality investigations.</b></p> <p>Site-specific water quality investigations will be completed for long-term solar facility operations associated with applicable proposed development projects within the individual SEDAs and the OVSA (i.e., those with activities potentially affecting water quality conditions, as determined by the County), as well as the potential off site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential long-term water quality issues related to conditions such as: anticipated and potential pollutants to be used, stored or generated on-site; the location and nature (e.g., impaired status) of on-site and downstream receiving waters; and project design features to avoid/address potential pollutant discharges. The final project design documents will also encompass applicable standard design practices from sources including NPDES, Basin Plan and County standards, as well as the results/recommendations of project-related hazardous materials investigations and regulatory standards (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of BMPs typically associated with identified potential water concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The BMPs identified/recommended as part of the described site-specific water quality investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> <li>• Low Impact Development (LID)/Site Design BMPs: LID/site design BMPs are intended to avoid, minimize and/or control post development runoff, erosion potential and pollutant generation to the maximum extent practicable by mimicking the natural hydrologic regime. The LID process employs design practices and techniques to effectively capture, filter, store, evaporate, detain and infiltrate runoff</li> </ul>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department</p> <p>Inyo County Water Department            Inyo County Department of Environmental Health            and/or other applicable agencies.</p>	

**Table 1  
 INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR  
 MITIGATION MONITORING AND REPORTING PROGRAM**

<b>Mitigation Measure</b>	<b>Phase of Implementation / Mitigation Timing</b>	<b>Frequency and/or Duration of Required Monitoring</b>	<b>Enforcement or Reporting Agency / Action Notes</b>	<b>Record Document Location</b>
<p>close to its source through efforts such as: (1) minimizing developed/disturbed areas to the maximum extent feasible; (2) utilizing natural and/or unlined drainage features in on-site storm water systems; (3) disconnecting impervious pervious to slow concentration times, and directing flows from impervious surfaces into landscaped or vegetated areas; and (4) using pervious surfaces in developed areas to the maximum extent feasible.</p> <ul style="list-style-type: none"> <li>• Source Control BMPs: Source control BMPs are intended to avoid or minimize the introduction of pollutants into storm drains and natural drainages to the maximum extent practicable by reducing on-site pollutant generation and off-site pollutant transport through measures such as: (1) installing no dumping” stencils/tiles and/or signs with prohibitive language (per current County guidelines) at applicable locations such as drainages and storm drain inlets to discourage illegal dumping; (2) designing trash storage areas to reduce litter/pollutant discharge through methods such as paving with impervious surfaces, installing screens or walls to prevent trash dispersal, and providing attached lids and/or roofs for trash containers; (3) designing site landscaping (if applicable) to maximize the retention of native vegetation and use of appropriate native, pest-resistant and/or drought-tolerant varieties to reduce irrigation and pesticide application requirements; and (4) providing secondary containment (e.g., enclosed structures, walls or berms) for applicable areas such as trash or hazardous material use/storage.</li> <li>• Treatment Control/LID BMPs: Treatment control (or structural) BMPs are designed to remove pollutants from runoff to the maximum extent practicable through means such as filtering, treatment or infiltration. Treatment control and/or LID BMPs are required to address applicable pollutants, and must provide medium or high levels of removal efficiency for these pollutants (per applicable regulatory requirements). Based on the anticipated pollutants of concern, potential LID and treatment control BMPs may include (1) providing water quality treatment and related facilities such as sediment basins, vegetated swales, infiltration basins, filtration devices and velocity dissipators to treat appropriate runoff flows and reduce volumes prior to off-site discharge (per applicable regulatory requirements); and (2) conducting</li> </ul>				

**Table 1  
 INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR  
 MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
regular inspection, maintenance and as-needed repairs of pertinent facilities and structures.				
<b>LAND USE AND PLANNING</b>				
No mitigation measures are required.				
<b>MINERAL RESOURCES</b>				
<p><b>MIN-1: Conduct site-specific mineral resource investigations.</b></p> <p>Site-specific mineral resource investigations will be completed for proposed development projects within the individual SEDAs, the OVSA, and the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. These investigations will include the following elements: (1) descriptions of regional and on-site geologic environments; (2) identification of site-specific potential for the occurrence of mineral resources; (3) assessment of estimated mineral resource quantities and extents (as applicable); (4) evaluation of associated potential for economic resource recovery, including considerations such as supply and demand, and production, processing and transportation costs; (5) determination of the presence of mineral entries such as mining claims and mineral leases, including descriptions of individual mineral entry types, issuing agencies and status; (6) assessment of potential impacts from project implementation to identified regionally- or locally-important mineral resources, associated exploration/recovery efforts, and valid mineral entries; and (7) development of remedial measures to address identified impacts to mineral resources, operations and entries, as feasible, potentially including efforts such as avoidance, use of proposed project development timing or phasing to accommodate mineral operations, or locating proposed project facilities to accommodate multiple use operations (e.g., through shared use of access or infrastructure). All applicable results and recommendations from the described investigations identifying identified potential mineral resource impacts and remedial measures will be incorporated into the associated individual project design documents.</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department	
<b>NOISE</b>				
<b>NOI-1: Prepare technical noise report for solar facilities proposed within 500 feet of noise sensitive land uses.</b>	Prior to approval and/or issuance of	Prior to approval and/or issuance of	Inyo County Planning Department	

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 INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR  
 MITIGATION MONITORING AND REPORTING PROGRAM**

<b>Mitigation Measure</b>	<b>Phase of Implementation / Mitigation Timing</b>	<b>Frequency and/or Duration of Required Monitoring</b>	<b>Enforcement or Reporting Agency / Action Notes</b>	<b>Record Document Location</b>
<p>If a proposed utility scale solar energy project resulting from implementation of the REGPA is within 500 feet of a residence or other noise sensitive land use, prior to issuance of a Major Use Permit, a site-specific noise technical report will be prepared and approved by the County. The technical report will verify compliance with all applicable County laws, regulations, and policies during operation of the solar project, including that noise levels would not exceed the relevant thresholds described in the General Plan Noise Element (60 dBA LDN for noise sensitive land uses such as residences, schools, transient lodging and medical facilities). The site specific noise technical report will include project specifications, applicable noise calculations, project design features, applicable BMPs and related information from the REAT’s Best Management Practices and Guidance Manual (REAT 2010), and mitigation measures applicable to the project. The technical noise report will address operational related noise sources, as well as noise from the use of generators during an emergency. The technical report will calculate specific anticipated noise and vibration levels from operations in accordance with County standards and provide specific mitigation when noise levels are expected to exceed County standards.</p>	Major Use Permits	Major Use Permits	Building and Safety Department	
<p><b>NOI-2: Implement construction noise reduction measures.</b></p> <p>If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT’s Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:</p> <ul style="list-style-type: none"> <li>• Whenever feasible, electrical power will be used to run air compressors and similar power tools.</li> <li>• Equipment staging areas will be located as far as feasible from occupied residences or schools.</li> <li>• All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.</li> <li>• Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.</li> <li>• Stockpiling and vehicle staging areas shall be located as far as</li> </ul>	During construction	During construction	Inyo County Planning Department	

**Table 1  
 INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR  
 MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
practical from occupied dwellings.				
<p><b>NOI-3: Helicopter Noise Control Plan.</b></p> <p>In the event that a utility scale solar project site would have limited access and would require the use of helicopters during operation or maintenance of a facility, the County shall prepare a Helicopter Noise Control Plan that indicates where helicopters would be used and the frequency and duration for such use. The plan shall demonstrate compliance with the noise level limits within the County Noise Element for helicopter noise to properties within 1,600 feet of proposed helicopter use locations.</p>	During construction	During construction	Inyo County Planning Department	
<b>POPULATION AND HOUSING</b>				
No mitigation measures are required.				
<b>PUBLIC SERVICES</b>				
<p><b>PUB-1: Analyze public safety and protection response times and staff levels for each project.</b></p> <p>Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project's impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department and/or other applicable agencies.	
<p><b>PUB-2: Provide onsite security during the construction and long-term operation of the project.</b></p> <p>For project sites associated with proposed future solar development projects that are determined through Mitigation Measure PUB-1 to have insufficient law enforcement protection services or significant impacts to law enforcement services, project proponents shall be required to provide adequate, onsite private security for the duration of construction activities and during the long-term operation of the project to the satisfaction of the County. The actual size and configuration of the security detail shall be determined by the County during preparation of the Development</p>	During construction and operations	During construction and operations	Inyo County Planning Department	

**Table 1  
 INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR  
 MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
Agreement for the future solar energy project.				
<p><b>PUB-3: Pay mitigation fees for public safety and protection services.</b></p> <p>The County shall require project proponents to pay established County development mitigation fees for fire and police protection services. Said fees shall be used to maintain proper staffing levels for fire, police protection, and emergency services and to sustain adequate response times as required by the County.</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department and/or other applicable agencies.	
<b>RECREATION</b>				
No mitigation measures are required.				
<b>SOCIOECONOMICS</b>				
<p><b>SOC-1: Minimize Impacts on transient housing.</b></p> <p>To further offset potential negative effects and increased demand on transient housing, General Plan Policy ED-4.5, Employ and Train Local Labor, shall be supplemented with the following:</p> <ul style="list-style-type: none"> <li>• For renewable energy projects where the construction schedule exceeds one-year, community monitoring programs shall be developed that would identify and evaluate transient housing demand and other socioeconomic effects utilizing economic models such as JEDI. Measures developed for monitoring may include the collection of data reflecting the workforce demands and social effects (such as tracking any demonstrable drop in recreational usership) as a result of increased transient housing demand from construction workers at the local and County level.</li> <li>• Project developers shall work with the County, local chambers of commerce, and/or other applicable local groups to assist transient workers in finding temporary lodging. If temporary lodging is not available, developers of utility scale projects shall consider the feasibility of providing on-site temporary housing accommodations for all projects.</li> </ul>	During construction	During construction	Inyo County Planning Department	
<p><b>SOC-2: Minimize Impacts on County Public Services.</b></p> <p>To further off-set potential negative effects on County public services, General Plan Policy ED 4.4, Offset the Cost to the County for Service</p>	Prior to issuance of building permit	Prior to issuance of building permit	Inyo County Planning Department	

**Table 1  
 INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR  
 MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
<p>Provision, shall be supplemented with the following:</p> <ul style="list-style-type: none"> <li>• Cooperative agreements between project applicants and the County shall be secured prior to issuance of a building permit or project-specific entitlement to ensure the following:</li> <li>• Unless property taxation of a renewable energy installation is deemed sufficient by the County, project applicants shall pay a fair-share public service impact fee. A potential method for estimating a fair-share contribution could be calculated by:</li> <li>• [annual service budget] X [estimated number of temporary workers temporarily in-migrating ÷ County population served].</li> <li>• The public service fee (and formula used for calculating fair-share) shall be adjusted based on the duration of project construction (e.g., a project only lasting 9 months would utilize 75 percent of the annual budget, one lasting 1.5 years would utilize 150 percent of the annual budget, etc.); and</li> <li>• Project applicants shall maximize the County's receipt of sales and use taxes paid in connection with construction of the project by methods such as including language in construction contracts identifying jobsites to be located within the County and requiring construction contractors to attribute sales and use taxes to the County in their Board of Equalization filings and permits.</li> </ul>				
<b>TRANSPORTATION AND CIRCULATION</b>				
<p><b>TRA-1: Prepare site-specific traffic control plans for individual projects.</b></p> <p>Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.</p>	Prior to / during construction	Prior to / during construction	Inyo County Planning Department and/or other applicable agencies.	
<p><b>TRA-2: Implement recommendations from traffic impact analysis on surrounding roadways and intersections.</b></p>	During construction	During construction	Inyo County Planning Department	



**Table 1**  
**INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR**  
**MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
<p>Site-specific construction traffic impact analyses shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to evaluate potential traffic impacts on surrounding roadways and intersections during the construction period. Applicable results and recommendations from the project-specific construction traffic impact analysis shall be implemented during the appropriate construction phase to address identified potential construction traffic impacts.</p>			<p>and/or other applicable agencies.</p>	
<b>UTILITIES AND SERVICE SYSTEMS</b>				
<p><b>UTIL-1: Projects within the western solar energy group will not exceed a combined maximum of 250 MW or 1,500 acres.</b></p> <p>Future projects within the Western Solar Energy Group shall be limited to a combined maximum of 250 MW or 1,500 acres of development area). The County shall implement a tracking program to ensure all future solar development projects within the Western Solar Energy Group do not exceed 250 MW. Once the 250 MW (or 1,500 acres of development area) is reached, the County shall not approve further projects within the Western Solar Energy Group unless project applicants can provide proof of adequate and existing transmission capabilities for the project.</p>	<p>Prior to issuance of building permit</p>	<p>At the beginning and completion of each project</p>	<p>Inyo County Planning Department</p>	
<p><b>UTIL-2: Projects within the Southern and Eastern Solar Energy Groups will be required have necessary and/or adequate transmission lines.</b></p> <p>Future development within the Southern and Eastern Solar Energy Groups shall be required to include the necessary transmission lines or provide proof of adequate transmission capabilities for the project.</p>	<p>Prior to issuance of building permit</p>	<p>Prior to issuance of building permit</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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August 25, 2023

FROM: John Mays

85517 12<sup>th</sup> St. (P.O. Box 583)

Trona, CA 93592

TO: Inyo County Planning Department via email [inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us)

Attn: Cynthia Draper [cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)

CC: Patrick Soluri [patrick@semlawyers.com](mailto:patrick@semlawyers.com), Tom Kidder [tkidder85@gmail.com](mailto:tkidder85@gmail.com), Amanda Mcnamara-Ball [akmcmamara80@gmail.com](mailto:akmcmamara80@gmail.com), Brian McNamara [b.mcnamara1951@gmail.com](mailto:b.mcnamara1951@gmail.com)

RE: Comments on Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Study (Initial Study) dated July 19, 2023, for REP 2022-01 and REP 2022-02

1.) The new documents fail to sufficiently address any comments previously submitted on REP 2022-01 and REP 2022-02 by myself, the others included on this email, or by my legal representation. All of these comments are resubmitted here by reference including those by Tom Kidder, Amanda, McNamara-Ball, and Brian McNamara. The additional comments herein are also being submitted on their behalf. Also, we wish to incorporate all our complaints sent to Inyo County regarding these projects since 2021 by reference.

2.) The Initial Study shows Inyo County Planning Departments repeated reluctance to perform the necessary CEQA analysis as guided by the Renewable Energy General Plan Amendment Final Programmatic Environmental Impact Report dated March 2015 (PEIR). Inyo County has failed to comply with CEQA requirements and effectively bypassed CEQA requirements by not performing the necessary environmental analyses that are enumerated by the PEIR. Compounded by the lack of enforcement and the repeated disregard for permitting procedures, destruction of environmental resources and endangerment of human health has occurred. The Inyo County Planning Department should not be allowed to conduct any such approval for solar permits until it can demonstrate proper compliance with CEQA requirements and its own regulations.

3.) The new biological evaluation as provided with the new Initial Study is a grossly insufficient analysis designed only to advance the project. It represents a token glance done in only 58 minutes at the project site. The necessary biological evaluation that is needed to accurately assess biological impacts is described in detail by the PEIR and has been mentioned at length in previous comments. A representative evaluation would require multiple visits over the full year to account for seasonal variations of wildlife and plant species and multiple observations to substantiate the presence of or lack of any species. The authors' own comments confirm that the study is insufficient, stating it is "limited by the scope of work performed" and "limited by conditions present at the time of the study." The US FWS

letter appears to be a form letter automatically generated on the same day of the study and represents no actual consultation with US FWS. All of this is typical of the methods of cursory review repeatedly applied by the Inyo County Planning Department. This has nothing to do with accurately assessing impacts but purely designed to avoid substantial review by understating the impacts on the ecology of the project.

4.) The biological evaluation does, however, strongly document the destruction of wildlife habitat and plant life caused by the illegal and repeated pre-permit construction efforts. Despite numerous reports and documentation provided, Inyo County has continued to allow this site destruction repeatedly throughout the permit process. This directly subverts the environmental laws of the State of California and requirements of CEQA. Clearly, the lack of concern for wildlife being present at the project and minimal impacts on wildlife and plants within the biological evaluation resides primarily on the fact that the project “has been disked and exhibits little vegetation regrowth” and is thus devoid of habitat. In fact, the site has been graded with vegetation removed so extensively that it represents an intentional farming practice that completely turns the soil. Such disking destroys any animal burrows which would be evidence of food sources or homes for species. It also destroys the vegetation on which such Endangered or Special Status Species live upon or within.

5.) The eye-blink biological evaluation is essentially certain to have overlooked species which may have been just simply missed, transient, or seasonal to the site including Mojave Ground Squirrel, Burrowing Owl, Desert Tortoise, and other Endangered and Special Status Species as listed by US FWS as potentially occurring in the area. These are all typical in the region, have been reported by the observations of residents, and not addressed by the Initial study or mitigation provided.

6.) The new biological evaluation states that more detailed additional studies be done before construction. However, realistic, comprehensive biological studies need to be done before permit approval to ensure proper mitigation has been put in place before the permit can be issued.

As proposed by the approach in the biological evaluation, a vast number of species with potential to be present but that were not observed in this single 58-minute survey would not be protected. The biological evaluation recommends only surveying and mitigation for the desert kit fox and migratory birds but does not detail surveys or mitigation for numerous other wildlife and vegetation species which US FWS say could be present. This grossly avoids substantial mitigations required to protect wildlife and vegetation and thus increases the potential for a take. For this reason, complete biological studies must be completed in advance of a permit approval so that proper mitigation is in place.

7.) A report with analysis on dust generated provided by the new Initial Study is insufficient. It does not account for:

- dust generated from bare grounds during high winds
- actual conditions where dust control is not implemented
- a realistic construction period which is much greater than the assumed overall period of 2 months and 2 weeks of “minor” grading. This is especially overly optimistic as no grading or drainage plan has been envisioned. There is no provision for removal of large boulders which are prevalent through the subsurface and cause major difficulties in drilling the panel supports.

- dust generated from accumulated sand dune deposits at project fencing as evidenced in examples of California City solar plants as provided with previous comments. Does not account for fence construction and maintenance for windblown sand accumulations.

- does not account for heavy truck traffic on local roads to deliver project construction materials and operating supplies. Does not provide location of roads to be traveled as no access or road plan is provided. If using local dirt roads, this could be within a few feet of residences.

- does not assess the long-term and short-term effects on several nearby receptors which are residences within less than 500 ft, especially during wind events

- incorrectly steps the facility footprint substantial back from parcel boundaries although this is not the design, and no permit conditions require this. (fig.1). This improper mechanism to avoid dust and pollutants traveling across the project boundary.

- does not include the existing operating facility in its assessment of long-term and short-term impacts, REP 2021-01

The current solar facility, REP 2021-01, which is less than half the size of these proposed permits, has taken at least a couple of years to be constructed. Even now apparently, construction is still not finished. The project currently has stockpiled earthen materials and construction equipment on site. There has been grading of the site and placement of gravel during recent months.

As documented to Inyo County Planning Department, as reported January 13, 2022, all the surface of REP 2022-01 and REP 2022-02 was graded without dust control methods being applied and has been left that way since that date. Additional construction work with no dust control has been documented and reported in the last few months. Video was provided to Inyo County officials documenting extreme dust generation during high wind events.

An evaluation of impacts from dust generation and resulting health and equity impacts have not been sufficiently addressed by the new Initial Study and are grossly understated by the new analysis.

7.) The Initial Study does not address the fact that Inyo County is unable and unwilling to enforce dust control at the current operating solar facility and the proposed sites. It has been demonstrated by numerous reports that dust control procedures are not being followed and other unlawful construction practices are being allowed by the Inyo County without recourse. This negates any mitigation provided in the Initial Study proclaiming that dust control measures will be implemented and negates the determinations made by Inyo County in the Initial Study on impacts from dust.

8.) Attached is evidence of other complaints on Facebook regarding another solar site in Inyokern. This site is owned and being developed by the same owner/developer as REP 2022-01 and REP 2022-02 on July 22, 2023. This was during the same time when complaints were made regarding the Trona facility. The developer's repeated lack of compliance must be enforced otherwise there is no substance to mitigation that the Initial study is based upon. Inyo County cannot proceed with these permits until it can demonstrate proper management of its solar facilities, it has set a precedent to the contrary. Otherwise, substantial impacts to public health can occur.



WTF IS HAPPENING IN RIDGECREST · ...

Follow

Russ Lester · Jun 22 at 17:45 · 🌐

To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that...

See more 🗨️

To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that everyone has to drive thru. Just sayin

👍👎🗨️ 41

25 comments

👍 Like

🗨️ Comment

➡️ Send

👍👎🗨️ 23

15 comments

👍 Like

🗨️ Comment

👍 23 >

Top comments


**Kady Buckholz**  
I was just talking about this.  
1h Like Reply


**Jamie Weston**  
😂😂😂 I saw that the other day when I was doing a delivery.  
1h Like Reply

**Maria Jordan**  
Lamooo that's dumb lol like we can control when the wind blows  
49m Like Reply

**Donald Hitt**  
Solar field going in  
39m Like Reply

**Sharon Boyer**  
Drove through it!!  
1h Like Reply


**Mindy Spivey**  
  
1h Like Reply

**Ginger Brown**  
  
40m Like Reply

**Amanda McNamara**  
Call Kern County Planning Commission and complain. It's an air permit violation. They are supposed to keep a water truck on it all the time.  
2m Like Reply

**Tina Flanigan**  
Solar power.  
1h Like Reply

**Tamy Rice**  
Agreed  
1h Like Reply

**Ginger Brown**  
Call the county...valley fever because of clearing land like this ...o the county forgot to tell us ... U have to request the test if u have symptoms....and they need to water truck this to keep the dust down...they also must have a permit....people need to call...here is your info...  
  
40m Like Reply

**Anthony Levesque**  
No  
10m Like Reply

**Robbie Harper**  
Or at least plow the north 40 at less than 60!  
1h Like Reply

Write a comment...

9:02 [status icons]

Login

LLC (202130910556)		
M&S INYOKERN CORP. (4661667)	> 11/05/2020	Active
RB INYOKERN SOLAR LLC (201615410405)	> 05/25/2016	Suspended - FTB
RB INYOKERN SOLAR WDAT 1203 LLC (202206311083)	> 03/02/2022	Active
RB INYOKERN SOLAR WDAT 1281 LLC (202206311152)	> 03/02/2022	Active
RIDGECREST INYOKERN RD, LLC (201623510120)	> 08/15/2016	Active
SIERRA PACIFIC INDUSTRIES, INYOKERN DIVISION (375961)	> 05/25/1959	Suspended - FTB
TA - INYOKERN, LLC (200932310149)	> 11/13/2009	Terminated

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9.) A full EIR is prescribed by CEQA for these projects and is required for these projects to advance. This was required by Kern County Planning for the owner/developer's solar facility in Inyokern. That study may be found here and serves as an example of the more extensive impact evaluation and coordination on biological evaluation necessary. This permitting action required incidental take permits for the Desert

Tortoise and Mojave ground squirrel. Since Inyo County allowed pre-permit construction this take may have already occurred.

<https://kernplanning.com/environmental-doc/rb-inyokern-solar-project/>





**California Program Office**

P.O. Box 401, Folsom, California 95763 | 916-313-5800

[www.defenders.org](http://www.defenders.org)

August 25, 2023

Cynthia M. Draper, Assistant Planner  
Inyo County Planning Department  
168 N. Edwards Street  
Independence, CA 93526  
Delivered via email to: [cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)

RE: Renewable Energy Permit – Barker-Trona 4 (SCH 2022110323) and  
Renewable Energy Permit – Barker-Trona 7 (SCH 2022110344)

Dear Ms. Draper:

Thank you for the opportunity to provide comments in response to the Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Studies (DMND) for the proposed Barker-Trona 4 Solar and Barker-Trona 7 Solar Farms (collectively, the “Projects”). Defenders of Wildlife (Defenders) is dedicated to protecting all wild animals and plants in their natural communities and has nearly 2.1 million members and supporters in the United States, with more than 316,000 residing in California. We strongly support renewable energy development that will help meet California’s emission reduction goals and avoids destruction of important wildlife habitat and the loss of at-risk species. Achieving a low-carbon energy future is critical for protecting California’s internationally treasured wildlife, landscapes and diverse habitats.

The proposed Projects are solar photovoltaic PV electricity generating facilities and associated infrastructure: Barker-Trona 4 would generate 3.0 MW of renewable energy on a 15-acre parcel and Barker-Trona 7 would generate 1.2 MW on an adjacent 5-acre parcel, located in Inyo County west of Trona Wildrose Road, between the Trona Airport and the border of San Bernardino County. The Projects were submitted under separate applications due to their separate interconnections to the existing Southern California Edison 33kV transmission line that passes through the area. The Project site is zoned as rural residential, and the area of both Projects is described as graded and “highly disturbed,” with “no natural vegetation, habitat, water features, or structures.” Portions of the Barker-Trona 4 site were previously used as “a private dirt track and a junk yard.” Additionally, the Projects are located within a designated Inyo County Solar Energy Development Area,<sup>1</sup> and are not located within Natural Landscape Blocks,<sup>2</sup>

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<sup>1</sup> See <https://databasin.org/maps/new/#datasets=d035971f69f84ba9b3fdb2ed551a442>

<sup>2</sup> See <https://databasin.org/maps/new/#datasets=e1bb8c9a9631413f97b28cc72a5efe93>

Essential Connectivity Areas,<sup>3</sup> mapped critical habitat,<sup>4</sup> or state or global Important Bird Areas.<sup>5</sup> While the site lies partially in areas designated as modeled predicted occupied habitat for the desert tortoise,<sup>6</sup> Defenders concurs with the Projects' Biological Resource Evaluation, which concluded that neither tortoises nor suitable habitat are present on the site.

As we transition toward a clean energy future, it is imperative that we consider the near-term impact of solar development on our biodiversity, fish and wildlife habitat, and natural landscapes while addressing the long-term impacts of climate change. Therefore, renewable energy projects must be planned, sited, developed and operated to avoid, minimize and mitigate adverse impacts on wildlife and lands with known high-resource values. Defenders finds the Projects are fully consistent with these criteria through being sited on previously distributed lands and applying appropriate mitigation measures to reduce the impact on special-status species in the region, including desert kit fox and birds protected by the Migratory Bird Treaty Act, as outlined on page 6-18 of the Biological Resource Evaluation. These measures include conducting pre-activity surveys and equipment inspections, avoidance buffers, worker training, speed limits, covering of holes and trenches, and proper waste management processes. We encourage the County to continue siting renewable energy projects in low-conflict areas in order to avoid or minimize impacts on sensitive species.

Thank you once again for the opportunity to provide comments on the DMND for the Barker-Trona 4 and 7 projects and for considering our comments. We look forward to reviewing the Final Environmental Documents for the Projects and request to be notified when they are available. Please feel free to contact us with any questions.

Respectfully submitted,



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<sup>3</sup> See <https://databasin.org/maps/new/#datasets=c57212b3aa1243d28216a1b7db18a1ca>

<sup>4</sup> Per Figure 4-1, Trona 4 and 7 Solar Project Biological Resource Evaluation, at <https://ceqanet.opr.ca.gov/2022110323/2>

<sup>5</sup> See <https://databasin.org/maps/new/#datasets=1180b50bafce4871a019245da1c8b6b2>

<sup>6</sup> See <https://databasin.org/maps/new/#datasets=a1f5e25b9b944f9fa6aa3be8f54f8a2e>

October 10, 2023

**Via Electronic Mail**

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Inyoplanning@inyocounty.us

***Re: Response to Comments on Renewal Energy Permit Nos. 2022-01/2022-02***

Dear Ms. Draper,

This law firm represents Robbie Barker and Valley Wide Engineering & Construction, Inc. (collectively, the “applicant”) regarding applications for two renewable energy permits, Nos. 2022-01 and 2022-02, (the “Projects”) set to be heard by the Inyo County Planning Commission on October 25, 2023. This letter responds to an August 24, 2023 comment letter submitted by the Soluri Meserve law firm on behalf of its client, John Mays.

By way of overview, the comment letter fails to demonstrate any procedural or substantive defect in the County’s decision to prepare Mitigated Negative Declarations (MNDs). These are small solar energy facilities, to be installed on a total of 20 acres in a sparsely populated area located north of the Trona community, within a Solar Energy Development Area (“SEDA”) designated by the Board of Supervisors in 2015. The single-axis tracker panels will be placed on flat land without special scenic or habitat value, using accepted best management practices for dust control. No significant adverse environmental impacts whatsoever are expected.

Of particular note, the Projects have a combined generating output of only 4.2 megawatts (“MW”). This makes these Projects far smaller than the “utility-scale” solar projects (i.e., more than 20 MW) that were the main focus of the Renewable Energy General Plan Amendment (“REGPA”) adopted by the Board of Supervisors in 2015. We raise this because the Board also certified a Programmatic EIR (“PEIR”) for the REGPA, and the PEIR contained several mitigation measures which the comment letter demands to be applied to these Projects. As we explain below, however, most of the PEIR’s mitigation measures apply to utility-scale projects, not to small projects like this. Thus, the County did not err by deciding that many of those mitigations were inappropriate for these Projects.

Below, we have set forth each of the August 24, 2023 comments in italics, then provided the applicant’s response. As our responses show, the County’s treatment of the Projects, and the County’s decision to adopt MNDs, is correct and well supported by the record.

## RESPONSES TO COMMENTS

### **A. Failure to Include Mitigation Monitoring and Reporting Plan**

*Although clearly identifying each document as an “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeatedly checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County fails to prepare Mitigation Monitoring and Reporting Program(s) (“MMRP”(s)). This violates CEQA (CEQA Guidelines, § 15097) and also the Inyo County Code. (County Code, Ch. 15.44.) To wit:*

*15.44.005 General.*

*The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)*

*15.44.010 Application.*

*A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)*

*15.44.020 Timing.*

***Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment. The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)***

*15.44.030 Contents.*

*The monitoring plan shall contain, at a minimum, the following:*

- A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;*
- B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);*

*C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;*

*D. Identification of the person or entity responsible for monitoring and verification;*

*E. The method of reporting monitoring results to the county.  
(Ord. 957 § 1 (part), 1995.)*

#### *15.44.040 Enforcement.*

*Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)*

*Setting aside the RMND's practice of not identifying mitigation measures required to reduce Project impacts, the RMND's expressly identify mitigation measures in Sections IV(a), XIII(a) and XXI(a). Thus, the RMND's require a draft MMRP that is circulated for public comment. The RMND's are therefore procedurally invalid. A new RMND or EIR must be recirculated for public review along with the required MMRP.*

### **Response:**

The commenter contends that it was error for the County not to circulate a Mitigation, Monitoring and Reporting Plan (MMRP) along with the MND. The commenter appears, however, to have misread the applicable requirements. The County's ordinances permit a MMRP to be adopted by the County at the time of project approval and adoption of a MND, which has not yet occurred. Section 15.44.020 requires that a draft MMRP "be subject to public review and comment," but does not require that it be circulated (or recirculated) with a MND. Similarly, nothing in the CEQA Guidelines requires that a MMRP be circulated with an MND. (See CEQA Guidelines, §§ 15073 [public review of MNDs], 15073.5 [recirculation of MNDs], 15097 [rules for MMRPs].) To the contrary, section 15097 indicates that a MMRP is formulated after the public review process, not before. Here, therefore, the County may comply with its ordinances and CEQA by ensuring that the MMRP is made available for public review before it adopts a MND.

### **B. Project Piecemealing**

*CEQA's conception of the term "project" is broad to maximize protection of the environment. (Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist. (2007) 147 Cal.App.4th 643, 653; San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27*

*Cal.App.4th 713, 730. “This big picture approach to the definition of a project (i.e., including “the whole of an action”) prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project into smaller components which, when considered separately, may not have a significant environmental effect.” (Nelson v. County of Kern (2010) 190 Cal.App.4th 252, 270-271.)*

*The County is dividing a project into smaller components. The Project consists of two REPs for photovoltaic solar power generation on adjacent parcels owned by the same person, Robbie Barker. The RMNDs explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)*

*Notwithstanding this, the County has prepared two separate RMNDs for the Project. These RMNDs include:*

- *“RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-01/Barker- Trona 7” (See Exhibit 1.)*
- *“RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-02/Barker- Trona 4” (See Exhibit 2.)*

*Dividing a single project into two CEQA documents violates CEQA. The relevant test is whether the activities have “substantial independent utility.” (Del Mar Terrace Conservancy, Inc. v. City Council (1992) 10 Cal.App.4th 712, 736.) It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by preparing two separate RMNDs for what it concedes is a single project under CEQA. A reviewing court would exercise its independent judgment on this issue with no deference to the agency. (Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)*

*We previously commented on this issue, and the RMNDs provided make the case for piecemealed review even stronger. Both RMND’s technical reports analyze the two REPs as a single project. The air quality report explains, “Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site*

*(collectively referred to herein as the ‘Project’).” Similarly, the biological resources report states, “Biological Resource Evaluation – Trona 4 and 7 Solar Project.” The RMNDs themselves explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)*

*It appears that the County now recognizes the two REPs constitute a single CEQA project. If so, the County must prepare a single CEQA document for that single project. The County’s continued reliance on two separate CEQA documents for a single CEQA project violates CEQA.*

### **Response:**

The commenter asserts that the County analyzed the Projects in a “piecemeal” manner that is generally prohibited by CEQA. Precisely the opposite took place.

Piecemealing occurs if a lead agency “split[s] one large project into smaller ones, resulting in piecemeal environmental review that obscures the project’s full environmental consequences.” (*Make UC a Good Neighbor v. Regents of Univ. of California* (2023) 88 Cal.App.5th 656, 683, citing *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1222; see also CEQA Guidelines § 15378 [“project” means “the whole of the action...”].)

No piecemealing occurred here. Mr. Barker filed two separate solar applications with the County, one for each of the connections that Mr. Barker needs to make to the utility grid. Rather than analyze the applications separately, the County analyzed both as a single project in the Initial Study and throughout all of the supporting documents (photographs, biological evaluation, air emissions analysis). Thus, there was no piecemealing at all, because the County analyzed both applications together as a single project.

The commenter’s confusion appears to stem from the fact that the County has prepared two separate MNDs. The commenter has not shown that this was error. The County organized its MNDs in this way for the obvious reason that the applicant submitted two separate applications for approval. The County thus prepared two separate approvals to fulfill the County’s procedural need to render a decision on each application. The commenter offers no legal authority prohibiting a lead agency from preparing multiple approvals, each supported by a separate MND, for multiple applications supported by a single, combined environmental review.

Finally, the commenter appears to believe that the County’s treatment of the applications requires consideration of the issue of “independent utility.” (See *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 108; *Planning & Conserv. League v. Castaic Lake Wat. Agency* (2009) 180 Cal.App.4th 210, 235.) The question of “independent utility” arises if a lead agency performs separate environmental reviews for related projects. Here, in contrast, the County analyzed the applications together, as a single project, in a single environmental review. Thus, the independent utility doctrine has no application here.

### C. Failure to Adequately Analyze Cumulative Impacts

*A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an environmental impact report (“EIR”). (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4<sup>th</sup> 1184, 1214.)*

*Despite this mandate, the two RMNDs’ cumulative impacts analyses continue to be impermissibly cursory. Each RMND’s cumulative impact analysis provide in full:*

*No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note **in the vicinity are PV solar projects within the Trona SEDA**, but the overall number and size of these projects are **likely to be less than analyzed in the PEIR**. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.*

*(RMND, § XXI(b), emphasis added.)*

*This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) Here, the RMNDs appear to limit the scope of cumulative projects to those “within the Trona SEDA.” The RMNDs fail to explain this limitation, which violates CEQA. (CEQA Guidelines, § 15130, subd. (b)(3) [“Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used”].) The EIR for the Inyo County Renewable General Plan Amendment (“REGPA”) provided a reasonably expansive list of cumulative projects. (REGPA EIR, Table 5-1.) The County could have relied on that list of projects so long as*



*it complied with CEQA's requirements for tiering/incorporation by reference as well as updating a cumulative project list, but the County did not follow that procedure. (CEQA Guidelines, § 15130, subd. (b)(1); § 15150, subd. (c); § 15152.)*

*Similarly, the RMNDs appear to limit the scope of cumulative projects by stating that PV solar projects are the only projects "of note." The RMNDs fails to explain what is meant by limiting cumulative projects to only those "of note." CEQA includes no such limitation, and instead requires a CEQA document to set forth "[a] list of past, present, and probably future projects producing related or cumulative impacts." (CEQA Guidelines, § 15130, subd. (b)(1)(A).) For example, the Project will unquestionably result in dust generation. Projects other than PV solar projects may also generate dust and therefore must be identified as cumulative projects.*

### **Response:**

The comment letter fails to recognize the difference between the "cumulative" analysis that CEQA requires for an EIR versus that required for an initial study supporting a negative declaration. As one court observed:

Substantial confusion exists about the scope of analysis of cumulative impacts required in an initial study. Many practitioners treat the question of whether impacts are "cumulatively considerable" under 14 Cal Code Regs § 15065(c) as equivalent to "significant cumulative effects" under 14 Cal Code Regs § 15130 and 15355, which govern the cumulative impacts analysis in an EIR... There appears to be a difference between the "cumulative impacts" analysis required in an EIR and the question of whether a project's impacts are "cumulatively considerable" for purposes of determining whether an EIR must be prepared at all.

*(San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1996) 42 Cal.App.4th 608, 623 [citations and some internal quotations omitted].)*

The comment letter exhibits this confusion. The letter relies on CEQA Guidelines sections 15130 and 15355, which govern the cumulative impacts analysis in an EIR. Similarly, its reliance upon *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184 is misplaced because the case involved an EIR, not an initial study. For the same reason, the commenter mistakenly relies on the discussion of cumulative impacts in the PEIR as a template for the Initial Study.

The correct method for assessing – in an initial study – whether impacts are cumulatively considerable is described in Section 15065(a)(3) of the CEQA Guidelines, as interpreted and applied by *San Joaquin Raptor/Wildlife Rescue Center* and related cases. The question is whether the "incremental effects" of a project are "considerable" when evaluated against the backdrop of environmental effects of other projects. (*San Joaquin Raptor*, 42 Cal.App.4th at pp. 623-624.) Where the initial study concludes

that these effects are absent, a challenger must point to some substantial evidence that a cumulatively considerable incremental effect exists.

Here, the comment letter attacks the Initial Study’s conclusions with respect to potential dust generation. The letter does not, however, provide evidence of any existing cumulative impact involving dust, or that an incremental effect of the Projects on that impact is considerable. Without such evidence, the challenge fails. (See *San Joaquin Raptor*, 42 Cal.App.4th at pp. 624-625 [rejecting unsubstantiated claim of cumulatively considerable effects]; *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1358 [no evidence that projects would have cumulative effects or that any such effects would be considerable]; see also Kostka & Zischke, *Practice Under The California Environmental Quality Act* (C.E.B. 2023) § 6.34, p. 6-33.)

The comment letter also fails to acknowledge that the Initial Study and its attachments affirmatively provide evidence that no cumulatively considerable dust effect will occur. As explained in the Initial Study, the Trona area is in “attainment” for PM-10 and only one other small project is planned for the area. The Appendix C air quality memorandum stated that particular matter (PM-10 and PM-2.5) will be orders of magnitude below significance thresholds, and in addition, the projects would be subject to dust control mitigation measures. (See IS, pp. 2-3, Sec. III, Exhibit C, p. 9.) In sum, the Initial Study is supported by substantial evidence showing that the Projects will have no considerable incremental dust effects requiring study in an EIR.

#### **D. RMNDs Failed to Adequately Analyze And Mitigate Project Impacts**

*The RMNDs failed to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 74 (No Oil I).) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (Citizens Action to Serve All Students v. Thornley (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (No Oil I, supra, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (Id. At p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.*

*In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This*

*is assured by incorporation into an MMRP. (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (Federation of Hillside & Canyon v. City of Los Angeles (2000) 83 Cal.App.4th 1252, 1261 (Federation).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See San Bernardino Valley Audubon Society v. Metropolitan Water District (1999) 71 Cal.App.4th 382, 392.)*

*Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, 311 (Sundstrom).) For example, in Sundstrom the court held that the absence of information explaining why no alternative sludge disposal site is available “permits the reasonable inference that sludge disposal presents a material environmental impact.” (Ibid.) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.*

## **Response:**

This commenter recites various legal principles to conclude that an EIR is necessary, but does not offer facts to explain why. In this regard, “substantial evidence” is “facts, reasonable assumptions predicated upon facts, expert opinion supported by facts...” (CEQA Guidelines, § 15384.) It does not include “argument, speculation, [or] unsubstantiated opinion or narrative...” (Id.) As the comment is nothing more than argument and unsubstantiated opinion, it fails to show any error in the County’s treatment of the Projects.

### **D.1. RMNDs Impermissibly Conflate Analysis of Impacts and Mitigation**

*For every resource area, the RMNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (Lotus v. Department of Transportation (2014) 223*

*Cal.App.4th 645, 658 (Lotus) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.*

*For example, with respect to whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the RMNDs assert, “No . . . The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) CEQA requires the RMNDs to disclose the significance of the impact without regard for mitigation, separately identify all feasible mitigation measures and assess their effectiveness at reducing the impact. (Lotus, supra, 223 Cal.App.4th at 655-656 [“Caltrans compounds this omission by incorporating the proposed mitigation measures into its description of the project and then concluding that any potential impacts from the project will be less than significant. . . . By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA”].) The RMNDs follow this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.*

## **Response:**

The commenter errs in two basic ways.

First, the commenter attempts to apply EIR-level standards to an initial study. The commenter cites *Lotus v. Department of Transp.* (2014) 223 Cal.App.4th 645, where an EIR failed to consider the impact of placing a roadway in proximity to the roots of old growth trees. The commenter also cites *San Joaquin Raptor Rescue Center v. Cnty. of Merced* (2007) 149 Cal.App.4th 645, 663-664, where the EIR failed to adequately disclose certain groundwater impacts. Both courts applied the CEQA requirement that EIRs have a “detailed statement” of a project’s significant effects. (CEQA, § 21100, subd. (b); CEQA Guidelines, § 15126(a).)

An initial study, in contrast, is subject to different standards. “[A]n initial study is neither intended nor required to include the level of detail included in an EIR.” (CEQA Guidelines, § 15063(a)(3); *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1192-

1194 [an initial study should be “brief” and is not subject to EIR standards]; see also Kostka & Zischke, supra, § 6.18, p. 6-19 (“[a]n initial study need not be a mini EIR...”). The commenter applies the wrong standards.

Second, and more importantly, the commenter fails to show that the Initial Study neglected to analyze any significant adverse effect. The only specific complaint raised by the letter is that the Initial Study did not analyze if the Projects would “[c]onflict with or obstruct implementation of the applicable air quality plan... (IS, § III.a.) The commenter’s analysis, however, omitted critical language when it quoted the Initial Study. This language omitted by is in bold below:

**No. There is no applicable air quality plan for the area in which the project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards.** The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. **(See Appendix C, Air Quality and Greenhouse Gas Memorandum.) The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.**

(IS, III.a.)

In short, the commenter omitted that part of the passage which explained that the Projects will not obstruct the implementation of any applicable air quality plan because there is no applicable plan for the area. By only partially quoting the Initial Study, the comment obscured the impact analysis set forth within the Initial Study. In any event, the commenter does not challenge the conclusion that the Projects will not conflict with any applicable air quality plan. In sum, the comment does not demonstrate any error by the County.

#### **D.2.a. Mitigation Measures are not Adequately Defined**

*CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See Sierra Club v. County of San Diego (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; Gray v. County of Madera (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (Federation, supra, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (Preserve Wild Santee v. City of Santee (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the*

*formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. Sacramento Old City Association v. City Council of Sacramento (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound in the RMNDs. Just a few representative examples are provided.*

**Response:**

This comment cites various legal authorities, without offering any facts or analysis, to support the conclusory statement that the MNDs are defective. As such, the commenter does not provide any substantial evidence showing error. (CEQA Guidelines, § 15384.) Also, every case and regulation cited in this comment involves mitigation requirements for an EIR, not an initial study or mitigated negative declaration. As such, the comment is of questionable value.

**D.2.b. Mitigation Measures are not Adequately Defined**

*The RMNDs claim that construction air quality will be less than significant because “[t]he applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) The RMNDs fail to adequately define these “standard techniques.” Are the “standard techniques” limited to the three identified techniques? If so, why are the RMNDs excluding other techniques disclosed in mitigation measure AQ-2 of the REGPA EIR? Further, the RMNDs fail to adequately describe the mere three techniques mentioned that would allow an assessment of their effectiveness. For example, how frequently will water trucks be used? Is there a standard for when water trucks will be required during construction? How is limestone used effectively to reduce dust? How are dust suppressants used? Are there other possible dust suppressants other than EarthGlue? If so, are any of these other dust suppressants more effective than EarthGlue? What are the tests or triggers for application of limestone or dust suppressants?*

**Response:**

The comment is correct that the “standard techniques” that would be used for dust control include: (1) wetting down areas, (2) applying limestone to stabilize the ground surface and (3) applying dust suppressants such as EarthGlue. These three control measures are identified in the Initial Study in section III.a, and in the air quality memorandum in Appendix C, at pages 7-8.

The comment also questions why the MNDs have not incorporated all of the dust control techniques listed in Mitigation Measure AQ-2 of the PEIR. The answer is in the PEIR itself. The PEIR

states that AQ-2 was developed for “utility scale” solar projects (i.e., over 20 MW generating capacity). (PEIR, p. 4.3-17.) For smaller-scale projects like these, which total 4.2 MW of generating capacity, “the need for implementation of [MM AQ-2] shall be determined based on the professional judgment of a qualified County planner...” (PEIR, p. 4.3-17.) Thus, the County had the discretion to determine that “utility-scale” mitigation is unnecessary here due to the small scale of the Projects.

The commenter also questions whether the dust controls are sufficiently detailed and seeks additional data regarding their efficacy and alternatives. This depth of analysis is not necessary due to the scale of the impact. According to Appendix C, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the thresholds of significance for PM-10 and PM-2.5 emissions. This is orders of magnitude below the threshold. Considering the miniscule impact, it is unnecessary to conduct a comparative analysis of dust control techniques to determine that MNDs are proper.

Finally, it should be noted that dust control measures are not, in practice, as specific as the commenter appears to desire. For example, MM AQ-2 from the PEIR is “[w]ater and/or coarse rock all active construction areas as necessary and as indicated by soil and air conditions.” (PEIR, p. 4.3-18.) In addition, the PEIR refers to REAT Best Management Practices (2010), which includes the following provision for dust control:

Use dust suppressant applications or other suppressant techniques to control dust emissions from onsite unpaved roads and unpaved parking areas, as well as to mitigate fugitive dust emissions from wind erosion on areas disturbed by construction activities. When considering the use of water or chemical dust suppressants take into account water supply and chemical dust suppressant issues.

(REAT, p. 29.) Such measures leave the details of implementation to the discretion of the approving agency. The dust control measures followed by the applicant here allow the same flexibility.

#### **D.2.c. Mitigation Measures are not Adequately Defined**

*Addressing some or all of these questions is necessary for the RMNDs to adequately inform the public and decision-makers that mitigation is effective to reduce the impact to less than significant on sensitive receptors such as the adjacent residential properties. An MND cannot rely on a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (King & Gardiner Farms, supra, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 511.) The RMNDs have failed to provide evidence that its vague mitigation will be effective.*

**Response:**

As an initial matter, the cases cited in the comment (*King & Gardiner Farms* and *Sierra Club*) analyzed EIRs rather than initial studies or negative declarations, and therefore are of questionable value here.

In any event, the comment incorrectly assumes that the dust controls listed in the Initial Study are required to reduce dust impacts to a less-than-significant level. The record does not support such an assumption. As documented in the Appendix C memo, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the typical thresholds of significance for PM-10 and PM-2.5 particulate emissions. This is before the application of dust controls. As such, the Initial Study did not need to rely upon these controls to find that fugitive dust impacts are less-than-significant. Such dust controls would only further reduce an already small and insignificant effect.

**D.2.d. Mitigation Measures are not Adequately Defined**

*Further, the RMNDs also failed to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant's REP 2018-01 that was issued in 2018.*

**Response:**

Statements by non-expert members of the public may, in limited circumstances, constitute substantial evidence that merits consideration by a CEQA lead agency. Generally, these are limited to personal observations on non-technical subjects. (See *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.) Neighbors' observations of noise and traffic conditions, in particular, are often accepted by courts as substantial evidence because no special expertise is needed to render those observations. (See, e.g., *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 730 [noise]; *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1152 [traffic congestion].)

In contrast, when the subject matter requires technical expertise, neighbors' opinions or observations do not qualify as substantial evidence. For example, in *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, non-expert residents performed their own noise calculations and tried to submit them as substantial evidence of a noise impact. The court held: "[a]lthough they present their numbers as scientific fact, we find appellants' calculations are essentially opinions rendered by nonexperts, which do not amount to substantial evidence." (*Id.*, at p. 894.) Similarly, in *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, neighbors challenged the decision to adopt a mitigated negative declaration, arguing that data showing groundwater contamination raised a fair argument of a hazardous material impact that required study in an EIR. The court held:

Statements of area residents who are not environmental experts may qualify as substantial evidence if they are based on relevant personal observations or involve "nontechnical" issues... However, a complex scientific issue such as the migration of chemicals through land calls for



expert evaluation, and the Neighbors do not profess any expertise that would qualify them to opine on that subject... Accordingly, ACC's conclusion that there was a "low" potential for contamination from hazardous materials from the adjacent property stands unrefuted, and an EIR is not required to address the subject.

(Bowman, at p. 583.)

Here, the comment suffers from two problems. First, the question of air quality impacts is inherently technical in nature and the opinions of non-expert neighbors are not substantial evidence. The questions analyzed in the Initial Study – such as, would the project “violate any air quality standard,” or “expose sensitive receptors to substantial pollutant concentrations” – are technical in nature. The Appendix C air quality memorandum, for instance, answered these questions through computer modeling prepared by expert consultants. In this setting, opinions by non-expert members of the public are not substantial evidence.

Second, the neighbors' reported concerns<sup>1</sup> involve a different project. Generalized concerns stemming from neighbors' observations of different projects are not substantial evidence relative to the specific project at issue. In *Lucas Valley Homeowners Assn. v. County of Marin* (1991) 233 Cal.App.3d 130, neighbors attacked a negative declaration a use permit granted to an orthodox Jewish congregation that applied to turn a house into a synagogue. The neighbors offered testimony of “generalized concerns and fears about traffic and parking impacts, or relate anecdotes of parking problems generated by [the applicant] at a different site.” According to the court, such evidence “does not rise to the level of a fair argument” of a significant adverse impact. (*Id.*, at p. 163.) Similarly, the testimony of neighbors in this case regarding the applicant's purported actions in regard to a separate project are not substantial evidence here.

#### **D.2.e. Mitigation Measures are not Adequately Defined**

*The RMNDs also improperly assume, without adequate project-specific analysis, that regulatory compliance will mitigate impacts. Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the RMNDs assert, “No . . . The applicant will be conditioned to obtain any required permits, and follow best management practices required by the GBUAPCD.” (RMND, § III(a).) This is inadequate under CEQA because a determination that regulatory compliance is adequate must be based on project-specific analysis. (Californians for Alternatives to Toxics v. Dept. of Food and Agriculture (2005) 136 Cal.App.4th 1.) Here, the RMNDs do not even identify what is required by the Great Basin Unified Air Pollution Control District (“GBUAPCD”), much less provide a project-specific analysis of how those requirements would be effective here. While the County may be inclined to point to an Air Quality Memorandum as supplying that missing analysis, this effort fails for two reasons. First, the*

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<sup>1</sup> The commenter does not identify exactly what the neighbors' opinions are, or where those opinions are expressed.

*analysis does not provide the missing information, explaining only, “Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollution emissions, including those required under their new source review requirements.” (AQ Memorandum, p. 7.) Thus discussion fails to describe applicable requirements, much less how those requirements applied here would effectively mitigate impacts. Second, even if the Air Quality Memorandum did provide some additional information, CEQA caselaw explains that such information cannot be buried in an appendix. (Vineyard Area Citizens, supra, 40 Cal.4th at 442. [information “buried in an appendix is not a substitute for good faith reasoned analysis”].)*

### **Response:**

The commenter takes issue with the County’s proposed condition to require the applicant to obtain any required permits from the Great Basin Unified Air Pollution Control District (GBUAPDC) and to follow any of GBUAPDC’s best management practices. This condition is entirely appropriate and typical and does not reflect any error by the County.

“A condition requiring compliance with environmental regulations is a common and reasonable mitigation measure.” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308, citing *Perley v. Board of Supervisors* (1982) 137 Cal.App.3d 424, 430; see also *Gentry v. City of Murrieta* (1995) 36 Cal.App.3d 1359, 1396 [approval of habitat conservation plan]; *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236-237 [mitigation measure requiring applicant to secure wetlands permits from Army Corps and Cal. Department of Fish & Wildlife].)

The commenter correctly notes that problems can arise when a lead agency employs such a condition to defer the environmental review to another agency. (See *Sundstrom*, 202 Cal.App.3d at pp. 308-309 [rather than studying issue of sewage sludge disposal, county attempted to defer analysis to the water board permit process]; *Californians for Alternatives to Toxics v. Dept. of Food and Agric.* (2005) 136 Cal.App.4th 1 [Dept. Food & Agric. evaded duty to prepare a complete EIR for an pest-control proposal by deferring issue to a separate review by Dept. of Pesticide Regulation].)

It is apparent from the record that the County conducted (and did not defer) the air quality analysis. The Initial Study explained that these are small projects, involving low impact and short-term construction, in an “attainment” area with few residents and no nearby schools or hospitals. The Initial Study appended a technical analysis of the air emissions, which were all well below accepted thresholds of significance. (IS, Appendix C, p. 9.) In short, there is no evidence that the County deferred any part of its analysis to the GBUAPDC.

### **D.2.f. Mitigation Measures are not Adequately Defined**

*The RMNDs then attempts to cite to the REGPA programmatic EIR (“PEIR”) and its MMRP in an attempt to dismiss significance of these*

*impacts. (RMND, §III(a).) The plain language of the PEIR refutes this effort:*

*The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. However, since the air basin is within the Owens Valley PM10 Planning Area, **fugitive dust emissions from construction must be mitigated.***

*(PEIR, p. 4.3-10, emphasis added.) Here, however, there is no such mitigation. For example, the AQ-2 includes such measures as “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph.” The RMNDs conspicuously fail to mention these additional mitigation measures, much less identify them as such in an enforceable MMRP for the Project.*

### **Response:**

The commenter incorrectly states that the Projects are in the Owens Valley PM-10 Planning Area. As stated on page 3 of the Initial Study, and page 7 of the Appendix C memorandum, the Projects are in the Coso Junction PM-10 Planning Area which (unlike Owens Valley) is “in attainment” for PM-10. The comment also incorrectly assumes that, even if the Projects were located in the Owens Valley, dust controls in Mitigation Measure AQ-2 are mandatory. As noted above, the PEIR gave County staff discretion to determine whether the PEIR’s mitigation measures should be applied to projects smaller than utility scale. (PEIR, p. 4.3-17.)

### **D.2.g. Mitigation Measures are not Adequately Defined**

*Finally, the RMNDs claim that PEIR mitigation measures AQ-1 through -3 “applied to utility-scale projects of greater than 20 MW and did not apply to smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner.” This is inexcusably false. The plain language of AQ-1 through -3 as revised and approved does not include such limitations. (Exhibit 3, March 2015 MMRP.)*

*PEIR AQ-1 states, “AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report.” The RMNDs violate this mandate because the Air Quality report does not incorporate the specific requirements of AQ-2 and AQ-3. It merely states, “[T]he Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.” PEIR mitigation measures AQ-1, -2 and -3 are not “goals and policies” of the REGPA; they are mitigation measures under CEQA. The Air Quality report does not even identify these mitigation measures, much*

*less “incorporate” them into its “site-specific technical report.” At best, the Air Quality Memo states:*

*[F]ugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment trackout onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout the life of the Project, which will in turn ensure impacts remain less than significant.*

*(Air Quality Memo, p. 12.0.)*

*While this provides a general discussion of some mitigation measures that could be used to address dust emissions, this discussion fails to comply with CEQA. This discussion fails to correlate the identified measures to the requirements of the GBUAPCD or the PEIR. Are these measures the only ones that will be used to satisfy the requirements of the PEIR and GBUAPCD? If so, why does this discussion omit any reference to “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph” as set forth in AQ-2. Further, this discussion in the Air Quality Memo does not explain how this discussion is enforceable against the project. This is precisely the function of mitigation measures and an MMRP.*

## **Response:**

The commenter first asserts that the language of Mitigation Measures AQ-1 – AQ-3 does not provide County staff with the discretion to determine which, if any, of those mitigations are appropriate for projects smaller than utility scale. The comment overlooks language in the PEIR that does exactly that. Section 4.3.5 of the PEIR provides, in relevant part:

Air quality mitigation measures have been developed for solar energy development projects producing more than 20 MW of electricity for off-site use (utility scale) and would be implemented to mitigate adverse impacts to air quality. As previously mentioned, small scale solar energy projects are considered to result in no impacts under CEQA; however, all individual solar energy facility projects applications (including small scale, community scale, and ~~distributed generation~~ commercial scale) shall

be reviewed by the county **and the need for implementation of the following mitigation measures shall be determined based on the professional judgment of a qualified county planner...**

If a proposed ~~distribution-generation~~ commercial scale or community scale solar development project is determined by the county to have the potential to impact air quality, then the following mitigation measures shall be implemented **as determined necessary by the qualified county planner...**

(PEIR, p. 4.3-17 [underlines and strikethroughs in original; bold emphasis added].)

Plainly, the PEIR gave County staff the flexibility to determine whether the PEIR mitigation measures should be applied to solar projects generating less than 20 MW. Given that the output for the Projects is 4.2 MW, and the Projects will occupy far less land than a 20 MW solar array, the County is within its discretion to determine that some or all of the mitigation applicable to 20 MW+ projects are inappropriate here.

We suspect that the comment reflects some confusion between the relationship between a MMRP and an EIR. A MMRP is designed to: “ensure that the mitigation measures and project revisions identified in the negative declaration of are implemented.” (CEQA Guidelines, § 15097; see also CEQA, § 21081.6(a)(1).) Said differently, a MMRP only implements measures contained in an EIR or negative declaration. If an MMRP does not do so faithfully, the EIR or negative declaration control. Here, to the extent that the 2015 MMRP did not fully capture the PEIR’s mitigation, the language in the PEIR itself still controls.

#### **D.2.h. Mitigation Measures are not Adequately Defined**

*Finally, regulatory compliance is only permissible when it is reasonable to assume that they will actually be complied with. “[C]ompliance with regulations is a common and reasonable mitigation measure, and may be proper where it is reasonable to expect compliance.” (Oakland Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884, 906.) Here, the project applicant has repeatedly violated County and air district rules and permits with respect to this Project and earlier projects. These repeated violations have been documented by County staff and establish that it is not reasonable to simply assume that the project applicant will comply with such permit terms in the future.*

#### **Response:**

The commenter asserts, without supporting facts, that the applicant violated County and air district rules. However, unsubstantiated narrative is not substantial evidence. (See CEQA Guidelines, § 15384.) Further, CEQA requires a lead agency to accept existing “baseline” conditions when preparing a CEQA review, even if those conditions result from an alleged violation of law. (See *Communities for a Better Environmental v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 321, fn. 7;

*Eureka Citizens for Responsible Gov. v. City of Eureka* (2007) 147 Cal.App.4th 357, 370-371 [baseline for school playground project was existing playground, even though past construction may have violated city code]; *Fat v. Cnty. of Sacramento* (2002) 97 Cal.App.4th 1270, 1278-1281 [existing airport activity part of baseline, even if it occurred previously without permit]; *Riverwatch v. Cnty. of San Diego* (1999) 76 Cal.App.4th 1428, 1453 [improper to extend baseline into past to capture illegal mining activity]; see also *Bottini v. City of San Diego* (2018) 27 Cal.App.5th 281, 303 [noting caselaw.] Thus, the comment has not identified any flaw in the County's treatment of the Projects.

### **D.2.i. Mitigation Measures are not Adequately Defined**

*In short, the RMNDs improperly rely on mitigation to avoid analysis of project impacts and fail to provide adequate information in order to determine whether mitigation is effective and enforceable. Without this necessary information, the RMND's significance determinations are not supported by substantial evidence.*

#### **Response:**

For the reasons stated above, the commenter has not shown that the County erred in any way. The impacts of these small solar Projects are uniformly less than significant. The dust controls and other measures adopted here are in the nature of best management practices that are applied without regard to the scale or significance of impacts. The applicant should not be penalized for committing to do more than is strictly required to mitigate non-existent impacts.

### **D.3. RMNDs Inconsistently apply the PEIR's Mitigation Measures**

*Our prior comment letter explains that the original MNDs appeared to have ignored literally dozens of mitigation measures adopted pursuant to the PEIR. The RMNDs now appear to incorporate the PEIR's mitigation measures but have done so inconsistently and in violation of CEQA. For example, sections IV(a) (Biological Resources) and XIII(a) (Noise) appear to incorporate mitigation measures set forth in the PEIR in order to address the Project's potentially significant impacts in those resource areas. Setting aside the procedural deficiency of not circulating an MMRP including these mitigation measures, the RMNDs fail to explain why the same procedure was not followed in other resource areas [fn: Examples include air quality, agricultural impacts, transportation, water quality and visual resources] where the PEIR requires mitigation in order to support a less-than-significant determination. The leading CEQA treatise explains, "As activities within the program are approved, the agency must incorporate, if feasible, the mitigation measures and alternatives developed in the program EIR in its action approving the activity." (I Kostka and Zischke, Practice Under the Cal. Environmental Quality Act (2nd ed. 2023) § 10.16, p. 10-20.)*

## **Response:**

The commenter has not shown any inconsistency in application of the PEIR’s mitigation measures. The comment fails to appreciate that the PEIR applied mainly to large solar projects (20 MW or greater generating capacity), and that the PEIR left it to County staff’s discretion to apply the PEIR’s mitigation measures to smaller-scale projects. The biological resources and noise analysis are examples in which the County exercised its discretion in appropriate ways.

With respect to biological resources, the PEIR provided County staff the discretion, for small-scale projects, whether to require a biological resource evaluation or implement the biological resource mitigation measures in the PEIR. (PEIR, p. 4.4-123.) Here, County staff examined the sites and found no species or habitat that would be affected. (IS, IV.a.) The record also contains a biological resource evaluation prepared on the applicant’s behalf which corroborates staff’s observations but also noted that certain species (desert kit fox, protected birds) could unexpectedly visit, and listed mitigation measures to ensure the risks to these species are less than significant. The Initial Study stated that these measures were “consistent with” the PEIR, but the Initial Study did not incorporate the PEIR’s mitigation measures, which County staff had the discretion not to do.

With respect to noise, the PEIR gave County staff similar discretion to determine whether to impose the PEIR mitigation measures on projects less than utility-scale. (PEIR, p. 4.12-19.) However, the PEIR also noted that the General Plan Noise Element requires noise mitigation for construction that is within 500 feet of a residential receptor. (PEIR, p. 4.12-9.) Portions of the Projects are approximately 400 feet from two residential structures. (See IS, XIII.a.) Thus, the County reasonably imposed PEIR Mitigation Measure NOI-2 to mitigate construction noise within that 500-foot area. That decision gives effect to the General Plan and implements the PEIR mitigations to the extent needed, which the County has the discretion to do.

The County also had discretion to impose, or not to impose, the PEIR’s mitigation for the other resource areas cited by the commenter (air quality, agricultural impacts, transportation, water quality and visual resources). (See PEIR, pp. 4.3-17 [air quality], 4.2-14 [agriculture], 4.17-12 [transportation]; 4.9-44-45 [water quality]; 4.1-25-26 [visual; resources].) The County was not obligated to incorporate any of them given the small size of the Projects. The commenter has not shown that the County’s proposed exercise of discretion is contrary to the record.

## **E. The County Does Not Explain the Lack of Visual Simulations**

*The RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR. AES-1 requires “site-specific visual studies . . . to assess potential visual impacts.” “Visual simulations shall be prepared to conceptually depict-post development views from the identified key observation points.” No such studies were prepared. Instead, Appendix A consists solely of low-quality “representative photographs” of apparently existing conditions.*

*The RMND states, “Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a*

*qualified planner to not have a potential to impact visual resources, including a scenic vista.” The RMNDs conspicuously fails to provide any substantial evidence supporting this conclusion. The RMNDs fail to set forth any analysis, much less written report, supporting this conclusion. The RMNDs fail to identify the County planner purportedly making this determination, the date of the determination, the criteria followed by the County planner or any specific facts supporting this determination. There is no evidence, much less substantial evidence, supporting the MND’s conclusory assertion that an unspecified “qualified County planner” determined that the Project would not have the potential to impact visual resources.*

**Response:**

The comment errs in a number of ways.

First, the commenter states, incorrectly, that “[t]he RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR.” The Initial Study stated only that the Projects were “consistent with” the PEIR which did not require site-specific visual studies for projects with less than 20 MW generating capacity. This comment thus mischaracterizes the Initial Study.

Second, the commenter asserts that no substantial evidence supports the conclusion that the Projects would not have a significant impact on a scenic vista. Such evidence is clear from the record. The Initial Study states that the Projects are not located near a scenic vista (IS, I.a.), and the comment provides no contrary evidence. Moreover, the Initial Study explains that the Projects are located on the valley floor, on a site without scenic resources, near junk and scrap yards, in an area removed from any scenic highways or recognized scenic resources. (IS, pp. 3-4, I.a.) These observations were buttressed by corroborative photographs. (IS, Appendix A.) Thus, the County had a factual basis for its determination and was clear in its rationale.

Third, the commenter states that the record fails to identify the planner making the visual resources determination. This also is not accurate. The Initial Study was signed by Cynthia Draper, an Assistant Planner with the Inyo County Planning Department, on July 19, 2023. The commenter must presume that this planner made the determinations in the initial study.

Fourth and finally, the comment incorrectly assumes that there is substantial evidence in the record giving rise to the need for a visual study. Such evidence does not exist, nor has the commenter offered any. (CEQA Guidelines, § 15384 [substantial evidence not include “argument, speculation, [or] unsubstantiated opinion or narrative...”].) Rather, the evidence shows that these are small projects, in a sparsely populated area and few residents, in an area without recognized scenic resources. There is no error in the County’s analysis.

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**F. The RMNDs Fail to Include a Traffic Control Plan:**

*PEIR mitigation measure TRA-1 provides:*

*Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.*

*The RMNDs do not include the required traffic control plan, nor even mention mitigation measure TRA-1. While the RMNDs state that the Project “will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase,” there is no attempt to explain why these “few” construction vehicles do not require a traffic control plan to avoid conflicts with adjacent and nearby residents.*

**Response:**

The commenter again overlooks language in the PEIR that makes the transportation mitigation measures (including TRA-1) applicable only to utility-scale solar projects, and which gives County staff discretion to determine whether the PEIR mitigation measures are appropriate for a smaller-scale project like this. (PEIR, p. 4.17-12.) Here, the Initial Study documented that the Projects would generate only a small amount of traffic on a lightly-used road:

The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.

(IS, XVII.a.) The Appendix C air memorandum, similarly, conservatively assumed that approximately ten contractors would visit per day for 25 days during construction, and almost no traffic (one daily trip) would occur in operations. (IS, Appendix C, p. 6.) These are small traffic volumes on a lightly-traveled road. The record does not suggest that a site-specific traffic control plan is necessary. The County’s treatment of the Projects is supported by substantial evidence.

**G. The MNDs Fail to Address Impacts Associated with Noxious Weeds:**

*Mitigation measure AG-3 provides, “To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed.” In violation of this mitigation measure, no weed-abatement plan appears to have been prepared, and the RMNDs make no reference to such a plan.*

**Response:**

Again, the commenter overlooks language in the PEIR that makes the agricultural mitigation measures (including AG-3) applicable only to utility-scale solar projects, and which gives County staff discretion to determine if they are appropriate for smaller-scale projects. (PEIR, p. 4.2-14.) As stated in the initial study, agriculture and farming are not significant land uses in the area, the Projects would not result in the conversion of agricultural land. (IS, pp. 3, II.) Thus, the Projects are not expected to have any impacts to agriculture that warrant a weed management program, and the County was within its discretion to determine that such a mitigation measure was unnecessary.

**CONCLUSION**

On behalf of Mr. Barker, we appreciate the County’s work on the Projects, and the opportunity to respond to the comments. If you have any questions, please do not hesitate to contact me at (916) 501-2395 or [shungerford@hthglaw.com](mailto:shungerford@hthglaw.com).

Very truly yours,  
HARRISON, TEMBLADOR, HUNGERFORD & GUERNSEY



By  
Sean Hungerford

cc: Client



October 10, 2023

**Via Electronic Mail**

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***Re: Response to Comments on Renewal Energy Permit Nos. 2022-01/2022-02***

Dear Ms. Draper,

This law firm represents Robbie Barker and Valley Wide Engineering & Construction, Inc. (collectively, the “applicant”) regarding applications for two renewable energy permits, Nos. 2022-01 and 2022-02, (the “Projects”) set to be heard by the Inyo County Planning Commission on October 25, 2023. This letter responds to an August 24, 2023 comment letter submitted by the Soluri Meserve law firm on behalf of its client, John Mays.

By way of overview, the comment letter fails to demonstrate any procedural or substantive defect in the County’s decision to prepare Mitigated Negative Declarations (MNDs). These are small solar energy facilities, to be installed on a total of 20 acres in a sparsely populated area located north of the Trona community, within a Solar Energy Development Area (“SEDA”) designated by the Board of Supervisors in 2015. The single-axis tracker panels will be placed on flat land without special scenic or habitat value, using accepted best management practices for dust control. No significant adverse environmental impacts whatsoever are expected.

Of particular note, the Projects have a combined generating output of only 4.2 megawatts (“MW”). This makes these Projects far smaller than the “utility-scale” solar projects (i.e., more than 20 MW) that were the main focus of the Renewable Energy General Plan Amendment (“REGPA”) adopted by the Board of Supervisors in 2015. We raise this because the Board also certified a Programmatic EIR (“PEIR”) for the REGPA, and the PEIR contained several mitigation measures which the comment letter demands to be applied to these Projects. As we explain below, however, most of the PEIR’s mitigation measures apply to utility-scale projects, not to small projects like this. Thus, the County did not err by deciding that many of those mitigations were inappropriate for these Projects.

Below, we have set forth each of the August 24, 2023 comments in italics, then provided the applicant’s response. As our responses show, the County’s treatment of the Projects, and the County’s decision to adopt MNDs, is correct and well supported by the record.

## RESPONSES TO COMMENTS

### **A. Failure to Include Mitigation Monitoring and Reporting Plan**

*Although clearly identifying each document as an “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeatedly checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County fails to prepare Mitigation Monitoring and Reporting Program(s) (“MMRP”(s)). This violates CEQA (CEQA Guidelines, § 15097) and also the Inyo County Code. (County Code, Ch. 15.44.) To wit:*

*15.44.005 General.*

*The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)*

*15.44.010 Application.*

*A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)*

*15.44.020 Timing.*

***Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment. The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)***

*15.44.030 Contents.*

*The monitoring plan shall contain, at a minimum, the following:*

- A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;*
- B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);*

*C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;*

*D. Identification of the person or entity responsible for monitoring and verification;*

*E. The method of reporting monitoring results to the county.  
(Ord. 957 § 1 (part), 1995.)*

#### *15.44.040 Enforcement.*

*Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)*

*Setting aside the RMND's practice of not identifying mitigation measures required to reduce Project impacts, the RMND's expressly identify mitigation measures in Sections IV(a), XIII(a) and XXI(a). Thus, the RMND's require a draft MMRP that is circulated for public comment. The RMND's are therefore procedurally invalid. A new RMND or EIR must be recirculated for public review along with the required MMRP.*

### **Response:**

The commenter contends that it was error for the County not to circulate a Mitigation, Monitoring and Reporting Plan (MMRP) along with the MND. The commenter appears, however, to have misread the applicable requirements. The County's ordinances permit a MMRP to be adopted by the County at the time of project approval and adoption of a MND, which has not yet occurred. Section 15.44.020 requires that a draft MMRP "be subject to public review and comment," but does not require that it be circulated (or recirculated) with a MND. Similarly, nothing in the CEQA Guidelines requires that a MMRP be circulated with an MND. (See CEQA Guidelines, §§ 15073 [public review of MNDs], 15073.5 [recirculation of MNDs], 15097 [rules for MMRPs].) To the contrary, section 15097 indicates that a MMRP is formulated after the public review process, not before. Here, therefore, the County may comply with its ordinances and CEQA by ensuring that the MMRP is made available for public review before it adopts a MND.

### **B. Project Piecemealing**

*CEQA's conception of the term "project" is broad to maximize protection of the environment. (Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist. (2007) 147 Cal.App.4th 643, 653; San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27*

*Cal.App.4th 713, 730. “This big picture approach to the definition of a project (i.e., including “the whole of an action”) prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project into smaller components which, when considered separately, may not have a significant environmental effect.” (Nelson v. County of Kern (2010) 190 Cal.App.4th 252, 270-271.)*

*The County is dividing a project into smaller components. The Project consists of two REPs for photovoltaic solar power generation on adjacent parcels owned by the same person, Robbie Barker. The RMNDs explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)*

*Notwithstanding this, the County has prepared two separate RMNDs for the Project. These RMNDs include:*

- “RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-01/Barker- Trona 7” (See Exhibit 1.)*
- “RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-02/Barker- Trona 4” (See Exhibit 2.)*

*Dividing a single project into two CEQA documents violates CEQA. The relevant test is whether the activities have “substantial independent utility.” (Del Mar Terrace Conservancy, Inc. v. City Council (1992) 10 Cal.App.4th 712, 736.) It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by preparing two separate RMNDs for what it concedes is a single project under CEQA. A reviewing court would exercise its independent judgment on this issue with no deference to the agency. (Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)*

*We previously commented on this issue, and the RMNDs provided make the case for piecemealed review even stronger. Both RMND’s technical reports analyze the two REPs as a single project. The air quality report explains, “Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site*

*(collectively referred to herein as the ‘Project’).” Similarly, the biological resources report states, “Biological Resource Evaluation – Trona 4 and 7 Solar Project.” The RMNDs themselves explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)*

*It appears that the County now recognizes the two REPs constitute a single CEQA project. If so, the County must prepare a single CEQA document for that single project. The County’s continued reliance on two separate CEQA documents for a single CEQA project violates CEQA.*

**Response:**

The commenter asserts that the County analyzed the Projects in a “piecemeal” manner that is generally prohibited by CEQA. Precisely the opposite took place.

Piecemealing occurs if a lead agency “split[s] one large project into smaller ones, resulting in piecemeal environmental review that obscures the project’s full environmental consequences.” (*Make UC a Good Neighbor v. Regents of Univ. of California* (2023) 88 Cal.App.5th 656, 683, citing *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1222; see also CEQA Guidelines § 15378 [“project” means “the whole of the action...”].)

No piecemealing occurred here. Mr. Barker filed two separate solar applications with the County, one for each of the connections that Mr. Barker needs to make to the utility grid. Rather than analyze the applications separately, the County analyzed both as a single project in the Initial Study and throughout all of the supporting documents (photographs, biological evaluation, air emissions analysis). Thus, there was no piecemealing at all, because the County analyzed both applications together as a single project.

The commenter’s confusion appears to stem from the fact that the County has prepared two separate MNDs. The commenter has not shown that this was error. The County organized its MNDs in this way for the obvious reason that the applicant submitted two separate applications for approval. The County thus prepared two separate approvals to fulfill the County’s procedural need to render a decision on each application. The commenter offers no legal authority prohibiting a lead agency from preparing multiple approvals, each supported by a separate MND, for multiple applications supported by a single, combined environmental review.

Finally, the commenter appears to believe that the County’s treatment of the applications requires consideration of the issue of “independent utility.” (See *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 108; *Planning & Conserv. League v. Castaic Lake Wat. Agency* (2009) 180 Cal.App.4th 210, 235.) The question of “independent utility” arises if a lead agency performs separate environmental reviews for related projects. Here, in contrast, the County analyzed the applications together, as a single project, in a single environmental review. Thus, the independent utility doctrine has no application here.



### C. Failure to Adequately Analyze Cumulative Impacts

*A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an environmental impact report (“EIR”). (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4<sup>th</sup> 1184, 1214.)*

*Despite this mandate, the two RMNDs’ cumulative impacts analyses continue to be impermissibly cursory. Each RMND’s cumulative impact analysis provide in full:*

*No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note **in the vicinity are PV solar projects within the Trona SEDA**, but the overall number and size of these projects are **likely to be less than analyzed in the PEIR**. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.*

*(RMND, § XXI(b), emphasis added.)*

*This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) Here, the RMNDs appear to limit the scope of cumulative projects to those “within the Trona SEDA.” The RMNDs fail to explain this limitation, which violates CEQA. (CEQA Guidelines, § 15130, subd. (b)(3) [“Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used”].) The EIR for the Inyo County Renewable General Plan Amendment (“REGPA”) provided a reasonably expansive list of cumulative projects. (REGPA EIR, Table 5-1.) The County could have relied on that list of projects so long as*

*it complied with CEQA’s requirements for tiering/incorporation by reference as well as updating a cumulative project list, but the County did not follow that procedure. (CEQA Guidelines, § 15130, subd. (b)(1); § 15150, subd. (c); § 15152.)*

*Similarly, the RMNDs appear to limit the scope of cumulative projects by stating that PV solar projects are the only projects “of note.” The RMNDs fails to explain what is meant by limiting cumulative projects to only those “of note.” CEQA includes no such limitation, and instead requires a CEQA document to set forth “[a] list of past, present, and probably future projects producing related or cumulative impacts.” (CEQA Guidelines, § 15130, subd. (b)(1)(A).) For example, the Project will unquestionably result in dust generation. Projects other than PV solar projects may also generate dust and therefore must be identified as cumulative projects.*

**Response:**

The comment letter fails to recognize the difference between the “cumulative” analysis that CEQA requires for an EIR versus that required for an initial study supporting a negative declaration. As one court observed:

Substantial confusion exists about the scope of analysis of cumulative impacts required in an initial study. Many practitioners treat the question of whether impacts are “cumulatively considerable” under 14 Cal Code Regs § 15065(c) as equivalent to “significant cumulative effects” under 14 Cal Code Regs § 15130 and 15355, which govern the cumulative impacts analysis in an EIR... There appears to be a difference between the “cumulative impacts” analysis required in an EIR and the question of whether a project’s impacts are “cumulatively considerable” for purposes of determining whether an EIR must be prepared at all.

*(San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1996) 42 Cal.App.4th 608, 623 [citations and some internal quotations omitted].)*

The comment letter exhibits this confusion. The letter relies on CEQA Guidelines sections 15130 and 15355, which govern the cumulative impacts analysis in an EIR. Similarly, its reliance upon *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184 is misplaced because the case involved an EIR, not an initial study. For the same reason, the commenter mistakenly relies on the discussion of cumulative impacts in the PEIR as a template for the Initial Study.

The correct method for assessing – in an initial study – whether impacts are cumulatively considerable is described in Section 15065(a)(3) of the CEQA Guidelines, as interpreted and applied by *San Joaquin Raptor/Wildlife Rescue Center* and related cases. The question is whether the “incremental effects” of a project are “considerable” when evaluated against the backdrop of environmental effects of other projects. (*San Joaquin Raptor*, 42 Cal.App.4th at pp. 623-624.) Where the initial study concludes

that these effects are absent, a challenger must point to some substantial evidence that a cumulatively considerable incremental effect exists.

Here, the comment letter attacks the Initial Study’s conclusions with respect to potential dust generation. The letter does not, however, provide evidence of any existing cumulative impact involving dust, or that an incremental effect of the Projects on that impact is considerable. Without such evidence, the challenge fails. (See *San Joaquin Raptor*, 42 Cal.App.4th at pp. 624-625 [rejecting unsubstantiated claim of cumulatively considerable effects]; *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1358 [no evidence that projects would have cumulative effects or that any such effects would be considerable]; see also Kostka & Zischke, *Practice Under The California Environmental Quality Act* (C.E.B. 2023) § 6.34, p. 6-33.)

The comment letter also fails to acknowledge that the Initial Study and its attachments affirmatively provide evidence that no cumulatively considerable dust effect will occur. As explained in the Initial Study, the Trona area is in “attainment” for PM-10 and only one other small project is planned for the area. The Appendix C air quality memorandum stated that particular matter (PM-10 and PM-2.5) will be orders of magnitude below significance thresholds, and in addition, the projects would be subject to dust control mitigation measures. (See IS, pp. 2-3, Sec. III, Exhibit C, p. 9.) In sum, the Initial Study is supported by substantial evidence showing that the Projects will have no considerable incremental dust effects requiring study in an EIR.

#### **D. RMNDs Failed to Adequately Analyze And Mitigate Project Impacts**

*The RMNDs failed to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 74 (No Oil I).) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (Citizens Action to Serve All Students v. Thornley (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (No Oil I, supra, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (Id. At p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.*

*In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This*

*is assured by incorporation into an MMRP. (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (Federation of Hillside & Canyon v. City of Los Angeles (2000) 83 Cal.App.4th 1252, 1261 (Federation).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See San Bernardino Valley Audubon Society v. Metropolitan Water District (1999) 71 Cal.App.4th 382, 392.)*

*Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, 311 (Sundstrom).) For example, in Sundstrom the court held that the absence of information explaining why no alternative sludge disposal site is available “permits the reasonable inference that sludge disposal presents a material environmental impact.” (Ibid.) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.*

## **Response:**

This commenter recites various legal principles to conclude that an EIR is necessary, but does not offer facts to explain why. In this regard, “substantial evidence” is “facts, reasonable assumptions predicated upon facts, expert opinion supported by facts...” (CEQA Guidelines, § 15384.) It does not include “argument, speculation, [or] unsubstantiated opinion or narrative...” (Id.) As the comment is nothing more than argument and unsubstantiated opinion, it fails to show any error in the County’s treatment of the Projects.

### **D.1. RMNDs Impermissibly Conflate Analysis of Impacts and Mitigation**

*For every resource area, the RMNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (Lotus v. Department of Transportation (2014) 223*

*Cal.App.4th 645, 658 (Lotus) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.*

*For example, with respect to whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the RMNDs assert, “No . . . The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) CEQA requires the RMNDs to disclose the significance of the impact without regard for mitigation, separately identify all feasible mitigation measures and assess their effectiveness at reducing the impact. (Lotus, supra, 223 Cal.App.4th at 655-656 [“Caltrans compounds this omission by incorporating the proposed mitigation measures into its description of the project and then concluding that any potential impacts from the project will be less than significant. . . . By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA”].) The RMNDs follow this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.*

## **Response:**

The commenter errs in two basic ways.

First, the commenter attempts to apply EIR-level standards to an initial study. The commenter cites *Lotus v. Department of Transp.* (2014) 223 Cal.App.4th 645, where an EIR failed to consider the impact of placing a roadway in proximity to the roots of old growth trees. The commenter also cites *San Joaquin Raptor Rescue Center v. Cnty. of Merced* (2007) 149 Cal.App.4th 645, 663-664, where the EIR failed to adequately disclose certain groundwater impacts. Both courts applied the CEQA requirement that EIRs have a “detailed statement” of a project’s significant effects. (CEQA, § 21100, subd. (b); CEQA Guidelines, § 15126(a).)

An initial study, in contrast, is subject to different standards. “[A]n initial study is neither intended nor required to include the level of detail included in an EIR.” (CEQA Guidelines, § 15063(a)(3); *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1192-

1194 [an initial study should be “brief” and is not subject to EIR standards]; see also Kostka & Zischke, supra, § 6.18, p. 6-19 (“[a]n initial study need not be a mini EIR...”). The commenter applies the wrong standards.

Second, and more importantly, the commenter fails to show that the Initial Study neglected to analyze any significant adverse effect. The only specific complaint raised by the letter is that the Initial Study did not analyze if the Projects would “[c]onflict with or obstruct implementation of the applicable air quality plan... (IS, § III.a.) The commenter’s analysis, however, omitted critical language when it quoted the Initial Study. This language omitted by is in bold below:

**No. There is no applicable air quality plan for the area in which the project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards.** The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. **(See Appendix C, Air Quality and Greenhouse Gas Memorandum.) The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.**

(IS, III.a.)

In short, the commenter omitted that part of the passage which explained that the Projects will not obstruct the implementation of any applicable air quality plan because there is no applicable plan for the area. By only partially quoting the Initial Study, the comment obscured the impact analysis set forth within the Initial Study. In any event, the commenter does not challenge the conclusion that the Projects will not conflict with any applicable air quality plan. In sum, the comment does not demonstrate any error by the County.

#### **D.2.a. Mitigation Measures are not Adequately Defined**

*CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See Sierra Club v. County of San Diego (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; Gray v. County of Madera (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (Federation, supra, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (Preserve Wild Santee v. City of Santee (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the*

*formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. Sacramento Old City Association v. City Council of Sacramento (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound in the RMNDs. Just a few representative examples are provided.*

**Response:**

This comment cites various legal authorities, without offering any facts or analysis, to support the conclusory statement that the MNDs are defective. As such, the commenter does not provide any substantial evidence showing error. (CEQA Guidelines, § 15384.) Also, every case and regulation cited in this comment involves mitigation requirements for an EIR, not an initial study or mitigated negative declaration. As such, the comment is of questionable value.

**D.2.b. Mitigation Measures are not Adequately Defined**

*The RMNDs claim that construction air quality will be less than significant because “[t]he applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) The RMNDs fail to adequately define these “standard techniques.” Are the “standard techniques” limited to the three identified techniques? If so, why are the RMNDs excluding other techniques disclosed in mitigation measure AQ-2 of the REGPA EIR? Further, the RMNDs fail to adequately describe the mere three techniques mentioned that would allow an assessment of their effectiveness. For example, how frequently will water trucks be used? Is there a standard for when water trucks will be required during construction? How is limestone used effectively to reduce dust? How are dust suppressants used? Are there other possible dust suppressants other than EarthGlue? If so, are any of these other dust suppressants more effective than EarthGlue? What are the tests or triggers for application of limestone or dust suppressants?*

**Response:**

The comment is correct that the “standard techniques” that would be used for dust control include: (1) wetting down areas, (2) applying limestone to stabilize the ground surface and (3) applying dust suppressants such as EarthGlue. These three control measures are identified in the Initial Study in section III.a, and in the air quality memorandum in Appendix C, at pages 7-8.

The comment also questions why the MNDs have not incorporated all of the dust control techniques listed in Mitigation Measure AQ-2 of the PEIR. The answer is in the PEIR itself. The PEIR

states that AQ-2 was developed for “utility scale” solar projects (i.e., over 20 MW generating capacity). (PEIR, p. 4.3-17.) For smaller-scale projects like these, which total 4.2 MW of generating capacity, “the need for implementation of [MM AQ-2] shall be determined based on the professional judgment of a qualified County planner...” (PEIR, p. 4.3-17.) Thus, the County had the discretion to determine that “utility-scale” mitigation is unnecessary here due to the small scale of the Projects.

The commenter also questions whether the dust controls are sufficiently detailed and seeks additional data regarding their efficacy and alternatives. This depth of analysis is not necessary due to the scale of the impact. According to Appendix C, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the thresholds of significance for PM-10 and PM-2.5 emissions. This is orders of magnitude below the threshold. Considering the miniscule impact, it is unnecessary to conduct a comparative analysis of dust control techniques to determine that MNDs are proper.

Finally, it should be noted that dust control measures are not, in practice, as specific as the commenter appears to desire. For example, MM AQ-2 from the PEIR is “[w]ater and/or coarse rock all active construction areas as necessary and as indicated by soil and air conditions.” (PEIR, p. 4.3-18.) In addition, the PEIR refers to REAT Best Management Practices (2010), which includes the following provision for dust control:

Use dust suppressant applications or other suppressant techniques to control dust emissions from onsite unpaved roads and unpaved parking areas, as well as to mitigate fugitive dust emissions from wind erosion on areas disturbed by construction activities. When considering the use of water or chemical dust suppressants take into account water supply and chemical dust suppressant issues.

(REAT, p. 29.) Such measures leave the details of implementation to the discretion of the approving agency. The dust control measures followed by the applicant here allow the same flexibility.

#### **D.2.c. Mitigation Measures are not Adequately Defined**

*Addressing some or all of these questions is necessary for the RMNDs to adequately inform the public and decision-makers that mitigation is effective to reduce the impact to less than significant on sensitive receptors such as the adjacent residential properties. An MND cannot rely on a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (King & Gardiner Farms, supra, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 511.) The RMNDs have failed to provide evidence that its vague mitigation will be effective.*



**Response:**

As an initial matter, the cases cited in the comment (*King & Gardiner Farms* and *Sierra Club*) analyzed EIRs rather than initial studies or negative declarations, and therefore are of questionable value here.

In any event, the comment incorrectly assumes that the dust controls listed in the Initial Study are required to reduce dust impacts to a less-than-significant level. The record does not support such an assumption. As documented in the Appendix C memo, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the typical thresholds of significance for PM-10 and PM-2.5 particulate emissions. This is before the application of dust controls. As such, the Initial Study did not need to rely upon these controls to find that fugitive dust impacts are less-than-significant. Such dust controls would only further reduce an already small and insignificant effect.

**D.2.d. Mitigation Measures are not Adequately Defined**

*Further, the RMNDs also failed to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant's REP 2018-01 that was issued in 2018.*

**Response:**

Statements by non-expert members of the public may, in limited circumstances, constitute substantial evidence that merits consideration by a CEQA lead agency. Generally, these are limited to personal observations on non-technical subjects. (See *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.) Neighbors' observations of noise and traffic conditions, in particular, are often accepted by courts as substantial evidence because no special expertise is needed to render those observations. (See, e.g., *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 730 [noise]; *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1152 [traffic congestion].)

In contrast, when the subject matter requires technical expertise, neighbors' opinions or observations do not qualify as substantial evidence. For example, in *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, non-expert residents performed their own noise calculations and tried to submit them as substantial evidence of a noise impact. The court held: "[a]lthough they present their numbers as scientific fact, we find appellants' calculations are essentially opinions rendered by nonexperts, which do not amount to substantial evidence." (*Id.*, at p. 894.) Similarly, in *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, neighbors challenged the decision to adopt a mitigated negative declaration, arguing that data showing groundwater contamination raised a fair argument of a hazardous material impact that required study in an EIR. The court held:

Statements of area residents who are not environmental experts may qualify as substantial evidence if they are based on relevant personal observations or involve "nontechnical" issues... However, a complex scientific issue such as the migration of chemicals through land calls for

expert evaluation, and the Neighbors do not profess any expertise that would qualify them to opine on that subject... Accordingly, ACC's conclusion that there was a "low" potential for contamination from hazardous materials from the adjacent property stands unrefuted, and an EIR is not required to address the subject.

(Bowman, at p. 583.)

Here, the comment suffers from two problems. First, the question of air quality impacts is inherently technical in nature and the opinions of non-expert neighbors are not substantial evidence. The questions analyzed in the Initial Study – such as, would the project “violate any air quality standard,” or “expose sensitive receptors to substantial pollutant concentrations” – are technical in nature. The Appendix C air quality memorandum, for instance, answered these questions through computer modeling prepared by expert consultants. In this setting, opinions by non-expert members of the public are not substantial evidence.

Second, the neighbors' reported concerns<sup>1</sup> involve a different project. Generalized concerns stemming from neighbors' observations of different projects are not substantial evidence relative to the specific project at issue. In *Lucas Valley Homeowners Assn. v. County of Marin* (1991) 233 Cal.App.3d 130, neighbors attacked a negative declaration a use permit granted to an orthodox Jewish congregation that applied to turn a house into a synagogue. The neighbors offered testimony of “generalized concerns and fears about traffic and parking impacts, or relate anecdotes of parking problems generated by [the applicant] at a different site.” According to the court, such evidence “does not rise to the level of a fair argument” of a significant adverse impact. (*Id.*, at p. 163.) Similarly, the testimony of neighbors in this case regarding the applicant's purported actions in regard to a separate project are not substantial evidence here.

#### **D.2.e. Mitigation Measures are not Adequately Defined**

*The RMNDs also improperly assume, without adequate project-specific analysis, that regulatory compliance will mitigate impacts. Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the RMNDs assert, “No . . . The applicant will be conditioned to obtain any required permits, and follow best management practices required by the GBUAPCD.” (RMND, § III(a).) This is inadequate under CEQA because a determination that regulatory compliance is adequate must be based on project-specific analysis. (Californians for Alternatives to Toxics v. Dept. of Food and Agriculture (2005) 136 Cal.App.4th 1.) Here, the RMNDs do not even identify what is required by the Great Basin Unified Air Pollution Control District (“GBUAPCD”), much less provide a project-specific analysis of how those requirements would be effective here. While the County may be inclined to point to an Air Quality Memorandum as supplying that missing analysis, this effort fails for two reasons. First, the*

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<sup>1</sup> The commenter does not identify exactly what the neighbors' opinions are, or where those opinions are expressed.

*analysis does not provide the missing information, explaining only, “Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollution emissions, including those required under their new source review requirements.” (AQ Memorandum, p. 7.) Thus discussion fails to describe applicable requirements, much less how those requirements applied here would effectively mitigate impacts. Second, even if the Air Quality Memorandum did provide some additional information, CEQA caselaw explains that such information cannot be buried in an appendix. (Vineyard Area Citizens, supra, 40 Cal.4th at 442. [information “buried in an appendix is not a substitute for good faith reasoned analysis”].)*

### **Response:**

The commenter takes issue with the County’s proposed condition to require the applicant to obtain any required permits from the Great Basin Unified Air Pollution Control District (GBUAPDC) and to follow any of GBUAPDC’s best management practices. This condition is entirely appropriate and typical and does not reflect any error by the County.

“A condition requiring compliance with environmental regulations is a common and reasonable mitigation measure.” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308, citing *Perley v. Board of Supervisors* (1982) 137 Cal.App.3d 424, 430; see also *Gentry v. City of Murrieta* (1995) 36 Cal.App.3d 1359, 1396 [approval of habitat conservation plan]; *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236-237 [mitigation measure requiring applicant to secure wetlands permits from Army Corps and Cal. Department of Fish & Wildlife].)

The commenter correctly notes that problems can arise when a lead agency employs such a condition to defer the environmental review to another agency. (See *Sundstrom*, 202 Cal.App.3d at pp. 308-309 [rather than studying issue of sewage sludge disposal, county attempted to defer analysis to the water board permit process]; *Californians for Alternatives to Toxics v. Dept. of Food and Agric.* (2005) 136 Cal.App.4th 1 [Dept. Food & Agric. evaded duty to prepare a complete EIR for an pest-control proposal by deferring issue to a separate review by Dept. of Pesticide Regulation].)

It is apparent from the record that the County conducted (and did not defer) the air quality analysis. The Initial Study explained that these are small projects, involving low impact and short-term construction, in an “attainment” area with few residents and no nearby schools or hospitals. The Initial Study appended a technical analysis of the air emissions, which were all well below accepted thresholds of significance. (IS, Appendix C, p. 9.) In short, there is no evidence that the County deferred any part of its analysis to the GBUAPDC.

### **D.2.f. Mitigation Measures are not Adequately Defined**

*The RMNDs then attempts to cite to the REGPA programmatic EIR (“PEIR”) and its MMRP in an attempt to dismiss significance of these*

*impacts. (RMND, §III(a).) The plain language of the PEIR refutes this effort:*

*The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. However, since the air basin is within the Owens Valley PM10 Planning Area, **fugitive dust emissions from construction must be mitigated.***

*(PEIR, p. 4.3-10, emphasis added.) Here, however, there is no such mitigation. For example, the AQ-2 includes such measures as “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph.” The RMNDs conspicuously fail to mention these additional mitigation measures, much less identify them as such in an enforceable MMRP for the Project.*

### **Response:**

The commenter incorrectly states that the Projects are in the Owens Valley PM-10 Planning Area. As stated on page 3 of the Initial Study, and page 7 of the Appendix C memorandum, the Projects are in the Coso Junction PM-10 Planning Area which (unlike Owens Valley) is “in attainment” for PM-10. The comment also incorrectly assumes that, even if the Projects were located in the Owens Valley, dust controls in Mitigation Measure AQ-2 are mandatory. As noted above, the PEIR gave County staff discretion to determine whether the PEIR’s mitigation measures should be applied to projects smaller than utility scale. (PEIR, p. 4.3-17.)

### **D.2.g. Mitigation Measures are not Adequately Defined**

*Finally, the RMNDs claim that PEIR mitigation measures AQ-1 through -3 “applied to utility-scale projects of greater than 20 MW and did not apply to smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner.” This is inexcusably false. The plain language of AQ-1 through -3 as revised and approved does not include such limitations. (Exhibit 3, March 2015 MMRP.)*

*PEIR AQ-1 states, “AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report.” The RMNDs violate this mandate because the Air Quality report does not incorporate the specific requirements of AQ-2 and AQ-3. It merely states, “[T]he Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.” PEIR mitigation measures AQ-1, -2 and -3 are not “goals and policies” of the REGPA; they are mitigation measures under CEQA. The Air Quality report does not even identify these mitigation measures, much*

*less “incorporate” them into its “site-specific technical report.” At best, the Air Quality Memo states:*

*[F]ugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment trackout onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout the life of the Project, which will in turn ensure impacts remain less than significant.*

*(Air Quality Memo, p. 12.0.)*

*While this provides a general discussion of some mitigation measures that could be used to address dust emissions, this discussion fails to comply with CEQA. This discussion fails to correlate the identified measures to the requirements of the GBUAPCD or the PEIR. Are these measures the only ones that will be used to satisfy the requirements of the PEIR and GBUAPCD? If so, why does this discussion omit any reference to “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph” as set forth in AQ-2. Further, this discussion in the Air Quality Memo does not explain how this discussion is enforceable against the project. This is precisely the function of mitigation measures and an MMRP.*

## **Response:**

The commenter first asserts that the language of Mitigation Measures AQ-1 – AQ-3 does not provide County staff with the discretion to determine which, if any, of those mitigations are appropriate for projects smaller than utility scale. The comment overlooks language in the PEIR that does exactly that. Section 4.3.5 of the PEIR provides, in relevant part:

Air quality mitigation measures have been developed for solar energy development projects producing more than 20 MW of electricity for off-site use (utility scale) and would be implemented to mitigate adverse impacts to air quality. As previously mentioned, small scale solar energy projects are considered to result in no impacts under CEQA; however, all individual solar energy facility projects applications (including small scale, community scale, and ~~distributed generation~~ commercial scale) shall

be reviewed by the county **and the need for implementation of the following mitigation measures shall be determined based on the professional judgment of a qualified county planner...**

If a proposed ~~distribution-generation~~ commercial scale or community scale solar development project is determined by the county to have the potential to impact air quality, then the following mitigation measures shall be implemented **as determined necessary by the qualified county planner...**

(PEIR, p. 4.3-17 [underlines and strikethroughs in original; bold emphasis added].)

Plainly, the PEIR gave County staff the flexibility to determine whether the PEIR mitigation measures should be applied to solar projects generating less than 20 MW. Given that the output for the Projects is 4.2 MW, and the Projects will occupy far less land than a 20 MW solar array, the County is within its discretion to determine that some or all of the mitigation applicable to 20 MW+ projects are inappropriate here.

We suspect that the comment reflects some confusion between the relationship between a MMRP and an EIR. A MMRP is designed to: “ensure that the mitigation measures and project revisions identified in the negative declaration of are implemented.” (CEQA Guidelines, § 15097; see also CEQA, § 21081.6(a)(1).) Said differently, a MMRP only implements measures contained in an EIR or negative declaration. If an MMRP does not do so faithfully, the EIR or negative declaration control. Here, to the extent that the 2015 MMRP did not fully capture the PEIR’s mitigation, the language in the PEIR itself still controls.

#### **D.2.h. Mitigation Measures are not Adequately Defined**

*Finally, regulatory compliance is only permissible when it is reasonable to assume that they will actually be complied with. “[C]ompliance with regulations is a common and reasonable mitigation measure, and may be proper where it is reasonable to expect compliance.” (Oakland Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884, 906.) Here, the project applicant has repeatedly violated County and air district rules and permits with respect to this Project and earlier projects. These repeated violations have been documented by County staff and establish that it is not reasonable to simply assume that the project applicant will comply with such permit terms in the future.*

#### **Response:**

The commenter asserts, without supporting facts, that the applicant violated County and air district rules. However, unsubstantiated narrative is not substantial evidence. (See CEQA Guidelines, § 15384.) Further, CEQA requires a lead agency to accept existing “baseline” conditions when preparing a CEQA review, even if those conditions result from an alleged violation of law. (See *Communities for a Better Environmental v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 321, fn. 7;

*Eureka Citizens for Responsible Gov. v. City of Eureka* (2007) 147 Cal.App.4th 357, 370-371 [baseline for school playground project was existing playground, even though past construction may have violated city code]; *Fat v. Cnty. of Sacramento* (2002) 97 Cal.App.4th 1270, 1278-1281 [existing airport activity part of baseline, even if it occurred previously without permit]; *Riverwatch v. Cnty. of San Diego* (1999) 76 Cal.App.4th 1428, 1453 [improper to extend baseline into past to capture illegal mining activity]; see also *Bottini v. City of San Diego* (2018) 27 Cal.App.5th 281, 303 [noting caselaw.] Thus, the comment has not identified any flaw in the County’s treatment of the Projects.

### **D.2.i. Mitigation Measures are not Adequately Defined**

*In short, the RMNDs improperly rely on mitigation to avoid analysis of project impacts and fail to provide adequate information in order to determine whether mitigation is effective and enforceable. Without this necessary information, the RMND’s significance determinations are not supported by substantial evidence.*

#### **Response:**

For the reasons stated above, the commenter has not shown that the County erred in any way. The impacts of these small solar Projects are uniformly less than significant. The dust controls and other measures adopted here are in the nature of best management practices that are applied without regard to the scale or significance of impacts. The applicant should not be penalized for committing to do more than is strictly required to mitigate non-existent impacts.

### **D.3. RMNDs Inconsistently apply the PEIR’s Mitigation Measures**

*Our prior comment letter explains that the original MNDs appeared to have ignored literally dozens of mitigation measures adopted pursuant to the PEIR. The RMNDs now appear to incorporate the PEIR’s mitigation measures but have done so inconsistently and in violation of CEQA. For example, sections IV(a) (Biological Resources) and XIII(a) (Noise) appear to incorporate mitigation measures set forth in the PEIR in order to address the Project’s potentially significant impacts in those resource areas. Setting aside the procedural deficiency of not circulating an MMRP including these mitigation measures, the RMNDs fail to explain why the same procedure was not followed in other resource areas [fn: Examples include air quality, agricultural impacts, transportation, water quality and visual resources] where the PEIR requires mitigation in order to support a less-than-significant determination. The leading CEQA treatise explains, “As activities within the program are approved, the agency must incorporate, if feasible, the mitigation measures and alternatives developed in the program EIR in its action approving the activity.” (I Kostka and Zischke, Practice Under the Cal. Environmental Quality Act (2nd ed. 2023) § 10.16, p. 10-20.)*

## **Response:**

The commenter has not shown any inconsistency in application of the PEIR’s mitigation measures. The comment fails to appreciate that the PEIR applied mainly to large solar projects (20 MW or greater generating capacity), and that the PEIR left it to County staff’s discretion to apply the PEIR’s mitigation measures to smaller-scale projects. The biological resources and noise analysis are examples in which the County exercised its discretion in appropriate ways.

With respect to biological resources, the PEIR provided County staff the discretion, for small-scale projects, whether to require a biological resource evaluation or implement the biological resource mitigation measures in the PEIR. (PEIR, p. 4.4-123.) Here, County staff examined the sites and found no species or habitat that would be affected. (IS, IV.a.) The record also contains a biological resource evaluation prepared on the applicant’s behalf which corroborates staff’s observations but also noted that certain species (desert kit fox, protected birds) could unexpectedly visit, and listed mitigation measures to ensure the risks to these species are less than significant. The Initial Study stated that these measures were “consistent with” the PEIR, but the Initial Study did not incorporate the PEIR’s mitigation measures, which County staff had the discretion not to do.

With respect to noise, the PEIR gave County staff similar discretion to determine whether to impose the PEIR mitigation measures on projects less than utility-scale. (PEIR, p. 4.12-19.) However, the PEIR also noted that the General Plan Noise Element requires noise mitigation for construction that is within 500 feet of a residential receptor. (PEIR, p. 4.12-9.) Portions of the Projects are approximately 400 feet from two residential structures. (See IS, XIII.a.) Thus, the County reasonably imposed PEIR Mitigation Measure NOI-2 to mitigate construction noise within that 500-foot area. That decision gives effect to the General Plan and implements the PEIR mitigations to the extent needed, which the County has the discretion to do.

The County also had discretion to impose, or not to impose, the PEIR’s mitigation for the other resource areas cited by the commenter (air quality, agricultural impacts, transportation, water quality and visual resources). (See PEIR, pp. 4.3-17 [air quality], 4.2-14 [agriculture], 4.17-12 [transportation]; 4.9-44-45 [water quality]; 4.1-25-26 [visual; resources].) The County was not obligated to incorporate any of them given the small size of the Projects. The commenter has not shown that the County’s proposed exercise of discretion is contrary to the record.

## **E. The County Does Not Explain the Lack of Visual Simulations**

*The RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR. AES-1 requires “site-specific visual studies . . . to assess potential visual impacts.” “Visual simulations shall be prepared to conceptually depict-post development views from the identified key observation points.” No such studies were prepared. Instead, Appendix A consists solely of low-quality “representative photographs” of apparently existing conditions.*

*The RMND states, “Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a*



*qualified planner to not have a potential to impact visual resources, including a scenic vista.” The RMNDs conspicuously fails to provide any substantial evidence supporting this conclusion. The RMNDs fail to set forth any analysis, much less written report, supporting this conclusion. The RMNDs fail to identify the County planner purportedly making this determination, the date of the determination, the criteria followed by the County planner or any specific facts supporting this determination. There is no evidence, much less substantial evidence, supporting the MND’s conclusory assertion that an unspecified “qualified County planner” determined that the Project would not have the potential to impact visual resources.*

**Response:**

The comment errs in a number of ways.

First, the commenter states, incorrectly, that “[t]he RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR.” The Initial Study stated only that the Projects were “consistent with” the PEIR which did not require site-specific visual studies for projects with less than 20 MW generating capacity. This comment thus mischaracterizes the Initial Study.

Second, the commenter asserts that no substantial evidence supports the conclusion that the Projects would not have a significant impact on a scenic vista. Such evidence is clear from the record. The Initial Study states that the Projects are not located near a scenic vista (IS, I.a.), and the comment provides no contrary evidence. Moreover, the Initial Study explains that the Projects are located on the valley floor, on a site without scenic resources, near junk and scrap yards, in an area removed from any scenic highways or recognized scenic resources. (IS, pp. 3-4, I.a.) These observations were buttressed by corroborative photographs. (IS, Appendix A.) Thus, the County had a factual basis for its determination and was clear in its rationale.

Third, the commenter states that the record fails to identify the planner making the visual resources determination. This also is not accurate. The Initial Study was signed by Cynthia Draper, an Assistant Planner with the Inyo County Planning Department, on July 19, 2023. The commenter must presume that this planner made the determinations in the initial study.

Fourth and finally, the comment incorrectly assumes that there is substantial evidence in the record giving rise to the need for a visual study. Such evidence does not exist, nor has the commenter offered any. (CEQA Guidelines, § 15384 [substantial evidence not include “argument, speculation, [or] unsubstantiated opinion or narrative...”].) Rather, the evidence shows that these are small projects, in a sparsely populated area and few residents, in an area without recognized scenic resources. There is no error in the County’s analysis.

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**F. The RMNDs Fail to Include a Traffic Control Plan:**

*PEIR mitigation measure TRA-1 provides:*

*Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.*

*The RMNDs do not include the required traffic control plan, nor even mention mitigation measure TRA-1. While the RMNDs state that the Project “will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase,” there is no attempt to explain why these “few” construction vehicles do not require a traffic control plan to avoid conflicts with adjacent and nearby residents.*

**Response:**

The commenter again overlooks language in the PEIR that makes the transportation mitigation measures (including TRA-1) applicable only to utility-scale solar projects, and which gives County staff discretion to determine whether the PEIR mitigation measures are appropriate for a smaller-scale project like this. (PEIR, p. 4.17-12.) Here, the Initial Study documented that the Projects would generate only a small amount of traffic on a lightly-used road:

The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.

(IS, XVII.a.) The Appendix C air memorandum, similarly, conservatively assumed that approximately ten contractors would visit per day for 25 days during construction, and almost no traffic (one daily trip) would occur in operations. (IS, Appendix C, p. 6.) These are small traffic volumes on a lightly-traveled road. The record does not suggest that a site-specific traffic control plan is necessary. The County’s treatment of the Projects is supported by substantial evidence.

**G. The MNDs Fail to Address Impacts Associated with Noxious Weeds:**

*Mitigation measure AG-3 provides, “To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed.” In violation of this mitigation measure, no weed-abatement plan appears to have been prepared, and the RMNDs make no reference to such a plan.*

**Response:**

Again, the commenter overlooks language in the PEIR that makes the agricultural mitigation measures (including AG-3) applicable only to utility-scale solar projects, and which gives County staff discretion to determine if they are appropriate for smaller-scale projects. (PEIR, p. 4.2-14.) As stated in the initial study, agriculture and farming are not significant land uses in the area, the Projects would not result in the conversion of agricultural land. (IS, pp. 3, II.) Thus, the Projects are not expected to have any impacts to agriculture that warrant a weed management program, and the County was within its discretion to determine that such a mitigation measure was unnecessary.

**CONCLUSION**

On behalf of Mr. Barker, we appreciate the County’s work on the Projects, and the opportunity to respond to the comments. If you have any questions, please do not hesitate to contact me at (916) 501-2395 or [shungerford@hthglaw.com](mailto:shungerford@hthglaw.com).

Very truly yours,  
HARRISON, TEMBLADOR, HUNGERFORD & GUERNSEY



By  
Sean Hungerford

cc: Client

ATTACHMENT- D

REP 2022-01/BARKER  
PLANNING  
COMMISSION STAFF  
REPORT



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**AGENDA ITEM NO.:** Action Item No. 5  
**PLANNING COMMISSION**  
**MEETING DATE:** October 25, 2023  
**SUBJECT:** Renewable Energy Permit # 2022-01/Barker

**EXECUTIVE SUMMARY**

The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on one private parcel (APN:038-330-46) in Trona, California. This permit would allow the applicant to construct a proposed 1.2-megawatt (MW) commercial scale photovoltaic solar facility, referred to as Trona 7. The project proposes approximately 2,300 single axis tracker solar panels, encompassing 5-acres of pre-disturbed land. The project is a Mitigated Negative Declaration of Environmental Impact under the California Environmental Quality Act (CEQA).

**PROJECT INFORMATION**

**Supervisory District:** 5

**Project Applicant:** Robbie Barker

**Site Address:** Trona, CA 93592

**Community:** Trona, CA

**A.P.N.:** 038-330-46

**General Plan:** Residential Estate (RE); SEDA Overlay

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

**Size of Parcel:** 5 acres.

**SURROUNDING LAND USE:**

<b>Location:</b>	<b>Use:</b>	<b>Gen. Plan Designation</b>	<b>Zoning</b>
North	Vacant	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)
South	Vacant	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)
East	Developed/ Solar	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)
West	Single Family Res	Residential Estate (RE)	Rural Residential-5.0-acre min (RR-5.0-MH)

**Staff Recommended Action:** Approve the Renewable Energy Permit 2022-01

**Alternatives:**

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

**Project Planner:** Cynthia Draper

## STAFF ANALYSIS

### Background

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

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

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

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

## Overview

The applicant has applied for a Renewable Energy Permit with the Inyo County Planning Department to construct a 1.2-megawatt (MW) commercial scale photovoltaic solar energy facility, referred to as Trona 7, on one 5-acre parcel (APN:038-330-46), owned by Robbie Barker. The project would construct roughly 2,300 single-axis tracker solar panels that will connect to the existing Southern California Edison (SCE) transmission line passing through the area. The project will enable income-qualified residential customers, who may be unable to install solar on their roof, to receive a discount on their electricity bill through SCE's Community Renewable Program (*see vicinity map*).

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

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

## General Plan Consistency

The goal of this review is to allow the applicant to develop a renewable solar project in compliance with the County's Renewable Energy General Plan Amendment (REGPA), as well as Title 21 of the Inyo County Code (ICC). The proposed project is consistent with the goals and policies of the Inyo County REGPA, as adopted by the Inyo County Board of Supervisors in 2015. The finalized Programmatic Environmental Impact Report (PEIR) of the 2015 REGPA defines commercial scale renewable energy facilities as having a 20-megawatt (MW) capacity or less. This project has a rated capacity of 1.2-megawatts (MW). Since the developer is planning a small-scale project, they have applied for a renewable energy permit, per the requirements of Title 21 of the Inyo County Code. Furthermore, County land use policy requires that commercial scale renewable energy projects be considered within Solar Energy Development Areas (SEDA) overlays. This project is within the County's Southern Solar Energy Group, in Trona, California (*REGPA 2015, figure ES1*). \*

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

### Zoning Ordinance Consistency

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

### Environmental Review

Per Public Resource Code Section 21166, the County is not required to do additional CEQA. However, staff made the decision to do an initial study to cover all bases. In December 2022, An Initial Study with a Mitigated Negative Declaration (ISMND) was performed by staff to consider possible significant impacts to environmental resources for this project. Based on the fact that the project site was devoid of natural habitat at the time the application was submitted, it was determined that a biological survey and a cultural report was not required. The State review period for the ISMND ended on December 27, 2022 and no comments were received from local and state agencies.

Due to public comment regarding the first ISMND, the applicant, although it was not necessary or required, decided to have a biological survey and air quality report done and asked staff to revise and recirculate the ISMND through the CEQA State Clearinghouse. A public hearing for Renewable Energy Permit 2022-01/Barker, was originally set before the Planning Commission on March 23, 2023 to approve the application, but due to noticing errors it was postponed to May 3, 2023 and once again to October 25, 2023 to provide time to recirculate the ISMND based on the comments received. The state review period for the recirculated ISMND ended on August 17, 2023. No comments were received from State or Local agencies. Public comments were received and sent to the Planning Commission for review. A copy of the recirculated ISNMD can be found at <https://www.inyocounty.us/services/planning-department/current-projects>.

### **NOTICING & REVIEW**

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

The application for Renewable energy permit 2022-01/Barker has been reviewed by the following County Departments: Environmental Health, Public Works, Road Dept., Building & Safety, and the Inyo County Tax collector. Information regarding the project was also sent to the San Bernardino Fire Department and China Lake Naval Air Weapons Station. No comments have been received to date.

Residents within 300 feet of the proposed project were notified that an application for a Renewable Energy Permit was being submitted, and staff noticed these residents regarding the public hearing date.



The recirculated Notice of Availability of the Initial Study was published in the *Inyo Register* on July 25, 2023. Notification of the public hearing date for this permit was published in the *Inyo Register* on October 13, 2023. Public comments were received and sent to the Planning Commission for review.

## **RECOMMENDATION**

Planning Department staff recommends the approval of Renewable Energy Permit 2022-01/Barker, with the following Findings and Conditions of Approval:

## **FINDINGS**

1. The proposed Renewable Energy Permit has met the provisions of necessary review, pursuant to the California Environmental Quality Act.  
*[Evidence: The Inyo County 2015 REGPA, the Initial Study for this project (December 2022 & August 2023), and the addition of the mitigation and monitoring program recommended for this permit, have eliminated the potential for adverse environmental impacts that will exceed thresholds of significance, either individually or cumulatively.]*
2. The proposed Renewable Energy Permit is consistent with the Inyo County General Plan Land Use Designation of Residential Estate (RE)/ SEDA, as adopted by Inyo County.  
*[Evidence: In 2015, Inyo County updated its General Plan to include policies for solar energy development within the County. New goals, policies, implementation measures, and actual sites, were identified in locations referred to in the REGPA as SEDAs. The current project falls within Inyo County's southern SEDA; and therefore, has consistency with the General Plan.]*
3. The proposed Renewable Energy Permit is consistent with the Inyo County Zoning Ordinance. *[Evidence: Utility scale and commercial scale renewable energy solar facilities are allowed within any zoning district, under Title 18 of the Inyo County Code, and pursuant to Inyo County Code Title 21 if the facilities are proposed within a SEDA. The new land use policy created by the REGPA means that applications will be considered regardless of zoning designation, with approval of the permit decided by the Planning Commission, as long as they are located in a SEDA.]*
4. The proposed Renewable Energy Permit is necessary or desirable.  
*[Evidence: In 2015, the Inyo County Board of Supervisors decided it was necessary to adopt new land use policies that were consistent with and met the broader goals and visions for the County as expressed in the General Plan. These amended land use policies regulate and direct the type, siting, and size of potential future renewable energy development within the County. Given that the proposed project is within the southern SEDA, the project is consistent with what the County has deemed necessary and desirable (REGPA, ES-2, 2015).]*
5. The proposed Renewable Energy Permit is properly related to other uses and transportation and service facilities in the vicinity.  
*[Evidence: The proposed Renewable Energy Permit is properly related to transportation and service facilities and will not adversely affect these facilities. The project is located in an area where it can connect to Southern California Edison's electrical transmission lines. This project is secluded enough to avoid burdens to Inyo County maintained roads, in this case Trona Wildrose Road. Additionally, it is over a mile away from the Trona airport.]*

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

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

7. Operating requirements necessitate the proposed Renewable Energy Permit for the site.

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

## CONDITIONS OF APPROVAL

### 1. *Hold Harmless*

The owner/developer shall defend, indemnify, and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Renewable Energy Permit No. 2022-01/ Barker. The County reserves the right to prepare its own defense.

### 2. *Compliance with County Code*

The owner/developer shall conform to all applicable provisions of the Inyo County General Plan, Zoning Code and County and State regulations, including the California Building and Health and Safety Codes. Failure to comply may result in the revocation of REP 2022-01/Barker. If the use provided by this REP is not established within one year of approval date it will become void.

### 3. *Decommissioning Plan and Financial Assurance*

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

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

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

### 4. *Notification of local American Tribes*

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

### 5. *Air Quality*

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

*6. Desert kit fox and nesting birds*

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

*7. Noise*

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

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

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

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

[https://library.qcode.us/lib/inyo\\_county\\_ca/pub/county\\_code/item/title\\_21-chapter\\_21\\_16](https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_21-chapter_21_16)

[Chapter 9.52 DISTURBANCE OF ARCHAEOLOGICAL, PALEONTOLOGICAL AND HISTORICAL FEATURES \(qcode.us\)](https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_21-chapter_21_16-21_04_030)

[https://library.qcode.us/lib/inyo\\_county\\_ca/pub/county\\_code/item/title\\_21-chapter\\_21\\_04-21\\_04\\_030](https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_21-chapter_21_04-21_04_030)

[https://library.qcode.us/lib/inyo\\_county\\_ca/pub/county\\_code/item/title\\_21-chapter\\_21\\_16-21\\_16\\_060](https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_21-chapter_21_16-21_16_060)

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PRC&sectionNum=21080.3.1.](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC&sectionNum=21080.3.1)

**ATTACHMENTS:**

Vicinity map

Vicinity map – 2

Vicinity map- Proposed and existing solar fields

Public Resource Code Section 21166

Site Plan

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

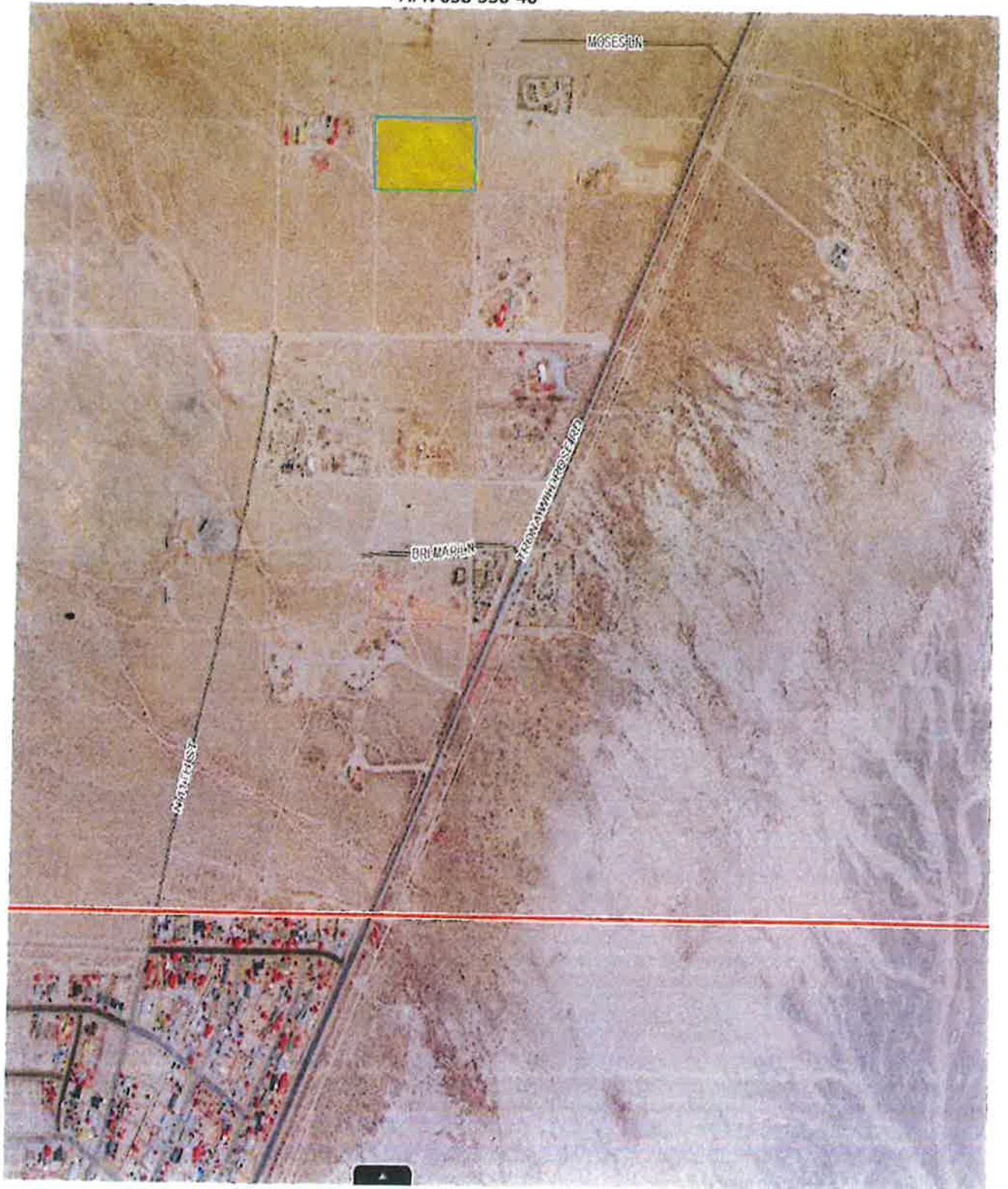
Diagram 32f: Solar Energy Development area- Trona

Mitigation and Monitoring Program

# VICINITY MAP

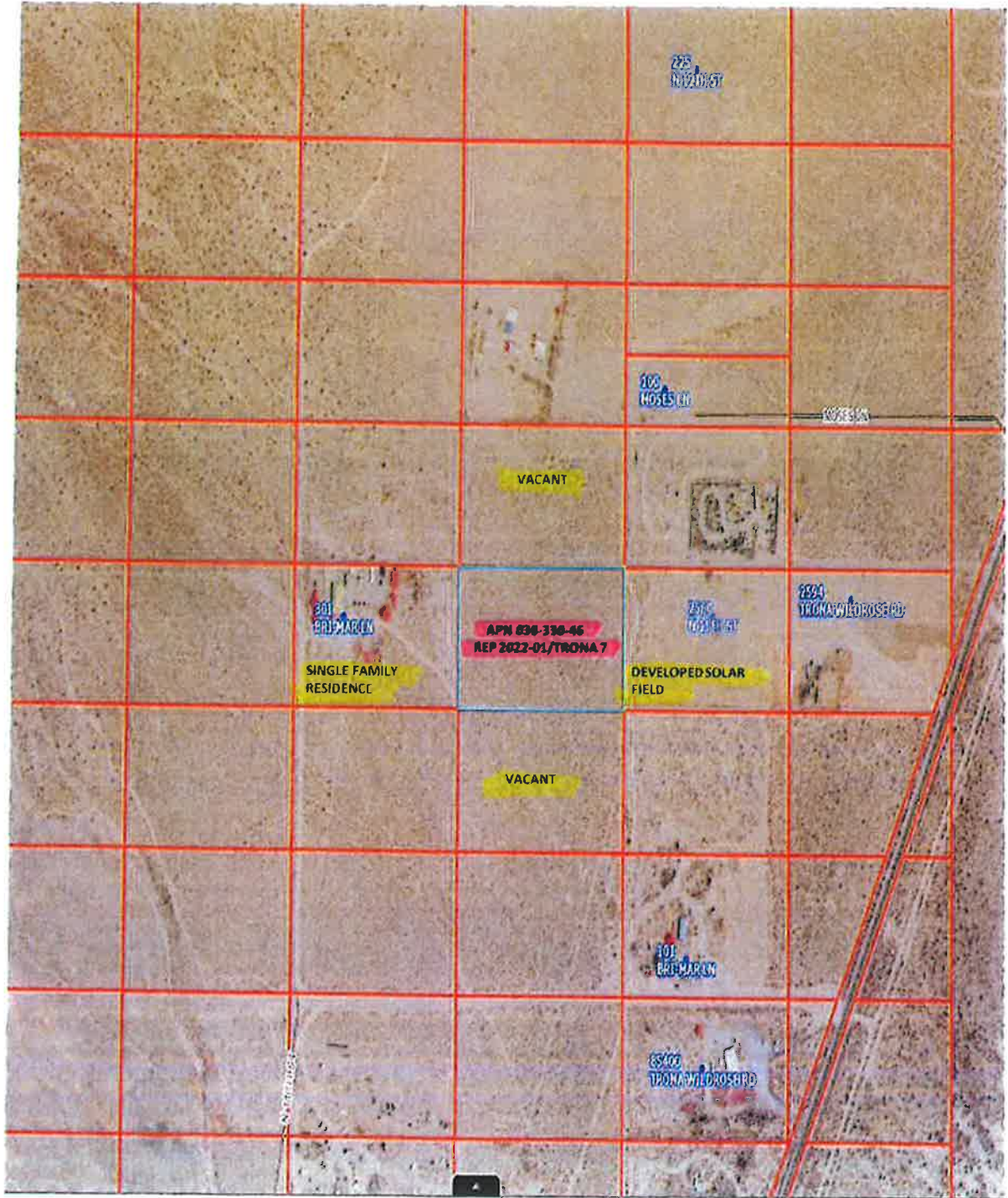
REP 2022-01/ BARKER

APN 038-330-46

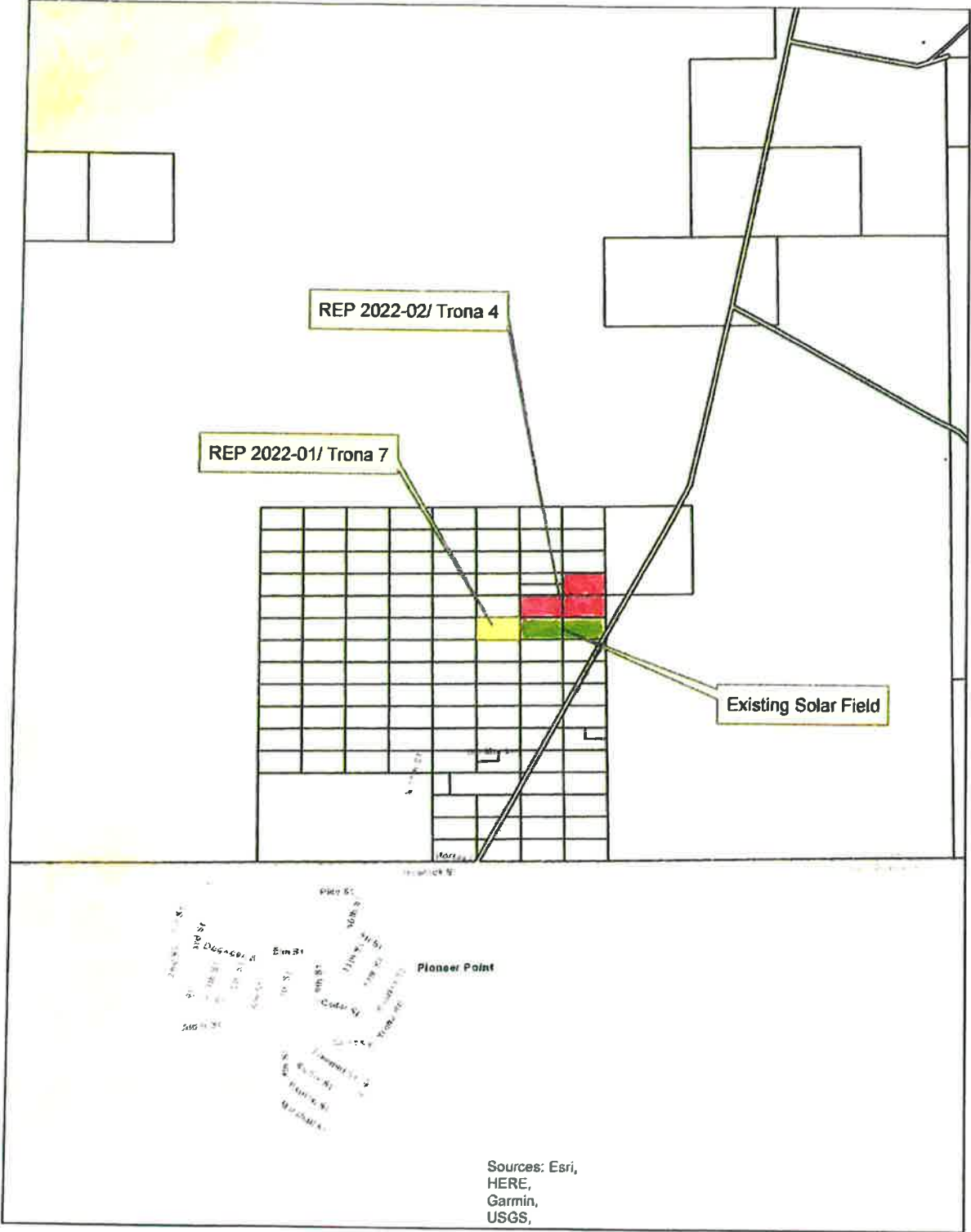


# VICINITY MAP- 2

REP 2022-01/BARKER



# Vicinity Map- Proposed and existing solar fields



REP 2022-02/ Trona 4

REP 2022-01/ Trona 7

Existing Solar Field

Pioneer Point

Sources: Esri,  
HERE,  
Garmin,  
USGS,

# Cal. Pub. Resources Code § 21166

[Download PDF](#)

Current through the 2023 Legislative Session.

## Section 21166 - Subsequent or supplemental report required

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

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

*Cal. Pub. Res. Code § 21166*

[Previous Section](#)

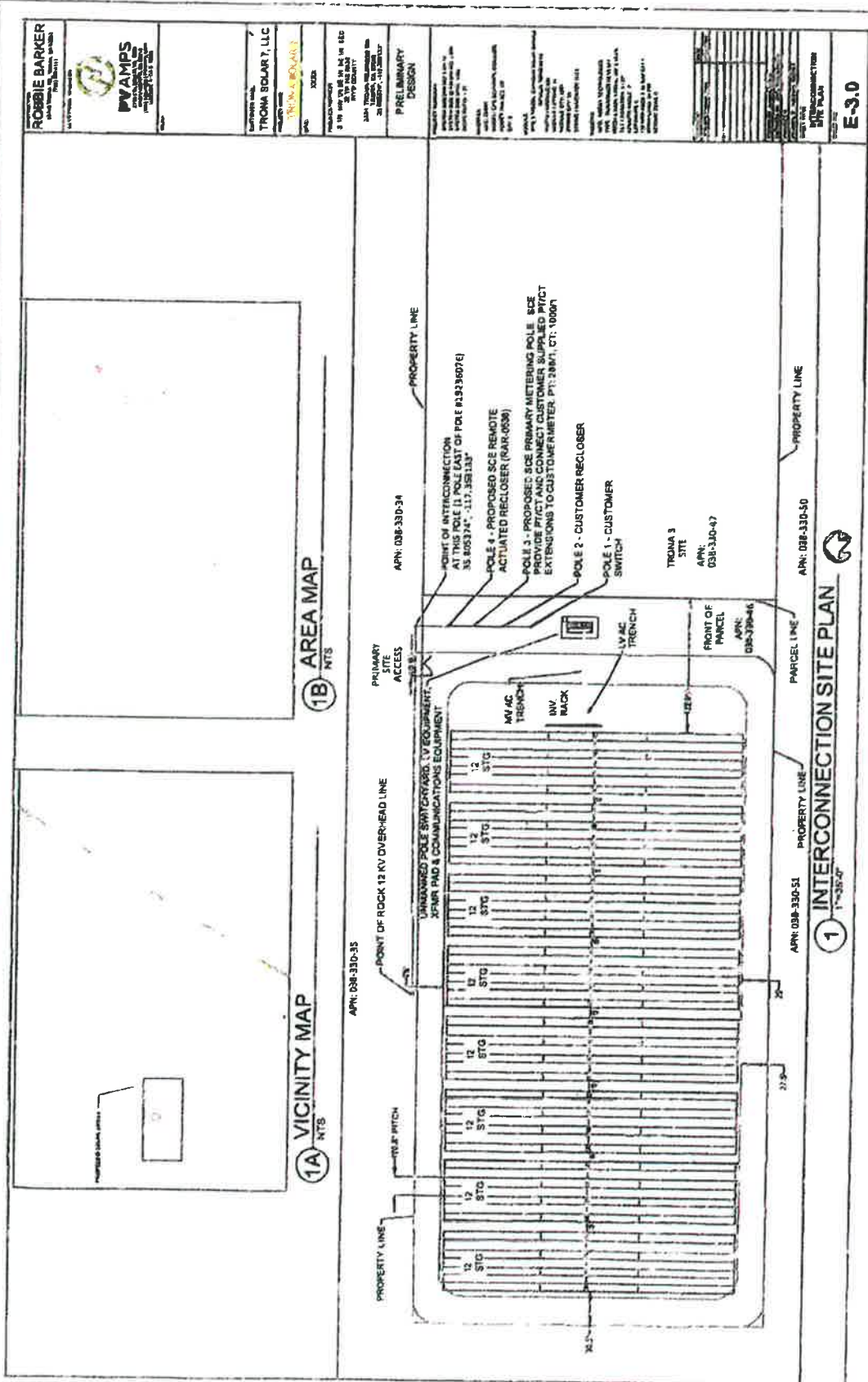
[Section 21165 - Project carried out by two or more public agencies](#)

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[Next Section](#)

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

# REP 2022-01/BARKER SITE PLAN



**ROBBIE BARKER**  
 10000 S. 100th St., Suite 100  
 Kent, WA 98032  
 (206) 835-1100

**PVAMPS**  
 PHOTOVOLTAIC APPLICATION MANAGEMENT SYSTEMS  
 10000 S. 100th St., Suite 100  
 Kent, WA 98032  
 (206) 835-1100

**TRONAS SOLAR 7, LLC**  
 10000 S. 100th St., Suite 100  
 Kent, WA 98032  
 (206) 835-1100

**PRELIMINARY DESIGN**

DATE: 08/11/2022  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 PROJECT NO: [Number]

APN: 038-330-34

APN: 038-330-35

APN: 038-330-46

APN: 038-330-47

APN: 038-330-50

APN: 038-330-51

APN: 038-330-52

APN: 038-330-53

APN: 038-330-54

APN: 038-330-55

APN: 038-330-56

APN: 038-330-57

APN: 038-330-58

APN: 038-330-59

APN: 038-330-60

APN: 038-330-61

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APN: 038-330-67

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APN: 038-330-70

APN: 038-330-71

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APN: 038-330-77

APN: 038-330-78

APN: 038-330-79

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APN: 038-330-81

APN: 038-330-82

APN: 038-330-83

APN: 038-330-84

APN: 038-330-85

APN: 038-330-86

APN: 038-330-87

APN: 038-330-88

APN: 038-330-89

APN: 038-330-90

APN: 038-330-91

APN: 038-330-92

APN: 038-330-93

APN: 038-330-94

APN: 038-330-95

APN: 038-330-96

APN: 038-330-97

APN: 038-330-98

APN: 038-330-99

APN: 038-330-100

**E-3.0**

**1A VICINITY MAP**  
NTS

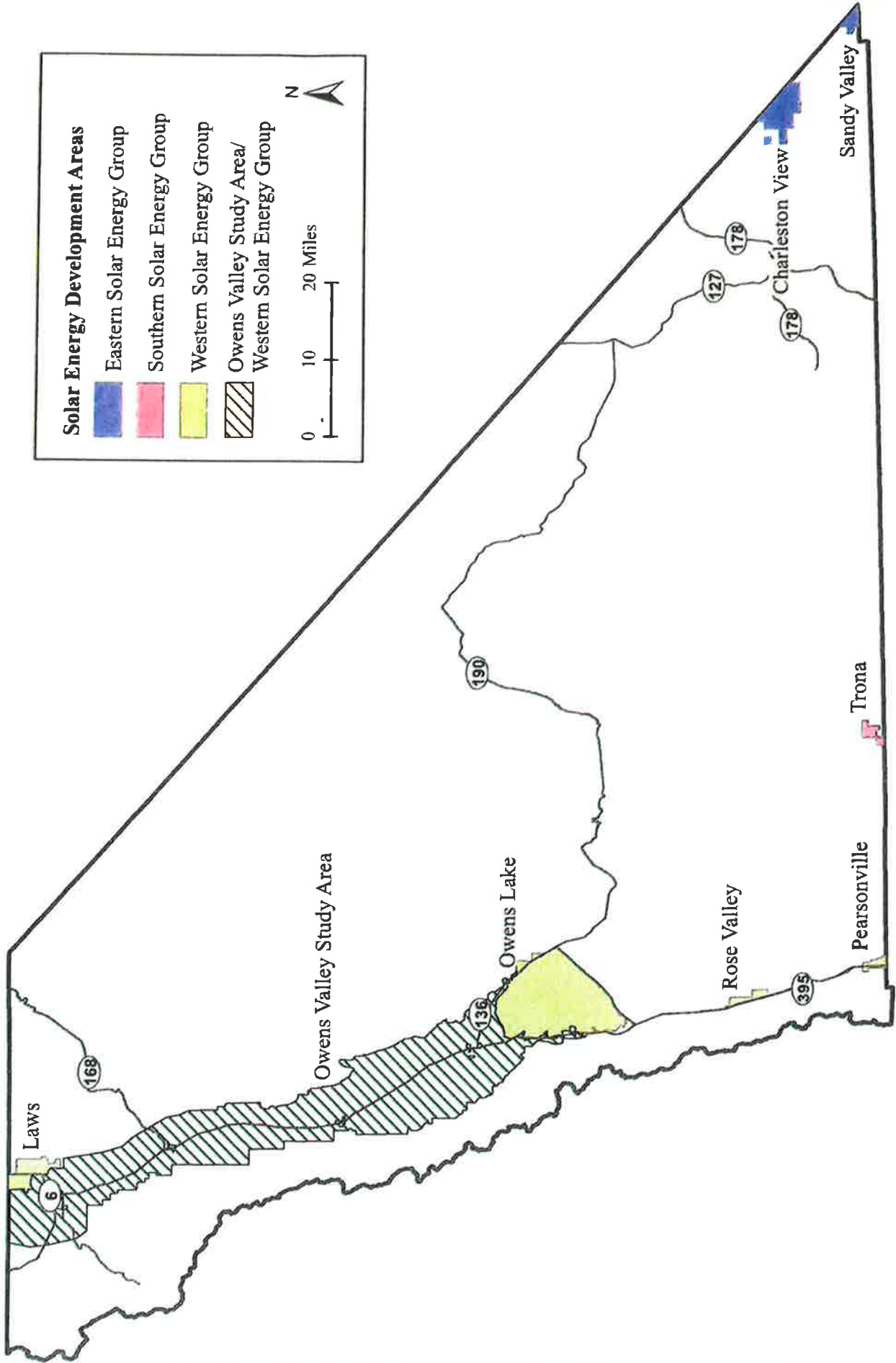
**1B AREA MAP**  
NTS

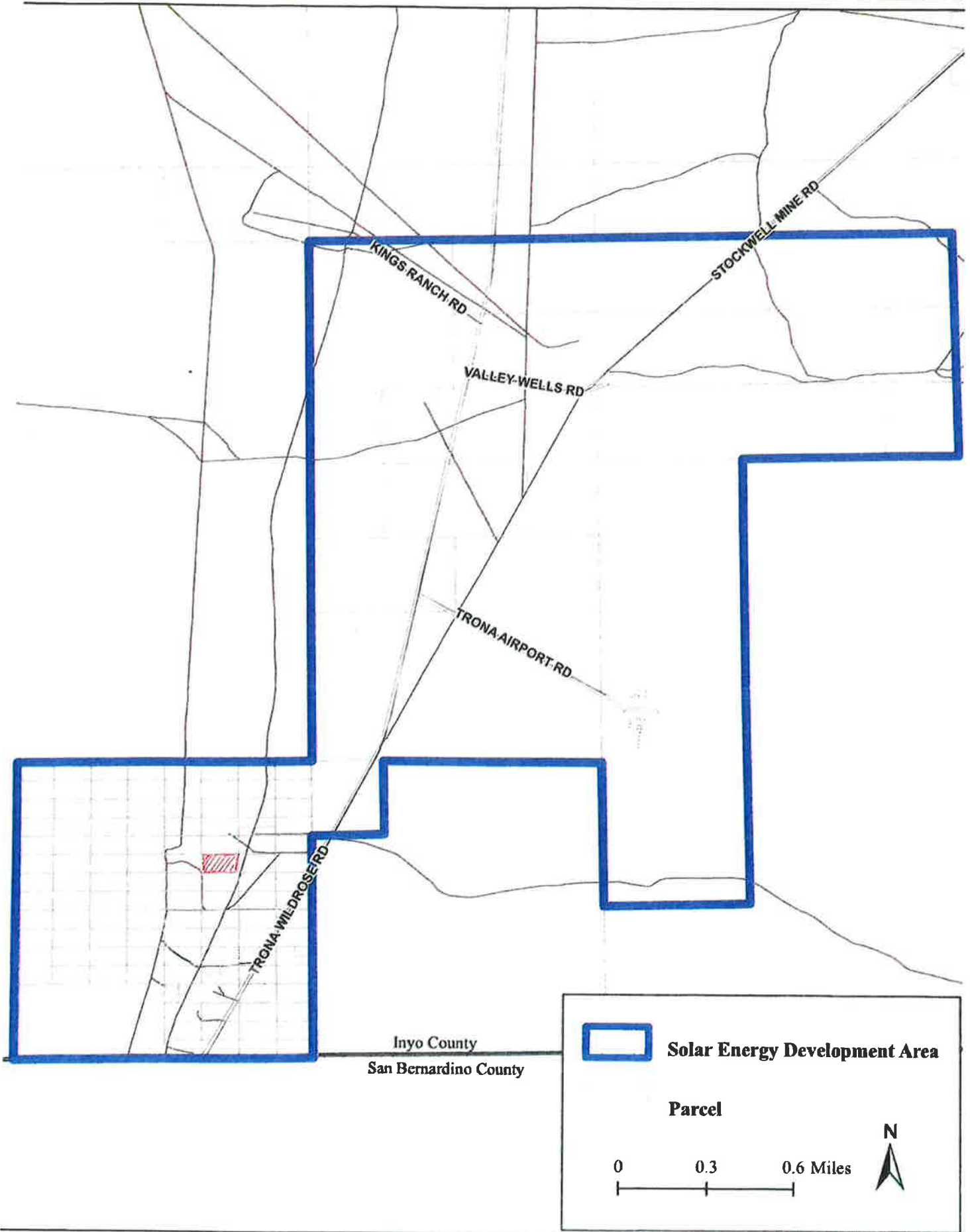
**1 INTERCONNECTION SITE PLAN**  
1"=30'-0"



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

GPA #2013-02, March 24, 2015





# MITIGATION & MONITORING PROGRAM

## Renewable Energy Permit 2022-01/ BARKER

### INTRODUCTION

This Mitigation and Monitoring Program (MMP) has been developed for Renewable Energy Permit/2202-01/Barker, pursuant to Inyo County Code ICC 15.44. The MMP describes changes to the project or conditions of approval that mitigate or avoid the project’s potential significant effects on the environment. Based on the Initial Study and Mitigated Negative Declaration of Environmental Impact, and the administrative record, as a whole, there is no substantial evidence that the Project may have a significant impact on the environment. The IS/MND identifies potential significant environmental impacts of the Project, in accordance with CEQA, and incorporates mitigation measures to reduce impacts to a level below significant.

Mitigation Measure	Monitoring Responsibility	Schedule
<b>Air Quality</b>		
<p>IIIa) During construction the following measures to control fugitive dust and emissions of particles shall be employed:</p> <ul style="list-style-type: none"> <li>• Provision of equipment and staffing for watering of all exposed or disturbed soil surfaces or use of an appropriate dust palliative or suppressant.</li> <li>• Watering or treating of all disturbed but inactive portions of the site with appropriate dust suppressant.</li> <li>• Watering or treating of all disturbed but inactive portions of</li> </ul>	<p>On-site contractor(s)</p> <p>Great Basin Unified Air Pollution Control District (GBUAPCD)</p> <p>Public Works (Building and Safety)</p> <p>Planning Department</p>	<p>On-site contractors will be responsible for dust control implementation during construction.</p> <p>Applicant will be responsible for dust control implementation during the life of the project.</p> <p>The GBUAPCD will be responsible for air quality monitoring.</p> <p>Inyo County Public Works (Building and Safety) will be responsible for construction inspections.</p> <p>Inyo County Planning Department staff will be responsible for yearly inspections.</p>

<p>the site with an appropriate dust suppressant.</p> <ul style="list-style-type: none"> <li>• Covering of materials transported by truck to control dust.</li> <li>• Daily clean-up of mud and dirt carried onto paved streets from the site.</li> <li>• Suspension of dust-producing activities during periods of sustained high winds (gusts exceeding 25 mph) when dust control measures are unable to avoid visible dust plumes.</li> </ul>		
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<p><b>Biological Resources</b></p>		
<p>IVa) A Pre-activity survey of the Project and a 250-foot buffer for desert kit fox and nesting migratory birds and a 500-foot buffer for nesting raptors surrounding the Project footprint shall be conducted.</p> <p>The survey should occur no less than 14 days prior to the start of construction activities and no more than 30 days prior to the start of construction activities.</p> <p>If construction is delayed beyond 30 days from the time of the survey, then another survey will need to be conducted.</p> <p>The survey shall be conducted by a qualified biologist.</p>	<p>Developer</p> <p>Inyo County Planning Department.</p>	<p>Preconstruction survey documents shall be presented to the Inyo County Planning Department prior to issuance of a building permit.</p> <p>Workers' Environmental Awareness training program documents shall be presented to the Inyo County Planning Department prior to issuance of a building permit.</p> <p>20MPH speed limit signs shall be posted on the project site prior to construction and maintained throughout the life of the project.</p> <p>Inyo County Planning Department will inspect the project site yearly.</p>

**Nesting migratory birds and raptors:**

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

**Desert Kit Fox:**

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

approves and monitors the activity.

- A Worker Environmental Awareness Training Program shall be prepared and presented to all workers that will be on-site during construction activities to minimize or eliminate impacts to sensitive biological resources.
- Project-related vehicles shall observe a 20-mph speed limit in all Project areas except on County roads and state and federal highways
- During work activities, the contractor shall cover all excavated , steep-walled holes or trenches more than 2 feet deep at the close of each working day. Before such holes are filled, the contractor shall thoroughly inspect them for trapped wildlife.
- All construction pipes, culverts or similar structures with a diameter of 4 inches or greater that are stored at the construction site for one or more overnight periods shall be inspected for wildlife before the pipe is

<p>buried, capped, or otherwise moved or used. If a kit fox is discovered inside a pipe, the section of pipe shall not be moved until the designated biologist has been consulted.</p> <ul style="list-style-type: none"> <li>• All trash and food items that attract wildlife shall be discarded into closed containers and properly disposed of each workday.</li> <li>• To prevent harassment or mortality of listed species, no pets shall be permitted on the project site.</li> </ul>		
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<b>Noise</b>		
<p>XIII a) Noise generated by onsite construction activities: Contractor(s) shall implement The MM NOI-2 incorporated best management practices (BMPs) from REAT's Best Management Practices within 500 feet of a residence or other sensitive receptor.</p> <p>See the following:</p>	<p>Inyo County Public works (Building and safety) Sheriff's Department</p>	<p>The Inyo County Public Works (Building and Safety) Department will verify that noise related contract specifications are in place before issuing demolition, grading, or building permits.</p> <p>The Public Works (Building and Safety) and Sheriff's Departments will respond to any noise complaints received and adjust measures as appropriate</p>

- Whenever feasible, electrical power will be used to run air compressors and similar power tools.
- Equipment staging areas will be located as far as feasible from occupied residences or schools.
- All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.
- Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.
- Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings.

1)Ensure noisy construction activities (including truck and rail deliveries, pile driving and blasting) are limited to the least noise-sensitive times of day (i.e., weekdays only 45 between 7 a.m. and 7 p.m.) for projects near residential or recreational areas.

2)Consider use of noise barriers such as berms and vegetation to limit ambient noise at plant property lines, especially where sensitive noise receptors may be present.

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3) Ensure all project equipment has sound-control devices no less effective than those provided on the original equipment. All construction equipment used should be adequately muzzled and maintained. Consider use of battery powered forklifts and other facility vehicles.

4) Ensure all stationary construction equipment (i.e., compressors and generators) is located as far as practicable from nearby residences.

5) If blasting or other noisy activities are required during the construction period, notify nearby residents and the permitting agencies 24 hours in advance.

6) Properly maintain mufflers, brakes and all loose items on construction and operation related vehicles to minimize noise and ensure safe operations. Keep truck operations to the quietest operating speeds. Advise about downshifting and vehicle operations in residential communities to keep truck noise to a minimum.

7) Use noise controls on standard construction equipment, shield impact tools. Consider use of flashing lights instead of audible back-up alarms on mobile equipment.

8) Install mufflers on air coolers and exhaust stacks of all diesel and gas-driven engines. Equip all emergency pressure relief valves and steam blow-down lines with silencers to limit noise levels.

9) Contain facilities within buildings or other types of effective noise enclosures.

10) Employ engineering controls, including sound-insulated equipment and control rooms, to reduce the average noise level in normal work areas.

ATTACHMENT- E

NOTICE OF  
DECISION AND  
NOTICE OF  
DETERMINATION

**FILED**

**Notice of Determination**

**OCT 25 2023**

**Appendix D**

To:  Office of Planning and Research **INYO CO. CLERK**  
U.S. Mail: **DANIELLE BENTON, CLERK**  
P.O. Box 3044 1400 Tenth St., Rm 113  
Sacramento, CA 95812-3044 Sacramento, CA 95814

From: Public Agency: Inyo County Planning  
Address: P.O. Drawer L  
Independence CA 93526  
Contact: Cynthia Draper  
Phone: 760-878-0265

County Clerk  
County of: Inyo  
Address: P.O. Box F  
Independence, CA 93526

Lead Agency (if different from above):  
Address: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Phone: \_\_\_\_\_

**SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.**

State Clearinghouse Number (if submitted to State Clearinghouse): ~~2008051038~~ 2022110344

Project Title: Renewable Energy Permit 2022-01/Barker

Project Applicant: Robbie Barker- 82740 Trona Road, Trona California 93562/ 760-372-4734

Project Location (include county): APN 038-330-46, Trona California - Inyo County

**Project Description:**

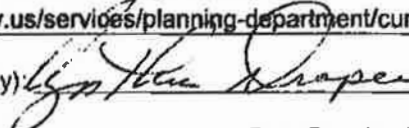
Renewable Energy Permit located on one private parcel (APN:038-330-46) in Trona, California. This permit will allow the applicant to construct a 1.2-megawatt (MW) commercial scale photovoltaic solar facility, referred to as Trona 7. The project proposes approximately 2,300 single axis tracker solar panels, encompassing 5-acres of pre-disturbed land. The project is a Mitigated Negative Declaration of Environmental Impact under the California Environmental Quality Act (CEQA).

This is to advise that the Inyo County Planning Commission has approved the above  
( Lead Agency or  Responsible Agency)

described project on October 25, 2023 and has made the following determinations regarding the above  
(date)  
described project.

1. The project ( will  will not) have a significant effect on the environment.
2.  An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.  
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures ( were  were not) made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan ( was  was not) adopted for this project.
5. A statement of Overriding Considerations ( was  was not) adopted for this project.
6. Findings ( were  were not) made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:  
<https://www.inyocounty.us/services/planning-department/current-projects>

Signature (Public Agency):  Title: Assistant Planner

Date: October 25, 2023 Date Received for filing at OPR: October 28, 2023



**Planning Department  
168 North Edwards Street  
Post Office Drawer L  
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**NOTICE OF DECISION**

October 25, 2023

Robbie Barker  
82740 Trona Rd  
Trona, CA 93562

**SUBJECT: Approval of Renewable Energy Permit (REP) 2022-01/Barker**

On October 25, 2023, Inyo County Planning Commission considered the above action, which would allow for a Renewable Energy Permit to construct a 1.2-Megawatt photovoltaic solar facility that uses approximately 2300 single axis tracker solar panels. The property is zoned Rural Residential-5.0-acre min and is located on APN 038-330-46, in the community of Trona. The project is a Mitigated Negative Declaration of Environmental Impact under the California Environmental Quality Act (CEQA)

After deliberation, the Planning Commission voted 4-0 to approve the project with the following Findings and Conditions of Approval:

**FINDINGS**

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

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

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

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

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

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

5. The proposed Renewable Energy Permit is properly related to other uses and transportation and service facilities in the vicinity. [Evidence: The proposed Renewable Energy Permit is properly related to transportation and service facilities and will not adversely affect these facilities. The project is located in an area where it can connect to Southern California Edison's electrical transmission lines. This project is secluded enough to avoid burdens to Inyo County maintained roads, in this case Trona Wildrose Road. Additionally, it is over a mile away from the Trona airport.]

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

7. Operating requirements necessitate the proposed Renewable Energy Permit for the site. [Evidence: Use of the applicant's property for a photovoltaic power plant

or solar energy system requires a Renewable Energy Permit, as per Chapter 21.08 of the Inyo County Code.]

## CONDITIONS OF APPROVAL

### 1. Hold Harmless

The owner/developer shall defend, indemnify, and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Renewable Energy Permit No. 2022-01/ Barker. The County reserves the right to prepare its own defense.

### 2. Compliance with County Code

The owner/developer shall conform to all applicable provisions of the Inyo County General Plan, Zoning Code and County and State regulations, including the California Building and Health and Safety Codes. Failure to comply may result in the revocation of Renewable Energy Permit No. 2022-01/Barker. If the use provided by this REP is not established within one year of approval date it will become void.

### 3. Decommissioning Plan and Financial Assurance

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

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

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

### 4. Notification of local American Tribes

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

### 5. Air Quality

The owner/developer shall implement and follow the Mitigation and Monitoring Program. Failure to do so will result in the revocation of the Renewable Energy Permit No. 2022-01/Barker

### 6. Desert kit fox and nesting birds

The owner/developer shall implement and follow the Mitigation and Monitoring Program. Failure to do so will result in the revocation of the Renewable Energy Permit No. 2022-01/Barker

7. Noise

The owner/developer shall implement and follow the Mitigation and Monitoring Program. Failure to do so will result in the revocation of the Renewable Energy Permit No. 2022-01/Barker

If there are any questions regarding the above information, please contact the Inyo County Planning office at (760) 878-0263.

Respectfully,

A handwritten signature in blue ink, appearing to read "Cynthia Draper", is written over the typed name. The signature is fluid and cursive, with a large initial "C" and "D".

Cynthia Draper, Inyo County Assistant Planner



ATTACHMENT -F

OCTOBER 25, 2023  
PLANNING  
COMMISSION  
MINUTES

# COUNTY OF INYO PLANNING COMMISSION

## MINUTES OF October 25, 2023 MEETING

### COMMISSIONERS:

HOWARD LEHWALD  
CAITLIN (KATE) J. MORLEY  
TODD VOGEL  
CALLIE PEEK  
SCOTT KEMP

FIRST DISTRICT  
SECOND DISTRICT  
THIRD DISTRICT (CHAIR)  
FOURTH DISTRICT (VICE)  
FIFTH DISTRICT

Inyo County Planning Commission  
Post Office Drawer L  
Independence, CA 93526  
(760) 878-0263  
(760) 872-0712 FAX

### STAFF:

CATHREEN RICHARDS  
CHRISTIAN MILOVICH  
RYAN STANDRIDGE  
SALLY FAIRCLOTH  
NATE GREENBERG  
MIKE ERRANTE

PLANNING DIRECTOR  
ASSISTANT COUNTY COUNSEL  
ASSOCIATE PLANNER  
PROJECT COORDINATOR  
COUNTY ADMINISTRATOR  
PUBLIC WORKS DIRECTOR

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The Inyo County Planning Commission met in regular session on Wednesday, October 25, 2023. Commissioner Vogel opened the meeting at 10:02 a.m. These minutes are to be considered for approval by the Planning Commission at their next scheduled meeting.

**ITEM 1:**     **PLEDGE OF ALLEGIANCE** – All recited the Pledge of Allegiance at 10:03 a.m.

**ITEM 2:**     **ROLL CALL** - Commissioners, Todd Vogel, Kate Morley, Callie Peek, and Howard Lehwald were present.

Staff present: Cathreen Richards, Planning Director, Ryan Standridge, Associate Planner, Cynthia Draper, Assistant Planner, and Christian Milovich, Assistant County Counsel.

Staff absent: Nate Greenberg, County Administrator; Michael Errante, Public Works Director.

**ITEM 3:**     **PUBLIC COMMENT PERIOD** – This item provides the opportunity for the public to address the Planning Commission on any planning subject that is not scheduled on the agenda.

Commissioner Vogel opened the Public Comment Period at 10:03 a.m.  
No comments were made.

**ITEM 4:**     **APPROVAL OF MINUTES (Action Item)** – Approval of the Minutes from the August 23, 2023, meeting of the Planning Commission.

**MOTION:**     Commissioner Morley made the motion to approve the minutes. The motion was seconded by Commissioner Peek.

The Motion passed 4-0-1 with commissioner Kemp absent.

**ITEM 5: RENEWABLE ENERGY PERMIT-2022-01/BARKER** - The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on one parcel (APN: 038-330-46), in Trona, California. This permit would allow the applicant to construct a proposed 1.2 megawatt (MW) photovoltaic solar facility that uses approximately 2,300 single axis tracker solar panels. The project encompasses 5-acres of pre-disturbed land. This project is a Mitigated Negative Declaration pursuant to CEQA.

Cynthia Draper, Assistant Planner, notified the Commissioners that a revision to the mitigation and monitoring program was being submitted for Commissions review prior to presenting the staff report. Once the revision was submitted for record, she presented the project.

Commissioner Morley acknowledged that the SCE Renewable Energy Program is not a county run program but asked if the county had additional information.

Cynthia Draper, Assistant Planner answered that the county does not have much information and stated that the program is an application process with Southern California Edison (SCE) and is based on qualifications.

Commissioner Morley asked Cynthia to summarize the revisions to the mitigation monitoring program.

Cynthia Draper, Assistant Planner stated that the revision was an expansion of the current monitoring program that included fifteen additional mitigations pertaining to noise.

Commissioner Lehwald had concerns about who would be doing the monitoring and how the conditions would be reported.

Cynthia Draper, Assistant planner clarified that the monitoring and reporting concerns were specific to the noise. She also explained that policing would be the responsibility of the neighboring parcels. They would need to contact the Planning Department or the Sheriff's Department to report the disturbance. She explained that if the developer did not comply with the conditions, it could lead to revocation of the permit.

Commissioner Morley requested clarification on the reporting requirements for dust.

Cynthia Draper, Assistant Planner stated that according to the mitigation and monitoring program, the Great Basin Unified Air Pollution Control District would be contacted directly for dust mitigation issues.

Cathreen Richards, Director provided a follow-up statement explaining to the commissioners that Great Basin is the regulatory and enforcement agency for dust control. However, the county would also go out to verify the complaint because it is part of the condition of approval. Any violation to the conditions of approval, are subject to possible revocation of the renewable energy permit.

Commissioner Lehwald had concerns about fire suppression at the site and wanted to confirm that the county had done its due diligence.

Cynthia Draper, Assistant planner confirmed with the applicant that in addition to the San Bernardino County fire department there was a volunteer fire department that would respond. She

said that she informed the San Bernardino County fire department of the project, and no issue or comments were received.

Commissioner Lehwald had concerns with setbacks based on comments received and asked for clarification.

Cynthia Draper, Assistant Planner explained that there are residences within 400 feet of the project site and that the project meets the required setbacks.

Commissioner Lehwald expressed concerns about the visual aspects of the project.

Cathreen Richards, Director explained that the visual resources were considered and addressed in the CEQA document for the Renewal Energy General Plan Amendment. No mitigation was required.

**Public Comment-** Commissioner Vogel opened the Public Hearing at 10:31 a.m.

Sean Hungerford, the attorney representing Robbie Barker explained that he came on board with the project when CEQA questions arose. His firm submitted a written response to public comments that was included in the staff report. He stated he was available to answer any questions after he clarified the new noise mitigations. The source of the changes to the new mitigations came directly out of the program EIR for the SEDA approved in 2015. The mitigations related to the construction noise within 500 feet of a residence and other sensitive receptors were added to the monitoring program.

Commissioner Vogel asked how long construction will take.

Sean Hungerford answered that it would take two weeks for trenching and grading and eight weeks to do poles and paneling.

Commissioner Vogel asked what kind of noise the facility will emit post construction.

Sean Hungerford said no impact based off the REGPA baseline study. The inverters are centrally located within the project and are not within the 500 feet of any structures.

Commissioner Peek asked how much traffic will impact the area once construction is finished.

Sean Hungerford answered that once construction was complete not much traffic would occur except for the occasional routine maintenance and checking for vandalism.

Robbie Barker of Valley Wide Construction commented that he was available to answer any questions the Commissioner may have.

Commissioner Vogel asked Robbie Barker what type of hazardous or combustible materials are on site after construction is complete.

Robbie Barker answered that there would be none. He went on to say that the only potential hazard material would be the inverter but when built to specs and tests are passed it removes the hazard. The solar array has an automatic monitoring system that also mitigates issues that arise.

Commissioner Vogel asked Planning staff if the project could create a larger buffer between the residences by moving the project west within the setback and closer to the existing Solar Array.

Cathreen Richards, Director explained that it could not be done without a setback variance.

Commissioner Lehwald asked if future expansion of solar arrays in this area is anticipated in the future.

Robbie Barker of Valley Wide engineering stated that based on SCE existing infrastructure the system may allow for two more.

Commissioner Peek asked if dust mitigation was used on his previous solar array project.

Robbie Barker answered that no dust mitigation was used, but it is now, and this project will have dust mitigation

Tom Kidder, property owner to the west of the solar project addressed the commissioners explaining that his family has owned the property for sixty years and that the project parcels are residential and not commercial and believes the solar should not be allowed. Mr. Kidder expressed concern on how CEQA was completed and has concerns for dust mitigation during the upcoming construction.

Mr. Kidder also had a fencing complaint, but it pertained to project REP 2022-02 and was tabled until the following agenda item because they are different projects.

Commissioner Vogel asked Mr. Kidder if adding security screening would help eliminate some of his visual concerns. Mr. Kidder Replied no, then the view would be of a fence.

Commissioner Lehwald initiated a discussion about Visual Resources based on concerns he received prior to the hearing. Staff explained that visual resources were addressed in the program

EIR and in the mitigated negative declaration documents. It was determined that no mitigation was required.

Commissioner Vogel closed the Public Hearing at 10:57 a.m.

**Commissioner Discussion-** Commissioner Vogel opened the Commissioner Discussion

A brief discussion ensued to clarify which public comments pertained to 2022-01/Barker. One of Commissioner Morley's questions pertained to this project. A written comment had alleged that the applicant had graded in preparation for the solar installation.

Cathreen Richards, Director explained that staff does not work off supposition, once the permit application was received, the planner went to the site and witnessed that the parcel were devoid of vegetation.

**MOTION:** Commissioner Vogel made a motion to approve renewable energy permit-2022-01/Barker as presented by Cynthia Draper

Commissioner Peek seconded the motion.

The Motion passed 4-0-1 with commissioner Kemp absent.

**ITEM 6: RENEWABLE ENERGY PERMIT 2022-02/BARKER-** The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on three parcels (038-330-32, 33, 34), in Trona California. This permit would allow the applicant to construct a proposed 3 megawatt (MW) photovoltaic solar facility that uses approximately 6,000 single axis tracker solar panels. The project encompasses 15-acres of pre-disturbed land. This project is a Mitigated Negative Declaration pursuant to CEQA.

Cynthia Draper, Assistant Planner gave the staff report.

Commissioner Morley inquired about the Moses Lane jurisdiction with regard to public comment.

Cynthia Draper, Assistant Planner explained that Moses Lane is on private property and is termed as a prescriptive right of way. The prescriptive right of way is a civil matter between the two property owners and does not pertain to the solar project being approved.

Christian Milovich, Assistant County counsel, assured the planning commissioners that the prescriptive right of way is not under the purview of the planning commission, and it is a civil matter.

**Public Comment- Commissioner Vogel opened the Public Hearing at 11:23 a.m.**

Tom Kidder, property owner to the west of the solar project provided a brief statement that reiterated his concerns mentioned in the previous project. Mr. Ritter expressed his disagreement with the county's view of the prescriptive right of way as it will block access to his driveway. He stated that the prescriptive right of way should be considered by the commission prior to issuance

of the permit. Mr. Kidder also disagreed with the staff's analysis of the property during CEQA review because he alleged that the applicant graded during the previously permitted solar project. Mr. Kidder said he believes that the SEDA, allowing commercial use in a residential zone, will affect future development and solar projects should be done on BLM land.

Sean Hungerford, attorney representing Robbie Barker of Valley Wide Construction, reassured the commissioners that the prescriptive right of way is a title issue that will be worked out, but it does not require Planning Commission deliberation. He informed the Commission that he advised his client not to talk about the right of way issue because it is a civil matter that has not been resolved.

Commissioner Lehwald asked if the applicant was aware of Mr. Kidder's application to install the mobile home. On the parcel next to the project.

Sean Hungerford, the attorney representing Robbie Barker of Valley Wide Construction, explained to the Commissioners that Mr. Ritter has property rights and can also build to standards governed by Inyo County.

**MOTION:** Commissioner Vogel made a motion to approve renewable energy permit 2022-02/Barker. Commissioner Peek made the second.

The Motion passed 4-0-1 with commissioner Kemp absent.

### **COMMISSIONERS' REPORT/COMMENTS**

No comments were made.

### **DIRECTOR'S REPORT**

Director Richards announced that Sally Faircloth was present and will be taking over as Planning Commission Secretary. The Commissioners all welcomed her and congratulated her. Director Richards went on to announce that a Special meeting will need to be held for an appeal for a revocation of a hosted short-term rental. After a brief discussion about availability, it was decided that the next scheduled meeting would be on November 15, 2023, at 10:00 a.m.

### **ADJOURNMENT**

Commissioner Vogel adjourned the meeting at 11:45 a.m.

Prepared by:  
Ryan Standridge  
Planning Department

**From:** Howard Smith <[hsmotorsports@msn.com](mailto:hsmotorsports@msn.com)>  
**Sent:** Monday, May 1, 2023 7:47 PM  
**To:** Cynthia Draper <[cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)>  
**Subject:** Comments on Renewal Barker Solar and Renewable Energy Permit.

You don't often get email from [hsmotorsports@msn.com](mailto:hsmotorsports@msn.com). [Learn why this is important](#)

May 1,  
2023

To whom it may  
concern.

My name is Howard D. Smith. I live at 2021 Homewood Canyon Road Homewood Canyon. Ca. 93592. I support the proposed Solar and Renewable Energy project near Trona. I have lived in the Trona area since 1977. I owned a 5- acre parcel of land next to the newly finished Barker Solar and Renewable Energy facility since 1980. My 5 acres were mostly fenced & used to store junk cars & scrap metal. I have spent much time on the property & did not experience any inconvenience while the present facility was being built. One big reason I support this project is I own 6 rental properties in Trona. Trona has two very large coal fired boilers. I can go to my properties on any given day & find coal dust lying on the cars. I know that Solar and Renewable Energies are clean & safe. Trona is a small town so news travels fast. I hear there maybe one or two people objecting to this project. One of the persons objecting had concerns about the area being rural residential and not industrial development is not appropriate for the area and will damage property rights and the health and lifestyle of families living in the area. It will introduce industrial activities that will create additional safety concerns for residents and children who live and play in the area. This is a ridiculous statement! Not many years ago the Inyo board of supervisors had a very good meeting at the golf course near Trona. The meeting was well posted in advance. My wife & I attended along with about 50 other local residents. The future plans for the area we are talking about were talked about, inc. solar, wind and pot cultivation at that time. NO ONE voted no to any of this. I would like to address another concern. One person in opposition is saying that, 1. Inyo County has allowed the operator to destroy existing vegetation and wildlife habitat just months prior to the permits being submitted despite the use being clearly for solar development. 2. At a minimum the public is unaware the project area is actually home to the largest habitat of the endangered Mojave Ground Squirrel in California, and likely other species of concern as Inyo County says there are none present such as the Desert Tortoise, and Burrowing Owl which are mentioned in the permit documents. This is not true. I worked for Mojave pistachio relocating the Mojave Ground Squirrel. It lives 45 miles to our north & cannot live in this heat. I also relocated the Desert Tortoise, and Burrowing Owl. Because of my previous experience I took great time & effort searching for Desert Tortoise, Burrowing Owl and snakes. I have spent over 6 months clearing my 5 acres looking for all the above. I did not find any birds, snakes or tortoise! Not one in all that time. Thank you, Howard Smith



Permit 2022-01/Barker Solar Permit 2022-02/Barker Solar and Renewable Energy Permit

Tom Kidder  
100 Moses Lane  
P. O. Box 1045  
Trona, CA 93592

My name is Tom Kidder Property owner bordering on two sides of the project site. I am a retired Facilities Manager for California State Parks. While employed by CSP I was a project manager/consultant for multiple solar projects state wide. I say this so it is known that I am an advocate of solar and not against solar in the appropriate locations following the law and proper procedures. In addition to my comments, I would like it to be known that I concur with all comments and finding made by my neighbor John Mays P.O. Box 583 Trona, CA 93502

No notification from County or Applicant – REGPA 2015 General Plan Revision Gov-2.3 County shall provide the opportunity for the public to engage in the planning process at the onset. and 2.4 Developer must notify residents and/or land owners.

Applicant has stated his intent to block my driveway (Moses Ln.) Moses Ln. has been maintain by my family and has been the access to my home for more that 60 yrs.

Staff report states “Located on land that is highly disturbed with no natural habitat and has been previously graded” Applicant circumvented CEQA law by clearing the land just months before submitting project applications and with total disregard for the law or health and welfare of the nearby residents. Three of the four lots purposed in these two projects where unspoiled desert fauna with the same vegetation and wildlife habitat as the adjacent protected BLM lands. Inyo county is complicit in this action by their own admission as stated in the staff report “Has been previously graded”. The evidence is also readily available on Google Earth. In addition, work on these projects continues to move forward even though there is not a permit to do so. Crush rock has been delivered to the project site for months and continues to be delivered a recent as today 4/28/2023. There is several hundred yards of crushed rock now onsite and zero dust control measures have been taken. (Attached photos taken 4/27/2023)

The now damaged project site was habitat for the listed and endangered desert tortious and Mojave ground squirrel and potentially others. In fact, I have seen both of these species on and near my property. Because proper surveys were not completed, we do not know if there has been any take and therefore should assume there was.

Environmental Review - Mitigated Negative Declaration is the improper environmental review process for the above reasons just stated.

Staff Report states - Vacant land to the north, south and west? My home shares borders to the north and east of the project. The project is 350 feet from my front porch and directly in my viewshed. There is also a home site 30 feet from the project site. The permitted manufactured

home was removed in the 80's and the infrastructure is still there I intend on placing a new home in this location. This property value will plummet if this project moves forward.

This community is zoned Rural Residential, Residential being the word to emphasize. It is completely improper to put a purely commercial operation in a residential community. The county and the applicant are attempting to take advantage of a disadvantaged community. I have personally spoke with many of my neighbors about these solar projects. Every person I've spoken with is upset about it but not willing to speak up. Many are afraid of the county and the applicant. The county and the applicant are attempting to take advantage of an underserved low-income community. Inyo County Code clearly states the purpose for rural residential properties are "to provide suitable areas and appropriate environments for low density, single family rural estate type uses"

I have health concerns from the dust that the barren land is now producing this affects not only the residents in our Inyo County community but the residents in Trona as well.

These projects will bring increased traffic, road impacts to our unpaved roads and safety concerns in our community.

These solar projects set a bad precedent for future development. I am a 3<sup>rd</sup> generation owner of this property my daughter and grandchildren (4<sup>th</sup> and 5<sup>th</sup> generations) live in Trona and will own our little piece a paradise someday. It will be a sad day if we are over taken and surrounded by solar panels.

The REGPA 2015 General plan amendment needs to be revisited. It is inappropriate and unacceptable that all of the 5-acre rural residential parcels are included in the Trona SEDA. These purely commercial uses are a detriment and have many negative impacts to the natural environment and residents of our small community. Ultimately, I would like to see these 5-acre RR parcels removed from the Trona SEDA and returned to the Residential Estate designation.

I ask that these projects be denied and the REGPA 2015 General plan amendment be revisited and adjusted with the wildlife, environment, health wellbeing and quality of life of the residents in consideration.

**Comments on Renewal Energy Permit 2022-01/Barker Solar and Renewable Energy Permit  
2022-02/Barker Solar**

March 21, 2023

***Due to anticipated potential retaliation and nature of my highly specific comments within I would request that my comments be kept strictly confidential.***

My name is John Mays. I am a licensed professional engineer in California, Colorado, and South Dakota. I live directly adjacent or very close to both proposed permits in question and have observed first-hand the activities of the proposed and existing projects and its developer/operator over about 2 years now. I have worked in the mining industry, often as a leading corporate executive or manager, for over 30 years working during much of this time supervising and implementing regulatory efforts, environmental compliance, regulatory litigation, and project development across several states in the US.

Never in 30 years of being a participant of many similar regulatory actions have I ever seen such apparent negligence and lack of involvement by a regulatory agency. The proposals here are a violation of existing rights and not in the public's best interest. The number of procedural errors and incorrect statements make the current proposals technically unsound and legally indefensible. Review of these proposals show Inyo County unqualified to perform such evaluations and their recent actions demonstrate they are incapable of properly enforcing compliance at this remote location. Inyo County's own procedures as found in the REGPA, have been fundamentally violated to a great extent, and federal state, and local laws and regulations have likely been violated as well. The magnitude and number of these violations support a legal challenge should it be necessary. This could include pursuit of relief from the properly approved Renewable Energy Permit 2021-01 which has been allowed to operate in violation of requirements for several months.

I request that the Board immediately deny the proposal for Renewal Energy Permit 22-01/Barker and Renewable Energy Permit 22-02/Barker. As well, the County needs to update the 2015 REGPA and remove all the rural residential parcels from the Trona SEDA. These areas are clearly not suitable for solar development as this is an active residential community which has been lived in many decades, it is home to families right at the edge of this development who will have their lives, health, and property rights seriously diminished by such improper industrial development. Additionally, these two new proposals set a precedent for a future that expands and exacerbates impacts across this private residential area paving the way for expansive unregulated solar development. The following reasons are why these permits must be denied:

- 1.) The area is rural residential and not industrial development is not appropriate for the area and will damage property rights and the health and lifestyle of families living in the area. It will introduce industrial activities that will create additional safety concerns for residents and children who live and play in the area. My son is an autistic teenager with severe development display that leaves him unable to verbally communicate and unable to comprehend the dangers involved by industrial traffic, nor dangers associated with the project. We moved here to specifically here to avoid such danger. The proposals here will increase use of roads and lands in very close proximity to my home that is not appropriate for a residential area. A substantial buffer zone of a half mile should be in place between

residences and this solar activity to avoid impacts to residents. Additionally, Inyo County has misinterpreted and not properly assessed impacts to several parcels adjacent to the proposals as “vacant” because these are contiguous with our residences and are an active part of our homes.

2.) Inyo County has repeatedly mischaracterized and improperly announced the project as heavily disturbed and with no natural vegetation in public statements. The developer purchased the properties soon after he received permits for Renewable Energy Permit 2021-01 and has commenced removal of all vegetation and topsoil just a few months before submitting permits completely contrary to Inyo Counties regulations.

3.) Inyo County did not properly follow its own requirements found in the REGPA to provide an meaningful opportunity to landowners and the community to “engage”. Such requirements need to occur at the onset of the project, meaning when an application is submitted. This did not occur. Despite the obtuse wording of their regulations placing the burden on the uninformed local party, it is realistically should be Inyo Counties responsibility to try to meaningfully engage with those immediately impacted by the project upfront to avoid a giant mess and legal issues in the aftermath. Given the nature of Inyo Counties actions here appears that it is trying as much as possible to avoid this communication so that the permits will be resolved without anyone’s knowledge. This is completely contrary to the intent of any permit process as well as the REGPA.

4.) Inyo County has allowed the operator to destroy existing vegetation and wildlife habitat just months prior to the permits being submitted despite the use being clearly for solar development. This is specifically not allowed in the Inyo County regulations. By these actions, it allows developers to escape reclamation requirements and eliminate environmental aspects of concern. This is made possible by purchasing private land and destroying vegetation prior to permit submittal and should not be allowed.

5.) Inyo County has not conducted a proper assessment of impacts to biological resources including a wildlife survey with on-site identification of species of concern prior to issuance of permits. No protection is given to avian species of concern in including raptors and migratory birds as well as their food sources such as lagomorphs which reside in local vegetation. Proper avoidance buffers of nesting locations need to be identified. Wildlife habitat and food sources of species of concern were destroyed by the developer/operator prior to the permit issuance. The presence of wildlife and protective measures were not discussed or evaluated, except to be handled later. This does not give comfort and does not inform the public properly. It also puts this wildlife at risk. Indeed, at a minimum the public is unaware the project area is actually home to the largest habitat of the endangered Mojave Ground Squirrel in California, and likely other species of concern as Inyo County says there are none present such as the Desert Tortoise, and Burrowing Owl which are mentioned in the permit documents. The need to be evaluated prior to permit issuance in consultation with the proper agencies.

6.) Inyo County has not properly managed the existing project REP 2021-01 and allowed violations for many months of its own requirements (REGPA, MER-2.7) for minimizing dust emissions and has thus endangered the public health,

7.) Inyo County has not properly assessed visual impacts and aesthetics which would be greatly altered by the projects. Solar is a drastic change to the landscape including the “desert kitsch” in the immediate community. This old and dilapidated aesthetic has been used extensively in dozens of films, commercials, TV shows, music videos, video games, and other cultural media and is of a recognizable

character worldwide. Such filming occurred in the recent year. The movie “Just Add Water” filmed in Trona is set in this very setting. It is suggested the Inyo County may learn more of this from the Ridgecrest Regional Film Society. Junk yards make up this aesthetic, but modern solar cells do not. This existing solar facility has already had a substantial impact on the viewshed from my home and other residents which has not been properly mitigated. Further expansion of this facility as proposed here will destroy this viewshed for myself, residents, and tourists.

8.) Inyo County has not properly assessed impacts to tourism in area well known as one of the main routes of tourism into Death Valley and onward into Inyo County. This is industrial development immediately adjacent to the highway used to enter Death Valley National Park and is within a few miles of the park boundary. These solar cells constitute negative visual impacts detrimental to the attraction of the National Park.

9.) Inyo County has disproportionately affected disadvantaged communities by the design of its REGPA and the proposal which disproportionately impacts ethnic groups and those living in poverty. Inyo County has not performed the necessary outreach for these communities, who are likely fearful and unable to properly respond. Diagram 32 in the REGPA suspiciously lacks Solar Energy Development Areas near the main population centers of Inyo County where electricity would mostly be needed. Instead, the REGPA locates the SEDA’s far away in small, disadvantaged communities who were likely without knowledge of Inyo County’s solar plan and not able to engage because the lack of meaningful outreach.

10.) Inyo County has not properly assessed hazardous chemicals to be stored at the project which potentially include highly flammable lithium batteries and fuel among others stating there will be none.

11.) Inyo County has not properly assessed fugitive dust, an EPA deemed pollutant. It is clear that this pollutant will be generated in substantial quantities yet Inyo County states there will be no pollutants. Inyo County needs to do dispersion modeling on fugitive dust to evaluate air impacts within miles of the project and also provide an analysis of its impact on public health prior to issuing permits.

12.) Inyo County has not provided documents allowing for proper review by the public including information that support its environmental assessments during the REGPA or regarding these proposals, the project applications, reclamation plans, grading plans, and maps and design information of the project. Nor have any of the documents been provided to the public in Spanish.

13.) The developer did not notify landowners and the public as required by REGPA, GOV-2.4

14.) The developer/operator is not suitable for the project based on violation of Inyo County regulations by conducting development without a permit. The operator has already shown general disregard and hostility to landowners in the area without performing any outreach on the project. The developer/operator is responsible for compliance with all applicable regulations including the very common practice of dust control and thus has committed willful violation of such regulations, despite the lack of an air permit. None of this complaint and violation history or the outcomes was provided for viewing by the public. Additionally, the developer/operator has already not shown a good stewardship in terms of other areas of concern including poor housekeeping and visual upkeep of the existing site, infringement of property owner’s rights by placement of refuse on these neighboring lands, a general

lack of security of the site, and untimely efforts to complete construction of the project. Additionally, the developer/operator has also constructed fencing within a right-of-way.

15.) Inyo County has not properly assessed impacts to agriculture despite the fact of subsistence agriculture is present within the Trona SEDA. This includes in the past immediately adjacent to the project and currently with a few hundred feet. The County has ignored the common use of rural residential property for this purpose and well as effects of dust on the existing agriculture.

16.) It appears Inyo County has not engaged in necessary agencies in the area who manage lands in the area which would be impacted by the development. Given that that impacts area from fugitive dust, vegetation and wildlife are far reaching this would be expected include BLM, US FWS, CA Department of Game and Fish, Trona Historical Society, Great Basin Unified Air Pollution District, as well as communities and agencies in San Bernadino County, and likely others. This needs to be done prior to making a staff recommendation so proper information can be provided to the public for review. Additionally, the staff commonly assume that “no response” is meaningful outreach when it may be likely no one ever received such information. This previously occurred with the Great Basin Unified Air Pollution District who did not respond to the request for comment. It was only long after permit issuance and after many months of construction that controls for protection of air quality were put into place. This failure was rectified too late, coming only after complaints were made and not preventing months of unregulated releases of fugitive dust.

17.) Inyo county needs to assess the cumulative effects of the proposals along with impacts that have been documented during the prior construction phase. It needs to account for the effect of other similar impacts found in similar existing solar facilities. The County needs to evaluate the cumulative impacts including an environmental justice assessment should development continue to expand into full 600 acres as allowed by the REGPA. This assessment should account for the greater likelihood that private rural residential parcels of the Trona SEA would likely be the sole property type utilized, therefore greatly impacting homeowners and residents, as this avoids a more complicated federal permitting process. This is a pattern already evident so far.

18.) Inyo County has not properly assessed effects caused by wind erosion, site grading, and protection of topsoil including during normal and extreme rainfall events. No information was provided on any plans for compliance with NPDES (National Pollutant Discharge Elimination System) requirements. There are no observable topsoil stockpiles in the previous and proposed project areas. Runoff channels are readily observable in the project areas.

19.) Inyo County needs to properly set a reclamation bond for the project and use a cash bond or other suitable financial instrument. This evidently is not required on Renewable Energy Permit 21-01 which uses solar cells on the project. This bond needs to set reclamation standards based on vegetation existing before the developer/operator destroyed it prior to submitting an application. Additionally, it is not acceptable to use resale of the projects’ solar cells as the reclamation bond. They would depreciate in value. Not requiring a bond before disturbance would allow the operator to highly disturb the project prior to purchasing the solar cells without a guarantee in place.

20.) Inyo County has not properly assessed impacts based on wind-blown accumulations of sand and the formation of sand dunes as result of the removal of vegetation on the project. It has not assessed how

these sand dunes will affect downwind communities and residents including increasing negative air quality impacts and the burial of structures.

21.) There is no apparent documented cost-benefit analysis of the proposed project and assessment of the benefit to the local community. Despite a clear emphasis on the importance of local benefits in the REGPA, including such things as lowered electric rates, it is unclear whether the project will result in any benefit to local residents. This includes what and how much they specifically they will be. As these comments expand upon there appears there will be substantial negative impacts to local homeowners and residents with nothing in return.

22.) Inyo County has not properly assessed archeological or tribal resources and historical preservation as required by law. Tribal consultation may still be in progress since submittal of the previous permit application in 2018. The Planning Department in its 2021 staff recommendation for approval (Permit 2021-01) identified additional tribal consultation was necessary as the project lies within the Chemehuevi Traditional Use Area. This is not discussed in these new proposals. Ancestral homes are adjacent to the projects, one of which has been inhabited for five generations and another for three generations. The area is part of a substantial mining community over 100 years old. Apparently, Inyo County is proposing and has already allowed disturbance prior to an archeological field survey. This archeology survey would be not simply for tribal artifacts, and it should be conducted by qualified individuals to confirm the presence or lack thereof prior to disturbance. This would also serve to inform tribal interest at the site. Inyo County procedures for unanticipated discoveries rely on identification of tribal or cultural artifact by the operator who is not qualified to make such an assessment.

23.) It is unclear if Inyo County has done necessary evaluation of the flight path into the Trona Airport and supporting documentation to the FAA, in cooperation with airport management.

24.) Inyo County has not provided a road management plan on how the permit areas will be accessed for construction and operation. Due to the amount of activity, a turnaround to access the facility would be expected to be needed on Highway 178. The public and residents have not been advised on how they will be impacted on their private roads and right of ways by the project because the county apparently has not done the proper planning.

#### Extension of Comment Period

I received a informal letter announcing a public meeting on March 15, seven days prior to the hearing scheduled for March 22. Given the short notice, I already have commitments for that date and cannot attend. It is not possible to review the two proposals in such a short time to obtain a full set of comments for legal standing in the permit process. Also, this is far too little time to prepare a proper response and fully document and support all issues of concern. This would include time necessary to retain legal counsel to potentially review the legality of the action and previous events. The technical nature of many of these concerns would potentially involve seeking input from technical experts and making additional contact with the surrounding public and agencies that manage the area. There are a large amount of relevant material not made available for review including permit applications and attachments with project details to the online documents that need to be provided. The REGPA requires that the operator make notification with landowners at the time of submittal and opportunity for local landowners and public to engage in the process, which has not been possible to date. I would request an extension of the time consistent with such a process and assuming a proper notification of

permit submission. **For that reason, I would request an extension of 120 days based on the estimated time to complete a full review.** That is unless Renewable Energy Permit 22-01 and 22-02 cannot be denied outright based on the comments provided herein.

Inyo County and the Operator Did Not Engage or provide the Proper Notification

From the *FINAL REGPA, AS ADOPTED BY THE BOARD OF SUPERVISORS PUBLIC HEARING MARCH 24, 2015.*

- Policy Gov-2.3: Public Involvement: The County shall provide the opportunity for the public to engage in the planning process at the onset of any renewable energy solar facility project and for all other large or potentially controversial projects applied for in the County.
- Policy GOV-2.4: The County shall require that renewable energy solar facility developers notify residents and/or landowners by direct mailings or other appropriate means announcing projects at the time an application is submitted.

“Engage” does not mean to simply notify. It means an opportunity to involve meaningfully, which includes meaningful communication between parties and efforts to ensure effected parties are fully informed and have proper ability to give feedback on the effects of the project. “At the onset” does not mean seven days prior to final approval. Inyo County has completely disregarded its obligation to provide an opportunity to engage in a timely fashion. This is also despite a request to be notified in my email of such permit applications being submitted on December 1, 2021, sent to Cathreen Richards, Planning Director. As well as extensive communication of concern on the proceeding dust emissions from the existing project.

I am the only person in the local community that I am aware of who has been notified about the proposed projects. This was done in an informal hand addressed letter, with no return confirmation receipt, see photo attached. Inyo County mentions no attempts to realistically notice within the local community, most of which is associated with the town of Trona and very remote from most of Inyo County. The Inyo Register is not a proper form of public notice in this case and is not associated with the demographics of this area which is 2 hours or more from away from the main communities of Inyo County such as Independence, Lone Pine, Mammoth, and Bishop. Its residents are commonly associated with San Bernadino County. I am not aware of this paper being for sale at any store in Trona and there is no circulation of any paper in the area. Regardless, the proposed actions effects multiple residents and landowners within the Trona REGPA and the community of Trona did not receive an opportunity to “engage” through a public notice in remote newspaper with no local visibility. Especially given the air impacts impact shown to effect Trona, San Bernadino County and other SEDA residents was documented in emails including photos and video dated November 30, 2021 and January 21, 2022 sent to the planning department.

I did not receive any notification of the Notice of Availability and Intent posted in the Inyo Register on November 14, 2022 for public comment. As discussed, this paper is not available in the area to any local person. Despite my prior request to be notified. Therefore, I was unreasonably denied an opportunity to engage and provide comments on the Initial Study Mitigated Negative Declaration.



I also did not receive any notification from the developer as required by Policy GOV-2.4. Nor any communication from Inyo County on this submittal of applications. Inyo County provides no evidence of this in documents online.

Additionally, I was also not notified or provided the opportunity to engage in the process during the development of the REGPA despite residing with the proposed SEDA.

The county planning department is aware that I previously submitted videos and pictures over a period of several months during the construction of the facility which showed a repeated disregard for dust control procedures and Inyo County regulations for development of Renewable Energy Projects. This correspondence resulted in the discovery that there was lack of an air quality assessment and air permit, which is crucial component to prevent health impacts to the public. Inyo county has again proposed issuance permits and public review without performing an air quality assessment or air quality permitting. Further, it has not included analysis including arising from the reported incidents in this documentation. This lack of information could change public involvement and concern regarding the project.

Communications and a photo documenting the start of scraping away of the topsoil and vegetation by the developer pre-permit was provided to the Inyo County Planning Department on January 13, 2022. This is about 10 months after permits were issued on Renewable Energy Permit 21-01 and appears to coincide with the recent acquisition of the properties by the developer. Regardless that these unpermitted properties were contiguous with Renewable Energy Permit 2021-01, had the same owner which was the developer of REP 2021-01, and that an air quality permit was pending, the County refused to stop this pre-permit development activity based on claim by the owner it was not for solar. A few months later during the same year and the developer applies for solar permits for these same fully stripped parcels. Unbelievably, Inyo County Planning Department is now recommending for approval despite full knowledge of this activity. The developer has violated Inyo County regulations for Renewable Energy Projects and substantially bypassed Inyo County ability evaluate impacts on the native state of the environment, eliminating potential issues of concern, and reduction reclamation requirements. Inyo County describes the two proposed project areas as "heavily disturbed" and "lacking vegetation". However, this was not true just a few months before the developer stripped the lands bare. Inyo County made its evaluations based on an environment following a complete destruction of topsoil, native habitat and vegetation. This is an incorrect and untrue basis. This has the been in turn been misrepresented to the public and the Board of Supervisors. For this reason, the two proposed permit areas must be denied approval.

From Inyo County Code:

#### 21.16.010 Renewable energy permit.

Any person who proposes to construct a facility within the county or modify an existing facility within the county shall, prior to the commencement of construction or modification, first apply for and obtain from the county planning commission a renewable energy permit, unless specifically exempted from such requirements by this title or by state or federal law. (Ord. 1158 § 3, 2010.)

#### 21.24.010 Prohibition.

No person shall construct a facility without first obtaining a renewable energy development agreement, a renewable energy permit or a renewable energy impact determination and no person shall operate a facility in violation of a renewable energy permit or renewable energy development agreement. (Ord. 1158 § 3, 2010.)

#### Vegetation Destruction

Photographic satellite evidence of the pre-existing vegetation on the proposed Renewal Energy Permit 2022-01 and 2022-02 can be found online. Images in 2020 prior to Barker ownership of the parcels clearly show identical vegetation to surrounding undisturbed areas. To be fully accurate, for REP 2022-02 there is a single parcel within #38-330-34 that was previously disturbed though the two other parcels 38-330-32 and 38-330-33 that are indistinguishable from undisturbed lands. For REP 2022-01 there was essentially no prior disturbance and health vegetation similar to undisturbed adjacent lands is readily visible in 2020. Additionally, 2018 satellite information shows the same pre-permit disturbance by the developer was true for the already permitted REP 2021-01 which was classified as heavily disturbed despite one parcel #38-330-47 showing quite the contrary. Satellite images are currently only available up to 2020.

Ground level photos taken March 19, 2023 as provided show the conditions following pre-permit stripping of the topsoil and vegetation.

Vegetation in the form of a hardly scrub brush that takes a considerable time to become established was destroyed on all of these parcels. These plants are about 1-3 feet in height and provide the most important primary stabilization and reduction of airborne topsoil transmission. Examples of this vegetation are provided with the attached photos.

#### Prior Issues with Renewable Energy Permit 21-01/Barker Solar and Dust

For many months perhaps even over more than a year dust was seen emanating from parcels 38-330-47 and 38-330-48 as clearing efforts were underway never was any dust controls measures observed and frequently dust inudating nearby residences particularly the McNamara residence. A complaint was only filed after repeated observations of this activity which also included clear of a considerable amount of material associated with a decaying old mobile home which was also observed being made airborne.

On November 30, 2021 photos showing a fugitive dust were provided to the Inyo County Planning Department. The photos showed a suspended cloud of dust covering a large area of the Searles Valley. This lead to Inyo County referring me to the Greater Basin Unified Air Pollution District. It was advised that no air permit was in place because the GBUAPD had not commented on REP 21-01. Not until Dec 17, 2021 was an air permit issued for the project by GBUAPD.

On December 6, 2021 following discussions by the Great Basin Unified Air Pollution District with the operator of Renewable Energy Project 21-01 additional plumes of dust traveling well outside to the permit area for Renewal Energy Permit 22-01 were provided as requested. Still at this time the operator was allowed to continue activities without a permit

On January 21, 2022 a massive airborne dust plume from the solar plant was filmed during a high wind occurrence and provided to the Inyo County Planning Department and Great Basin Unified Air Pollution

District. This video shows dust inundating and completely occluding from view houses all the way into Pioneer Point (a community of Trona). This plume likely resulted in removal of large amount of topsoil. This dust was observed blowing all the way through to the Trona school and heavily deposited further near the Trona post office which is 4 miles downwind. Video is attached.

For this reason, Inyo County needs to assess fugitive dust in much greater distances than the project boundary and needs to allow comment from those which may have or could be impacted by this project. Such an assessment should include dispersion modeling of construction and operations phases and an evaluation of potential health impacts including and not limited to silicosis and valley fever.

#### Wildlife Concerns

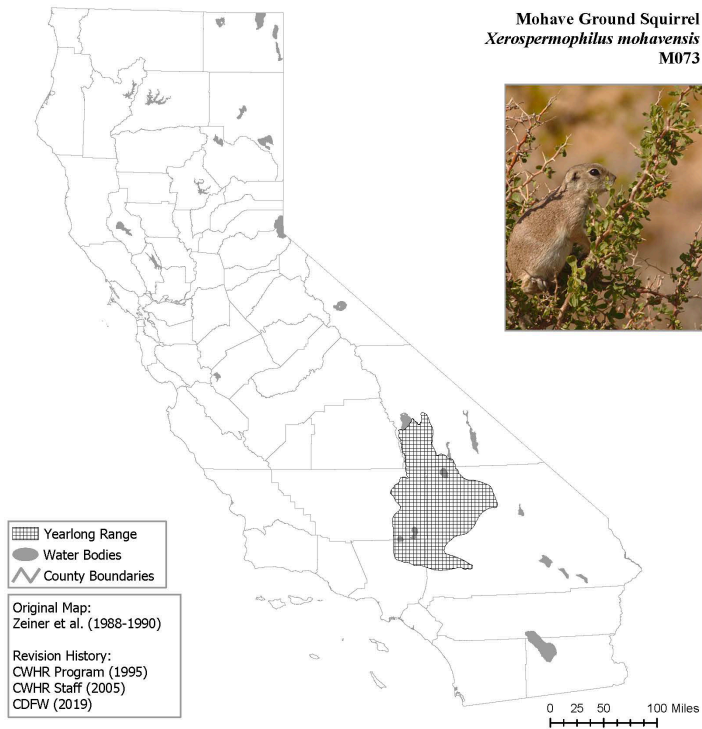
Due to the known presence of endangered species such as the Mojave ground squirrel, Inyo County needs to first perform a full biological assessment and inventory prior to issuing permits. Apparently, Inyo County also did not evaluate migratory birds and raptors which should also be afforded similar protection before permits are issued and may require avoidance buffers for protection. This would ensure critical habitat is not destroyed or negatively affected. Such an inventory needs to include not only the 15 acres within the proposals but a survey of the surrounding area sufficient to protect and prevent impacts to wildlife in the surrounding area. This survey also needs to be conducted over the period of a year to account for seasonal variation of wildlife populations and particularly their food sources. Inyo County needs to fully consult with wildlife agencies prior to permit issuance.

In a similar fashion needs to perform all these same actions before permits are issued for vegetation and identify species of concern. There is no analysis of this in the permit documents

All this information must be provided to the public for review prior to permit issuance. Indeed, without proper wildlife surveys and wildlife agency consultation Inyo County does not provide any protection nor allow any public involvement for plant and animal species as they have not been assessed. Given the documented actions pre-permit of the developer this is paramount.

Special care should be given to the Mojave ground squirrel which appear seasonally and regularly in the immediate area. I personally observe these in great numbers through the permit areas each year when they begin to appear in spring and during the summer. I believe they hibernate during the winter. The following map shows that these proposals are within the single largest habitat in California.

**California Wildlife Habitat Relationships System**  
California Department of Fish and Wildlife  
California Interagency Wildlife Task Group



Range maps are based on available occurrence data and professional knowledge. They represent current, but not historic or potential, range. Unless otherwise noted above, maps were originally published in Zeiner, D.C., W.F. Laudenslayer, Jr., K.E. Mayer, and M. White, eds. 1988-1990. California's Wildlife. Vol. I-III. California Depart. of Fish and Game, Sacramento, California. Updates are noted in maps that have been added or edited since original publication.

Photo by Yathin Krishnappa: <http://yathin.com/wordpress/about/>  
License: <https://creativecommons.org/licenses/by-nc-nd/2.0>

View and download map in BIOS: <https://apps.wildlife.ca.gov/bios/?dslist=908>

Hawks have been regularly observed in and surrounding the permit areas which serve as hunting grounds for lagomorphs and other food sources. Nesting locations of such raptors in the larger area need to be identified to provide proper protection for the protected species. I have even seen at times hawks nesting in the largest tree in my yard which will be a few hundred feet from the project.

I have also heard a number of reports from locals that the Desert Tortoise occurs in the area. This includes the previous owners of home who told me that they lived at one time in rocks on the eastern side of the parcel with my house.

### Other Solar Projects

I have been much more aware and observed numerous solar facilities elsewhere in Nevada and California in other counties. In particular, those nearby California City in the small communities of Ricardo and Cantil. I would like to provide the following observations:

- 1.) some facilities do not remove topsoil and readily build supporting structures for solar cells on top.
- 2.) all of these facilities are well removed from residential areas, completely unlike these Trona permits which are with a few hundred feet or less from inhabited residences. The one exception being the community of Ricardo/Cantil, CA which has suffered considerably.

3.) These facilities are clearly marked with messages allowing for immediately reporting excessive dust and warning people on the highway.

4.) In some, particularly those facilities near Cantil/Ricardo. Downwind of the prevailing wind direction there is significant accumulation of blowing and drifting sand. This sand is at times increasingly burying residential structures and is also easily mobilized in high winds creating a high concentration of fugitive dust that can expose the public to a health risk. This an environmental disaster in this community and we have one in the making with these proposals.

All these need to be accounted for and evaluated by Inyo County prior to permit issuance so that the public may be informed. Given the extreme proximity of these proposals, such downwind accumulations of blowing sand may prohibit the project.

#### **Additional Comments and Photos and Other Information**

**A second document is being provided with many large file size information items. Please refer to this for additional information related to the above as well as additional comments. *It is requested that this document also be kept confidential.***

## Cynthia Draper

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**From:** John Mays <[johnmmays1@gmail.com](mailto:johnmmays1@gmail.com)>  
**Sent:** Wednesday, March 22, 2023 8:05 AM  
**To:** Cynthia Draper  
**Subject:** Re: Comments on REP 2022-01 and REP 2022-02 INYO COUNTY BOARD OF SUPERVISORS MEETING MARCH 22, 2023

Cynthia,

Thank you for following up on my request to keep my comments confidential. Given this I recind my request for confidentiality and you may may use all of my comments publically.

Thank you,

John

On Wed, Mar 22, 2023, 7:38 AM Cynthia Draper <[cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)> wrote:

Sorry about that. It was right before 5 and I was rushing to respond to you. I must have had that name in my head.

Thank you,

Cynthia

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**From:** John Mays <[johnmmays1@gmail.com](mailto:johnmmays1@gmail.com)>  
**Sent:** Tuesday, March 21, 2023 5:03 PM  
**To:** Cynthia Draper <[cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)>  
**Subject:** Re: Comments on REP 2022-01 and REP 2022-02 INYO COUNTY BOARD OF SUPERVISORS MEETING MARCH 22, 2023

You don't often get email from [johnmmays1@gmail.com](mailto:johnmmays1@gmail.com). [Learn why this is important](#)

Thank you Cynthia.

My name is John by the way.

On Mar 21, 2023, at 4:58 PM, Cynthia Draper <[cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)> wrote:

Hello Dave,

I received your comment and attachment just fine. I have sent it to the Commissioners and your name will remain confidential at the meeting.

Thank you, Drive safe.

Cynthia

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**From:** John Mays <[johnmmays1@gmail.com](mailto:johnmmays1@gmail.com)>

**Sent:** Tuesday, March 21, 2023 4:41 PM

**To:** Cynthia Draper <[cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)>

**Subject:** Comments on REP 2022-01 and REP 2022-02 INYO COUNTY BOARD OF SUPERVISORS MEETING MARCH 22, 2023

You don't often get email from [johnmmays1@gmail.com](mailto:johnmmays1@gmail.com). [Learn why this is important](#)

Cynthia,

Please see attached my comments that I request be confidential.

Note that I was not properly notified about the submission of the permit applications and have not been given a reasonable opportunity to engage in these permits. As such I am requesting an extension of the time to review.

I have serious concerns regarding the two permits.

I also have a second document with many large file size items that I would like to deliver but will likely be too large for email. These have substantial information that I would like to have included.

I cannot attend the meeting because I have to travel to Arizona for business and have only a few days to respond to the notice that was mailed by the county announcing the hearing.

Thank you,

John



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

John Mays P.O. Box 583, Trona CA 93592

1.) The scope of proposed solar projects is not consistent with the zoning designation of the residential community in which it is proposed. This community consists of many long-term residents and subsistence agriculture use. The design of solar facilities precludes acceptable rural residential uses that are listed under Inyo County Code. Expansion of such facilities will create an increasing diminishment or such land available for Rural Residential uses. This use is scarce in the region surrounding Trona.

All of the parcels in the areas used by proposed projects are zoned Rural Residential. Nearly all of the surrounding community consists of parcels zoned as Rural Residential. Please see the map of the REGPA, Southern Solar Energy Group. (Referred to here as Trona SEDA)

Inyo County Code states the following as the purpose for the rural residential

### *18.21.010 Purpose.*

*It is the intent and purpose of this chapter to provide suitable areas and appropriate environments for low density, single family rural residential and estate type uses where certain agricultural activities can be successfully maintained in conjunction with residential uses on relatively large parcels. The RR (rural residential) zone is intended to be applied to the areas outside the urban communities of Inyo County which are without fully developed services and where individual residences are expected to be largely self-sustaining, particularly for water and sewage disposal. (Ord. 943 § 4, 1994.)*

Furthermore, under 18.21.020, 18.21.30, and 18.21.04 none of these uses make any mention of commercial uses or solar plant development.

It is important to note that while the REGPA allows that Inyo County **“may consider”** Commercial and Utility scale solar projects within any zoning designation this does not mean that such proposals are automatically consistent with such use and must be approved. Indeed, in this case the proposals preclude and seriously deteriorate the available zoned use. There appears to be a large disconnect in the REGPA when one accounts for the number of available Rural Residential Parcels within the Trona SEDA and the total allowable use of 600 acres for solar development. While the Trona SEDA is much larger than the 600 acres because of a larger amount of BLM lands within it, these BLM lands are not likely to be used due to a more difficult permitting process. This creates the real possibility for complete decimation of the Rural Residential use where such activity is now currently focused with one existing and now three proposed new projects all in the RR zoned area. This is not consistent with the primary purpose of the zoning of these parcels, not to mention the proximity to the residential areas of Trona. As such, this error needs to be corrected and all of the Rural Residential parcels within the Trona SEDA should be removed for possible solar commercial and utility scale consideration by an update to the REGPA. In this way, ongoing future use for housing and agriculture can be preserved. Such housing that allows subsistence agriculture is an important and valuable resource for the county and not widely available in the Trona community.

It should be added that such a situation is not apparent near other more developed parts of Inyo County, where more detailed evaluation is apparently required. This double-standard shows that Trona has been overlooked.

As an alternative to use of rural residential parcels, there is a considerable quantity of other lands within the Trona SEDA at distance from residents that would serve to minimize impacts to residents much more favorably.

2.) Has the developer completed construction on REP 2021-01? This does not appear to be the case as the project continues to have construction equipment, large piles of limestone gravel, and chemical tanks being stored on-site. Also, such piles of gravel ave also been placed in the right of way on another recently announced solar project in the Trona SEDA owned by the developer's brother and blocking one resident's access to his property.



April 10, 2023 picture of REP 2021-01 showing number of piles of limestone gravel and earth, drilling rigs, some portable chemical tanks, refuse rolloff, etc.



April 10, 2023 Same limestone gravel deposited across the right of way and well-established existing access road. Gravel and equipment is on another solar project recently proposed for development by SBC Developments.

3.) Inyo County needs to consider effects beyond the boundaries of the parcels on which the proposed projects are being constructed and also seek input from landowners and the community well beyond a 300 ft limit. From the REGPA,

- *Policy MER-2.6: Avoid, Minimize, or Mitigate Impacts. The County shall work with renewable energy solar developers and other agencies to avoid, minimize, or mitigate impacts to the social, economic, visual, and environmental resources of the County from renewable energy solar facility development.*

Inyo County's limited engagement of the community and residents in this matter is recipe for disaster and will also result in a loss of social, visual, and environmental resources. Indeed, Inyo County has not done proper research into these matters. History includes a lack of improper environmental controls for the first permitted solar facility and the allowance of pre-permit construction on these projects. Inyo County's analysis on these projects indicates that such analysis stops with the parcel, yet many impacts here are far reaching. Such impacts include visual impacts, impacts to wildlife and vegetation, social and economic impacts, and environmental impacts including those on health and safety. Such long ranging impacts have already occurred with the massive amounts of unregulated fugitive dust emissions that were allowed for many months to harm residents immediately adjacent and miles down wind. Roads and power transmission lines are other effects outside of the parcel property lines not considered appropriately in the permit documents.

4.) Inyo County needs to prepare a project specific EIR based on new additional information or substantiate its conclusion that its Draft Mitigated Negative Declaration is appropriate under CEQA

regulations. It has not explained its rationale for not conducting an EIR. It has also not done the necessary environmental review to support the findings here. Given substantial incorrect information in the Draft Negative Declarations for REP 2022-01 and REP 2022-02, it is highly probable these assessments have been made by unqualified individuals with little to no project specific information. Inyo County needs to prepare a sufficient EIR to assess social, visual, and environmental impacts on this project before proceeding and has made no demonstration this has been previously completed or has otherwise obtained the necessary project specific additional analysis required. Outstanding analysis including obtaining an air permit and conducting wildlife studies after the permit is issued are inconsistent with the requirement to avoid and minimize impacts which cannot be done until the environment is first understood. This also means that staff findings have not been completed properly and improperly conveyed to the public for review.

No previous studies, documents, and sources are cited regarding environmental data to support the proposed permits nor in documents that were provided with the permits. Thus, no opportunity has been provided to the public to review any data supporting the conclusions made by staff on this project. Given the lack of information and its apparent inadequacy, it is believed that such information does not exist. In such a case, CEQA regulations require these investigations to be conducted before these permits can be issued.

The last study of the area was in 2015 under the Final Program Environmental Impact Report (EIR). This report is dated and as primary form of mitigation requires a multitude of site-specific field surveys and environmental assessment for each solar project before they are approved. The REGPA states that it should be regularly updated and now is the proper time given the large extent of issues of concern.

One aspect overlooked by Inyo County includes residents including children that are now living adjacent to the proposed facilities including myself and others. No assessment has been done from the point of view of local residents. How are we now going to be impacted? Does Inyo County even care?

#### 5.) Land Compatibility Issues

Inyo County has not undertaken the necessary environmental review as required by the Inyo County Renewable Energy General Plan Amendment, Volume II – Final Program Environmental Impact Report, March 2015 (here after referred to as the EIR)

#### ***4.10.3.4 Land Use Compatibility***

*Future solar energy projects could result in potential land use compatibility issues, depending on the location of such projects and the presence of nearby uses that could perceive nuisances or incompatibilities. For example, noise or glare from a future solar energy project could be inconsistent with adjacent sensitive uses, such as residences or school uses. Based on existing land uses within the SEDAs, it is expected that future solar energy projects within the SEDAs would be relatively isolated from other uses; however, most of the SEDAs do contain some amount of residential uses or other uses that could be sensitive to activities associated with a solar development project, if it was located in close proximity. Future solar development projects would be subject to the applicable land use requirements of the County and additional environmental review. As part of this review, each project would be analyzed to determine impacts regarding the land use compatibility with adjacent uses. Future development of solar energy projects within the SEDAs would require appropriate siting and is subject to further review and approval from the County. As such, the REGPA would not result in significant impacts associated*

*with the land use compatibility. Impacts associated with the proposed REGPA would be less than significant.*

Instead, Inyo County uses the REGPA as a basis for compatibility for land use but provides no additional analysis. Quoting the “Evidence” supporting Findings #2 and #3 from the Staff Report:

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

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

Statements of the Planning Department here conflict with the findings of the EIR which states that additional review is necessary when in proximity to residences which are sensitive to land use and approval is dictated by the results of this analysis not by simply the SEDA designation. Inyo County has not provided or performed this additional environmental analysis.

6.) Inyo County has not performed the necessary Noise Report as required by the EIR as applicable to Commercial scale facilities. Mitigation measure from the EIR:

***MM NOI-1: Prepare technical noise report for solar facilities proposed within 500 feet of noise sensitive land uses.***

*If a proposed utility scale solar energy project resulting from implementation of the REGPA is within 500 feet of a residence or other noise sensitive land use, prior to issuance of a Major Use Permit, a site-specific noise technical report will be prepared and approved by the County. The technical report will verify compliance with all applicable County laws, regulations, and policies during operation of the solar project, including that noise levels would not exceed the relevant thresholds described in the General Plan Noise Element (60 dBA L<sub>DN</sub> for noise sensitive land uses such as residences, schools, transient lodging and medical facilities). The site specific noise technical report will include project specifications, applicable noise calculations, project design*

*features, applicable BMPs and related information from the REAT’s Best Management Practices and Guidance Manual (REAT 2010), and mitigation measures applicable to the project. The technical noise report will address operational related noise sources, as well as noise from the use of generators during an emergency. The technical report will calculate specific anticipated noise and vibration levels from operations in accordance with County standards and provide specific mitigation when noise levels are expected to exceed County standards.*

7.) Impacts on Housing

Table 4.13-6 estimates total housing of 18 within the Trona SEDA and determines impacts not to be significant. However, this analysis does not account for the fact and likelihood that solar development will be solely focused and within the much smaller residential portion of the Trona SEDA where these residents reside. Cumulative impact analysis of multiple solar projects solely located on the Rural

Residential should be undertaken to determine these now disproportionate effects on residents. It should also account for the likelihood that such residents may be of little to no income and not able to relocate, unlike the ease of relocation indicated by the EIR. It should also account for the displacement of future housing use away from rural residential parcels by solar development. This requires additional evaluation as it would be expected to change substantially the impact assessment.

#### 8.) Fire Protection

From the Inyo County General Plan:

- *Policy PSU-8.1: Fire Protection for New Development. Prior to the approval of development projects, the County shall determine the need for fire protection services. New development in unincorporated areas of the County shall not be approved unless adequate fire protection facilities can be provided.*

Staff analysis in the Mitigated Negative Declaration leaves it unclear how sufficient fire protection was determined adequate for the projects or if a specific adequacy analysis here was even performed. The Draft Mitigated Declaration simply says “no concerns” from the San Bernadino Fire Department which is not comforting to a resident in a very remote area and is not sufficient analysis to meet the requirement.

There is no discussion of a fire protection plan or any forward thinking towards fire protection. No mitigation measures to prevent the occurrence of a fire in the proposed solar facility are discussed. This should be analyzed extensively due to the significant potential for loss of life and property. Will the project have fire-fighting services coming from San Bernadino County? Or would these services be travelling an 85 minute drive from Olancho or a 93 minute drive from Lone Pine as described by the EIR? Are the fire fighters sufficiently trained and equipped to fight a large-scale electrical fire? How fast would it spread to local vegetation and further spread before being extinguished?

There are limited resources of the tiny San Bernadino Fire station department in Trona. Is this sufficient to handle a large-scale fire of possibly 30 acres in size with unique electrical hazards? Given a large, concentrated quantity of combustible photovoltaic solar cells as fuel is this response time sufficient to protect residents living adjacent to the solar project from fire propagation and potentially toxic smoke inhalation? Our experiences here indicate absolutely not!

Nothing is discussed in the permit documents to address these concerns.

Mitigation measures from the EIR require greater analysis here,

***MM PUB-1: Analyze public safety and protection response times and staff levels for each utility scale project.***

*Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project's impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.*

#### 9.) Private security

The Draft Mitigated Negative Declaration says private security will be relied upon. I have never once observed any private security personnel at the current solar project REP 2021-01 during construction or operation. Has this been enforced? It also mentions no new police service is required but does not describe how it reached this conclusion. There is insufficient analysis in the permit documents addressing the following mitigation as required by the EIR,

***MM PUB-1: Analyze public safety and protection response times and staff levels for each utility scale project.***

*Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project's impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.*

***MM PUB-2: Provide onsite security during the construction and long-term operation of the utility scale project.***

*For project sites associated with proposed future solar development projects that are determined through mitigation measure PUB-1 to have insufficient law enforcement protection services or significant impacts to law enforcement services, project proponents shall be required to provide adequate, onsite private security for the duration of construction activities and during the long-term operation of the project to the satisfaction of the County. The actual size and configuration of the security detail shall be determined by the County during preparation of the Development Agreement for the future solar energy project.*

10.) Agriculture use

Rural residential properties are deemed necessary for agriculture not just now but also in the future. This is currently taking place within the SEDA and near the proposed permits. Inyo County has not analyzed impacts to agriculture as required by the EIR. As follows:

***MM AG-1: Review development proposals for potential impacts to agricultural operations.***

*The County Agricultural Commissioner shall be responsible for reviewing new development proposals adjacent to agricultural operations to ensure they do not significantly impact agricultural operations.*

***MM AG-2: Conduct site specific investigations for agricultural lands.***

*Site-specific agricultural resource investigations shall be completed for proposed solar development projects within the individual SEDAs and the OVSA that are located on lands utilized for agricultural operations prior to final project design approval. If agricultural operations are identified within the project area, alternative designs should be implemented to avoid and/or minimize impacts to those resources. This may include mitigating conversion of agricultural lands based on the mitigation ratios identified in consultation with affected agencies at the cost of the project applicant to the satisfaction of the County. Mitigation ratios and impact fees assessed, if any, shall be outlined in the Renewable Energy Development Agreement, Renewable Energy Permit, or Renewable Energy Impact Determination.*

***MM AG-3: Invasive plant species or noxious weeds.***

*To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all*

*phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:*

- *The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes.*
- *Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site.*
- *Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored.*
- *The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned.*
- *Native vegetation shall be re-established as quickly as practicable on disturbed sites.*
- *Weed Monitor and quickly implement control measures to ensure early detection and*
- *eradication of weed invasions.*
- *Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations.*

No mitigation is described in the Mitigated Negative Declaration/Staff Report and agriculture is incorrectly described as non-existent.

#### 11.) Fugitive Dust

As required by mitigating measures in the EIR, Inyo County has not revealed a site-specific air quality technical report. Instead, it places reliance on the Great Basin Unified Air Pollution Control District. Such an air permit is not subject to public comment. Inyo Counties approach is here is not consistent with the REGPA nor the EIR which requires Inyo County to follow through here before permits are issued. Again, this mistake has previously occurred and is now occurring again. Note these requirements are PRIOR TO ISSUANCE.

Mitigation from the EIR

#### ***MM AQ-1: Prepare site-specific air quality technical report.***

*Prior to issuance of Major Use Permits for solar energy projects, a site-specific air quality technical report shall be prepared and approved by the County, which will verify compliance with County and GBUAPCD standards during construction and operation of the solar project.*

*Mitigation Measures AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report, and will be implemented during construction and operation of future projects. These measures require implementation of dust control practices during construction activities and solar project operations.*

#### ***MM AQ-2: Reduce fugitive dust and particulate matter emissions during construction.***

*To control emissions of particulate matter, and to ensure compliance with GBUAPCD Rules 401 and 402 as well as applicable BMPs from REAT's Best Management Practices and Guidance Manual (REAT 2010), solar projects shall implement fugitive dust and particulate matter emissions control measures including, but not limited to the following:*



- *Water and/or coarse rock all active construction areas as necessary and indicated by soil and air conditions;*
- *Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;*
- *Pave or apply (non-toxic) soil stabilizers on all unpaved access roads;*
- *Sweep daily (with water sweepers) all paved access roads;*
- *Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;*
- *Suspend excavation and grading activity when sustained winds make reasonable dust control difficult to implement, e.g., for winds over 25 miles per hour (mph).*
- *Limit the speed of on-site vehicles to 15 mph.*

***MM AQ-3: Implement dust control measures during operation.***

- *To control emissions of particulate matter, and to ensure compliance with GBUAPCD Rules 401 and 402 as well as applicable BMPs from REAT's Best Management Practices and Guidance Manual (REAT 2010), solar projects shall incorporate feasible dust control measures into the site design including, but not limited to, the following:*
- *Incorporate perimeter sand fencing into the overall design to prevent migration of exposed soils into the surrounding areas. The perimeter fence is intended to provide long-term protection around vulnerable portions of the site boundary; it is also intended to prevent off-road site access and sand migration across site boundaries and the associated impacts.*
- *Incorporate wind deflectors intermittently across solar project sites. The solar panels themselves, especially where installed to transverse primary wind direction, will provide some measure of protection of the ground surface. Wind deflectors enhance this effect by lifting winds that may otherwise jet beneath panels, thereby disrupting long wind fetches, and reducing surface wind velocities and sand migration.;*
- *Orient infrastructure/solar panels perpendicular to primary wind directions; .and*
- *Adjust panel operating angles to reduce wind speeds under panels.*
- *Perform revegetation in areas temporarily denuded during construction. These areas would be replanted with native plant species that exist on the site presently. Irrigation would be applied temporarily during the plant establishment period (typically multiple years), but after establishment it is expected that these areas would require little or no maintenance. Vegetation provides dust control by protecting and preventing threshold wind velocities at the soil surface. Studies have shown that an 11 to 54 percent vegetation cover on a site can provide up to 99 percent PM10 control efficiency (GBUAPCD 2008).*
- *As the installation of solar panels and associated equipment progresses, each area that is completed (i.e., where no further soil disturbance is anticipated) will be treated with a dust palliative to prevent wind erosion. CARB certifications indicate that the application of dust suppressants can reduce PM<sub>10</sub> emissions by 84 percent or more (CARB 2011).*

None of these mitigations are described in the Mitigated Negative Declaration or Staff Report. The current orientation of the solar cells is parallel and not perpendicular to the primary wind direction. None of these operational mitigations are visually apparent on the currently operating solar site, REP 2021-01, and none were visibly used during construction either. Is Inyo County performing the necessary oversight of these projects? The answer is no.

## 12.) Biological Resources

The EIR lists the following special status species of concern in the Trona SEDA. “Desert tortoise, burrowing owl, golden eagle, prairie falcon, and Mohave ground squirrel,” and monarch butterfly have the potential to occur in the SEDA.

The Draft Mitigated Negative Declaration misleadingly states the following: “There are no CFW or USFW special status species found on the proposed project site. The project is graded, scraped and completely devoid of plants and native habitat.” This statement is incorrect and misleading because:

- Inyo County allowed the developer to grade the site and remove all vegetation pre-permit just a few months prior destroying all habitat and vegetation.
- Inyo County has yet to conduct the required biological inventories as these are a permit condition to be performed later.
- Inyo County is not considering avian and migratory species
- Inyo County is not considering presence of vegetation and wildlife species on adjacent lands and the overall environment that will be impacted.

Furthermore, the EIR indicates potential impacts to the Mojave Ground Squirrel. *“Habitat for Mohave ground squirrel occurs in the Owens Lake, Rose Valley, Pearsonville, and Trona SEDAs. Impacts to this species could occur as a result of implementation of the REGPA if solar development occurred within or adjacent to suitable habitat. Direct effects to this species could include disturbance of individuals from construction and operations activities. Once constructed, solar facilities could also potentially pose a barrier to movement for this species.”*

The EIR goes on to indicate many reasons to be concerned regarding biological resources. From the EIR:

### *“Trona Solar Energy Development Area*

*The total allowable developable area within the Trona SEDA is 600 acres, and utility scale or commercial scale projects in this SEDA may require construction of associated transmission infrastructure. Development of solar projects, including the associated infrastructure, within the Trona SEDA could potentially impact terrestrial habitats including alkali desert scrub and desert scrub. Aquatic habitats potentially containing waters of the US/State including freshwater ponds and freshwater wetland could also be impacted. There is no USFWS-designated critical habitat in the Trona SEDA; however, Inyo California towhee critical habitat is located in the Argus Mountains to the west of the SEDA although this species has been proposed for delisting and the USFWS has found that delisting this species is warranted. The SEDA does not contain essential connectivity areas, missing links, or Important Bird Areas.*

*Table 4.4-9 identifies one special status species of insect, desert tortoise, prairie falcon, and Mohave ground squirrel, one reptile, one mammal, three birds, and one plant species as either being known to occur or having the potential to occur within or adjacent to the Trona SEDA and be impacted by development activities within the SEDA. Special status species may be directly or indirectly affected by future solar projects in the Trona SEDA if the development would encroach on that species habitat or movement corridors. Impacts to special status species would not be expected to be limited to those mapped by the CNDDDB. The CNDDDB relies on reported sightings of special status species, and is not a complete inventory of special status species habitat.*

*Special status species identified as having the potential to be impacted by development within alkali desert scrub and desert scrub of the Trona SEDA include desert tortoise, and Mohave ground squirrel, prairie falcon, golden eagle, and burrowing owl. No special status species were identified as having the potential to occur within aquatic habitats in the SEDA. Although no special status plant species were identified as having the potential to occur in the Trona SEDA, botanical inventories would need to be conducted to support this determination.*

*Project-specific impacts to special status species would depend on the location of the project, the suitability of the habitats present, construction timing, and the species likely to occur. Impacts on rare plants and special status wildlife species could result in a substantial reduction in local population size, lowered reproductive success, or habitat fragmentation.”*

Again, these statements in the EIR indicate that no biological inventories were conducted as a part of the EIR and that these are crucial to a complete environmental assessment and need to be conducted prior to permit issuance. Such inventories could identify real biological concerns and significant impacts.

Additional detail on these impacts is described in the EIR as follows, included here at length to detail the number and magnitude of potential impacts involved:

#### **4.4.3.1 Project Level Impacts to Biological Resources**

##### ***Ground Disturbance or Vegetation Trimming or Removal***

*Future construction and maintenance of solar projects under the REGPA resulting in ground disturbance or vegetation trimming or removal would have the potential to impact special status species or sensitive natural communities. Direct or indirect impacts to special status species or loss/degradation of habitat would be a significant impact.*

##### ***Impacts to Rare Plants***

*Future construction and maintenance of solar projects under the REGPA could result in the direct loss or indirect loss or disturbance of special status plant species individuals or populations occurring within or outside of the project area. Direct impacts could include trampling, clearing or grading of habitat occupied by special status plant species, or other activities that result in habitat removal. Indirect impacts could include spills or runoff of chemicals or other toxic substances from construction areas and/or equipment that enter areas occupied by populations of rare plants adjacent to construction areas, alteration of local drainage patterns, or adverse effects from dust or windborne contaminants. In addition, solar projects requiring groundwater pumping could result in indirect impacts to off-site populations of special status plants through alteration of the water table. Direct and indirect impacts on special status plant species could result in a substantial reduction in local population size, lowered reproductive success, or habitat fragmentation. In addition, construction-related disturbances may allow the introduction or spread of invasive plants which compete with native plants and degrade the habitat.*

*Direct or indirect impacts to special status plant species resulting in loss of individuals or loss/degradation of habitat would be a significant impact.*

##### ***General Impacts to Special Status Wildlife***

*Impacts to special status wildlife species could occur during construction and/or operation of the future solar developments under the REGPA. General impacts to special status wildlife species are presented*

here, and more detailed discussion is provided in following sections with considerations pertinent to certain species and/or life forms.

### **General Construction Impacts**

#### *Habitat Disturbance*

*Biological communities within the construction footprint of solar developments implemented under the REGPA would be reduced or altered through habitat modifications including clearing, trampling or grading vegetation, changes to hydrology, alterations to the existing soil conditions, and filling or removing wetlands or sensitive habitats. Habitat modifications can result in the loss or adverse constriction of migration and wildlife movement corridors. Although habitats adjacent to solar energy projects might remain unaffected, the nearby disturbance on the project site might deter special status species from using habitat near the proposed project. Habitat modifications may also provide increased opportunities to predators (e.g., increased litter or water may attract coyotes, ravens or feral dogs, and structures provide perch sites to raptors). Alternately, habitat modifications may also result in changes to abundance of prey or forage species as a result of ground disturbance and vegetation removal.*

#### *Wildlife Mortality, Injury or Displacement*

*Individuals of special status species occurring within the construction footprint during construction could be injured, killed, or disturbed by construction activities. Special status wildlife species occupying underground burrows (e.g., desert tortoise, kit fox, burrowing owl) could be killed or displaced from the collapse of their burrows resulting from soil compaction. Site clearing and grading can remove vegetation resulting in a loss of dispersal, breeding or foraging habitat, as well as the direct removal of active bird nests. The movement of equipment and vehicles through the project area could negatively affect wildlife by collisions, or increased noise and dust. The noise and disturbance associated with construction-related activities can negatively affect nesting birds and may lead to abandoned eggs or young and subsequent nest failure for nesting raptors and other special status nesting birds. Construction related activities and the associated human presence increase the risk of fire from igniting sources such as vehicles, cigarettes, welding, and increased fuels from invasive plant species.*

#### *Introduction or Spread of Invasive Species*

*Habitat modification also provides opportunities for the introduction or spread of non-native, invasive plant species resulting from soil disturbance, native vegetation removal, and introduction of the species from construction equipment or seed mixes. Invasive species may compete with native species, affecting the viability of native species populations, and may also alter the habitat by making it difficult for wildlife to negotiate the landscape. As previously mentioned, the spread of invasive plant species may also increase the risk of fire by providing an increased fuel source. In arid environments, invasive species of plants often grow more densely than native species and may burn hotter thereby increasing the risk and impacts of fire.*

### **General Operational Impacts**

*Operation of future solar facilities under the REGPA could result in long term persistent impacts to special status wildlife species. These include disturbance to common and sensitive wildlife from vehicle traffic, increased human presence, facility maintenance (includes equipment repairs and washing panels and mirrors, weed and vegetation control, etc.), operational noises associated with daytime operations and nighttime maintenance activities, nighttime lighting and collisions. Death or injury to wildlife as a*

*result of operations would be potentially significant and mitigation would be necessary. Refer to specific wildlife impacts and considerations for additional operational impacts.*

*Construction of heliostat fields involves the placement of cylindrical pipes to support the structures. Vertically placed, open-topped pipes associated with future solar developments pose a threat to birds falling in from perching or nests placed at the opening, or entering in search of nesting cavities or food. Birds (and other animals such as bats, small reptiles, other small mammals) that have descended into vertical pipes may become entrapped and die from starvation and exposure (Brean 2011; American Bird Conservancy 2011; Audubon California 2013).*

*Death or injury to special status wildlife as a result of construction and/or operations would be a significant impact, and mitigation would be necessary.*

### ***Specific Wildlife Impacts and Considerations***

*Following are potential impacts to specific species or wildlife that could occur as a result of implementation of the REGPA based on their life form, status, known potential to occur in the project area, and regulatory considerations.*

#### ***Impacts to Special Status Insects***

*Monarch butterfly is known to migrate through western Inyo County during seasonal movements between the California coast and the Great Basin. This species relies on species of milkweeds (*Asclepias* spp.) as its obligate larval host plant, and migrations span multiple generations. Adult migrating monarchs require sheltered roost sites where temperatures remain cool but above freezing. Reductions in the extent and abundance of milkweeds would reduce larval host plant availability during migrations, and removal of trees could reduce suitable roosting sites if the affected trees were in suitable climatic microsites. In addition, solar thermal projects can promote butterfly mortality both through extreme heat and by attracting avian predators. The USFWS announced on December 29, 2014 that it has begun a review of monarch butterfly for listing under the Endangered Species Act. This listing might also include a designation of critical habitat, which could include habitats found within SEDAs.*

#### ***Impacts to Burrowing Owl***

*Nesting Potential nesting and foraging habitat for burrowing owl occurs within all SEDAs and the OVSA, and the species is known to occupy portions of the Laws, Owens Lake, and Rose Valley SEDAs and the OVSA (located within the Western Solar Energy Group) and this species is known to occupy portions of those locations. Impacts to burrowing owl could occur as a result of implementation of the REGPA if solar development occurred within nesting or foraging habitat for this species. Potential impacts to burrowing owls include nest disturbance, loss of nesting habitat, and loss of foraging habitat. Construction-related activities could potentially disturb nesting burrowing owls on or adjacent to construction sites as well as result in the loss of foraging habitat. Earth-moving activities could potentially trap or injure owls in their burrows, and disturbance near nests could potentially cause nest abandonment. Up to 1,500 acres of potential foraging habitat for burrowing owl could be lost in the Laws, Owens Lake, and Rose Valley SEDAs and the OVSA if all of the total allowable developable acres for the Western Solar Energy Group were developed within suitable foraging habitat for burrowing owl and were within close proximity to a nest. This is likely a significant over-estimation of the potential impacts to burrowing owl habitat because much of the land would not be suitable foraging habitat or within close proximity to a nest.*

*If solar development occurred in proximity to burrowing owl nest sites, human activity may cause owl nest abandonment or interfere with the incubation and feeding of young in a way that reduces reproductive success. Increased owl predation could also potentially occur in proximity to solar development, as a result of the typical increase in human-associated owl predators (Odell and Knight 2001). Mortality because of vehicle strikes may also increase on existing roads because of the increased traffic that would result from the solar development.*

*Loss of burrowing owl nesting or foraging habitat or nest disturbance would be a significant impact.*

#### *Impacts to Bald Eagle and Golden Eagle*

*Bald eagle has been reported nesting within the OVSA in the vicinity of Tinemaha Reservoir. Golden eagle has been reported nesting in the Rose Valley SEDA in the vicinity of the Haiwee Powerhouse. These species Bald eagle typically nests in tall trees away from human disturbances; golden eagle typically nests on cliffs. Golden eagle is considered to have potential to nest in the vicinity of all SEDAs and the OVSA. Impacts to bald and golden eagle could occur as a result of implementation of the REGPA if solar development occurred within or adjacent to nesting or foraging habitat for these species. Potential impacts to eagles could include nest disturbance and loss of nesting habitat.*

*If solar development occurred in proximity to eagle nest sites, human activity may cause nest abandonment or interfere with the incubation and feeding of young in a way that reduces reproductive success. If a suitable nest tree was removed, it could potentially result in the loss of nesting habitat.*

*Loss of bald or golden eagle nesting or foraging habitat or nest disturbance would be a significant impact.*

#### *Impacts to Inyo California Towhee*

*Inyo California towhee is not known to occur within any of the SEDAs or the OVSA. However, Inyo California towhee critical habitat is located in the Argus Mountains to the west of the Trona SEDA. If solar development occurred within or adjacent to nesting or foraging habitat for this species, construction activities and long term operations could result in nest disturbance and loss of nesting habitat.*

*Loss of Inyo California towhee nesting habitat or nest disturbance would be a significant impact.*

#### *Impacts to Mohave Ground Squirrel*

*Habitat for Mohave ground squirrel occurs in the Owens Lake, Rose Valley, Pearsonville, and Trona SEDAs. Impacts to this species could occur as a result of implementation of the REGPA if solar development occurred within or adjacent to suitable habitat. Direct effects to this species could include disturbance of individuals from construction and operations activities. Once constructed, solar facilities could also potentially pose a barrier to movement for this species.*

*Indirect impacts to this species could include habitat degradation due to introduction of invasive weeds, avoidance by this species of areas near manmade structures, increased traffic on desert roads, and increased risk of wildfires.*

*Up to 1,500 acres of suitable habitat for Mohave ground squirrel could be impacted by the proposed project if all of the total allowable developable area within the Western Solar Energy Group was developed within habitat for this species, and an additional 600 acres could be impacted in the Trona SEDA if all of the total allowable developable area within that SEDA was developed within habitat for*

*this species (see Table 3-1 for the total allowable maximum area for each Solar Energy Group). This is likely an over-estimation of the potential impacts to this species as it is unlikely that all of the developable acreage within the OVSA would be within this species habitat.*

*Disturbance of individuals or loss/degradation of habitat for this species would be a significant impact.*

#### *Impacts to Other Special Status Birds, Raptors, Migratory Birds and Bats*

*Special status birds and bats may occur in the SEDAs and the OVSA during project construction and operation and are subject to the general construction and operation impacts described above. Additional considerations specific to bats and birds are presented here.*

#### *Nesting and Roosting Sites*

*Construction and maintenance activities would exclude bird species less tolerant of anthropogenic disturbance. The introduction of structures (i.e., power towers, stacks of pallets, or construction materials) would provide potential roosting opportunities for bats and certain species of birds during construction and operation of the facility. Depending on the species, birds may actively nest on the ground near solar panels, vehicles, foundations, construction trailers, and other equipment left overnight or during a long weekend. Bats may roost in various structures. In areas with phased construction, or during long weekends or holidays with the facilities closed, birds or bats may quickly utilize potential nesting or roosting sites.*

*Impacts to roosting bats or nesting birds, or removal of nests during construction or operation would be considered a significant impact.*

#### *Collisions*

*Solar facilities may include relatively tall structures such as power towers (750 feet high), boilers, and air-cooled condenser units (120 feet high) that create a physical hazard to some wildlife. In particular, birds may collide with communication towers, transmission lines, and other elevated structures including buildings. Some birds species are at high risk for collision with power lines and guy wires that are difficult to see. Collision rates generally increase in low light conditions, during strong winds, and during panic flushes when birds are startled by a disturbance or are fleeing from danger. Bird collisions with power lines may occur for a variety of reasons, such as habitat, lighting, weather, bird species (body size, flight behavior, distribution and abundance, flocking behavior), and the power line configuration and location (Avian Power Line Interaction Committee [APLIC] 2012). Power lines located between feeding and roosting areas of flocking birds may present an increased collision risk, especially near rivers, lakes, or wetlands (APLIC 2014).*

*Lighting may result in increased collisions by attracting birds and bats to the area (lighting attracts insects), or disorienting them (birds). The lighting used may play an important role in preventing avian fatalities from night collisions with tall structures. Gehring et al. (2009) suggested that avian fatalities can be reduced, perhaps by 50 to 71 percent at guyed communication towers by removing steadily-burning red lights. Towers lit with strobe or flashing lights had less avian fatalities than non-flashing red lights (Gehring et al. 2009).*

*Since birds are prone to collisions with reflective surfaces, it could be expected that utility scale solar energy projects could cause bird mortality. Glare from the solar panels may confuse or disorient birds in flight, and cause it to collide with solar energy facilities or other objects. Glare may also attract birds confusing it as water, or attract insects, which attract insect eating birds, which attract predatory birds,*

*increasing the likeliness of collisions. Similarly, solar thermal facilities use water ponds which attract birds (and insects), thereby increasing the likeliness of collision. Operation of solar panels in PV systems could cause an increase in polarized light pollution which occurs from light reflecting off of dark colored structures. Polarized light pollution can compete with water bodies for attracting insects and birds, thereby putting birds at greater risk for collision. Further, polarized light pollution can alter the ability of wildlife to seek out suitable habitat and elude or detect the presence of predators (Horvath et al. 2009). It has also been documented that for a variety of birds and other species polarized light pollution can affect their ability to detect natural polarized light patterns in the sky which can lead to the effect on their navigation ability and ultimately effects on dispersal and reproduction (Horvath et al. 2009).*

*At the 10-MW Solar One facility (a 10-MW pilot thermal energy facility located in the Mojave Desert in San Bernardino County that operated from 1982 to 1988), the results of a 40-week long study indicated that much of the bird mortality consisted predominantly of collisions with the mirrored heliostats; however some were killed by burns received while flying between two standby points. The USFWS Forensics Laboratory conducted a review of bird carcasses from three solar energy facilities, and analysis of the causes of avian mortality at various types of solar facilities in 2013 (Kagan et al. unpub.). It was determined that the size and continuity of the panels may contribute to the likeliness for collisions from birds mistaking the facility for water, or affected by polarized light. Solar systems with vertically oriented, continuously placed solar panels would provide a more continuous sky/water appearance (Kagan et al. unpub.). Although bird response to glare or polarized light pollution from solar panel technology is not well understood, it is likely that large scale facilities will see an increase in birds colliding with mirrors and perish. Solar facilities containing ponds that are accessible to birds may attract birds. Birds attracted to water features become habituated to the presence of accessible aquatic environment, which may also lead to misinterpretation of the glare from the nearby solar facility (Kagan et al. unpub.).*

*The severity of the impact to birds from collisions would vary depending on the species and numbers of birds involved. Studies are currently being conducted to find ways to minimize collisions with solar panels by reducing the attractiveness of solar panels to polarotatic insects and/or installing visual variables to break up the reflective surface and provide a visual cue that the panel is a solid structure (Kagan et al. unpub.). Death or injury to special status birds, raptors, and other migratory birds due to collisions would be considered a significant impact.*

#### *Electrocution*

*Transmission tower and pole design is a major factor in the electrocution risks to birds. Electrocution occurs when a perching bird simultaneously contacts two energized phase conductors or an energized conductor and grounded hardware. This happens most frequently when a bird attempts to perch on a transmission tower/pole with insufficient clearance between these elements.*

*Electrocution can occur when horizontal separation is less than the distance of a bird's wingspan or where vertical separation is less than a bird's length from head-to-foot. Electrocution can also occur when birds perched side-by-side span the distance between these elements (APLIC 2006).*

*The majority of bird electrocutions are caused by lines that are energized at voltage levels between 1 and 60 kV, and "the likelihood of electrocutions occurring at voltages greater than 60 kV is low" because phase-to-phase and phase-to-ground clearances for lines greater than 60 kV are typically sufficient to prevent bird electrocution (APLIC 2006).*



*Impacts to special status birds, raptors, and other migratory birds resulting from electrocution would be considered to be a significant impact.”*

The EIR describes many significant potential impacts to several protected species or those of special status.

Mitigation from the EIR and other regulations require a full project specific biological resource evaluation PRIOR TO APPROVAL. These mitigations also require evaluation for off-site impacts as well as the need to conduct the study over the course of the year to account for seasonal variations. The Draft Mitigated Negative Declaration and Staff Report contain no specific mitigation, other than a study post-permit, to prevent impacts to biological resources and protect vegetation and wildlife species. This is highly insufficient and dangerous to the protection of such resources.

The required mitigation is listed at length here to illustrate the magnitude of the lack of permit requirements that should be in place for these proposals. It is believed that Inyo County has also proceeded with REP 2021-01 without such mitigation.

***MM BIO-1: Prepare project level biological resources evaluation and mitigation and monitoring plan.***

*Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact biological resources as determined by a qualified biologist (defined as a biologist with documented experience or training related to the subject species), a project level biological resource evaluation shall be prepared by a qualified biologist for the project. The biological resource evaluation shall include field reconnaissance and focused surveys as determined necessary by a qualified biologist to identify special status species and natural communities present or having the potential to occur on the site, an evaluation of the extent of those habitats, an evaluation of the potential for impacts to each special status species and/or habitat, and shall prescribe specific mitigation measures to avoid or reduce impacts to biological resources to the maximum extent practicable. The qualifications of any biologists conducting special status species surveys or focused habitat assessments will be submitted to CDFW prior to conducting fieldwork. The level of biological resource analysis will be based on factors such as the size of the proposed project, the and extent of impacts to biological resources, and the sufficiency of existing data to determine impacts.*

*An evaluation of the potential for off-site impacts to special status species and sensitive habitats will be included in the biological resources evaluation, especially for projects involving groundwater pumping. Chapter 2 of the Basin Plan protects beneficial uses for groundwater with respect to groundwater recharge and freshwater replenishment and beneficial uses for wildlife habitats and flora and fauna including cold freshwater habitat, warm freshwater habitat, wildlife habitat, rare, threatened, or endangered species, spawning, reproduction, and development, preservation of biological habitats of special significance, and migration of aquatic organisms (RWQCB 1995). A project-specific evaluation of potential impacts to beneficial uses for groundwater as specified in the Basin Plan will be included in the biological resources evaluation.*

*For projects with the potential to impact on- or off-site special status species or habitats as determined in the biological resources evaluation, a project-specific biological resources mitigation and monitoring plan shall be prepared in cooperation with and that meets the approval of permitting agencies. The plan shall be implemented during all phases of the project and shall identify appropriate mitigation levels to*

*compensate for significant direct, indirect, and cumulative impacts, including habitat, special status plant, and wildlife species losses as well as impacts to groundwater dependent vegetation or off-site impacts to special status species or sensitive habitats due to groundwater pumping. The plan shall address at a minimum:*

- *Biological resource avoidance and minimization measures and mitigation, monitoring and compliance measures required by federal, state, and local applicable permitting agencies.*
- *Documentation (based on surveys) of sensitive plant and wildlife expected to be affected by all phases of the project (project construction, operation, abandonment, and decommissioning). Agencies may request additional surveying, based on the documentation or past experience working with the resources. Include measures to avoid or minimize impacts to species and habitat.*
- *A detailed description of measures to minimize or mitigate permanent and temporary disturbances from construction activities.*
- *All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction.*
- *Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities.*
- *Duration for each type of monitoring and a description of monitoring methodologies and frequency.*
- *Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful.*
- *All standards and remedial measures to be implemented if performance standards and criteria are not met.*
- *A closure/decommissioning or abandonment plan, including a description of funding mechanism(s).*
- *A process for proposing plan modifications to the County project manager.*

***MM BIO-2: Minimize impacts to special status plants.***

- *Prior to the approval of any solar development projects or related infrastructure under the REGPA, a CDFW-approved botanist shall evaluate the potential for special status plant species to occur on the site and conduct surveys, if necessary, to determine presence or infer absence of special status plants on the site following the November 24, 2009 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities or the most current guidelines. When special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, to the maximum extent feasible, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs. with the potential to impact special status plant species as determined by a qualified biologist/botanist, a qualified botanist shall determine the presence or absence of special status plants within the project site. The following steps shall be implemented to document special-status plants, as determined necessary by the botanist:*
- *Review Existing Information. The botanist shall review existing information to develop a list of special status plants that could grow in the specific project area. Sources of information*

*consulted shall include CDFW's CNDDDB, the CNPS electronic inventory, and previously prepared environmental documents. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of sensitive plants from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.*

- *Coordinate with Agencies. The botanist shall coordinate with the appropriate agencies (i.e., CDFW and USFWS) to discuss botanical resource issues and determine the appropriate level of surveys necessary to document special status plants*
- *Conduct Field Studies. The botanist shall evaluate existing habitat conditions for each project and determine what level of botanical surveys may be required. The type of botanical survey shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on these factors and the proposed construction activity, one or a combination of the following levels of survey may be required:*
  - *Habitat Assessment. A habitat assessment shall be conducted to determine whether suitable habitat is present. This type of assessment can be conducted at any time of year and is used to assess and characterize habitat conditions and determine whether return surveys are necessary. If no suitable habitat is present, no additional surveys shall be required.*
  - *Species-Focused Surveys. Species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status plants. The surveys shall focus on special status plants that could grow in the region, and would be conducted during a period when the target species are evident and identifiable.*
  - *Floristic Protocol-Level Surveys. Floristic surveys that follow the CNPS Botanical Survey Guidelines shall be conducted in areas that are relatively undisturbed and/or have a moderate to high potential to support special status plants. The CNPS Botanical Survey Guidelines require that all species be identified to the level necessary to determine whether they qualify as special status plants, or are plant species with unusual or significant range extensions. The guidelines also require that field surveys be conducted when special status plants that could occur in the area are evident and identifiable. To account for different special status plant identification periods, one or more series of field surveys may be required in spring and summer months.*
- *Map Special Status Plants. Special status plant populations identified during the field surveys shall be mapped and documented as part of the CEQA process, as applicable. Project development plans shall consider avoidance to the extent practicable. If avoidance is not practicable while otherwise obtaining the projects objectives, then other suitable measures and mitigation shall be implemented in coordination with the appropriate regulatory agency (i.e., USFWS, CDFW, BLM).*
- *If special status plants are identified in the project area and complete avoidance of direct and indirect impacts is not feasible as determined by the County, the following measures shall be implemented to avoid and minimize impacts on special status plants:*
  - *The project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, if feasible.*
  - *If feasible, when special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs.*

- *For projects that are determined to have the potential to result in “take” of state or federally-listed plant species, consultation shall be conducted with CDFW or USFWS respectively prior to project commencement, and appropriate mitigation measures developed if necessary..*
- *Special status plants near the project site shall be protected by installing environmentally sensitive area fencing (orange construction barrier fencing) around special status plant populations. The environmentally sensitive area fencing shall be installed at least 20 feet from the edge of the population. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within the fenced environmentally sensitive area.*
- *No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. If individuals of a special status species occur within an area proposed for construction and take cannot be avoided, avoidance of special status plants is not feasible, mitigation shall be developed in coordination with USFWS and/or CDFW to reduce impacts on the local population of the special status species. No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. Mitigation measures approved by USFWS and/or CDFW may include transplantation. If individuals of a special status species occur within an area proposed for construction and take cannot be avoided, the plants shall be transplanted under the direction of a qualified CDFW-approved botanist if transplantation of such species is deemed likely to succeed, or seed shall be collected prior to destruction of the plants and dispersed in suitable habitats not impacted by construction, if such habitats exist and seed collection is deemed likely to be successful by a qualified CDFW-approved botanist with experience propagating the species in question. In all cases, CDFW will be notified at least 10 days prior to removal of any special status plant to allow transplantation or collection of seed at their discretion.*
- *If transplanting is proposed, the botanist shall coordinate with the appropriate resource agencies and local experts to determine whether transplantation is feasible. If the agencies concur that transplantation is a feasible mitigation measure, the botanist shall develop and implement a transplantation plan through coordination with the appropriate agencies. The special status plant transplantation plan shall involve identifying a suitable transplant site; moving some or all of the plant material and seed bank to the transplant site; collecting seed material and propagating it in a nursery (in some cases it is appropriate to keep plants onsite as nursery plants and sources for seed material); and monitoring the transplant sites to document recruitment and survival rates. Monitoring shall be conducted for a period of five years and transplantation shall be considered successful if an 80 percent survival rate has been achieved by the end of the five-year monitoring period.*
- *A mitigation and monitoring plan shall be developed by a qualified botanist/ restoration ecologist and submitted to CDFW for approval prior to approval of the proposed project. The mitigation and monitoring plan will dictate appropriate avoidance and minimization measures, compensatory mitigation, and monitoring requirements as pertinent to the specific species and level of impact(s). Mitigation shall include, but is not limited to 1) protection of special status plant populations not directly impacted by construction or implementation of the project as stated above; 2) transplantation and/or collection of seed from impacted plants if feasible, as stated above; and 3) the preservation in perpetuity of an equivalent or larger off-site population for every individual or population of special status plant impacted including sufficient land surrounding the preserved population to ensure its survival in perpetuity as determined by a*

*qualified botanist/ restoration ecologist. The qualified botanist/ restoration ecologist shall include plans to restore and enhance the preserved populations to the extent feasible.*

**MM BIO-3: Minimize impacts to special status wildlife.**

- *Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact special status wildlife as determined by a qualified biologist, a qualified CDFW-approved wildlife biologist shall conduct a survey to document the presence or absence of suitable habitat for special status wildlife in the project site. The following steps shall be implemented to document special status wildlife and their habitats for each project, as determined by the CDFW-approved wildlife biologist:*
- *Review Existing Information. The wildlife biologist shall review existing information to develop a list of special status wildlife species that could occur in the project area or be impacted by the proposed project, either directly or indirectly (e.g., groundwater pumping could result in indirect impacts to off-site habitats for special status wildlife). The following information shall be reviewed as part of this process: the USFWS special status species list for the project region, CDFW's CNDDDB, previously prepared environmental documents, and USFWS issued biological opinions for previous projects. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of special status wildlife from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.*
- *Coordinate with State and Federal Agencies. The wildlife biologist shall coordinate with the appropriate agencies (CDFW, USFWS, BLM) to discuss wildlife resource issues in the project region and determine the appropriate level of surveys necessary to document special status wildlife and their habitats.*
- *Conduct Field Studies. The wildlife biologist shall evaluate existing habitat conditions and determine what level of biological surveys may be required. The type of survey required shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on the existing conditions in the project area and the proposed construction activity, one or a combination of the following levels of survey may be required:*
- *Habitat Assessment. A habitat assessment determines whether suitable habitat is present. The wildlife biologist shall conduct project-specific habitat assessments consistent with protocols and guidelines issued by responsible agencies for certain special status species. (e.g., USFWS' and CDFW have issued protocols for evaluating bald eagle habitat (2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California). Habitat assessments are used to assess and characterize habitat conditions and to determine whether return surveys are necessary. If no suitable habitat is present for a given special status species, no additional species-focused or protocol surveys shall be required.*
- *Species-Focused Surveys. Project-specific species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status wildlife and if it is necessary to determine the presence or absence of the species in the project area. The wildlife biologist shall conduct project-specific surveys focusing on special status wildlife species that have the potential to occur in the region. The surveys shall be conducted during a period when the target species are present and/or active.*
- *Protocol-Level Wildlife Surveys. The wildlife biologist shall conduct project specific protocol level surveys for special status species with the potential to be impacted by the proposed project.*

*The surveys shall comply with the appropriate protocols and guidelines issued by responsible agencies for the special status species. USFWS and CDFW have issued survey protocols and guidelines for several special- status wildlife species that could occur in the project region, including (but not limited to): bald eagle, burrowing owl, golden eagle, Swainson's hawk, least Bell's vireo, willow flycatcher, desert tortoise, and San Joaquin desert kit fox. The protocols and guidelines may require that surveys be conducted during a particular time of year and/or time of day when the species is present and active. Many survey protocols require that only a USFWS- or CDFW-approved biologist perform the surveys. The project proponent shall coordinate with the appropriate state or federal agency biologist before the initiation of protocol-level surveys to ensure that the survey results would be valid. Because some species can be difficult to detect or observe, multiple field techniques may be used during a survey period and additional surveys may be required in subsequent seasons or years as outlined in the protocol or guidelines for each species.*

- *Habitat Mapping. The wildlife biologist shall map special status wildlife or suitable habitat identified during the project-specific field surveys.*
- *A Scientific Collecting Permit is required to take, collect, capture, mark, or salvage, for scientific, educational, and non-commercial propagation purposes, mammals, birds and their nests and eggs, reptiles, amphibians, fishes and invertebrates (Fish and Game Code Section 1002 and Title 14 Sections 650 and 670.7). All biologists will be required to obtain a Scientific Collecting Permit that may be required to handle any live or dead animals during construction or operation of a project.*
- *In addition, the following measures should be implemented to avoid and minimize impacts on special status species and their habitats if they occur within a site:*
- *For projects that are determined to have the potential to result in "take" of state or federally-listed animal species, consultation shall be conducted with CDFW or USFWS respectively and appropriate mitigation measures developed as necessary, and take authorization shall be obtained prior to project commencement, if relevant.*
- *Any special status wildlife and/or their habitats identified within a project site outside of the work area will be protected by installing environmentally sensitive area fencing around habitat features, such as seasonal wetlands, burrows, and nest trees. The environmentally sensitive area fencing or staking shall be installed at a minimum distance from the edge of the resource as determined through coordination with state and federal agency biologists (USFWS and CDFW, BLM). The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction- related activities, vehicle operation, material and equipment storage, and other surface- disturbing activities within the fenced environmentally sensitive area.*
- *If ground disturbing activities are required prior to site mobilization, such as for geotechnical borings or hazardous waste evaluations, a qualified CDFW-approved biologist shall be present to monitor any actions that could disturb soil, vegetation, or wildlife.*
- *In areas that could support desert tortoise or any other sensitive wildlife species, a County-approved qualified biologist with the appropriate CDFW and/or USFWS approvals for the species being salvaged and relocated shall be onsite and respond accordingly should an animal need to be relocated. walk immediately ahead of equipment during the clearing and grading activities to salvage and relocate the wildlife in the path of the operations. The species shall be*

*salvaged and relocated to off-site habitat when conditions will not jeopardize the health and safety of the biologist.*

- *Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. Vehicles shall not exceed 25 mph on the project site. Vehicles shall abide by posted speed limits on paved roads.*
- *For projects with the potential to affect desert tortoise, parking and storage shall occur within the area enclosed by desert tortoise exclusion fencing to the extent feasible. No vehicles or construction equipment parked outside the fenced area shall be moved prior to an inspection of the ground beneath the vehicle for the presence of desert tortoise. If a desert tortoise is observed, it shall be left to move on its own. If it does not move within 15 minutes, a CDFW and USFWS approved desert tortoise biologist may remove and relocate the animal to a safe location if temperatures are within the range described in the Desert Tortoise Field Manual (USFWS 2013 or most recent version, available from the Ventura Fish and Wildlife Office website <http://www.fws.gov/ventura/angered/species/surveys-protocol.html>). All access roads outside of the fenced project footprint shall be delineated with temporary desert tortoise exclusion fencing on either side of the access road, unless otherwise authorized by the County project manager and County biologist.*
- *A qualified CDFW-approved biologist shall be designated to oversee compliance with biological resources avoidance and minimization measures during mobilization, ground disturbance, grading, construction, operation, and closure/decommissioning, or project abandonment, particularly in areas containing or known to have contained sensitive biological resources, such as special status species and unique plant assemblages. The qualified CDFW-approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The boundaries of all areas to be disturbed (including staging areas, access roads, and sites for temporary placement of spoils) shall be delineated with stakes and flagging prior to construction activities in consultation with the biological monitor. Spoils shall be stockpiled in disturbed areas lacking native vegetation and which do not provide habitat for special status species. Parking areas, staging and disposal site locations shall also be located in areas without native vegetation or special status species habitat. All disturbances, vehicles, and equipment shall be confined to the flagged areas. The qualified CDFW-approved biologist shall be responsible for actions including, but not limited to, the following:*
  - *Clearly marking sensitive biological resource areas and inspecting the areas at appropriate intervals for meeting regulatory terms and conditions.*
  - *Inspecting, daily, active construction areas where wildlife may have become trapped (for example, trenches, bores, and other excavation sites that constitute wildlife pitfalls outside the permanently fenced area) before beginning construction. At the end of the day, conducting wildlife inspections of installed structures that would entrap or not allow escape during periods of construction inactivity. Periodically inspecting areas with high vehicle activity (such as parking lots) for wildlife in harm's way.*
  - *Periodically inspect stockpiled material and other construction material and equipment (including within the fenced areas) throughout the day as some species such as desert kit fox may enter the project site at any time.*
  - *Overseeing special status plant salvage operations.*
  - *Immediately recording and reporting hazardous spills immediately as directed in the project hazardous materials management plan.*

- *Coordinating directly and regularly with permitting agency representatives regarding biological resources issues, and implementation of the biological resource avoidance and minimization measures.*
- *Maintaining written records regarding implementation of the biological resource avoidance and minimization measures, and providing a summary of these records periodically in a report to the appropriate agencies.*
- *Notifying the project owner and appropriate agencies of non-compliance with biological resource avoidance and minimization measures.*
- *At the end of each work day, the biological monitor shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled or if backfilling is not feasible, the biological monitor shall ensure that all trenches, bores, and other excavations are sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with desert tortoise-exclusion fencing. All trenches, bores, and other excavations outside the areas permanently fenced with desert tortoise exclusion fencing shall be inspected periodically, but no less than three times, throughout the day and at the end of each workday by the qualified CDFW-approved biologist. Should a tortoise or other wildlife become trapped, the CDFW and USFWS-approved desert tortoise biologist shall remove and relocate the individual as described in the project's Desert Tortoise Relocation/Translocation Plan. Any wildlife encountered during the course of construction shall be allowed to leave the construction area unharmed.*
- *Any construction pipe, culvert, or similar structure with a diameter greater than 3 1 inches, stored less than 8 inches aboveground, and within desert tortoise habitat (i.e., outside the permanently fenced area) for one or more nights, shall be inspected by the biological monitor for desert tortoises or other special status species such as fringe-toed lizard, before the material is moved, buried, or capped. As an alternative, all such structures may be capped before being stored outside the fenced area, or placed on pipe racks. These materials would not need to be inspected or capped if they are stored within the permanently fenced area after the clearance surveys have been completed.*
- *Access roads, pulling sites, storage and parking areas outside of the fenced solar facility area shall be designed, installed, and maintained with the goal of minimizing impacts to native plant communities and sensitive biological resources. Transmission lines and all electrical components shall be designed, installed, and maintained in accordance with the APLIC Suggested Practices for Avian Protection on Power Lines (APLIC 2006) and Mitigating Bird Collisions with Power Lines (APLIC 2004) to reduce the likelihood of bird electrocutions and collisions.*
- *Facility lighting shall be designed, installed, and maintained to direct light downwards towards the project site and avoid light spillover to wildlife habitat.*
- *Construction and operation related noise levels shall be minimized to minimize impacts to wildlife.*
- *All vertical pipes greater than 4 inches in diameter shall be capped to prevent the entrapment of birds and other wildlife.*
- *All vehicles and equipment shall be maintained in proper working condition to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials. The biological monitor shall be informed of any hazardous spills immediately. Hazardous spills shall be immediately cleaned up and the contaminated soil properly disposed of at a licensed facility. Servicing of construction equipment shall take place*



*only at a designated area. Service/maintenance vehicles shall carry a bucket and pads to absorb leaks or spills.*

- *Road surfacing and sealants as well as soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants. Anticoagulants shall not be used for rodent control. Pre-emergents and other herbicides with documented residual toxicity shall not be used. Herbicides shall be applied in conformance with federal, state, and local laws and according to the guidelines for wildlife- safe use of herbicides in BIO-24 (Weed Management Plan).*
- *The following measures shall be implemented to minimize attractants to wildlife:*
- *If the application of water is needed to abate dust in construction areas and on dirt roads, use the least amount needed to meet safety and air quality standards and prevent the formation of puddles, which could attract wildlife to construction sites. The biological monitor shall patrol these areas to ensure water does not puddle and attract desert tortoise, common ravens, and other wildlife to the site and shall take appropriate action to reduce water application where necessary.*
- *Water shall be prohibited from collecting or pooling for more than 24 hours after a storm event within the project retention basin. Standing water within the retention basin shall be removed, pumped, raked, or covered. Alternative methods or the timeframe for allowing the water to pool may be modified with the approval of the biological monitor.*
- *Dispose trash and food-related items in self-closing, sealable containers with lids that latch to prevent wind and wildlife from opening containers. Empty trash containers daily and remove from the project site those associated with construction when construction is complete*
- *To avoid attracting insectivorous birds and bats, prepare a facility vector (such as mosquitoes or rodents) control plan, as appropriate, that meets the permitting agency approval and would be implemented during all phases of the project.*
- *Workers or visitors, while on project property, shall be prohibited from feeding wildlife, bringing domestic pets to the project site, collecting native plants, or harassing wildlife.*
- *To reduce the potential for the transmission of fugitive dust the project proponent shall implement dust control measures. These shall include:*
- *The project proponent shall apply non-toxic soil binders, equivalent or better in efficiencies than the CARB- approved soil binders, to active unpaved roadways, unpaved staging areas, and unpaved parking area(s) throughout construction to reduce fugitive dust emissions.*
- *Water the disturbed areas of the active construction sites at least three times per day and more often if uncontrolled fugitive dust is noted. Enclose, cover, water twice daily, and/or apply non-toxic soil binders according to manufacturer's specifications to exposed piles with a 5 percent or greater silt content. Agents with known toxicity to wildlife shall not be used unless approved by the County biologist and County project manager.*
- *Establish a vegetative ground cover (in compliance with biological resources impact mitigation measures above) or otherwise create stabilized surfaces on all unpaved areas at each of the construction sites within 21 days after active construction operations have ceased.*
- *Increase the frequency of watering, if water is used as a soil binder for disturbed surfaces, or implement other additional fugitive dust mitigation measures, to all active disturbed fugitive dust emission sources when wind speeds (as instantaneous wind gusts) exceed 25 mph.*
- *A project-specific worker environmental awareness program (WEAP) shall be developed and carried out during all phases of the project (site mobilization, ground disturbance, grading, construction, operation, closure/decommissioning, or project abandonment, and restoration/reclamation activities). The WEAP shall include the biological resources present and*

*the measures for minimizing impacts to those resources. Interpretation for non-English speaking workers shall be provided, and all new workers shall be instructed in the WEAP. The project field construction office files will contain the names of onsite personnel (for example, surveyors, construction engineers, employees, contractors, contractor's employees/ subcontractors) who have participated in the education program. All employees and contractors shall be trained to carry out the WEAP and on their role in ensuring the effectiveness of implementing the Plan. At a minimum, the WEAP shall including the following:*

- *Photos and habitat descriptions for special status species that may occur on the project site and information on their distribution, general behavior, and ecology.*
- *Species sensitivity to human activities.*
- *Legal protections afforded the species. o Project measures for protecting species.*
- *State and federal law violation penalties.*
- *Worker responsibilities for trash disposal and safe/ humane treatment of special status species found on the project site, associated reporting requirements, and specific required measures to prevent taking of threatened or endangered species.*
- *Handout materials summarizing the contractual obligations and protective requirements specified in project permits and approvals.*
- *Project site speed limit requirements and penalties.*
- *A project specific restoration, re-vegetation, and reclamation plan that meets the approval of permitting agencies shall be prepared and carried out for all projects. The plan shall address at a minimum:*
- *Minimizing natural vegetation removal and the consideration of cutting or mowing vegetation rather than total removal, whenever possible.*
- *Salvage and relocation of cactus and yucca from the site before beginning construction.*
- *Identification of protocols to be used for vegetation salvage.*
- *Reclaiming areas of temporarily disturbed soil using certified weed free native vegetation and topsoil salvaged from excavations and construction activities.*
- *Restoration and reclamation of temporarily disturbed areas, including pipelines, transmission lines, staging areas, and temporary construction-related roads as soon as possible after completion of construction activities. The actions are recommended to reduce the amount of habitat converted at any one time and promote recovery to natural habitats.*
- *Specifying proper seasons and timing of restoration and reclamation activities to ensure success.*

## BIOLOGICAL RESOURCES CONCLUSION

The EIR requires the Inyo County to prepare biological inventories and studies prior to permit approval. Further, it also requires extensive mitigation during construction and operation that is not apparent in the proposed permit documents. Based on daily observations of the site, it appears that much of the wildlife and vegetation mitigation described by the EIR has not been implemented during REP 2021-01 construction and operation. Such things as turtle fences, and other similarly observable mitigation have not been in apparent use. Inyo County's adherence to the mitigation listed in EIR for biological resources is highly in question.

The Inyo County allowance of pre-permit wildlife and vegetation destruction is in complete violation of its objectives to avoid and minimize environmental impacts, in violation of state and federal laws, and could include a take of a protected species. Such impacts that may have already been caused by this pre-permit activity are enumerated in the EIR analysis of impacts included above.

13.) Road Planning is not considered. Inyo County provides no support or analysis of road traffic changes that would result from the proposed projects. It is likely these roads will be the same as those used by adjacent residents. It is unclear how the developer will use these roads resulting in an increase in overall traffic and greater use by heavy equipment and large trucks. It is unclear if the developer/operator will have to comply with speed limits or other traffic control measures will be put in place to protect workers and the public. Of particular concern is access on and off the highway for which no planning is apparent. All three homes immediately adjacent to these projects are often occupied by children who use the area for play and recreation. How are they going to be protected?

Mitigation from the EIR requires development of traffic control plans. These would be especially useful and applicable for the proposed projects. This analysis should be done prior to issuance of permits.

**MM TRA-1: Prepare site-specific traffic control plans for utility scale projects.**

Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.

**MM TRA-2: Implement recommendations from traffic impact analysis on surrounding roadways and intersections.**

Site-specific construction traffic impact analyses shall be prepared for all proposed utility scale solar energy projects within the individual SEDAs and the OVSA to evaluate potential traffic impacts on surrounding roadways and intersections during the construction period, including wear and tear on County roads. Applicable results and recommendations from the project-specific construction traffic impact analysis shall be implemented during the appropriate construction phase to address identified potential construction traffic impacts.

14.) Impacts to Recreational Use are not fully considered and some are expected. I think it would be fair to say that OHV is one of the main recreation activities of the community and an important one for nearly all the local community, including Trona's youth who do not have a lot of other opportunities for sport and outdoor recreation. One of these is BLM trail, P105, that passes through the middle of both proposed projects. This trail is the only one following the existing right of way and is the main access to desert riding from Trona into the open riding areas in the north. Is this important trail now going to be blocked? Such a blockage would create a negative impact to OHV use and could in use of the highway.

15.) Cumulative Impacts

There are currently three new Renewable Energy permits proposed before Inyo County. This includes REP 2022-01 and REP 2022-02 of about 20 acres herein as well as a more recent 10 acres from SBC investments. These both expand significantly beyond the approximately 10 acres developed for REP 2021-01. This would create a total of about 40 acres spread across the area should these projects move forward. These projects clearly show an increasing impact to the Rural Residential parcels at the south end of the Trona SEDA. As a result, Inyo County has not performed the necessary assessment for this overall arrangement and cumulative impacts of all of these project areas that is now necessary. The current Draft Mitigated Negative Declarations/Staff Report are insufficient to cover assessment of all of

these projects as a whole. Impacts would expect to be greatly amplified by this piecemeal approach of the solar development. Reasons have been provided why the trend for use of rural residential would be expected to increase and assessment of a full 600 acre development focused on these RR parcels could be necessary. Such an updated assessment would need to account for the alternative of using other non-rural residential parcels in the Trona SEDA for solar.

What all this means is that this Rural Residential zoned area will be irrevocably damaged in a way that is not in the interest of the public and Inyo County. The approach being taken will destroy wildlife, vegetation, and any enjoyable use of rural housing in the area. This housing provides a unique lifestyle connected to the outdoors. Instead, Inyo County would be serving only the pocketbook of just one individual if it approves these permits. Trona is a uniquely rare and unusually wild place to live that should be preserved. Inyo County needs to deny the permits proposed for Renewable Energy Develop herein, rewrite its REGPA, and remove all rural residential parcels from the Trona SEDA.

16.) Inyo county needs to assess visual impacts from the visual perspective of residents living in proximity to the proposed projects. As such a resident, from my analysis these impacts would be severe and significantly detrimental to quality of life. From my home, there are impressive views of the Trona Pinnacles and several scenic surrounding mountain ranges including Telescope Peak which would be interrupted. Unlike what is required by the REGPA, there is no benefit provided by REP 2022-01 or REP 2022-02 offsetting this.

17.) Based on previous emails, I remove the confidentiality requirement included on previous comments such that these comments may be shared within the planning department and with the board of supervisors.

18.) The developer continues to do pre-permit construction efforts. This includes stockpiling of limestone gravel at the proposed project site. This should not be allowed given this permit is currently being considered. Inyo County has previously been notified of such activity which is not allowable under several laws and regulations and therefore is complicit in such activity. The attached pictures were taken on April 24, 2023.



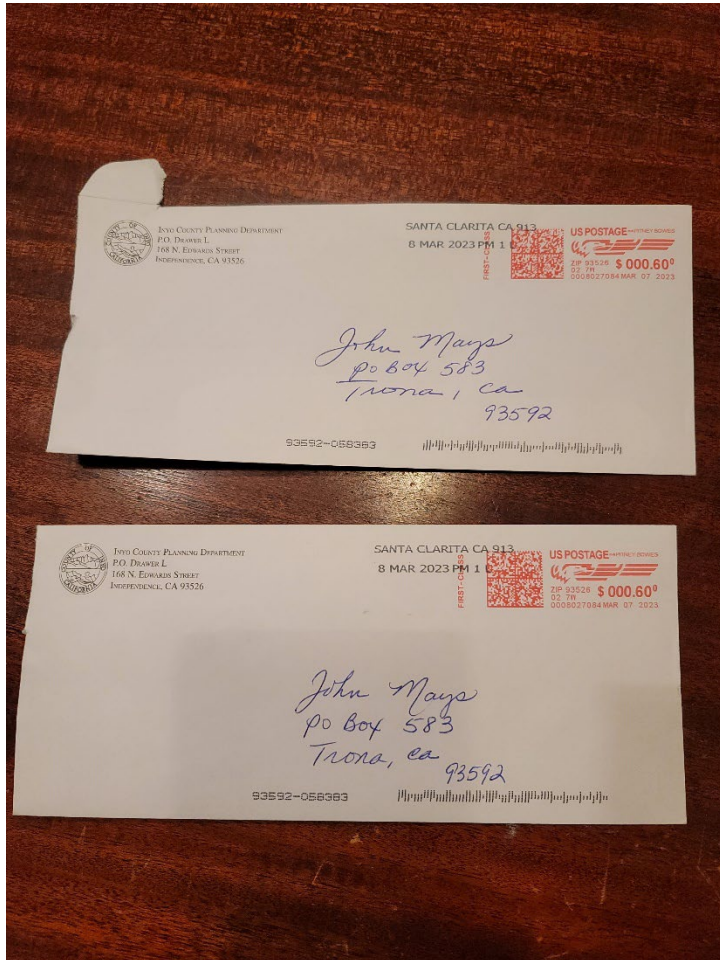
March 21, 2022

Attachments for John Mays Comments on REP 2022-01 and REP 2022-02

- 1.) Photo of delivery method of hearing notices
- 2.) Satellite Photo and Map of Local Project Area
- 3.) Satellite Photo showing relationship of the project areas and town of Trona
- 4.) 2016 satellite photo
- 5.) 2018 satellite photo
- 6.) 2020 satellite photo
- 7.) January 13, 2022 Photo of pre-permit site grading as delivered to Planning dept.
- 8.) March 19, 2023 set of 8 recent photos showing pre-permit vegetation destruction
- 9.) November 30, 2021 Photo of dust emissions as delivered to Planning dept.
- 10.) December 6, 2021 set of two photos showing repeated dust emissions and lack of dust control measures
- 11.) January 21, 2022 set of five photos showing dust plume impacting a number of local homes and Trona
- 12.) March 19, 2023 image of viewshed from Mays Residence towards existing and proposed solar development.
- 13.) Entrance to the REP 2021-01
- 14.) March 21, 2023 Photos of Solar Facilities in the California City Area
- 15.) March 21, 2023 Photos of Ricardo/Cantil CA
- 16.) Emails with Inyo County Planning and Great Basin Unified Air Pollution

Please note that the resolution here in a Word document is not as good as in the actual photos but meant to inform in short time frame that was available to prepare these comments. All photos and video can be provided including many additional ones on different days.

Hearing Notice Envelopes as delivered. How does Inyo County know these were even delivered? Note the date March 8, 2023. These were mailed just two weeks before the final hearing and could have easily been not received in time or lost. This is not proper notification.

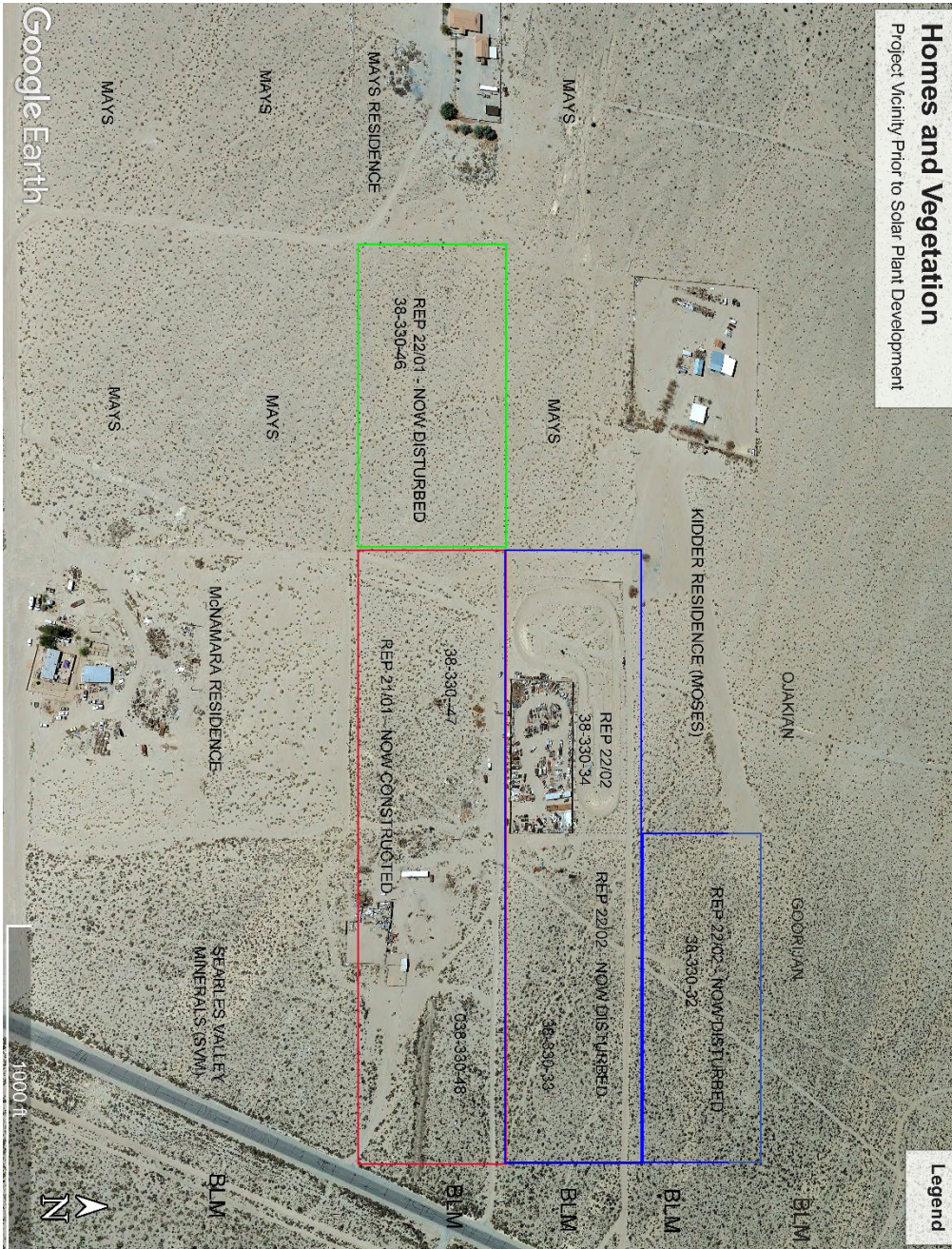


Satellite Photo showing relationship of the homes in Trona and the Trona Airport. These homes are approximately 3300 ft from the proposed Renewable Energy Projects and in the primary down wind direction. There are also multiple residences between the REPs and the Pioneer Point (a community of Trona).





Local Map of Homes and Project area prior to all Disturbances for Renewable Energy development (1985) Boundary locations are very approximate for informative purposes.



2016 Satellite Photo – Note Parcel 38-330-47 is not disturbed as about half of 38-330-48 is not disturbed



2018 Satellite Photo – note that the developer has begun wholesale stripping of 38-330-47 and 38-330-48 prior to the permit which was issued in 2021 – no air permits in place. Also, small sand dune formation now that the properties are barren of vegetation.



2020 Satellite Photo – Note the complete lack of protective vegetation absent an air permit now two years later in the area of the REP 2021-01 and prior to its approval. Parcels for the 38-330-46, 38-330-32, 38-330-33 of REP 2022-01 and REP 2022-02 are undisturbed and indistinguishable from undisturbed land with clear presence of large scrub brush.



Photo of pre-permit scraping efforts underway sent to Inyo County Planning Department on Jan 13, 2022. View from Mays Residence. Note the new absence of the large brush which can be seen from aerial photos.



March 19 Photo at Ground Level looking East across Permit area of REP 2022-01 after stripping of land. Note the large depth at which the grading dug into the topsoil.



March 19, 2023 Photo looking west across permit area for REP 2022-01. Note extensive vegetation destruction. Note that the developer pushed soil onto the neighbor's land.



March 19, 2023 Photo looking north across permit area for REP 2022-01 with the Kidder (Moses) residence in the background





March 19, 2023 Photo construction of fence for REP 2021-01 within the right-away between 38-330-47 and 38-330-46. Fence sits right on property line shown by stakes in the foreground. Road moved to the west.



March 19, 2023 looking South across permit area for REP 2022-02. Note extensive vegetation destruction. And lack of scrub brush. The constructed REP 2021-01 in the background.



March 19, 2023 photo looking east across Permit Area for REP 22-02 with Kidder (Moses) residence in the background. This is along the access road to the Kidder residence which has been in place for 60 years and is a well-established road. Note the size of the brush in foreground which is located on BLM surface. This brush has been destroyed by pre-permit scraping and was present fully across 38-330-33 and 38-330-32 prior. Note materials left on the property.



Photo of Dust Emissions from REP 2021-01 Construction provided to Inyo County Planning Department on November 30, 2021. Note the inundated McNamara residence and plume spread at distance throughout the valley. Zoom provided.



Photos of Dust Emissions from REP 2021-01 Construction on December 6, 2021 provided to Inyo County Planning Department and Great Basin Unified Air Pollution District



Photos of Dust Emissions from REP 2021-01 Construction on December 6, 2021 provided to Inyo County Planning Department and Great Basin Unified Air Pollution District. This sort of activity occurred for many months prior to being reported.



January 21, 2022 Photo sequence from video sent to Inyo County Planning and Great Basin Unified Air Pollution District of massive dust emissions from the permit areas of REP 2022-01, 2022-02, and 21-01 during high winds. This is looking east from the Mays Residence and the dust has occluded the fence (see previous January 13, 2021 photo with scraper for reference)



Comparative photo from the same location (March 20, 2023)





Second Photo in the series note that the McNamara residence and another residence is not visible in the dust cloud. A tree by the residence can be seen.



Comparative Photo in from the same location (March 20, 2023). Zoom shows two residences.



Third Photo from video. There are two additional residences which cannot be seen because of the dust cloud. One of these has subsistence agriculture.



Comparative Photo (same as before) with Zoom of another residence on the right.



Fourth photo from the video. The dust hides another residence due south from the Mays residence. Homes in Trona would normally be visible here and are being inundated with dust.



Comparative Photo from the same location (March 20, 2023) Note number of structures and homes which are not visible due to the concentration of the dust cloud. Homes in the community of Trona area visible along the tree line though this is a little hard to see at this resolution.



Fifth photo from the video. This shows edge of the dust plume off in the distance. This dust was found blanketing the street in front of the Trona Post office 4 miles away and as well as the Trails Drive-In. Note this is only a brief clip of the entire video and one of several other days of other similar events that have been photographed and recorded.



Comparative photo taken in the same location (March 20,2023) Note there is a full-time resident in the “junk yard” that is the first structures from this direction.





Picture from Mays Residence west towards REP 2022-01 that is yet constructed and REP 2021-01 as built.



March 21, 2023 Photo Entrance to the REP 2021-01. Please note the material pushed on adjacent land as well as trash And destroyed culvert. Also, the gate allows people and animals to enter. My dog got through there once. This can trap wildlife.



March 21, 2023 Photo of Solar Facilities Near California City. Note the proper gates and hotline phone number. Neuralia Road



March 21, 2023 Photos of Solar Facilities near California City. Note the lighted warning signs for blowing dust and sand and there are many of them along Neuralia Road which passes by a large number of solar facilities.



March 21, 2023 Photos of windblown sand at solar facilities near California City right adjacent to Neuralia Road. Apparent mitigation measures here appear to include scaping away of the dust outside of the fence.



Another similar photo.



March 21, 2023 Photos Of Ricardo/Cantil CA. Note that this town has been buried by blowing dust often a few feet in depth and sometime several feet.. A solar plant is immediately adjacent to the community; however, these photos are at a good distance away at the far end of the community estimated about thousand feet or downwind. Solar facilities can be seen in the background.



Another Photo. The solar facility can be seen at the end of the road in the picture. Note massive sand accumulation.





Another photo with solar cells in the background. Trees indicate the direction of the wind as coming from solar facility.



Another Photo showing the position of the Solar Facility relative to the community.



# Emails

Gmail - RE: [Contact Information] Trona Solar Plant Construction

3/21/23, 7:26 AM



John Mays <johnmays1@gmail.com>

## RE: [Contact Information] Trona Solar Plant Construction

Matt Kingsley <mkingsley@inyocounty.us>  
To: "johnmays1@gmail.com" <johnmays1@gmail.com>

Tue, Nov 30, 2021 at 3:27 PM

John, yes I remember you and thank you for contacting me. I am forwarding your questions and concerns to Cathreen Richards ( Inyo Co. Planning Dept. Director) and Phill Kadoo ( Great Basin Air Pollution Control Officer). I will encourage both to contact you directly. If you do not hear from them in the next couple of days, please call or email to follow up.

Matt

From: web.noreply  
Sent: Tuesday, November 30, 2021 12:51 PM  
To: Matt Kingsley  
Subject: [Contact Information] Trona Solar Plant Construction

John Mays (not verified) (johnmays1@gmail.com) sent a message using the contact form at <https://www.inyo-county.us/contact-information>.

The sender's name  
John Mays  
The sender's email  
johnmays1@gmail.com  
Subject  
Trona Solar Plant Construction  
Comment or Question  
Mr. Kingsley,

Good afternoon, I don't know if you remember me but I met you a meeting at the Trona airport last year.

I live very near a solar facility currently under construction just outside of Trona. The owner of the facility told me today that he recent purchased the property adjacent (parcel #036-330-46) to my home (parcel #036-330-45) and will begin striping and fencing the property for additional solar use. My question to you is the new property been permitted yet for this activity. My concern is that removing the vegetation on a large area will create a large amount of windblown dust, particularly on windy days and this also significantly change the appearance of the area where we live. There are several residential homes currently occupied by families immediately surrounding the project.

Additionally, we have already had significant amounts of dust coming from the current construction over the last several months. I have attached a picture of this activity from a couple months ago. They currently have a scraper in operation at the moment within the solar project.

I would sincerely appreciate your attention to this matter.

Sincerely,

John Mays  
720-415-0426  
Contact ID:  
contact-522  
Images  
[looking east from my residence]

Cathreen Richards <crichards@inyocounty.us>  
To: "johnmays1@gmail.com" <johnmays1@gmail.com>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Good afternoon, Mr. Mays

The properties you are inquiring about, have a permit for a 2MW solar facility (it is for two lots). The permit was granted in late March of this year.

The dust issues will need to be reported to the Great Basin Unified Air Pollution Control District. I will forward your complaint to them as well.

If you have additional questions regarding the permit, please feel free to contact me at:

Cathreen Richards, Planning Director  
Inyo County Planning Department  
PO Drawer L, Independence, CA 93826  
Phone: 760-878-0447  
Email: [crichards@inyocounty.us](mailto:crichards@inyocounty.us)

From: web@nrc.org  
Sent: Tuesday, November 30, 2021 2:51 PM  
To: Matt Kingley  
Subject: [Contact Information] Trona Solar Plant Construction

John Mays (not verified) (johnmays1@gmail.com) sent a message using the contact form at <https://www.innocounty.us/contact-information>.

The sender's name

John Mays

The sender's email

[johnmays1@gmail.com](mailto:johnmays1@gmail.com)

Subject

Trona Solar Plant Construction

Comment or Question

Mr. Kingley,

Good afternoon. I don't know if you remember me but I met you a meeting at the Trona airport last year.

I live very near a solar facility currently under construction just outside of Trona. The owner of the facility told me today that he recent purchased the property adjacent (parcel # 039-230-46) to my home (parcel #039-230-46). Additionally, we have already had significant amounts of dust coming from the current construction over the last several months. I have attached a picture of this activity from a couple months ago. They currently have I would sincerely appreciate your attention to this matter.

Sincerely,

John Mays

730-415-0426

Contact ID

contact-522

Images







---

**John Mays** <johnmays1@gmail.com>  
To: mskingsley@inyocounty.us

Tue, Nov 30, 2021 at 4:51 PM

Thanks Matt. Much appreciated. Good to talk to you again.

---

**John Mays** <johnmays1@gmail.com>  
To: Cathleen Richards, conchards@inyocounty.us  
Cc: Matt Kingsley, mskingsley@inyocounty.us

Tue, Nov 30, 2021 at 6:14 PM

Cathleen,  
Many thanks for the quick response. Just looking at Inyo county GIS it appears that parcels 038-330-47 and 03-330-48 make up the two parcels in the permit and the owner indicated expanding onto parcel 038-330-45 which is adjacent to my home is not in the permit. Is this correct? Would the owner be able to begin on ground preparations, such as stripping the vegetation prior to obtaining a permit on parcel 038-330-45?

Thanks,

John  
(Unsubscribe)

Cathreen Richards <crichards@inyocounty.us>  
To: John Mays <johnmays1@gmail.com>  
Cc: Matt Kingsley <matk5th@gmail.com>  
Wed, Dec 1, 2021 at 6:35 AM

Good Morning,

The permit is only good for parcels 039-330-47 and 48. The owner may not expand onto 039-330-46 unless they also get a permit for that parcel. I did check in with the owner and they are not doing anything on that particular parcel.

Just to finish answering your question, though, since there is not a permit on 039-330-46 they cannot do anything in preparation for a solar facility, however, if they are clearing for another allowed use it would be fine.

Thank you,  
Cathreen

From: John Mays [mailto:johnmays1@gmail.com]  
Sent: Tuesday, November 30, 2021 6:14 PM  
To: Cathreen Richards  
Cc: Matt Kingsley  
Subject: Re: Trona Solar Plant Construction

**CAUTION:** This email originated from outside of the Inyo County Network. DO NOT click links or open attachments unless you recognize and trust the sender. Contact Information Services with questions or concerns.

John Mays <johnmays1@gmail.com>  
To: Cathreen Richards <crichards@inyocounty.us>  
Cc: Matt Kingsley <matk5th@gmail.com>  
Wed, Dec 1, 2021 at 9:47 AM

Thanks Cathreen.

John Mays <johnmays1@gmail.com>  
To: Cathreen Richards <crichards@inyocounty.us>  
Cc: Matt Kingsley <matk5th@gmail.com>  
Wed, Dec 1, 2021 at 10:06 AM

Cathreen,

Thank you again for your attention to this. I just wanted to add that if a permit is requested that I be contacted at the proper time so I may participate in the process. I know that the County has already been very communicative on these things with us here and I very much appreciate it.

Sincerely,  
John  
(Unsubscribe)

John Mays <johnmays1@gmail.com>  
To: Cathreen Richards <crichards@inyocounty.us>  
Cc: Matt Kingsley <matk5th@gmail.com>  
Thu, Jan 13, 2022 at 4:13 PM

Cathreen,

Good afternoon.

Today we have clearing of the vegetation and scraping of the top soil off of two additional parcels (039-330-46 and 039-330-33) that are adjacent to the solar plant (see below). Is this construction approved? One of the parcels is directly adjacent to my home. The solar plant is currently within proximity to three homes with half a dozen children living in immediate vicinity. Looking online this entire area is zoned as rural residential, but this appears to be industrial activity. It was my understanding from below that there is no permit in place for such expansion. My neighbors and myself would like to be advised of any permitting or re-zoning activity here so that we may directly intervene in opposition. Previously the solar plant owner contacted me wanting to purchase my land to expand the solar project. Now we have a very large and unprotected bare spot which will undoubtedly increase the amount of dust generated during windy conditions substantially.

Thanks.

John

Sent from Mail for Windows

[\[Download picture\]](#)



20220112\_145505.jpg  
3441K

**John Mays** <johnmays1@gmail.com> Fri, Jan 21, 2022 at 12:41 PM  
To: Catherine Richards <crichards@ingocounty.us>, Luke Eisenhardt <leisenhardt@gbuspcd.org>, Ann Logan <ann@gbuspcd.org>  
Cc: Matt Kingdey <matk19@gmail.com>

Good morning. Please see the attached video filmed today of the blowing dust being generated by the solar plant and the adjacent stripped areas. This really emphasizes the concern about large areas of unprotected/bare ground. Note that the video begins looking at the solar plant area (and also three adjacent parcels recently stripped by the owner) and ends looking at the community of Pioneer Point. The community and nearby homes downwind are usually visible but are not in the video as they are being miserably inundated by dust. I would like to also bring your attention that no dust is generated where the vegetation is still in place. I would still like to get a response to my previous email. What has the county done to prevent this type of health hazard and what erosion control measures are in place here? There appears to be nothing being done differently since November.

[\[Download picture\]](#)

20220121\_113459\_1\_1\_1.mp4  
1766K

**Ann Logan** <ann@gbuspcd.org> Fri, Jan 21, 2022 at 4:41 PM  
To: John Mays <johnmays1@gmail.com>  
Cc: Catherine Richards <crichards@ingocounty.us>, Luke Eisenhardt <leisenhardt@gbuspcd.org>, Matt Kingdey <matk19@gmail.com>

John,  
We have received your photo and video and will be following up on it with the property owner.

[\[Download picture\]](#)

**John Mays** <johnmays1@gmail.com> Mon, Jan 24, 2022 at 11:21 AM  
To: [hs16e65@gmail.com](mailto:hs16e65@gmail.com)

Tom,  
That follow is the latest email with video I sent on Friday. And their response. You might want to read the thread as well as it includes a few things.

[\[Download picture\]](#)





John Mays <johnmays1@gmail.com>

**Trona Solar Plant - Renewable Energy Permit 2021-01**

3 messages

**John Mays** <johnmays1@gmail.com> Fri, Jan 28, 2022 at 4:56 AM  
To: Cathreen Richards <crichards@inyocounty.us>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Cathreen,

I was reading through the documents online regarding Renewable Energy Permit 2021-01/Barker Solar and CEQA addendum both reference a previously lapsed 2018 permit that contains the basis for the staff analysis and mitigation for the project. This was not included in the documents available online and I would like to request a copy of Initial Study and any other relevant documents that were publicly available at that time so that I may understand the permit that has been issued here.

From the CEQA Addendum:

"The ND prepared for the original renewable energy permit application, certified in July 2018, evaluated the project through an Initial Study (IS). The ISND identified several avoidance and minimization measures that were incorporated into project design, as conditions of approval for issuance of the permit, to avoid potentially significant impacts."

The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,

John

**Cathreen Richards** <crichards@inyocounty.us> Fri, Jan 28, 2022 at 9:00 AM  
To: John Mays <johnmays1@gmail.com>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

John,

Attached is the original 2018 staff report and ISMND and the 2021 staff report. It was amended because the applicant increased the project area, but did not exceed the project footprint. The project also had to be amended because the applicant did not produce a reclamation plan in the required time. In other words, the 2021 project added solar panels into the area already evaluated by the original CEQA ISMND and provided the required reclamation plan.

So, a new ISMND was not required.

FYI, the Great Basin Unified Air Pollution Control District did not submit comments during the state agency review period; therefore, the planner who worked on the project had nothing from them to add as a mitigation.

Cathreen

---

**From:** John Mays [mailto:johnmays1@gmail.com]  
**Sent:** Friday, January 28, 2022 4:56 AM  
**To:** Cathreen Richards  
**Cc:** Matt Kingsley  
**Subject:** Trona Solar Plant - Renewable Energy Permit 2021-01

**CAUTION:** This email originated from outside of the Inyo County Network. DO NOT click links or open attachments unless you recognize and trust the sender. Contact Information Services with questions or concerns.

Cathreen,

I was reading through the documents online regarding Renewable Energy Permit 2021-01/Barker Solar and CEQA addendum both reference a previously lapsed 2018 permit that contains the basis for the staff analysis and mitigation for the project. This was not included in the documents available online and I would like to request a copy of Initial Study and any other relevant documents that were publicly available at that time so that I may understand the permit that has been issued here.

From the CEQA Addendum.


"The ND prepared for the original renewable energy permit application, certified in July 2018, evaluated the project through an Initial Study (IS). The ISND identified several avoidance and minimization measures that were incorporated into project design, as conditions of approval for issuance of the permit, to avoid potentially significant impacts."


The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.


Thanks,

John

3 attachments

 Solar\_Barker\_Staff\_Report.pdf  
524K

 IS\_ND\_Trona\_SEDA\_signed.pdf  
1387K

 2021-01\_Barker\_staff\_report.pdf  
491K

---

John Mays <johnmays1@gmail.com>  
To: Cathreen Richards <crichards@inyocounty.us>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Mon, Jan 31, 2022 at 9:24 AM

Thank You Cathreen.

Sent from Mail for Windows

---

From: Cathreen Richards  
Sent: Friday, January 28, 2022 9:00 AM  
To: John Mays  
Cc: Matt Kingsley  
Subject: RE: Trona Solar Plant - Renewable Energy Permit 2021-01

John,

Attached is the original 2018 staff report and ISMND and the 2021 staff report. It was amended because the applicant increased the project area, but did not exceed the project footprint. The project also had to be amended because the applicant did not produce a reclamation plan in the required time. In other words, the 2021 project added solar panels into the area already evaluated by the original CEQA ISMND and provided the required reclamation plan.

So, a new ISMND was not required.

FYI, the Great Basin Unified Air Pollution Control District did not submit comments during

the state agency review period; therefore, the planner who worked on the project had nothing from them to add as a mitigation.

Cathreen

---

**From:** John Mays [mailto:johnmays1@gmail.com]  
**Sent:** Friday, January 28, 2022 4:56 AM  
**To:** Cathreen Richards  
**Cc:** Matt Kingsley  
**Subject:** Trona Solar Plant - Renewable Energy Permit 2021-01

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Cathreen,

I was reading through the documents online regarding Renewable Energy Permit 2021-01/Barker Solar and CEQA addendum both reference a previously lapsed 2018 permit that contains the basis for the staff analysis and mitigation for the project. This was not included in the documents available online and I would like to request a copy of Initial Study and any other relevant documents that were publicly available at that time so that I may understand the permit that has been issued here.

From the CEQA Addendum.

"The ND prepared for the original renewable energy permit application, certified in July 2018, evaluated the project through an Initial Study (IS). The ISND identified several avoidance and minimization measures that were incorporated into project design, as conditions of approval for issuance of the permit, to avoid potentially significant impacts."

The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,

John



John Mays <johnmays1@gmail.com>

**Trona Solar Plant - Renewable Energy Permit 2021-01**

3 messages

**John Mays** <johnmays1@gmail.com> Fri, Jan 28, 2022 at 4:56 AM  
To: Cathreen Richards <crichards@inyocounty.us>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Cathreen,

I was reading through the documents online regarding Renewable Energy Permit 2021-01/Barker Solar and CEQA addendum both reference a previously lapsed 2018 permit that contains the basis for the staff analysis and mitigation for the project. This was not included in the documents available online and I would like to request a copy of Initial Study and any other relevant documents that were publicly available at that time so that I may understand the permit that has been issued here.

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"The ND prepared for the original renewable energy permit application, certified in July 2018, evaluated the project through an Initial Study (IS). The ISND identified several avoidance and minimization measures that were incorporated into project design, as conditions of approval for issuance of the permit, to avoid potentially significant impacts."

The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,

John

**Cathreen Richards** <crichards@inyocounty.us> Fri, Jan 28, 2022 at 9:00 AM  
To: John Mays <johnmays1@gmail.com>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

John,

Attached is the original 2018 staff report and ISMND and the 2021 staff report. It was amended because the applicant increased the project area, but did not exceed the project footprint. The project also had to be amended because the applicant did not produce a reclamation plan in the required time. In other words, the 2021 project added solar panels into the area already evaluated by the original CEQA ISMND and provided the required reclamation plan.

So, a new ISMND was not required.

Trona Solar Plant, which was forwarded to us by Matt Kingsley. Regarding the dust emissions, Luke Eisenhardt, one of our Air Quality Specialists, will be following up with the owner regarding the lack of dust mitigation measures, as well as a lack of the proper air district permit for the solar project. If you observe additional dust emissions impacting residences and/or crossing the property boundary please document them and let us know.

Regarding your inquiry about expansion onto additional parcels, we at the air district do not have any information about expansion at this time. Inyo County Planning, whom Matt also forwarded the email to, should be able to answer that question.

Please contact Luke at [leisenhardt@gbuapcd.org](mailto:leisenhardt@gbuapcd.org) or 760-872-8211 ext 228 if you observe additional dust emissions from the project or have any other questions.

Thank you,  
Ann

Ann Logan  
Deputy Air Pollution Control Officer  
Great Basin Unified Air Pollution Control District  
157 Short Street Bishop, California 93514  
(760) 872-8211  
[www.gbuapcd.org](http://www.gbuapcd.org)

---

**John Mays** <[johnmmays1@gmail.com](mailto:johnmmays1@gmail.com)> Mon, Dec 6, 2021 at 10:39 AM  
To: Ann Logan <[ann@gbuapcd.org](mailto:ann@gbuapcd.org)>  
Cc: Luke Eisenhardt <[leisenhardt@gbuapcd.org](mailto:leisenhardt@gbuapcd.org)>, Phill Kiddoo <[pkiddoo@gbuapcd.org](mailto:pkiddoo@gbuapcd.org)>, "mkingsley@inyocounty.us" <[mkingsley@inyocounty.us](mailto:mkingsley@inyocounty.us)>, Cathreen Richards <[crichards@inyocounty.us](mailto:crichards@inyocounty.us)>

Ann,

Just from this morning. As per your request below, appears dust crossing the property line here.

Can you advise further on the situation regarding Air Quality for the solar plant? Your email below speaks about lack of proper air district permit. Is construction able to proceed without this permit? If the operator needs to obtain a permit, does this permit go to public comment? Was any enforcement action taken?

Thanks,

John

Sent from Mail for Windows

---

**From:** Ann Logan  
**Sent:** Thursday, December 2, 2021 9:59 AM  
**To:** johnmays1@gmail.com  
**Cc:** Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards  
**Subject:** Trona Solar Plant

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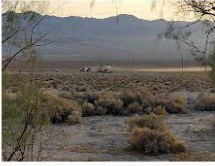
Ann

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2 attachments





20211206\_072322.jpg  
3267K



20211206\_081048.jpg  
2183K

**Ann Logan** <ann@gbuapcd.org> Mon, Dec 6, 2021 at 11:43 AM  
To: John Mays <johnmays1@gmail.com>  
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phill Kiddoo <pkiddoo@gbuapcd.org>, "mkingsley@inyocounty.us" <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

John,  
Thank you for the email, photos, and information. We will be following up with the owner. Regarding your questions, it would be good to have a call. Could you please let us know the best number to reach you?

On Mon, Dec 6, 2021 at 10:39 AM John Mays <johnmays1@gmail.com> wrote:

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157 Short Street Bishop, California 93514

(760) 872-8211

[www.gbuapcd.org](http://www.gbuapcd.org)



John Mays <johnmays1@gmail.com>

**Trona Solar Plant**

7 messages

**Ann Logan** <ann@gbuapcd.org> Thu, Dec 2, 2021 at 9:58 AM  
To: johnmays1@gmail.com  
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, mkingsley@inyocounty.us, Cathreen Richards <crichards@inyocounty.us>

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157 Short Street Bishop, California 93514  
(760) 872-8211  
[www.gbuapcd.org](http://www.gbuapcd.org)

**John Mays** <johnmays1@gmail.com> Thu, Dec 2, 2021 at 10:37 AM  
To: Ann Logan <ann@gbuapcd.org>  
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, mkingsley@inyocounty.us, Cathreen Richards <crichards@inyocounty.us>

Ann,  
Thank you very much for looking into this. We will stay in touch if we see anything. Really appreciate your attention to this matter.

Sincerely,

John

On Thu, Dec 2, 2021 at 9:59 AM Ann Logan <ann@gbuapcd.org> wrote:

John,  
Good morning. Great Basin Unified Air Pollution Control District received your complaint and inquiry regarding the

Trona Solar Plant, which was forwarded to us by Matt Kingsley. Regarding the dust emissions, Luke Eisenhardt, one of our Air Quality Specialists, will be following up with the owner regarding the lack of dust mitigation measures, as well as a lack of the proper air district permit for the solar project. If you observe additional dust emissions impacting residences and/or crossing the property boundary please document them and let us know.

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To: Ann Logan <[ann@gbuapcd.org](mailto:ann@gbuapcd.org)>  
Cc: Luke Eisenhardt <[leisenhardt@gbuapcd.org](mailto:leisenhardt@gbuapcd.org)>, Phill Kiddoo <[pkiddoo@gbuapcd.org](mailto:pkiddoo@gbuapcd.org)>, "mkingsley@inyocounty.us" <[mkingsley@inyocounty.us](mailto:mkingsley@inyocounty.us)>, Cathreen Richards <[crichards@inyocounty.us](mailto:crichards@inyocounty.us)>

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Thanks,

John

Sent from Mail for Windows

---

**From:** Ann Logan  
**Sent:** Thursday, December 2, 2021 9:59 AM  
**To:** johnmmays1@gmail.com  
**Cc:** Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards  
**Subject:** Trona Solar Plant

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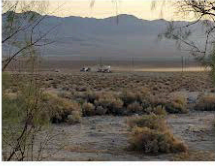
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**2 attachments**



20211206\_072322.jpg  
3267K



20211206\_081048.jpg  
2183K

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**Ann Logan** <ann@gbuapcd.org> Mon, Dec 6, 2021 at 11:43 AM  
To: John Mays <johnmays1@gmail.com>  
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phill Kiddoo <pkiddoo@gbuapcd.org>, "mkingsley@inyocounty.us" <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

John,  
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PHOTO

On Mon, Dec 6, 2021 at 10:39 AM John Mays <johnmays1@gmail.com> wrote:

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(760) 872-8211

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**John Mays** <johnmays1@gmail.com> Mon, Dec 6, 2021 at 11:50 AM  
To: Ann Logan <ann@gbuapcd.org>  
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phill Kiddoo <pkiddoo@gbuapcd.org>, Matt Kingsley <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

My phone number is 720-415-0426.

Thanks,

John

On Mon, Dec 6, 2021, 11:44 AM Ann Logan <ann@gbuapcd.org> wrote:

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---

**Luke Eisenhardt** <[leisenhardt@gbuapcd.org](mailto:leisenhardt@gbuapcd.org)>  
To: John Mays <[johnmays1@gmail.com](mailto:johnmays1@gmail.com)>  
Cc: Ann Logan <[ann@gbuapcd.org](mailto:ann@gbuapcd.org)>

Tue, Dec 7, 2021 at 9:58 AM

Good morning John,

I just called you, but your voicemail box is full. Please call me if you have any questions. If you have any followup complaints, pictures, information, etc. regarding this project, please direct them to me or Ann Logan.

Thank you,

Luke Eisenhardt

**Air Quality Specialist**  
Great Basin Unified Air Pollution Control District  
157 Short Street  
Bishop, California 93514  
760-872-8211, ext. 228  
760-258-9690, direct  
760-920-0327, cell  
[www.gbuapcd.org](http://www.gbuapcd.org)

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John

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John Mays <[johnmmays1@gmail.com](mailto:johnmmays1@gmail.com)>  
Draft To: John Mays <[johnmmays1@gmail.com](mailto:johnmmays1@gmail.com)>

Thu, Jan 13, 2022 at 2:31 PM

Sent from Mail for Windows

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**From:** John Mays  
**Sent:** Monday, December 6, 2021 10:39 AM  
**To:** Ann Logan  
**Cc:** Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards  
**Subject:** RE: Trona Solar Plant

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[www.gbuapcd.org](http://www.gbuapcd.org)



the state agency review period; therefore, the planner who worked on the project had nothing from them to add as a mitigation.

Cathreen

---

From: John Mays [mailto:johnmays1@gmail.com]  
Sent: Friday, January 28, 2022 4:56 AM  
To: Cathreen Richards  
Cc: Matt Kingsley  
Subject: Trona Solar Plant - Renewable Energy Permit 2021-01

**CAUTION: This email originated from outside of the Inyo County Network. DO NOT click links or open attachments unless you recognize and trust the sender. Contact Information Services with questions or concerns.**

Cathreen,

I was reading through the documents online regarding Renewable Energy Permit 2021-01/Barker Solar and CEQA addendum both reference a previously lapsed 2018 permit that contains the basis for the staff analysis and mitigation for the project. This was not included in the documents available online and I would like to request a copy of Initial Study and any other relevant documents that were publicly available at that time so that I may understand the permit that has been issued here.

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**Trona Solar Plant - Renewable Energy Permit 2021-01**

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To: Cathreen Richards <crichards@inyocounty.us>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

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Cathreen Richards <crichards@inyocounty.us>  
To: John Mays <johnmays1@gmail.com>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Fri, Jan 28, 2022 at 9:00 AM

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So, a new ISMND was not required.

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Thank you,  
Ann

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Deputy Air Pollution Control Officer  
Great Basin Unified Air Pollution Control District  
157 Short Street Bishop, California 93514  
(760) 872-8211  
[www.gbuapcd.org](http://www.gbuapcd.org)

---

John Mays <[johnmays1@gmail.com](mailto:johnmays1@gmail.com)> Mon, Dec 6, 2021 at 10:39 AM  
To: Ann Logan <[ann@gbuapcd.org](mailto:ann@gbuapcd.org)>  
Cc: Luke Eisenhardt <[leisenhardt@gbuapcd.org](mailto:leisenhardt@gbuapcd.org)>, Phil Kiddoo <[pkiddoo@gbuapcd.org](mailto:pkiddoo@gbuapcd.org)>, "mtingsley@inyocounty.us" <[mtingsley@inyocounty.us](mailto:mtingsley@inyocounty.us)>, Cathleen Richards <[crichards@inyocounty.us](mailto:crichards@inyocounty.us)>

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Sent from Mail for Windows

**From:** Ann Logan  
**Sent:** Thursday, December 2, 2021 9:59 AM  
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**Cc:** Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards  
**Subject:** Trona Solar Plant

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**(760) 872-8211**  
**[www.gbuapcd.org](http://www.gbuapcd.org)**

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**2 attachments**



20211206\_072322.jpg  
3267K



20211206\_081048.jpg  
2183K

Ann Logan <ann@gbuapcd.org> Mon, Dec 6, 2021 at 11:43 AM  
To: John Mays <johnmays1@gmail.com>  
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, "mkingsley@inyocounty.us" <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

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John Mays <johnmays1@gmail.com>

**Trona Solar Plant**

**Ann Logan** <ann@gbuapcd.org> Thu, Dec 2, 2021 at 9:58 AM  
To: johnmays1@gmail.com  
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, mkingsley@inyocounty.us, Cathreen Richards <crichards@inyocounty.us>

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157 Short Street Bishop, California 93514  
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www.gbuapcd.org

**John Mays** <johnmays1@gmail.com> Thu, Dec 2, 2021 at 10:37 AM  
To: Ann Logan <ann@gbuapcd.org>  
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, mkingsley@inyocounty.us, Cathreen Richards <crichards@inyocounty.us>

Ann,

Thank you very much for looking into this. We will stay in touch if we see anything. Really appreciate your attention to this matter.

Sincerely,

John

On Thu, Dec 2, 2021 at 9:59 AM Ann Logan <ann@gbuapcd.org> wrote:

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---

John Maya <[johnmaye1@gmail.com](mailto:johnmaye1@gmail.com)> Mon, Dec 6, 2021 at 10:39 AM  
To: Ann Logan <[ann@gbuapcd.org](mailto:ann@gbuapcd.org)>  
Cc: Luke Eisenhardt <[leisenhardt@gbuapcd.org](mailto:leisenhardt@gbuapcd.org)>, Phil Kiddoo <[pkiddoo@gbuapcd.org](mailto:pkiddoo@gbuapcd.org)>, "mkingsley@inyocounty.us" <[mkingsley@inyocounty.us](mailto:mkingsley@inyocounty.us)>, Cathleen Richards <[crichards@inyocounty.us](mailto:crichards@inyocounty.us)>

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**Sent:** Thursday, December 2, 2021 9:59 AM  
**To:** johnmmays1@gmail.com  
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**2 attachments**





20211206\_072322.jpg  
3.267K



20211206\_061048.jpg  
2.183K

**Ann Logan** <ann@gbuapcd.org> Mon, Dec 6, 2021 at 11:43 AM  
To: John Mays <johnmays1@gmail.com>  
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, "mkingsley@inyocounty.us" <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

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 To: Ann Logan <ann@gbuapcd.org>  
 Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, Matt Kingsley <mkingsley@nyocounty.us>, Cathreen Richards <crichards@nyocounty.us>

My phone number is 720-416-0426.

Thanks,

John

On Mon, Dec 6, 2021, 11:44 AM Ann Logan <ann@gbuapcd.org> wrote:

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Air Quality Specialist  
Great Basin Unified Air Pollution Control District  
157 Short Street  
Bishop, California 93514  
760-872-8211, ext. 228  
760-258-9690, direct  
760-820-0327, cell  
[www.gbupcd.org](http://www.gbupcd.org)

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Thanks,

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John Mays <[johnmays1@gmail.com](mailto:johnmays1@gmail.com)>  
Draft To: John Mays <[johnmays1@gmail.com](mailto:johnmays1@gmail.com)>

Thu, Jan 13, 2022 at 2:31 PM

Sent from Mail for Windows

**From:** John Meys  
**Sent:** Monday, December 8, 2021 10:39 AM  
**To:** Ann Logan  
**Cc:** Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards  
**Subject:** RE: Trona Solar Plant

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**To:** johnmneys1@gmail.com  
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**From:** [Amanda McNamara-Ball](#)  
**To:** [Cynthia Draper](#)  
**Subject:** Public Comment -Hearing March 22, 2023  
**Date:** Tuesday, March 21, 2023 7:04:54 PM  
**Attachments:** [Resized\\_20230315\\_133336.jpeg](#)  
[Resized\\_20230315\\_133343.jpeg](#)

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You don't often get email from akmcnamara80@gmail.com. [Learn why this is important](#)

Hello,

I am a resident at 33063 Bri-Mar Ln (aka 100 Bri-Mar Ln - in process of getting changed). This residence is directly South and South-East of parcels mentioned in the attached notices. I would like it to be public record that I adopt the comments entered by Mr. John M. Mays and Mr. Thomas Kidder.

Thank you for your time,  
Amanda K. Ball  
760-382-4101

Sent Via Email (inyoplanning@inyocounty.us)

To: County of Inyo, Planning Commission  
168 North Edwards Street  
Post Office Drawer L  
Independence, California 93526

Re: May 3, 2023, County of Inyo Planning Commission Meeting, Agenda Item Nos. 7 (Renewable Energy Permit 2022-01/Barker) and 8 (Renewable Energy Permit 2022-02/Barker)

Dear Members of the Inyo County Planning Commission and Board of Supervisors:

My property is adjacent to the existing solar facility and adjacent to the proposed project expansion involving the two permits under consideration. I have lived with my family on my property since 1974. This includes three generations that currently live with me including my son, daughter, and granddaughter. I have experience with construction projects around Trona over the many years and retired from Caltrans several years ago.

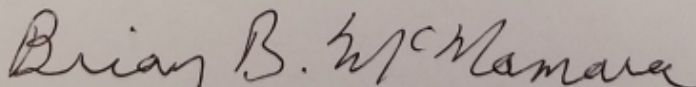
We have used the parcels on which we live for agriculture including raising animals for food including chickens, pigs, cows, and other livestock. We enjoy living in a natural area, with its wildlife and native vegetation as well as the beautiful vistas in every direction. Expansion of this project will destroy this natural area which I grew up in and ruin the quality of life for my family for generations to come. These solar plants eliminate all presence of the natural environment on the land which they are constructed and seriously degrade the surrounding native environment including wildlife, vegetation, air quality, roads, aesthetics, and human health. Inyo County has not evaluated these impacts correctly. The permit documents also do not discuss any impacts to or from power lines or corridors which will be used for transmission or other later projects.

My home is immediately downwind of the current solar plant and these associated proposed projects. We have been affected by blowing dust from them for at least a couple years now. We have repeatedly observed construction of these facilities without any dust control measures. We also have observed no protection for the desert tortoise during the construction. In my experience, it is well known that these measures need to be in place for any construction project in this area. Also, during the construction, a large amount of material was pushed onto my property and left there. We have never observed any security on the project which is unmanned. Overall, the project has been a sloppy, half-complete collection of material piles and unused equipment that shows no concern for visual appearance and protection of the public.

I oppose the construction and operation of these projects. It has been my experience that Inyo County is unable to manage anything in our remote part of the county. This area has been treated by the County for many years as: "Out of sight. Out of mind." This has been shown again with the recent construction and permitting. Also, the owner of the project shows little care for his neighbors or compliance with regulations. I was NOT notified by the owner regarding submittal of applications for the proposed projects as required by the REGPA. Since Inyo County lacks the resources to make any effort to supervise the project nor cares at all about enforcing rules and regulations, we expect even worse things to come if these permits are approved.

My family and I support the comments of John Mays, his legal counsel, and Tom Kidder. We urge the Planning Department and Board of Supervisors to deny these permits and remove all Rural Residential parcels in the area from the Trona REGPA. The solar use as proposed here is not the proper use for these areas.

Thank you,



Brian B. McNamara  
101 Bri-Mar Lane  
P.O.Box 592  
Trona, California 93562



tel: 916.455.7300 · fax: 916.244.7300  
510 8th Street · Sacramento, CA 95814

May 1, 2023

**SENT VIA EMAIL**

(inyoplanning@inyocounty.us;  
Cynthia Draper, Assistant Planner, cdraper@inyocounty.us)

County of Inyo  
Planning Commission  
168 North Edwards Street  
Post Office Drawer L  
Independence, California 93526

**Re: May 3, 2023, County of Inyo Planning Commission Meeting  
Agenda Item Nos. 7 (Renewable Energy Permit 2022-01/Barker)  
and 8 (Renewable Energy Permit 2022-02/Barker)**

Dear Members of the Inyo County Planning Commission:

On behalf of our client, John Mays, this letter provides comments regarding the May 3, 2023, Planning Commission meeting, agenda item numbers 7 (Renewable Energy Permit 2022-01/Barker) and 8 (Renewable Energy Permit 2022-02/Barker) (collectively, the “Projects”).

The County’s approval of the Project is riddled with both procedural and substantive violations of law as set forth more fully below. Further, this letter documents some of the applicable principles that authorize the Planning Commission to deny the Projects. Specifically, section I of this letter describes the County’s violation of the Brown Act that prevents the Planning Commission from taking action on the Project at the May 3, 2023 meeting. Section II describes several substantive and procedural violations of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq. [“CEQA”]) associated with the two mitigated negative declarations (“MNDs”) for the Project. Section III describes the proper framework for the Planning Commission’s discretionary action on the underlying Renewal Energy Permits (“REPs”).

**I. Violations of the Brown Act**

The County has violated the Brown Act by failing to properly disclose to the public that it intends to take action on (namely, adopt) two different MNDs as part of its actions regarding the Project. It is settled that the Brown Act requires agendas to identify

proposed CEQA actions. An agenda must specifically state the action that the body is proposing to take, including a proposed action under CEQA. (*San Joaquin Raptor Rescue Center v. County of Merced* (2013) 216 Cal.App.4th 1167, 1178 (*San Joaquin Raptor*) [agency violated Brown Act by failing to identify action on CEQA document in its posted agenda, reasoning that the Brown Act “mandates that each item of business be described on the agenda, not left to speculation or surmise”].) Neither the public hearing notice (See **Exhibit 1**) nor agenda for the May 3, 2023 Planning Commission meeting (**Exhibit 2**) identify any CEQA actions associated with the Project. This violates the Brown Act. (*San Joaquin Raptor, supra*, 216 Cal.App.4th at 1178.)

As a result of the inadequate public notice, the Planning Commission may not adopt the MNDs on May 3, 2023. Further, the Planning Commission may not approve the REPs subject to later consideration of the MNDs, since CEQA requires consideration of a project’s CEQA analysis prior to taking action on the underlying entitlements. (Cal. Code Regs., tit. 14, § 15000 et seq. [“CEQA Guidelines”]; CEQA Guidelines, § 15074, subd. (b) [“Prior to approving a project, the decision-making body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration”].) However, this does not prejudice either the County or the applicant because, as discussed in the next section, the County may not lawfully approve the Project based on the existing record.

## **II. Violations of CEQA**

The Project, comprised of two separate REPs and MNDs, is riddled with substantive and procedural violations of CEQA. The record contains substantial evidence of a fair argument that the Project will result in significant environmental impacts, including human health impacts to nearby residents, triggering the need to prepare an Environmental Impact Report (“EIR”). (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) At minimum, the City will need to prepare a revised MND that complies with CEQA’s substantive and procedural mandates.

### **A. Project Piecemealing**

CEQA’s conception of the term “project” is broad to maximize protection of the environment. (*Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist.* (2007) 147 Cal.App.4th 643, 653; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730 (*San Joaquin Raptor I*). “This big picture approach to the definition of a project (i.e., including “the whole of an action”) prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project

into smaller components which, when considered separately, may not have a significant environmental effect.” (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 270-271.)

Here, it appears that the County appears to be engaging in impermissible piecemealing by splitting apart a 4.2 megawatt photovoltaic solar facility located on 20 acres with the same operator seeking County approval at exactly the same time — and also happen to be adjacent to a previously approved 1 megawatt solar facility by that same operator. (See **Exhibit 3**, parcel map; **Exhibit 4**, Notice of Determination and Notice of Availability for 2018-01.) The relevant test is whether the activities have “substantial independent utility.” (*Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal.App.4th 712, 736 (*Del Mare Terrace*)). It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by apparently not even considering whether the two requested REPs have independent utility, much less elucidating facts on this issue one way or another. A court would review this issue exercising its independent judgment with no deference to the agency. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)

## **B. Failure to Analyze Cumulative Impacts**

Even if is determined that the two requested REPs have independent utility and therefore are properly considered separate projects for purposes of CEQA, the two MNDs violate CEQA by not analyzing their cumulative impacts.

A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an EIR. (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.)

Despite this mandate, the two MNDs' cumulative impacts analyses set forth in cursory fashion:

No, the proposed project does not have impacts that are individually limited but cumulatively considerable. Due to the sparseness of the natural environment and lack of plant or animal habitat, this location is well suited for solar development. More generation capacity may be added to the southern SEDA in Inyo County, but this cumulative effect would still be minimal given the lack of affected resources in the area.

This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) There is no attempt to do so. Incredibly, each MND's cumulative impact analysis omits any reference to the other concurrently requested REP by the same applicant located immediately adjacent and proposed for approval by the County on the very same day. Nor is there any discussion of the solar facility — also adjacent to each project — that was approved in 2018. (CEQA Guidelines, § 15130, subd. (b)(1)(A) [“A list of past, present, and probable future projects”].)

Neither MND includes any discussion of how each requested REP would interact with the other concurrently-requested REP or the existing REP located immediately adjacent to the two proposed REP sites. Thus, each MND fails to “determine[] whether the incremental impacts of the project are cumulatively considerable by evaluating them against the backdrop of the environmental effects of other projects. The question is . . . whether the effects of the individual project are considerable.” (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1996) 42 Cal.App.4th 608, 624 [internal quotations and emphasis omitted].)

Each MND's analysis of cumulative impacts is wholly inadequate. To the extent it is claimed that the MND's cumulative impact analysis tiers from (CEQA Guidelines, § 15152) or incorporates by reference (CEQA Guidelines, § 15150) the cumulative impact analysis set forth in the Renewable Energy General Plan Amendment Program Environmental Impact Report (SCH No. 2014061039) (“PEIR”), the MND's have failed to comply with CEQA's requirements for each procedure.

The CEQA Guidelines set forth specific requirements for tiering:

When tiering is used, the later EIRs or negative declarations shall refer to the prior EIR and state where a copy of the prior EIR may be examined.

The later EIR or negative declaration should state that the lead agency is using the tiering concept and that it is being tiered with the earlier EIR.

(CEQA Guidelines, § 15152, subd. (g).)

Similarly, the CEQA Guidelines set forth specific requirements for incorporation by reference:

(b) Where part of another document is incorporated by reference, such other document shall be made available to the public for inspection at a public place or public building. The EIR or negative declaration shall state where the incorporated documents will be available for inspection. At a minimum, the incorporated document shall be made available to the public in an office of the lead agency in the county where the project would be carried out or in one or more public buildings such as county offices or public libraries if the lead agency does not have an office in the county.

(c) Where an EIR or negative declaration uses incorporation by reference, the incorporated part of the referenced document shall be briefly summarized where possible or briefly described if the data or information cannot be summarized. The relationship between the incorporated part of the referenced document and the EIR shall be described.

(d) Where an agency incorporates information from an EIR that has previously been reviewed through the state review system, the state identification number of the incorporated document should be included in the summary or designation described in subdivision (c).

(CEQA Guidelines, § 15150.)

The MNDs failed to comply with the requirements for either tiering or incorporation by reference. The MNDs never mentioned the PEIR, much less summarized the relevant discussion[s] purportedly relied upon or identify where the PEIR was available for public inspection. Indeed, our office could only locate Volume II of II of the Final EIR, and not Volume I of the Final EIR or the Draft EIR. Thus, there is no credible claim that the MND's tiered or incorporated by reference the PEIR. Further, our comment letter addresses additional CEQA deficiencies related to the PEIR below.

### **C. The MND's Failed to Adequately Analyze and Mitigate Project Impacts**

The MND fails to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 74 (*No Oil I*.) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (*Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (*No Oil I, supra*, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (*Id.* at p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.

In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This is assured by incorporation into a Mitigation Monitoring and Reporting Plan (“MMRP”). (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation of Hillside & Canyon v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 (*Federation*).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See *San Bernardino Valley Audubon Society v. Metropolitan Water District* (1999) 71 Cal.App.4th 382, 392.)

Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311 (*Sundstrom*).) For example, in *Sundstrom* the court held that the absence of information explaining why no alternative sludge disposal site is available



“permits the reasonable inference that sludge disposal presents a material environmental impact.” (*Ibid.*) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.

1. The MND Impermissibly Conflates Analysis of Impacts and Mitigation

For every resource area, the MNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 658 (*Lotus*) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.

For example, regarding whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the MNDs assert, “No, control of air quality issues during construction, primarily dust mitigation, will be managed with techniques utilizing, [sic] application of water, and application of dust suppressants.” (MND, § III(a).) Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the MNDs assert, “No, the proposed project will be in compliance with air quality standards as the applicant is conditioned with obtaining any required permits and following best management practices as set forth by the Great Basin Unified Air Pollution Control District.” This structure that conflates analysis of project impacts and mitigation violates CEQA. (*Lotus, supra*, 223 Cal.App.4th at 658.) The MND follows this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.

2. The MNDs Fail to adopt Mitigation Measures and Mitigation Monitoring and Reporting Plans

Although clearly identifying each document as a “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeated checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County incredibly fails to adopt any mitigation measures or incorporate such mitigation measures into an MMRP. This violates CEQA. (CEQA Guidelines, § 15097.) This also violates the Inyo County Code. (County Code, Ch. 15.44.) To wit:

15.44.005 General.

The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)

15.44.010 Application.

A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)

15.44.020 Timing.

Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment. The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)

15.44.030 Contents.

The monitoring plan shall contain, at a minimum, the following:

A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;

B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);

C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;

D. Identification of the person or entity responsible for monitoring and verification;

E. The method of reporting monitoring results to the county. (Ord. 957 § 1 (part), 1995.)

#### 15.44.040 Enforcement.

Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)

The MNDs do not contain the required MMRPs. Further, the conditions of approval cannot credibly be construed as MMRPs because they do not contain the information required by CEQA or the County Code.

### 3. Mitigation Measures are not adequately defined or effective

CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (*Federation, supra*, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound. Just a few representative examples are provided.

The MNDs claim that construction air quality will be less than significant because “dust mitigation will be managed with techniques utilizing application of water, and application of dust suppression.” The MND fails to explain what specific “techniques” are proposed. Will the operator use water trucks? If so, how frequently? Will they come on a regular schedule or on call as needed? If on call as needed, what is the trigger for requiring the water trucks? What dust specific dust suppressants are proposed? How are they applied? Can dust suppressants be used along with water trucks? None of these questions, which related directly to the effectiveness of dust mitigation, are answered. An MND cannot use a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (*King & Gardiner Farms, supra*, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 511.) The MND has failed to provide evidence that its vague mitigation will be effective. Further, the MND also fails to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant’s REP 2018-01 that was issued in 2018.

The MNDs claim that construction noise will be less than significant without the need for any mitigation. The MND asserts that noise “will be well under OSHA standards” because noise “will be minimized with construction during daytime business hours.” The MND does not even identify the relevant noise standard, much less disclose the noise levels from construction equipment. Nor does limiting construction to daytime hours have any effect on the actual noise level during those daytime hours, which is completely undisclosed.

Regarding aesthetic impacts, the MNDs assert there will be less than significant impacts because “[t]he County applied a set of criteria that included avoidance of areas containing scenic resources when identifying the proposed SEDAs.” Does this mean that every property located within the SEDA Overlay area cannot be observed from a scenic vista? This is apparently not the case since the MND states further, “The boundaries and locations of the SEDAs have been sighted in areas where there is no abundance of scenic resources within the SEDA boundaries themselves.” The MND fails to explain what is meant by “abundance” of scenic resources, much less “within the SEDA boundaries themselves.” In short, there is no information suggesting that the undisclosed County “criteria” will effectively reduce aesthetic impacts.

Regarding water quality impacts, the MNDs conclude that the Project will not violate any water quality standards because “[t]he Project will be subject to regulation by

the Lahontan Regional Water Quality Control Board and the Inyo County Environmental Health Department.” The MNDs, however, fail to provide the required project-specific analysis of potential impacts and the effect of regulatory compliance. (*Californians for Alternatives to Toxic v. Dept. of Food & Agriculture* (2005) 136 Cal.App.4th 1.)

In short, the MNDs’ cursory analyses fail to provide adequate information about the effectiveness of proposed “mitigation” measures relied upon by the MNDs to find Project impacts less than significant.

4. The MNDs failed to apply the PEIR’s mitigation measures

The MNDs violate CEQA because they fail to address the PEIR that the County certified in 2015 along with its MMRP. With respect to the PEIR, the staff reports for the Project assert:

An Initial Study with a Mitigated Negative Declaration (ISMND) was performed and considered for possible significant impacts to environmental resources for Renewable Energy Permit 2022-02/Barker. The County of Inyo produced a program level EIR (2015 REGPA), pursuant to Section 15168 of CEQA Guidelines, to address environmental impacts from the planned solar development areas. This document distinguishes all SEDAs that are the most environmentally suitable for solar projects, with the least amount of individual and cumulative impacts to land and resources (2015 REGPA, 3-4). A copy of the ISMND can be found at <https://www.inyocounty.us/services/planning-department/current-projects>.<sup>1</sup>

The staff reports are correct that the PEIR was prepared “to address environmental impacts from the planned solar development areas.” What the staff reports fail to address, however, is that the County adopted an MMRP for the PEIR that includes extensive mitigation measures for later subject project-level approvals in order to reduce environmental impacts. (See **Exhibit 5**, PEIR MMRP.)<sup>2</sup> “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation, supra*, 83 Cal.App.4th at 1261.) The County’s analysis of the

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<sup>1</sup> The County violates CEQA Guidelines sections 15150, 15152 and 15168 by providing a link to the MNDs and not the referenced PEIR.

<sup>2</sup> Reinforcing the County’s violation of CEQA Guidelines sections 15150, 15152 and 15168, the adopted MMRP for the PEIR is not available on the County’s website. The attached **Exhibit 5** is taken from the Final EIR Volume II.

Project violates CEQA because its environmental review wholly ignores those mitigation measures. (CEQA Guidelines, § 15168, subd. (c)(3) [“An agency shall incorporate feasible mitigation measures and alternatives developed in the program EIR into later activities in the program”]; *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1186-1187 [“CEQA requires that feasible mitigation measures actually be implemented as a condition of development, and not merely be adopted and then neglected or disregarded”].)

It appears that the County literally ignored and disregarded the dozens of mitigation measures that are applicable to the Project through the County’s earlier adoption of the PEIR’s MMRP. These mitigation measures include, but are not limited to AES-1, AG-3, AQ-1 through -3, Bio-1 through -23, Bio-25, Cul-1, NOI-1.<sup>3</sup>

Any revised CEQA analysis, whether an EIR or revised and recirculated MND, will need to address these mitigation measures.

### **III. There is ample evidence in the record to deny the requested REPs**

The analysis above documents the various ways in which the Project (comprised of REPs 2022-01 and 2022-02) may have significant impacts on the health and welfare of nearby residents and the environment. Our client and other residents have provided extensive documentation regarding the applicant’s flagrant disregard for nearby residents and the environment. There is little doubt that these actions will continue. In light of this, the Commission should exercise its broad discretionary authority to deny the requested Renewable Energy Permits.

The County Code grants the Planning Commission broad authority to approve or deny Renewable Energy Permits. For example, County Code section 21.320.070 provides:

#### **21.20.070 Health, safety and welfare of the county’s citizens.**

Prior to the issuance of a renewable energy impact determination or the granting of a renewable energy permit, the county planning commission

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<sup>3</sup> Certain PEIR mitigation measures such as AES-1 – 10 apply to projects greater than 20 MW and also “proposed solar energy projects that are distributed generation commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA.” The staff record provides no information indicating that the County made any such determination for the Project, much less support any such determination with analysis supported by substantial evidence.

must find that, through the imposition of mitigation measures, the approval of a reclamation plan, the receipt of adequate financial assurances, and by other conditions incorporated into the determination or imposed upon the permit, ***the health, safety and welfare of the county's citizens, the county's environment, including its public trust resources, and the county's financial well-being, have been adequately safeguarded.***

(Emphasis added.)

The highlighted language is commonly known as the “health and welfare” standard, which represents broad authority to deny a land use entitlement. (*SP Star Enterprises v. City of Los Angeles* (2009) 173 Cal.App.4th 459, 473.) Further, this language necessarily means that the requested Renewable Energy Permits are subject to denial by the Planning Commission. (*BreakZone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1224 (*BreakZone*) [“[a] CUP is discretionary by definition”].) The County’s decision to deny the Renewable Energy Permits would be afforded great deference by a reviewing court. (Code Civ. Proc., § 1094.5, subd. (b).) The County’s decision will be overturned only if no reasonable person would have reached the same conclusions. (*Harris v. City of Costa Mesa* (1994) 25 Cal.App.4th 963, 969 (*Harris*); *BreakZone, supra*, 81 Cal.App.4th at 1244.) A reviewing court presumes an agency’s decision is correct and will resolve all reasonable doubts in favor of the administrative findings and decision; the party challenging the decision bears the burden to demonstrate otherwise. (Evid. Code, § 664; see *Breneric Associates v. City of Del Mar* (1998) 69 Cal.App.4th 166, 175.)

Further, and importantly, the law is well settled that only one reason is required to deny a CUP. (*Desmond v. County of Contra Costa* (1993) 21 Cal.App.4th 330, 336-337 (*Desmond*)). *Desmond* explains with clarity:

Because we are reviewing a denial of a requested land use permit, it is not necessary to determine that each finding by the Board was supported by substantial evidence. As long as the Board made a finding that any one of the necessary elements enumerated in the ordinances was lacking, and this finding was itself supported by substantial evidence, the Board’s denial of appellant’s application must be upheld.

(*Id.* at 336-337 [italic in original]; see also *Saad v. City of Berkeley* (1994) 24 Cal.App.4th 1206, 1213 [inadequacy of a single finding does not undermine denial of permit when other adequate findings were made].) What is more, a single finding to

deny a CUP may be based solely on neighborhood opposition. The court in *Harris* explains:

“It is appropriate and even necessary for the [agency] to consider the interest of neighboring property owners in reaching a decision whether to grant or deny a land use entitlement, and the opinions of neighbors may constitute substantial evidence on this issue.”

(*Harris, supra*, 25 Cal.App.3d at 973, emphasis added; *Dore v. County of Ventura* (1994) 23 Cal.App.4th 320, 328-329.) We understand that nearby residents have already reached out to the County, explaining that the existing 10-acre solar project is contributing to unacceptable dust and resulting health impacts. These concerns will justify denial of the Renewable Energy Permits even if they are in “technical compliance” with the County’s zoning code, General Plan or other planning documents. The *Desmond* decision explains:

This finding of unsuitability to the character of the surrounding neighborhood is sufficient by itself to support the denial of appellants’ application for a land use permit. (*Guinnane v. San Francisco City Planning Com.*, *supra*, 209 Cal.App.3d at pp. 740-743 [local agency denied permit on basis of finding that large size of house was “not in character” with surrounding neighborhood even though in technical compliance with zoning and building codes; upheld].)

(*Desmond, supra*, 21 Cal.App.4th at 338.)

We encourage the Planning Commission to carefully consider the written comments from neighboring property owners that have already been submitted as well as the additional oral comments that you will no doubt hear at the hearing.

Finally, and importantly, the Planning Commission should not feel constrained to simply adopt the recommended findings prepared by staff since agencies are afforded considerable latitude with regard to the precision and formality of their findings denying a project. (*Young v. City of Coronado* (2017) 10 Cal.App.5th 408, 421.) Findings under Code of Civil Procedure section 1094.5 need not be “extensive or detailed.” (*Environmental Protection Information Center v. California Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 516.) Findings may incorporate matters by reference, or omissions may be filled by relevant references available in the record. (*Craik v. County of Santa Cruz* (2000) 81 Cal.App.4th 880, 884.) An agency may also memorialize its findings in writing after the quasi-adjudicatory decision itself. (See *Levi*



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*Family Partnership, L.P. v. City of Los Angeles* (2015) 241 Cal.App.4th 123 [upholding planning commission findings supporting the decision to deny a permit application given first orally at a public hearing and then memorializing the decision in writing nearly one year later].) The Planning Commission is well within its authority to reject staff's recommendation of approval in the staff report and instead vote to deny the permit along with instructions for staff to come back with written findings consistent with the Commission's reasoning and evidence elucidated at the hearing. Finally, it is not necessary to prepare any CEQA document in order to deny a project. (Pub. Resources Code, § 21080, subd. (b)(5); CEQA Guidelines, § 15270, subd. (a).)

In summary, the Planning Commission is vested with wide discretion to deny the requested Renewable Energy Permits based on broad considerations of public welfare. Only one reason is necessary to deny the Project, which can be supplied by public opposition and will be upheld by a reviewing court unless no reasonable person could reach the same conclusion.

\* \* \*

We thank you for the opportunity to comment.

Very truly yours,

**SOLURI MESERVE**  
A Law Corporation

By:   
Patrick M. Soluri

cc: John Mays (johnmmays1@gmail.com)

Attachments:

Exhibit 1, Public Hearing Notice  
Exhibit 2, Agenda for the May 3, 2023 Planning Commission Meeting  
Exhibit 3, Parcel Map  
Exhibit 4, Notice of Availability and Notice of Determination for 2018-01  
Exhibit 5, PEIR MMRP

# **EXHIBIT 1**



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

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

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## **PUBLIC HEARING NOTICE**

**NOTICE IS HEREBY GIVEN** the Inyo County Planning Commission will hold public hearings Wednesday, May 3, 2023, at 10:00 a.m. in the Board of Supervisors Room, County Administrative Center, at 224 North Edwards Street, Independence, to consider the following:

### **Renewable Energy Permit No. 2022-01/Barker**

The applicant has applied for a Renewable Energy Permit, located on one private parcel (038-330-46) in Trona California. The proposed project will connect to Southern California Edison's transmission infrastructure to generate renewable energy for consumers. The property is zoned Rural Residential (RR)-5-acre minimum, with General Plan designations of Residential Estate (RE). The project area is also part of a Solar Energy Development Area (SEDA) overlay, as adopted by the Inyo County Board of Supervisors in 2015.

If you challenge any finding, determination, or decision made regarding this project in court, you may be limited to raising only the issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered prior to the hearing.

Comments can be made regarding these projects prior to the meeting via U.S. Mail: PO Drawer L, Independence, CA 93526, Fax [(760) 872-2712], or by email ([inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us))

All mailed, faxed, and emailed comments will become part of the official record, and the Planning Commission will take that feedback into consideration as it deliberates.

# **EXHIBIT 2**

# Agenda

# County of Inyo Planning Commission

Board of Supervisors Room  
Inyo County Administrative Center  
Independence, California

**HOWARD LEHWALD**  
**CAITLIN (KATE) J. MORLEY**  
**TODD VOGEL**  
**CALLIE PEEK**  
**SCOTT KEMP**

CATHREEN RICHARDS  
RYAN STANDRIDGE  
CYNTHIA DRAPER  
PAULA RIESEN  
MICHAEL ERRANTE  
NATE GREENBERG  
CHRISTIAN MILOVICH

**FIRST DISTRICT**  
**SECOND DISTRICT**  
**THIRD DISTRICT (CHAIR)**  
**FOURTH DISTRICT (VICE CHAIR)**  
**FIFTH DISTRICT**

PLANNING DIRECTOR  
ASSOCIATE PLANNER  
ASSISTANT PLANNER  
PROJECT COORDINATOR  
PUBLIC WORKS DIRECTOR  
COUNTY ADMINISTRATOR  
COUNTY COUNSEL

Inyo County Planning Commission  
Post Office Drawer L  
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(760) 872-2712 FAX  
inyoplanning@inyocounty.us

**This meeting will be held in the Board of Supervisors Room located at 224 N. Edwards Street, in Independence California.**

Items will be heard in the order listed on the agenda unless the Planning Commission rearranges the order or the items are continued. Estimated start times are indicated for each item. The times are approximate and no item will be discussed before its listed time.

Lunch Break will be given at the Planning Commission's convenience.

The Planning Commission Chairperson will announce when public testimony can be given for items on the Agenda. The Commission will consider testimony on both the project and related environmental documents.

The applicant or any interested person may appeal all final decisions of the Planning Commission to the Board of Supervisors. Appeals must be filed in writing to the Inyo County Board of Supervisors within 15 calendar days per ICC Chapter 15 [California Environmental Quality Act (CEQA) Procedures] and Chapter 18 (Zoning), and 10 calendar days per ICC Chapter 16 (Subdivisions), of the action by the Planning Commission. If an appeal is filed, there is a fee of \$300.00. Appeals and accompanying fees must be delivered to the Clerk of the Board Office at County Administrative Center Independence, California. If you challenge in court any finding, determination or decision made pursuant to a public hearing on a matter contained in this agenda, you may be limited to raising only those issues you or someone else raised at the public hearing, or in written correspondence delivered to the Inyo County Planning Commission at, or prior to, the public hearing.

**Public Notice:** In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Planning Department at (760) 878-0263 (28 CFR 35.102-3.104 ADA Title II). Notification 72 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Planning Department 2 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format (Government Code Section 54954.2).

## May 3, 2023

**10:00  
A.M.**

- 1. PLEDGE OF ALLEGIANCE.**
- 2. ROLL CALL** – Roll Call to be taken by staff.
- 3. PUBLIC COMMENT PERIOD** – This is the opportunity for anyone in the audience to address the Planning Commission on any planning subject that is not scheduled on the Agenda.

**Action  
Item**

- 4. APPROVAL OF MINUTES** – Approval of minutes from the March 22, 2023 Planning Commission Meeting.

Action  
Item  
Public  
Hearing

5. **AMENDMENT TO CONDITIONAL USE PERMIT 1994-2 BROWN'S SUPPLY; RECLAMATION PLAN 1994-2 BROWN'S SUPPLY**-The applicant has applied to amend Conditional Use Permit (CUP) 1994-2 and Reclamation Plan (REC) 1994-2, proposing to remove the east pit of 4.97 acres within the existing mining boundary and update both the CUP and REC to store foreign materials on site.

Action  
Item  
Public  
Hearing

6. **AMENDMENT TO RECLAMATION PLAN 1997-6 INDEPENDENCE MS#118 CALIFORNIA DEPARTMENT OF TRANSPORTATION**-The applicant has applied for an amendment to Reclamation Plan 97-6 with permission from the Bureau of Land Management (BLM). The California Department of Transportation proposing a minor revision of the condition of approval #20, abandoning the well, in the approved plan at the Independence Pit MS #118.

Action  
Item  
Public  
Hearing

7. **RENEWABLE ENERGY PERMIT 2022-01/BARKER**- The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on one privately owned parcel(APN:038-330-46), in Trona California. This permit would allow the applicant to construct a proposed 1-megawatt photovoltaic solar facility that uses approximately 2,300 single axis tracker solar panels. The project encompasses 5-acres of pre-disturbed land.

Action  
Item  
Public  
Hearing

8. **RENEWABLE ENERGY PERMIT 2022-02/BARKER**-The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on three privately owned parcels (APN:038-330-32,33,34), in Trona California. This permit would allow the applicant to construct a proposed 3-megawatt photovoltaic solar facility that uses approximately 6,000 single axis tracker solar panels. The project encompasses 15- acres of pre-disturbed land.

Work  
shop

9. **BROWN ACT REVIEW** – County Counsel will give a presentation to the Planning Commission about the Brown ACT and how it applies to the Planning Commission.

## **COMMISSIONERS' REPORT/COMMENTS**

Commissioners to give their report/comments to staff.

## **PLANNING DIRECTOR'S REPORT**

Planning Director, Cathreen Richards, will update the Commission on various topics.

## **CORRESPONDENCE-INFORMAITONAL**

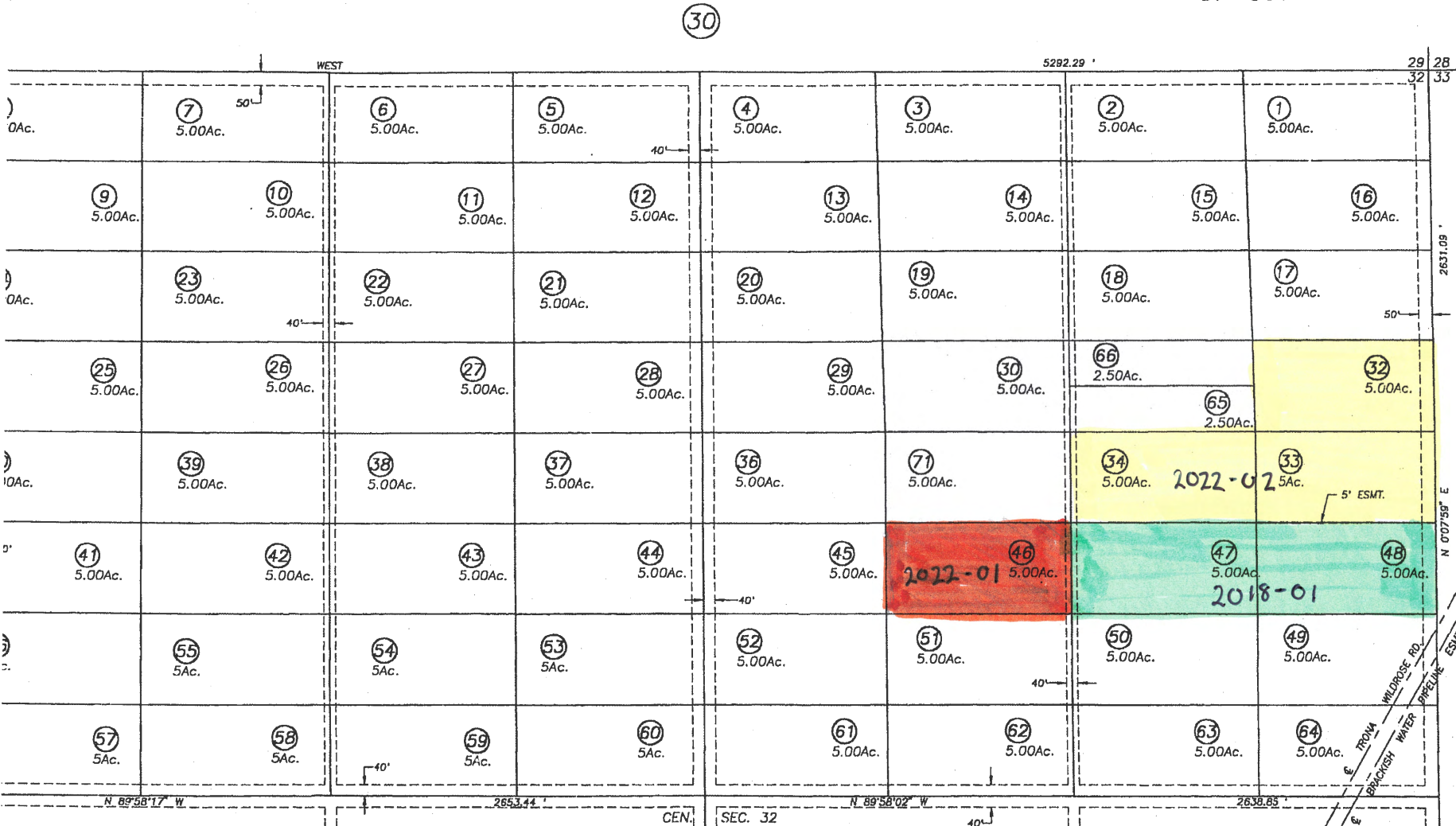
# **EXHIBIT 3**

N1/2 SEC. 32 T.24S., R.43E., M.D.B. & M.

BLM SMALL TRACT CLASSIFICATION-CALIFORNIA NO. 128

TAX RATE AREA  
67-001

38-33



r.S. Bk. 8 Pgs. 69 & 94

NOTE: 1. THIS DOCUMENT WAS PREPARED FOR ASSESSMENT PURPOSES ONLY.  
2. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN.  
3. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.

Assessor's Map Bk. 38 Pg. 3  
County of Inyo, Calif.

1963

11-17-97  
08-22-96



# **EXHIBIT 4**

**FILED**

**JUN 05 2018**

**INYO CO. CLERK  
KAMMI FOOTE, CLERK**



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

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

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## **NOTICE OF AVAILABILITY AND INTENT**

Notice is hereby given that an Initial Study and Draft Negative Declaration of Environmental Impact have been prepared pursuant to the California Environmental Quality Act (CEQA) and Inyo County CEQA Procedures, and are available for public review for the following application:

**Renewable Energy Permit #2018-01/Barker**

The applicant has applied for a renewable energy permit to construct a 1 megawatt (MW) photovoltaic solar facility, located on two privately owned parcels (038-330-47 & 038-330-48) in Trona, California. The project will be built on two parcels (5 acres each) with a total project area of 10 acres. The proposed project will connect to Southern California Edison's transmission infrastructure to generate renewable energy for consumers.

**The 30-day review period for this Draft Negative Declaration of Environmental Impact begins on June 6, 2018 and expires on July 5, 2018.** During this period comments may be submitted regarding the Initial Study and Negative Declaration. Inyo County is not required to respond to any comments received after this date. Written comments and all questions should be addressed to the Inyo County Planning Department at P.O. Drawer "L," Independence, CA 93526, faxed to (760) 878-0382, or emailed to [inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us).

Copies of the Initial Study and Draft Negative Declaration of Environmental Impact for this project are available for review at the Inyo County Planning Department (168 N. Edwards Street, Independence), County libraries, and the Inyo County Planning Department's website at [www.inyoplanning.org](http://www.inyoplanning.org).

**18-00018**

JUL 31 2018

INYO CO. CLERK  
KAMMI FOOTE, CLERK

Notice of Determination

Appendix D

To:

Office of Planning and Research  
U.S. Mail: Street Address:  
P.O. Box 3044 1400 Tenth St., Rm 113  
Sacramento, CA 95812-3044 Sacramento, CA 95814

County Clerk  
County of: Inyo  
Address: 168 N. Edwards St, PO Drawer F  
Independence, CA 93526

From:

Public Agency: Inyo County Planning Department  
Address: 168 N. Edwards Street  
Independence, CA 93526  
Contact: Cathreen Richards  
Phone: 760-878-0447

Lead Agency (if different from above):  
Address: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Phone: \_\_\_\_\_

**SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.**

State Clearinghouse Number (if submitted to State Clearinghouse): 2018061007

Project Title: Solar 2018-01/Barker

Project Applicant: Robbie Barker, PO Box 907, Trona CA 93592 #760-382-4111

Project Location (include county): Trona, CA / Inyo County

Project Description:

The proposed project would construct a 1 megawatt (MW) photovoltaic solar facility that uses approximately 3,500 fixed tilt or single axis tracker solar panels. The project encompasses 10 acres of pre-disturbed land, which is being used primarily for the storage of miscellaneous equipment. The project would connect to Southern California Edison's transmission and distribution infrastructure, helping the State meet its greenhouse gas emission reduction targets by producing carbon neutral electricity.

This is to advise that the County of Inyo has approved the above  
( Lead Agency or  Responsible Agency)

described project on 7/25/2018 and has made the following determinations regarding the above  
(date)  
described project.

1. The project [ will  will not] have a significant effect on the environment.
2.  An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.  
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [ were  were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [ was  was not] adopted for this project.
5. A statement of Overriding Considerations [ was  was not] adopted for this project.
6. Findings [ were  were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

http://inyoplanning.org/projects.htm

Signature (Public Agency): [Signature] Title: Planning Director

Date: 7/31/2018 Date Received for filing at OPR: \_\_\_\_\_

# **EXHIBIT 5**

<b>Table ES-1 IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>AESTHETICS</b>		
<p>Future solar energy developments within the SEDAs and OVSA could result in potentially significant visual impacts related to: (1) scenic vistas and scenic resources; (2) degradation of the existing visual character or quality of the site and its surroundings; and (3) light and glare.</p>	<p><b>AES-1: Prepare visual studies that include existing views, scenic vistas, and visual resources and evaluate the potential impacts to existing visual resources.</b>                      Site-specific visual studies shall be prepared to assess potential visual impacts for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are <del>distributed generation</del> <u>commercial scale</u> or community scale that have been determined by a <u>qualified</u> County <del>qualified</del>-planner to have the potential to impact visual resources within the individual SEDAs and the OVSA. The visual study shall include assessment of the existing visual environment, including existing views, scenic vistas, and visual resources, and evaluate the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. The study shall include assessment of public views from key observation points, the locations of which shall be determined in consultation with County staff and, if applicable, other public agencies with jurisdiction over the project site (e.g., BLM). Visual simulations shall be prepared to conceptually depict post-development views from the identified key observation points.</p> <p>The analysis and results of the study shall be documented in a memorandum that will include: (1) an assessment of the existing visual environment, including existing views, scenic vistas, and visual resources and (2) an evaluation of the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. Applicable recommendations from the project-specific visual analysis shall be incorporated into the associated individual project design to address identified potential visual impacts.</p> <p><b>AES-2: Reduce potential effects of glare by preparing site-specific glare studies that inform project design.</b>                      Site-specific glare studies shall be prepared for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are <del>distributed generation</del> <u>commercial scale</u> or community scale that have been determined by a <u>qualified</u> County <del>qualified</del>-planner to have the potential to impact visual resources within the individual SEDAs and the OVSA to assess potential glare impacts. Applicable results and recommendations from the project-specific glare study shall be incorporated into the associated individual project designs to address identified potential visual impacts.</p>	<p>Significant and Unavoidable</p>

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>AESTHETICS (cont.)</b>		
	<p><b>AES-3: Minimize visual contrast using colors that blend with surrounding landscape and do not create excessive glare.</b>                      The project applicant <del>For future proposed</del> solar energy projects that are greater than 20 MW (utility scale) and for proposed solar energy <u>projects</u> that are <del>distributed generation commercial scale</del> or community scale that have been determined by a <u>qualified County qualified</u> planner to have the potential to impact visual resources, <del>shall treat</del> the surfaces of structures and buildings that are visible from public viewpoints <u>shall be treated</u> so that (1) their colors minimize visual contrast by blending with the surrounding landscape and (2) their colors and finishes do not create excessive glare. Surface color treatments shall include painting or tinting in earth tone colors to blend in with the surroundings desert and mountains. Materials, coatings, or paints having little or no reflectivity shall be used.</p> <p><b>AES-4: Install natural screens to protect ground-level views into the project.</b>                      For all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are <u>commercial scale distributed generation</u> or community scale that have been determined by a <u>qualified County qualified</u> planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, <u>and</u> where existing screening topography and vegetation are absent or minimal, natural-looking earthwork landforms (such as berms or contour slopes), vegetative, or architectural screening shall be installed to screen ground-level views into the project site. The shape and height of the earthwork landforms shall be context sensitive and consider distance and viewing angle from nearby public viewpoints.</p> <p><b>AES-5: Prepare lighting plan using BMPs consistent with the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010) to reduce night lighting during construction and operation.</b>                      The project applicant shall prepare a lighting plan for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are <del>distributed generation commercial scale</del> or community scale that have been determined by a <u>qualified County qualified</u> planner to have the potential to impact visual resources within the individual SEDAs and the OVSA that documents how project lighting would be designed and installed to</p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>AESTHETICS (cont.)</b>		
	<p>minimize night sky impacts during construction and operation. The lighting plan shall include, at minimum, the following lighting design parameters:</p> <ul style="list-style-type: none"> <li>• Lighting shall be of the minimum necessary brightness consistent with operational safety and security <u>requirements</u>.</li> <li>• Lighting shall incorporate fixture hoods/shielding with light directed downward <u>and</u> <del>or</del> toward the area to be illuminated.</li> <li>• Light fixtures that are visible from beyond the project boundary shall have cutoff angles that are sufficient to prevent lamps and reflectors from being visible beyond the project boundary, except where necessary for security.</li> <li>• Project lighting shall be kept off when not in use whenever feasible and consistent with safety and security <u>requirements</u>.</li> <li>•</li> </ul> <p><b>AES-6: Treat PV solar panel glass with anti-reflective coating.</b> For proposed PV facilities greater than 20 MW (utility scale) and for proposed solar energy projects that are <del>distributed generation commercial scale</del> or community scale that have been determined by a <u>qualified</u> County <del>qualified</del> planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, glass used to cover solar panels shall be treated with an anti-reflective coating to further decrease reflection and increase the transmission of light through the glass to the cells.</p> <p><b>AES-7: Coordinate with the Federal Aviation Administration when considering the use of audio visual warning systems.</b> For projects requiring aircraft warning lights, the project applicant shall coordinate with the Federal Aviation Administration (FAA) to consider the use and installation of audio visual warning systems technology<sup>1</sup> on tower structures. If the FAA denies a permit for the use of audio visual warning systems, the project applicant shall limit lighting to the minimum required to meet FAA safety requirements.</p>	

<sup>1</sup> AVWS technology consists of all-weather, day and night, low-voltage, radar-based obstacle avoidance systems that activate lighting and audio signals to alert pilots of the presence of potential obstacles. The lights and audio warnings are inactive when there is no air traffic in the area of potential obstruction.

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>AESTHETICS (cont.)</b>		
	<p><b>AES-8: Projects on federal land will comply with the respective federal agency’s visual guidelines and policies.</b> Solar energy projects proposed on federal land within individual SEDAs and the OVSA shall be coordinated with the federal agency that is responsible for the management of the land and shall comply with the respective federal agency’s visual guidelines and policies.</p> <p><b>AES-9: The project will implement BMPs and measures during construction to reduce the visual and aesthetic effects of the construction site.</b> The following measures shall be implemented for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are <del>distributed generation-commercial scale</del> or community scale that have been determined by a <u>qualified</u> County <del>qualified</del>-planner to have the potential to impact visual resources within the individual SEDAs and the OVSA during construction:</p> <ul style="list-style-type: none"> <li>• Construction boundaries and staging areas shall be clearly delineated and where appropriate fenced to prevent encroachment onto adjacent natural areas.</li> <li>• Construction staging and laydown areas visible from nearby roads, residences, and recreational areas shall be visually screened using temporary fencing. Fencing shall be of an appropriate design and color to visually blend with the site’s surroundings.</li> <li>• Existing native vegetation shall be preserved to the greatest extent possible.</li> <li>• Project grading shall utilize undulating surface edges and contours that repeat the natural shapes, forms, textures, and lines of the surrounding landscape.</li> <li>• Exposed soils shall be restored to their original contour and vegetation.</li> <li>• Stockpiled topsoils shall be reapplied to disturbed surfaces.</li> </ul> <p><b>AES-10: Projects requiring overhead electrical transmission connections will consider design and installation techniques that reduce visual impacts.</b> For projects that require overhead electrical transmission connections to existing transmission lines and for the potential off-site transmission corridor to serve the Trona, Chicago Valley, and Charleston View SEDAs, the following shall be considered in the design and alignment of the transmission line connections:</p>	



<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>AESTHETICS (cont.)</b>		
	<ul style="list-style-type: none"> <li>• Avoid placing transmission towers and structures along ridgelines, peaks, or other locations where skylining effects would occur such that they would silhouette against the sky.</li> <li>• Place transmission corridor connection alignments along edges of clearings or at transition areas (i.e., natural breaks in vegetation or topography).</li> <li>• <u>To the extent practicable, treat transmission towers and structures with color and surfaces to reduce visual contrast with the surrounding visual landscape. Alternative methods to reduce visual impacts may be considered for structures that cannot use conventional methods of painting without impeding electrical conveyance or without causing long-term environmental impacts through the constant reapplication of paint. These methods may include, but shall not be limited to, galvanizing or similar factory-applied conductive non-paint treatments.</u></li> <li>• Use of appropriate and context-sensitive transmission tower types (i.e., lattice structures compared to monopoles) to reduce visual contrast with the surrounding visual landscape.</li> </ul>	
<b>AGRICULTURE AND FORESTRY RESOURCES</b>		
<p>Implementation of the REGPA could result in potentially significant impacts to farmlands through the direct and indirect conversion of those resources.</p> <p>No significant impacts to forestry resources would occur with implementation of the REGPA.</p>	<p><b>AG-1: Review development proposals for potential impacts to agricultural operations.</b> The County Agricultural Commissioner shall be responsible for reviewing new development proposals adjacent to agricultural operations to ensure they do not significantly impact agricultural operations.</p> <p><b>AG-2: Conduct site specific investigations for agricultural lands.</b> Site-specific agricultural resource investigations shall be completed for proposed solar development projects within the individual SEDAs and the OVSA that are located on lands utilized for agricultural operations prior to final project design approval. If agricultural operations are identified within the project area, alternative designs should be implemented to avoid and/or minimize impacts to those resources. This may include mitigating conversion of agricultural lands based on the mitigation ratios identified in consultation with affected agencies at the cost of the project applicant to the satisfaction of the County. Mitigation ratios and impact fees assessed, if any, shall be outlined in the Renewable Energy Development Agreement, Renewable Energy Permit, or Renewable Energy Impact Determination.</p>	Less Than Significant

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>AGRICULTURE AND FORESTRY RESOURCES (cont.)</b>		
	<p><b>AG-3: Invasive plant species or noxious weeds.</b>                      To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> <li>• The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes.</li> <li>• Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site.</li> <li>• Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored.</li> <li>• The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned.</li> <li>• Native vegetation shall be re-established as quickly as practicable on disturbed sites.</li> <li>• Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions.</li> <li>• Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations.</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>AIR QUALITY</b>		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scaled distributed generation</u>, and/or community scale, and/or facilities) could result in potentially significant impacts related to: (1) daily threshold exceedances during construction activities; (2) daily threshold exceedances during operations; and (3) cumulatively considerable net increase in criteria pollutants during construction activities.</p>	<p><b>AQ-1: Prepare site-specific air quality technical report.</b> Prior to issuance of Major Use Permits for solar energy projects, a site-specific air quality technical report shall be prepared and approved by the County, which will verify compliance with County and Great Basin Unified Air Pollution Control District standards during construction and operation of the solar project.</p> <p>Mitigation measures AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report, and will be implemented during construction and operation of future projects. These measures require implementation of dust control practices during construction activities and solar project operations.</p> <p><b>AQ-2: Reduce fugitive dust and particulate matter emissions during construction.</b> To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rules 401 and 402 as well as applicable best management practices (BMP)s from the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010), solar projects shall implement fugitive dust and particulate matter emissions control measures including, but not limited to the following:</p> <ul style="list-style-type: none"> <li>• Water and/or coarse rock all active construction areas as necessary and indicated by soil and air conditions;</li> <li>• Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;</li> <li>• Pave or apply (non-toxic) soil stabilizers on all unpaved access roads;</li> <li>• Sweep daily (with water sweepers) all paved access roads; Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;</li> <li>• Suspend excavation and grading activity when sustained winds make reasonable dust control difficult to implement, e.g., for winds over 25 miles per hour (mph).</li> <li>• Limit the speed of on-site vehicles to 15 mph.</li> </ul>	<p>Less Than Significant</p>

<b>Table ES-1 (cont.)</b> <b>IMPACTS AND PROPOSED MITIGATION</b>		
Impacts	Mitigation Measures	Significance After Mitigation
<b>AIR QUALITY (cont.)</b>		
	<p><b>AQ-3: Implement dust control measures during operation.</b>                      To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rule 401 and 402 as well as applicable BMPs from REAT’s Best Management Practices and Guidance Manual (REAT 2010), solar projects shall incorporate feasible dust control measures into the site design including, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>• <u>Incorporate perimeter sand fencing into the overall design to prevent migration of exposed soils into the surrounding areas. The perimeter fence is intended to provide long-term protection around vulnerable portions of the site boundary; it is also intended to prevent off-road site access and sand migration across site boundaries and the associated impacts.</u></li> <li>• <u>Incorporate wind deflectors intermittently across solar project sites. The solar panels themselves, especially where installed to transverse primary wind direction, will provide some measure of protection of the ground surface. Wind deflectors enhance this effect by lifting winds that may otherwise jet beneath panels, thereby disrupting long wind fetches, and reducing surface wind velocities and sand migration.</u></li> <li>• <u>Orient infrastructure/solar panels perpendicular to primary wind directions; and</u></li> <li>• <u>Adjust panel operating angles to reduce wind speeds under panels.</u></li> <li>• <u>Perform revegetation in areas temporarily denuded during construction. These areas would be replanted with native plant species that exist on the site presently. Irrigation would be applied temporarily during the plant establishment period (typically multiple years), but after establishment it is expected that these areas would require little or no maintenance. Vegetation provides dust control by protecting and preventing threshold wind velocities at the soil surface. Studies have shown that an 11 to 54 percent vegetation cover on a site can provide up to 99 percent PM10 control efficiency (GBUAPCD 2008).</u></li> <li>• <u>As the installation of solar panels and associated equipment progresses, each area that is completed (i.e. where no further soil disturbance is anticipated) will be treated with a dust palliative to prevent wind erosion. CARB certifications indicate that the application of dust suppressants can reduce PM10 emissions by 84 percent or more (CARB 2011).</u></li> </ul>	

<b>Table ES-1 (cont.)                      IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES</b>		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scaled distributed generation, and/or community scale, and/or facilities</u>) could result in potentially significant impacts related to sensitive biological resources. Potential impacts to specific resource areas are described below.</p>	<p><b>BIO-1: Prepare project level biological resources evaluation and mitigation and monitoring plan.</b>  <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact biological resources as determined by a qualified biologist (defined as a biologist with documented experience or training related to the subject species), a project level biological resource evaluation shall be prepared by a qualified biologist for the project. The biological resource evaluation shall include field reconnaissance and focused surveys as determined necessary by a qualified biologist to identify special status species and natural communities present or having the potential to occur on the site, an evaluation of the extent of those habitats, an evaluation of the potential for impacts to each special status species and/or habitat, and shall prescribe specific mitigation measures to avoid or reduce impacts to biological resources to the maximum extent practicable. The qualifications of any biologists conducting special status species surveys or focused habitat assessments will be submitted to CDFW prior to conducting fieldwork. The level of biological resource analysis will be based on factors such as the size of the proposed project, the and extent of impacts to biological resources, and the sufficiency of existing data to determine impacts.</u></p> <p><u>An evaluation of the potential for off-site impacts to special status species and sensitive habitats will be included in the biological resources evaluation, especially for projects involving groundwater pumping. Chapter 2 of the Basin Plan protects beneficial uses for groundwater with respect to groundwater recharge and freshwater replenishment and beneficial uses for wildlife habitats and flora and fauna including cold freshwater habitat, warm freshwater habitat, wildlife habitat, rare, threatened, or endangered species, spawning, reproduction, and development, preservation of biological habitats of special significance, and migration of aquatic organisms (RWQCB 1995). A project-specific evaluation of potential impacts to beneficial uses for groundwater as specified in the Basin Plan will be included in the biological resources evaluation.</u></p>	<p>Significant and Unavoidable</p>

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>For projects in the Chicago Valley or Charleston View SEDAs, potential impacts to special status species and/or riparian and other groundwater dependent habitat in the Amargosa Watershed will be evaluated. If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch. USFWS and CDFW shall be contacted during preparation of the biological resources evaluation to obtain the best available scientific data on such potential impacts including existing hydrologic studies (e.g., the unpublished State of the Basin Report-2014 prepared by Andy Zdon and Associates, Inc).</u></p> <p><u>For projects with the potential to impact on- or off-site special status species or habitats as determined in the biological resources evaluation, a project-specific biological resources mitigation and monitoring plan shall be prepared in cooperation with and that meets the approval of permitting agencies. The plan shall be implemented during all phases of the project and shall identify appropriate mitigation levels to compensate for significant direct, indirect, and cumulative impacts, including habitat, special status plant, and wildlife species losses as well as impacts to groundwater dependent vegetation or off-site impacts to special status species or sensitive habitats due to groundwater pumping. The plan shall address at a minimum:</u></p> <ul style="list-style-type: none"> <li>• Biological resource avoidance and minimization measures and mitigation, monitoring and compliance measures required by federal, state, and local applicable permitting agencies.</li> <li>• Documentation (based on surveys) of sensitive plant and wildlife expected to be affected by all phases of the project (project construction, operation, abandonment, and decommissioning). Agencies may request additional surveying, based on the documentation or past experience working with the resources. Include measures to avoid or minimize impacts to species and habitat.</li> <li>• A detailed description of measures to minimize or mitigate permanent and temporary disturbances from construction activities.</li> <li>•</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>•</li> </ul>	
	<ul style="list-style-type: none"> <li>• All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction.</li> <li>• Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities.</li> <li>• Duration for each type of monitoring and a description of monitoring methodologies and frequency.</li> <li>• Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful.</li> <li>• All standards and remedial measures to be implemented if performance standards and criteria are not met.</li> <li>• A closure/decommissioning or abandonment plan, including a description of funding mechanism(s).</li> <li>• A process for proposing plan modifications to the County project manager.</li> <li>• All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction.</li> <li>• Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities.</li> <li>• Duration for each type of monitoring and a description of monitoring methodologies and frequency.</li> <li>• Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful.</li> <li>• All standards and remedial measures to be implemented if performance standards and criteria are not met.</li> <li>• A closure/decommissioning or abandonment plan, including a description of funding mechanism(s).</li> <li>• A process for proposing plan modifications to the County project manager.</li> </ul>	

<b>Table ES-1 (cont.)</b> <b>IMPACTS AND PROPOSED MITIGATION</b>		
Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
<p>Impacts to special status plant species could occur during construction and/or operation of the future solar developments under the REGPA.</p>	<p><b>BIO-2: Minimize impacts to special status plants.</b>  <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA, a CDFW-approved botanist shall evaluate the potential for special status plant species to occur on the site and conduct surveys, if necessary, to determine presence or infer absence of special status plants on the site following the November 24, 2009 <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities</i> or the most current guidelines. When special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, to the maximum extent feasible, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs, with the potential to impact special status plant species as determined by a qualified biologist/botanist, a qualified botanist shall determine the presence or absence of special status plants within the project site. The following steps shall be implemented to document special-status plants, as determined necessary by the botanist:</u></p> <ul style="list-style-type: none"> <li>● <del>Review Existing Information. The botanist shall review existing information to develop a list of special status plants that could grow in the specific project area. Sources of information consulted shall include CDFW’s CNDDDB, the CNPS electronic inventory, and previously prepared environmental documents. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of sensitive plants from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.</del></li> <li>● <del>Coordinate with Agencies. The botanist shall coordinate with the appropriate agencies (i.e., CDFW and USFWS) to discuss botanical resource issues and determine the appropriate level of surveys necessary to document special status plants.</del></li> <li>● <del>Conduct Field Studies. The botanist shall evaluate existing habitat conditions for each project and determine what level of botanical surveys may be required. The type of botanical survey shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on these factors and the proposed construction activity, one or a combination of the</del></li> </ul>	<p>Less Than Significant</p>



**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>following levels of survey may be required:</p> <ul style="list-style-type: none"> <li>● <del>Habitat Assessment. A habitat assessment shall be conducted to determine whether suitable habitat is present. This type of assessment can be conducted at any time of year and is used to assess and characterize habitat conditions and determine whether return surveys are necessary. If no suitable habitat is present, no additional surveys shall be required.</del></li> <li>● <del>Species Focused Surveys. Species focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status plants. The surveys shall focus on special status plants that could grow in the region, and would be conducted during a period when the target species are evident and identifiable.</del></li> <li>● <del>Floristic Protocol Level Surveys. Floristic surveys that follow the CNPS Botanical Survey Guidelines shall be conducted in areas that are relatively undisturbed and/or have a moderate to high potential to support special status plants. The CNPS Botanical Survey Guidelines require that all species be identified to the level necessary to determine whether they qualify as special status plants, or are plant species with unusual or significant range extensions. The guidelines also require that field surveys be conducted when special status plants that could occur in the area are evident and identifiable. To account for different special status plant identification periods, one or more series of field surveys may be required in spring and summer months.</del></li> <li>● <del>Map Special Status Plants. Special status plant populations identified during the field surveys shall be mapped and documented as part of the CEQA process, as applicable. Project development plans shall consider avoidance to the extent practicable. If avoidance is not practicable while otherwise obtaining the projects objectives, then other suitable measures and mitigation shall be implemented in coordination with the appropriate regulatory agency (i.e., USEFWS, CDFW, BLM).</del></li> </ul> <p>If special status plants are identified in the project area <u>and complete avoidance of direct and indirect impacts is not feasible as determined by the County</u>, the following measures shall be implemented to avoid and minimize impacts on special status plants:</p> <ul style="list-style-type: none"> <li>● <del>The project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, if feasible.</del></li> <li>● <del>If feasible, when special status plants are found on a site, the project shall be</del></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>redesigned or modified to avoid direct and indirect impacts on special status plants, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs.</u></p> <ul style="list-style-type: none"> <li>• <u>For projects that are determined to have the potential to result in “take” of state or federally-listed plant species, consultation shall be conducted with CDFW or USFWS respectively prior to project commencement, and appropriate mitigation measures developed if necessary.-</u></li> <li>• <del>Special status plants near the project site shall be protected by installing environmentally sensitive area fencing (orange construction barrier fencing) around special status plant populations. The environmentally sensitive area fencing shall be installed at least 20 feet from the edge of the population. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area.</del></li> <li>• <del>No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. If When individuals of a special status species occur within an area proposed for construction and take cannot be avoided, avoidance of special status plants is not feasible, mitigation shall be developed in coordination with USFWS and/or CDFW to reduce impacts on the local population of the special status species. No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. Mitigation measures approved by USFWS and/or CDFW may include transplantation If individuals of a special status species occur within an area proposed for construction and take cannot be avoided, the plants shall be transplanted under the direction of a qualified CDFW-approved botanist if transplantation of such species is deemed likely to succeed, or seed shall be collected prior to destruction of the plants and dispersed in suitable habitats not impacted by construction, if such habitats exist and seed collection is deemed likely to be successful by a qualified CDFW-approved botanist with experience propagating the species in</del></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>question. In all cases, CDFW will be notified at least 10 days prior to removal of any special status plant to allow transplantation or collection of seed at their discretion.</p> <ul style="list-style-type: none"> <li>• <u>If transplanting is proposed, the botanist shall coordinate with the appropriate resource agencies and local experts to determine whether transplantation is feasible. If the agencies concur that transplantation is a feasible mitigation measure, the botanist shall develop and implement a transplantation plan through coordination with the appropriate agencies. The special status plant transplantation plan shall involve identifying a suitable transplant site; moving <u>some or all of the plant material and seed bank to the transplant site; collecting seed material and propagating it in a nursery (in some cases it is appropriate to keep plants onsite as nursery plants and sources for seed material); and monitoring the transplant sites to document recruitment and survival rates. Monitoring shall be conducted for a period of five years and transplantation shall be considered successful if an 80 percent survival rate has been achieved by the end of the five-year monitoring period.</u></u></li> <li>• <u>A mitigation and monitoring plan shall be developed by a qualified botanist/ restoration ecologist and submitted to CDFW for approval prior to approval of the proposed project. The mitigation and monitoring plan will dictate appropriate avoidance and minimization measures, compensatory mitigation, and monitoring requirements as pertinent to the specific species and level of impact(s). Mitigation shall include, but is not limited to 1) protection of special status plant populations not directly impacted by construction or implementation of the project as stated above; 2) transplantation and/or collection of seed from impacted plants if feasible, as stated above; and 3) the preservation in perpetuity of an equivalent or larger off-site population for every individual or population of special status plant impacted including sufficient land surrounding the preserved population to ensure its survival in perpetuity as determined by a qualified botanist/ restoration ecologist. The qualified botanist/ restoration ecologist shall include plans to restore and enhance the preserved populations to the extent feasible.</u></li> <li>• <u>If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch, pursuant to Mitigation Measure HYD-2 in Section 4.9, Hydrology</u></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>and Water Quality. If any solar development projects are proposed in the Chicago Valley or Charleston View SEDAs that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for down-watershed impacts to the habitats for special status plants in the Amargosa Watershed including the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic.” If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status plant species (e.g., Fish Slough, marshes, riparian areas, alkaline flats in the Amargosa Watershed and the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic”), a management plan will be prepared in coordination with the County and submitted to the appropriate resource agency with oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on off-site habitat for special status plants such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County.</u></p>	
<p>Impacts to special status wildlife species could occur as a result of implementation of the REGPA if construction and/or operation of the future solar developments would occur within or adjacent to suitable habitat. This includes potential impacts to special status fish, amphibians, reptiles, birds, and mammals.</p>	<p><b>BIO-3: Minimize impacts to special status wildlife.</b>  <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact special status wildlife as determined by a qualified biologist, a qualified CDFW-approved wildlife biologist shall conduct a survey to document the presence or absence of suitable habitat for special status wildlife in the project site. The following steps shall be implemented to document special status wildlife and their habitats for each project, as determined by the CDFW-approved wildlife biologist:</u></p> <ul style="list-style-type: none"> <li>• <u>Review Existing Information.</u> The wildlife biologist shall review existing information to develop a list of special status wildlife species that could occur in the project area or be impacted by the proposed project, either directly or indirectly (e.g., groundwater pumping could result in indirect impacts to off-site habitats for special status wildlife). The following information shall be reviewed as part of this process: the USFWS special status species list for the project region, CDFW’s CNDDDB, previously prepared environmental documents, and USFWS issued biological opinions for</li> </ul>	<p>Significant and Unavoidable</p>

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>previous projects. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of special status wildlife from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.</p> <ul style="list-style-type: none"> <li>• Coordinate with State and Federal Agencies. The wildlife biologist shall coordinate with the appropriate agencies (CDFW, USFWS, BLM) to discuss wildlife resource issues in the project region and determine the appropriate level of surveys necessary to document special status wildlife and their habitats.</li> <li>• Conduct Field Studies. The wildlife biologist shall evaluate existing habitat conditions and determine what level of biological surveys may be required. The type of survey required shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on the existing conditions in the project area and the proposed construction activity, one or a combination of the following levels of survey may be required:</li> <li>• Habitat Assessment. A habitat assessment determines whether suitable habitat is present. The wildlife biologist shall conduct project-specific habitat assessments consistent with protocols and guidelines issued by responsible agencies for certain special status species- (e.g., USFWS' and CDFW have issued protocols for evaluating bald eagle habitat (2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California). Habitat assessments are used to assess and characterize habitat conditions and to determine whether return surveys are necessary. If no suitable habitat is present for a given special status species, no additional species-focused or protocol surveys shall be required.</li> <li>• Species-Focused Surveys. Project-specific species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status wildlife and if it is necessary to determine the presence or absence of the species in the project area. The wildlife biologist shall conduct project-specific surveys focusing on special status wildlife species that have the potential to occur in the region. The surveys shall be conducted during a period when the target species are present and/or active.</li> <li>• Protocol-Level Wildlife Surveys. The wildlife biologist shall conduct project specific protocol level surveys for special status species with the potential to be impacted by the proposed project. The surveys shall comply with the appropriate protocols and</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>guidelines issued by responsible agencies for the special status species. USFWS and CDFW have issued survey protocols and guidelines for several special- status wildlife species that could occur in the project region, including (but not limited to): bald eagle, burrowing owl, golden eagle, Swainson’s hawk, least Bell’s vireo, willow flycatcher, desert tortoise, and <del>San Joaquin</del> desert kit fox. The protocols and guidelines may require that surveys be conducted during a particular time of year and/or time of day when the species is present and active. Many survey protocols require that only a USFWS- or CDFW-approved biologist perform the surveys. The project proponent shall coordinate with the appropriate state or federal agency biologist before the initiation of protocol-level surveys to ensure that the survey results would be valid. Because some species can be difficult to detect or observe, multiple field techniques may be used during a survey period and additional surveys may be required in subsequent seasons or years as outlined in the protocol or guidelines for each species.</p> <ul style="list-style-type: none"> <li>• <u>Habitat Mapping.</u> The wildlife biologist shall map special status wildlife or suitable habitat identified during the project-specific field surveys.</li> <li>• <u>A Scientific Collecting Permit is required to take, collect, capture, mark, or salvage, for scientific, educational, and non-commercial propagation purposes, mammals, birds and their nests and eggs, reptiles, amphibians, fishes and invertebrates (Fish and Game Code Section 1002 and Title 14 Sections 650 and 670.7). All biologists will be required to obtain a Scientific Collecting Permit that may be required to handle any live or dead animals during construction or operation of a project.</u></li> </ul> <p>In addition, the following measures should be implemented to avoid and minimize impacts on special status species and their habitats if they occur within a site:</p> <ul style="list-style-type: none"> <li>• For projects that are determined to have the potential to result in “take” of state or federally-listed animal species, consultation shall be conducted with CDFW or USFWS respectively <u>and appropriate mitigation measures developed as necessary, and take authorization shall be obtained prior to project commencement, if relevant.</u></li> <li>• <del>Any special status wildlife and/or their habitats identified within a project site outside of the work area will be protected by installing environmentally sensitive area fencing around habitat features, such as seasonal wetlands, burrows, and nest trees. The</del></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><del>environmentally sensitive area fencing or staking shall be installed at a minimum distance from the edge of the resource as determined through coordination with state and federal agency biologists (USFWS and CDFW, BLM). The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area.</del></p> <ul style="list-style-type: none"> <li>• If ground disturbing activities are required prior to site mobilization, such as for geotechnical borings or hazardous waste evaluations, a <u>qualified CDFW-approved biologist</u> shall be present to monitor any actions that could disturb soil, vegetation, or wildlife.</li> <li>• <u>In areas that could support desert tortoise or any other sensitive wildlife species, a County-approved qualified biologist with the appropriate CDFW and/or USFWS approvals for the species being salvaged and relocated shall be onsite and respond accordingly should an animal need to be relocated.</u> <del>walk immediately ahead of equipment during the clearing and grading activities to salvage and relocate the wildlife in the path of the operations. The species shall be salvaged and relocated to off-site habitat when conditions will not jeopardize the health and safety of the biologist.</del></li> <li>• Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. Vehicles shall not exceed 25 mph on the project site. Vehicles shall abide by posted speed limits on paved roads.</li> <li>• <del>For projects with the potential to affect desert tortoise, parking and storage shall occur within the area enclosed by desert tortoise exclusion fencing to the extent feasible. No vehicles or construction equipment parked outside the fenced area shall be moved prior to an inspection of the ground beneath the vehicle for the presence of desert tortoise. If a desert tortoise is observed, it shall be left to move on its own. If it does not move within 15 minutes, a CDFW and USFWS approved desert tortoise biologist may remove and relocate the animal to a safe location if temperatures are within the range</del></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><del>described in the Desert Tortoise Field Manual (USFWS 2013 or most recent version, available from the Ventura Fish and Wildlife Office website <a href="http://www.fws.gov/ventura/endangered/species/surveys_protocol.html">http://www.fws.gov/ventura/endangered/species/surveys_protocol.html</a>). All access roads outside of the fenced project footprint shall be delineated with temporary desert tortoise exclusion fencing on either side of the access road, unless otherwise authorized by the County project manager and County biologist.</del></p> <ul style="list-style-type: none"> <li>• A <del>qualified</del>CDFW-approved biologist shall be designated to oversee compliance with biological resources avoidance and minimization measures during mobilization, ground disturbance, grading, construction, operation, and closure/decommissioning, or project abandonment, particularly in areas containing or known to have contained sensitive biological resources, such as special status species and unique plant assemblages. The <del>qualified</del>CDFW-approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The boundaries of all areas to be disturbed (including staging areas, access roads, and sites for temporary placement of spoils) shall be delineated with stakes and flagging prior to construction activities in consultation with the biological monitor. Spoils shall be stockpiled in disturbed areas lacking native vegetation and which do not provide habitat for special status species. Parking areas, staging and disposal site locations shall also be located in areas without native vegetation or special status species habitat. All disturbances, vehicles, and equipment shall be confined to the flagged areas. The <del>qualified</del>CDFW-approved biologist shall be responsible for actions including, but not limited to, the following:               <ul style="list-style-type: none"> <li>○ Clearly marking sensitive biological resource areas and inspecting the areas at appropriate intervals for meeting regulatory terms and conditions.</li> <li>○ Inspecting, daily, active construction areas where wildlife may have become trapped (for example, trenches, bores, and other excavation sites that constitute wildlife pitfalls outside the permanently fenced area) before beginning construction. At the end of the day, conducting wildlife inspections of installed structures that would entrap or not allow escape during periods of construction inactivity. Periodically inspecting areas with high vehicle activity (such as parking lots) for wildlife in harm’s way.</li> <li>○ Periodically <u>inspect stockpiled material and other construction material and</u></li> </ul> </li> </ul>	



**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>equipment (including within the fenced areas) throughout the day as some species such as desert kit fox may enter the project site at any time.</u></p> <ul style="list-style-type: none"> <li>○ Overseeing special status plant salvage operations.</li> <li>○ Immediately recording and reporting hazardous spills immediately as directed in the project hazardous materials management plan.</li> <li>○ Coordinating directly and regularly with permitting agency representatives regarding biological resources issues, and implementation of the biological resource avoidance and minimization measures.</li> <li>○ Maintaining written records regarding implementation of the biological resource avoidance and minimization measures, and providing a summary of these records periodically in a report to the appropriate agencies.</li> <li>○ Notifying the project owner and appropriate agencies of non-compliance with biological resource avoidance and minimization measures.</li> <li>○ At the end of each work day, the biological monitor shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled or if backfilling is not feasible, the biological monitor shall ensure that all trenches, bores, and other excavations are sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with desert tortoise-exclusion fencing. All trenches, bores, and other excavations outside the areas permanently fenced with desert tortoise exclusion fencing shall be inspected periodically, but no less than three times, throughout the day and at the end of each workday by the <del>qualified</del>CDFW-approved biologist. Should a tortoise or other wildlife become trapped, the CDFW and USFWS-approved desert tortoise biologist shall remove and relocate the individual as described in the project’s Desert Tortoise Relocation/Translocation Plan. Any wildlife encountered during the course of construction shall be allowed to leave the construction area unharmed.</li> <li>○ Any construction pipe, culvert, or similar structure with a diameter greater than <del>3</del><u>1</u> inches, stored less than 8 inches aboveground, and within desert tortoise habitat (i.e., outside the permanently fenced area) for one or more nights, shall be inspected by the biological monitor for desert tortoises or other</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>special status species such as fringe-toed lizard, before the material is moved, buried, or capped. As an alternative, all such structures may be capped before being stored outside the fenced area, or placed on pipe racks. These materials would not need to be inspected or capped if they are stored within the permanently fenced area after the clearance surveys have been completed.</p> <ul style="list-style-type: none"> <li>• Access roads, pulling sites, storage and parking areas outside of the fenced solar facility area shall be designed, installed, and maintained with the goal of minimizing impacts to native plant communities and sensitive biological resources. Transmission lines and all electrical components shall be designed, installed, and maintained in accordance with the APLIC Suggested Practices for Avian Protection on Power Lines (APLIC 2006) and Mitigating Bird Collisions with Power Lines (APLIC 2004) to reduce the likelihood of bird electrocutions and collisions.</li> <li>• Facility lighting shall be designed, installed, and maintained to direct light downwards towards the project site and avoid light spillover to wildlife habitat.</li> <li>• Construction and operation related noise levels shall be minimized to minimize impacts to wildlife.</li> <li>• All vertical pipes <del>greater than 4 inches in diameter</del> shall be capped to prevent the entrapment of birds and other wildlife.</li> <li>• All vehicles and equipment shall be maintained in proper working condition to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials. The biological monitor shall be informed of any hazardous spills immediately. Hazardous spills shall be immediately cleaned up and the contaminated soil properly disposed of at a licensed facility. Servicing of construction equipment shall take place only at a designated area. Service/maintenance vehicles shall carry a bucket and pads to absorb leaks or spills.</li> <li>• Road surfacing and sealants as well as soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants. Anticoagulants shall not be used for rodent control. Pre-emergents and other herbicides with documented residual toxicity shall not be used. Herbicides shall be applied in conformance with federal, state, and local laws and according to the guidelines for wildlife- safe use of herbicides in BIO-24 (Weed Management Plan).</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>• The following measures shall be implemented to minimize attractants to wildlife:               <ul style="list-style-type: none"> <li>○ If the application of water is needed to abate dust in construction areas and on dirt roads, use the least amount needed to meet safety and air quality standards and prevent the formation of puddles, which could attract wildlife to construction sites. The biological monitor shall patrol these areas to ensure water does not puddle and attract desert tortoise, common ravens, and other wildlife to the site and shall take appropriate action to reduce water application where necessary.</li> <li>○ Water shall be prohibited from collecting or pooling for more than 24 hours after a storm event within the project retention basin. Standing water within the retention basin shall be removed, pumped, raked, or covered. Alternative methods or the timeframe for allowing the water to pool may be modified with the approval of the biological monitor.</li> <li>○ Dispose trash and food-related items in self-closing, sealable containers with lids that latch to prevent wind and wildlife from opening containers. Empty trash containers daily and remove from the project site those associated with construction when construction is complete.</li> <li>○ To avoid attracting insectivorous birds and bats, prepare a facility vector (such as mosquitoes or rodents) control plan, as appropriate, that meets the permitting agency approval and would be implemented during all phases of the project.</li> </ul> </li> <li>• Workers or visitors, while on project property, shall be prohibited from feeding wildlife, bringing domestic pets to the project site, collecting native plants, or harassing wildlife.</li> <li>• To reduce the potential for the transmission of fugitive dust the project proponent shall implement dust control measures. These shall include:               <ul style="list-style-type: none"> <li>○ The project proponent shall apply non-toxic soil binders, equivalent or better in efficiencies than the CARB- approved soil binders, to active unpaved roadways, unpaved staging areas, and unpaved parking area(s) throughout construction to reduce fugitive dust emissions.</li> <li>○ Water the disturbed areas of the active construction sites at least three times per day and more often if uncontrolled fugitive dust is noted. Enclose, cover,</li> </ul> </li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>water twice daily, and/or apply non-toxic soil binders according to manufacturer’s specifications to exposed piles with a 5 percent or greater silt content. Agents with known toxicity to wildlife shall not be used <del>unless approved by the County biologist and County project manager.</del></p> <ul style="list-style-type: none"> <li>○ Establish a vegetative ground cover (in compliance with biological resources impact mitigation measures above) or otherwise create stabilized surfaces on all unpaved areas at each of the construction sites within 21 days after active construction operations have ceased.</li> <li>○ Increase the frequency of watering, if water is used as a soil binder for disturbed surfaces, or implement other additional fugitive dust mitigation measures, to all active disturbed fugitive dust emission sources when wind speeds (as instantaneous wind gusts) exceed 25 mph.</li> <li>● A project-specific worker environmental awareness program (WEAP) shall be developed and carried out during all phases of the project (site mobilization, ground disturbance, grading, construction, operation, closure/decommissioning, or project abandonment, and restoration/reclamation activities). The WEAP shall include the biological resources present and the measures for minimizing impacts to those resources. Interpretation for non-English speaking workers shall be provided, and all new workers shall be instructed in the WEAP. The project field construction office files will contain the names of onsite personnel (for example, surveyors, construction engineers, employees, contractors, contractor’s employees/ subcontractors) who have participated in the education program. All employees and contractors shall be trained to carry out the WEAP and on their role in ensuring the effectiveness of implementing the Plan. At a minimum, the WEAP shall including the following:             <ul style="list-style-type: none"> <li>○ Photos and habitat descriptions for special status species that may occur on the project site and information on their distribution, general behavior, and ecology.</li> <li>○ Species sensitivity to human activities.</li> <li>○ Legal protections afforded the species.</li> <li>○ Project measures for protecting species.</li> <li>○ State and federal law violation penalties.</li> <li>○ Worker responsibilities for trash disposal and safe/ humane treatment of</li> </ul> </li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>special status species found on the project site, associated reporting requirements, and specific required measures to prevent taking of threatened or endangered species.</p> <ul style="list-style-type: none"> <li>○ Handout materials summarizing the contractual obligations and protective requirements specified in project permits and approvals.</li> <li>○ Project site speed limit requirements and penalties.</li> <li>● A project specific restoration, re-vegetation, and reclamation plan that meets the approval of permitting agencies shall be prepared and carried out for all projects. The plan shall address at a minimum:             <ul style="list-style-type: none"> <li>○ Minimizing natural vegetation removal and the consideration of cutting or mowing vegetation rather than total removal, whenever possible.</li> <li>○ Salvage and relocation of cactus and yucca from the site before beginning construction.</li> <li>○ Identification of protocols to be used for vegetation salvage.</li> <li>○ Reclaiming areas of temporarily disturbed soil using certified weed free native vegetation and topsoil salvaged from excavations and construction activities.</li> <li>○ Restoration and reclamation of temporarily disturbed areas, including pipelines, transmission lines, staging areas, and temporary construction-related roads as soon as possible after completion of construction activities. The actions are recommended to reduce the amount of habitat converted at any one time and promote recovery to natural habitats.</li> <li>○ <u>Specifying proper seasons and timing of restoration and reclamation activities to ensure success.</u></li> </ul> </li> <li>● <u>If any solar development projects are proposed that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for indirect off-site impacts to special status wildlife species and/or their habitats. If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status wildlife species (e.g., Amargosa vole, Ash Meadows naucorid), a management plan will be prepared in coordination with the County and submitted for approval to the appropriate resource agency with regulatory oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and</u></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>prescribe mitigation to offset the impacts of the project on off-site habitat for special status wildlife such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County.</u></p>	
	<p><b>BIO-4: Minimize impacts to special status fish.</b>  <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status fish, a project-specific groundwater impact analysis will be conducted to address potential impacts to habitat for special status fish. In addition, consultation with USFWS shall be conducted for projects with the potential to impact federally listed species including Owens pupfish or Owens tui chub and coordination with CDFW will be conducted for projects with the potential to impact state listed species or CDFW species of special concern including Owens sucker and Owens speckled dace. For projects that are determined to have the potential to result in “take” of state or federally listed fish species, consultation shall be conducted with CDFW or USFWS respectively and take authorization obtained prior to project commencement.</u></p> <p><u>For all projects proposed in the Charleston View and Chicago Valley SEDAs, an analysis of potential down-watershed impacts to special-status fish species in the Amargosa Watershed will be conducted prior to project approval, if the project involves impacts to groundwater and/or requires pumping of groundwater (e.g. solar thermal projects). If the project is determined to have the potential to result in down-watershed impacts that could alter the hydrology of habitats for special-status fish species, a mitigation and monitoring plan will be prepared by the applicant to address potential impacts to groundwater and down-watershed biological resources and submitted to USFWS and CDFW for approval prior to project implementation. Mitigation measures will be developed in coordination with USFWS and CDFW to offset these impacts. Mitigation measures should include but are not limited to 1) a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio; 2) hydrological and biological monitoring of the impacts of groundwater pumping on the groundwater system and the sensitive habitats down-watershed; and 3) adaptive management to increase the ratio of water rights purchased and retired and restore habitats down-watershed if hydrological and biological monitoring indicates that the projects groundwater pumping is</u></p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>having detrimental effects to sensitive biological resources (e.g., special status species or sensitive natural communities as designated by USFWS, CDFW, or CNPS) within the watershed as determined by a qualified hydrologist/hydrogeologist or biologist in coordination with USFWS and/or CDFW. For projects that are determined to have the potential to result in “take” of state or federally listed fish species, consultation shall be conducted with CDFW or USFWS respectively and take authorization obtained prior to project commencement.</u></p> <p><b>BIO-5: Minimize impacts to amphibians.</b> The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status amphibians.</p> <ul style="list-style-type: none"> <li>• Surveys for special status amphibians including but not limited to northern leopard frog, Owens Valley web-toed salamander, and Inyo Mountains slender salamander shall be conducted by a <u>qualified CDFW-approved</u> biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction.</li> <li>• If any of these species are found on a project site during the surveys, CDFW shall be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats.</li> <li>• If federal or state-listed amphibians not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project,</li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species. For projects that are determined to have the potential to result in “take” of state or federally-listed amphibian species, consultation shall be conducted with CDFW or USFWS respectively and take authorization shall be obtained prior to project commencement.</p>	
	<p><b>BIO-6: Minimize impacts to desert tortoise.</b>                      The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect desert tortoise in order to avoid, minimize, and mitigate for impacts:</p> <ul style="list-style-type: none"> <li>• Consultation shall be conducted with CDFW and USFWS for any projects where desert tortoise or <u>signs of their presence</u> is found on the site and/or the project is determined by a <u>qualified CDFW-approved</u> biologist to have the potential to impact desert tortoise. In such cases, permits under Section 2080 of the Fish and Game Code and Section 7/10 of FESA authorizing incidental take of desert tortoise will be obtained from CDFW and USFWS respectively prior to implementation of the project, including any project-related ground disturbing activities. All requirements of the 2081/2080.1 permit and the Biological Opinion shall be implemented.</li> <li>• The project proponent shall fully mitigate for habitat loss and potential take of desert tortoise. The project specific mitigation shall be developed in coordination with CDFW and USFWS, and would be reflective of the mitigation measures described in the Biological Opinion prepared by the USFWS for the project.</li> <li>• <u>The project developer shall provide funds for regional management of common ravens through the payment of a per-acre fee as determined in consultation with the USFWS. The fee shall be commensurate with current per-acre fees (at the time of project approval) required by the BLM and the CEC for development projects in the desert with the potential to provide subsidies to common ravens such as shelter, perching sites, and food. The fee shall be used by the Desert Managers Group to manage common ravens in the California desert with the goal of reducing their predation on desert tortoises.</u></li> </ul>	



**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>• Projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, Areas of Critical Environmental Concern, Desert Wildlife Management Areas, Priority Connectivity Areas, and other areas or easements managed for desert tortoises).</li> <li>• On project sites containing desert tortoise, consultation shall be conducted with USFWS and CDFW to determine the need for and/or feasibility of conducting desert tortoise translocation (changing location or position) to minimize the taking of the tortoises, if they are observed within the proposed project area. See <a href="http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/">http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/</a> for federal translocation plan guidance. Translocation plan development and implementation may require, but not be limited to: additional surveys of potential recipient sites; translocated and resident tortoise disease testing and health assessments; monitoring protocols; and consideration of climatic conditions at the time of translocation. Due to the potential magnitude of proposed renewable energy project impacts on desert tortoises, USFWS and CDFW must evaluate translocation efforts on a project by project basis in the context of cumulative effects.</li> <li>• A desert tortoise authorized biologist approved by CDFW and USFWS shall be contracted to oversee and be responsible for ensuring compliance with desert tortoise avoidance and minimization measures before initiation of and during ground-disturbing activities. The desert tortoise biologist shall conduct clearance surveys, tortoise handling, artificial burrow construction, egg handling, and other procedures in accordance with the Guidelines for Handling Desert Tortoise During Construction Projects (Desert Tortoise Council 1999) or the most current USFWS guidance. The desert tortoise biologist shall be present on site from March 15 through October 31 (active season) during ground-disturbing activities in areas outside the tortoise exclusion fencing. It is recommended that the biologist be on call from November 1 to March 14 (inactive season) and checks such construction areas immediately before construction activities begin.</li> <li>• Refer to the Ventura Fish and Wildlife Office website <a href="http://www.fws.gov/ventura/endangered/species/surveys-protocol.html">http://www.fws.gov/ventura/endangered/species/surveys-protocol.html</a> for desert</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>tortoise authorized biologist and monitor responsibilities and qualifications, and survey and translocation guidance, and refer to the Nevada Fish and Wildlife Office (desert tortoise recovery office) website &lt;<a href="http://www.fws.gov/nevada/desert_tortoise/dtro/.html">http://www.fws.gov/nevada/desert_tortoise/dtro/.html</a>&gt; for desert tortoise federal recovery plan documents. Methods for clearance surveys, fence specification and installation, tortoise handling, artificial burrow construction, egg handling and other procedures shall be consistent with those described in the 2013 USFWS Desert Tortoise Field Manual available at the Ventura Fish and Wildlife Office website listed above, or more current guidance provided by CDFW and USFWS. All terms and conditions described in the Biological Opinion for the project prepared by the USFWS shall be implemented.</p> <ul style="list-style-type: none"> <li>• The project owner shall undertake appropriate measures to manage the construction site and related facilities in a manner to avoid or minimize impacts to desert tortoise. These measures include, but are not limited to, the following:               <ul style="list-style-type: none"> <li>○ <u>The project applicant shall notify the USFWS and CDFW prior to project commencement and prior to the commencement of any ground disturbing activities.</u></li> <li>○ Before starting project ground disturbing activities, the project proponent shall avoid potential desert tortoise harm by incorporating desert tortoise exclusion fencing into permanent fencing surrounding the proposed facility, and installing desert tortoise exclusion fencing around temporary project construction areas such as staging area, storage yards, excavations, and linear facilities. The tortoise exclusion fencing shall be constructed consistent with the USFWS 2010 Desert Tortoise Exclusion Fence Specifications or the most current guidance provided by USFWS and CDFW, and should be constructed in late winter or early spring to minimize impacts to desert tortoise and accommodate subsequent tortoise surveys.</li> <li>○ Within 24 hours before starting tortoise exclusion fence construction, the desert tortoise biologist shall survey the fence alignment and utility right-of-way alignments and clear desert tortoises from the area. The surveys and relocation methods shall be conducted using techniques approved by the CDFW and USFWS. Following construction of the tortoise exclusion fence, the desert tortoise biologist shall conduct clearance surveys within the fenced area to ensure as many</li> </ul> </li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>desert tortoises as possible have been removed from the site. Burrows and tortoises identified within the project area shall be handled according to the 2013 USFWS Desert Tortoise Field Manual, and tortoises requiring relocation shall be handled in accordance with the project Desert Tortoise Relocation/Translocation Plan.</p> <ul style="list-style-type: none"> <li>○ Heavy equipment may enter the project site following the completion of project area desert tortoise clearance surveys by the desert tortoise biologist. Monitoring initial clearing and grading activities by the biologist will help ensure that tortoises missed during the initial clearance survey are moved from harm’s way.</li> <li>○ The desert tortoise biologist shall be responsible for appropriate documentation and reporting to the permitting agencies for desert tortoises handled, in accordance with the project Desert Tortoise Relocation/Translocation Plan.</li> <li>○ Security gates shall be designed with minimal ground clearance to deter ingress by tortoises. The gates shall be kept closed, except for the immediate passage of vehicles, to prevent desert tortoise passage into the project area.</li> <li>○ Following installation of the desert tortoise exclusion fencing, both the permanent site fencing and temporary fencing in the utility corridors, the fencing shall be regularly inspected by the biological monitor. The biological monitor shall ensure that damage to the permanent or temporary fencing is immediately blocked to prevent tortoise access and permanently repaired within 72 hours between March 15 and October 31, and within 7 days between November 1 and March 14. The biological monitor shall inspect permanent fencing quarterly and after major rains to ensure fences are intact and there is no ground clearance under the fence that would allow tortoises to pass. The biologist shall inspect construction pipes, culverts, or similar structures: (a) with a diameter <del>greater than 3 inches</del> <u>of one inch or greater</u>, (b) stored for one or more nights, (c) less than 8 inches aboveground, and (d) within desert tortoise habitat (outside the permanently fenced area), before the materials are moved, buried, or capped. As an alternative, the materials may be capped before storing outside the fenced area or placing on pipe racks. Inspection or capping is not necessary if the materials are stored within the permanently fenced area after completing desert tortoise clearance surveys.</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>○ The project proponent shall ensure vehicular traffic does not exceed 25 miles per hour within the delineated project areas or on access roads in desert tortoise habitat. On unpaved roads suppress dust and protect air quality by observing a 10-mile per hour speed limit.</li> <li>○ To avoid vehicle impacts to desert tortoise, workers shall be responsible for inspecting the ground under the vehicle for the presence of desert tortoise any time a vehicle or construction equipment is parked in desert tortoise habitat outside the permanently fenced area. If a desert tortoise is seen, it may move on its own. If it does not move within 15 minutes, the desert tortoise biologist may remove and relocate the animal to a safe location.</li> <li>● The project proponent shall develop and implement a Desert Tortoise Relocation/Translocation Plan that is consistent with current USFWS approved guidelines. The goal of the plan will be to safely exclude desert tortoises from within the fenced project area and relocate/translocate them to suitable habitat capable of supporting them, while minimizing stress and potential for disease transmission. The plan shall be developed in consultation with the USFWS to ensure the document does not conflict with conditions issued under an Incidental Take Statement. The plan will utilize the most recent USFWS guidance on translocation that includes siting criteria for the translocation site and control site, methods for translocation/relocation including the holding pen, and post translocation/relocation monitoring. Development and implementation of a translocation plan may require, but may not be limited to, additional surveys of potential recipient sites; disease testing and health assessments of translocated and resident tortoises; and consideration of climatic conditions at the time of translocation. The plan shall designate a relocation site as close as possible to the disturbance site that provides suitable conditions for long term survival of the relocated desert tortoise and outline a method for monitoring the relocated tortoise.</li> <li>● The Desert Tortoise Relocation/Translocation Plan must be approved by the County, CDFW and USFWS prior to any project-related ground disturbing activity. <u>Plans may also be subject to approval by the County as part of the conditions of approval for future projects.</u></li> <li>● Within 30 days after initiation of relocation and/or translocation activities, the Designated Biologist shall provide to the Project Manager for review and approval, a</li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>written report identifying which items of the plan have been completed, and a summary of all modifications to measures made during implementation of the plan. Written monthly progress reports shall be provided to the Project Manager for the duration of the plan implementation.</p> <ul style="list-style-type: none"> <li>The project proponent shall design and implement a Raven Monitoring, Management, and Control Plan that is consistent with the most current USFWS raven management guidelines. The goal of the plan shall be to minimize predation on desert tortoises by minimizing project-related increases in raven abundance. The plan shall be approved by <del>the County</del>, CDFW and USFWS prior to the start of any project-related ground disturbing activities. <u>Plans may also be subject to approval by the County as part of the conditions of approval for future projects.</u></li> </ul>	
	<p><b>BIO-7: Minimize impacts to special status reptiles (except desert tortoise).</b> The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status reptiles (with the exception of desert tortoise which has separate mitigation measures):</p> <ul style="list-style-type: none"> <li>Surveys for special status reptiles including but not limited to northern sagebrush lizard, Panamint alligator lizard, and Mojave fringe-toed lizard shall be conducted by a <del>qualified</del> <u>CDFW-approved</u> biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction.</li> <li>If any of these species are found on a project site during the surveys, CDFW will be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation</li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats.</p> <ul style="list-style-type: none"> <li>• If federal or state-listed reptiles not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project, consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species.</li> </ul>	
	<p><b>BIO-8: Minimize impacts to Swainson’s hawk.</b> The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect Swainson’s hawk:</p> <ul style="list-style-type: none"> <li>• Surveys shall be conducted for Swainson’s hawk by a <u>qualified CDFW-approved</u> biologist according to the 2010 Swainson’s Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (California Department of Fish and Game [CDFG] 2010) or more recent guidance, unless otherwise directed by CDFW. This guidance dictates survey methods for detecting Swainson’s hawk nesting in or in the vicinity of a project site and measure to avoid and/or reduce impacts to nesting Swainson’s hawk if they are found. The project applicant shall be responsible for coordinating with CDFW and ensuring that the CDFW guidance is implemented.</li> </ul>	
	<p><b>BIO-9: Minimize impacts to burrowing owl.</b> The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect burrowing owl, unless otherwise directed by CDFW:</p> <ul style="list-style-type: none"> <li>• In the calendar year that construction is scheduled to commence, surveys will be conducted by a <u>qualified CDFW-approved</u> biologist to determine presence/absence of</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>burrowing owls and/or occupied burrows in the project site and accessible areas within 500 feet according to the CDFW’s <i>Staff Report on Burrowing Owls</i> (CDFG 2012). A <del>winter non-breeding season</del> survey will be conducted between December 1 and January 31 and a <del>nesting-breeding season</del> survey will be conducted between April 15 and July 15 according to established protocols (CDFG 2012). Pre-construction surveys will also be conducted within 30 days prior to construction to ensure that no additional burrowing owls have established territories since the initial surveys. If no burrowing owls are found during any of the surveys, no further mitigation will be necessary. If burrowing owls are found, then the following measures shall be implemented prior to the commencement of construction:</p> <ul style="list-style-type: none"> <li>○ During the non-breeding season (September 1 through January 31) burrowing owls should be evicted by passive relocation as described in the <i>Staff Report on Burrowing Owl Mitigation</i>s (CDFG 2012). <u>A burrowing owl exclusion plan will be prepared and submitted to CDFW for approval prior to implementation of burrowing owl exclusion or relocation activities.</u></li> <li>○ Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31); occupied burrows shall not be disturbed and shall be provided with a <del>75-meter</del> protective buffer <u>as stipulated in the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG 2012),</u> unless a qualified biologist approved by CDFW verifies through non-invasive means that either: (1) the birds have not begun egg laying or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival.</li> <li>○ If on-site avoidance is required, the location of the buffer zone will be determined by a <del>qualified</del> <u>CDFW-approved</u> biologist. The developer shall mark the limit of the <del>75-meter</del> buffer zone with yellow caution tape, stakes, or temporary fencing. The buffer will be maintained throughout the construction period.</li> <li>● Where on-site avoidance is not possible, CDFW should be consulted regarding the appropriate avoidance and minimization measures to avoid impacts to this species.</li> <li>○ <u>Impacts to occupied burrowing owl habitat as defined by CDFW will be mitigated in compliance with the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG 2012) including restoration of temporarily disturbed habitats to pre-</u></li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>project conditions and compensatory mitigation for permanent impacts. A</u></p> <ul style="list-style-type: none"> <li><u>burrowing owl mitigation plan will be prepared and submitted to CDFW for approval prior to commencement of any ground disturbing activities. The plan will describe potential impacts to burrowing owl resulting from the proposed project and prescribe mitigation measures in accordance with CDFW guidelines.</u></li> </ul>	
	<p><b>BIO-10: Minimize impacts to western snowy plover, western yellow-billed cuckoo, Inyo California towhee, and bank swallow.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect federally-listed bird species (<del>without published survey protocols</del>)<u>for which survey protocols have not been published</u>, including the western snowy plover, <del>western yellow-billed cuckoo</del>, Inyo California towhee, and bank swallow, the USFWS shall be contacted to develop project specific measures to determine the potential for presence/absence of the species in the project area and appropriate avoidance and mitigation measures. For projects in the desert portions of the County, contact the Palm Springs Fish and Wildlife Office. For projects in the forested portions of the County or the Owens Valley, contact the Nevada Fish and Wildlife Office. Mitigation measures shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take” of federally-listed bird species, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. <u>Western yellow-billed cuckoo, Inyo California towhee, and bank swallow are also state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of these species (as defined by the Fish and Game Code).</u></p>	



**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><b>BIO-11: Minimize impacts to southwestern willow flycatcher.</b>                      Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect southwestern willow flycatcher, surveys shall be conducted according to Southwestern Willow Flycatcher Protocol Revision 20010 (<a href="http://www.fws.gov/mountain-prairie/endspp/protocols/SWWFReport.pdf">http://www.fws.gov/mountain-prairie/endspp/protocols/SWWFReport.pdf</a><del><a href="http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/SWWFlycatcher.2000.protocol.pdf">http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/SWWFlycatcher.2000.protocol.pdf</a></del>) following the guidelines for the revised protocol for project-related surveys or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office. For projects that are determined to have the potential to result in “take” of southwestern willow flycatcher, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. <u>Southwestern willow flycatcher is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as defined by the Fish and Game Code).</u> Mitigation measures shall be implemented and shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat.</p>	
	<p><b>BIO-12: Minimize impacts to bald and golden eagle.</b>                      Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect bald and golden eagles, the project proponent shall implement the following measures to avoid and offset impacts:</p> <ul style="list-style-type: none"> <li>• Site specific surveys and monitoring of known or suspected eagle nesting and foraging habitat in areas where eagles occur (i.e., all of California) shall be conducted to provide background information related to <u>bald eagle take permits (golden eagle is fully protected pursuant to Fish and Game Code and no permits may be issued for their</u></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>take). Surveys shall be conducted using (at least) methods and qualified personnel as recommended by CDFW and USFWS. Surveys shall be conducted according to the USFWS's 2010 <i>Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations</i> (available online at <a href="http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/usfws_interim_goea_monitoring_protocol_10march2010.pdf">http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/usfws_interim_goea_monitoring_protocol_10march2010.pdf</a>), the USFWS's 2004 <i>Protocol for Evaluating Bald Eagle Habitat and Populations in California</i> and CDFW's 2010 <i>Bald Eagle Breeding Survey Instructions</i> (both documents are available online at <a href="http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html">http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html</a>) or the most recent guidance regarding non-breeding season surveys for winter, migratory, and floating populations of eagles determined in coordination with CDFW and USFWS.</p> <ul style="list-style-type: none"> <li>• Where proposed projects may result in take of bald or golden eagles, the USFWS shall be consulted to determine the standards and requirements for the permit titled "Eagle Take – Necessary to Protect Interests in a Particular Locality." Bald Eagle take permits are performance based and will hinge on the merits of the application. The permit application form and related information are on the USFWS website: <a href="http://www.fws.gov/migratorybirds/baldeagle.htm">http://www.fws.gov/migratorybirds/baldeagle.htm</a>. The final rule (Federal Register / Vol. 74, No. 175, September 11, 2009), Environmental Assessment (<a href="http://www.fws.gov/migratorybirds/CurrentBirdIssues/BaldEagle/FEA_EagleTakePermit_Final.pdf">http://www.fws.gov/migratorybirds/CurrentBirdIssues/BaldEagle/FEA_EagleTakePermit_Final.pdf</a>), implementation and protocol documents, and consultations with USFWS will provide additional guidance.</li> <li>• Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas used by eagles for thermal or orographic lift.</li> <li>• Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas used by eagles for thermal or orographic lift.</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>Projects shall incorporate actions to avoid eagle disturbance (refer to the USFWS National Bald Eagle Management Guidelines, May 2007 and Interim Golden Eagle Technical Guidance: Inventory and Monitoring Protocols; and Other Recommendations in Support of Golden Eagle Management and Permit Issuance, Attachment II) in consultation with the USFWS to obtain the most current guidance and measures.</li> </ul>	
	<p><b>BIO-13: Minimize impacts to least Bell’s vireo.</b>            Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to <u>contain habitat for least Bell’s vireo on or adjacent to the site, have the potential to affect least Bell’s vireo,</u> surveys shall be conducted according to the USFWS’s Least Bell’s Vireo Survey Guidelines (<a href="http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/LBVireo.2001.protocol.pdf">http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/LBVireo.2001.protocol.pdf</a>) or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office.</p> <p>For projects that are determined to have the potential to result in “take” of least Bell’s vireo, <u>either on or off-site due to direct or indirect impacts,</u> consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. <u>Least Bell’s vireo is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as defined by the Fish and Game Code).</u></p> <p><u>For projects with the potential to result in direct or indirect impacts to least Bell’s vireo or its habitat, mitigation measures shall be developed in consultation with USFWS and CDFW and shall be implemented prior to project implementation. Such measures and shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, habitat restoration, and compensatory mitigation for loss of habitat</u></p>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<u>that may include implementation of captive breeding programs.</u>	
	<p><b>BIO-14: Minimize impacts to bighorn sheep.</b>                      Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect bighorn sheep, the project applicant shall retain a qualified biologist, approved by the USFWS and CDFW, to conduct preconstruction surveys for Sierra Nevada bighorn sheep and/or Peninsular and Mojave bighorn sheep depending on the location of the project. Due to low detection probabilities, the following data shall be used when evaluating potential projects impacts to the species: data relative to historic ranges of bighorn sheep; known and potential wildlife corridors (such as, those identified in the BLM Mojave and Colorado deserts land use plans); point location data; and existing literature. If bighorn sheep or their migration routes exist, are known or likely to occur on or in the vicinity of the project site, and may be affected by project-related activities, the consultation shall be conducted with USFWS, CDFW, and other stakeholders, as appropriate, regarding avoidance, minimization, compensatory mitigation, or site abandonment. <del>For projects that are determined to have the potential to result in “take” of state or federally listed bighorn sheep, consultation shall be conducted with CDFW or USFWS respectively and take authorization shall be obtained prior to project commencement.</del></p> <p><b>BIO-15: Minimize impacts to Sierra Nevada red fox.</b>                      Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect Sierra Nevada red fox, CDFW shall be contacted to develop project specific measures to determine the potential for presence/absence of this species in the project area and appropriate avoidance and mitigation measures. Mitigation measures shall include, but are not limited to, a species specific habitat assessment and/or focused surveys to determine whether Sierra Nevada red fox or its habitat is present in or adjacent to the project site, measures to avoid or minimize impacts to this species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take,” consultation will be conducted with CDFW under the California Endangered Species Act and incidental take authorization will be obtained prior to project commencement.</p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><b>BIO-16: Minimize impacts to Mohave ground squirrel.</b>  <u>Protocol Mohave ground squirrel surveys shall be required for projects that propose impacts to habitat with potential to support Mohave ground squirrel or are within or adjacent to the species’ known range. Mohave ground squirrel surveys consist of a visual survey followed by 3 trapping sessions of 5 nights each (CDFW 2003). Each trapping session must be conducted during a specific time frame. The first session must be conducted between March 15 and April 30; the second between May 1 and May 31; and the third between June 15 and July 15. Trapping can be discontinued if a Mohave ground squirrel is trapped or observed, in which case the survey area is deemed to be occupied. If survey results are negative, the survey area will be deemed to be unoccupied for one year during which pre-construction surveys are not required. If survey results are positive, the project shall obtain an incidental take permit from CDFW under CESA Section 2081.</u>  <del>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect Mohave ground squirrel, consultation shall be conducted with CDFW to determine the survey protocol and mitigation measures appropriate to the project. For projects that are determined to have the potential to result in “take” of Mohave ground squirrel, consultation shall be conducted with CDFW and take authorization shall be obtained prior to project commencement. Avoidance and mitigation measures shall include but are not limited to the following:                      The project applicant shall retain a CDFW approved Mohave ground squirrel biologist to oversee CDFW required measures including but not limited to tasks such as conducting clearance surveys, handling Mohave ground squirrels, artificial burrow construction, and other procedures in accordance with CDFW protocols.</del></p> <p><b>BIO-17: Minimize impacts to American badger and kit fox.</b>                      Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect American badger and/or kit fox, the following measures shall be implemented to avoid, minimize, and mitigate for impacts to these species:</p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>• The project proponent shall prepare and implement an American badger and/or kit fox management plan. The plan shall be prepared in accordance with the most current CDFW guidelines for these species. The plan shall be approved by CDFW prior to implementation. The plan shall include the following components:                             <ul style="list-style-type: none"> <li>○ Preconstruction surveys and mapping efforts: biological monitors shall perform pre- construction surveys for badger and kit fox dens in the project area, including areas within 250 feet of all project facilities, utility corridors, and access roads. If dens are detected, each den shall be classified as inactive, potentially active, or definitely active, including characterization of den type for kit fox (natal, pupping, likely satellite, atypical) per CDFW guidance, and mapped along with major project design elements.</li> <li>○ Inactive dens that would be directly impacted by construction activities shall be excavated by hand and backfilled to prevent reuse by badgers or kit fox. Excavation and filling activities shall be performed by <del>the a qualified</del> <u>CDFW-approved</u> biologist. Potentially and confirmed active dens shall not be disturbed during the whelping/pupping season (February 1 to September 30).</li> <li>○ Monitoring requirements. Potentially and definitely active dens that would be directly impacted by construction activities shall be monitored by the <del>qualified</del> <u>CDFW-approved</u> biologist for three consecutive nights (during weather conditions favorable for detection) using a tracking medium (such as diatomaceous earth or fire clay) and/or infrared camera stations at the entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand. If tracks are observed, the den shall be progressively blocked with natural materials (rocks, dirt, sticks, and vegetation piled in front of the entrance) for the next three to five nights to discourage the badger or kit fox from continued use. After verification that the den is unoccupied it shall then be excavated and backfilled by hand to ensure that no badgers or kit fox are trapped in the den.</li> <li>○ Passive relocation strategies. The management plan shall contain, at a minimum, several strategies to passively relocate animals from the site. These methods may entail strategic mowing, fencing, or other feasible construction methods to assist in moving animals offsite toward desirable land. The plan</li> </ul> </li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>shall address location of preferred offsite movement of animals, based on CDFW data and land ownership. <del>Private</del> <u>Even with permission from the landowner, private</u> land is to be avoided to the maximum extent practicable.</p> <ul style="list-style-type: none"> <li>○ Escape dens shall be installed along the perimeter fencing to reduce predation risk.</li> <li>○ Kit fox disease prevention measures. The <del>qualified</del> <u>CDFW-approved</u> biologist shall notify the County project manager and CDFW within 24 hours if a dead kit fox is found or appears sick. The plan must also detail a response to a kit fox injury, including a necropsy plan, reporting methods, and scope of adaptive methods in the event of a known or suspected outbreak. The project owner will pay for any necropsy work.</li> </ul>	
	<p><b>BIO-18: Minimize impacts to other special status birds, raptors, migratory birds, nesting birds and bats.</b></p> <p>The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact nesting birds and/or bats and shall be implemented to avoid, minimize, and mitigate for impacts to birds and bats. These measures are for bird species without established protocols and non-listed bird species that lack species-specific mitigation measures (not applicable to the common raven). For future development proposed to be located on or near land with old mines, specific survey protocols and mine closure considerations shall be developed.</p> <p><b>Pre-Construction Bird Surveys and Avoidance Measures</b></p> <p>If project construction occurs between roughly February 1 and August 31, a <del>County-approved</del> <u>qualified biologist(s) CDFW-approved biologist</u> shall conduct preconstruction surveys for nesting birds. The biologist(s) conducting the surveys shall be experienced bird surveyors and familiar with standard nest-locating techniques. Surveys shall be conducted in accordance with the following guidelines:</p> <ul style="list-style-type: none"> <li>● <u>CDFW and/or USFWS (depending on the avian species in question) shall be contacted to obtain approval of pre-construction survey methodology prior to commencement of the surveys.</u></li> </ul>	Significant and Unavoidable

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>• Surveys shall cover all potential nesting habitat in the project site and within 500 feet of the project site and linear facilities boundaries – inaccessible areas outside of the project boundary may be surveyed from within the project site or publicly accessible land with the aid of binoculars.</li> <li>• Vegetation removal or other ground disturbing activities should be avoided between February 1 and August 31; however if it cannot be avoided, the <u>CDFW-approved avian</u> biologist shall survey breeding/nesting habitat within the survey radius described within one week prior to the start of project activities.</li> <li>• CDFW and/or USFWS must provide concurrence with the survey findings prior to the start of construction. Site preparation and construction activities may begin after receiving the concurrence and if no breeding/nesting birds are observed. Additional follow up surveys shall be conducted if periods of construction inactivity exceed one week in any given area, an interval during which birds may establish a nesting territory and initiate egg laying and incubation.</li> <li>• If active nests are detected during the survey, a no-disturbance buffer zone (protected area surrounding the nest, the size of which is to be determined by the project biologist in consultation with CDFW and/or USFWS) and a monitoring plan shall be developed. The nesting bird plan shall identify the types of birds that may nest in the project area, the proposed buffers, monitoring requirements, and reporting standards that will be implemented to ensure compliance with the MBTA and Fish and Game Codes 3505 and 3505.3. The <del>avian</del> <u>CDFW-approved</u> biologist shall monitor the nest until he or she determines that nestlings have fledged and dispersed.</li> </ul> <p><b>Pre-Construction Bat Surveys and Avoidance Measures</b></p> <p>Preconstruction bat surveys shall be conducted by a <del>qualified</del> <u>CDFW-approved</u> biologist(s) familiar with standard bat survey techniques. If night or day roosting bats are identified in project structures they shall not be disturbed and a 100-foot non-disturbance buffer shall be placed between the roost and the construction activities until a determination is made whether the roost is a maternity roost or a non-breeding roost. Maternity colonies shall not be disturbed until coordination with CDFW is conducted to determine appropriate measures including an appropriate no-disturbance buffer. If the <del>qualified</del> <u>CDFW-approved</u> bat biologist determines</p>	



**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>roosting bats consist of a non-breeding roost, the individuals shall be safely evicted under the direction of a <u>qualified CDFW-approved bat biologist</u>. CDFW shall be notified of any bat evictions within 48 hours.</p> <p><b><u>Bat and Avian Protection Plan</u></b>  <del>A bat and avian protection plan shall be developed to protect bats, migratory birds, and golden eagles while improving conservation, safety, and reliability for utility customers. The plan shall include measures to monitor the death and injury of birds from solar flux, radiance, and collisions with facility features such as reflective mirror-like surfaces. Guidance in the California Guidelines (Appendix D) and Avian Protection Plan Guidelines published by the APLIC and USFWS (2005) shall be consulted. The plan shall be approved by the County, CDFW, and USFWS prior to the start of project construction. The following monitoring/detection recommendations from the USFWS Forensics Laboratory (Kagan et al. unpub.) shall be considered:</del></p> <ul style="list-style-type: none"> <li><del>• Install video cameras sufficient to provide 360 degree coverage around each tower to record birds (and bats) entering and exiting the flux.</del></li> <li><del>• For at least 2 years (and in addition to the planned monitoring protocol), conduct daily surveys for birds (at all 3 facilities), as well as insects and bats around each tower at the base of and immediately adjacent to the towers in the area cleared of vegetation. Timing of daily surveys can be adjusted to minimize scavenger removal of carcasses. Surveys in the late afternoon might be optimal for bird carcasses, and first light for bat carcasses.</del></li> <li><del>• Use dogs for monitoring surveys to detect dead and injured birds that have hidden themselves in the brush, both inside and outside the perimeter of the facility.</del></li> </ul> <p><del>To decrease removal of carcasses, implement appropriate raven deterrent actions.</del></p> <p><b><u>Bird and Bat Conservation Strategy</u></b></p> <p><u>A bird and bat conservation strategy (BBCS) shall be prepared to reduce potential project impacts on migratory birds. The BBCS shall describe proposed actions to avoid, minimize, and mitigate adverse effects to migratory birds protected under the MBTA during construction and operations of the proposed project. The BBCS shall be submitted to USFWS and CDFW for approval prior to the start of ground disturbing activities. The BBCS shall address buffer</u></p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>distances for specific bird species and include a robust, systematic monitoring protocol to document mortality and habitat effects to birds. The monitoring protocol should incorporate the following objectives at a minimum: (1) a minimum of weekly monitoring for mortality and immediate necropsy to determine cause of death, both during construction and throughout the life of the project; (2) systematic data collection and reporting of bird mortality including data on the following: species, date, time, how the animal died (e.g., exhaustion, trauma), as well as any information on what might be attracting animals to the photovoltaic cells (light, insects, etc.); (3) a method to estimate the overall annual avian mortality rate associated with the facility, including mortality associated with all the features of the project that are likely to result in injury and mortality (e.g., fences, ponds, solar panels); and (4) methods to determine whether there is spatial differentiation within the solar field in the rates of mortality (i.e., panels on the edge of the field versus interior of the field). Biologists performing this work would be required to have a Scientific Collecting Permit from CDFW. Standardized and systematic data on bird and bat mortalities will be collected to contribute to the improvement of the scientific communities' understanding of both baseline and photovoltaic related mortality that occurs in solar projects in the desert and is needed in order to identify improved methods to minimize adverse effects on migrating birds and bats.</u></p> <p><u>In the absence of a permit from the USFWS, the temporary or permanent possession of protected migratory birds and their carcasses is a violation of the MBTA. Because of the need for carcass collection to adequately monitor avian impacts during BBCS implementation and to reduce the food subsidy that carcasses may provide to common ravens (<i>Corvus corax</i>) and other predators, developers shall be required to obtain a special purpose utility permit from the USFWS allowing the collection of migratory birds and/or their carcasses prior to implementation of the monitoring protocol.</u></p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><b>General Bird Mortality Avoidance Measures</b></p> <p>The following measures are recommended by the USFWS Forensics Laboratory and shall be implemented to minimize bird mortality from birds attracted to solar facilities:</p> <ul style="list-style-type: none"> <li>• All potential nesting vegetation (e.g., trees, shrubs) shall be removed within the fenced area of the facility to decrease attractive habitat.</li> <li>• <u>The most current science regarding visual cues to birds that the solar panel is a solid structure shall be implemented. This may include but is not limited to UV-reflective or solid, contrasting bands spaced no further than 28 centimeters from each other. An adaptive management approach for reducing bird collisions with solar panels shall be implemented in coordination with the USFWS so that measures used are systematically tested and modified as appropriate. This may include but is not limited to UV reflective or solid, contrasting bands spaced no further than 28 centimeters from each other.</u></li> <li>• <u>Projects with documented avian mortality shall work with the USFWS to conduct additional research to test measures for reducing avian mortality. Such measures could include, but are not limited to, experimental lighting within the solar field and use of detection and deterrent technologies.</u></li> <li>• <u>Developers of Ppower tower operations shall be suspended during peak migration times for indicated species. implement adaptive management in consultation with the USFWS should mortality monitoring indicate that suspension of power tower operations during certain periods is necessary to reduce impacts on local or regional bird populations. Such measures may include, but are not limited to, suspending or reducing project operations during peak migration seasons.</u></li> <li>• Vertical orientation of mirrors shall be avoided whenever possible (for example, mirrors shall be tilted during washing).</li> <li>• <del>If the use of open evaporation ponds is permitted for the project and especially if the water would be considered toxic to wildlife, ponds shall be designed to discourage bird and other wildlife use by properly netting or otherwise covering the pond.</del></li> <li>• Perch deterrent devices shall be placed on tower railings.</li> <li>• Exclusionary measures shall be employed to prevent bats from roosting in and around the facility.</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><b>Minimize Impacts from Solar Flux</b></p> <p>The following mitigation measures shall be implemented in order to minimize <u>avian impacts from solar flux</u>:</p> <ul style="list-style-type: none"> <li>• <u>Solar thermal developments utilizing solar power tower technologies shall not be sited in or within a minimum of 1,000 feet of from Important Bird Areas (as determined by the County in consultation with Responsible and Trustee agencies), the OVSA, or riparian or other aquatic habitats including lakes, ponds, rivers, streams, and perennial wetland habitats unless potentially significant impacts are avoided, although the appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies. This requirement generally does not apply to seasonal or ephemeral wetland habitats unless deemed necessary by a qualified biologist in light of the wetland’s specific habitat value for bird species.</u></li> <li>• <u>The County shall require developers proposing solar power tower technology to coordinate with the USFWS during project planning. As part of that coordination process, and in conjunction with the project’s next tier of CEQA review, the USFWS will advise the County whether a Bird and Bat Conservation Strategy would be necessary for the project, and if required, would adequately reduce the effects of the project on migratory birds and bats.</u></li> </ul> <p><b>Minimize Impacts from Open Evaporation Ponds</b></p> <p>The following mitigation measures shall be implemented for projects that require the use of open evaporation ponds:</p> <ul style="list-style-type: none"> <li>• <u>An evaporation pond management plan shall be prepared and submitted to CDFW for approval prior to project approval.</u></li> <li>• <u>If the use of open evaporation ponds is permitted for the project and especially if the water would be considered toxic to wildlife, ponds shall be designed to discourage bird and other wildlife use by properly netting or otherwise covering the pond.</u></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><b>Avoid Impacts from Electric Lines and Lights</b></p> <p>The following design measures shall be implemented for applicable projects to minimize impacts to bats and birds:</p> <ul style="list-style-type: none"> <li>• Transmission lines and electrical components shall be installed and maintained in accordance with the Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006 (APLIC 2006) or the most recent guidance to reduce the likelihood of electrocutions of raptors and other large birds, .</li> <li>• Transmission lines and electrical components shall be installed and maintained in accordance with the APLIC’s <del>Mitigating Bird</del> <u>Reducing Avian Collisions with Power Lines: The State of the Art in 1994-2012</u> (Edison Electric Institute <del>2004</del><u>2012</u>) or the most recent guidance to reduce the likelihood of bird collisions.</li> <li>• Low and medium voltage connecting power lines shall be placed underground, if feasible. If burial of the lines is not feasible due to cost or other logistical reasons (for example in shallow bedrock areas) or may cause unacceptable impacts to biological habitats and their dependent species, overhead lines may be installed in compliance with the following requirements:             <ul style="list-style-type: none"> <li>○ low and medium voltage overhead lines shall be sited away from high bird crossing locations, such as between roosting and feeding areas or between lakes, rivers, and nesting areas; and/or</li> <li>○ low and medium voltage overhead lines shall be installed parallel to tree lines or be otherwise screened so that collision risk is reduced.</li> </ul> </li> <li>• Permanent communication towers and permanent meteorological towers shall not be constructed with guy wires, if feasible. If guy wires are necessary for permanent or temporary towers, bird flight diverters or high visibility marking devices shall be used. In such cases a monitoring plan shall be developed and carried out to determine the diverters’/devices’ effectiveness in reducing bird and bat mortality.</li> <li>• Facility lighting shall be installed and maintained to prevent upward and side casting of light towards wildlife habitat and motion sensors shall be used. If the FAA requires</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>turbine or tower lighting to alert aircraft, red or white strobe lights shall be used on the structures to minimize avian collision risks. The strobes shall be on for as brief of a period as possible and the time between strobe or flashes shall be the longest allowable. Strobes shall be synchronized so that a strobe effect is achieved and towers are not constantly illuminated.</p> <ul style="list-style-type: none"> <li>• Lights with sensors and switches shall be used to keep lights off when not required.</li> <li>• The use of high-intensity lighting, steady-burning, or bright lights such as sodium vapor or spotlights shall be minimized.</li> </ul> <p><b><u>Compensatory Mitigation for the Cumulative Loss of Migratory Bird Habitat along the Pacific Flyway</u></b></p> <p><u>The County shall require solar development projects implemented under the REGPA to mitigate for the loss of habitat by funding activities to restore, enhance, or conserve important habitat for migratory birds or to remove other mortality sources from the Pacific Flyway. Such funding may be directed to the Sonoran Joint Venture (<a href="http://sonoranjv.org">http://sonoranjv.org</a>), Central Valley Joint Venture (<a href="http://www.centralvalleyjointventure.org">http://www.centralvalleyjointventure.org</a>), or Intermountain West Joint Venture (<a href="http://iwjv.org">http://iwjv.org</a>), or other groups able to implement conservation of migratory birds within the Pacific Flyway. The amount of funding will be determined by the County in coordination with USFWS and shall be commensurate with the level of impact.</u></p>	
<p>Impacts to special status natural communities (i.e., vegetation communities of limited distribution statewide or within a county or region) could occur as a result of implementation of the REGPA if construction and/or operation of the future solar developments results in the disturbance or loss of</p>	<p><b>BIO-19: Minimize impacts to special status natural communities and protected natural areas.</b></p> <p>Solar development authorized under the REGPA will not be sited within any special status natural communities or protected natural areas. If solar development is sited adjacent to any special status natural communities or protected natural areas <u>or is determined to have the potential to impact any off-site special status natural communities or protected natural areas during the project level biological resources evaluation (e.g., projects in the Laws SEDA could impact the hydrology of critical habitat for Fish Slough milk-vetch; projects in the Chicago Valley SEDA could negatively impact off-site mesquite bosque by altering drainage patterns or altering groundwater levels; projects in the Charleston View and Chicago Valley SEDAs could impact down-watershed habitats in the Amargosa Watershed (including habitats within</u></p>	<p>Less Than Significant</p>

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
protected natural communities.	<p>the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic.”), a management plan will be developed in consultation with CDFW and/or USFWS. The management plan will address the potential offsite effects of the construction and on-going operations of the facility on special status species including but not limited to the effects of human disturbance, noise, nighttime maintenance activities, increased lighting, increased traffic on desert roads, and barriers to movement for special status species. The management plan will also address potential mechanisms of offsite habitat degradation such as introduction of invasive weeds, introduction or attraction of feral animals or other species attracted to areas with anthropogenic disturbance, hydrologic disruption due to groundwater impacts or alteration of surface drainage patterns, and increased risk of wildfires. The management plan will also outline the specific measures to be undertaken to avoid and/or minimize indirect effects of the solar development on the adjacent sensitive habitat and special status species and include a plan for long term monitoring of the adjacent habitat as well as an adaptive management plan.</p> <p>If riparian communities (other than water birch riparian scrub – a special status natural community that must be avoided) are present in a project area, impacts to riparian communities shall be avoided or minimized by implementing the following measures:</p> <ul style="list-style-type: none"> <li>• The project shall be redesigned or modified to avoid direct and indirect impacts on riparian communities, if feasible.</li> <li>• Riparian communities adjacent to the project site shall be protected by installing environmentally sensitive area fencing, at least 20 feet from the edge of the riparian vegetation. Depending on site specific conditions, this buffer may be narrower or wider than 20 feet if necessary, in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area.</li> <li>• The potential for long term loss of riparian vegetation shall be minimized by trimming vegetation rather than removing the entire shrub. Shrub vegetation shall be cut at least</li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>1 foot above ground level to leave the root systems intact and allow for more rapid regeneration of the species. Cutting shall be limited to a minimum area necessary within the construction zone. This type of removal shall be allowed only for shrub species (all trees shall be avoided) in areas that do not provide habitat for sensitive species (e.g., willow flycatcher).</p> <ul style="list-style-type: none"> <li>• If riparian vegetation is removed as part of a project, the loss of riparian vegetation shall be mitigated to ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW and USFWS). Compensation shall be provided at a minimum 1:1 ratio (1 acre restored or created for every 1 acre removed) and may be a combination of on-site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented that describes how riparian habitat shall be enhanced or recreated and monitored over a minimum period of time, as determined by the appropriate state and federal agencies.</li> </ul>	
<p>Construction and maintenance activities associated with future projects implemented under the REGPA could result in disturbance or loss of waters of the US and/or State. These wetlands or other waters of the US/State could be affected through direct removal, filling, hydrological interruption (including dewatering), alteration of bed and bank, and other construction related activities.</p>	<p><b>BIO-20: Minimize impacts to waters of the US/State, including wetlands.</b> The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact waters of the US or waters of the State, including wetlands, and shall be implemented to avoid, minimize, and mitigate for such impacts. These measures shall be incorporated into contract specifications and implemented by the construction contractor. In addition, the project proponent shall ensure that the contractor incorporates all state and federal permit conditions into construction specifications.</p> <ul style="list-style-type: none"> <li>• <u>Wetlands and other waters of the US/state shall be delineated on the project site using both USACE and CDFW definitions of wetlands. USACE jurisdictional wetlands shall be delineated using the methods outlined in the USACE 1987 Wetlands Delineation Manual and the Arid West Manual, or the most recent guidance.</u> This information shall be mapped and documented as part of the CEQA documentation, as applicable, and in wetland delineation reports. All applicable permits shall be obtained prior to impacting waters of the US/State including CWA Section 404 and 401 permits</li> </ul>	<p>Less Than Significant</p>



**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>from the USACE and the RWQCB respectively and a Streambed Alteration Agreement from CDFW.</p> <ul style="list-style-type: none"> <li>• <u>The project shall be redesigned or modified to avoid direct and indirect impacts on waters of the U.S./State, if feasible.</u></li> <li>• Standard erosion control measures shall be implemented for all phases of construction and operation where sediment runoff from exposed slopes threatens to enter waters of the State and/or waters of the US. Sediment and other flow-restricting materials shall be moved to a location where they shall not be washed back into the stream. All disturbed soils and roads within the project site shall be stabilized to reduce erosion potential, both during and following construction. Areas of disturbed soils (access and staging areas) with slopes trending towards a drainage shall be stabilized to reduce erosion potential.</li> <li>• <del>Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing at least 20 feet from the edge of the wetland. Depending on site specific conditions and permit requirements, this buffer may be wider than 20 feet, if necessary, in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area.</del></li> <li>• <u>All construction vehicles and equipment shall use existing roadways to the extent feasible to avoid or reduce impacts to waters of the U.S./State.</u></li> <li>• Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used.</li> <li>• Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing at least 20 feet from the edge of the wetland. Depending on site-specific conditions and permit requirements, this buffer may be wider than 20 feet in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>construction drawings. The construction specifications shall contain clear language that prohibits construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within the fenced environmentally sensitive area.</p> <ul style="list-style-type: none"> <li>• Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used.</li> <li>• Where determined necessary by resource specialists, geotextile cushions and other materials (e.g., timber pads, prefabricated equipment pads, or geotextile fabric) shall be used in saturated conditions to minimize damage to the substrate and vegetation.</li> <li>• Exposed slopes and stream banks shall be stabilized immediately on completion of installation activities. Other waters of the US shall be restored in a manner that encourages vegetation to reestablish to its pre-project condition and reduces the effects of erosion on the drainage system.</li> <li>• In highly erodible stream systems, banks shall be stabilized using a non-vegetative material that will bind the soil initially and break down within a few years. If the project engineers determine that more aggressive erosion control treatments are needed, geotextile mats, excelsior blankets, or other soil stabilization products shall be used.</li> <li>• During construction, trees, shrubs, debris, or soils that are inadvertently deposited below the ordinary high-water mark of drainages shall be removed in a manner that minimizes disturbance of the drainage bed and bank.</li> <li>• If wetlands are filled or disturbed as part of the <del>highway-solar</del> project, compensation will be implemented for the loss of wetland habitat to ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW, USFWS, and USACE). The compensation shall be at a minimum 1:1 ratio (1 acre restored or created for every 1 acre filled) and may be a combination of on site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented if onsite or offsite restoration or creation is chosen. The plan shall describe how wetlands shall be created and</li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	monitored for the duration established by the regulatory agency.	
Impacts to wildlife movement or corridors may occur as a result of implementation of the. Project activities that would interfere with the movement of resident or migratory species or impede fish or wildlife corridors, or nursery habitat would be considered to be a potentially significant impact.	<p><b>BIO-21: Minimize impacts to movement or migratory corridors or native wildlife nursery sites.</b>  <u>The following mitigation measures will be implemented to minimize impacts to movement or migratory corridors or native wildlife nursery sites:</u></p> <ul style="list-style-type: none"> <li>• <u>Solar development authorized under the REGPA should shall not be sited in or within 1,000 feet of any areas determined by the County in consultation with responsible and trustee agencies to be Important Bird Areas, essential connectivity areas or linkages identified in the 2001 Missing Links in California’s Landscape Project (Penrod et al. 2001), or USFWS identified desert tortoise priority connectivity areas or tule elk and mule deer movement corridors unless potentially significant impacts are avoided. The appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies.</u></li> <li>• <u>Any proposed solar development projects in the OVSA shall be required to study the potential impact of the project on tule elk and mule deer movement corridors prior to project approval. If a proposed project is determined to be located within an important tule elk and mule deer movement corridor, the applicant shall be responsible for the preparation of a plan to avoid and/or minimize impacts to such corridors in coordination with CDFW.</u></li> <li>• <u>As stated in Mitigation Measure BIO-6, projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Draft Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, ACECs, DWMAs, priority connectivity areas, and other areas or easements managed for desert tortoises).</u></li> </ul>	Less Than Significant
The spread of invasive plant species or noxious weeds could occur as a result of implementation of the REGPA. Invasive species impacts would have the potential to cause an	<p><b>BIO-22: Minimize impacts <del>s</del>spread of to invasive plant species or noxious weeds.</b>                      For projects implemented under the REGPA that are determined during the project level biological resource evaluation to have the potential to result in the spread of invasive plant species or noxious weeds, the following mitigation measures shall be implemented:                       To prevent the introduction and spread of noxious weeds, a project-specific integrated weed</p>	Less Than Significant

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
adverse affect on a variety of special status species and sensitive natural communities through alteration of a broad range of ecological interactions. This would be a potentially significant impact.	<p>management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> <li>• The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes.</li> <li>• Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site.</li> <li>• Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored.</li> <li>• The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned.</li> <li>• Native vegetation shall be re-established quickly on disturbed sites.</li> <li>• Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions.</li> <li>• Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations.</li> </ul>	
Implementation of the REGPA has the potential to result in significant impacts to special status plants and wildlife, riparian habitats and other sensitive natural communities, and waters of the US, and/or state.	<p><b>BIO-23: Implement general design guidelines to minimize impacts to biological resources.</b> All projects authorized under the REGPA will incorporate the following design guidelines as applicable in coordination with the County:</p> <ul style="list-style-type: none"> <li>• Design and site the project, in consultation with the permitting agencies, to avoid or minimize impacts to sensitive and unique habitats and wildlife species. Locate energy generation facilities, roads, transmission lines, and ancillary facilities in the least environmentally sensitive areas (such as away from riparian habitats, streams, wetlands, vernal pools, drainages, sand dunes, critical wildlife habitats, wildlife conservation, management, other protected areas, or unique plant assemblages).             <ul style="list-style-type: none"> <li>○ Design facilities to use existing roads and utility corridors as much as possible to minimize the number and length/size of new roads, laydown, and borrow areas.</li> <li>○ Design transmission line poles, access roads, pulling sites, storage, and parking areas to avoid special status species or unique plant assemblages</li> </ul> </li> </ul>	Significant and Unavoidable

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>adjacent to linear facilities.</li> <li>○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions.</li> <li>○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions.</li> <li>○ Design facilities to discourage their use as bird perching, drinking, or nesting sites.</li> <li>○ Design facility lighting to prevent side casting of light toward wildlife habitat and skyward protection of light that may disorient night-migrating birds.</li> <li>○ Avoid using or degrading high value or large intact habitat areas, such as areas identified as sensitive natural habitat, Wilderness Areas, Areas of Critical Environmental Concern, critical habitat; riparian, sand dunes.</li> <li>○ Avoid severing movement and connectivity corridors. Consider existing conservation investments such as protected areas and lands held in trust for conservation purposes.</li> <li>○ Locate facilities so they do not disrupt sand transport processes nor remove some or all of a sand source that contributes to sand dune systems harboring listed or otherwise sensitive species. Avoid armoring nearby dune system sand sources.</li> </ul>	
Implementation of the REGPA has the potential to result in significant impacts to groundwater dependent vegetation primarily within the Owens Valley.	<p><b>BIO-24: Minimize impacts to groundwater dependent vegetation and ecosystems.</b></p> <p>Any solar development projects or related infrastructure implemented under the REGPA <u>which are located on City of Los Angeles-owned land or which could affect City of Los Angeles-owned land</u> shall comply with the terms of the Agreement. A qualified biologist/botanist <u>with experience in Inyo County</u> shall evaluate the potential for any project implemented under the REGPA to impact groundwater dependent vegetation <u>or ecosystems located on City of Los Angeles-owned land</u>. If the qualified biologist/botanist determines that the project has the potential to impact groundwater dependent vegetation <u>or ecosystems</u>, a groundwater dependent vegetation management plan will be prepared. The plan will include an evaluation of the potential impacts to groundwater dependent vegetation <u>or ecosystems</u> and appropriate measures to avoid or reduce the impacts to the extent feasible. The plan shall be prepared in coordination with the County <u>and LADWP</u> and should describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on groundwater dependent vegetation <u>or ecosystems</u> as deemed appropriate by</p>	Less Than Significant

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>the qualified biologist in coordination with the County and LADWP. <u>Projects that are likely to affect groundwater resources in a manner that would result in a substantial loss of riparian or wetland natural communities and/or habitat for sensitive flora and fauna associated with such habitats shall be avoided to the extent feasible and impacts shall be mitigated to a level determined to be acceptable by the County. The project and vegetation management plan shall be approved by both the County and LADWP prior to implementation.</u></p>	
<p><u>Implementation of the REGPA has the potential to result in indirect impacts to sensitive species and their habitats due to groundwater pumping.</u></p>	<p><b>BIO-25: Minimize potential indirect impacts due to groundwater pumping</b>  <u>Mitigation measures for potential indirect impacts due to groundwater pumping are included in Mitigation Measure BIO-1, Mitigation Measure BIO-2, Mitigation Measure BIO-3, and Mitigation Measure BIO-4. Prior to approval of any project under the REGPA requiring groundwater pumping, the potential effects of the groundwater pumping on biological resources will be evaluated during preparation of the project-specific biological resources evaluation and will be based on the results of the hydrologic study conducted as a requirement of Mitigation Measure HYD-2 in Section 4.9, Hydrology and Water Quality. If groundwater pumping is determined to have the potential to result in off-site impacts to biological resources, measures will be included in the project-specific biological resources mitigation and monitoring plan to avoid, minimize, and mitigate for any such impacts. The measures will be commensurate with the resource and level of impact and may include but are not limited to vegetation and/or water table monitoring, preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County, and a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio.</u></p>	<p><u>Less Than Significant</u></p>

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES</b>		
<p>Implementation of future projects associated with the REGPA has the potential to cause a substantial adverse change in the significance of a historical or archaeological resources, and cultural landscapes, as defined in Section 15064.5 of the State CEQA Guidelines.</p>	<p><b><u>CUL-1: Minimize impacts to cultural resources.</u></b>  <u>Adverse effects to historical resources (CRHP-eligible cultural resources) would be resolved on a project-specific level. As part of this process, resource identification efforts including pedestrian surveys, formal government-to-government tribal consultation with state lead agencies, and engagement with Native American communities would be necessary. Examples of ways to resolve adverse effects include:</u></p> <ul style="list-style-type: none"> <li>• <u>Plan ground disturbance to avoid cultural resources.</u></li> <li>• <u>Deed cultural resources into permanent conservation easements.</u></li> <li>• <u>Cap or cover archaeological resources with a layer of soil before building on the location.</u></li> <li>• <u>Plan parks, greenspace, or other open space to incorporate cultural resources.</u></li> <li>• <u>Write synthetic documents summarizing the current understanding of the history and prehistory of the project area and vicinity.</u></li> <li>• <u>Recover data for archaeological resources.</u></li> <li>• <u>Develop interpretive material to correspond with recreational uses to educate the public about protecting cultural resources and avoiding disturbance of sensitive resources.</u></li> <li>• <u>Develop partnerships to assist in the training of groups and individuals to participate in site stewardship programs.</u></li> <li>• <u>Coordinate with visual resources staff to ensure visual management standards consider cultural resources and tribal consultation to include landmarks of cultural significance to Native Americans (e.g., TCPs, trails).</u></li> </ul>	<p><u>Significant and Unavoidable</u></p>

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>• <u>Measures to address visual impacts to the setting of built-environment resources include:</u> <ul style="list-style-type: none"> <li>○ <u>Existing mature plant specimens shall be used for screening during construction, operation, and decommissioning phases. The identification of plant specimens that are determined to be mature and retained shall occur as part of the design phase and mapped/identified by a qualified plant ecologist or biologist and integrated into the final design and project implementation.</u></li> <li>○ <u>Revegetation of disturbed areas within the project area shall occur as various activities are completed. Plans and specifications for revegetation shall be developed by a qualified plant ecologist or biologist before any extant vegetation is disturbed. The revegetation plan shall include specification of maintenance and monitoring requirements, which shall be implemented for a period of 5 years after project construction or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist. Plant material shall be consistent with surrounding native vegetation.</u></li> <li>○ <u>The color of the wells, pipelines, storage tanks, control structures, and utilities shall consist of muted, earth-tone colors that are consistent with the surrounding natural color palette. Matte finishes shall be used to prevent reflectivity. For example, integral color concrete should be used in place of standard gray concrete.</u></li> <li>○ <u>The final revegetation and painting plans and specifications shall be reviewed and approved by an architect, landscape architect, or allied design professional licensed in the State of California to ensure that the design objectives and criteria are being met.</u></li> <li>○ <u>Specific impact identification and adjustments to finish specifications shall occur during project design. Implementation of the revegetation and coloration plans shall occur during oilfield development. Maintenance and monitoring requirements shall be implemented after initial project construction for a period of 5 years, or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist.</u></li> </ul> </li> </ul>	



**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>• <u>Protective measures and monitoring protocols can be implemented for built environment resources located in close proximity to a project but that are not anticipated to be directly impacted by demolition or development but which may be subject to other direct impacts such as change in historic setting, vibration, noise, or inadvertent damage include:</u> <ul style="list-style-type: none"> <li>○ <u>Historic Structures Reports (HSR) shall be prepared for buildings and structures adjacent to the project area for which detailed information is required to develop protection measures. Reports shall be completed for buildings and structures that appear to be in poor condition and, therefore, potentially sensitive to development-related activities such as vibration. These reports shall determine if predevelopment stabilization through temporary shoring and bracing of these buildings is warranted.</u></li> <li>○ <u>Predevelopment condition assessments shall be prepared for buildings and structures that qualify as historical resources that are adjacent to the project area and are structurally stable, but could be unintentionally damaged during development. Should there be any question as to whether the project caused damage, these condition assessments will provide confirmation of the predevelopment condition.</u></li> <li>○ <u>Precautions to protect built environment historical resources from construction vehicles, debris, and dust may include fencing or debris meshing. Temporary mothballing, and fire and intrusion protection may be needed if the buildings are unoccupied during oil and gas field development.</u></li> <li>○ <u>Protective measures shall be field checked as needed during development by a qualified architectural historian with demonstrated experience conducting monitoring of this nature. Vibration monitoring may be required for buildings determined susceptible to vibration damage located in close proximity to development activities or machinery that cause vibration.</u></li> <li>○ <u>These measures are designed to avoid direct impacts such as vibration that may result in structural damage or inadvertent direct impacts. Structural damage or demolition would otherwise potentially result in a significant impact because character-defining features and aspects of historic integrity that convey the resource’s significance could be materially impaired.</u></li> </ul> </li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>○ <u>Redesign of relevant facilities shall be used to avoid destruction or damage where feasible.</u></li> <li>● <u>For built resources that will be directly and significantly impacted, mitigation typically includes:</u> <ul style="list-style-type: none"> <li>○ <u>Historic American Building Survey (HABS), Historic American Engineering Record (HAER), and Historic American Landscape Survey (HALS) records will be prepared for historical resources that will be demolished. The HABS/HAER/HALS documentation will be prepared as appropriate for the impacted historical resource with HABS normally completed at Level II. These reports will include written and photographic documentation of the significant and character-defining features of these properties. While this documentation will not reduce impacts to a less than a significant level, it is needed to capture and preserve a description of the significant information and characteristics associated with the resource.</u></li> <li>○ <u>All HABS/HAER/HALS reports are subject to review and approval by the NPS. Following approval, the lead agencies will produce sufficient copies for distribution to identified repositories, including the Library of Congress, the California State Library, the University of California Water Resources Center Archives, and any local repositories, as appropriate and agreed upon with the County Planning Department and interested parties. Distribution will ensure the formal documentation is retained and conveyed to a wide audience.</u></li> <li>○ <u>Deconstruction and salvage of materials from demolished buildings will be performed to the extent feasible to enable the restoration of similar buildings and structures outside of the area of direct impact. Deconstruction and salvage will not reduce impacts to a less than significant level, but will help to ensure that similar resources are restored and maintained in manner that will ensure that examples of the resource type are preserved.</u></li> <li>○ <u>Relocate historically significant resources for which demolition cannot be feasibly avoided by development. In such circumstances, relocation must meet the requirements for the Special Criteria Consideration for Moved Buildings, Structures, and Objects to ensure the significance of the building is retained.</u></li> </ul> </li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>○ <u>Require that the preservation or reuse of an eligible structure follow Department of the Interior (DOI) Standards and Guidelines for Archeology and Historic Preservation. If the building is considered a historic resource under CEQA, the local building inspector must grant code alternatives under the State Historic Building Code.</u></li> <li>○ <u>In a case where HABS/HAER documentation does not provide adequate mitigation to reduce impacts to a less than significant level, projects would normally be required to take additional steps to capture the history and memory of the resource and share this information with the public using various methods such as Web media, static displays, interpretive signs, use of on-site volunteer docents, or informational brochures.</u></li> <li>● <u>Avoidance and minimization are the preferred means by which the County would prevent potential impacts to cultural resources, including cultural landscapes. Preservation in place is the preferred manner to avoid and minimize impacts to historical and archaeological resources. All impacts to cultural resources that are eligible or potentially eligible for listing on the CRHR shall be avoided, to the greatest extent possible. Preservation in place may be accomplished by, but is not limited to, the following: Avoidance of significant or potentially significant cultural resources through project redesign and the relocation of project element.</u></li> <li>● <u>Following avoidance and minimization, measures to address impacts to cultural resources at a landscape scale should follow the guidance in <i>A Strategy for Improving Mitigation Policies and Practices of the Department of the Interior</i> (DOI 2014) and the <i>National Park Service Preservation Brief 36 - Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes</i>, including but not limited to:</u> <ul style="list-style-type: none"> <li>○ <u>Document the individual landscape characteristics and features in the context of the landscape as a whole in a Cultural Landscape Report, including contributing and non-contributing features.</u></li> <li>○ <u>Develop compensatory mitigation.</u></li> <li>○ <u>Coordinate with other agencies.</u></li> <li>○ <u>Monitor and evaluate the progress of long-term mitigation.</u></li> <li>○ <u>Develop and maintain geospatial information systems for use in identifying existing and potential conservation strategies and development opportunities.</u></li> </ul> </li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<p>•  <b>CUL-1a: Designate project Cultural Resources Staff.</b>  <u>Project Cultural Resources Specialist.</u> Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County Planning Department, a cultural resources specialist whose training and background conforms to the US Secretary of Interior’s Professional Qualifications Standards, as published in Code of Federal Regulations Title 36, part 61 shall be retained by the project owner to conduct a cultural resources inventory, evaluate any resources, produce a Cultural Resources Management and Treatment Plan and other related plans for the approved project and to implement any required plans and mitigation, as necessary as determined by the cultural resource specialist. Their qualifications shall be appropriate to the needs of the project, <u>and shall include local knowledge.</u> If the project primarily impacts resources archaeological in nature, the cultural resources specialist shall have a background in archaeology, anthropology or cultural resource management. If the project impacts primarily built environment resources, the cultural resources specialist shall have a background in architectural history. Resumes of the proposed cultural resources staff shall be submitted to the County Planning Department or other CEQA lead agency for review and approval. The Monitoring and Treatment Plan (Mitigation Measure CUL-1c) shall be prepared and implemented under the direction of the cultural resources specialist and shall address and incorporate CUL-1a through CUL-1g.</p> <p><u>Additional Cultural Resources Staff.</u> The project’s cultural resources specialist may obtain the services of specialists, cultural resources monitors and field crew if needed, to assist in identification, evaluation, mitigation, monitoring, and curation activities. Cultural Resources Staff shall have a Bachelor’s degree in anthropology, archaeology, history, architectural history or related field, and demonstrated field experience. These individuals must also meet local lead agency qualifications and their resumes must be reviewed and approved by local lead agency staff prior to beginning work.</p> <p><b>CUL-1b: Draft a Historical Resources Treatment Plan.</b>                      To mitigate the potential impacts on historical resources identified during inventory of the project area, a treatment plan for historical resources shall be developed by, depending on the nature of the resources identified, an archaeologist and/or architectural historian who meets the</p>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>CULTURAL RESOURCES (cont.)</b>		
	<p>Secretary of Interior’s Professional Qualifications Standards. This treatment plan would include data recovery plans that would address National Register of Historic Places/California Register for Historic Resources-eligible cultural resources that would be impacted by the project by requiring some level of extracting the scientific value and analysis of the resources prior to development.</p> <p><b>CUL-1c: Draft a Monitoring and Treatment Plan.</b> To mitigate the potential impacts related to inadvertent discovery of archaeological resources during construction, the project proponents shall have a Secretary of the Interior-qualified archaeologist implement a monitoring program and an unanticipated archaeological resource treatment plan. The qualified archaeologist will evaluate any resources uncovered during ground disturbing activities implement appropriate treatment as specified in the archaeological resource treatment plan. During all phases of the project that include ground disturbance, these ground-disturbing activities will be observed by an archaeological monitor, as determined necessary by the archaeologist.</p> <ul style="list-style-type: none"> <li>a. If, during the course of monitoring, a potentially significant resource is discovered, the qualified archaeologist will have the authority to stop or redirect ground disturbing activities away from the resource until it can be evaluated.</li> <li>b. If previously unknown cultural deposits are discovered during the course of construction, such as previously undiscovered stratified cultural deposits, a testing program will be implemented to evaluate the stratified cultural deposit.</li> <li>c. A separate Native American monitor shall be retained by the project proponent to monitor ground disturbing activities in and around archaeological resources. The Native American monitor shall be selected through consultation with Native American tribal groups. The Native American monitor shall work in conjunction with the qualified archaeologist.</li> </ul> <p><b>CUL-1d: Grant authority to halt project activities.</b> Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County or the relevant CEQA</p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<p>lead agency, the project owner shall submit a written document granting authority to halt project related activities to the project’s cultural resources specialist (as defined in mitigation measure CUL-1a) and cultural resources monitors in the event of a discovery or possible damage to a cultural resource. Redirection of project related activities shall be accomplished under the direction of the project supervisor in consultation with the cultural resources specialist. The details of this agreement shall be stipulated in the Cultural Resources Management and Treatment Plan as required in Mitigation Measure CUL-1b.</p> <p><b>CUL-1e: Develop a Cultural Resources Worker Environmental Awareness Program.</b> Prior to and for the duration of project activities, the project owner shall provide WEAP training to all new workers within their first week of employment at the project site. The training shall be prepared by the Project cultural resources specialist (as defined in CUL-1) in consultation with local Native Americans and shall incorporate the traditions and beliefs of local Native American groups into the presentation. The presentation may be conducted by any qualified cultural resources specialist and a Native American, if possible, and may be presented in the form of a video. A consulting fee or honorarium shall be negotiated with the local Native American consultants and presenter and paid to them for their participation. The training may be discontinued when project activities are completed or suspended, but must be resumed when project activities resume.</p> <p>The training shall include:</p> <ol style="list-style-type: none"> <li>1. A discussion of applicable laws and penalties under the law;</li> <li>2. Samples or visuals of artifacts that might be found in the project vicinity;</li> <li>3. A discussion of what such artifacts may look like when partially buried, or wholly buried and then freshly exposed;</li> <li>4. A discussion of what prehistoric and historical archaeological deposits look like at the surface and when exposed during ground-disturbance, and the range of variation in the appearance of such deposits;</li> <li>5. A discussion of what local Native American beliefs are, how those beliefs are related to cultural resources that may be found in the area, and the appropriate respectful behavior towards sacred places and objects;</li> </ol>	

**Table ES-1 (cont.)  
 IMPACTS AND PROPOSED MITIGATION**

<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>CULTURAL RESOURCES (cont.)</b>		
	<ol style="list-style-type: none"> <li>6. Instruction that all cultural resources specialists have the authority to halt ground disturbance in the area of a discovery to an extent sufficient to ensure that the resource is protected from further impacts, as determined by the project cultural resources specialist (as defined in CUL-1);</li> <li>7. Instruction that employees are to avoid areas flagged as sensitive for cultural resources;</li> <li>8. Instruction that employees are to halt work on their own in the vicinity of a potential cultural resources discovery and shall contact their supervisor and the project cultural resources specialist (as defined in CUL-1), and that redirection of work would be determined by the project supervisor and the project cultural resources specialist;</li> <li>9. An informational brochure that identifies reporting procedures in the event of a discovery;</li> <li>10. An acknowledgement form signed by each worker indicating that they have received the training which shall be submitted to the County Planning Department and any other CEQA lead agency; and</li> <li>11. A sticker that shall be placed on hard hats indicating that environmental training has been completed.</li> </ol>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<p><b>CUL-1f: Conduct cultural resources reporting.</b> The project cultural resources specialist shall document results in interim and final reports as necessary. The contents and timing of these reports shall be stipulated in the Cultural Resources Management and Treatment Plan (CUL-1b).</p> <p>Final reports for archaeological resources, human remains, and some landscapes, shall be written by or under the direction of a Secretary of the Interior qualified archaeologist or architectural historian as appropriate for the project. Reports shall be provided in the California Office of Historic Preservation’s Archaeological Resource Management Reports: Recommended Contents and Format and local agency formats. Final documents shall report on all field activities including dates, times and locations, results, samplings, and analyses. All survey reports, Department of Parks and Recreation 523 series forms, data recovery reports, and any additional research reports not previously submitted to the California Historical Resource Information System and the State Historic Preservation Officer shall be included as appendices.</p> <p><b>CUL-1g: Proper curation of cultural resources collections.</b> All archaeological materials retained as a result of the cultural resources investigations (survey, testing, data recovery) shall be curated in accordance the California State Historical Resources Commission’s <i>Guidelines for the Curation of Archaeological Collections</i>, into a retrievable storage collection in a public repository or museum. <u>Additionally, all collection and retention of archaeological materials as a result of cultural resources investigations must comply with the regulations and policies of the land managing agency or property owner.</u></p>	



<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>CULTURAL RESOURCES (cont.)</b>		
Implementation of future projects associated with the REGPA may disturb human remains, including those interred outside of formal cemeteries.	<p><b>CUL-2: Implement proper actions in the event of the incidental discovery of human remains.</b></p> <p>In accordance with Section 7050.5 of the California Health and Safety Code, if human remains are found, the County Coroner shall be notified within 24 hours of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie potential remains shall occur until the County Coroner has determined, within two working days of notification of the discovery, the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains are or are believed to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with Section 5097.98 of the California Public Resources Code, the NAHC must immediately notify those persons it believes to be the most likely descendant of the deceased Native American. The descendants shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the County, the disposition of the human remains.</p> <p>Should human remains be discovered at any time during construction of the project, construction in the vicinity would halt and the County Coroner would be contacted immediately. If the Coroner determines that the remains do not require an assessment of cause of death and are probably Native American, then the NAHC would be contacted to identify the Most Likely Descendant.</p>	Significant and Unavoidable
Implementation of future projects associated with the REGPA has the potential to directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	<p><b>PALEO-1a: Protect paleontological resources.</b></p> <p>Project developers shall document in a paleontological resources assessment report whether paleontological resources exist in a project area on the basis of the following: the geologic context of the region and site and its potential to contain paleontological resources (including the fossil yield potential), a records search of institutions holding paleontological collections from California desert regions, a review of published and unpublished literature for past paleontological finds in the area, and coordination with paleontological researchers working locally in potentially affected geographic areas (or studying similar geologic strata).</p> <p>If paleontological resources are present at the site or if the geologic units to be encountered by the project (at the surface or the subsurface) have a high/very high or moderate/unknown fossil</p>	Significant and Unavoidable

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>CULTURAL RESOURCES (cont.)</b>		
	<p>yield, a Paleontological Resources Management Plan shall be developed.</p> <ol style="list-style-type: none"> <li>1. The plan shall include the following types of requirements:</li> <li>2. The qualifications of the principal investigator and monitoring personnel</li> <li>3. Construction crew awareness training content, procedures, and requirements</li> <li>4. Any measures to prevent potential looting, vandalism, or erosion impacts</li> <li>5. The location, frequency, and schedule for on-site monitoring activities</li> <li>6. Criteria for identifying and evaluating potential fossil specimens or localities</li> <li>7. A plan for the use of protective barriers and signs, or implementation of other physical or administrative protection measures</li> <li>8. Collection and salvage procedures</li> <li>9. Identification of an institution or museum willing and able to accept any fossils discovered</li> <li>10. Compliance monitoring and reporting procedures</li> </ol> <p>If the geologic units that would be affected by the project have been determined to have low fossil yield potential, paleontological resources shall be included as an element in construction worker awareness training. The training shall include measures to be followed in the event of unanticipated discoveries, including suspension of construction activities in the vicinity.</p> <p>The Paleontological Resources Management Plan shall evaluate all of the construction methods proposed, including destructive excavation techniques. Where applicable, the principal investigator shall include in the plan an evaluation of the potential for such techniques to disturb or destroy paleontological resources, an evaluation of whether loss of such fossils would represent a significant impact, and discussion of mitigation or compensatory measures (such as recordation/recovery of similar resources elsewhere on the site) that are necessary to avoid or substantially reduce the impact.</p>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>CULTURAL RESOURCES (cont.)</b>		
<b>HYDROLOGY AND WATER QUALITY</b>		
<p>Implementation of a solar facility project as part of the REGPA would result in potentially significant impacts related to hydrologic conditions (including drainage alteration, runoff rates and amounts, flood hazards, and existing/planned storm drain system capacity); groundwater resources; and long-term water quality.</p>	<p><b>HYD-1: Conduct site-specific hydrologic investigations.</b>                      Site-specific hydrologic investigations will be completed for proposed utility scale solar facility development projects within the individual SEDAs and the OVSA (i.e., those with grading, excavation or other activities potentially affecting hydrologic conditions, as determined by the County), as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential hydrologic concerns, including but not necessarily limited to: drainage alteration, runoff rates and amounts, flood hazards, and existing/planned storm drain system capacity. The final project design documents will also encompass applicable standard design and construction practices from sources including NPDES, <u>Basin Plan</u> and County standards, as well as the results/recommendations of County plan review (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of remedial measures typically associated with identified potential hydrologic concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The remedial measures identified/recommended as part of the described site-specific hydrologic investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> <li>• Drainage Alteration: (1) locate applicable facilities <u>and activities (e.g., staging areas and soil/material stockpiles)</u> outside of surface drainage courses and drainage channels; (2) re-route surface around applicable facilities, with such re-routing to be limited to the smallest area feasible and re-routed drainage to be directed back to the original drainage course at the closest feasible location (i.e., the closest location to the point of diversion); and (3) use drainage structures to convey flows within/through development areas and maintain existing drainage patterns.</li> </ul>	<p>Less Than Significant</p>

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>HYDROLOGY AND WATER QUALITY (cont.)</b>		
	<ul style="list-style-type: none"> <li>• Runoff Rates and Amounts: (1) minimize the installation of new impervious surfaces (e.g., by surfacing with pervious pavement, gravel or decomposed granite); and (2) use flow regulation facilities (e.g., detention/retention basins) and velocity control structures (e.g., riprap dissipation aprons at drainage outlets), to maintain pre-development runoff rates and amounts.</li> <li>• Flood Hazards: (1) work to locate proposed facilities <u>and activities</u> outside of mapped 100-year floodplain boundaries; (2) based on technical analyses such as Hydrologic Engineering Center-River Analysis System (HEC-RAS) studies, restrict facility locations to avoid adverse impacts related to impeding or redirecting flood waters; and (3) based on HEC-RAS studies, use measures such as raised fill pads to elevate proposed structures above calculated flood levels, and/or utilize protection/containment structures (e.g., berms, barriers or waterproof doors) to avoid flood damage.</li> <li>• Storm Drain System Capacity: (1) implement similar measures as noted above for runoff rates and amounts; and (2) utilize additional and/or enlarged facilities to ensure adequate on- and off-site storm drain system capacity.</li> <li>•</li> </ul> <p><b>HYD-2: Conduct site-specific groundwater investigations.</b>            Site-specific groundwater investigations will be completed for all proposed solar facility development projects within the individual SEDAs and the OVSA proposing to utilize groundwater resources, prior to final project design approval. These investigations will identify site-specific criteria related to considerations such as local aquifer volumes and hydrogeologic characteristics, current/proposed withdrawals, inflow/recharge capacity, and potential effects to local aquifer and well levels, <u>as well as effects to groundwater-dependent surface water features including springs, marshes and bosques</u>, from proposed project withdrawals. All applicable results and recommendations from these investigations will be incorporated into the associated individual project design documents to address identified potential impacts to groundwater resources (per applicable regulatory standards), with all related requirements to be included in associated engineering/design drawings and construction contract specifications. A summary of the types of remedial measures typically associated with identified potential effects to groundwater <u>and related surface water</u> resources is provided below. The remedial measures identified/recommended as part of the described site-specific</p>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>HYDROLOGY AND WATER QUALITY (cont.)</b>		
	<p>groundwater investigations will take priority over the more general types of standard measures listed below.</p> <ul style="list-style-type: none"> <li>• Aquifer/Well drawdown: (1) monitor local aquifer and private/production well levels to verify the presence or absence of project-related effects during pre-construction, construction, and operation periods (based on a methodology and monitoring schedule approved by the RWQCB and County); (2) document background and pre-construction groundwater conditions and comparable project-related construction and operation trends, along with related factors such as precipitation levels and groundwater budgets; (3) prepare scaled maps depicting the associated site(s), existing and proposed monitoring well locations, relevant natural (e.g., springs and groundwater-dependent vegetation) and other features (e.g., reservoirs), and pre- post-project groundwater contours, along with a description of cumulative water level changes; (4) restrict project-related groundwater withdrawals to appropriate levels to avoid significant adverse effects to local aquifers/wells and/or other groundwater-dependent uses (e.g., vegetation, springs or other related surface water features), based on thresholds approved by the RWQCB and County; and (5) provide mitigation for affected wells or other uses/resources where applicable, potentially including well modifications (e.g., deepening pumps or wells), <u>and/or financial compensation, and compensatory mitigation for impacts to groundwater-dependent surface water features and habitats.</u></li> <li>• Groundwater Recharge Capacity: (1) reduce the area of on-site impervious surface if appropriate, through increased use of surfacing materials such as gravel, decomposed granite, or pervious pavement; and (2) use facilities such as retention/percolation basins and unlined drainage facilities to increase local infiltration and groundwater recharge. <u>The County may employ water injection as a method of groundwater recharge as deemed appropriate on a case by case basis. This decision would be made during project specific CEQA analysis for a given solar energy development proposal.</u></li> </ul> <p><b>HYD-3: Conduct site-specific water quality investigations.</b> Site-specific water quality investigations will be completed for long-term solar facility operations associated with applicable proposed development projects within the individual SEDAs and the OVSA (i.e., those with activities potentially affecting water quality conditions,</p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>HYDROLOGY AND WATER QUALITY (cont.)</b>		
	<p>as determined by the County), as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential long-term water quality issues related to conditions such as: anticipated and potential pollutants to be used, stored or generated on-site; the location and nature (e.g., impaired status) of on-site and downstream receiving waters; and project design features to avoid/address potential pollutant discharges. The final project design documents will also encompass applicable standard design practices from sources including NPDES, <u>Basin Plan</u> and County standards, as well as the results/recommendations of project-related hazardous materials investigations and regulatory standards (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of BMPs typically associated with identified potential water concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The BMPs identified/recommended as part of the described site-specific water quality investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> <li>• Low Impact Development (LID)/Site Design BMPs: LID/site design BMPs are intended to avoid, minimize and/or control post-development runoff, erosion potential and pollutant generation to the maximum extent practicable by mimicking the natural hydrologic regime. The LID process employs design practices and techniques to effectively capture, filter, store, evaporate, detain and infiltrate runoff close to its source through efforts such as: (1) minimizing developed/disturbed areas to the maximum extent feasible; (2) utilizing natural and/or unlined drainage features in on-site storm water systems; (3) disconnecting impervious pervious to slow concentration times, and directing flows from impervious surfaces into landscaped or vegetated areas; and (4) using pervious surfaces in developed areas to the maximum extent feasible.</li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>HYDROLOGY AND WATER QUALITY (cont.)</b>		
	<ul style="list-style-type: none"> <li>• Source Control BMPs: Source control BMPs are intended to avoid or minimize the introduction of pollutants into storm drains and natural drainages to the maximum extent practicable by reducing on-site pollutant generation and off-site pollutant transport through measures such as: (1) installing no dumping” stencils/tiles and/or signs with prohibitive language (per current County guidelines) at applicable locations such as drainages and storm drain inlets to discourage illegal dumping; (2) designing trash storage areas to reduce litter/pollutant discharge through methods such as paving with impervious surfaces, installing screens or walls to prevent trash dispersal, and providing attached lids and/or roofs for trash containers; (3) designing site landscaping (if applicable) to maximize the retention of native vegetation and use of appropriate native, pest-resistant and/or drought-tolerant varieties to reduce irrigation and pesticide application requirements; and (4) providing secondary containment (e.g., enclosed structures, walls or berms) for applicable areas such as trash or hazardous material use/storage.</li> <li>• Treatment Control/LID BMPs: Treatment control (or structural) BMPs are designed to remove pollutants from runoff to the maximum extent practicable through means such as filtering, treatment or infiltration. Treatment control and/or LID BMPs are required to address applicable pollutants, and must provide medium or high levels of removal efficiency for these pollutants (per applicable regulatory requirements). Based on the anticipated pollutants of concern, potential LID and treatment control BMPs may include (1) providing water quality treatment and related facilities such as sediment basins, vegetated swales, infiltration basins, filtration devices and velocity dissipators to treat appropriate runoff flows and reduce volumes prior to off-site discharge (per applicable regulatory requirements); and (2) conducting regular inspection, maintenance and as-needed repairs of pertinent facilities and structures.</li> </ul>	
<b>LAND USE AND PLANNING</b>		
No significant, unavoidable adverse land use and planning impacts would result from implementation of the proposed REGPA.	No mitigation measures are required.	Less Than Significant

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>MINERAL RESOURCES</b>		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scale distributed generation, and/or</u> community scale, <del>and/or</del> facilities) could result in potentially significant impacts to mineral resources related to the loss of regionally or locally important mineral resources, as well as associated potential conflicts with valid mineral entries.</p>	<p><b>MIN-1: Conduct site-specific mineral resource investigations.</b>                      Site-specific mineral resource investigations will be completed for proposed development projects within the individual SEDAs, the OVSA, and the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. These investigations will include the following elements: (1) descriptions of regional and on-site geologic environments; (2) identification of site-specific potential for the occurrence of mineral resources; (3) assessment of estimated mineral resource quantities and extents (as applicable); (4) evaluation of associated potential for economic resource recovery, including considerations such as supply and demand, and production, processing and transportation costs; (5) determination of the presence of mineral entries such as mining claims and mineral leases, including descriptions of individual mineral entry types, issuing agencies and status; (6) assessment of potential impacts from project implementation to identified regionally- or locally-important mineral resources, associated exploration/recovery efforts, and valid mineral entries; and (7) development of remedial measures to address identified impacts to mineral resources, operations and entries, as feasible, potentially including efforts such as avoidance, use of proposed project development timing or phasing to accommodate mineral operations, or locating proposed project facilities to accommodate multiple use operations (e.g., through shared use of access or infrastructure). All applicable results and recommendations from the described investigations identifying identified potential mineral resource impacts and remedial measures will be incorporated into the associated individual project design documents.</p>	<p>Less Than Significant</p>



<b>Table ES-1 (cont.)</b> <b>IMPACTS AND PROPOSED MITIGATION</b>		
Impacts	Mitigation Measures	Significance After Mitigation
<b>NOISE</b>		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scale distributed generation, and/or</u> community scale, <del>and/or</del> facilities) could result in potentially significant impacts related to: (1) exposure of persons to or generation of noise levels in excess of established standards during project operations; and (2) temporary or periodic increases in ambient noise levels during construction.</p>	<p><b>NOI-1: Prepare technical noise report for solar facilities proposed within 500 feet of noise sensitive land uses.</b>                      If a proposed utility scale solar energy project resulting from implementation of the REGPA is within 500 feet of a residence or other noise sensitive land use, prior to issuance of a Major Use Permit, a site-specific noise technical report will be prepared and approved by the County. The technical report will verify compliance with all applicable County laws, regulations, and policies during operation of the solar project, including that noise levels would not exceed the relevant thresholds described in the General Plan Noise Element (60 dBA L<sub>DN</sub> for noise sensitive land uses such as residences, schools, transient lodging and medical facilities). The site specific noise technical report will include project specifications, applicable noise calculations, project design features, applicable BMPs and related information from the REAT’s Best Management Practices and Guidance Manual (REAT 2010), and mitigation measures applicable to the project. The technical noise report will address operational related noise sources, as well as noise from the use of generators during an emergency. The technical report will calculate specific anticipated noise and vibration levels from operations in accordance with County standards and provide specific mitigation when noise levels are expected to exceed County standards.</p> <p><b>NOI-2: Implement construction noise reduction measures.</b>                      If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT’s Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:</p> <ul style="list-style-type: none"> <li>• Whenever feasible, electrical power will be used to run air compressors and similar power tools.</li> <li>• Equipment staging areas will be located as far as feasible from occupied residences or schools.</li> <li>•</li> <li>•</li> <li>•</li> </ul>	<p>Less Than Significant</p>

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>NOISE (cont.)</b>		
	<ul style="list-style-type: none"> <li>• All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.</li> <li>• Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.</li> <li>• Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings.</li> <li>• <b>NOI-3: Prepare a Helicopter Noise Control Plan.</b> In the event that a utility scale solar project site would have limited access and would require the use of helicopters during operation or maintenance of a facility, the County shall prepare a Helicopter Noise Control Plan that indicates where helicopters would be used and the frequency and duration for such use. The plan shall demonstrate compliance with the noise level limits within the County Noise Element for helicopter noise to properties within 1,600 feet of proposed helicopter use locations.</li> </ul>	
<b>POPULATION AND HOUSING</b>		
Implementation of the REGPA would result in less than significant impacts to population and housing.	No mitigation measures are required.	Less Than Significant

<b>Table ES-1 (cont.)</b> <b>IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>PUBLIC SERVICES</b>		
<p>Implementation of the REGPA would result in potentially significant impacts associated with fire and police protection services.</p>	<p><b>PUB-1: Analyze public safety and protection response times and staff levels for each project.</b>                      Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project’s impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.</p> <p><b>PUB-2: Provide onsite security during the construction and long-term operation of the project.</b>                      For project sites associated with proposed future solar development projects that are determined through Mitigation Measure PUB-1 to have insufficient law enforcement protection services or significant impacts to law enforcement services, project proponents shall be required to provide adequate, onsite private security for the duration of construction activities and during the long-term operation of the project to the satisfaction of the County. The actual size and configuration of the security detail shall be determined by the County during preparation of the Development Agreement for the future solar energy project.</p> <p><b>PUB-3: Pay mitigation fees for public safety and protection services.</b>                      The County shall require project proponents to pay established County development mitigation fees for fire and police protection services. Said fees shall be used to maintain proper staffing levels for fire <del>and</del> police protection, <u>and emergency</u> services and to sustain adequate response times as required by the County.</p>	<p>Less Than Significant</p>

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>RECREATION</b>		
Implementation of the REGPA would result in less than significant impacts to recreational facilities.	No mitigation measures are required.	Less Than Significant
<b>SOCIOECONOMICS</b>		
Implementation of the REGPA would result in potentially adverse socioeconomic effects related to changes in the local economy, housing availability related to temporary construction workers, and levels of public service provision.	<p><b>SOC-1: Minimize impacts on transient housing.</b> To further offset potential negative effects and increased demand on transient housing, General Plan Policy ED-4.5, Employ and Train Local Labor, shall be supplemented with the following:</p> <ul style="list-style-type: none"> <li>• For renewable energy projects where the construction schedule exceeds one-year, community monitoring programs shall be developed that would identify and evaluate transient housing demand and other socioeconomic effects utilizing economic models such as JEDI. Measures developed for monitoring may include the collection of data reflecting the workforce demands and social effects (such as tracking any demonstrable drop in recreational usership) as a result of increased transient housing demand from construction workers at the local and County level.</li> <li>• Project developers shall work with the County, local chambers of commerce, and/or other applicable local groups to assist transient workers in finding temporary lodging. If temporary lodging is not available, developers of utility scale projects shall consider the feasibility of providing on-site temporary housing accommodations for all projects.</li> </ul>	Less Than Significant

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>SOCIOECONOMICS</b>		
	<p><b>SOC-2: Minimize impacts on County public services.</b> To further off-set potential negative effects on County public services, General Plan Policy ED-4.4, Offset the Cost to the County for Service Provision, shall be supplemented with the following:</p> <ul style="list-style-type: none"> <li>• Cooperative agreements between project applicants and the County shall be secured prior to issuance of a building permit or project-specific entitlement to ensure the following:</li> <li>• Unless property taxation of a renewable energy installation is deemed sufficient by the County, project applicants shall pay a fair-share public service impact fee. A potential method for estimating a fair-share contribution could be calculated by:</li> <li>• [annual service budget] X [estimated number of temporary workers temporarily in-migrating ÷ County population served].</li> <li>• The public service fee (and formula used for calculating fair-share) shall be adjusted based on the duration of project construction (e.g., a project only lasting 9 months would utilize 75 percent of the annual budget, one lasting 1.5 years would utilize 150 percent of the annual budget, etc.); and</li> <li>• Project applicants shall maximize the County’s receipt of sales and use taxes paid in connection with construction of the project by methods such as including language in construction contracts identifying jobsites to be located within the County and requiring construction contractors to attribute sales and use taxes to the County in their Board of Equalization filings and permits.</li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>TRANSPORTATION AND CIRCULATION</b>		
<p>Implementation of the REGPA could result in potentially significant traffic impacts related to: (1) construction traffic; (2) air traffic safety hazards; and, (3) design-related traffic hazards.</p>	<p><b>TRA-1: Prepare site-specific traffic control plans for individual projects.</b> Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.</p> <p><b>TRA-2: Implement recommendations from traffic impact analysis on surrounding roadways and intersections.</b> Site-specific construction traffic impact analyses shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to evaluate potential traffic impacts on surrounding roadways and intersections during the construction period. Applicable results and recommendations from the project-specific construction traffic impact analysis shall be implemented during the appropriate construction phase to address identified potential construction traffic impacts.</p>	<p>Less Than Significant</p>

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>UTILITIES AND SERVICE SYSTEMS</b>		
Utility impacts associated with wastewater, water, stormwater facilities, and solid waste disposal would be less than significant.	No mitigation measures are required.	Less Than Significant
Implementation of the REGPA would result in potentially significant impacts related to the need for new transmission lines to serve future solar development.	<p><b>UTIL-1: Projects within the western solar energy group will not exceed a combined maximum of 250 MW or 1,500 acres.</b>                      Future projects within the Western Solar Energy Group shall be limited to a combined maximum of 250 MW or 1,500 acres of development area). The County shall implement a tracking program to ensure all future solar development projects within the Western Solar Energy Group do not exceed 250 MW. Once the 250 MW (or 1,500 acres of development area) is reached, the County shall not approve further projects within the Western Solar Energy Group unless project applicants can provide proof of adequate and existing transmission capabilities for the project.</p> <p><b>UTIL-2: Projects within the Southern and Eastern Solar Energy Groups will be required have necessary and/or adequate transmission lines.</b>                      Future development within the Southern and Eastern Solar Energy Groups shall be required to include the necessary transmission lines or provide proof of adequate transmission capabilities for the project.</p>	Less Than Significant



# INYO COUNTY BOARD OF SUPERVISORS

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## AGENDA ITEM REQUEST FORM

February 6, 2024

Reference ID:  
2024-20

### Appeal No. 2023-03/Barker Solar Planning Department ACTION REQUIRED

**ITEM SUBMITTED BY**

Cynthia Draper, Assistant Planner

**ITEM PRESENTED BY**

Cynthia Draper, Assistant Planner

**RECOMMENDED ACTION:**

Conduct a Public Hearing regarding: Appeal No. 2023-03 (John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller) of Renewable Energy Permit (REP) 2022-02/Barker and deny the appeal (Attachment A - Appeal Letter).

**BACKGROUND / SUMMARY / JUSTIFICATION:**

On September 19, 2022, the applicant, Robbie Barker, submitted two Renewable Energy Permit (REP) applications for two separate photovoltaic (PV) solar facilities on contiguous land. The applicant submitted two separate applications because each facility would connect separately to the existing Southern California Edison (SCE) 33-kv transmission line passing through the area, have different interconnection agreements, and therefore require two separate County permits to operate. The first application (No. 2022-01) is known to the applicant as "Trona 7". The second application (No. 2022-02) is known to the applicant as "Trona 4" and is the subject of this agenda item (the proposed project).

The Trona 4 project proposes a commercial scale PV solar facility within a 15-acre parcel that is contiguous (i.e., has a common corner) with the Trona 7 site. The facility would generate 3-Megawatts (MW) of electricity using approximately 6,000 single axis tracker solar panels. The Trona 4 project area is graded flat, or gently sloped and is highly disturbed with no natural vegetation, habitat, water features or structures. The project area is surrounded by private vacant land to the north. The land to the south is a developed commercial solar field, owned by the applicant, and the land to the east is vacant BLM land. The land to the west is both private vacant and misc. structure. Approximately five residential structures are within 0.5 miles of the project area located mostly to the south and west. Two of these structures are approximately 400 feet from the edge of the project area. Other land uses within 0.5 mile of the Project Area include storage of equipment, vehicles, scrap yards, and storage units (see Attachment B - Vicinity and Project Site maps).

REPs are subject to Inyo County Code (ICC) Title 21 as well as the Inyo County Renewable Energy General Plan Amendment (REGPA<sup>1</sup>) and all requirements thereof. The REGPA was adopted by the County in March 2015 as a plan to help guide and regulate renewable energy development throughout Inyo County. As part of the REGPA process, a Programmatic Environmental Impact Report (PEIR<sup>2</sup>) was prepared

<sup>1</sup> <https://www.inyocounty.us/sites/default/files/2020-04/FinalREGPA33015.pdf>

<sup>2</sup> <https://www.inyocounty.us/services/planning-department/environmental-reviews>



pursuant to section 15168 of the California Environmental Quality Act (CEQA) Guidelines to address state-mandated renewable energy demands and potential future utility-scale renewable energy projects within the County's footprint. The PEIR was certified by the County in 2015 alongside the REGPA and the proposed project is also subject to its terms. The proposed project is located within the Southern Solar Energy Development Area (SEDA) as approved and identified in the REGPA. The Southern SEDA allows for up to 600-acres of solar photo voltaic development.

Pursuant to section ES.7 of the PEIR, proposed solar energy projects **greater** than 20 MW are examined in light of the PEIR to determine whether any additional environmental document must be prepared while solar energy projects **up to** 20 MW may be exempt from further CEQA analysis, unless an event specified in Public Resources Code (PRC) section 21166 has occurred. Whether such an event has occurred is a determination to be made by a qualified County planner and if such a determination is made, a Supplemental EIR or other CEQA document *may* be required.

PRC section 21166 states:

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

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

Mr. Barker's project proposes to install only a 3MW commercial scale photovoltaic solar facility and is therefore exempt from further environmental review pursuant to the express terms of the PEIR unless one of the triggering events in section 21166 exists. Staff determined that none of the triggering events listed in subsections (a), (b) or (c) of section 21166 existed such that a subsequent or supplemental environmental impact report was required. In other words, the PEIR prepared for the REGPA is legally sufficient and no further environmental review is required for this project.

Nevertheless, out of an abundance of caution, staff recommended a Negative Declaration be prepared to ensure a greater extent of analysis and, in particular, to review air quality as the Trona area is prone to dust events. Accordingly, in December 2022, an Initial Study with a Mitigated Negative Declaration (ISMND)<sup>3</sup> was prepared by staff to consider possible significant impacts to environmental resources for the project. The project site was devoid of natural habitat/vegetation at the time the application was submitted so it was determined that neither a biological survey nor a cultural resources report were required. The State review period for the ISMND ended on December 27, 2022. The County received numerous public comments, but no comments were received from any local or state agencies, including the California Department of Fish and Wildlife or the Great Basin Unified Air Pollution Control District.

Based on the public comments received in response to the ISMND, the applicant decided to have a biological survey and air quality report prepared even though they were not required. The applicant requested staff revise and recirculate the ISMNDs<sup>4</sup> through the CEQA State Clearinghouse with the new information. Since the biological survey and air quality report were prepared for both projects as one, staff prepared the recirculated ISMNDs as a combined project, but submitted them to

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<sup>3</sup> <https://www.inyocounty.us/services/planning-department/current-projects>

<sup>4</sup> <https://www.inyocounty.us/services/planning-department/current-projects>

the CEQA Clearinghouse with two ISMNDs – one for each project – to ensure each separate permit application was processed correctly. The State review period for the recirculated ISMND ended on August 17, 2023. Like the first circulation, no comments were received from any local or state agencies though, again, numerous public comments were submitted by community members opposed to the project, including comments from attorneys retained by these community members.<sup>5</sup>

The additional surveys found no special status species on the project site; however, the bio-survey identified potential habitat for nesting birds and a possible wildlife corridor for the Desert Kit Fox. This led staff to add conditions of approval to the project to mitigate any potential impacts related to the nesting birds and wildlife corridor. The air quality study likewise did not identify any issues, but staff added conditions of approval to mitigate air quality during construction to minimize fugitive dust. Conditions of approval were also added for noise during construction. These conditions were put into a Mitigation, Monitoring Report table format to help make them more understandable to the public. (See Attachment D – Planning Commission Staff Report).

On October 25, 2023, the proposed project was presented to the Planning Commission and a duly noticed public hearing was held. During the public hearing the Commission heard from staff, the applicant, and several members of the public on various aspects of the project, including easements, fire risk, noise, dust in the area, and visual resources. The neighbors raised objections and opposed the project but did not request or accept any additional or modified conditions of approval, including, for example, the suggestion of a privacy fence to help mitigate visual impacts. After considering all evidence presented to it during the hearing, the Planning Commission approved REP 2022-02/Barker with Findings and Conditions of Approval. A Notice of Decision and Notice of Determination were filed for the project soon after (Attachment E – Notice of Decision and Determination) (Attachment F – Planning Commission Minutes).

The Planning Commission's decision was timely appealed by John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller (Appeal 2023-03). In their November 8, 2023, Appeal Letter, Appellants assert the following nine grounds as the basis for their appeal. Note that essentially all the appeal points are repeated from the CEQA comments submitted by the Appellants earlier in the process and the majority of staff responses below are taken directly from staff and applicant responses provided to the Planning Commission (see Attachment D)

- 1. Failure to approve a reclamation plan and financial assurances for the REPs. (County Code, §§ 21.20.030, -040, -070; REGPA Implementation Policy 10; General Plan Policy MER-2.8; REGPA mitigation measure Bio-3).**

**Response:**

ICC Chapter 21.20.030 states in pertinent part:

*Any person who submits an application for a renewable energy impact determination or a renewable energy permit shall, at the time of the submission of the application, submit a plan for reclamation/revegetation of the site of the facility once the facility is decommissioned or otherwise ceases to be operational. The reclamation plan shall be based upon the character of the surrounding area and such characteristics of the property as type of native vegetation, soil type, habitat, climate, water resources, and the existence of public trust resources...*

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<sup>5</sup> Most of the comments raised perceived CEQA issues, which issues were promptly responded to by staff and the applicant's attorney. These comments and all responses were included in the materials provided to the Planning Commission (Attachment C - Comments and Responses regarding the CEQA documents).

*...the county planning commission ... in the case of a renewable energy permit, shall impose as a condition of approval, a plan for the reclamation/revegetation of the site of the facility at the time that the facility is decommissioned, or otherwise ceases to be operational, and shall establish site-specific criteria for evaluating and monitoring compliance with the approved reclamation plan.*

In compliance with the above, Mr. Barker submitted a draft reclamation<sup>6</sup> plan with his initial application packet in February 2023. However, due to the continuing changes to the project – primarily the recirculation of the ISMND – the applicant was given additional time to finalize this plan, and on October 25, 2023, the Planning Commission approved the Trona 4 project with the following conditions of approval:

3. *Decommissioning Plan and Financial Assurance*

- *As per section 21.20.030 of ICC, the owner/developer shall submit a staff approved decommissioning plan prior to the issuance of grading or building permits.*
- *As per section 21.20.040 of ICC, the owner/developer shall have secured financial assurances/surety bond prior to the issuance of grading or building permits.*
- *The owner/developer shall submit an updated reclamation plan and updated financial assurance/surety bond to the Inyo County Planning Department every 5 years.*

Chapter 21.20.030 does not require the reclamation plan to be in its final form at the time it is submitted or at the time the Planning Commission considers the REP application for approval. It also does not require the Planning Commission to review the draft plan. Instead, it simply directs the Planning Commission to condition approval of the REP on the existence of said plan. Here, by imposing, as a condition of approval, the requirement that Mr. Barker submit a staff-approved decommissioning plan prior to the issuance of grading or building permits, the Planning Commission did what the code required.

Pursuant to ICC Chapter 21.20.040, as a condition to the approval of a renewable energy permit, and in order to ensure reclamation will be effectuated, the Planning Commission must also require financial assurances from the applicant that meet the criteria listed in subsections A-F of the same. The Planning Commission included this condition as required by the ICC.

ICC Chapter 21.20.070 states as follows:

*Prior to the issuance of a renewable energy impact determination or the granting of a renewable energy permit, the county planning commission must find that, through the imposition of mitigation measures, the approval of a reclamation plan, the receipt of adequate financial assurances, and by other conditions incorporated into the determination or imposed upon the permit, the health, safety and welfare of the county's citizens, the county's environment, including its public trust resources, and the county's financial well-being, have been adequately safeguarded.*

The Planning Commission adopted REP 2022-02 with conditions of approval directly addressing mitigation measures, approval of a reclamation plan, and receipt of adequate financial assurances. By considering these conditions as presented by staff during public the hearing, and adopting them, the Planning Commission determined that the conditions of

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<sup>6</sup> Reclamation and decommissioning are used interchangeably throughout.

approval addressing all elements listed in Chapter 21.20.070 adequately safeguarded the public health welfare and safety<sup>7</sup>.

General Plan Policy MER-2.8. mandates staff to work with applicants to develop their reclamation plans and ensure those plans contain certain elements and meet certain criteria. These are the guidelines staff follow when approving the final reclamation plan (which in this case will occur before Mr. Barker qualifies for building or grading permits). The REGPA Implementation Policy #10 requires staff to “*Review and approve reclamation plans and financial assurances at the onset of renewable energy solar facility development projects and oversee the full implementation of reclamation plans at the decommissioning and termination of renewable energy solar facilities.*” The Condition of Approval that requires a reclamation plan and financial assurances prior to the issuance of grading or building permits meets this requirement since it is with those permits that development will begin. Nothing in MER-2.8 or Policy #10 suggests the County acted inappropriately or in violation of its own codes and regulations in the processing of Mr. Barker’s application.

With regard to Mitigation Measure BIO-3, it does not apply to the Trona 4 project because it, like all the mitigation measures in the PEIR, applies to solar photovoltaic projects located in designated SEDAs that produce *more than* 20MW of electricity. An exception to this rule exists if a specified event in section 21166 has occurred. Staff determined no such event had occurred.

The Final PEIR Volume II, page 4.4-122 states:

*“Biological resources mitigation measures have been developed for solar energy development projects **producing more than 20 MW** of electricity for off-site use (**utility scale**) and would be implemented to mitigate adverse impacts to biological resources. As previously mentioned, small scale solar energy projects are considered to result in no impacts under CEQA; however, all individual solar energy facility project applications (including small scale, community scale, and distributed generation commercial scale) **shall be reviewed by the County, and the need for implementation of the following mitigation measures shall be determined based on the professional judgment of a qualified county planner, pursuant to ICC Title 21 and State CEQA Guidelines.** For example, community scale solar developments (i.e., roof- or ground-mounted PV panels for a specific community’s use) may be determined by a qualified county planner to have no potential impact on biological resources and would not require a biological resource evaluation or implementation of the biological resources mitigation measures listed in this section. **In such cases**, the County shall document that no impacts to biological resources would occur and no mitigation measures are necessary in lieu of the biological resources evaluations required in Mitigation Measures BIO-1 through BIO-3”.* (emphasis added)

Based on this language, the Trona 4 project (producing less than 20 MW) is exempt from Mitigation Measure BIO-3. Nevertheless, a qualified biologist conducted a plant and wildlife (biological) survey of the proposed project site and found no special status plant or animal species. Potential habitat and a wildlife corridor were identified, and a mitigation and monitoring program was prepared for the project based on the biologist’s findings. No further obligation to the mitigation and monitoring program set forth in the PEIR was required due to the county’s actions regarding the project’s CEQA evaluation with the ISMND.

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<sup>7</sup> See also Attachment E - Notice of Decision and Determination, Finding #6 wherein the Planning Commission made a health, welfare and safety finding supported by Environmental Health. This finding, along with the conditions of approval, adequately address 21.20.070.

**2. Piecemealed CEQA review by splitting the overall renewable energy project (comprised of both REP 22-01 and 22-02) into two separate MNDs.**

**Response:** The Appellants assert the County analyzed the two separate applications (REP 22-01 and 22-02) in a “piecemeal” manner that is prohibited by CEQA. Section 15378 of the CEQA Guidelines broadly defines a project under CEQA as “the whole of the action” that may result either directly or indirectly in physical changes to the environment. Impermissible piecemeal review occurs when a large project is broken up into one or more smaller ones – each with minimal potential impact on the environment – which cumulatively may have significant consequences (*Planning & Conservation League v. Castaic Lake Water Agency* (2009) 180 Cal.App.4<sup>th</sup> 210, 235).

In this case, two ISMNDs were circulated for the two projects. The first set resulted in public comments regarding possible biological and air-quality impacts. This caused the applicant to have a bio-survey and air quality report conducted for the projects, which were prepared as if this was one project. The applicant then requested that staff recirculate the ISMNDs. This does not qualify as piecemealing for two distinct reasons:

1. Mr. Barker filed two separate REP applications for two separate solar facilities on contiguous land (Trona 7 and Trona 4). Each facility connects separately to the SCE utility grid and has its own energy contract, therefore each needs to have its own permit to operate.
2. Because the two proposed facilities have a common applicant, are in proximity to each other, and would have similar impacts, the second Initial Study evaluated the environmental impacts of both applications as one Project, but again 2 ISMNDs were resubmitted to the State Clearinghouse one for each project, meaning Trona 4 was evaluated along with Trona 7 and Trona 7 was evaluated along with Trona 4. Throughout the recirculated Initial Study process and all supporting documents, the two separate projects are treated and referred to as one single project. Piecemealing occurs when one large project is cut into smaller portions in order to analyze smaller segments. In this case, the County took two individual projects and analyzed them as one, single project.

Furthermore, the County’s decision to prepare two separate approvals was based on its administrative need to render a decision on two separate applications. While Appellants incorrectly label this as piecemealing, they also fail to acknowledge that the ISMNDs are identical in the subject matter and conclusions. Further, they fail to provide any legal authority prohibiting a lead agency from preparing multiple approvals, each supported by a separate ISMND, for multiple applications supported by a single, combined environmental review.

**3. Failure to include draft mitigation monitoring and reporting plans (“MMRP”) in the MNDs for public review and comment as required by the ICC.**

**Response:**

ICC 15.44.020 states as follows:

*Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment. The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR.*

This language requires the County to ensure the MMRP is available to the public for review and comment and that the plan is included in the proposed MND and adopted at the time the MND is adopted. This language does not require the County to circulate the MMRP with a MND and the Appellants incorrectly suggest it does. Further, nowhere in the CEQA Guidelines does it require an agency to include the reporting/monitoring plan in the draft MND. (See CEQA Guidelines, §§ 15073, 15073.5, and 15097.)

In this case, the County complied with all applicable laws and regulations in its treatment of the MMRP. Specifically, the MMRP, along with the ISMND, was made available to the public via the County's website on October 14, 2023, through the notice of hearing published for the Planning Commission meeting that took place on October 25, 2023 (this is more than the ten days required by law for notice). The notice included a direct link to the Planning Commission materials which included the MMRP and ISMND. These materials were also made available to the public at the Planning Department office. Following the public hearing on October 25, 2023, the Planning Commission approved the project along with the MMRP and the MND.

**4. Failure to properly incorporate the REGPA Programmatic EIR and its MMRP into the County's CEQA review for the Project.**

**Response:** This was not necessary per the Final PEIR Volume II prepared pursuant to section 15168 of the CEQA Guidelines for the REGPA. Specifically, page ES.7 of the PEIR states:

*"This document has been prepared as a program-level EIR pursuant to Section 15168 of the State CEQA Guidelines to document the environmental impacts of solar energy development within the County. The contents of this PEIR represent the independent judgment of the County (State CEQA Guidelines Section 15050). Subsequent, proposed solar energy projects greater than 20 MW would be examined in the light of this PEIR to determine whether any additional environmental document must be prepared (State CEQA Guidelines Section 15168(c)). Solar energy projects up to 20 MW may be exempt from further CEQA analysis, unless an event specified in Public Resources Code Section 21166 occurs as determined by a qualified County planner, in which case a Supplemental EIR or other CEQA document may be required."*

The County determined the PEIR to sufficiently address certain potential impacts of the project and those that were thought to require site-specific analysis were properly assessed with an ISMND that integrates enforceable mitigation measures based on the recirculated initial study. This falls directly under the direction of ES-7 as a qualified planner made the decision to require an "other CEQA document."

**5. Violating CEQA by conflating analysis of Project impacts and mitigation measures.**

**Response:** Appellants raise this same issue in their comment letter to the Planning Commission and based on that letter it would appear they are incorrectly applying EIR-level standards to the initial study prepared for this project. In other words, they seem to imply that an IS needs to contain the same level of detail and analysis required for an EIR and on that basis claim the County erred in its preparation of the MND.

Pursuant to CEQA Guidelines section 15063(a)(3), an initial study is "neither intended nor required to include the level of detail included in an EIR". Further, in this case the IS prepared for this project indicated "No Impact" or "Less than Significant Impact" for nearly all applicable categories. The checklist made a finding of "Less Than Significant with Mitigation Incorporated" for only three categories and appropriate mitigation measures were put into place for all three – biological resources (nesting birds and Kit Fox travel through the site), air quality (dust), and

noise during construction. This was done by conditioning the project with pre-construction bio-surveys, dust management and suppression during construction and operation, and noise suppression during construction. Failure of the applicant to meet any of the conditions of approval, including the mitigation measures, may result in revocation of the REP.

The IS did not make any findings of “Potentially Significant Impact” and therefore an EIR was not required. The use and preparation of the MND was appropriate and done in compliance with the PEIR and CEQA Guidelines.

**6. Failure to prepare EIRs despite the existence of a fair argument of significant environmental impacts.**

**Response:** Again, the Trona 4 project is exempt from further CEQA analysis pursuant to the express terms of the PEIR. Staff elected to conduct further environmental review anyway and prepared a MND. A MND is appropriate when the environmental effects of the project can be avoided or mitigated to the point where clearly no substantial evidence, in light of the whole record, is presented that the project may have a significant effect (CEQA Guidelines § 15064(f)(2)). In this case, no impacts were identified in the IS that met the threshold to trigger an EIR. The use and preparation of the MND was appropriate and done in compliance with the PEIR and CEQA Guidelines.

Ignoring this, the Appellants claim a “fair argument” exists such that an EIR must be prepared. Pursuant to CEQA Guidelines section 15064(f)(1), the fair argument standard means that if a “fair argument” can be made that a project may have a significant effect on the environment, an EIR must be prepared. Pursuant to CEQA Guidelines section 15384, to support the existence of a fair argument of significant environmental impacts, the Appellants must provide substantial evidence that includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. The Appellants incorrectly rely on argument, speculation, and unsubstantiated opinion and narrative and fail to provide any evidence, let alone substantial evidence, to support their claim that the Trona 4 project may have significant effects on the environment to necessitate the preparation of an EIR.

**7. Reliance on mitigation measures that are inadequately defined, unenforceable, and of unknown effectiveness to conclude that environmental impacts are less than significant.**

**Response:** The mitigation measures set forth for the project, and included as conditions of approval, were derived from the biological survey and air quality study conducted. The biological survey suggested mitigation measures which were prepared by a qualified biologist and the air quality study suggested mitigation measures prepared by a consulting firm that specializes in air quality and greenhouse gas impacts. Based on these experts’ opinions, the mitigation measures created for the project would result in environmental impacts that are less than significant. Like all the conditions of approvals, these mitigation measures are fully enforceable<sup>8</sup>. If the applicant fails to follow or properly implement any of the conditions, the REP may be revoked.

Appellants fail to specify which mitigation measures they take issue with. They also fail to provide any facts, substantial evidence, or compelling argument and rely on vague, conclusory statements to support their contention that one or all of the mitigation measures are deficient. (See CEQA Guidelines § 15384.).

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<sup>8</sup> The mitigation and monitoring program provides direction for what particular agency or county department is responsible for particular aspects of the project monitoring and when it should occur.

**8. Inadequate identification of cumulative projects and analysis of cumulative impacts.**

**Response:** Appellants raise this same issue in their comment letter to the Planning Commission and based on the language in that letter it would appear that they fail to recognize the difference between a cumulative analysis required for an EIR and that which is required for an initial study supporting a negative declaration. To argue their point, Appellants rely on CEQA Guidelines sections 15130 and 15355, which govern the cumulative impacts analysis in an EIR. An EIR was not prepared for this project because it was not required to be prepared therefore requirements for an EIR do not apply.

In response to the comment letter, on this discrete point, the applicant's attorney explained:

*The correct method for assessing – in an initial study – whether impacts are cumulatively considerable is described in Section 15065(a)(3) of the CEQA Guidelines, as interpreted and applied by San Joaquin Raptor/Wildlife Rescue Center and related cases. The question is whether the “incremental effects” of a project are “considerable” when evaluated against the backdrop of environmental effects of other projects. (San Joaquin Raptor, 42 Cal.App.4th at pp. 623-624.) Where the initial study concludes that these effects are absent, a challenger must point to some substantial evidence that a cumulatively considerable incremental effect exists. (See response letter from Harrison, Temblador, Hungerford & Guernsey at Attachment C).*

The IS is supported by substantial evidence showing that the Projects will have no considerable incremental effects requiring the preparation of an EIR and Appellants have failed to show otherwise.

**9. Inadequate analysis and disclosure of environmental impacts.**

**Response:** Pursuant to the REGPA, staff reviewed the project first under the lens of the PEIR and although not necessary, decided to produce an ISMND for the project, primarily to address possible dust in the area. Based on public comment, and at the applicant's request, a recirculated ISMND was subsequently created to further evaluate possible environmental impacts. A biological survey and an air quality analysis were also conducted for the ISMND. All possible impacts were evaluated, disclosed, and where appropriate, mitigated through the ISMND process. These documents were also circulated pursuant to CEQA Guidelines and sent to the State Clearinghouse for State Agency review and the County Recorder for public comment. As already stated, public comment was addressed.

This project is expressly allowed by virtue of its location within an adopted SEDA as set forth in the Inyo County REGPA. The County determined no further environmental review was required pursuant to the PEIR but still prepared an ISMND, which was circulated and then recirculated again with a biological and air quality study. Based on the ISMND, and the administrative record as a whole, substantial evidence that the project has a significant impact on the environment does not exist.

Further, as evidenced in the record, the applicant has gone above and beyond that which is legally required to appease the appellants throughout this process, including supporting additional (un-mandated) environmental reviews, supporting a second circulation of the ISMND with a biological survey and air quality report, and remaining open to additional conditions of approval as were discussed during the Planning Commission's public hearing.



The County's preparation and use of the ISMND was proper and complied with all applicable laws and regulations and the Appellants have failed to show otherwise.

**Recommended Actions:**

Staff recommends the Board deny the appeal and uphold the Planning Commission's decision to approve REP 2022-02/Barker.

- (1) <https://www.inyocounty.us/sites/default/files/2020-04/FinalREGPA33015.pdf>
- (2) <https://www.inyocounty.us/services/planning-department/environmental-reviews>
- (3) <https://www.inyocounty.us/services/planning-department/current-projects>
- (4) <https://www.inyocounty.us/services/planning-department/current-projects>
- (5) Most of the comments raised perceived CEQA issues, which issues were promptly responded to by staff and the applicant's attorney. These comments and all responses were included in the materials provided to the Planning Commission (**Attachment C - Comments and Responses regarding the CEQA documents**).
- (6) Reclamation and decommissioning are used interchangeably throughout.
- (7) See also Attachment E - Notice of Decision and Determination, Finding #6 wherein the Planning Commission made a health, welfare and safety finding supported by Environmental Health. This finding, along with the conditions of approval, adequately address 21.20.070.
- (8) The mitigation and monitoring program provides direction for what particular agency or county department is responsible for particular aspects of the project monitoring and when it should occur.

<b>FISCAL IMPACT:</b>			
<b>Funding Source</b>	Non-General Fund	<b>Budget Unit</b>	023800
<b>Budgeted?</b>	Yes / No	<b>Object Code</b>	
<b>Recurrence</b>	One-Time Expenditure		
<b>Current Fiscal Year Impact</b>			
<b>Future Fiscal Year Impacts</b>			
<b>Additional Information</b>			

Paid for with \$300 application fee

**ALTERNATIVES AND/OR CONSEQUENCES OF NEGATIVE ACTION:**

- 1. The Board may consider the following alternatives.
- 2. Do NOT approve the requested actions. Denial of the Appeal and upholding the Planning Commission decision to approve is recommended.
- 3. Return to staff with direction.

**OTHER DEPARTMENT OR AGENCY INVOLVEMENT:**

None.

**ATTACHMENTS:**

1. Attachment A-F - Appeal 2023-03
2. Public comment Howard Smith
3. Public comment Kidder
4. Public comment Mays 1
5. Public comment Mays 2
6. Public comment Mays 3
7. Public comment Mays 4
8. Public comment Mays 5
9. Public comment McNamara Ball
10. Public comment McNamara
11. Public comment Soluri Meserve

**APPROVALS:**

Cynthia Draper	Created/Initiated - 1/11/2024
Darcy Ellis	Approved - 1/17/2024
Cathreen Richards	Approved - 1/17/2024
John Vallejo	Approved - 1/22/2024
Christian Milovich	Approved - 1/26/2024
Nate Greenberg	New -
Cathreen Richards	
Cynthia Draper	

ATTACHMENT- A  
APPEAL LETTER

November 8, 2023

**SENT VIA EMAIL AND OVERNIGHT MAIL**

(boardclerk@inyocounty.us)

Inyo County Board of Supervisors  
Attention: Clerk of the Board  
P.O. Drawer N  
Independence, California 93526

**Re: Appeal of Planning Commission's October 25, 2023  
Actions on Action Items 5 and 6:  
Renewable Energy Permit 2022-01/Barker,  
and Renewable Energy Permit 2022-02/Barker**

Dear Inyo County Board of Supervisors:

On behalf of John Mays, Amanda Ball, Brian McNamara, Tom Kidder, and Eden Miller ("Appellants"), this letter appeals the Planning Commission's actions regarding Action Items 5 and 6 on the October 25, 2023 agenda, which include approvals of the Renewable Energy Permit ("REP") 2022-01/Barker and REP 2022-02/Barker (collectively, the "Project") and adoption of two separate mitigated negative declarations ("**MND**") for the Project ("Appeal"). The Appeal is submitted pursuant to Inyo County Code ("ICC") Chapters 15 and 18.

Appellants are "interested person[s]" and "adversely affected" by the Planning Commission's actions. As explained in earlier communications, Appellants own property and reside in close proximity to the Project site and would be negatively impacted by the County's failure to adequately analyze and mitigate the Project's various environmental impacts in violation of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq. ["CEQA"]), the County's General Plan, Renewable Energy General Plan Amendment ("REGPA"), and County Code as set forth herein and in earlier comment letters. Further, Appellants previously provided comments regarding the adequacy of the MNDs as required by ICC section 15.52.010.

Applicants appeal the Planning Commission's actions<sup>1</sup> on the following grounds:

1. Failure to approve a reclamation plan and financial assurances for the REPs.(County Code, §§ 21.20.030, -040, -070; REGPA Implementation Policy 10; General Plan Policy MER-2.8; REGPA mitigation measure Bio-3);
2. Piecemealed CEQA review by splitting the overall renewable energy project (comprised of both REP 22-01 and 22-02) into two separate MNDs;
3. Failure to include draft mitigation monitoring and reporting plans ("MMRP") in the MNDs for public review and comment as required by the ICC;
4. Failure to properly incorporate the REGPA Programmatic EIR and its MMRP into the County's CEQA review for the Project;
5. Violating CEQA by conflating analysis of Project impacts and mitigation measures;
6. Failure to prepare EIRs despite the existence of a fair argument of significant environmental impacts;
7. Reliance on mitigation measures that are inadequately defined, unenforceable, and of unknown effectiveness to conclude that environmental impacts are less than significant;
8. Inadequate identification of cumulative projects and analysis of cumulative impacts;
9. Inadequate analysis and disclosure of environmental impacts.

The above grounds for appeal are supported by numerous public comments previously submitted by this firm and directly by Appellants. That said, Appellants will also submit additional briefing and supporting evidence in accordance with Inyo County's *Board Governance and Rules of Procedure*, Rule 22. Such additional briefing

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Since the County has prepared substantively identical staff reports and CEQA documents for the REP 22-01 and 22-02, these grounds for appeal apply to both approvals. Further, in an abundance of caution, Appellants have tendered two \$300 checks for appeal fees.

County of Inyo  
Board of Supervisors  
November 8, 2023  
Page 3 of 3

will include detailed responses to the applicant's recent letter purporting to address public comments on the Project and MND.

Very truly yours,

**SOLURI MESERVE**  
**A Law Corporation**

By:



Patrick M. Soluri

cc via email:

Darcy Ellis, Assistant Clerk of the Board, [dellis@inyocounty.us](mailto:dellis@inyocounty.us)  
Cynthia Draper, Assistant Planner, [cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)  
Inyo County Planning Department, [inyoplan ni ng@invocou nty.us](mailto:inyoplan ni ng@invocou nty.us)

Attachments via overnight delivery:

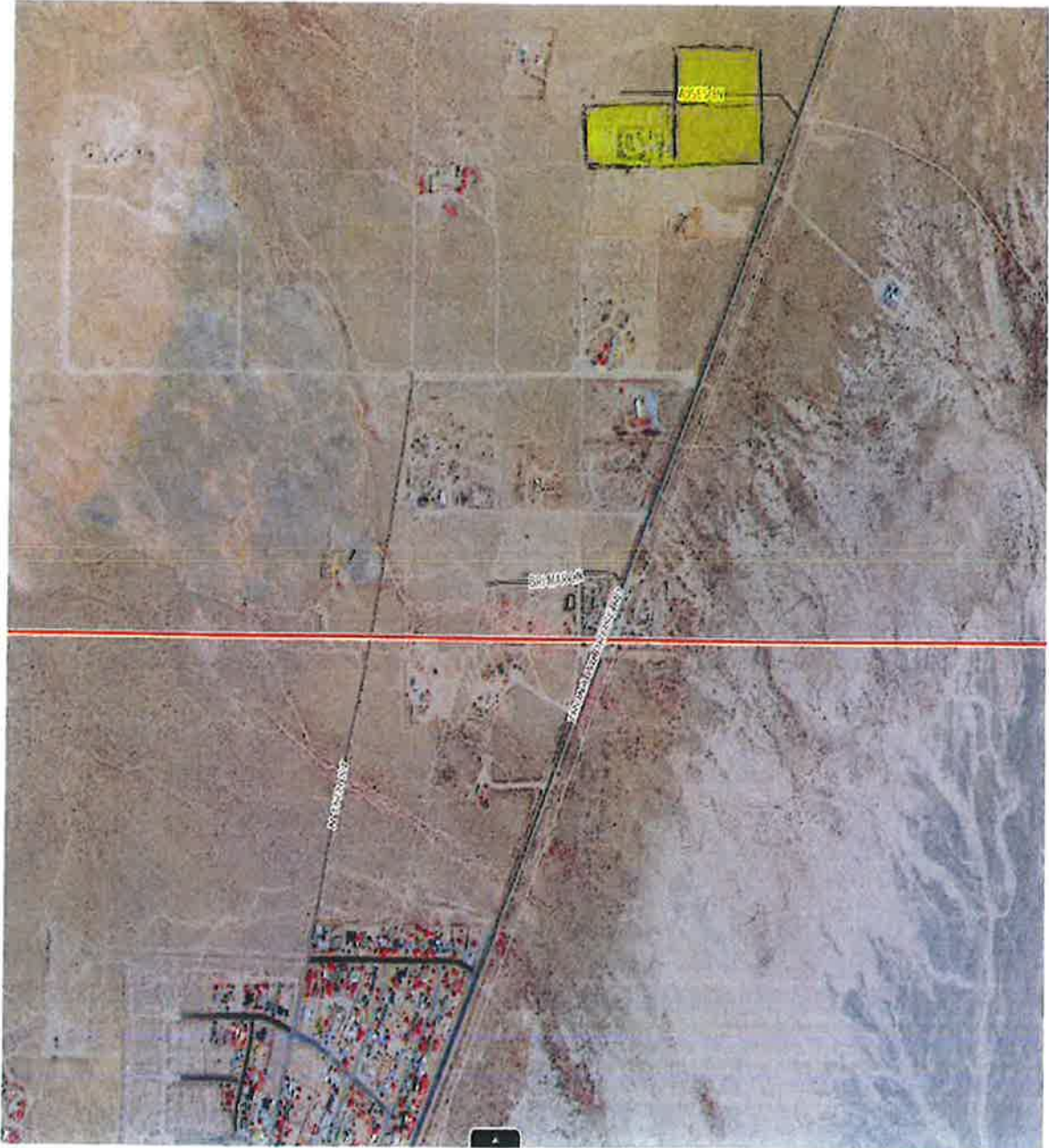
Check numbers 4391, 4392 in the amount of \$300 each

ATTACHMENT-B  
VICINITY MAP AND SITE PLAN

# VICINITY MAP

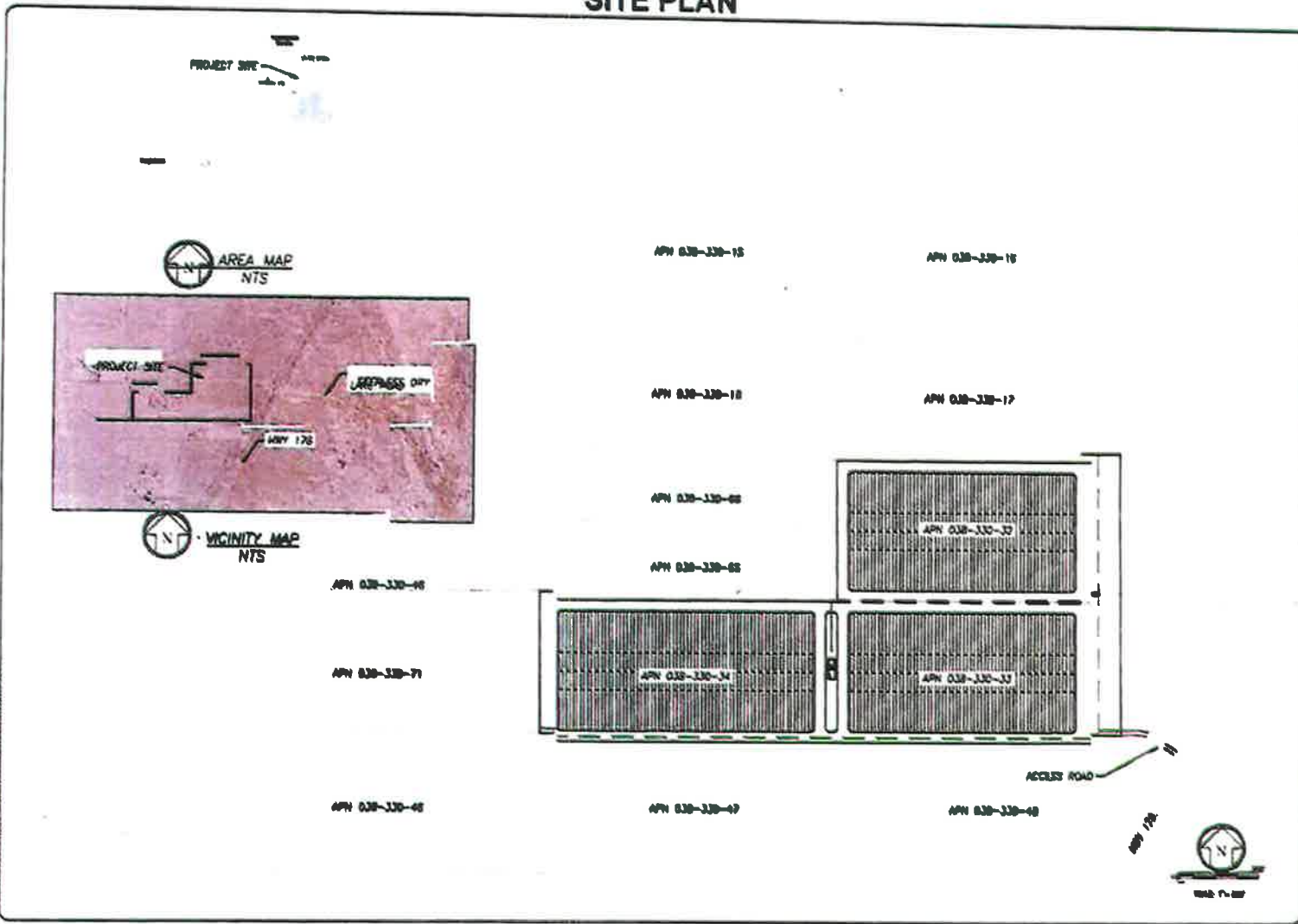
REP 2022-02/BARKER

APN 038-330-32;33;34





# REP 2022-02/BARKER SITE PLAN



Valley Wide Construction Controls  
 11111 Valley Way  
 Suite 100  
 San Diego, CA 92121  
 Phone: 619.444.1111  
 Fax: 619.444.1112  
 www.valleywide.com

GN  
 GEORGE NICHOLS & ASSOCIATES  
 ENGINEERS, ARCHITECTS & PLANNERS  
 11111 Valley Way  
 Suite 100  
 San Diego, CA 92121  
 Phone: 619.444.1111  
 Fax: 619.444.1112  
 www.gnna.com

1. SITE PLAN SHALL BE PREPARED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA CIVIL ENGINEERING BOARD'S STANDARD SPECIFICATIONS FOR THE PREPARATION OF SITE PLANS AND THE CALIFORNIA CIVIL ENGINEERING BOARD'S STANDARD SPECIFICATIONS FOR THE PREPARATION OF SITE PLANS.

ATTACHMENT- C  
CEQA COMMENTS



**California Program Office**

P.O. Box 401, Folsom, California 95763 | 916-313-5800

[www.defenders.org](http://www.defenders.org)

August 25, 2023

Cynthia M. Draper, Assistant Planner  
Inyo County Planning Department  
168 N. Edwards Street  
Independence, CA 93526  
Delivered via email to: [cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)

RE: Renewable Energy Permit – Barker-Trona 4 (SCH 2022110323) and  
Renewable Energy Permit – Barker-Trona 7 (SCH 2022110344)

Dear Ms. Draper:

Thank you for the opportunity to provide comments in response to the Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Studies (DMND) for the proposed Barker-Trona 4 Solar and Barker-Trona 7 Solar Farms (collectively, the “Projects”). Defenders of Wildlife (Defenders) is dedicated to protecting all wild animals and plants in their natural communities and has nearly 2.1 million members and supporters in the United States, with more than 316,000 residing in California. We strongly support renewable energy development that will help meet California’s emission reduction goals and avoids destruction of important wildlife habitat and the loss of at-risk species. Achieving a low-carbon energy future is critical for protecting California’s internationally treasured wildlife, landscapes and diverse habitats.

The proposed Projects are solar photovoltaic PV electricity generating facilities and associated infrastructure: Barker-Trona 4 would generate 3.0 MW of renewable energy on a 15-acre parcel and Barker-Trona 7 would generate 1.2 MW on an adjacent 5-acre parcel, located in Inyo County west of Trona Wildrose Road, between the Trona Airport and the border of San Bernardino County. The Projects were submitted under separate applications due to their separate interconnections to the existing Southern California Edison 33kV transmission line that passes through the area. The Project site is zoned as rural residential, and the area of both Projects is described as graded and “highly disturbed,” with “no natural vegetation, habitat, water features, or structures.” Portions of the Barker-Trona 4 site were previously used as “a private dirt track and a junk yard.” Additionally, the Projects are located within a designated Inyo County Solar Energy Development Area,<sup>1</sup> and are not located within Natural Landscape Blocks,<sup>2</sup>

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<sup>1</sup> See <https://databasin.org/maps/new/#datasets=d035971f69f84ba9b3fdb2ed551a442>

<sup>2</sup> See <https://databasin.org/maps/new/#datasets=e1bb8c9a9631413f97b28cc72a5efe93>

Essential Connectivity Areas,<sup>3</sup> mapped critical habitat,<sup>4</sup> or state or global Important Bird Areas.<sup>5</sup> While the site lies partially in areas designated as modeled predicted occupied habitat for the desert tortoise,<sup>6</sup> Defenders concurs with the Projects' Biological Resource Evaluation, which concluded that neither tortoises nor suitable habitat are present on the site.

As we transition toward a clean energy future, it is imperative that we consider the near-term impact of solar development on our biodiversity, fish and wildlife habitat, and natural landscapes while addressing the long-term impacts of climate change. Therefore, renewable energy projects must be planned, sited, developed and operated to avoid, minimize and mitigate adverse impacts on wildlife and lands with known high-resource values. Defenders finds the Projects are fully consistent with these criteria through being sited on previously distributed lands and applying appropriate mitigation measures to reduce the impact on special-status species in the region, including desert kit fox and birds protected by the Migratory Bird Treaty Act, as outlined on page 6-18 of the Biological Resource Evaluation. These measures include conducting pre-activity surveys and equipment inspections, avoidance buffers, worker training, speed limits, covering of holes and trenches, and proper waste management processes. We encourage the County to continue siting renewable energy projects in low-conflict areas in order to avoid or minimize impacts on sensitive species.

Thank you once again for the opportunity to provide comments on the DMND for the Barker-Trona 4 and 7 projects and for considering our comments. We look forward to reviewing the Final Environmental Documents for the Projects and request to be notified when they are available. Please feel free to contact us with any questions.

Respectfully submitted,



Aimee Delach  
Senior Policy Analyst, Climate Adaptation  
202-682-9400 x271  
[ADelach@defenders.org](mailto:ADelach@defenders.org)



Sophia Markowska  
Senior California Representative  
408-603-4694  
[SMarkowska@defenders.org](mailto:SMarkowska@defenders.org)

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<sup>3</sup> See <https://databasin.org/maps/new/#datasets=c57212b3aa1243d28216a1b7db18a1ca>

<sup>4</sup> Per Figure 4-1, Trona 4 and 7 Solar Project Biological Resource Evaluation, at <https://ceqanet.opr.ca.gov/2022110323/2>

<sup>5</sup> See <https://databasin.org/maps/new/#datasets=1180b50bafce4871a019245da1c8b6b2>

<sup>6</sup> See <https://databasin.org/maps/new/#datasets=a1f5e25b9b944f9fa6aa3be8f54f8a2e>



August 25, 2023

FROM: John Mays

85517 12<sup>th</sup> St. (P.O. Box 583)

Trona, CA 93592

TO: Inyo County Planning Department via email [inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us)

Attn: Cynthia Draper [cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)

CC: Patrick Soluri [patrick@semlawyers.com](mailto:patrick@semlawyers.com), Tom Kidder [tkidder85@gmail.com](mailto:tkidder85@gmail.com), Amanda Mcnamara-Ball [akmcmamara80@gmail.com](mailto:akmcmamara80@gmail.com), Brian McNamara [b.mcnamara1951@gmail.com](mailto:b.mcnamara1951@gmail.com)

RE: Comments on Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Study (Initial Study) dated July 19, 2023, for REP 2022-01 and REP 2022-02

1.) The new documents fail to sufficiently address any comments previously submitted on REP 2022-01 and REP 2022-02 by myself, the others included on this email, or by my legal representation. All of these comments are resubmitted here by reference including those by Tom Kidder, Amanda, McNamara-Ball, and Brian McNamara. The additional comments herein are also being submitted on their behalf. Also, we wish to incorporate all our complaints sent to Inyo County regarding these projects since 2021 by reference.

2.) The Initial Study shows Inyo County Planning Departments repeated reluctance to perform the necessary CEQA analysis as guided by the Renewable Energy General Plan Amendment Final Programmatic Environmental Impact Report dated March 2015 (PEIR). Inyo County has failed to comply with CEQA requirements and effectively bypassed CEQA requirements by not performing the necessary environmental analyses that are enumerated by the PEIR. Compounded by the lack of enforcement and the repeated disregard for permitting procedures, destruction of environmental resources and endangerment of human health has occurred. The Inyo County Planning Department should not be allowed to conduct any such approval for solar permits until it can demonstrate proper compliance with CEQA requirements and its own regulations.

3.) The new biological evaluation as provided with the new Initial Study is a grossly insufficient analysis designed only to advance the project. It represents a token glance done in only 58 minutes at the project site. The necessary biological evaluation that is needed to accurately assess biological impacts is described in detail by the PEIR and has been mentioned at length in previous comments. A representative evaluation would require multiple visits over the full year to account for seasonal variations of wildlife and plant species and multiple observations to substantiate the presence of or lack of any species. The authors' own comments confirm that the study is insufficient, stating it is "limited by the scope of work performed" and "limited by conditions present at the time of the study." The US FWS

letter appears to be a form letter automatically generated on the same day of the study and represents no actual consultation with US FWS. All of this is typical of the methods of cursory review repeatedly applied by the Inyo County Planning Department. This has nothing to do with accurately assessing impacts but purely designed to avoid substantial review by understating the impacts on the ecology of the project.

4.) The biological evaluation does, however, strongly document the destruction of wildlife habitat and plant life caused by the illegal and repeated pre-permit construction efforts. Despite numerous reports and documentation provided, Inyo County has continued to allow this site destruction repeatedly throughout the permit process. This directly subverts the environmental laws of the State of California and requirements of CEQA. Clearly, the lack of concern for wildlife being present at the project and minimal impacts on wildlife and plants within the biological evaluation resides primarily on the fact that the project “has been disked and exhibits little vegetation regrowth” and is thus devoid of habitat. In fact, the site has been graded with vegetation removed so extensively that it represents an intentional farming practice that completely turns the soil. Such disking destroys any animal burrows which would be evidence of food sources or homes for species. It also destroys the vegetation on which such Endangered or Special Status Species live upon or within.

5.) The eye-blink biological evaluation is essentially certain to have overlooked species which may have been just simply missed, transient, or seasonal to the site including Mojave Ground Squirrel, Burrowing Owl, Desert Tortoise, and other Endangered and Special Status Species as listed by US FWS as potentially occurring in the area. These are all typical in the region, have been reported by the observations of residents, and not addressed by the Initial study or mitigation provided.

6.) The new biological evaluation states that more detailed additional studies be done before construction. However, realistic, comprehensive biological studies need to be done before permit approval to ensure proper mitigation has been put in place before the permit can be issued.

As proposed by the approach in the biological evaluation, a vast number of species with potential to be present but that were not observed in this single 58-minute survey would not be protected. The biological evaluation recommends only surveying and mitigation for the desert kit fox and migratory birds but does not detail surveys or mitigation for numerous other wildlife and vegetation species which US FWS say could be present. This grossly avoids substantial mitigations required to protect wildlife and vegetation and thus increases the potential for a take. For this reason, complete biological studies must be completed in advance of a permit approval so that proper mitigation is in place.

7.) A report with analysis on dust generated provided by the new Initial Study is insufficient. It does not account for:

- dust generated from bare grounds during high winds
- actual conditions where dust control is not implemented
- a realistic construction period which is much greater than the assumed overall period of 2 months and 2 weeks of “minor” grading. This is especially overly optimistic as no grading or drainage plan has been envisioned. There is no provision for removal of large boulders which are prevalent through the subsurface and cause major difficulties in drilling the panel supports.

- dust generated from accumulated sand dune deposits at project fencing as evidenced in examples of California City solar plants as provided with previous comments. Does not account for fence construction and maintenance for windblown sand accumulations.

- does not account for heavy truck traffic on local roads to deliver project construction materials and operating supplies. Does not provide location of roads to be traveled as no access or road plan is provided. If using local dirt roads, this could be within a few feet of residences.

- does not assess the long-term and short-term effects on several nearby receptors which are residences within less than 500 ft, especially during wind events

- incorrectly steps the facility footprint substantial back from parcel boundaries although this is not the design, and no permit conditions require this. (fig.1). This improper mechanism to avoid dust and pollutants traveling across the project boundary.

- does not include the existing operating facility in its assessment of long-term and short-term impacts, REP 2021-01

The current solar facility, REP 2021-01, which is less than half the size of these proposed permits, has taken at least a couple of years to be constructed. Even now apparently, construction is still not finished. The project currently has stockpiled earthen materials and construction equipment on site. There has been grading of the site and placement of gravel during recent months.

As documented to Inyo County Planning Department, as reported January 13, 2022, all the surface of REP 2022-01 and REP 2022-02 was graded without dust control methods being applied and has been left that way since that date. Additional construction work with no dust control has been documented and reported in the last few months. Video was provided to Inyo County officials documenting extreme dust generation during high wind events.

An evaluation of impacts from dust generation and resulting health and equity impacts have not been sufficiently addressed by the new Initial Study and are grossly understated by the new analysis.

7.) The Initial Study does not address the fact that Inyo County is unable and unwilling to enforce dust control at the current operating solar facility and the proposed sites. It has been demonstrated by numerous reports that dust control procedures are not being followed and other unlawful construction practices are being allowed by the Inyo County without recourse. This negates any mitigation provided in the Initial Study proclaiming that dust control measures will be implemented and negates the determinations made by Inyo County in the Initial Study on impacts from dust.

8.) Attached is evidence of other complaints on Facebook regarding another solar site in Inyokern. This site is owned and being developed by the same owner/developer as REP 2022-01 and REP 2022-02 on July 22, 2023. This was during the same time when complaints were made regarding the Trona facility. The developer's repeated lack of compliance must be enforced otherwise there is no substance to mitigation that the Initial study is based upon. Inyo County cannot proceed with these permits until it can demonstrate proper management of its solar facilities, it has set a precedent to the contrary. Otherwise, substantial impacts to public health can occur.





WTF IS HAPPENING IN RIDGECREST · ...

Follow

Russ Lester · Jun 22 at 17:45 · 🌐

To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that...

See more 🗨️

To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that everyone has to drive thru. Just sayin

👍👎🗨️ 41

25 comments

👍 Like

🗨️ Comment

➦ Send

👍👎🗨️ 23

15 comments

👍 Like

🗨️ Comment

👍 23 >

Top comments

**Kady Buckholz**  
I was just talking about this.  
1h Like Reply


**Jamie Weston**  
😂😂😂 I saw that the other day when I was doing a delivery.  
1h Like Reply

**Maria Jordan**  
Lamooo that's dumb lol like we can control when the wind blows  
49m Like Reply

**Donald Hitt**  
Solar field going in  
39m Like Reply

**Sharon Boyer**  
Drove through it!!  
1h Like Reply


**Mindy Spivey**  
HA HA HA HA  
1h Like Reply

**Ginger Brown**  
  
40m Like Reply

**Amanda McNamara**  
Call Kern County Planning Commission and complain. It's an air permit violation. They are supposed to keep a water truck on it all the time.  
2m Like Reply

**Tina Flanigan**  
Solar power.  
1h Like Reply

**Tamy Rice**  
Agreed  
1h Like Reply

**Ginger Brown**  
Call the county...valley fever because of clearing land like this ...o the county forgot to tell us ... U have to request the test if u have symptoms....and they need to water truck this to keep the dust down...they also must have a permit....people need to call...here is your info...  
  
40m Like Reply

**Anthony Levesque**  
No  
10m Like Reply

**Robbie Harper**  
Or at least plow the north 40 at less than 60!  
1h Like Reply

Write a comment...

9:02 🌐 📶 🔋

☰ Login

LLC (202130910556)	>		
M&S INYOKERN CORP. (4661667)	>	11/05/2020	Active
RB INYOKERN SOLAR LLC (201615410405)	>	05/25/2016	Suspended - FTB
RB INYOKERN SOLAR WDAT 1203 LLC (202206311083)	>	03/02/2022	Active
RB INYOKERN SOLAR WDAT 1281 LLC (202206311152)	>	03/02/2022	Active
RIDGECREST INYOKERN RD, LLC (201623510120)	>	08/15/2016	Active
SIERRA PACIFIC INDUSTRIES, INYOKERN DIVISION (375961)	>	05/25/1959	Suspended - FTB
TA - INYOKERN, LLC (200932310149)	>	11/13/2009	Terminated

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◀ ● ▶

9.) A full EIR is prescribed by CEQA for these projects and is required for these projects to advance. This was required by Kern County Planning for the owner/developer's solar facility in Inyokern. That study may be found here and serves as an example of the more extensive impact evaluation and coordination on biological evaluation necessary. This permitting action required incidental take permits for the Desert

Tortoise and Mojave ground squirrel. Since Inyo County allowed pre-permit construction this take may have already occurred.

<https://kernplanning.com/environmental-doc/rb-inyokern-solar-project/>





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August 25, 2023

**SENT VIA EMAIL**

(inyoplanning@inyocounty.us;  
Cynthia Draper, Assistant Planner, cdraper@inyocounty.us)

County of Inyo  
Planning Commission  
168 North Edwards Street  
Post Office Drawer L  
Independence, California 93526

**Re: Recirculated MNDs for Renewable Energy Permit 2022-01/Barker and  
Renewable Energy Permit 2022-02/Barker**

Dear Ms. Draper:

On behalf of our client, John Mays, this letter provides comments regarding the two recirculated mitigated negative declarations (“RMND”) for Renewable Energy Permit (“REP”) 2022-01/Barker and REP 2022-02/Barker (collectively, the “Project”).

We previously submitted comments identifying numerous procedural and substantive violations of the California Environmental Quality Act (“CEQA”) associated with the two mitigated negative declarations (“MND”) previously prepared and circulated for the Project. We understand that the County has prepared the RMNDs that purport to correct some of the previously-identified deficiencies in the MNDs. For example, the RMND includes an appendix containing some “representative photographs” of existing conditions, a biological resources assessment and an air quality (“AQ”)/greenhouse gas emission report. Even with this new information, serious informational deficiencies persist. As described below, the RMNDs violate CEQA and cannot provide adequate environmental review for the Project.

**A. The RMNDs Fail to Include Mitigation Monitoring and Reporting Plans**

Although clearly identifying each document as an “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeatedly checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County fails to prepare Mitigation Monitoring and Reporting Program(s) (“MMRP”(s)). This violates

CEQA (CEQA Guidelines, § 15097) and also the Inyo County Code. (County Code, Ch. 15.44.) To wit:

15.44.005 General.

The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)

15.44.010 Application.

A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)

15.44.020 Timing.

***Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment.*** The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)

15.44.030 Contents.

The monitoring plan shall contain, at a minimum, the following:

- A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;
- B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);
- C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;
- D. Identification of the person or entity responsible for monitoring and verification;
- E. The method of reporting monitoring results to the county. (Ord. 957 § 1 (part), 1995.)

15.44.040 Enforcement.

Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)

Setting aside the RMND's practice of not identifying mitigation measures required to reduce Project impacts, the RMND's expressly identify mitigation measures in Sections IV(a), XIII(a) and XXI(a). Thus, the RMND's require a draft MMRP that is circulated for public comment. The RMND's are therefore procedurally invalid. A new RMND or EIR must be recirculated for public review along with the required MMRP.

**B. Project Piecemealing**

CEQA's conception of the term "project" is broad to maximize protection of the environment. (*Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist.* (2007) 147 Cal.App.4th 643, 653; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730. "This big picture approach to the definition of a project (i.e., including "the whole of an action") prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project into smaller components which, when considered separately, may not have a significant environmental effect." (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 270-271.)

The County is dividing a project into smaller components. The Project consists of two REPs for photovoltaic solar power generation on adjacent parcels owned by the same person, Robbie Barker. The RMNDs explain, "This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts." (RMND, p. 3.) Notwithstanding this, the County has prepared two separate RMNDs for the Project. These RMNDs include:

- "RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-01/Barker- Trona 7" (See Exhibit 1.)
- "RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-02/Barker- Trona 4" (See Exhibit 2.)

Dividing a single project into two CEQA documents violates CEQA. The relevant test is whether the activities have “substantial independent utility.” (*Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal.App.4th 712, 736.) It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by preparing two separate RMNDs for what it concedes is a single project under CEQA. A reviewing court would exercise its independent judgment on this issue with no deference to the agency. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)

We previously commented on this issue, and the RMNDs provided make the case for piecemealed review even stronger. Both RMND’s technical reports analyze the two REPs as a single project. The air quality report explains, “Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site (collectively referred to herein as the ‘Project’).” Similarly, the biological resources report states, “Biological Resource Evaluation – Trona 4 and 7 Solar Project.” The RMNDs themselves explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)

It appears that the County now recognizes the two REPs constitute a single CEQA project. If so, the County must prepare a single CEQA document for that single project. The County’s continued reliance on two separate CEQA documents for a single CEQA project violates CEQA.

### **C. Failure to Adequately Analyze Cumulative Impacts**

A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an environmental impact report (“EIR”). (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear



insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.)

Despite this mandate, the two RMNDs’ cumulative impacts analyses continue to be impermissibly cursory. Each RMND’s cumulative impact analysis provide in full:

No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note ***in the vicinity are PV solar projects within the Trona SEDA***, but the overall number and size of these projects are ***likely to be less than analyzed in the PEIR***. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.

(RMND, § XXI(b), emphasis added.)

This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) Here, the RMNDs appear to limit the scope of cumulative projects to those “within the Trona SEDA.” The RMNDs fail to explain this limitation, which violates CEQA. (CEQA Guidelines, § 15130, subd. (b)(3) [“Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used”].) The EIR for the Inyo County Renewable General Plan Amendment (“REGPA”) provided a reasonably expansive list of cumulative projects. (REGPA EIR, Table 5-1.) The County could have relied on that list of projects so long as it complied with CEQA’s requirements for tiering/incorporation by reference as well as updating a cumulative project list, but the County did not follow that procedure. (CEQA Guidelines, § 15130, subd. (b)(1); § 15150, subd. (c); § 15152.)

Similarly, the RMNDs appear to limit the scope of cumulative projects by stating that PV solar projects are the only projects “of note.” The RMNDs fails to explain what is meant by limiting cumulative projects to only those “of note.” CEQA includes no such limitation, and instead requires a CEQA document to set forth “[a] list of past, present, and probably future projects producing related or cumulative impacts.” (CEQA Guidelines, § 15130, subd. (b)(1)(A).) For example, the Project will unquestionably

result in dust generation. Projects other than PV solar projects may also generate dust and therefore must be identified as cumulative projects.

#### **D. The RMNDs Failed to Adequately Analyze and Mitigate Project Impacts**

The RMNDs failed to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 74 (*No Oil I*.) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (*Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (*No Oil I, supra*, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (*Id.* at p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.

In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This is assured by incorporation into an MMRP. (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation of Hillside & Canyon v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 (*Federation*).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See *San Bernardino Valley Audubon Society v. Metropolitan Water District* (1999) 71 Cal.App.4th 382, 392.)

Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (*Sundstrom v. County of Mendocino* (1988) 202

Cal.App.3d 296, 311 (*Sundstrom*.) For example, in *Sundstrom* the court held that the absence of information explaining why no alternative sludge disposal site is available “permits the reasonable inference that sludge disposal presents a material environmental impact.” (*Ibid.*) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.

**1. *The RMNDs impermissibly conflate analysis of impacts and mitigation.***

For every resource area, the RMNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 658 (*Lotus*) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.

For example, with respect to whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the RMNDs assert, “No . . . The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) CEQA requires the RMNDs to disclose the significance of the impact without regard for mitigation, separately identify all feasible mitigation measures and assess their effectiveness at reducing the impact. (*Lotus, supra*, 223 Cal.App.4th at 655-656 [“Caltrans compounds this omission by incorporating the proposed mitigation measures into its description of the project and then concluding that any potential impacts from the project will be less than significant. . . . By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA”].) The RMNDs follow this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural

resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.

**2. *Mitigation Measures are not adequately defined, effective or enforceable.***

CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (*Federation, supra*, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound in the RMNDs. Just a few representative examples are provided.

The RMNDs claim that construction air quality will be less than significant because “[t]he applicant will control dust during construction by *standard techniques* that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) The RMNDs fail to adequately define these “standard techniques.” Are the “standard techniques” limited to the three identified techniques? If so, why are the RMNDs excluding other techniques disclosed in mitigation measure AQ-2 of the REGPA EIR? Further, the RMNDs fail to adequately describe the mere three techniques mentioned that would allow an assessment of their effectiveness. For example, how frequently will water trucks be used? Is there a standard for when water trucks will be required during construction? How is limestone used effectively to reduce dust? How are dust suppressants used? Are there other possible dust suppressants other than EarthGlue? If so, are any of these other dust suppressants more effective than EarthGlue? What are the tests or triggers for application of limestone or dust suppressants?

Addressing some or all of these questions is necessary for the RMNDs to adequately inform the public and decision-makers that mitigation is effective to reduce the impact to less than significant on sensitive receptors such as the adjacent residential properties. An MND cannot rely on a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (*King & Gardiner Farms, supra*, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 511.) The RMNDs have failed to provide evidence that its vague mitigation will be effective. Further, the RMNDs also failed to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant’s REP 2018-01 that was issued in 2018.

The RMNDs also improperly assume, without adequate project-specific analysis, that regulatory compliance will mitigate impacts. Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the RMNDs assert, “No . . . The applicant will be conditioned to obtain any required permits, and follow best management practices required by the GBUAPCD.” (RMND, § III(a).) This is inadequate under CEQA because a determination that regulatory compliance is adequate must be based on project-specific analysis. (*Californians for Alternatives to Toxics v. Dept. of Food and Agriculture* (2005) 136 Cal.App.4th 1.) Here, the RMNDs do not even identify what is required by the Great Basin Unified Air Pollution Control District (“GBUAPCD”), much less provide a project-specific analysis of how those requirements would be effective here. While the County may be inclined to point to an Air Quality Memorandum as supplying that missing analysis, this effort fails for two reasons. First, the analysis does not provide the missing information, explaining only, “Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollution emissions, including those required under their new source review requirements.” (AQ Memorandum, p. 7.) Thus discussion fails to describe applicable requirements, much less how those requirements applied here would effectively mitigate impacts. Second, even if the Air Quality Memorandum did provide some additional information, CEQA caselaw explains that such information cannot be buried in an appendix. (*Vineyard Area Citizens, supra*, 40 Cal.4th at 442. [information “buried in an appendix is not a substitute for good faith reasoned analysis”].)

The RMNDs then attempts to cite to the REGPA programmatic EIR (“PEIR”) and its MMRP in an attempt to dismiss significance of these impacts. (RMND, §III(a).) The plain language of the PEIR refutes this effort:

The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. However, since the air basin is within the Owens Valley PM10 Planning Area, ***fugitive dust emissions from construction must be mitigated.***

(PEIR, p. 4.3-10, emphasis added.) Here, however, there is no such mitigation. For example, the AQ-2 includes such measures as “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph.” The RMNDs conspicuously fail to mention these additional mitigation measures, much less identify them as such in an enforceable MMRP for the Project.

Finally, the RMNDs claim that PEIR mitigation measures AQ-1 through -3 “applied to utility-scale projects of greater than 20 MW and did not apply to smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner.” This is inexcusably false. The plain language of AQ-1 though -3 as revised and approved does not include such limitations. (Exhibit 3, March 2015 MMRP.)

PEIR AQ-1 states, “AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report.” The RMNDs violate this mandate because the Air Quality report does not incorporate the specific requirements of AQ-2 and AQ-3. It merely states, “[T]he Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.” PEIR mitigation measures AQ-1, -2 and -3 are not “goals and policies” of the REGPA; they are mitigation measures under CEQA. The Air Quality report does not even identify these mitigation measures, much less “incorporate” them into its “site-specific technical report.” At best, the Air Quality Memo states:

[F]ugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment trackout onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout

the life of the Project, which will in turn ensure impacts remain less than significant.

(Air Quality Memo, p. 12.0.)

While this provides a general discussion of some mitigation measures that could be used to address dust emissions, this discussion fails to comply with CEQA. This discussion fails to correlate the identified measures to the requirements of the GBUAPCD or the PEIR. Are these measures the only ones that will be used to satisfy the requirements of the PEIR and GBUAPCD? If so, why does this discussion omit any reference to “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph” as set forth in AQ-2. Further, this discussion in the Air Quality Memo does not explain how this discussion is enforceable against the project. This is precisely the function of mitigation measures and an MMRP.

Finally, regulatory compliance is only permissible when it is reasonable to assume that they will actually be complied with. “[C]ompliance with regulations is a common and reasonable mitigation measure, and may be proper *where it is reasonable to expect compliance.*” (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906.) Here, the project applicant has repeatedly violated County and air district rules and permits with respect to this Project and earlier projects. These repeated violations have been documented by County staff and establish that it is not reasonable to simply assume that the project applicant will comply with such permit terms in the future.

In short, the RMNDs improperly rely on mitigation to avoid analysis of project impacts and fail to provide adequate information in order to determine whether mitigation is effective and enforceable. Without this necessary information, the RMND’s significance determinations are not supported by substantial evidence.

### **3. *The RMNDs inconsistently apply the PEIR’s mitigation measures.***

Our prior comment letter explains that the original MNDs appeared to have ignored literally dozens of mitigation measures adopted pursuant to the PEIR. The RMNDs now appear to incorporate the PEIR’s mitigation measures but have done so inconsistently and in violation of CEQA. For example, sections IV(a) (Biological Resources) and XIII(a) (Noise) appear to incorporate mitigation measures set forth in the PEIR in order to address the Project’s potentially significant impacts in those resource areas. Setting aside the procedural deficiency of not circulating an MMRP including these mitigation measures, the RMNDs fail to explain why the same procedure was not

followed in other resource areas<sup>1</sup> where the PEIR requires mitigation in order to support a less-than-significant determination. The leading CEQA treatise explains, “As activities within the program are approved, the agency must incorporate, if feasible, the mitigation measures and alternatives developed in the program EIR in its action approving the activity.” (1 Kostka and Zischke, Practice Under the Cal. Environmental Quality Act (2nd ed. 2023) § 10.16, p. 10-20.)

**E. The County Does not Explain Why Visual Simulations Have Not Been Prepared**

The RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR. AES-1 requires “site-specific visual studies . . . to assess potential visual impacts.” “Visual simulations shall be prepared to conceptually depict-post development views from the identified key observation points.” No such studies were prepared. Instead, Appendix A consists solely of low-quality “representative photographs” of apparently existing conditions.

The RMND states, “Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a qualified planner to not have a potential to impact visual resources, including a scenic vista.” The RMNDs conspicuously fails to provide any substantial evidence supporting this conclusion. The RMNDs fail to set forth any analysis, much less written report, supporting this conclusion. The RMNDs fail to identify the County planner purportedly making this determination, the date of the determination, the criteria followed by the County planner or any specific facts supporting this determination. There is no evidence, much less substantial evidence, supporting the MND’s conclusory assertion that an unspecified “qualified County planner” determined that the Project would not have the potential to impact visual resources.

**F. The RMNDs Fail to Include a Traffic Control Plan**

PEIR mitigation measure TRA-1 provides:

Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall,

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<sup>1</sup> Examples include air quality, agricultural impacts, transportation, water quality and visual resources.



at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.

The RMNDs do not include the required traffic control plan, nor even mention mitigation measure TRA-1. While the RMNDs state that the Project “will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase,” there is no attempt to explain why these “few” construction vehicles do not require a traffic control plan to avoid conflicts with adjacent and nearby residents.

**G. The MNDs Fail to Address Impacts Associated with Noxious Weeds**

Mitigation measure AG-3 provides, “To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed.” In violation of this mitigation measure, no weed-abatement plan appears to have been prepared, and the RMNDs make no reference to such a plan.

\* \* \*

The RMNDs continue to suffer from procedural and substantive violations of the County Code and CEQA that require recirculation. We thank you for the opportunity to comment.

Very truly yours,

**SOLURI MESERVE**  
A Law Corporation

By:   
Patrick M. Soluri

cc: John Mays (johnmmays1@gmail.com)

Attachments:

Exhibit 1 Recirculated Initial Study with Mitigated Negative Declaration /  
Environmental Checklist Form / Renewable Energy Permit 2022-  
01/Barker- Trona 7

County of Inyo  
Planning Commission  
August 25, 2023  
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- Exhibit 2      Recirculated Initial Study with Mitigated Negative Declaration /  
Environmental Checklist Form / Renewable Energy Permit 2022-  
02/Barker- Trona 4
- Exhibit 3      Mitigation Monitoring and Reporting Program for the Inyo County  
Renewable Energy General Plan Amendment Program Environmental  
Impact Report (March 2015)

# **EXHIBIT 1**



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

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

RECIRCULATED

DRAFT MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT  
AND INITIAL STUDY

PROJECT TITLE: Renewable Energy Permit 2022-01/Barker- Trona 7

PROJECT LOCATION: The Project is located approximately 3 miles north of the unincorporated community of Trona, California. The Trona Airport sits roughly 1.3 miles to the northeast. The property is on private land owned by Robbie Barker, with an Assessor's Parcel Number of 038-330-46


PROJECT DESCRIPTION: The applicant is applying for a Renewable Energy Permit to construct a 1.2 Megawatt (MW) photovoltaic solar facility using approximately 2,300 single-axis tracker solar panels that will connect to the existing Southern California Edison (SCE) 33-kV transmission line passing through the area. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.

**FINDINGS:**

- A. The proposed project is consistent with goals and objectives of the Inyo County General Plan.
- B. The proposed project is consistent with the provisions of the Inyo County Zoning Ordinance.
- C. Potential adverse environmental impacts will not exceed thresholds of significance, either individually or cumulatively.
- D. Based upon the environmental evaluation of the proposed project, the Planning Department finds that the project does not have the potential to create a significant adverse impact on flora or fauna; natural, scenic, and historic resources; the local economy; public health, safety, and welfare. This constitutes a Mitigated Negative Finding for the Mandatory Findings required by Section 15065 of the CEQA Guidelines.

The 30-day public review period for this Draft Mitigated Negative Declaration will expire on August 25, 2023. Inyo County is not required to respond to any comments received after this date.

Additional information is available from the Inyo County Planning Department. Please contact Project Planner Cynthia Draper (760-878-0265) if you have any questions regarding this project.

  
Cathreen Richards  
Director, Inyo County Planning Department

7/19/2023  
Date



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

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

## **INYO COUNTY PLANNING DEPARTMENT**

### **APPENDIX G: CEQA INITIAL STUDY & ENVIRONMENTAL CHECKLIST FORM**

1. Project title: Renewable Energy Permit 2022-01/Barker-Trona 7
2. Lead agency name and address: Inyo County Planning Department, PO Drawer L, Independence, CA 93526
3. Contact person and phone number: Cynthia Draper: (760) 878-0265
4. Project location: The property is on private land owned by Robbie Barker, Assessor parcel number 038-330-46, in Trona California.
5. Project sponsor's name and address: Robbie Barker 82740 Trona Rd., Trona, CA 93562
6. General Plan designation: Residential Estate (RE), SEDA overlay
7. Zoning: Rural Residential (RR-5.0)
8. Description of project: The applicant proposes a photovoltaic (PV) solar facility on a five-acre parcel, consisting of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.
9. Surrounding land uses and setting: The property is surrounded by undeveloped land, sparse residential dwellings, and commercial uses (such as equipment storage). Developed areas include the Trona Airport, scattered residences, and scrap yards. The surrounding parcels are highly disturbed, devoid of plants or native habitat. Weed abatement has been performed throughout the area.

<b>Location:</b>	<b>Use:</b>	<b>Gen. Plan Designation</b>	<b>Zoning</b>
North	Vacant	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
South	Vacant	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
East	Vacant	Residential Estate (RE)	Rural Residential (RR-5.0-MH)
West	Single family residence	Residential Estate (RE)	Rural Residential (RR-5.0-MH)

10. Other public agencies whose approval is required: Inyo County Building and Safety, Inyo County Environmental Health, Inyo County Public Works

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun?

In compliance with AB 52 and Public Resource Code Section 21080.3.1(b), tribes identified as being local to Inyo County were notified via certified letter about the project and the opportunity for consultation on this project. The tribes notified were as follows: The Cabazon Band of Mission Indians, the Torres Martinez Desert Cahuilla Indians, the Twenty-Nine Palms Band of Mission Indians, the Big Pine Paiute Tribe, the Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidential [https://library.qcode.us/lib/inyo\\_county\\_ca/pub/county\\_code/item/title\\_18-chapter\\_18\\_12?view=alliality](https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_18-chapter_18_12?view=alliality).

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

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

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

**DETERMINATION**

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

*Cynthia Draper*  
Cynthia Draper, Assistant Planner  
Inyo County Planning Department

*July 19-2023*  
Date.

**RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION  
ENVIRONMENTAL CHECKLIST FORM**

**Renewable Energy Permit 2022-01/Barker- Trona 7**

**REGULATORY BACKGROUND**

The Inyo County General Plan provides a vision for Inyo County’s long-range physical and economic development, including resource development and conservation. The General Plan contains implementing strategies, policies and programs enabling this vision to be accomplished. On March 24, 2015, the Board of Supervisors adopted an amendment to the General Plan known as the Renewable Energy General Plan Amendment (“REGPA”). The REGPA regulates the type, siting, and size of renewable energy solar development projects in the County through adoption of land use policies consistent with the broader goals in the General Plan.

The REGPA differentiates renewable energy solar facilities based on their size and output. It defines “utility-scale” facilities as those generating at least 20 megawatts (MW) for off-site use, consumption or sale. Facilities that generate less than 20 MW may include “commercial-scale” or “community-scale” facilities, depending on whether electricity is produced for off-site use or for use by a specific community. The REGPA states that the County “shall encourage the development of” commercial and community-scale facilities.

The REGPA also designated seven different areas of the County, known as Solar Energy Development Areas (SEDAs), where renewable energy solar facilities would be allowed. Policy LU-1.17 permits utility-scale and commercial-scale facilities to be considered in SEDAs, subject to any necessary environmental review. Renewable energy solar development within a SEDA is allowed in any zoning classification. The Trona SEDA covers an approximately 7.1-mile area in the Searles Valley, north of the unincorporated community of Trona. The REGPA allows 600 acres of renewable energy development in the Trona SEDA.

When the County adopted the REGPA in 2015, it certified a Programmatic Environmental Impact Report (PEIR). The PEIR analyzed the impacts of renewable energy solar development throughout the County. It identified less-than-significant environmental impacts to agriculture and forestry resources, air quality, geology, and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, socioeconomics, transportation and circulation, and utilities and service systems. The PEIR identified potentially significant and unavoidable impacts to aesthetics, biological resources, and cultural resources, and included mitigation measures to reduce these impacts to the extent feasible.

**ENVIRONMENTAL SETTING**

Inyo County covers approximately 10,200 square miles and is located on the east side of the Sierra Nevada Mountain range, within the east-central part of California. The County is primarily rural and undeveloped, characterized by open expanses, wide valleys and mountains ranging from low hills to jagged peaks. Elevations are from 282 feet below sea level within Death Valley National Park to 14,505 feet above sea level (amsl) in the Sierra Nevada



is arid to semi-arid, marked by low precipitation, abundant sunshine, frequent winds, moderate to low humidity, and high evapotranspiration.

The Project is located in the Searles Valley, at the southern edge of the County, north of the unincorporated Trona community, and in the Trona SEDA. As noted above, the SEDA covers approximately 7.1 square miles (4,550 acres). Most of the SEDA is undeveloped. Roughly 60 percent is managed by BLM, with the remainder under private ownership. Developed features include Trona Airport, scattered rural residences, and scrap yards. North of the airport lies Valley Wells, a state historical landmark, consisting of small buildings, abandoned recreational facilities, a desert golf course and well field. The Trona area is sparsely populated, containing less than 2,000 people.

Elevations within the Trona SEDA range from 2,100 feet to 1,650 feet amsl. The average January temperatures range from 32-58 degrees Fahrenheit, and in July from 73-105 degrees. Annual precipitation is low, averaging 3.98 inches. The habitat consists mainly of alkali desert scrub flats with ephemeral washes, with an open composition and canopy cover less than 50 percent.

Topography in the Trona SEDA, within the center of the northern Searles Valley, is generally level or gently sloped. Steeper terrain occurs to the west (the Argus Range), east, and north (the Slate Range). Surface exposures consist predominantly of late Quaternary alluvial/lake deposits, sandy to loamy topsoil with Mesozoic granitic intrusive rocks to the west, and areas to the east and north exhibiting an assemblage of Precambrian/Paleozoic metasediments, Mesozoic granitic intrusives, Mesozoic and Tertiary volcanics, and older Quaternary alluvial/sedimentary deposits. No mapped faults exist in the Searles Valley. The nearest mapped fault is the Panamint Fault, approximately 10 miles east.

The Trona SEDA is within the South Lahontan Basin, as designated in the 1995 (as amended) Lahontan RWQCB Water Quality Control Plan for the Lahontan Region (Basin Plan). The Trona SEDA is within the areal extent of the Searles Valley Groundwater Basin (Searles Basin), which includes an area of approximately 197,000 acres, and a water-bearing strata consisting of a thick (at least 750 feet) sequence of younger unconsolidated alluvial deposits and underlying (locally semi-consolidated) older alluvium.

Average reported municipal/irrigation well depths in the Searles Basin are approximately 300 feet (DWR 2003). Estimated groundwater storage capacity is 2.1 million acre-feet. Groundwater is characterized mainly as calcium-sodium-bicarbonate or sodium-calcium bicarbonate in nature, with groundwater near Searles Lake described as sodium-chloride in nature. The northwestern and southwestern portions of the Searles Basin exhibit generally good water quality (with locally elevated fluoride and nitrate levels), while areas near Searles Lake have poor water quality with TDS levels of between 12,000 and 420,000 mg/l (DWR 2003).

The Trona SEDA is within the Great Basin Valleys Air Basin (Air Basin). The Air Basin is named for its geological formation of valleys surrounded by mountains. Air rises and sinks due to the heat in the valleys and height of the mountains, which causes the air to settle in the valleys and low-lying areas. Areas in the Air Basin are under the jurisdiction of the Great Basin Unified Air Pollution Control District (GBUAPCD), which regulates air pollutant emissions for all stationary sources within the Air Basin.

In 1987, the Trona area was designated as a PM-10 nonattainment area by the United States EPA. The main source of PM-10 emissions in the region is the dry Owens Lake lakebed, which is located approximately 50 miles northwest of the Project. At the time, the Trona area was part of the Coso Junction Planning Area. In 2002, the US EPA redesignated the Searles Valley into three separate areas, and made a finding of attainment for Trona. (Federal Register, 2002a, 2002b.)

## **PROJECT DESCRIPTION**

The applicant has applied for two renewable energy permits for two separate photovoltaic (PV) solar facilities on contiguous land (“Project”). The applicant submitted two separate applications because each facility would separately connect to the existing Southern California Edison (SCE) 33-kV transmission line passing through the area. This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.

**The first application (No. 2022-01), known to the applicant as “Trona 7,” proposes a PV solar facility on a five-acre parcel, consisting of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.**

The second application (No. 2022-02), also known as Trona 4, proposes a PV solar facility within a 15-acre parcel that is contiguous (i.e., has a common corner) with the Trona 7 site. The facility would generate 3.0 MW of electricity utilizing approximately 6,000 single-axis tracker solar panels. The site also is previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.

Both proposed facilities (collectively, the 20-acre “Project Area”) are located approximately three miles north of the Trona community and one mile west of the Trona Airport. The elevation of the Project Area is approximately 1,700 feet amsl. It has no history of agricultural use and is not federally managed. According to FEMA, the Project Area is within an Area of Minimal Flood Hazard.

Zoning in the Project Area is rural residential. Approximately five residential structures are within 0.5 miles of the Project Area, located mostly south and west. Two of these structures are approximately 400 feet from the edge of the Project Area (most of the Project Area is farther to the east and extends up to approximately 2,300 feet distant from these structures). Other land use in 0.5 miles of the Project Area include storage of equipment and vehicles, scrap yards and storage units. Representative photographs are included in Appendix A. Agricultural use of surrounding land is minimal. Agriculture and farming are not significant land uses in the area.

Construction will consist of limited grading in some areas, as the Project Area is already predominantly level and graded. Appendix B (Biological Resources Evaluation) documents the onsite conditions. Shallow trenching will be required for underground conduits, and one 20x20-foot concrete pad will be placed on each site to support the transformers. Following grading and

trenching, metal poles or masts will be installed into the ground to support the solar panels. Grading and trenching will require approximately two days. Pole and panel installation will take an estimated two months. Appendix C contains an equipment list, operating hours and projected air emissions.

Dust control measures will be used at all times during construction, and during Project operations (the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity). Dust controls during construction will consist of a watering truck, the application of crushed limestone to the ground, and application of a non-toxic clay polymer known as EarthGlue (specifications in Appendix D). Stabilized construction entrance and exits will be used to reduce sediment trackout onto the adjacent public roadway. During operations, limestone and EarthGlue will control dust.

Once installed, the solar panels will reach a maximum height of 12 feet above the ground (or less, as the panels change slightly in height as they rotate slowly throughout the day to track the sun). Panels will feature anti-reflective coatings to reduce daytime glare and reflectivity. Each facility will be fenced to prevent unauthorized access. Representative photographs of the panels and tracker supports are in Appendix E, showing a recently constructed solar project located on adjacent land (described in more detail below) that uses the same equipment design and components to be used by the Project.

The Project is the second renewable energy solar project proposed for the Trona SEDA. The prior project, on 10 acres adjacent to the Project Area, was approved and has been constructed by the applicant (Nos. 2018-01 and 2021-01). Another 10-acre project is reportedly in development to the south. Combined, the existing, proposed and potential future renewable solar projects are 40 acres, and account for a small part of the 600 acres allocated by the REGPA to solar projects in the Trona SEDA. Future solar projects in the Trona SEDA may not be possible, however, according to the applicant, until SCE improves its transmission infrastructure to increase its transmission capacity.

## **AGENCY COORDINATION AND PUBLIC INVOLVEMENT**

Public notifications concerning the Project began approximately seven months ago. On November 14, 2022, the County gave public notice of the availability of a Draft Initial Study and Negative Declaration for each of the two applications. The 30-day review period ended on December 17, 2022. No comments were received.

A public hearing was set before the Planning Commission on March 23, 2023 to approve both applications. Two days before the hearing, the County received public comments from a nearby landowner, and as a result, the County postponed the hearing to May 3, 2023. Prior to the May hearing, the County received additional public comments. As a result, the County postponed the hearing again, revised the Initial Study and Mitigated Negative Declaration, and has recirculated the Initial Study and Mitigated Negative Declaration pursuant to Section 15073.5 of the CEQA Guidelines.

## **TRIBAL OUTREACH**

In accordance with AB 52 and Public Resource Code Section 21081.3.1(b) tribes identified as being local to Inyo County were notified via certified letter about the project and the opportunity for consultation on this project. The tribes were notified as follows: The Cabazon Band of

Mission Indians, the Torres Martinez Desert Cahuilla Indians, the Twenty-Nine Palms Band of Mission Indians, the Big Pine Paiute Tribe, the Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

### **TIERED DOCUMENT**

A program EIR evaluates the environmental consequences of a series of actions that together constitute a large project and share common geographic, regulatory and environmental attributes. (Cal. Code of Regs., tit. 14, § 15168(a).) If the program EIR facilitates the approval of activities within a program, the agency must scrutinize those activities, as they arise for approval, to determine if additional environmental review is needed.

An agency's assessment of the adequacy of a prior program EIR for the approval of specific activities involves an analysis of whether the activity falls within the scope of the prior EIR and whether the activity will give rise to environmental impacts that were not previously analyzed in the program EIR. (Cal. Code of Regs., tit. 14, § 15168(c).) If impacts were adequately assessed, the agency can avoid further environmental documentation. (Id., tit. 14, § 15168(c).) If further review is needed, the "tiered" document should analyze only those effects that may be significant but were not analyzed in the program EIR, or that were considered significant but can be mitigated or avoided through further analysis. (Id., tit. 14, § 15152(d); see also Pub. Resources Code, §§ 21081(a)(1), 21094(c).)

The PEIR was a program EIR pursuant to section 15168 of the CEQA Guidelines. The County has determined that certain of the Project's potential impacts are adequately addressed in the PEIR. Others require site-specific analysis and are properly assessed in a Mitigated Negative Declaration that will integrate enforceable mitigation measures from the PEIR to ensure that they are enforced at the Project level. The County is treating the Mitigated Negative Declaration as a tiered document under the PEIR. The PEIR can be found at the following website link, or by typing or pasting the following text into an internet browser:

<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volume%20I.pdf>

## CHECKLIST

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
--------------------------------	-----------------------------------------------------	------------------------------	-----------

### **I. AESTHETICS** – Would the project:

a) Have a substantial adverse effect on a scenic vista?

*No. The Project is not located near a scenic vista.*

*The Project is near the valley floor within an area that is visually characterized by junk yards, and outdoor storage of vehicles and equipment in a high desert environment. The Project is within the Trona SEDA, which has its location and boundaries in an area that lacks an abundance of scenic resources. (PEIR, 4.1-15.)*

*The Project is consistent with the PEIR analysis and mitigation measures. The potentially-applicable mitigation measures (AES-1 through 6, and 9) require that site-specific visual studies be prepared for utility-scale projects (i.e., generating greater than 20 MW) and for smaller-scale projects determined by a qualified county planner to have a potential to impact visual resources in individual SEDAs. Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a qualified planner to not have a potential to impact visual resources, including a scenic vista.*

<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volme%20II.pdf>

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

*No. The Project Area has previously been disturbed with roads, storage units, and weed abatement. It has previously been graded and is devoid of natural resources such as rock outcroppings and trees. No removal of vegetative life, rock outcroppings, or historic buildings within a scenic state highway will occur. It is not located within or adjacent to any designated scenic highways mapped by the California Department of Transportation. The Project involves the placement of PV solar panels that reach a maximum height of 12 feet.*

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly-accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

*No. The Project will not affect the overall scenic integrity of the area. The Project Area is barren of natural resources that provide scenic value. The Project is in a rural, non-urbanized area and surrounded by property owners that frequently use the area for storage and scrap yards. Public views are mainly from Trona-Wildrose Road, and the Project will not substantially*

*degrade the existing visual character of the area from the perspective of passing motorists as the area is characterized by scrap yards and outdoor storage of materials. (Appendix A.) The low height of the panels (12 foot maximum, comparable to a single-story house) would not obstruct views of the Argus range to the west or the Slate range to the east.*

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

*No. Due to the small size of the facilities, and their location and design, the Project will not significantly impact daytime or nighttime views. Construction will take place during the daytime hours only. Operation will not involve new light sources that affect nighttime views. The Project will use solar panels that integrate anti-reflective technology to minimize daytime glare, which is consistent with PEIR Mitigation Measure AES-6 (requiring that certain projects treat solar panels with anti-reflective coating). The boundaries and locations of SEDAs, including the Trona SEDA, were sited in areas without an abundance of scenic resources. (PEIR, 4.1-15.)*

\* \* \*

**II. AGRICULTURAL AND FOREST RESOURCES:** In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program (FMMP) of the California Resources Agency, to nonagricultural use?

*No, the Project is not located on land designated as farmland.*

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

*No, the Project is not located on land zoned exclusively for agriculture. Inyo County has no Williamson Act contracts.*

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

*No, the Project Area does not include forest land or timberland, or land zoned for forest land, timberland, or Timberland Production.*

d) Result in the loss of forest land or conversion of forest land to non-forest use?

*No, the Project is not located on forest land.*

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

*No, the Project is not located on farmland and is not conducive to future use as farmland. The Project Area has no history of agricultural production. To the extent that agricultural activities may exist on surrounding properties, the Project would have no impact on or interference with those activities.*

\* \* \*

**III. AIR QUALITY:** Where available, the significant criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?

*No. There is no applicable air quality plan for the area in which the Project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards. The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. (See Appendix C, Air Quality and Greenhouse Gas Memorandum). The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.*

*Additionally, the Project is consistent with the PEIR analysis and mitigation measures. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. (See PEIR, p. 4.3-10.) The potentially-applicable air quality mitigation measures (AQS-1 through 3) applied to utility-scale projects of greater than 20 MW and did not apply to*

*smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner. Here, the Project involves a small commercial-scale facility that does not present significant air quality impacts. (See Appendix C.) Due to the size, location, low emissions well below all applicable thresholds (Appendix C) and design that incorporates dust controls and suppressants, AQS-1 through 3 are unnecessary to apply.*

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

*No. The Project is located in an area in attainment for PM-10. The Project will be in compliance with air quality standards, as the applicant is conditioned to obtain any required permits and to follow best management practices as set forth by GBUAPCD. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) Project construction and operations will generate emissions that are well below all applicable air quality thresholds and standards. (See Appendix C.)*

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

*The Project is not in an area that is in non-attainment under any applicable standard. The operation of the solar project is not anticipated to result in a substantial increase in vehicular or stationary emissions once installed. As a result, long-term emissions resulting from Project operation are anticipated to be well below all applicable thresholds. (See Appendix C.) The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) The Project would not contribute to a cumulatively considerable net increase in non-attainment pollutants during operation, and impacts would be less than significant.*

d) Expose sensitive receptors to substantial pollutant concentrations?

*No, the proposed Project will not expose sensitive receptors to any new substantial pollutant concentrations. The construction process is low impact, involving minor leveling and digging of shallow trenches for placing underground conduits, and installation of a single 20'x20' concrete pad for a transformer. There are no nearby schools or hospitals. Few houses are in proximity to the Project Area. During construction, windblown dust will be controlled by watering, the application of limestone, and the application of a dust suppressant. Vehicle emissions will be well below applicable thresholds of significance during construction and operations. (See Appendix C.) During Project operation, the solar facility will not produce pollutants.*



e) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

*The proposed Project will not produce objectionable odors during the life of the operation. The Project will use typical construction techniques and the odors would be typical of most construction sites and temporary in nature.*

\* \* \*

#### **IV. BIOLOGICAL RESOURCES:**

Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

*No. The Project Area has been inspected by County planning staff and by a qualified biologist. No CDFW or USFWS designated special status species were found in Project Area. The Project Area is graded, cleared of any significant vegetation, and contains no native habitat. No impacts through habitat modification are anticipated.*

*A Biological Resource Evaluation (BRE) was performed by qualified biologists. (Appendix B.) The BRE surveyed the Project Area and a 250-foot buffer. No significant biological resources (plant or wildlife) were found present in the Project Area or buffer. In particular, the BRE found no evidence of desert tortoise (*Gopherus agassizii*) or suitable foraging habitat or other habitat for desert tortoise. The BRE also found no evidence of Mohave ground squirrel (*Xerospermophilus mohavensis*) or associated burrows and noted that the nearest population of Mohave ground squirrel is 8.2 miles southwest, and the nearest core population is 25 miles northwest.*

*The BRE concluded that the desert kit fox (*Vulpes macrotis arsipus*) could potentially visit the Project Area as a transient forager, but the Project Area and surroundings lack optimal denning habitat due to existing ground disturbance. The BRE also found a potential for nesting birds or raptors to forage and/or nest in the Project Area or buffer, using utility poles, although no active or inactive nests were observed. Nesting migratory birds and other raptors species, protected by the Migratory Bird Treaty Species Act, were not observed but have a potential to occur in or near the Project Area and surrounding areas. (Appendix B.)*

*To mitigate the potential for impacts to desert kit fox and protected bird species, the BRE recommended Best Management Practices and avoidance measures including: a pre-activity survey, a vehicle speed limit of 20mph, covering of trenches, and proper disposal of food items, as set forth more specifically in the BRE. With these measures, the Project is not expected to significantly impact candidate, sensitive, or special status species.*

*The Project is consistent with the PEIR. The biological resource mitigation measures identified in the PEIR apply to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under CEQA" and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.4-122-123.) If the planner determines, after review, that a proposed commercial-scale project has a potential to impact biological resources, the PEIR mitigation measures shall be implemented "as determined necessary" by the planner. (PEIR, p. 4.4-123.) Here, the Project has no potential to impact biological resources other than potential impacts to desert kit fox and bird species. The mitigation measures in the BRE will ensure that the potential impacts to desert kit fox and bird species are less than significant, and it is unnecessary to implement any additional mitigation measures from the PEIR.*

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

*No, there is no identified riparian habitat or other sensitive natural community in the Project Area or in close proximity that would be affected by the Project. The USFWS National Wetlands Inventory (USFWS 2014b) shows no freshwater wetlands near the Project Area. No protected natural areas are located within the Trona SEDA.*

c) Have a substantial adverse effect on state or federal protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

*No, there are no federally protected wetlands in or near the Project Area, nor would the nature of the Project cause fill material or Project contaminants to enter flowing water.*

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

*No, although the Project Area could potentially have occurrences of wildlife species, the Project will not interfere with migratory fish or wildlife species. As stated in the BRE, there are no known wildlife movement corridors or habitat linkages that intersect the Project Area. The Project Area is within a highly disturbed area and provides minimal linkage between suitable natural habitats for most wildlife species. The BRE anticipates no substantial movement of wildlife onto or from the Project Area.*

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

*No, there are no local policies or ordinances in place protecting biological resources that pertain to the Project Area.*

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

*No, there are no adopted habitat or conservation plans that affect the Project Area. The proposed Project is within an area specifically designated for solar energy development pursuant to the REGPA.*

**Mitigation Measures:** *The applicant shall implement all Best Management Practices recommended in Section 6 of the BRE (i.e., pre-activity surveys; avoidance buffers for desert kit fox; Worker Environmental Awareness Training Program; speed limit of 20-mph; covering of trenches deeper than two feet at the close of work day; inspection of pipes and culverts greater than four inches before burial; trash and food items onsite must be discarded into closed containers; no pets should be permitted onsite).*

\* \* \*

**V. CULTURAL RESOURCES:** Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?

*No, the Project will not cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5. The Project Area is vacant and undeveloped. It does not contain resources listed in, or determined to be eligible by, the State Historical Resources Commission for listing in, the California Register of Historical Resources, or any local register of historical resources. The Project Area also does not contain any known structures, features or sites that may be historically significant.*

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?

*No, the Project does not contain any known archaeological resources, and will not cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5. Project construction requires limited ground-disturbance on land that is already flat, making the disturbance or discovery of unanticipated cultural, archaeological, or historical resources unlikely.*

*If any archaeological or cultural resources are inadvertently discovered in the Project Area, work shall immediately desist and County staff shall be immediately notified per Chapter 9.52, Disturbance of Archaeological, Paleontological and Historical Features of the Inyo County Code. The County will then work with the operator and local tribal members, including tribal THPOs, to develop a plan for preservation, protection, or relocation of the resource. With this mitigation measure, the Project will not cause an adverse change in the significance of an archaeological resource pursuant to Section 15064.5*

c) Disturb any human remains, including those interred outside of dedicated cemeteries?

*No, there are no known human remains or burial sites in the Project Area. Additionally, it is unlikely that such remains would be discovered due to the minimal nature of earth-disturbance on the Project site. However, if human remains are uncovered, the discovery would be treated in the same manner as an archeological resource described in (V b) above (i.e., work would cease immediately and remain stopped until a plan was developed for preservation, protection, or removal).*

\* \* \*

**VI. ENERGY:** Would the project:

a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

*No, the Project is to construct a PV solar facility, totaling approximately 1.2 MW of generating capacity, that uses only a small amount of energy, and is required to meet California building standards including green and title 24 standards.*

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

*No, the Project is to construct a PV solar facility, totaling approximately 1.2 MW of generating capacity, located in one of the counties solar energy development areas (SEDAs), as identified by the General Plan. The project will generally advance state and local plans for renewable energy, rather than conflict with or obstruct such plans.*

\* \* \*

**VII. GEOLOGY AND SOILS:** Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

*No, the Project is not in an Alquist-Priolo zone. The Project operates with little human intervention and would not expose people to significant risk of injury. In addition, the nature of the solar panels, and their low height, does not make them readily susceptible to adverse effects during seismic activity. Also, subsequent to the approval of the permit, the applicant shall work with the Inyo County Department of Building and Safety to ensure any building activities meet State and County Codes.*

ii) Strong seismic ground shaking?

*No, the State Geologist has not mapped any faults in the Searles Valley in the vicinity of the Project. In addition, seismic activity and ground shaking can occur anywhere in the region, but compared to much of the rest of California, this is a less than average seismically active area. The California Building Code ensures that structures be constructed to required seismic standards in order to withstand such shaking.*

iii) Seismic-related ground failure, including liquefaction?

*No, the Project is not within an area of soils known to be subject to liquefaction.*

iv) Landslides?

*No, the Project Area is flat or gently sloping, and is not in an area prone to landslides.*

b) Result in substantial soil erosion or the loss of topsoil?

*No, Project construction is limited to trenching for conduits, and minor grading to level the ground surface as needed. The limited scale of ground disturbance is not expected to result in a risk of substantial soil erosion or loss of topsoil, and in addition, the placement of limestone will stabilize the surface to protect against the low risk of erosion.*

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or offsite landslide, lateral spreading, subsidence, liquefaction or collapse?

*No, the proposed Project is not located in an area with a geologic unit or soil that is known to be unstable. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.*

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

*No, the proposed Project is not located in an area with a known expansive soil type. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.*

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

*No, the soils are compatible with septic tanks and other wastewater disposal systems, although the Project is not designed to have either septic tanks or wastewater disposal systems.*

f) Directly or indirectly destroy a unique paleontological resource or site unique geologic feature?

*No, the Project Area does not include any unique paleontological or geologic features.*

\* \* \*

**VIII. GREENHOUSE GAS EMISSIONS:** Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

*No. GHGs generated during the construction phase would be minimal and below all applicable thresholds. (See Appendix C.) GHGs during Project operation would be virtually non-existent, and not present a significant impact, because the solar facilities do not generate any GHGs except for occasionally visits (estimated weekly) by the applicant in a light vehicle to monitor the facilities.*

*The Project is consistent with the PEIR. The PEIR identified mitigation measures applicable mainly to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under*

CEQA” and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.7-12.) If the planner determines, after review, that a proposed commercial-scale project has a potential to generate a significant GHG impact, the PEIR mitigation measures shall be implemented “as determined necessary” by the planner. (PEIR, p. 4.7-12.) Here, the Project has no potentially significant GHG impacts, in light of the small scale of the Project and limited GHG emissions that would occur during construction. (Appendix C.)

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

*No, the proposed Project will not conflict with any plan, policy or regulation adopted for the purpose of reducing GHG emissions. (Appendix C.)*

\* \* \*

**IX. HAZARDS AND HAZARDOUS MATERIALS:** Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

*No. The proposed Project will produce a small amount of waste associated with operational maintenance activities. PV wastes include broken and rusted metal, defective or malfunctioning modules, electrical materials, empty containers, and other miscellaneous solid materials. These wastes will be generated infrequently. Most of this material will be collected and delivered back to the manufacturer for recycling or disposed of according to legal requirements. The presence of such wastes onsite would not pose a risk to surrounding properties and transporting it off site poses no threat or risk due to the inert nature of the waste materials.*

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

*No. The proposed Project will not involve the use of a significant hazardous material. The operation of a PV solar facility does not involve the presence of any liquid wastes or hazardous materials readily capable of migrating to off-site properties. No battery storage will occur on site, or associated hazardous materials, as the solar facilities will connect directly to existing power lines operated by SCE. No significant hazard to the public or environment through a reasonably foreseeable upset or accident that could result in the release of hazardous materials is anticipated.*

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials,

substances, or waste within one-quarter mile of an existing or proposed school?

*No. The proposed Project is not within one-quarter mile of an existing or proposed school, nor will it emit hazardous emissions, nor involve the handling of acutely hazardous materials, substances, or waste.*

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

*No, the proposed Project is not located on a site included on a list of hazardous material sites compiled pursuant to Government Code section 65962.5.*

e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the project area?

*No. The Project operates passively and with little human intervention, and there will be no people typically working in the Project Area that could be affected by airport operations. The Project also does not pose a danger to Trona Airport maintenance workers because the airport is not a public use airport. Additionally, the airport is not used with enough frequency to pose a danger to anyone working in the Project Area.*

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

*No, the project will not physically interfere with an adopted emergency plan or emergency evacuation plan.*

g) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

*No, risk of loss, injury, and death involving wildland fires are not significant from this Project. Fire risks are identified as moderate at the Project Area, and no areas in proximity to it can be considered urbanized. Land surrounding the Project Area are not heavily vegetated and there are only a few residences in the proximity; therefore, the risk of loss, injury, or death involving*



wildland fires is less than significant, and any potential risk is further mitigated by compliance with California Building Standards.

\* \* \*

**X. HYDROLOGY AND WATER QUALITY:** Would the project:

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

*No. The Project will not violate any water quality standards or waste discharge requirements. The Project Area is pre-disturbed. The Project Area is in a region characterized by a low level of precipitation. Project construction will involve some trenching and minor grading to level the land, which does not present a significant risk of violating any water quality standards or substantially degrading surface or groundwater quality. The applicant intends to use stabilized construction entrance and exits would be installed at driveways to reduce tracking of sediment onto adjacent public roadways. The Project is subject to regulation by the Lahontan Regional Water Quality Control Board and the Inyo County Environmental Health Department and will meet all applicable requirements.*

b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

*No. The Project will not have any effect on local groundwater. The project will not use local groundwater for its water needs, which are limited to dust control. All groundwater needs will be supplied by mobile trucks supplying water to the job site. Water demands are estimated at 40,000 gallons/week for dust control and site preparation and water will be trucked in from the Searles Domestic Water Company, located in Trona. The Project will not introduce any significant new areas of impervious surfaces that will prevent groundwater recharge.*

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

i) Result in substantial erosion or siltation on or off-site?

*No. The Project proposes extremely minimal grading and no new impermeable or impervious surfaces. Other than installing a small concrete pad, no paving or other activities will increase the number of impermeable surfaces that could cause erosion or siltation. No drainage patterns*

*will be altered. Other than rare storm related overland run-off situations, no water passes over or through the Project Area.*

- ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off-site?

*No. The Project will not significantly change the landscape or existing runoff patterns or redirect or block flood flows. No drainage patterns or rates of runoff will be altered by the Project.*

- iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

*No. The Project is proposed in an area that is already disturbed and will have no substantial changes to runoff patterns. No increase in stormwater runoff will occur as a result of the Project.*

- iv) impede or redirect flood flows?

*No, the Project is in an area that is already disturbed and is not located in a flood hazard area.*

- d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

*No, the Project is in an area that is already disturbed, and is not located in a flood hazard, seiche or tsunami zone. Note that the BRE identified a potential surface water drainage based on prior mapping but no evidence of any such feature exists onsite and the mapping is therefore considered to be in error or outdated.*

- e) Conflict with or obstruct implementation of a water quality control plan or sustainable ground water management plan?

*No, the Project will not affect compliance with or implementation of the Lahontan Region water quality control plan and is not in an area included in a sustainable groundwater management plan.*

\* \* \*

**XI. LAND USE AND PLANNING:** Would the project:

- a) Physically divide an established community?

*No, there is no established community in the vicinity of the Project, and the Project would not physically divide such a community.*

- b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

*No, the Project is consistent with the current zoning and advances the goals for renewable energy generation for the southern portion of the county, as described in the REGPA. This part of the Trona area also is explicitly called out and designated for solar energy generation as part of the southern Trona SEDA.*

\* \* \*

**XII. MINERAL RESOURCES:** Would the project:

- a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

*No. The Project Area has no known mineral resources of value to the region or state. The Project Area is not in a mapped area of regional or statewide significance by the State Mining and Geology Board. Development of the surface for solar generation would not in any event result in the permanent loss of mineral resources unexpectedly in this location.*

- b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

*No, there are no known locally important mineral resources delineated in any land use plan that would be affected by the Project.*

\* \* \*

**XIII. NOISE:** Would the project:

- a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan

or noise ordinance, or other applicable standards of other agencies?

*All potential noise impacts are within the scope of the PEIR analysis and will be subject to the PEIR mitigation measures. The PEIR evaluated the impacts of construction noise, including the use of construction equipment for grading, trenching, mast installation, installation of concrete footings, movement of heavy equipment and transportation of materials by truck. The PEIR also listed the individual equipment types that would be used to install a solar panel array, and the estimated noise levels associated with each item of equipment. (See PEIR, pp. 4.12-16 – 4.12-18.) The Project would use construction equipment of the types listed in the PEIR, and follow a construction process consistent with, or less impactful than, that anticipated in the PEIR. In this regard, the PEIR focused on utility-scale solar projects. The Project is a smaller, commercial-scale Project that will utilize a construction process that is comparatively light and short term in comparison to utility-scale projects. Trenching and grading will take two days using one grader, one backhoe and a water truck. Panel installation will occur over an estimated two months. No nighttime construction will occur. The Project does not present noise impacts that substantially differ from, or that are more impactful than, those analyzed in the PEIR. As such, the Project is within the scope of the PEIR pursuant to CEQA Guidelines section 15168(c)(2).*

*The PEIR adopted Mitigation Measure MM NOI-2 (“Implement construction noise reduction measures”) to ensure that construction noise impacts are avoided or reduced below a level of significance and would have no significant unavoidable adverse impacts. (PEIR, pp. 4.12-18.) The PEIR listed the following five mitigation measures:*

*If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT’s Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:*

- Whenever feasible, electrical power will be used to run air compressors and similar power tools.*
- Equipment staging areas will be located as far as feasible from occupied residences or schools.*
- All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.*
- Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.*
- Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings.*

*NOI-2 incorporated certain best management practices (BMPs) from REAT’s Best Management Practices and Guidance Manual (REAT 2010) for desert renewable energy projects. In regard to potential noise impacts, the manual lists 10 BMPs:*

- 1) *Ensure noisy construction activities (including truck and rail deliveries, pile driving and blasting) are limited to the least noise-sensitive times of day (i.e., weekdays only 45 between 7 a.m. and 7 p.m.) for projects near residential or recreational areas.*
- 2) *Consider use of noise barriers such as berms and vegetation to limit ambient noise at plant property lines, especially where sensitive noise receptors may be present.*
- 3) *Ensure all project equipment has sound-control devices no less effective than those provided on the original equipment. All construction equipment used should be adequately muffled and maintained. Consider use of battery powered forklifts and other facility vehicles.*
- 4) *Ensure all stationary construction equipment (i.e., compressors and generators) is located as far as practicable from nearby residences.*
- 5) *If blasting or other noisy activities are required during the construction period, notify nearby residents and the permitting agencies 24 hours in advance.*
- 6) *Properly maintain mufflers, brakes and all loose items on construction and operation related vehicles to minimize noise and ensure safe operations. Keep truck operations to the quietest operating speeds. Advise about downshifting and vehicle operations in residential communities to keep truck noise to a minimum.*
- 7) *Use noise controls on standard construction equipment; shield impact tools. Consider use of flashing lights instead of audible back-up alarms on mobile equipment.*
- 8) *Install mufflers on air coolers and exhaust stacks of all diesel and gas-driven engines. Equip all emergency pressure relief valves and steam blow-down lines with silencers to limit noise levels.*
- 9) *Contain facilities within buildings or other types of effective noise enclosures.*
- 10) *Employ engineering controls, including sound-insulated equipment and control rooms, to reduce the average noise level in normal work areas.*

*The western and northwestern edge of the Project Area is approximately 400 feet from two residential structures located westerly of the Project Area. Under CEQA Guidelines section 15168(c)(3), the Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of the residential structures.*

*Once the Project is constructed, operational noise sources will be limited to pad-mounted transformers and tracker array motors. Transformers will be located farther than 500 feet from a residence or other noise-sensitive land use and would not require further analysis under MM NOI-1 in the PEIR. Tracker motors generate low noise levels (see PEIR Table 4.12-4) and are sufficiently far from noise-sensitive land uses to have no potential noise-related impacts and to not require further noise study or mitigation. (See PEIR, p. 4.12-19.) As such, the operational impacts are expected to be less than significant.*

b) Generation of excessive groundborne vibration or groundborne noise levels?

*No, the Project involves relatively light ground disturbance with few vehicles. No excessive groundborne vibration or groundborne noise is expected. Considering the types of equipment that will be used, impacts associated with groundborne noise or vibration would be within the scope of the PEIR and less than significant. (See PEIR p. 4.12-15.)*

c) For a project located within the vicinity of a private airstrip or, an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

*No. Trona Airport is not public, nor is it used with frequency, and it is typically used by light aircraft only. The proposed Project will have minimal noise levels due to its nature and will not create excessive noise levels for personnel working near the Project Area. The Project Area is not immediately below any established flight path and persons working at the Project Area would not be exposed to any significant level of aircraft noise.*

**Mitigation Measures:** *All potential impacts are within the scope of the PEIR analysis. The Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures.*

\* \* \*

**XIV. POPULATION AND HOUSING:** Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

*No. The Project is not likely to induce any population growth. The Project Area requires few maintenance personnel and will be monitored mostly remotely from offsite locations. No new residents are expected to result from the Project.*

b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

*No, the proposed Project will not displace existing housing or create a situation where replacement housing will be necessary. No housing currently exists in the Project Area. No existing housing will be removed to construct or operate the Project. The Project will have no effect on the level of housing in the Project Area or on surrounding properties.*

\* \* \*

**XV. PUBLIC SERVICES:** Would the project:

a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?

*No. The Project is not considered to be located in a high-risk area for fire protection. The Project Area has no trees or established vegetation. The San Bernardino Fire Department (which provides fire protection services in the Trona community) was consulted on the Project. No concerns related to the Project Area were given.*

Police protection?

*No. No new police service will be required because of the Project. Offsite private security measures will mostly be used to monitor the Project Area.*

Schools?

*No, no new students or residents, or associated school services, will be required because of this Project.*

Parks?

*No, no new parks will be required because of the Project.*

Other public facilities?

*No, the proposed Project will not create substantial adverse physical impacts associated with a need for any other foreseeable public services.*

\* \* \*

**XVI. RECREATION:** Would the project:

a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

*No, the proposed Project will not increase the use of existing recreational facilities. It is not anticipated that any portion of this Project will result in a change in the level of service required to provide parks or other recreational facilities.*

b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

*No, the proposed Project does not include recreational facilities, nor will it cause a need for an increase in parks or other recreational facilities that might have an adverse physical effect on the environment.*

\* \* \*

**XVII. TRANSPORTATION:**



a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?

*No. The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.*

b) Conflict or be inconsistent with CEQA Guidelines § 15064.3(b)?

*No. The project will not result in an adverse change with respect to vehicle miles traveled (VMT). The Project will not significantly increase passenger vehicle traffic or commuter traffic in the region. Construction related traffic generally will be light. When construction is complete, the Project will be remotely monitored and have maintenance personnel on-site as needed during daytime hours. The Project is not within one-half mile of either an existing major transit stop or high-quality transit corridor. The Project will result in less than significant impacts to this resource.*

c) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

*No. The proposed Project will not result in any design features that increase transportation hazards. No changes will occur to public roads, including the Trona Wildrose Road. No curves or dangerous intersections will be added to the existing unpaved access road leading to the Project Area. Automobiles and trucks will be accommodated in the Project Area.*

d) Result in inadequate emergency access?

*No, the Project is proposed on properties that are directly adjacent to, and accessible from, Trona Wildrose Road and emergency access is and will continue to be available.*

\* \* \*

**XVIII. TRIBAL CULTURAL RESOURCES:** Would the project:

a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

*No. The Project Area undeveloped and cleared of vegetation with no known tribal cultural resources. The proposed Project does not contain a resource eligible for listing in the California Register of Historical Resources, or in a local register for historical resources as defined in Public Resource Code section 5020.1(k). If any archeological or cultural resources are discovered on the site, work shall immediately stop, and Inyo County staff shall be immediately notified per Chapter 9.52 of the Inyo County Code.*

- ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

*The Project Area is vacant and undeveloped. It does not contain any resource determined by the County to be significant pursuant to criteria set forth in subdivision (c) of the Public Resource Code section 5024.1 (i.e., is associated with events that made a significant contribution to the state's cultural patterns, is associated with the lives of persons important in our past, embodies the distinctive characteristics of a type or period, or has yielded or may yield information important in prehistory or history).*

\* \* \*

**XIX. UTILITIES AND SERVICE SYSTEMS:** Would the project:

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

*No. The proposed Project is for the approval of a PV solar facility that will primarily be remotely monitored and involve no continuous human presence. The Project will not result in the construction or relocation of new or expanded utility, wastewater, or other utility service systems. The goal of the Project is to create a sustainable supply of electric power, and it will not increase demand for utilities whatsoever.*

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

*No impact. During operation, water needs will be no more than 1.0-acre feet per year and will be utilized primarily for panel washing 2-4 times annually. During active construction, light water consumption (relative to other construction uses) will be required for dust suppression. All water needs will be covered via trucking it in from Searles Domestic Water Company, located in Trona. No landscaping water will be required.*

c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

*No. The Project would not generate wastewater requiring disposal or contribute to demand for wastewater treatment.*

d) Generate solid waste in excess of state or local standards, or in excess of the capacity of soil infrastructure, or otherwise impair the attainment of solid waste reduction goals?

*No. The Project will not require changes to the current solid waste capacity to accommodate them. Solid waste needs for the project will be minimal. Most of the volume of solid waste (scrap metals, electrical equipment, and proprietary solar array features) will be collected and recycled.*

- e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

*No impact. The Project and any future development will comply with Inyo County's solid waste standards, as required by the Inyo County Department of Environmental Health.*

\* \* \*

**XX. WILDFIRE:**

- a) Substantially impact an adopted emergency response plan or emergency evacuation plan?

*No. There is not an adopted emergency response or evacuation plan for the area in which the Project is proposed.*

- b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

*No. The Project Area is on flat or gently-sloped land. It lacks vegetation and vegetation is sparse in the area, characterized mainly by desert scrub, making wildfire risks moderate to low. There will be no project occupants, and the project area is physically separated from surrounding structures. The proposed Project does little to add to the wildfire risk in the area. The risk of loss, injury or death involving wildland fires is less than significant at this site, and any potential risk is further mitigated by compliance with California Building Standards.*

- c) Require the installation or maintenance of associated infrastructure (such as roads, fuel break, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

*No. The Project will not cause the need for additional wildfire associated infrastructure.*

- d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

*No. The Project is on already graded and disturbed land. The addition of solar facilities will not create downslope or downstream flooding or landslides.*

\* \* \*

**XXI. MANDATORY FINDINGS OF SIGNIFICANCE:**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number, or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

*No, the Project will not impact or degrade the quality of the environment. The limited impact to resources in the Project Area can be mitigated to less than significant levels. Minimization measures have been written into the Mitigation Monitoring and Reporting Program for the permits and include: pre-activity surveys; avoidance buffers for desert kit fox; noise control measures subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures, dust mitigation measures to control air quality issues, and the monitoring efforts of a representative from local native American tribes in case native artifacts or human remains are uncovered.*

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a Project are considerable when viewed in connection with the effects of past Projects, the effects of other current Projects, and the effects of probable future Projects)?

*No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note in the vicinity are PV solar projects within the Trona SEDA, but the overall number and size of these projects are likely to be less than analyzed in the PEIR. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.*

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

*No, the Project has no known environmental effects that will cause substantial adverse effects on human beings either directly or indirectly.*

# **EXHIBIT 2**



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

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

RECIRCULATED  
DRAFT MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT AND  
INITIAL STUDY

**PROJECT TITLE:** Renewable Energy Permit 2022-02/Barker-Trona 4

**PROJECT LOCATION:** The Project site is located approximately 3 miles north of the unincorporated community of Trona, California. The property is on private land owned by Robbie Barker, Assessor parcel numbers 038-330-32, 038-330-33 and 038-330-34.

**PROJECT DESCRIPTION:** The applicant is applying for a Renewable Energy Permit to construct a 3.0 Megawatt (MW) photovoltaic solar facility using approximately 6,000 fixed single-axis tracker solar panels. The project site is located on 15-acres that are previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.

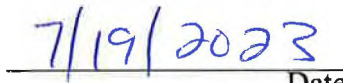
**FINDINGS:**

- A. The proposed project is consistent with goals and objectives of the Inyo County General Plan.
- B. The proposed project is consistent with the provisions of the Inyo County Zoning Ordinance.
- C. Potential adverse environmental impacts will not exceed thresholds of significance, either individually or cumulatively.
- D. Based upon the environmental evaluation of the proposed project, the Planning Department finds that the project does not have the potential to create a significant adverse impact on flora or fauna; natural, scenic, and historic resources; the local economy; public health, safety, and welfare. This constitutes a Mitigated Negative Finding for the Mandatory Findings required by Section 15065 of the CEQA Guidelines.

The 30-day public review period for this Draft Mitigated Negative Declaration will expire on August 25, 2023. Inyo County is not required to respond to any comments received after this date.

Additional information is available from the Inyo County Planning Department. Please contact Project Planner Cynthia Draper (760-878-0265) if you have any questions regarding this project.

  
Cathreen Richards  
Director, Inyo County Planning Department

  
Date



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

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

## **INYO COUNTY PLANNING DEPARTMENT**

### **APPENDIX G: CEQA INITIAL STUDY & ENVIRONMENTAL CHECKLIST FORM**

1. Project title: Renewable Energy Permit 2022-02/Barker- Trona 4
2. Lead agency name and address: Inyo County Planning Department, PO Drawer L, Independence, CA 93526
3. Contact person and phone number: Cynthia Draper: (760) 878-0265
4. Project location: The property is on private land owned by Robbie Barker, Assessor parcel numbers 038-330-32,038-330-33,038-330-34.
5. Project sponsor's name and address: Robbie Barker 82740 Trona Rd., Trona, CA 93562
6. General Plan designation: Residential Estate (RE), SEDA overlay
7. Zoning: Rural Residential (RR-5.0)
8. Description of project: The applicant is applying for a Renewable Energy Permit to construct a 3.0 Megawatt (MW) photovoltaic solar facility using approximately 6,000 fixed single-axis tracker solar panels. The project site is located on 15-acres that are previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.
9. Surrounding land uses and setting: The property is surrounded by undeveloped land, sparse residential dwellings, and commercial uses (such as equipment storage). Developed areas include the Trona Airport, scattered residences, and scrap yards. The surrounding parcels are highly disturbed, devoid of plants or native habitat. Weed abatement has been performed throughout the area.

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

10. Other public agencies whose approval is required: Inyo County Building and Safety, Inyo County Environmental Health, Inyo County Public Works



11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun?

In compliance with AB 52 and Public Resource Code Section 21080.3.1(b), tribes identified as being local to Inyo County were notified via certified letter about the project and the opportunity for consultation on this project. The tribes notified were as follows: The Cabazon Band of Mission Indians, the Torres Martinez Desert Cahuilla Indians, the Twenty-Nine Palms Band of Mission Indians, the Big Pine Paiute Tribe, the Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidentiality.

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

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

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

**DETERMINATION**

On the basis of this initial evaluation:

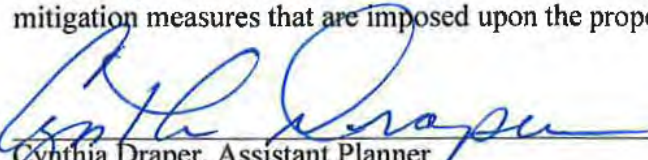
I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

  
Cynthia Draper, Assistant Planner  
Inyo County Planning Department

Date 7/19/23

**RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION  
ENVIRONMENTAL CHECKLIST FORM**

**Renewable Energy Permit 2022-02/Barker- Trona 4**

**REGULATORY BACKGROUND**

The Inyo County General Plan provides a vision for Inyo County’s long-range physical and economic development, including resource development and conservation. The General Plan contains implementing strategies, policies and programs enabling this vision to be accomplished. On March 24, 2015, the Board of Supervisors adopted an amendment to the General Plan known as the Renewable Energy General Plan Amendment (“REGPA”). The REGPA regulates the type, siting, and size of renewable energy solar development projects in the County through adoption of land use policies consistent with the broader goals in the General Plan.

The REGPA differentiates renewable energy solar facilities based on their size and output. It defines “utility-scale” facilities as those generating at least 20 megawatts (MW) for off-site use, consumption or sale. Facilities that generate less than 20 MW may include “commercial-scale” or “community-scale” facilities, depending on whether electricity is produced for off-site use or for use by a specific community. The REGPA states that the County “shall encourage the development of” commercial and community-scale facilities.

The REGPA also designated seven different areas of the County, known as Solar Energy Development Areas (SEDAs), where renewable energy solar facilities would be allowed. Policy LU-1.17 permits utility-scale and commercial-scale facilities to be considered in SEDAs, subject to any necessary environmental review. Renewable energy solar development within a SEDA is allowed in any zoning classification. The Trona SEDA covers an approximately 7.1-mile area in the Searles Valley, north of the unincorporated community of Trona. The REGPA allows 600 acres of renewable energy development in the Trona SEDA.

When the County adopted the REGPA in 2015, it certified a Programmatic Environmental Impact Report (PEIR). The PEIR analyzed the impacts of renewable energy solar development throughout the County. It identified less-than-significant environmental impacts to agriculture and forestry resources, air quality, geology, and soils, GHG emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, socioeconomics, transportation and circulation, and utilities and service systems. The PEIR identified potentially significant and unavoidable impacts to aesthetics, biological resources, and cultural resources, and included mitigation measures to reduce these impacts to the extent feasible.

**ENVIRONMENTAL SETTING**

Inyo County covers approximately 10,200 square miles and is located on the east side of the Sierra Nevada Mountain range, within the east-central part of California. The County is primarily rural and undeveloped, characterized by open expanses, wide valleys and mountains ranging from low hills to jagged peaks. Elevations are from 282 feet below sea level within Death Valley National Park to 14,505 feet above sea level (amsl) in the Sierra Nevada

mountains. The climate typically is arid to semi-arid, marked by low precipitation, abundant sunshine, frequent winds, moderate to low humidity, and high evapotranspiration.

The Project is located in the Searles Valley, at the southern edge of the County, north of the unincorporated Trona community, and in the Trona SEDA. As noted above, the SEDA covers approximately 7.1 square miles (4,550 acres). Most of the SEDA is undeveloped. Roughly 60 percent is managed by BLM, with the remainder under private ownership. Developed features include Trona Airport, scattered rural residences, and scrap yards. North of the airport lies Valley Wells, a state historical landmark, consisting of small buildings, abandoned recreational facilities, a desert golf course and well field. The Trona area is sparsely populated, containing less than 2,000 people.

Elevations within the Trona SEDA range from 2,100 feet to 1,650 feet amsl. The average January temperatures range from 32-58 degrees Fahrenheit, and in July from 73-105 degrees. Annual precipitation is low, averaging 3.98 inches. The habitat consists mainly of alkali desert scrub flats with ephemeral washes, with an open composition and canopy cover less than 50 percent.

Topography in the Trona SEDA, within the center of the northern Searles Valley, is generally level or gently sloped. Steeper terrain occurs to the west (the Argus Range), east, and north (the Slate Range). Surface exposures consist predominantly of late Quaternary alluvial/lake deposits, sandy to loamy topsoil with Mesozoic granitic intrusive rocks to the west, and areas to the east and north exhibiting an assemblage of Precambrian/Paleozoic metasediments, Mesozoic granitic intrusives, Mesozoic and Tertiary volcanics, and older Quaternary alluvial/sedimentary deposits. No mapped faults exist in the Searles Valley. The nearest mapped fault is the Panamint Fault, approximately 10 miles east.

The Trona SEDA is within the South Lahontan Basin, as designated in the 1995 (as amended) Lahontan RWQCB Water Quality Control Plan for the Lahontan Region (Basin Plan). The Trona SEDA is within the areal extent of the Searles Valley Groundwater Basin (Searles Basin), which includes an area of approximately 197,000 acres, and a water-bearing strata consisting of a thick (at least 750 feet) sequence of younger unconsolidated alluvial deposits and underlying (locally semi-consolidated) older alluvium.

Average reported municipal/irrigation well depths in the Searles Basin are approximately 300 feet (DWR 2003). Estimated groundwater storage capacity is 2.1 million acre-feet. Groundwater is characterized mainly as calcium-sodium-bicarbonate or sodium-calcium bicarbonate in nature, with groundwater near Searles Lake described as sodium-chloride in nature. The northwestern and southwestern portions of the Searles Basin exhibit generally good water quality (with locally elevated fluoride and nitrate levels), while areas near Searles Lake have poor water quality with TDS levels of between 12,000 and 420,000 mg/l (DWR 2003).

The Trona SEDA is within the Great Basin Valleys Air Basin (Air Basin). The Air Basin is named for its geological formation of valleys surrounded by mountains. Air rises and sinks due to the heat in the valleys and height of the mountains, which causes the air to settle in the valleys and low-lying areas. Areas in the Air Basin are under the jurisdiction of the Great Basin Unified Air Pollution Control District (GBUAPCD), which regulates air pollutant emissions for all stationary sources within the Air Basin.

In 1987, the Trona area was designated as a PM-10 nonattainment area by the United States EPA. The main source of PM-10 emissions in the region is the dry Owens Lake lakebed, which is located approximately 50 miles northwest of the Project. At the time, the Trona area was part of the Coso Junction Planning Area. In 2002, the US EPA redesignated the Searles Valley into three separate areas, and made a finding of attainment for Trona. (Federal Register, 2002a, 2002b.)

## **PROJECT DESCRIPTION**

The applicant has applied for two renewable energy permits for two separate photovoltaic (PV) solar facilities on contiguous land ("Project"). The applicant submitted two separate applications because each facility would separately connect to the existing Southern California Edison (SCE) 33-kV transmission line passing through the area. This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.

The first application (No. 2022-01), known to the applicant as "Trona 7," proposes a PV solar facility on a five-acre parcel, consisting of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The five-acre site is graded and highly disturbed, flat or gently sloped, and has no natural vegetation, habitat, water features or structures. The site is approximately 0.3 miles west of Trona Wildrose Road, which is not a designated scenic highway or scenic corridor.

**The second application (No. 2022-02), also known as Trona 4, proposes a PV solar facility within a 15-acre parcel that is contiguous (i.e., has a common corner) with the Trona 7 site. The facility would generate 3.0 MW of electricity utilizing approximately 6,000 single-axis tracker solar panels. The site also is previously graded, flat or gently sloped, highly disturbed and has no natural vegetation, habitat, water features or structures. Prior uses include a private dirt track and a junk yard, both recently removed. The site is approximately 0.03 miles west of Trona Wildrose Road.**

Both proposed facilities (collectively, the 20-acre "Project Area") are located approximately three miles north of the Trona community and one mile west of the Trona Airport. The elevation of the Project Area is approximately 1,700 feet amsl. It has no history of agricultural use and is not federally managed. According to FEMA, the Project Area is within an Area of Minimal Flood Hazard.

Zoning in the Project Area is rural residential. Approximately five residential structures are within 0.5 miles of the Project Area, located mostly south and west. Two of these structures are approximately 400 feet from the edge of the Project Area (most of the Project Area is farther to the east and extends up to approximately 2,300 feet distant from these structures). Other land use in 0.5 miles of the Project Area include storage of equipment and vehicles, scrap yards and storage units. Representative photographs are included in Appendix A. Agricultural use of surrounding land is minimal. Agriculture and farming are not significant land uses in the area.

Construction will consist of limited grading in some areas, as the Project Area is already predominantly level and graded. Appendix B (Biological Resources Evaluation) documents the onsite conditions. Shallow trenching will be required for underground conduits, and one 20x20-foot concrete pad will be placed on each site to support the transformers. Following grading and

trenching, metal poles or masts will be installed into the ground to support the solar panels. Grading and trenching will require approximately two days. Pole and panel installation will take an estimated two months. Appendix C contains an equipment list, operating hours and projected air emissions.

Dust control measures will be used at all times during construction, and during Project operations (the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity). Dust controls during construction will consist of a watering truck, the application of crushed limestone to the ground, and application of a non-toxic clay polymer known as EarthGlue (specifications in Appendix D). Stabilized construction entrance and exits will be used to reduce sediment trackout onto the adjacent public roadway. During operations, limestone and EarthGlue will control dust.

Once installed, the solar panels will reach a maximum height of 12 feet above the ground (or less, as the panels change slightly in height as they rotate slowly throughout the day to track the sun). Panels will feature anti-reflective coatings to reduce daytime glare and reflectivity. Each facility will be fenced to prevent unauthorized access. Representative photographs of the panels and tracker supports are in Appendix E, showing a recently constructed solar project located on adjacent land (described in more detail below) that uses the same equipment design and components to be used by the Project.

The Project is the second renewable energy solar project proposed for the Trona SEDA. The prior project, on 10 acres adjacent to the Project Area, was approved and has been constructed by the applicant (Nos. 2018-01 and 2021-01). Another 10-acre project is reportedly in development to the south. Combined, the existing, proposed and potential future renewable solar projects are 40 acres, and account for a small part of the 600 acres allocated by the REGPA to solar projects in the Trona SEDA. Future solar projects in the Trona SEDA may not be possible, however, according to the applicant, until SCE improves its transmission infrastructure to increase its transmission capacity.

## **AGENCY COORDINATION AND PUBLIC INVOLVEMENT**

Public notifications concerning the Project began approximately seven months ago. On November 14, 2022, the County gave public notice of the availability of a Draft Initial Study and Negative Declaration for each of the two applications. The 30-day review period ended on December 17, 2022. No comments were received.

A public hearing was set before the Planning Commission on March 23, 2023 to approve both applications. Two days before the hearing, the County received public comments from a nearby landowner, and as a result, the County postponed the hearing to May 3, 2023. Prior to the May hearing, the County received additional public comments. As a result, the County postponed the hearing again, revised the Initial Study and Mitigated Negative Declaration, and has recirculated the Initial Study and Mitigated Negative Declaration pursuant to Section 15073.5 of the CEQA Guidelines.

## **TRIBAL OUTREACH**

In accordance with AB 52 and Public Resource Code Section 21081.3.1(b) tribes identified as being local to Inyo County were notified via certified letter about the project and the opportunity for consultation on this project. The tribes were notified as follows: The Cabazon Band of

Mission Indians, the Torres Martinez Desert Cahuilla Indians, the Twenty-Nine Palms Band of Mission Indians, the Big Pine Paiute Tribe, the Fort Independence Paiute Tribe, the Lone Pine Paiute Tribe, and the Timbisha Shoshone Tribe.

## **TIERED DOCUMENT**

A program EIR evaluates the environmental consequences of a series of actions that together constitute a large project and share common geographic, regulatory and environmental attributes. (Cal. Code of Regs., tit. 14, § 15168(a).) If the program EIR facilitates the approval of activities within a program, the agency must scrutinize those activities, as they arise for approval, to determine if additional environmental review is needed.

An agency's assessment of the adequacy of a prior program EIR for the approval of specific activities involves an analysis of whether the activity falls within the scope of the prior EIR and whether the activity will give rise to environmental impacts that were not previously analyzed in the program EIR. (Cal. Code of Regs., tit. 14, § 15168(c).) If impacts were adequately assessed, the agency can avoid further environmental documentation. (Id., tit. 14, § 15168(c).) If further review is needed, the "tiered" document should analyze only those effects that may be significant but were not analyzed in the program EIR, or that were considered significant but can be mitigated or avoided through further analysis. (Id., tit. 14, § 15152(d); see also Pub. Resources Code, §§ 21081(a)(1), 21094(c).)

The PEIR was a program EIR pursuant to section 15168 of the CEQA Guidelines. The County has determined that certain of the Project's potential impacts are adequately addressed in the PEIR. Others require site-specific analysis and are properly assessed in a Mitigated Negative Declaration that will integrate enforceable mitigation measures from the PEIR to ensure that they are enforced at the Project level. The County is treating the Mitigated Negative Declaration as a tiered document under the PEIR. The PEIR can be found at the following website link, or by typing or pasting the following text into an internet browser:

<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volme%20II.pdf>

## CHECKLIST

Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
--------------------------------------	-----------------------------------------------------------------	------------------------------------	--------------

**I. AESTHETICS** – Would the project:

- a) Have a substantial adverse effect on a scenic vista?

*No. The Project is not located near a scenic vista. The Project is near the valley floor within an area that is visually characterized by junk yards, and outdoor storage of vehicles and equipment in a high desert environment. The Project is within the Trona SEDA, which has its location and boundaries in an area that lacks an abundance of scenic resources. (PEIR, 4.1-15.)*

*The Project is consistent with the PEIR analysis and mitigation measures. The potentially-applicable mitigation measures (AES-1 through 6, and 9) require that site-specific visual studies be prepared for utility-scale projects (i.e., generating greater than 20 MW) and for smaller-scale projects determined by a qualified county planner to have a potential to impact visual resources in individual SEDAs. Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a qualified planner to not have a potential to impact visual resources, including a scenic vista.*  
<https://www.inyocounty.us/sites/default/files/2023-04/Final%20PEIR%20Volme%20II.pdf>

- b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

*No. The Project Area has previously been disturbed with roads, storage units, and weed abatement. It has previously been graded and is devoid of natural resources such as rock outcroppings and trees. No removal of vegetative life, rock outcroppings, or historic buildings within a scenic state highway will occur. It is not located within or adjacent to any designated scenic highways mapped by the California Department of Transportation. The Project involves the placement of PV solar panels that reach a maximum height of 12 feet.*

- c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publicly-accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

*No. The Project will not affect the overall scenic integrity of the area. The Project Area is barren of natural resources that provide scenic value. The Project is in a rural, non-urbanized area and surrounded by property owners that frequently use the area for storage and scrap yards. Public views are mainly from Trona-Wildrose Road, and the Project will not substantially*



*degrade the existing visual character of the area from the perspective of passing motorists as the area is characterized by scrap yards and outdoor storage of materials. (Appendix A.) The low height of the panels (12 foot maximum, comparable to a single-story house) would not obstruct views of the Argus range to the west or the Slate range to the east.*

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

*No. Due to the small size of the facilities, and their location and design, the Project will not significantly impact daytime or nighttime views. Construction will take place during the daytime hours only. Operation will not involve new light sources that affect nighttime views. The Project will use solar panels that integrate anti-reflective technology to minimize daytime glare, which is consistent with PEIR Mitigation Measure AES-6 (requiring that certain projects treat solar panels with anti-reflective coating). The boundaries and locations of SEDAs, including the Trona SEDA, were sited in areas without an abundance of scenic resources. (PEIR, 4.1-15.)*

\* \* \*

**II. AGRICULTURAL AND FOREST RESOURCES:** In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program (FMMP) of the California Resources Agency, to nonagricultural use?

*No, the Project is not located on land designated as farmland.*

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

*No, the Project is not located on land zoned exclusively for agriculture. Inyo County has no Williamson Act contracts.*

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

*No, the Project Area does not include forest land or timberland, or land zoned for forest land, timberland, or Timberland Production.*

d) Result in the loss of forest land or conversion of forest land to non-forest use?

*No, the Project is not located on forest land.*

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

*No, the Project is not located on farmland and is not conducive to future use as farmland. The Project Area has no history of agricultural production. To the extent that agricultural activities may exist on surrounding properties, the Project would have no impact on or interference with those activities.*

\* \* \*

**III. AIR QUALITY:** Where available, the significant criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?

*No. There is no applicable air quality plan for the area in which the Project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards. The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. (See Appendix C, Air Quality and Greenhouse Gas Memorandum). The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.*

*Additionally, the Project is consistent with the PEIR analysis and mitigation measures. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. (See PEIR, p. 4.3-10.) The potentially-applicable air quality mitigation measures (AQS-1 through 3) applied to utility-scale projects of greater than 20 MW and did not apply to*

*smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner. Here, the Project involves a small commercial-scale facility that does not present significant air quality impacts. (See Appendix C.) Due to the size, location, low emissions well below all applicable thresholds (Appendix C) and design that incorporates dust controls and suppressants, AQS-1 through 3 are unnecessary to apply.*

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

*No. The Project is located in an area in attainment for PM-10. The Project will be in compliance with air quality standards, as the applicant is conditioned to obtain any required permits and to follow best management practices as set forth by GBUAPCD. The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) Project construction and operations will generate emissions that are well below all applicable air quality thresholds and standards. (See Appendix C.)*

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

*The Project is not in an area that is in non-attainment under any applicable standard. The operation of the solar project is not anticipated to result in a substantial increase in vehicular or stationary emissions once installed. As a result, long-term emissions resulting from Project operation are anticipated to be well below all applicable thresholds. (See Appendix C.) The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. PEIR, p. 4.3-10.) The Project would not contribute to a cumulatively considerable net increase in non-attainment pollutants during operation, and impacts would be less than significant.*

d) Expose sensitive receptors to substantial pollutant concentrations?

*No, the proposed Project will not expose sensitive receptors to any new substantial pollutant concentrations. The construction process is low impact, involving minor leveling and digging of shallow trenches for placing underground conduits, and installation of a single 20'x20' concrete pad for a transformer. There are no nearby schools or hospitals. Few houses are in proximity to the Project Area. During construction, windblown dust will be controlled by watering, the application of limestone, and the application of a dust suppressant. Vehicle emissions will be well below applicable thresholds of significance during construction and operations. (See Appendix C.) During Project operation, the solar facility will not produce pollutants.*

e) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

*The proposed Project will not produce objectionable odors during the life of the operation. The Project will use typical construction techniques and the odors would be typical of most construction sites and temporary in nature.*

\* \* \*

#### **IV. BIOLOGICAL RESOURCES:**

Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

*No. The Project Area has been inspected by County planning staff and by a qualified biologist. No CDFW or USFWS designated special status species were found in Project Area. The Project Area is graded, cleared of any significant vegetation, and contains no native habitat. No impacts through habitat modification are anticipated.*

*A Biological Resource Evaluation (BRE) was performed by qualified biologists. (Appendix B.) The BRE surveyed the Project Area and a 250-foot buffer. No significant biological resources (plant or wildlife) were found present in the Project Area or buffer. In particular, the BRE found no evidence of desert tortoise (*Gopherus agassizii*) or suitable foraging habitat or other habitat for desert tortoise. The BRE also found no evidence of Mohave ground squirrel (*Xerospermophilus mohavensis*) or associated burrows and noted that the nearest population of Mohave ground squirrel is 8.2 miles southwest, and the nearest core population is 25 miles northwest.*

*The BRE concluded that the desert kit fox (*Vulpes macrotis arsipus*) could potentially visit the Project Area as a transient forager, but the Project Area and surroundings lack optimal denning habitat due to existing ground disturbance. The BRE also found a potential for nesting birds or raptors to forage and/or nest in the Project Area or buffer, using utility poles, although no active or inactive nests were observed. Nesting migratory birds and other raptors species, protected by the Migratory Bird Treaty Species Act, were not observed but have a potential to occur in or near the Project Area and surrounding areas. (Appendix B.)*

*To mitigate the potential for impacts to desert kit fox and protected bird species, the BRE recommended Best Management Practices and avoidance measures including: a pre-activity survey, a vehicle speed limit of 20mph, covering of trenches, and proper disposal of food items, as set forth more specifically in the BRE. With these measures, the Project is not expected to significantly impact candidate, sensitive, or special status species.*

*The Project is consistent with the PEIR. The biological resource mitigation measures identified in the PEIR apply to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under CEQA" and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.4-122-123.) If the planner determines, after review, that a proposed commercial-scale project has a potential to impact biological resources, the PEIR mitigation measures shall be implemented "as determined necessary" by the planner. (PEIR, p. 4.4-123.) Here, the Project has no potential to impact biological resources other than potential impacts to desert kit fox and bird species. The mitigation measures in the BRE will ensure that the potential impacts to desert kit fox and bird species are less than significant, and it is unnecessary to implement any additional mitigation measures from the PEIR.*

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

*No, there is no identified riparian habitat or other sensitive natural community in the Project Area or in close proximity that would be affected by the Project. The USFWS National Wetlands Inventory (USFWS 2014b) shows no freshwater wetlands near the Project Area. No protected natural areas are located within the Trona SEDA.*

c) Have a substantial adverse effect on state or federal protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

*No, there are no federally protected wetlands in or near the Project Area, nor would the nature of the Project cause fill material or Project contaminants to enter flowing water.*

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

*No, although the Project Area could potentially have occurrences of wildlife species, the Project will not interfere with migratory fish or wildlife species. As stated in the BRE, there are no known wildlife movement corridors or habitat linkages that intersect the Project Area. The Project Area is within a highly disturbed area and provides minimal linkage between suitable natural habitats for most wildlife species. The BRE anticipates no substantial movement of wildlife onto or from the Project Area.*

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

*No, there are no local policies or ordinances in place protecting biological resources that pertain to the Project Area.*

- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

*No, there are no adopted habitat or conservation plans that affect the Project Area. The proposed Project is within an area specifically designated for solar energy development pursuant to the REGPA.*

**Mitigation Measures:** *The applicant shall implement all Best Management Practices recommended in Section 6 of the BRE (i.e., pre-activity surveys; avoidance buffers for desert kit fox; Worker Environmental Awareness Training Program; speed limit of 20-mph; covering of trenches deeper than two feet at the close of work day; inspection of pipes and culverts greater than four inches before burial; trash and food items onsite must be discarded into closed containers; no pets should be permitted onsite).*

\* \* \*

**V. CULTURAL RESOURCES:** Would the project:

- a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?

*No, the Project will not cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5. The Project Area is vacant and undeveloped. It does not contain resources listed in, or determined to be eligible by, the State Historical Resources Commission for listing in, the California Register of Historical Resources, or any local register of historical resources. The Project Area also does not contain any known structures, features or sites that may be historically significant.*

- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?

*No, the Project does not contain any known archaeological resources, and will not cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5. Project construction requires limited ground-disturbance on land that is already flat, making the disturbance or discovery of unanticipated cultural, archaeological, or historical resources unlikely.*

*If any archaeological or cultural resources are inadvertently discovered in the Project Area, work shall immediately desist and County staff shall be immediately notified per Chapter 9.52, Disturbance of Archaeological, Paleontological and Historical Features of the Inyo County Code. The County will then work with the operator and local tribal members, including tribal THPOs, to develop a plan for preservation, protection, or relocation of the resource. With this mitigation measure, the Project will not cause an adverse change in the significance of an archaeological resource pursuant to Section 15064.5*

c) Disturb any human remains, including those interred outside of dedicated cemeteries?

*No, there are no known human remains or burial sites in the Project Area. Additionally, it is unlikely that such remains would be discovered due to the minimal nature of earth-disturbance on the Project site. However, if human remains are uncovered, the discovery would be treated in the same manner as an archeological resource described in (V b) above (i.e., work would cease immediately and remain stopped until a plan was developed for preservation, protection, or removal).*

\* \* \*

**VI. ENERGY:** Would the project:

a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

*No, the Project is to construct a PV solar facility, totaling approximately 3.0 MW of generating capacity, that uses only a small amount of energy, and is required to meet California building standards including green and title 24 standards.*

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

*No, the Project is to construct a PV solar facility, totaling approximately 3 MW of generating capacity, located in one of the counties solar energy development areas (SEDAs), as identified by the General Plan. The project will generally advance state and local plans for renewable energy, rather than conflict with or obstruct such plans.*

\* \* \*

**VII. GEOLOGY AND SOILS:** Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

- i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

*No, the Project is not in an Alquist-Priolo zone. The Project operates with little human intervention and would not expose people to significant risk of injury. In addition, the nature of the solar panels, and their low height, does not make them readily susceptible to adverse effects during seismic activity. Also, subsequent to the approval of the permit, the applicant shall work with the Inyo County Department of Building and Safety to ensure any building activities meet State and County Codes.*

- ii) Strong seismic ground shaking?

*No, the State Geologist has not mapped any faults in the Searles Valley in the vicinity of the Project. In addition, seismic activity and ground shaking can occur anywhere in the region, but compared to much of the rest of California, this is a less than average seismically active area. The California Building Code ensures that structures be constructed to required seismic standards in order to withstand such shaking.*

- iii) Seismic-related ground failure, including liquefaction?

*No, the Project is not within an area of soils known to be subject to liquefaction.*

- iv) Landslides?

*No, the Project Area is flat or gently sloping, and is not in an area prone to landslides.*

- b) Result in substantial soil erosion or the loss of topsoil?

*No, Project construction is limited to trenching for conduits, and minor grading to level the ground surface as needed. The limited scale of ground disturbance is not expected to result in a risk of substantial soil erosion or loss of topsoil, and in addition, the placement of limestone will stabilize the surface to protect against the low risk of erosion.*

- c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or offsite landslide, lateral spreading, subsidence, liquefaction or collapse?



*No, the proposed Project is not located in an area with a geologic unit or soil that is known to be unstable. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.*

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

*No, the proposed Project is not located in an area with a known expansive soil type. If any questions arise about the quality of the soil during the development of the Project, the applicant shall work with Inyo County's Building and Safety Department to employ the proper design standards that mitigate for expansive soils.*

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

*No, the soils are compatible with septic tanks and other wastewater disposal systems, although the Project is not designed to have either septic tanks or wastewater disposal systems.*

f) Directly or indirectly destroy a unique paleontological resource or site unique geologic feature?

*No, the Project Area does not include any unique paleontological or geologic features.*

\* \* \*

**VIII. GREENHOUSE GAS EMISSIONS:** Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

*No. GHGs generated during the construction phase would be minimal and below all applicable thresholds. (See Appendix C.) GHGs during Project operation would be virtually non-existent, and not present a significant impact, because the solar facilities do not generate any GHGs except for occasionally visits (estimated weekly) by the applicant in a light vehicle to monitor the facilities.*

*The Project is consistent with the PEIR. The PEIR identified mitigation measures applicable mainly to utility-scale projects with greater than 20 MW of generating capacity. The PEIR provides that "small scale solar energy projects are considered to result in no impacts under*

CEQA” and the mitigation measures in the PEIR do not apply to such projects unless a qualified County planner determines, on a case-by-case basis, that implementation of the PEIR mitigation measures is necessary. (PEIR, p. 4.7-12.) If the planner determines, after review, that a proposed commercial-scale project has a potential to generate a significant GHG impact, the PEIR mitigation measures shall be implemented “as determined necessary” by the planner. (PEIR, p. 4.7-12.) Here, the Project has no potentially significant GHG impacts, in light of the small scale of the Project and limited GHG emissions that would occur during construction. (Appendix C.)

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

*No, the proposed Project will not conflict with any plan, policy or regulation adopted for the purpose of reducing GHG emissions. (Appendix C.)*

\* \* \*

**IX. HAZARDS AND HAZARDOUS MATERIALS:** Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

*No. The proposed Project will produce a small amount of waste associated with operational maintenance activities. PV wastes include broken and rusted metal, defective or malfunctioning modules, electrical materials, empty containers, and other miscellaneous solid materials. These wastes will be generated infrequently. Most of this material will be collected and delivered back to the manufacturer for recycling or disposed of according to legal requirements. The presence of such wastes onsite would not pose a risk to surrounding properties and transporting it off site poses no threat or risk due to the inert nature of the waste materials.*

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

*No. The proposed Project will not involve the use of a significant hazardous material. The operation of a PV solar facility does not involve the presence of any liquid wastes or hazardous materials readily capable of migrating to off-site properties. No battery storage will occur on site, or associated hazardous materials, as the solar facilities will connect directly to existing power lines operated by SCE. No significant hazard to the public or environment through a reasonably foreseeable upset or accident that could result in the release of hazardous materials is anticipated.*

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials,

substances, or waste within one-quarter mile of an existing or proposed school?

*No. The proposed Project is not within one-quarter mile of an existing or proposed school, nor will it emit hazardous emissions, nor involve the handling of acutely hazardous materials, substances, or waste.*

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

*No, the proposed Project is not located on a site included on a list of hazardous material sites compiled pursuant to Government Code section 65962.5.*

e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the project area?

*No. The Project operates passively and with little human intervention, and there will be no people typically working in the Project Area that could be affected by airport operations. The Project also does not pose a danger to Trona Airport maintenance workers because the airport is not a public use airport. Additionally, the airport is not used with enough frequency to pose a danger to anyone working in the Project Area.*

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

*No, the project will not physically interfere with an adopted emergency plan or emergency evacuation plan.*

g) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

*No, risk of loss, injury, and death involving wildland fires are not significant from this Project. Fire risks are identified as moderate at the Project Area, and no areas in proximity to it can be considered urbanized. Land surrounding the Project Area are not heavily vegetated and there are only a few residences in the proximity; therefore, the risk of loss, injury, or death involving*

wildland fires is less than significant, and any potential risk is further mitigated by compliance with California Building Standards.

\* \* \*

**X. HYDROLOGY AND WATER QUALITY:** Would the project:

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

*No. The Project will not violate any water quality standards or waste discharge requirements. The Project Area is pre-disturbed. The Project Area is in a region characterized by a low level of precipitation. Project construction will involve some trenching and minor grading to level the land, which does not present a significant risk of violating any water quality standards or substantially degrading surface or groundwater quality. The applicant intends to use stabilized construction entrance and exits would be installed at driveways to reduce tracking of sediment onto adjacent public roadways. The Project is subject to regulation by the Lahontan Regional Water Quality Control Board and the Inyo County Environmental Health Department and will meet all applicable requirements.*

b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

*No. The Project will not have any effect on local groundwater. The project will not use local groundwater for its water needs, which are limited to dust control. All groundwater needs will be supplied by mobile trucks supplying water to the job site. Water demands are estimated at 40,000 gallons/week for dust control and site preparation and water will be trucked in from the Searles Domestic Water Company, located in Trona. The Project will not introduce any significant new areas of impervious surfaces that will prevent groundwater recharge.*

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

i) Result in substantial erosion or siltation on or off-site?

*No. The Project proposes extremely minimal grading and no new impermeable or impervious surfaces. Other than installing a small concrete pad, no paving or other activities will increase the number of impermeable surfaces that could cause erosion or siltation. No drainage patterns*

*will be altered. Other than rare storm related overland run-off situations, no water passes over or through the Project Area.*

- ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off-site?

*No. The Project will not significantly change the landscape or existing runoff patterns or redirect or block flood flows. No drainage patterns or rates of runoff will be altered by the Project.*

- iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

*No. The Project is proposed in an area that is already disturbed and will have no substantial changes to runoff patterns. No increase in stormwater runoff will occur as a result of the Project.*

- iv) impede or redirect flood flows?

*No, the Project is in an area that is already disturbed and is not located in a flood hazard area.*

- d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

*No, the Project is in an area that is already disturbed, and is not located in a flood hazard, seiche or tsunami zone. Note that the BRE identified a potential surface water drainage based on prior mapping but no evidence of any such feature exists onsite and the mapping is therefore considered to be in error or outdated.*

- e) Conflict with or obstruct implementation of a water quality control plan or sustainable ground water management plan?

*No, the Project will not affect compliance with or implementation of the Lahontan Region water quality control plan and is not in an area included in a sustainable groundwater management plan.*

\* \* \*

**XI. LAND USE AND PLANNING: Would the project:**

a) Physically divide an established community?

*No, there is no established community in the vicinity of the Project, and the Project would not physically divide such a community.*

b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

*No, the Project is consistent with the current zoning and advances the goals for renewable energy generation for the southern portion of the county, as described in the REGPA. This part of the Trona area also is explicitly called out and designated for solar energy generation as part of the southern Trona SEDA.*

\* \* \*

**XII. MINERAL RESOURCES:** Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

*No. The Project Area has no known mineral resources of value to the region or state. The Project Area is not in a mapped area of regional or statewide significance by the State Mining and Geology Board. Development of the surface for solar generation would not in any event result in the permanent loss of mineral resources unexpectedly in this location.*

b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

*No, there are no known locally important mineral resources delineated in any land use plan that would be affected by the Project.*

\* \* \*

**XIII. NOISE:** Would the project:

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan

or noise ordinance, or other applicable standards of other agencies?

*All potential noise impacts are within the scope of the PEIR analysis and will be subject to the PEIR mitigation measures. The PEIR evaluated the impacts of construction noise, including the use of construction equipment for grading, trenching, mast installation, installation of concrete footings, movement of heavy equipment and transportation of materials by truck. The PEIR also listed the individual equipment types that would be used to install a solar panel array, and the estimated noise levels associated with each item of equipment. (See PEIR, pp. 4.12-16 – 4.12-18.) The Project would use construction equipment of the types listed in the PEIR, and follow a construction process consistent with, or less impactful than, that anticipated in the PEIR. In this regard, the PEIR focused on utility-scale solar projects. The Project is a smaller, commercial-scale Project that will utilize a construction process that is comparatively light and short term in comparison to utility-scale projects. Trenching and grading will take two days using one grader, one backhoe and a water truck. Panel installation will occur over an estimated two months. No nighttime construction will occur. The Project does not present noise impacts that substantially differ from, or that are more impactful than, those analyzed in the PEIR. As such, the Project is within the scope of the PEIR pursuant to CEQA Guidelines section 15168(c)(2).*

*The PEIR adopted Mitigation Measure MM NOI-2 (“Implement construction noise reduction measures”) to ensure that construction noise impacts are avoided or reduced below a level of significance and would have no significant unavoidable adverse impacts. (PEIR, pp. 4.12-18.) The PEIR listed the following five mitigation measures:*

*If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT's Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:*

- Whenever feasible, electrical power will be used to run air compressors and similar power tools.*
- Equipment staging areas will be located as far as feasible from occupied residences or schools.*
- All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.*
- Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.*
- Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings.*

*NOI-2 incorporated certain best management practices (BMPs) from REAT's Best Management Practices and Guidance Manual (REAT 2010) for desert renewable energy projects. In regard to potential noise impacts, the manual lists 10 BMPs:*

- 1) *Ensure noisy construction activities (including truck and rail deliveries, pile driving and blasting) are limited to the least noise-sensitive times of day (i.e., weekdays only 45 between 7 a.m. and 7 p.m.) for projects near residential or recreational areas.*
- 2) *Consider use of noise barriers such as berms and vegetation to limit ambient noise at plant property lines, especially where sensitive noise receptors may be present.*
- 3) *Ensure all project equipment has sound-control devices no less effective than those provided on the original equipment. All construction equipment used should be adequately muffled and maintained. Consider use of battery powered forklifts and other facility vehicles.*
- 4) *Ensure all stationary construction equipment (i.e., compressors and generators) is located as far as practicable from nearby residences.*
- 5) *If blasting or other noisy activities are required during the construction period, notify nearby residents and the permitting agencies 24 hours in advance.*
- 6) *Properly maintain mufflers, brakes and all loose items on construction and operation related vehicles to minimize noise and ensure safe operations. Keep truck operations to the quietest operating speeds. Advise about downshifting and vehicle operations in residential communities to keep truck noise to a minimum.*
- 7) *Use noise controls on standard construction equipment; shield impact tools. Consider use of flashing lights instead of audible back-up alarms on mobile equipment.*
- 8) *Install mufflers on air coolers and exhaust stacks of all diesel and gas-driven engines. Equip all emergency pressure relief valves and steam blow-down lines with silencers to limit noise levels.*
- 9) *Contain facilities within buildings or other types of effective noise enclosures.*
- 10) *Employ engineering controls, including sound-insulated equipment and control rooms, to reduce the average noise level in normal work areas.*



*The western and northwestern edge of the Project Area is approximately 400 feet from two residential structures located westerly of the Project Area. Under CEQA Guidelines section 15168(c)(3), the Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of the residential structures.*

*Once the Project is constructed, operational noise sources will be limited to pad-mounted transformers and tracker array motors. Transformers will be located farther than 500 feet from a residence or other noise-sensitive land use and would not require further analysis under MM NOI-1 in the PEIR. Tracker motors generate low noise levels (see PEIR Table 4.12-4) and are sufficiently far from noise-sensitive land uses to have no potential noise-related impacts and to not require further noise study or mitigation. (See PEIR, p. 4.12-19.) As such, the operational impacts are expected to be less than significant.*

b) Generation of excessive groundborne vibration or groundborne noise levels?

*No, the Project involves relatively light ground disturbance with few vehicles. No excessive groundborne vibration or groundborne noise is expected. Considering the types of equipment that will be used, impacts associated with groundborne noise or vibration would be within the scope of the PEIR and less than significant. (See PEIR p. 4.12-15.)*

c) For a project located within the vicinity of a private airstrip or, an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

*No. Trona Airport is not public, nor is it used with frequency, and it is typically used by light aircraft only. The proposed Project will have minimal noise levels due to its nature and will not create excessive noise levels for personnel working near the Project Area. The Project Area is not immediately below any established flight path and persons working at the Project Area would not be exposed to any significant level of aircraft noise.*

**Mitigation Measures:** *All potential impacts are within the scope of the PEIR analysis. The Project will be subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures.*

\* \* \*

**XIV. POPULATION AND HOUSING:** Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

*No. The Project is not likely to induce any population growth. The Project Area requires few maintenance personnel and will be monitored mostly remotely from offsite locations. No new residents are expected to result from the Project.*

b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

*No, the proposed Project will not displace existing housing or create a situation where replacement housing will be necessary. No housing currently exists in the Project Area. No existing housing will be removed to construct or operate the Project. The Project will have no effect on the level of housing in the Project Area or on surrounding properties.*

\* \* \*

**XV. PUBLIC SERVICES:** Would the project:

a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?

*No. The Project is not considered to be located in a high-risk area for fire protection. The Project Area has no trees or established vegetation. The San Bernardino Fire Department (which provides fire protection services in the Trona community) was consulted on the Project. No concerns related to the Project Area were given.*

Police protection?

*No. No new police service will be required because of the Project. Offsite private security measures will mostly be used to monitor the Project Area.*

Schools?

*No, no new students or residents, or associated school services, will be required because of this Project.*

Parks?

*No, no new parks will be required because of the Project.*

Other public facilities?

*No, the proposed Project will not create substantial adverse physical impacts associated with a need for any other foreseeable public services.*

\* \* \*

**XVI. RECREATION:** Would the project:

a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

*No, the proposed Project will not increase the use of existing recreational facilities. It is not anticipated that any portion of this Project will result in a change in the level of service required to provide parks or other recreational facilities.*

b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

*No, the proposed Project does not include recreational facilities, nor will it cause a need for an increase in parks or other recreational facilities that might have an adverse physical effect on the environment.*

\* \* \*

**XVII. TRANSPORTATION:**

a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?

*No. The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.*

b) Conflict or be inconsistent with CEQA Guidelines § 15064.3(b)?

*No. The project will not result in an adverse change with respect to vehicle miles traveled (VMT). The Project will not significantly increase passenger vehicle traffic or commuter traffic in the region. Construction related traffic generally will be light. When construction is complete, the Project will be remotely monitored and have maintenance personnel on-site as needed during daytime hours. The Project is not within one-half mile of either an existing major transit stop or high-quality transit corridor. The Project will result in less than significant impacts to this resource.*

c) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

*No. The proposed Project will not result in any design features that increase transportation hazards. No changes will occur to public roads, including the Trona Wildrose Road. No curves or dangerous intersections will be added to the existing unpaved access road leading to the Project Area. Automobiles and trucks will be accommodated in the Project Area.*

d) Result in inadequate emergency access?

*No, the Project is proposed on properties that are directly adjacent to, and accessible from, Trona Wildrose Road and emergency access is and will continue to be available.*

\* \* \*

**XVIII. TRIBAL CULTURAL RESOURCES:** Would the project:

a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
- 

*No. The Project Area undeveloped and cleared of vegetation with no known tribal cultural resources. The proposed Project does not contain a resource eligible for listing in the California Register of Historical Resources, or in a local register for historical resources as defined in Public Resource Code section 5020.1(k). If any archeological or cultural resources are discovered on the site, work shall immediately stop, and Inyo County staff shall be immediately notified per Chapter 9.52 of the Inyo County Code.*

- ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.
- 

*The Project Area is vacant and undeveloped. It does not contain any resource determined by the County to be significant pursuant to criteria set forth in subdivision (c) of the Public Resource Code section 5024.1 (i.e., is associated with events that made a significant contribution to the state's cultural patterns, is associated with the lives of persons important in our past, embodies the distinctive characteristics of a type or period, or has yielded or may yield information important in prehistory or history).*

\* \* \*

**XIX. UTILITIES AND SERVICE SYSTEMS:** Would the project:

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

*No. The proposed Project is for the approval of a PV solar facility that will primarily be remotely monitored and involve no continuous human presence. The Project will not result in the construction or relocation of new or expanded utility, wastewater, or other utility service systems. The goal of the Project is to create a sustainable supply of electric power, and it will not increase demand for utilities whatsoever.*

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

*No impact. During operation, water needs will be no more than 1.0-acre feet per year and will be utilized primarily for panel washing 2-4 times annually. During active construction, light water consumption (relative to other construction uses) will be required for dust suppression. All water needs will be covered via trucking it in from Searles Domestic Water Company, located in Trona. No landscaping water will be required.*

c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

*No. The Project would not generate wastewater requiring disposal or contribute to demand for wastewater treatment.*

d) Generate solid waste in excess of state or local standards, or in excess of the capacity of soil infrastructure, or otherwise impair the attainment of solid waste reduction goals?

*No. The Project will not require changes to the current solid waste capacity to accommodate them. Solid waste needs for the project will be minimal. Most of the volume of solid waste (scrap metals, electrical equipment, and proprietary solar array features) will be collected and recycled.*

e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

*No impact. The Project and any future development will comply with Inyo County's solid waste standards, as required by the Inyo County Department of Environmental Health.*

\* \* \*

**XX. WILDFIRE:**

a) Substantially impact an adopted emergency response plan or emergency evacuation plan?

*No. There is not an adopted emergency response or evacuation plan for the area in which the Project is proposed.*

b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

*No. The Project Area is on flat or gently-sloped land. It lacks vegetation and vegetation is sparse in the area, characterized mainly by desert scrub, making wildfire risks moderate to low. There will be no project occupants, and the project area is physically separated from surrounding structures. The proposed Project does little to add to the wildfire risk in the area. The risk of loss, injury or death involving wildland fires is less than significant at this site, and any potential risk is further mitigated by compliance with California Building Standards.*

c) Require the installation or maintenance of associated infrastructure (such as roads, fuel break, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

*No. The Project will not cause the need for additional wildfire associated infrastructure.*

d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

*No. The Project is on already graded and disturbed land. The addition of solar facilities will not create downslope or downstream flooding or landslides.*

\* \* \*

**XXI. MANDATORY FINDINGS OF SIGNIFICANCE:**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number, or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

*No, the Project will not impact or degrade the quality of the environment. The limited impact to resources in the Project Area can be mitigated to less than significant levels. Minimization measures have been written into the Mitigation Monitoring and Reporting Program for the permits and include: pre-activity surveys; avoidance buffers for desert kit fox; noise control measures subject to MM NOI-2 for the portions of the Project Area within 500 feet of residential structures, dust mitigation measures to control air quality issues, and the monitoring efforts of a representative from local native American tribes in case native artifacts or human remains are uncovered.*

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a Project are considerable when viewed in connection with the effects of past Projects, the effects of other current Projects, and the effects of probable future Projects)?

*No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note in the vicinity are PV solar projects within the Trona SEDA, but the overall number and size of these projects are likely to be less than analyzed in the PEIR. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.*

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

*No, the Project has no known environmental effects that will cause substantial adverse effects on human beings either directly or indirectly.*



**APPENDIX A**



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**2**



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## **APPENDIX B**

**BIOLOGICAL RESOURCE EVALUATION**

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**VALLEY WIDE CONSTRUCTION SERVICES  
TRONA 4 AND 7 SOLAR PROJECT**



**MAY 2023**

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# BIOLOGICAL RESOURCE EVALUATION

## TRONA 4 AND 7 SOLAR PROJECT

### **Prepared for:**

Valley Wide Construction Services  
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Trona, CA 93562  
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May 2023

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**EXECUTIVE SUMMARY**

This Biological Resource Evaluation (BRE) report provides the results of a biological survey conducted by QK for the Trona 4 and 7 Solar Projects (collectively, the Project) proposed by Valley Wide Construction Services. In order to comply with the California Environmental Quality Act (CEQA) a biological evaluation was conducted to identify the potential for sensitive biological resources to occur on or near the Project site.

The Project is located north of the unincorporated town of Trona, California (Figure 1-1). It consists of two separate applications for renewable energy permits, one covering approximately 15 acres (Trona 4) and the other covering approximately 5 acres (Trona 7) of contiguous land, all situated on Assessor Parcel Numbers (APNs) 038-330-32, 038-330-33, 038-330-34, and 038-330-46. The Project site, which for the purposes of this BRE consists of both the Trona 4 and Trona 7 project sites, is highly disturbed, has been disked and exhibits little native vegetation re-growth. The Project site is bordered by an existing solar facility to the south, scattered residential homes, abandoned vehicles, local trash and debris.

A review of available literature and agency databases was conducted to obtain information of the occurrences of natural communities, special-status plant and wildlife species known or have the potential to occur in the vicinity of the Project site. QK conducted a biological reconnaissance survey on May 8, 2023, to determine the locations and extent of current land use, natural vegetation communities, determine the potential for occurrences of special-status plant and wildlife species, and verify the presence or absence of wetlands and State and or federal jurisdictional waters.

No special-status plant species or special-status wildlife species, or diagnostic sign thereof, were observed during the survey, and one water feature, that intersects the Project site, was identified by the National Hydrology Database and National Wetlands Inventory databases.

Based on the literature and database search and the results current conditions of the survey, it was deemed that there is a potential for two special-status wildlife species to occur on the Project site: the desert kit fox (*Vulpes macrotis arsipus*), and foraging and nesting birds and raptors. Desert kit fox were not observed to be inhabitants on the Project site but may pass through as transients. There is a potential for nesting migratory birds and other raptors species, protected by the Migratory Bird Treaty Species Act, to occur on or near the Project site and surrounding areas. With the implementation of Best Management Practices and recommended avoidance measures, impacts during the construction of the Project are not expected or will be limited to special-status wildlife species and migratory birds and raptors. There is expected to be no impact to special-status plant species, sensitive natural communities, wetlands or water features, or any other sensitive biological resources. No operational impacts would occur because operations are passive and involve no ongoing land disturbance.

## **SECTION 1 - INTRODUCTION**

Valley Wide Construction Services proposes to construct and operate two solar facilities; Trona 4 is a 3 megawatt (MW) photovoltaic (PV) solar facility on approximately 15 acres; and Trona 7 is a 1 MW PV solar facility on approximately 5 acres located in Trona, Inyo County, California. For the analysis presented herein, the two contiguous sites have been combined into a single, 20-acre site for ease of discussion (Figures 1-1 and 1-2). The proposed solar project (Project) will include the vegetation removal, grading, trenching, and associated infrastructure to build the solar project. The Project would connect to the existing Southern California Edison (SCE) 33-kV transmission line that bisects the Project. To comply with the California Environmental Quality Act (CEQA), a biological evaluation was conducted to identify the potential for sensitive biological resources to occur on or near the Project site. This Biological Resource Evaluation (BRE) provides the basic biological information needed for the County of Inyo CEQA permitting process.

### **1.1 - Project Location**

The Project is located north of the town of Trona, California (Figure 1-1). It covers approximately 20 acres and is situated on Assessor Parcel Numbers (APNs) 038-330-32, 038-330-33, 038-330-34 (Trona 4), and 038-330-46 (Trona 7). The unincorporated town of Trona is located on the east side of the Searles Valley and is between the Panamint Range and Southern Sierra Mountain Range, and approximately 28-miles northeast of the City of Ridgecrest. The Project site is west of Trona Wildrose Road and south of Moses Lane (Figure 1-2). It is in the northeast  $\frac{1}{4}$  of Section 32, Township 24 South, Range 43 East, Mount Diablo Base and Meridian, and is within the *Trona East*, California U.S. Geological Survey (USGS) 7.5-minute quadrangle.

### **1.2 - Project Description**

The proposed Trona 4 Project will construct and operate a 3 MW PV solar facility on approximately 15 acres. The Project would install approximately 4,835 single-axis tracker solar panels on the site. The layout of the single axis tracker solar panels will be in an east-west direction. The maximum height of the would be up to 12 feet above grade at the beginning and end of each day. Each solar panel would be attached to embedded piers using a support structure. Module layout and spacing is typically optimized to balance energy production versus peak capacity and depends on the sun angles and shading due to the surrounding horizon of the site.

The proposed Trona 7 Project will construct and operate a 1 MW PV solar facility on approximately 5 acres. The Project would install approximately 2,300 single-axis tracker solar panels on the site.

### **1.3 - Purpose, Goals, and Objectives for this Report**

The BRE report includes the results of a biological reconnaissance survey and available biological and natural resource database search conducted by QK biologists at the Project

site. This report is consistent with the requirements for an analysis of impacts to biological resources.

The primary focus of this report is to provide information about the presence of sensitive biological resources on the Project and develop measures to avoid and minimize any potential impacts of the Project on those resources. To accomplish that goal, this BRE provides information on the condition and sensitivity of the sensitive biological resources potentially present on and adjacent to the Project site and evaluates Project impacts to those resources. This BRE focuses on providing information and sensitive natural communities, special-status species, wildlife movement corridors, and wetlands and waters by conducting a desktop analysis of site conditions and verifying those findings with an on-site biological survey.



**Figure 1-1**  
**Regional**  
**Trona 4 and 7 Solar Project,**  
**Inyo County, California**



**Figure 1-2**  
**Project Location**  
**Trona 4 and 7 Solar Project,**  
**Inyo County, California**

## **SECTION 2 - METHODS**

### **2.1 - Definition of Biological Study Area**

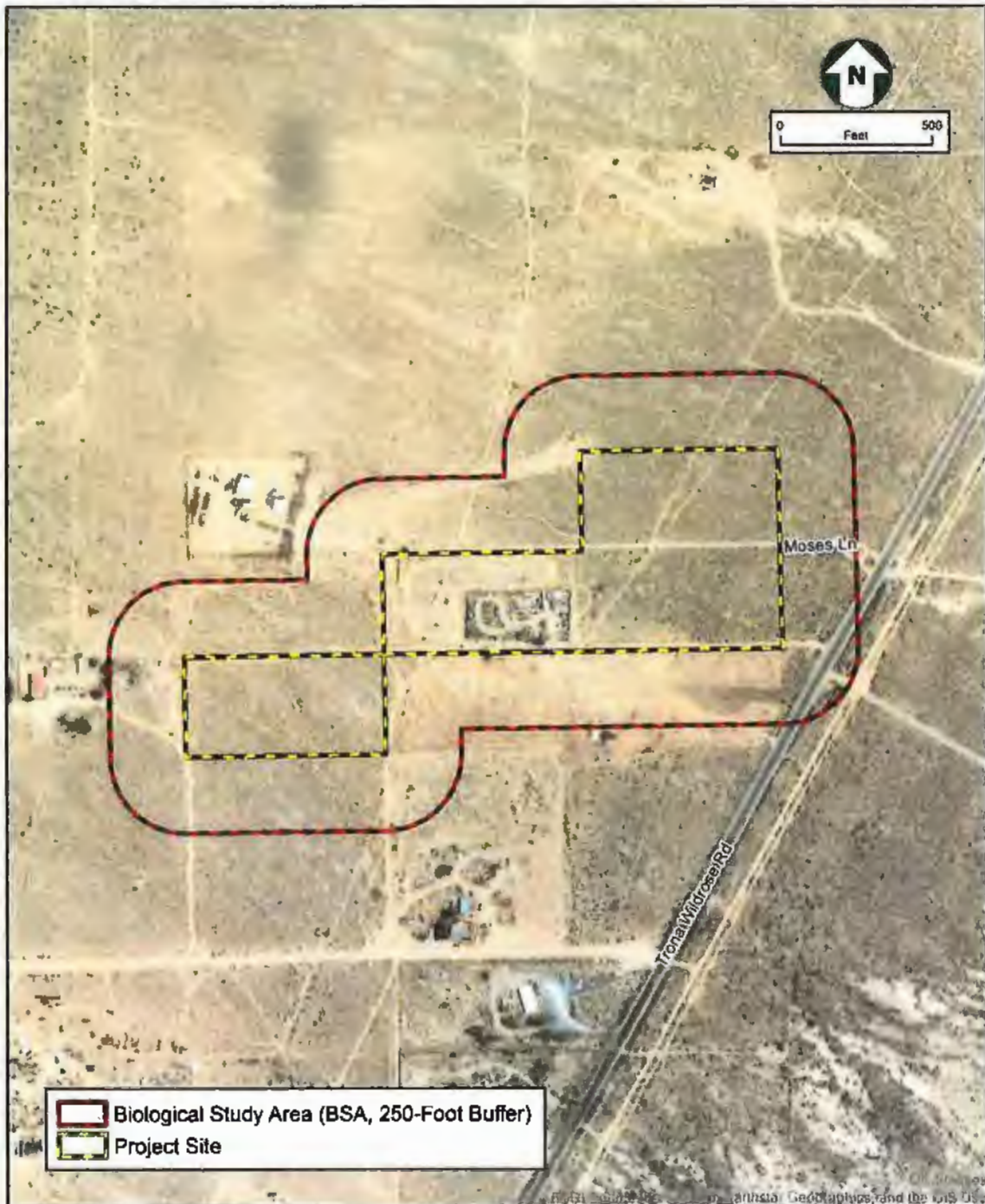
The Biological Study Area (BSA) includes the Project site and a 250-foot survey buffer surrounding the Project disturbance footprint (Figure 2-1).

### **2.2 - Literature Review and Database Analysis**

The following sources were reviewed for information on special-status biological resources in the Project vicinity:

- California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB; CDFW 2023a).
- CDFW's Biogeographic Information and Observation System (BIOS; CDFW 2023b).
- CDFW's Special Animals List (CDFW 2023c).
- CDFW's California Wildlife Habitat Relationships (CWHR) System (Mayer and Laudenslayer 1988).
- California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants of California (CNPS 2023).
- United States Fish and Wildlife Service (USFWS) Information for Planning and Consultation System (IPaC; USFWS 2023a).
- USFWS Critical Habitat Mapper (USFWS 2023b).
- USFWS National Wetlands Inventory (NWI; USFWS 2023c).
- USGS National Hydrography Dataset (NHD; USGS 2023).
- Federal Emergency Management Agency (FEMA) flood zone maps (FEMA 2023).
- United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Web Soil Survey (NRCS 2023a)
- Current and historical aerial imagery (Google LLC 2023; Netroline 2023).

The CNDDDB and CNPS queries focused on the *Trona East* USGS 7.5-minute quadrangle in which the Project is located, plus the surrounding eight quadrangles: *Copper Queen Canyon*, *Homewood Canyon*, *Manly Fall*, *Slate Range Crossing*, *Westend*, *Layton Spring*, *Seales Lake*, and *Trona West*. To satisfy other standard search criteria, CNDDDB records within a 10-mile radius of the project site were queried separately from the broader database search.



**Figure 2-1**  
**Biological Study Area**  
**Trona 4 and 7 Solar Project,**  
**Inyo County, California**



The CNDDDB provides element-specific spatial information on individual documented occurrences of special-status species and sensitive natural vegetation communities. The CNPS database provides similar information, but at a much lower spatial resolution, for additional sensitive plant species tracked by the CNPS. The CDFW Special Animals List and USFWS IPaC provide no spatial data on wildlife occurrences and provide only lists of species potentially present. Wildlife species designated as “Fully Protected” by California Fish and Game Code Sections 5050 (Fully Protected reptiles and amphibians), 3511 (Fully Protected birds), and 4700 (Fully Protected mammals) are also included on the final list of evaluated species. The database search results can be found in Appendix A.

A review of the NWI was completed to identify whether wetlands have previously been documented on or adjacent to the Project site. The NWI, which is operated by the USFWS, is a collection of wetland and riparian maps that depicts graphic representations of the type, size, and location of wetland, deep water, and riparian habitats in the United States. In addition to the NWI, regional hydrologic information from the NHD was obtained from the USGS to evaluate the potential occurrence of blue-line streams within or near the Project site.

Soils data were obtained from the USDA NRCS Web Soil Survey, climate information was obtained from the Western Regional Climate Center, and land use information was obtained from available aerial imagery (NRCS 2023a; WRCC 2023; Google LLC 2023). Information about flood zones was obtained from the Federal Emergency Management Agency, Department of Homeland Security (FEMA 2023).

The results of the database inquiries were reviewed to extract pertinent information on site conditions and evaluate the potential for sensitive biological resources to occur within or near the proposed Project site. Only those resources with the potential to be present and affected by the Project were included and considered in this document. The potential presence of natural communities and special-status species was based on distributional ranges overlapping the Project site and the presence of habitat and/or primary constituent habitat elements.

### **2.3 - Reconnaissance-Level Field Surveys**

A biological reconnaissance survey of the BSA was conducted by QK Environmental Scientists Jeff Erway and Eric Madueno on May 8, 2023. The survey consisted of walking meandering pedestrian transects spaced 50 to 100 feet apart throughout the BSA, where accessible. Areas with suitable habitat that could not be accessed were surveyed by use of high-power binoculars.

Tasks completed during the survey included determining and documenting current land use, developing an inventory of plant species, wildlife species, and wildlife sign (e.g., scat, burrows, nests, feathers, tracks, etc.), characterizing vegetation associations and habitat conditions within the BSA, assessing the potential for federally, State-listed and other special-status plant and wildlife species that may occur on and near the Project site based on existing conditions, and assessing the potential for migratory birds and raptors to nest on and near the Project site. In addition, all historical wetland and water features documented

by NWI and NHD were field verified. All spatial data were recorded using Environmental Systems Research Institute (ESRI) Collector for ArcGIS software installed on an iPad. Site conditions were documented with representative photographs (Appendix B).

### SECTION 3 - ENVIRONMENTAL SETTING

This section identifies the regional and local environmental setting of the Project and describes existing baseline conditions. The environmental setting of the BSA was obtained from various sources of literature, databases, and aerial photographs. Site conditions were verified and updated during the site reconnaissance survey conducted by QK Environmental Scientists (Table 3-1).

**Table 3-1**  
**Field Survey Personnel and Timing**

Date	Personnel	Time	Weather Conditions	Temperature
05/08/2023	Jeff Erway, and Eric Madueno	0947 - 1045	Sunny, Clear	61 - 67°F

#### 3.1 - Topography

The BSA is in the southwestern portion of Inyo County. The BSA is relatively flat with little variation in topography and an elevation of about 1,690 feet above mean sea level.

#### 3.2 - Climate

The BSA is within an area that has a Mediterranean climate of hot summers and mild, wet winters. Average high temperatures range from 58.2°F in January to 105.5°F in July, with daily temperatures often exceeding 100°F several days in the summer (WRCC 2023). Average low temperatures range from 33.2°F in December to 73.3°F in July. Precipitation occurs primarily as rain, most of which falls from November to April, with an average of 3.94 inches of rainfall per year. Rain rarely falls during the summer months.

#### 3.3 - Land Use

The Project site is located approximately 0.8-miles north of the unincorporated town of Trona, California and adjacent to the major public road known as Trona Wildrose Road. Currently, the Project site is highly disturbed from urbanization, previous disking, illegal trash and debris dumping, and by abandoned vehicles. The Project site is situated among scattered residential properties to the north and west, an existing solar facility to the south, Trona Wildrose Road to the east, and an unpaved road identified as Moses Lane to the north.

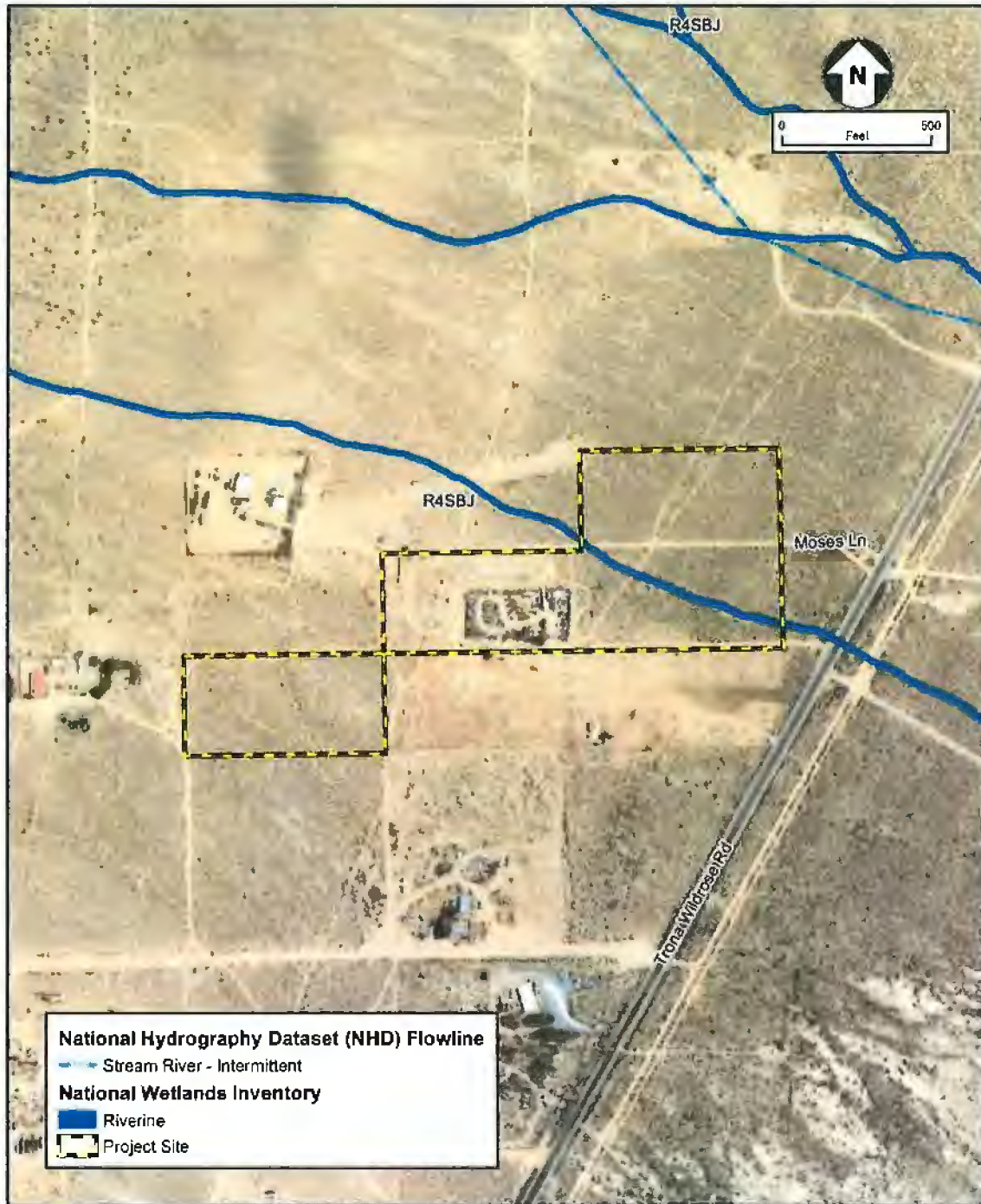
**3.4 - Soils**

The United States Department of Agriculture, Natural Resources Conservation Service (NRCS) Web Soil Survey database contains no digital data for the region the BSA is located.

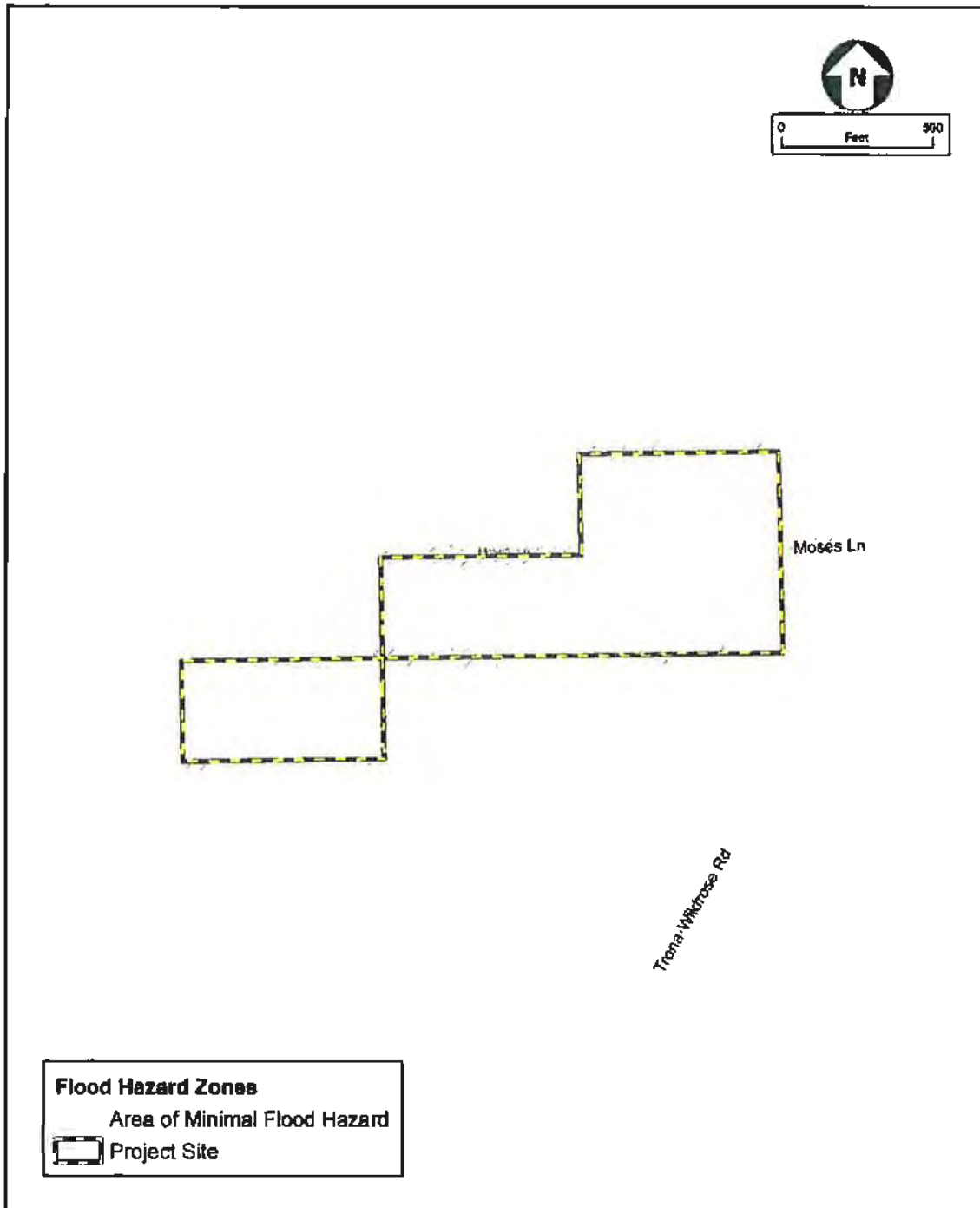
**3.5 - Hydrology**

There is one record of a jurisdictional wetland feature within the BSA, as defined by the NWI (USFWS 2023c) (Figure 3-1). The jurisdictional wetland bisects a portion of the BSA, known as Trona 4, starting in the middle of the northwest area flowing southeast towards Trona Wildrose Road. The feature is described as an intermittent riverine. Features under the Riverine system include all wetlands and deepwater habitats contained within a channel, with two exceptions: 1) wetlands dominated by trees, shrubs, persistent emergent, emergent mosses, or lichens, and 2) habitats with water containing ocean-derived salts of 0.5 ppt or greater.

According to FEMA, the BSA is within an Area of Minimal Flood Hazard (Figure 3-2).



**Figure 3-1**  
**NWI and NHD Records of Aquatic Resources**  
**Trona 4 and 7 Solar Project,**  
**Inyo County, California**



**Figure 3-2**  
**FEMA Flood Zone Map**  
**Trona 4 and 7 Solar Project,**  
**Inyo County, California**



### **3.6 - General Biological Conditions**

The entirety of the Project site consists of an open, previously disked desert and alkali desert scrub habitat that has been disturbed by urbanization and residential development. The Project site is bordered by scattered residential properties and Moses Lane to the north, and existing solar facility of the south, Trona Wildrose Road to the east, and scattered residential properties and open desert and alkali desert scrub habitat to the west.

No sensitive natural plant communities occur within the BSA. Vegetation observed included saltbush (*Atriplex polycarpa*), white bursage (*Ambrosia dumosa*), desert calico (*Loeseliastrum matthewsii*), desert five spot (*Eremalche rotundifolia*), and creosote (*Larrea tridentata*).

No avian nests were observed within the Project site, but the existing transmission and utility poles near the BSA could support nesting birds and/or raptors. A migratory bird species observed included common raven (*Corvus corax*).

No small mammal burrows, dens, or larger mammal dens that could be utilized by desert kit fox, Mohave ground squirrel (*Xerospermophilus mohavensis*) or desert tortoise (*Gopherus agassizii*) were observed within the BSA. A complete list of plant and wildlife species observed within the BSA during the biological reconnaissance survey is included in Appendix C.

## **SECTION 4 - FINDINGS**

### **4.1 - Sensitive Natural Communities**

#### **4.1.1 - RESULTS OF LITERATURE REVIEW AND DATABASE SEARCHES**

Literature results from the nine-quadrangle queries for the Project site were conducted and provide information for the potential of occurrence and verified during the field survey.

#### **4.1.2 - PRESENCE OF SENSITIVE NATURAL COMMUNITIES**

No sensitive natural vegetation communities were identified within the BSA. In addition, the BSA does not provide habitat that would support these communities.

### **4.2 - Special-Status Plants**

#### **4.2.1 - RESULTS OF LITERATURE REVIEW AND DATABASE SEARCHES**

There were 7 special-status plant species identified in the literature and database review that are known or have the potential to occur within the nine-quadrangle queries centered on the Project site (Table 4-1). There are no CNDDDB records of special-status plant species that overlap the BSA.

**Table 4-1  
Special-Status Plant Species Occurring in the Region of the BSA**

(Source: CNDDB 2023, CNPS 2023,	Common Name	Status
<i>Aliciella ripleyi</i>	Ripley's Aliciella	2B.3
<i>Astragalus atratus var. mensanus</i>	Darwin Mesa milk-vetch	1B.1
<i>Castela emoryi</i>	Emory's crucifixion-thorn	2B.2
<i>Cryptantha clokeyi</i>	Clokey's cryptantha	1B.2
<i>Eremothera boothii ssp. boothii</i>	Booth's evening-primrose	2B.3
<i>Penstemon fruticiformis var. amargosae</i>	Amargosa beardtongue	1B.3
<i>Yucca hrevifolia</i>	Joshua tree	SC

1A Presumed Extinct in California.

1B Rare, Threatened, or Endangered in California and elsewhere.

2A Plants presumed extirpated in California, but more common elsewhere.

2B Plants Rare, Threatened, or Endangered in California, but more common elsewhere.

CRPR Threat Code Extension:

.1 Seriously endangered in California (over 80% of occurrences threatened / high degree and immediacy of threat)

.2 Fairly endangered in California (20-80% occurrences threatened)

.3 Not very endangered in California (<20% of occurrences threatened) Abbreviations:

Abbreviations:

FC Federal Candidate

FE Federal Endangered Species

FT Federal Threatened Species

SFP Fully Protected Animal, CDFW

SE California Endangered Species

ST California Threatened Species

SC California Candidate Species

SSC California Department of Fish and Game Species of Special Concern

#### 4.2.2 - PRESENCE OF SPECIAL-STATUS PLANTS

No special-status plant species were observed within the BSA. The surveys coincided with some, but not all of the plant species' optimal blooming periods; however, none of the species identified in the database queries are expected to occur on-site due to the lack of suitable habitat conditions (disturbed site conditions, plant associations and soil types) and/or because the BSA is located outside of the species' known range. The Project site has been highly disturbed with urbanization and disking; however, a few native plant species have revegetated on site.

A complete list of plant species observed during the biological reconnaissance survey is included in Appendix C.

#### 4.3 - Special-Status Wildlife

##### 4.3.1 - RESULTS OF LITERATURE REVIEW AND DATABASE SEARCHES

There were 15 special-status wildlife species identified in the literature and database review that are known or have the potential to occur within the nine-quad search area centered on

the Project (Table 4-2). There is one historical CNDDDB record for prairie falcon (*Falco mexicanus*) that overlaps with the BSA.

**Table 4-2**  
**Special-Status Wildlife Species Occurring in the Region of the BSA**  
(Source: CNDDDB 2023, and USFWS 2023)

Scientific Name	Common Name	Status
<b>Invertebrates</b>		
<i>Danaus plexippus</i>	monarch butterfly	FC, -
<b>Reptiles</b>		
<i>Elgaria panamintina</i>	Panamint alligator lizard	-, SSC
<i>Gopherus agassizii</i>	desert tortoise	FT, ST
<b>Birds</b>		
<i>Asio otus</i>	long-eared owl	-, SSC
<i>Athene cunicularia</i>	burrowing owl	-, SSC
<i>Charadrius nivosus nivosus</i>	western snowy plover	FT, SSC
<i>Falco mexicanus</i>	prairie falcon	-, WL
<i>Gymnogyps californianus</i>	California condor	FE, SE
<i>Pipilo crissalis eremophilus</i>	Inyo California towhee	FT, SE
<i>Toxostoma lecontei</i>	Le Conte's thrasher	-, ST
<b>Mammals</b>		
<i>Antrozous pallidus</i>	pallid bat	-, SSC
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat	-, SSC
<i>Eumops perotis californicus</i>	western mastiff bat	-, SSC
<i>Ovis canadensis nelsoni</i>	desert bighorn sheep	-, FP
<i>Xerospermophilus mohavensis</i>	Mohave ground squirrel	-, FT
<i>Vulpes macrotis arsipus</i>	desert kit fox	-, FGC

Abbreviations:

FC	Federal Candidate
FE	Federal Endangered Species
FGC	Fish and Game Code
FT	Federal Threatened Species
SFP	Fully Protected Animal, CDFW
SE	California Endangered Species
ST	California Threatened Species
SSC	California Department of Fish and Game Species of Special Concern

#### 4.3.2 - PRESENCE OF SPECIAL-STATUS WILDLIFE

There is no roosting habitat for monarch butterfly (*Danaus plexippus*) present within the BSA, although this species may travel through the BSA as a transient. Additionally, no milkweed (*Asclepias* sp.) was observed within the BSA, which is a required food source for larval monarch butterflies. No wetland, marsh, or riparian habitat exists within the BSA to support nesting or foraging Inyo California towhee (*Pipilo crissalis eremophilus*) or



Panamint alligator lizard (*Elgaria panamintina*) which inhabits riparian areas in the desert at the bottom of rocky canyons, near streams and springs.

No desert tortoise sign (e.g., scat, tracks, or burrows) were observed within the BSA. The nearest CNDDDB recorded occurrence (EONDX 110170) is approximately 1.2-miles north of the BSA (CDFW 2023a). The occurrence was for an adult desert tortoise crossing a dirt road in March 2017. The BSA is highly disturbed from disking, construction of an existing solar field, and urbanization (e.g., dirt roads and debris) from the residences in the vicinity. The disturbance in the vicinity has resulted in historical ground disturbance that results in no potential for foraging, or habitation of desert tortoise in the BSA.

There are no dense woodlands with coniferous or broadleaved trees near a water source that could provide suitable habitat for long-eared owl (*Asio otus*). Burrowing owl (*Athene cunicularia*) inhabit grassland, open bare ground, and utilize existing small mammal burrows, typically created by California ground squirrel, for breeding and shelter. There were no burrows or diagnostic sign (e.g., whitewash, tracks, prey remains) of burrowing owl observed within the BSA. Due to a lack of suitable burrows on site and highly disturbed condition of the site the likelihood of a resident burrowing owl on site is extremely unlikely.

No suitable foraging or nesting habitat is present within the BSA, due to the highly disturbed condition of the BSA, for western snowy plover (*Charadrius nivosus nivosus*), California condor (*Gymnogyps californianus*), prairie falcon, or Le Conte's thrasher (*Toxostoma lecontei*). The CNDDDB recorded occurrence (EONDX 26139), for prairie falcon, that overlaps with the BSA is from 1975 which is presumed extant. No additional data was recorded for this occurrence. There are no rocky outcroppings, mines or caves, cliff faces, tree hollows, buildings, or bridges within the BSA that would support the pallid bat (*Antrozous pallidus*), the western mastiff bat (*Eumops perotis californicus*), or the Townsend's big-eared bat (*Corynorhinus townsendii*).

The BSA is too low in elevation and does not provide suitable foraging habitat for desert bighorn sheep (*Ovis canadensis nelsoni*). There are no steep, rugged mountainous terrain within the BSA that would provide climbing habitat for the desert bighorn sheep to avoid predators. Desert bighorn sheep are known to cross valley floors to neighboring mountainous regions but due to the urbanization and highly disturbed condition of the BSA it is unlikely for desert bighorn sheep to cross within the BSA.

No small mammal burrows, with appropriate configuration in size and shape, or diagnostic sign for Mohave ground squirrel (*Xerospermophilus mohavensis*) were observed within the BSA. According to CDFW, the closest known population is located approximately 8.2-miles southwest of the BSA (CDFW 2023b). This area surrounds the town of Ridgecrest and moves east on State Route (SR) 178 towards the area known as Pinnacles Entrance. Additionally, the closest core population of Mohave ground squirrel is the Coso Range-Olancha core population approximately 25.0-miles northwest of the BSA.

The desert kit fox (*Vulpes macrotis arsipus*) could be present as a transient forager within the BSA. There are no CNDDDB records of this species because CNDDDB does not record

sightings due to the species not being listed State or federally listed as endangered, threatened, or species of special concern. However, the species is protected as a fur-bearing mammal under Fish and Game Code § 4000.

The Project site lacks optimal suitable denning habitat for the species due to the past and current level of disturbance and the surrounding BSA has been similarly degraded. However, kit foxes, in general, are highly adaptable and can forage from the nearby residential houses. No desert kit fox or diagnostic sign of the species (e.g., tracks, dens, scat, prey remains) were observed during the field survey, and the lack of small mammal burrows observed indicates the site does not support an adequate prey base. Surrounding land use and habitat conditions make it unlikely that the desert kit fox would be present, other than as a transient forager.

#### ***4.3.3 - NESTING MIGRATORY BIRDS AND RAPTORS***

There were no active nests observed within the BSA during the survey. The transmission and utility poles outside the BSA could support a variety of nesting bird species, including larger species such as raptors and common raven.

### ***4.4 - Critical Habitat, Movement Corridors, and Linkages***

#### ***4.4.1 - PRESENCE OF CRITICAL HABITAT***

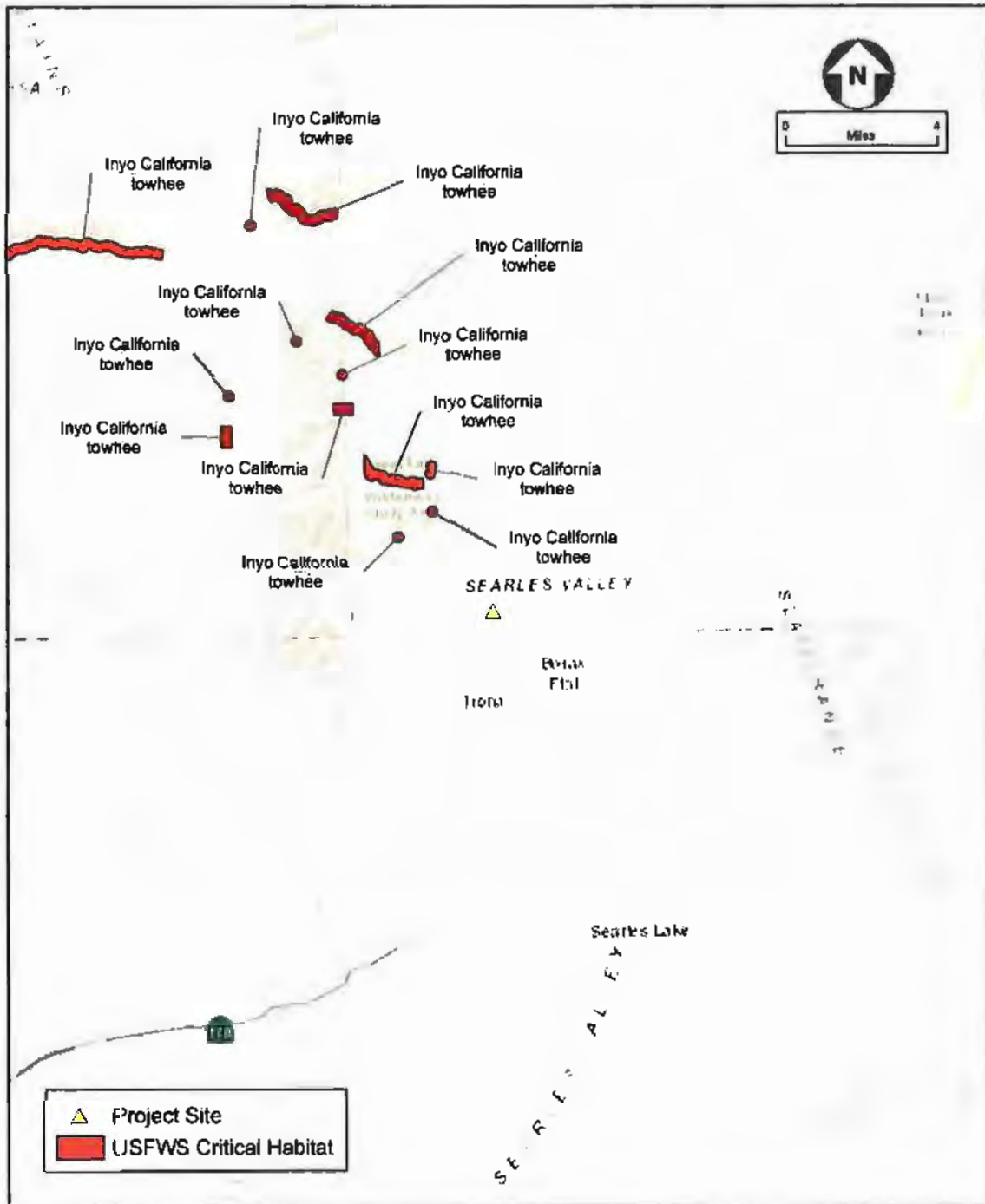
No designated critical habitat occurs within the BSA. The nearest USFWS designated critical habitat is for Inyo California towhee located approximately 3.1 miles northwest of the BSA (Figure 4-1).

#### ***4.4.2 - PRESENCE OF MOVEMENT CORRIDORS AND LINKAGES***

There are no known wildlife movement corridors or habitat linkages that intersect the BSA. The Project is situated within a highly disturbed area that is predominately used for urban development and provides minimal linkage between suitable natural habitats for most wildlife species. Due to the highly disturbed condition of the Project, there is no substantial movement of wildlife onto or off of the BSA.

### ***4.5 - Wetlands and Other Waters***

The feature identified by the NHD that bisects the portion of the BSA, known as Trona 4, through in the middle of the northwest area that flows southeast towards Trona Wildrose Road was not observed during the survey. No stream indicators such as mud cracks, bed, or bank were identified. No hydrologic, topographic features or aquatic plant species were observed to indicate an intermittent riverine feature. The feature described in the NHD data does not currently exist on the Project site.



**Figure 4-1**  
**Mapped Critical Habitat in the Project Vicinity**  
**Trona 4 and 7 Solar Project,**  
**Inyo County, California**

## **SECTION 5 - POTENTIAL PROJECT IMPACTS**

The purpose of this section is to present an evaluation of the potential for Project-related impacts to sensitive biological resources to occur resulting from Project construction activities. Although the potential for impacts of the Project is anticipated to be minor because the Project site is highly disturbed, there are some risks of Project impacts. These are discussed below.

### **5.1 - Potential Impacts to Sensitive Vegetation Communities**

No sensitive vegetation communities occur within the BSA. The Project would not impact sensitive natural communities.

### **5.2 - Potential Impacts to Special-Status Plant Species**

No special-status plant species occur within the BSA and there is no suitable habitat for any special-status plant species on or near the BSA. The Project would not impact any special-status plant species.

### **5.3 - Potential Impacts to Special-Status Wildlife Species**

Two special-status wildlife species, desert kit fox, and nesting birds were determined to have potential to occur within the BSA as transients. Available habitat within the BSA fulfilling the foraging requirements of these species is limited to none. No potential desert kit fox dens were observed within the BSA and the potential for future habitation by foxes is limited due to the highly disturbed condition of the site. There was no diagnostic sign of nesting birds or raptors during the survey; however, existing transmission and utility poles are located outside the BSA, which would not be affected by the Project, could provide suitable stick nest building structures for nesting birds.

Any special-status species that use the Project as a movement corridor could be indirectly impacted by Project activities, though little wildlife was observed in or near BSA during the reconnaissance survey conducted for the Project.

### **5.4 - Potential Impacts to Nesting Birds and Raptors**

No nests were observed within the BSA. There is potential for birds to forage and nest within the BSA in existing structures, and in tress and utility poles in the surrounding urban areas. If there are active nests present during Project activities, nests could be destroyed, and Project activities could interfere with normal breeding behaviors, which could discourage breeding or lead to nest abandonment or failure.

## **5.5 - Potential Impacts to Critical Habitat, Movement Corridors and Linkages**

### **5.5.1 - POTENTIAL IMPACTS TO CRITICAL HABITAT**

The Project would not impact any designated critical habitat.

### **5.5.2 - POTENTIAL IMPACTS TO MOVEMENT CORRIDORS AND LINKAGES**

Project activities would not impact any movement corridors or habitat linkages.

## **5.6 - Potential Impacts to Wetlands and Waters**

As noted previously, there is one record of a jurisdictional wetland feature within the BSA, as defined by the NWI (USFWS 2023c). However, this feature was not observed during the survey, and it is not currently present on the Project site. There were no other visible signs of waters or wetland features within the BSA, and there would be no impacts to wetland resources.

**SECTION 6 - RECOMMENDATIONS**

The Project is anticipated to have no impacts to sensitive natural communities, special-status plants, wetlands and water features, Critical Habitat, or migratory corridors. There is a low potential for Project activities to desert kit fox and nesting and foraging birds and raptors. To avoid or minimize impacts to these species and incidental impacts to other common, non-sensitive wildlife species, we recommend that the following measures be implemented as Best Management Practices (BMPs) during Project construction activities:

- A pre-activity survey of the Project and a 250-foot buffer for desert kit fox and nesting migratory birds and a 500-foot buffer for nesting raptors surrounding the Project footprint should be conducted. The survey should occur no less than 14 days prior to the start of construction activities and no more than 30 days prior to the start of construction activities. If construction is delayed beyond 30 days from the time of the survey, then another survey would need to be conducted. The survey should be conducted by a qualified biologist with adequate training and experience conducting surveys for special-status wildlife species.
- If dens or burrows that could support desert kit fox are discovered during the pre-activity survey, appropriate avoidance buffers, as outline in Table 6-1, should be established. No work should occur within these buffers unless a qualified biologist approves and monitors the activity.

**Table 6-1  
Disturbance Buffers for Desert Kit Fox Dens**

<b>Sensitive Resource</b>	<b>Buffer Zone from Disturbance (feet)</b>
Potential desert kit fox den	50
Known desert kit fox den	100
Natal desert kit fox den	500

- A Worker Environmental Awareness Training Program should be prepared and presented to all workers that will be on-site during construction activities to minimize or eliminate impacts to sensitive biological resources.
- Project-related vehicles should observe a 20-mph speed limit in all Project areas, except on county roads and state and federal highways; this is particularly important at night when kit foxes, and other animals are most active. To the extent possible, nighttime construction should be minimized. Off-road traffic outside of designated project areas should be prohibited.
- To prevent inadvertent entrapment of kit foxes, and other wildlife species during work activities, the contractor should cover all excavated, steep-walled holes or trenches more than 2 feet deep at the close of each working day with plywood or similar materials or provide one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, the contractor should thoroughly inspect them for trapped wildlife.

- Kit foxes and other wildlife species are attracted to den-like structures such as pipes and may enter stored pipes, becoming trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4 inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for wildlife before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the designated biologist has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved once to remove it from the path of construction activity until the fox has escaped.
- All trash and food items that attract wildlife should be discarded into closed containers and properly disposed of at the end of each workday.
- To prevent harassment or mortality of listed species, no pets should be permitted on the Project site.

To protect nesting migratory birds and raptors, it is recommended that:

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

**SECTION 7 - SUMMARY AND CONCLUSIONS**

Land within the Project site is highly disturbed and contains no habitat that would support special-status plant species or sensitive natural communities. There are no designated Critical Habitats, movement corridors, wetlands, or water features that would be impacted by the Project.

Based on the literature and database searches and results of the site survey, there is potential for special-status species to occur on the site: desert kit fox and nesting birds. Due to the disturbed nature of the Project, surrounded by residential development, a main roadway and urban uses, and the lack of a suitable prey base, impacts to the desert kit fox are not anticipated to occur. Desert kit foxes would likely be only transient visitors to the Project site. If nesting birds were to nest in the vicinity of the Project, impacts to the species could occur. Implementation of the recommended BMPs and avoidance measures outlined in Section 6 would minimize any Project impacts to these species.

This BRE has been performed in accordance with professionally accepted biological investigation practices conducted at this time and in this geographic area. The findings and opinions conveyed in this report are based on findings derived from specified historical and literary sources and a biological survey of the Project site and surrounding area. The biological investigation was limited by the scope of work performed. The biological survey was also limited by the environmental conditions present at the time of the survey. In addition, general biological (or protocol) surveys do not guarantee that the organisms are not present and would not be discovered in the future within the site. Mobile wildlife species could occupy the site on a transient basis or re-establish populations in the future. No other guarantees or warranties, expressed or implied, are provided.



**SECTION 8 - REFERENCES**

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**APPENDIX A**

**SPECIAL-STATUS SPECIES DATABASE SEARCH RESULTS**

**TRONA 4 AND 7 SOLAR PROJECT**



**Selected Elements by Common Name**  
**California Department of Fish and Wildlife**  
**California Natural Diversity Database**



**Query Criteria:** `Quail<span style="color:Red"> IS </span>(Homewood Canyon (3511784)<span style="color:Red"> OR </span>Skute Range Crossing (3511783)<span style="color:Red"> OR </span>Manly Fall (3511782)<span style="color:Red"> OR </span>Trona East (3511773)<span style="color:Red"> OR </span>Trona West (3511774)<span style="color:Red"> OR </span>Copper Queen Canyon (3511772)<span style="color:Red"> OR </span>Wasland (3511764)<span style="color:Red"> OR </span>Searles Lake (3511763)<span style="color:Red"> OR </span>Layton Spring (3511762))`



Selected Elements by Common Name  
 California Department of Fish and Wildlife  
 California Natural Diversity Database



Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
Amargosa beardtongue <i>Penstemon fulvicornis</i> var. <i>amargosae</i>	PDSCR1L2F2	None	None	G4T3	S2	1B.3
Booth's evening-primrose <i>Eriogonum boothii</i> ssp. <i>boothii</i>	PDONA03052	None	None	G5T4	S3	2B.3
burrowing owl <i>Athene cunicularia</i>	ABNSB10010	None	None	G4	S3	SSC
Coleley's crysantha <i>Cryptantha coleleyi</i>	PDBOR0A3M0	None	None	G3	S3	1B.2
Darwin Mesa milk-vetch <i>Astragalus atratus</i> var. <i>menseus</i>	PDFABCF0Z3	None	None	G4G5T2	S2	1B.1
desert bighorn sheep <i>Ovis canadensis nelsoni</i>	AMALE04013	None	None	G4T4	S3	FP
desert tortoise <i>Gopherus agassizii</i>	ARAAP01012	Threatened	Threatened	G3	S2S3	
Emory's crucifixion-thorn <i>Casta emoryi</i>	PDSIM03030	None	None	G3G4	S2S3	2B.2
Inyo California towhee <i>Melospiza crissalis eremophilus</i>	ABPEX74071	Threatened	Endangered	G4C5T2	S2	
Le Conte's thrasher <i>Toxostoma lecontei</i>	ABPBK08100	None	None	G4	S3	SSC
long-eared owl <i>Aelo olus</i>	ABNSB13010	None	None	G5	S3?	SSC
Mohave ground squirrel <i>Xerospemophilus mohavensis</i>	AMAFB05150	None	Threatened	G3	S2	
Morrison bumble bee <i>Bombus morrisoni</i>	IIHYM24460	None	None	G3	S1S2	
paltil bat <i>Antrozous pallidus</i>	AMACC10010	None	None	G4	S3	SSC
Panamint alligator lizard <i>Elgaria panamintina</i>	ARACB01050	None	None	G3	S3	SSC
prairie falcon <i>Falco mexicanus</i>	ABNKD08080	None	None	G5	S4	WL
Ripley's screech owl <i>Alicia ripleyi</i>	PDPLM041E0	None	None	G3	S2	2B.3
Townsend's big-eared bat <i>Corynorhinus townsendi</i>	AMACC08010	None	None	G4	S2	SSC
western mastiff bat <i>Eumops perotis californicus</i>	AMACD02011	None	None	G4G5T4	S3S4	SSC
western small-footed myotis <i>Myotis californicus</i>	AMACC03230	None	None	G5	S3	
western snowy plover <i>Charadrius nivosus nivosus</i>	ABNNE03031	Threatened	None	G3T3	S3	SSC




Record Count: 21



**Search Results**

12 matches found. Click on scientific name for details.

Search Criteria: 9-Quad Include [511773:3511772:3511784:3511782:3511783:3511764:3511762:3511763:3511774]

▲ SCIENTIFIC NAME	COMMON NAME	FAMILY	LIFEFORM	BLDGING PERIOD	FED LIST	STATE LIST	GLOBAL RANK	STATE RANK	CA RARE PLANT RANK	CA ENDEMIC	DATE ADDED	PHOTO
<a href="#">Alliaria ricaloi</a>	Ripley's alliella	Polemoniaceae	perennial herb	May-Jul	None	None	G3	S2	2B.3		1974-01-01	 © 2020 Joey Malone
<a href="#">Astragalus strabus</a> var. <a href="#">metescus</a>	Darwin Mesa milk-vetch	Fabaceae	perennial herb	Apr-Jun	None	None	G4G5T2	S2	1B.1	Yes	1980-01-01	No Photo Available
<a href="#">Astragalus ferruginosus</a> var. <a href="#">horreyanus</a>	Bonago milk-vetch	Fabaceae	annual herb	Feb-May	None	None	G5T67	S4	4.3		1974-01-01	No Photo Available
<a href="#">Ceanothus emoryi</a>	Emory's ceanothion	Simarubaceae	perennial deciduous shrub	(Apr)Jun-Jul(Sep-Oct)	None	None	G3G4	S2S3	2B.2		1974-01-01	No Photo Available
<a href="#">Coryphantha eremicus</a> ssp. <a href="#">eremicus</a>	desert birds-beak	Orobanchaceae	annual herb (hemiparasitic)	Jul-Oct	None	None	G3T9	S3	4.3	Yes	1980-01-01	No Photo Available
<a href="#">Cryptantha clokeyi</a>	Clokey's cryptantha	Boraginaceae	annual herb	Apr	None	None	G3	S3	1B.2	Yes	1994-01-01	No Photo Available
<a href="#">Diplosis capitata</a>	Death Valley monkeyflower	Phrymaceae	perennial herb	Feb-Jun	None	None	G4	S4	4.3	Yes	1974-01-01	 © 2015 James Moorefield
<a href="#">Eriophora boothii</a> ssp. <a href="#">boothii</a>	Booth's evening-primrose	Onagraceae	annual herb	Apr-Sep	None	None	G5T4	S3	2B.3		1980-01-01	No Photo Available
<a href="#">Lycium torreyi</a>	Torrey's box-thorn	Solanaceae	perennial shrub	(Jan-Feb)Mar-Jun(Sep-Nov)	None	None	G4G6	S3	4.2		2015-05-05	No Photo Available
<a href="#">Penstemon brevidentis</a> var. <a href="#">amerigosae</a>	Amerigosa beardtongue	Plantaginaceae	perennial herb	Apr-Jun	None	None	G4T3	S2	1B.3		1980-01-01	 Steve Malcom 2017

<i>Bryum violaceum</i>	wine-colored tuft moss	Bryaceae	moss	None	None	Q3G4	S3S4	4 2	2014-06-10	No Photo Available
<i>Funaria brevipila</i>				OC	GNR	SNR	CBR		2011-12-13	No Photo Available

Showing 1 to 12 of 12 entries

**Suggested Citation:**

California Native Plant Society, Rare Plant Program. 2023. Rare Plant Inventory (online edition, v9.5). Website <https://www.careplants.org> [accessed 8 May 2023].



United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Carlsbad Fish And Wildlife Office  
2177 Salk Avenue - Suite 250  
Carlsbad, C A 92008-7385  
Phone: (760) 431-9440 Fax: (760) 431-5901



In Reply Refer To:  
Project Code: 2023-0079069  
Project Name: Trona

May 08, 2023

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A biological assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a biological assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a biological assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found at the Fish and Wildlife Service's Endangered Species Consultation website at:

<https://www.fws.gov/endangered/what-we-do/faq.html>

**Migratory Birds:** In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/eo-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.



05/08/2023

3

**Attachment(s):**

- Official Species List

## **OFFICIAL SPECIES LIST**

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

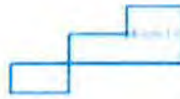
This species list is provided by:

**Carlsbad Fish And Wildlife Office**  
2177 Salk Avenue - Suite 250  
Carlsbad, CA 92008-7385  
(760) 431-9440

**PROJECT SUMMARY**

Project Code: 2023-0079069  
Project Name: Trona  
Project Type: New Constr - Above Ground  
Project Description: Trona Project  
Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@35.80623905,-117.350854358784,14z>



Counties: Inyo County, California

## ENDANGERED SPECIES ACT SPECIES

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

- 
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

### BIRDS

NAME	STATUS
California Condor <i>Gymnogyps californianus</i> Population: U.S.A. only, except where listed as an experimental population There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/8193">https://ecos.fws.gov/ecp/species/8193</a>	Endangered
Inyo California Towhee <i>Pipilo crissalis eremophilus</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/3912">https://ecos.fws.gov/ecp/species/3912</a>	Threatened

### REPTILES

NAME	STATUS
Desert Tortoise <i>Gopherus agassizii</i> Population: Wherever found, except AZ south and east of Colorado R., and Mexico There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/4481">https://ecos.fws.gov/ecp/species/4481</a>	Threatened

### INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a>	Candidate

**CRITICAL HABITATS**

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

**IPAC USER CONTACT INFORMATION**

Agency: QK, Inc.  
Name: Karlssa Denney  
Address: 5080 California Avenue  
Address Line 2: Suite 220  
City: Bakersfield  
State: CA  
Zip: 93309  
Email: karlssa.denney@qkinc.com  
Phone: 6616162600

**APPENDIX B**  
**REPRESENTATIVE PHOTOGRAPHS OF THE**  
**TRONA 4 AND 7 SOLAR PROJECT**



**Photograph 1:** Northeast corner of the Project site, facing south.  
GPS Coordinates: 35.807173, -117.348633.  
Photograph taken by Eric Madueno on May 8, 2023.



**Photograph 2:** Northwest corner of the Project site, facing east.  
GPS Coordinates: 35.806347, -117.350748.  
Photograph taken by Eric Madueno on May 8, 2023.





**Photograph 3:** Center of the Project site, facing south.  
GPS Coordinates: 35.805690, -117.351008.  
Photograph taken by Eric Madueno on May 8, 2023.



**Photograph 4:** Southeast corner of the Project site, facing west.  
GPS Coordinates: 35.805503, -117.348542.  
Photograph taken by Eric Madueno on May 8, 2023.



**Photograph 5:** Southwest corner of the Project site, facing east.  
GPS Coordinates: 35.805426, -117.353007.  
Photograph taken by Eric Madueno on May 8, 2023.



**Photograph 6:** Southwest portion of the Project site, facing north.  
GPS Coordinates: 35.804793, -117.354196.  
Photograph taken by Eric Madueno on May 8, 2023.



**Photograph 7:** Northern portion of the Project site, facing north.  
GPS Coordinates: 35.807118, -117.349915.  
Photograph taken by Eric Madueno on May 8, 2023.

**APPENDIX C**  
**PLANT AND WILDLIFE SPECIES OBSERVED**  
**TRONA 4 AND 7 SOLAR PROJECT**

**Table C - 1  
Plant and Wildlife Species Observed within the BSA**

<b>Scientific Name</b>	<b>Common Name</b>	<b>Status</b>
<b>Plants</b>		
<i>Ambrosia salsola</i>	cheesebush	None
<i>Chaenactis</i> sp.	pincushion	None
<i>Chylisma claviformis</i>	brown eyes	None
<i>Cryptantha</i> sp.	cryptantha	None
<i>Descurainia pinnata</i>	western tansymustard	None
<i>Grayia spinosa</i>	spiny hopsage	None
<i>Larrea tridentata</i>	creosote	None
<i>Lepidium flavum</i>	yellow pepper grass	None
<i>Loesellastrum matthewsii</i>	desert calico	None
<i>Malacothrix glabrata</i>	desert dandelion	None
<i>Salsola</i> sp.	Russian thistle	None
<i>Suaeda nigra</i>	bush seepweed	<del>None</del>

## **APPENDIX C**

374 Poli Street, Suite 200 • Ventura, California 93003  
 Office (805) 275-1515 • Fax (805) 667-8104

**Date:** June 21, 2023

**To:** Valley Wide Engineering & Construction Services

**From:** Graham Stephens; and, Andre Almeida, P.E. – Sespe Consulting, Inc.

**Re:** CEQA Air Quality and Greenhouse Gas Analysis Memorandum for the Barker Photovoltaic Solar Project in Inyo County, California

Sespe Consulting, Inc. (“Sespe”) has prepared the following memorandum to evaluate the potential air quality and greenhouse gas impacts resulting from the construction and operation of two proposed photovoltaic (PV) solar facilities located in Inyo County, California. Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site (collectively referred to herein as the “Project”). See Figure 1 in Attachment A which shows the Project Area boundaries, and the surrounding environmental setting.

The California Environmental Quality Act (CEQA) requires an environmental analysis, including those related to air quality and greenhouse gases (GHG), for projects requiring discretionary approval by a local lead agency with land use authority, which in this case is Inyo County (the “County”). Therefore, pursuant to CEQA, this memorandum describes and analyzes the proposed Project’s estimated air and GHG emissions and associated impacts. Potential air toxics emissions and associated health risks are also evaluated. Table 1 below summarizes the applicable CEQA Appendix G – Environmental Checklist Form questions that are used as criteria against which to evaluate the significance of the Project impacts related air quality and GHG resources, as well as the corresponding significance thresholds determinations.

**Table 1: Summary of CEQA Significance Determinations**

CEQA Threshold	Impact Determination
AIR QUALITY-1: Would the Project conflict with or obstruct implementation of the applicable air quality plan?	Less Than Significant
AIR QUALITY-2: Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	Less Than Significant
AIR QUALITY-3: Would the Project expose sensitive receptors to substantial pollutant concentrations?	Less Than Significant
AIR QUALITY-4: Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	Less Than Significant

CEQA Threshold	Impact Determination
GREENHOUSE GAS EMISSIONS-1: Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	Less Than Significant
GREENHOUSE GAS EMISSIONS-2: Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	No Impact

**PROJECT SUMMARY**

The Project is located on contiguous County parcels (assessor’s parcel numbers [APNs] 038-330-32, 038-330-33, 038-330-34 and 038-330-46), located north of the unincorporated town of Trona, California. The Project consists of two separate applications for renewable energy permits, one covering approximately 15 acres (referred to as the Trona 4 site) and the other covering approximately 5 acres (referred to as the Trona 7 site). Both the Trona 4 and Trona 7 solar arrays will connect to the existing Southern California Edison (SCE) 33-kilovolt (kV) transmission line that passes through the Project area with separate connections.

The Trona 7 PV solar facility would consist of approximately 2,300 single-axis tracker solar panels that will produce approximately 1.2 megawatts (MW) of electricity. The Trona 4 site would also generate approximately 3.0 MW of electricity utilizing approximately 6,000 single-axis tracker solar panels. Both sites are currently graded and highly disturbed with little to no natural vegetation, habitat, water features or structures. A private dirt track and a junk yard also existed within the western portion of the Trona 4 site, but both features have been recently removed.

The Project Area is located approximately 3.0 miles north of the unincorporated Trona community, and approximately 1.0 mile west of the Trona Airport. Surrounding areas are generally undeveloped, flat or gently sloped, graded and without significant vegetation. The Project Area is bordered by an existing solar facility to the south, scattered residential homes to the west, and miscellaneous abandoned vehicles, local trash and debris. Access to the site is provided by dirt roads connecting to Trona Wildrose Road to the east of the site. See Figure 1 (Attachment A) which shows the Project Area and adjacent land uses.

**Project Construction**

Project construction will involve minor land disturbance, consisting of minor leveling, digging of shallow trenches for placing underground conduits, and installation of a 20-foot by 20-foot concrete pad for a transformer. Site preparation will require approximately two days using a grader and a backhoe. Water trucks will also be utilized as needed to control dust throughout the construction phase. In addition to regular watering using the mobile water trucks, further dust controls will include the placement of crushed limestone on the ground, and the application of a non-toxic clay polymer compound, such as EarthGlue, to provide further dust suppression as needed. Stabilized construction entrance and exits will also be installed and maintained at driveways to reduce sediment track-out onto the adjacent public roadway.

Following the trenching and leveling, metal pole supports will be installed on which the solar panels will be mounted. Poles will be driven directly into the ground using a compact, lightweight pile driver. A forklift may also



be used onsite during this construction phase. Installation of the mounting poles, solar panels and related infrastructure (transformer, connection to adjacent SCE lines, etc.) will take approximately two months. Regular watering, limestone base, and chemical binders (e.g., EarthGlue) will continue to be used onsite to control dust during this phase of construction. Once operational, onsite control of fugitive dust is critical to solar operations, as solar panels coated by dust do not function at full capacity. As such, dust controls such the limestone base and/or EarthGlue binder will remain in place and be maintained post-construction.

Once installed, the solar panels will reach a maximum height of 12-feet above the ground surface (or less, as the panels change slightly in height as they rotate slowly throughout the day to track the sun). The solar panels will also feature anti-reflective coatings to minimize daytime glare and reflectivity. Both the Trona 4 and 7 sites will be fenced and gated to prevent unauthorized access.

Per information provided by the Applicant, Table 2 below summarizes the types of equipment that would operate onsite during the Project’s construction phase, as well as the activity levels. This information is utilized to quantify the Project’s air emissions resulting from onsite construction activities.

**Table 2: Project Construction Equipment List and Activity Level**

Equipment	Engine Tier	Total Duration of Operations		Onsite Location
		Total Weeks	Total Hours	
Grader	Tier 4	2	40	Trona 4 (former track area)
Bulldozer	Tier 4	2	40	Trona 4 (former track area)
Water truck (4,000 gal.)	Tier 4	8	150	Throughout Site
Water truck (4,000 gal.)	Tier 4	8	150	Throughout Site
Forklift (Reach)	Tier 4	8	150	Throughout Site
PD5 Pile Driver	Tier 4	8	150	Throughout Site
Light-Duty Pickups	Tier 4	8	150	Throughout Site
Light-Duty Pickups	Tier 4	8	150	Throughout Site

**Project Operations**

After construction is complete, the PV solar facilities will be placed into commercial operation. Unlike construction, operation of the PV Solar Facilities will not require permanent onsite personnel, as control of the solar array would be automated and/or controlled remotely. At times, operations staff would come to the site to conduct routine maintenance and inspections, but these activities would be infrequent, and would only require one light-duty work vehicle travelling to and from the site (assume approximately 15 vehicle miles travelled round trip per site inspection). At most, it’s assumed that up to one site inspection will occur per week during normal facility operations. Table 3 below summarizes the vehicle activity levels used to quantify operational emissions.

**Table 3: Project Operations Vehicle Activity Level**

Vehicle Type	Engine Tier	Roundtrips per Year	VMT's per Roundtrip	Notes / Assumptions
Light-Duty Pickup Truck	Tier 4	52	15	Assume vehicle would originate from nearby Ridgecrest (approximately 15 miles roundtrip). To conservatively estimate vehicle emissions, the analysis assumed up to one inspection/maintenance trip could occur per week (in reality, periodic inspections would most likely be far less).

Note that in addition to fuel combustion in off-road construction equipment and on-road vehicles, electricity consumption is also considered an indirect source of GHG emissions under CEQA. However, because the Project involves PV solar facilities, it would therefore be a net producer of renewable electricity, and the Project would therefore not produce indirect GHG's as a result of electricity consumption. See the discussion below for additional detail.

**APPLICABLE CEQA METHODOLOGIES AND SIGNIFICANCE THRESHOLDS**

The Project Area is located in the Great Basin Valleys Air Basin (GBVAB), and is within the jurisdictional boundaries of the Great Basin Unified Air Pollution Control District (GBUAPCD). While the GBUAPCD has regulatory authority over stationary air emissions sources and administers permits limiting emissions of criteria air pollutants and toxic air contaminants (TACs) within the GBVAB, they have yet to establish numerical significance thresholds or publish guidance for evaluating air quality and GHG impacts under CEQA. Similarly, Inyo County also has no established thresholds or CEQA guidance. Therefore, in lieu of appropriate local thresholds, numerical standards published by the Mojave Desert Air Quality Management District (MDAQMD) and the South Coast Air Quality Management District (SCAQMD) are utilized within this memorandum to determine the significance of Project impacts. Use of the MDAQMD and SCAQMD thresholds is also consistent with other CEQA documents certified by both the County and GBUAPCD, including the Environmental Impact Report (EIR) certified by the County in 2015 for their Renewable Energy General Plan Amendment (REGPA) (Inyo County, 2015).

MDAQMD's *California Environmental Quality Act (CEQA) and Federal Conformity Guidelines* (MDAQMD, 2020) contains various significance thresholds that can be applied to the Project. Specifically, MDAQMD guidance states that a project would have a potentially significant air quality impact under CEQA if it:

1. Generates total emissions (direct and indirect) in excess of the thresholds given in Table 4;
2. Generates a violation of any ambient air quality standard when added to the local background;
3. Does not conform with the applicable attainment or maintenance plan(s)<sup>1</sup>;
4. Exposes sensitive receptors to substantial pollutant concentrations, including those resulting in a cancer risk greater than or equal to 10 in a million and/or a Hazard Index (HI) (non-cancerous) greater than or equal to 1.

<sup>1</sup> A project is deemed to not exceed this threshold, and hence not be significant, if it is consistent with the existing land use plan. Zoning changes, specific plans, general plan amendments and similar land use plan changes which do not increase dwelling unit density, do not increase vehicle trips, and do not increase vehicle miles traveled are also deemed to not exceed this threshold (MDAQMD, 2020).

**Table 4: MDAQMD CEQA Numeric Emissions Thresholds**

Criteria Pollutant	Annual Threshold (short tons)	Daily Threshold (pounds)
Greenhouse Gases (CO <sub>2</sub> e)	100,000	548,000
Carbon Monoxide (CO)	100	548
Oxides of Nitrogen (NO <sub>x</sub> )	25	137
Volatile Organic Compounds (VOC)	25	137
Oxides of Sulfur (SO <sub>x</sub> )	25	137
Particulate Matter (PM <sub>10</sub> )	15	82
Particulate Matter (PM <sub>2.5</sub> )	12	65
Hydrogen Sulfide (H <sub>2</sub> S)	10	54
Lead (Pb)	0.6	3

In addition to the MDAQMD thresholds summarized above, additional guidance and thresholds published by the SCAQMD are also utilized. Specifically, SCAQMD’s health risk screening tool is utilized to address CEQA Guidelines Appendix G, Air Quality Threshold Criteria (c) below.

With respect to GHG emissions, most requirements for sources and projects to reduce GHG emissions in California originate from the Assembly Bill (AB) 32 Scoping Plan (the “Scoping Plan”) and associated programs administered by the California Air Resources Control Board (CARB). The Scoping Plan is the State’s blueprint for how GHG reductions will be achieved. Local jurisdictions may have requirements as well, but the overall effort is centralized with CARB. Therefore, potential GHG impacts under CEQA can be determined based on whether a specific project may conflict with the current Scoping Plan.

In addition to the state-wide Scoping Plan, in 2008 the SCAQMD adopted the Interim GHG Significance Threshold which takes a tiered approach whereby individual projects can be “screened-out” and found to have less than significant CEQA GHG impacts by one of the following five methods: exemption from CEQA, GHG emissions already analyzed in GHG budgets from in approved regional plans, having emissions less than the 10,000 metric tons of CO<sub>2</sub> equivalent emissions per year (MT CO<sub>2</sub>e/year) screening level for industrial projects, meeting best performance standards, or purchase GHG emissions offsets by funding projects or buying them outright. Projects with incremental increases less than these thresholds can be screened out of further analysis and are not cumulatively considerable.

In the decade since the SCAQMD adopted this Interim GHG Significance Threshold, several new laws and executive orders were adopted that require additional reductions in years after 2020. For instance, Senate Bill 32 (Lara, 2016) requires that GHG emissions be 40% less than 1990 levels by 2030. Senate Bill 100 (de Leon, 2018), which was signed by the Governor, requires 100% zero-carbon electricity by 2045. On the day SB 100 was signed into law, the Governor also signed Executive Order B-55-18 which commits California to total, economy-wide carbon neutrality by 2045.

For these reasons, Project’s GHG emissions levels and the use of the MDAQMD and SCAQMD screening threshold presented below are for disclosure purposes as well as CEQA compliance, because this impact analysis for the Project follows the approach certified by SCAQMD for other projects. The approach used by SCAQMD to assess GHG impacts from those project recognized that consumers of electricity and transportation fuels are, in effect, regulated by requiring providers and importers of electricity and fuel to participate in the GHG Cap-and-Trade Program and other state/sector-wide programs (e.g., low carbon fuel standard, renewable portfolio standard, etc.). Each such sector-wide program exists within the framework of AB 32 and its descendant laws the purpose of which is to achieve GHG emissions reductions consistent with the AB 32 Scoping Plan.

**EMISSIONS QUANTIFICATION METHODOLOGIES**

This assessment incorporates the following methodologies in the quantification of criteria pollutant, toxic air contaminant (TAC) and GHG emissions during the Project’s construction and operation phases. Additionally, health risk screening was performed as outlined in this section. Detailed emissions calculations can be found in Attachment B, and documentation related to the health risk screening can be found in Attachment C.

Onsite Project construction phase emissions were determined using CARB’s California Emissions Estimator Model (CalEEMod®) and the equipment and activity levels summarized in Table 2 above. Attachment D contains the CalEEMod output results and documentation for the Project. Off-site construction phase vehicle exhaust emissions were calculated separately, assuming up to ten contractors would drive 15 miles round trip per day, for up to 25 total days of construction. Similarly, operation phase vehicle exhaust emissions were calculated assuming up to one employee trip per day, travelling a total of 1S miles to and from the site, as well as 1 mile within the site boundaries. Employee truck emissions were estimated using CARB’s Emissions Factors (EMFAC) 2021 model, assuming each employee would utilize a “light-duty truck (LDT2)” with a diesel engine vehicle. Lastly, road dust emissions from onsite vehicle traffic were calculated using the unpaved road emissions factor outlined in AP-42 Section 13.2.2 published by the Environmental Protection Agency (EPA). TACs from road dust emissions were quantified using San Diego Air Pollution Control District (SDAPCD) speciation profile R01 – *Haul Roads, General* (SDAPCD, 2021).

Health risk screening was performed using the SCAQMD Risk Tool V1.105 (the “Risk Tool”). A Tier 2 analysis was performed per SCAQMD Risk Assessment Procedures version 8.1. The analysis represents a highly conservative risk assessment used to determine if more complex assessment (i.e., modeling) is necessary. Per SCAQMD Risk Assessment Procedures version 8.1:

*Tier 2 is a screening risk assessment, which includes procedures for determining the level of risk from a source for cancer risk, cancer burden, HIA, HIC8, and HIC. If the estimated risk from Tier 2 screening is below Rule 1401 limits, then a more detailed evaluation is not necessary.*

In order to perform health risk screening for each risk type (e.g., cancer, chronic, and acute impacts) over the course of the Project, the screening analysis for the Project was divided into four phases as outlined in Table 5 below. Also see Attachment C for additional detail.

**Table 5: Screening Health Risk Assessment Phases**

Health Risk Screening Phase Title	Project Phase	Risk Type Assessed	Model Duration (Years)
Screen 1	Construction	Acute	2
Screen 2a	Construction	Cancer/Chronic	2
Screen 2b	Operation	Cancer/Chronic	30
Screen 3	Operation	Acute	2

Notes: Total Project cancer risk is determined by combining risk from Screen 2a and Screen 2b. Attachment B contains TAC emissions quantified by Project phase. Attachment C contains SCAQMD Risk Tool output documentation.

Model duration used in the health screening was conservatively chosen based on the available model duration options. Although onsite construction activities would not last longer than a single year (i.e., estimate to take approximately 2 months total), in the Risk Tool two years is the shortest duration available, and 30 years is the longest. Project health risk emissions were conservatively modeled using a point source in the Tier 2 analysis. Meteorological data from the “Desert Hot Springs Airport” was used in the risk tool, as the climate in Desert Hot

Springs area is similar to that of Inyo County. Residential receptor distance was set to 130 meters (i.e., 425-feet) and commercial distance was set to 1,000 meters (i.e., 3,280-feet).

### **CEQA IMPACT ANALYSIS**

The following section summarizes the Project's potential impacts with respects to air quality and GHGs, which address the specific impact statements outlined in the current CEQA Guidelines Appendix G Environmental Checklist Form (California Code of Regulations, Title 14). As discussed above, this analysis primarily uses the MDAQMD approved methods and thresholds to quantify the impacts associated with the Project. Methods or guidance provided by the SCAQMD were also used in certain cases to supplement MDAQMD guidance when applicable.

#### **Air Quality**

**Air Quality-1:** *Would the Project conflict with or obstruct implementation of the applicable air quality plan? (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (a))*

The Project would be required to comply with regional air quality rules promulgated by the GBUAPCD and participate in reducing air pollutant emissions. As the local air district with jurisdiction over the Project, the GBUAPCD is the applicable agency tasked with implementing programs and regulations required by the Clean Air Act (CAA) and the California Clean Air Act (CCAA). In that capacity, the GBUAPCD has prepared plans to attain Federal and State ambient air quality standards. Pursuant to the CAA, the GBUAPCD is required to reduce emissions of criteria pollutants for which the GBVAB is in nonattainment. While portions of Inyo County are in nonattainment for particulate matter (i.e., PM<sub>10</sub>), the Project Area is located within the Coso Junction PM<sub>10</sub> State Implementation Plan (SIP) (GBUAPCD, 2021), which was redesignated as in attainment by the EPA in 2010 per the National Ambient Air Quality Standards (NAAQS). While the Project is not located in a nonattainment area for PM<sub>10</sub>, the GBUAPCD still maintains established thresholds of significance for criteria pollutant emissions for any new stationary source or modification of an existing stationary source as part of their "New Source Review Requirements for Determining Impact on Air Quality" (Rule 216).

As discussed above, the Project proposes to develop PV solar facilities on an approximately 20-acre Project Area, located north of the town of Trona. Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollutant emissions, including those required under their new source review requirements. Further, development of renewable solar projects in Inyo County was contemplated as part of the County's REGPA, and the Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.

The primary air emissions associated with the Project would be fugitive dust emissions during facility construction, and to a lesser extent fugitive dust due to vehicles travelling on unpaved roadways during facility operations. Fugitive dust is addressed under GBUAPCD Rules 401 and 402, and the Applicant would be required to comply with applicable provisions found therein. While some grading and clearing would be required to prepare the site for installation of the solar panels, because the site is already relatively flat, and because much of the site has already been prepared, only minimal grading would be required. In accordance with GBUAPCD rules, mobile water trucks will also be used onsite throughout the entirety of the construction phase to control fugitive dust. Limestone base materials and/or soil binders such as EarthGlue will also be used onsite to control dust emissions, and will remain on certain portions of the site to reduce dust once the facility is put into normal operation. Note,

implementation of these dust control measures is consistent with applicable GBUAPCD rules, as well as the standard mitigations measures described within the EIR prepared by Inyo County in support of the REGPA.

Through compliance with GBUAPCD's new source review for stationary sources, and through implementation of onsite fugitive dust control measures consistent with GBUAPCD's Rule 401 and 402 requirements, as well as the programmatic mitigations described within the EIR prepared by the County for their REGPA, the Project would be consistent with applicable air quality plans adopted by the GBUAPCD. Therefore, the Project would not obstruct implementation of applicable air quality plans, and impacts would therefore be less than significant with no mitigation required.

**Air Quality-2:** *Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard? (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (b))*

CEQA defines cumulative impacts as two or more individual effects which, when considered together, are either significant or "cumulatively considerable", meaning they add considerably to a significant environmental impact. An adequate cumulative impact analysis considers a project over time and in conjunction with other past, present, and reasonably foreseeable future projects whose impacts might compound those of the project being assessed.

By its very nature, air pollution is largely a cumulative impact, and is a result of past and present development. Similarly, the application of thresholds of significance for criteria pollutants, such as those promulgated by the MDAQMD, is also relevant to the determination of whether a project's individual emissions would have a cumulatively significant impact on air quality.

A CEQA lead agency, in this case Inyo County, may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program, including but not limited to an air quality attainment or maintenance plan that provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area in which the project is located (CCR §15064(h)(3)).

Thus, if project emissions (i.e., change from baseline) exceed the MDAQMD thresholds for carbon monoxide (CO), Oxides of Nitrogen (NOx), Volatile Organic Compounds (VOC), Oxides of Sulfur (SOx), and particulate matter (PM<sub>10</sub> or PM<sub>2.5</sub>), hydrogen sulfide (H<sub>2</sub>S), or lead (Pb), summarized previously in Table 4 above, then a project would potentially result in a cumulatively considerable net increase of a criteria pollutant. The applicable MDAQMD significance criteria as well as the Project's worst-case annual and daily emissions are presented in Table 6 and Table 7 below. Note that the Project year and day with the maximum amount of emissions were compared to the applicable thresholds to determine the potential significance of Project criteria pollutant emissions. See the emissions summaries in Attachment B, as well as the CalEEMod output files in Attachment D, for additional detail.

**Table 6: Project Criteria Pollutant Increase (Annual Emissions)**

Pollutant	Maximum Project Emissions (tons/year)	Significance Threshold (tons/year)	Exceeds Criteria?
Carbon Monoxide (CO)	0.4	100	No
Oxides of Nitrogen (NO <sub>x</sub> )	0.2	25	No
Volatile Organic Compounds (VOC)	0.009	25	No
Oxides of Sulfur (SO <sub>x</sub> )	0.001	25	No
Particulate Matter (PM <sub>10</sub> )	0.13	15	No
Particulate Matter (PM <sub>2.5</sub> )	0.028	12	No
Hydrogen Sulfide (H <sub>2</sub> S)	0	10	No
Lead (Pb)	3.0E-06	0.6	No

Note, none of the Project's construction or operational emissions sources would emit Hydrogen Sulfide (H<sub>2</sub>S).

**Table 7: Project Criteria Pollutant Increase (Daily Emissions)**

Pollutant	Maximum Project Emissions (pounds/day)	Significance Threshold (pounds/day)	Exceeds Criteria?
Carbon Monoxide (CO)	32	548	No
Oxides of Nitrogen (NO <sub>x</sub> )	16	137	No
Volatile Organic Compounds (VOC)	0.8	137	No
Oxides of Sulfur (SO <sub>x</sub> )	0.1	137	No
Particulate Matter (PM <sub>10</sub> )	0.001	82	No
Particulate Matter (PM <sub>2.5</sub> )	0.5	65	No
Hydrogen Sulfide (H <sub>2</sub> S)	0	54	No
Lead (Pb)	0.0001	3	No

Note, none of the Project's construction or operational emissions sources would emit Hydrogen Sulfide (H<sub>2</sub>S).

Table 6 and Table 7 above show that the Project's estimated daily and annual emissions are well below established MDAQMD thresholds. Therefore, the Project would not result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable Federal or State ambient air quality standard, and impacts would be less than significant with no mitigation required.

**Air Quality-3: Would the Project expose sensitive receptors to substantial pollutant concentrations? (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (c))**

Determination of whether project emissions would expose receptors to substantial pollutant concentrations is a function of assessing potential health risks. Sensitive receptors are facilities that house or attract children, the elderly, people with illnesses, or others who are especially sensitive to the effects of air pollutants. Hospitals, schools, convalescent facilities, and residential areas are examples of sensitive receptors. When evaluating whether a project has the potential to result in localized impacts, the nature of the air pollutant emissions, the proximity between the emitting facility and sensitive receptors, the direction of prevailing winds, and local topography must be considered.

A Health Risk Screening was performed to evaluate the effects of TACs, including diesel particulate matter (DPM) from vehicle engines, and various substances found in fugitive dust emissions (i.e., metals and respirable crystalline silica). Health risks associated with the Project are presented in Table 8, which shows impacts are well

below applicable SCAQMD screening thresholds. Therefore, there would be no new or significant health risk impacts from the Project, with no mitigation required. See the health risk screening results in Attachment C for additional detail.

**Table 8: Project Health Risk Screening Results**

Health Risk Screening Phase	Risk Type Assessed	Risk Units	Maximum Risk Value	Risk Threshold	Threshold Exceeded?
Screen 1	Acute	Hazard Index	0.0003	1.0	No
Screen 2a	Chronic	Hazard Index	0.0009	1.0	No
	Cancer	MICR Per Million Exposed	1.9	10	No
Screen 2b	Chronic	Hazard Index	0.0006	1.0	No
	Cancer	MICR Per Million Exposed	0.009	10	No
Screen 2 (Total)	Cancer	MICR Per Million Exposed	1.9	10	No
Screen 3	Acute	Hazard Index	0.0007	1.0	No

Notes: See Attachment C for the risk tool output files. Values in the table above may differ slightly from the attached values due to rounding. MICR = "Maximum Individual Cancer Risk".

**Air Quality-4:** *Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?* (CEQA Guidelines Appendix G, Air Quality Threshold Criteria (d))

Due to the subjective nature of odor impacts, the number of variables that can influence the potential for an odor impact, and the variety of odor sources, there are no quantitative or formulaic methodologies to determine the presence of a significant odor impact. The intensity of an odor source's operations and its proximity to sensitive receptors influences the potential significance of odor emissions. Substantial odor-generating operations generally include wastewater treatment facilities, composting facilities, agricultural operations, and heavy industrial operations. Note, the Project would not involve any activities with the potential to generate odor impacts. While diesel exhaust from mobile equipment/vehicles, such as those that would be used onsite during construction, has a slight odor, odor intensity would decrease rapidly with distance and is not expected to be frequently (or at all) detectable at locations outside of the Project Area boundaries. No other potential source of odors are associated with the Project construction activities or ongoing operations. Further, the Project would comply with GBUAPCD's nuisance rules, including those related to odor. As such, the Project will not result in other emissions (such as those leading to odors) that could adversely affect a substantial number of people, and therefore the Project impacts were determined to be less than significant with no mitigation required.

**Greenhouse Gases**

**Greenhouse Gas Emissions-1:** *Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?* (CEQA Guidelines Appendix G, Greenhouse Gas Threshold Criteria (a))

In general, it is widely recognized that no single project could generate enough GHG emissions to noticeably change the global climate temperature; however, the combination of GHG emissions from past, present, and future projects could contribute substantially to global climate change. GHG emissions, and their associated contribution to climate change, are inherently a cumulative impact issue.



This concept is also reflected in California’s 2022 *Scoping Plan for Achieving Carbon Neutrality* (CARB, 2022). Specifically, regulations are implemented in order to reduce the cumulative impact of GHG emissions on a statewide level, and generally not at the project-level. Sources of GHG emission associated with the Project include fuel combustion within construction equipment and vehicles travelling to and from the site, and indirect GHG’s emitted through electricity consumption. Fuel is regulated at a level in the supply chain above an individual project, such that any project has no choice but to purchase and use fuel energy in California which is already regulated. The Project therefore is simply a location in which GHG emissions are emitted by consuming fuel that was already regulated through Cap-and-Trade, applicable Low-Carbon Fuel Standards (GHG) and other applicable regulations higher up the supply chain.

To comply with CEQA, GHG emissions impacts from implementing the Project were calculated at the Project-specific level for construction and operations, and compared to applicable significance thresholds published by the MDAQMD and the SCAQMD. Impact analysis for the Project follows the approach certified by SCAQMD for other projects, which takes into account the cumulative nature of the energy industry and recognizes that consumers of electricity and diesel fuel are, in effect, regulated by higher level emissions restrictions on the producers of these energy sources. As shown in Table 9 below, the Project’s worst case annual GHG emissions are well below the applicable MDAQMD and the SCAQMD screening thresholds.

**Table 9: Project GHG Emissions**

Source / Parameter	CO <sub>2</sub> e (MT/year)
Total Project Emissions	63
MDAQMD Screening Threshold	100,000
Exceed?	No
SCAQMD Screening Threshold	10,000
Exceed?	No

For the reasons outlined above, the proposed Project would have a less than significant GHG impact, with no mitigation measures required.

**Greenhouse Gas Emissions-2: *Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?*** (CEQA Guidelines Appendix G, Greenhouse Gas Threshold Criteria (b))

Project emissions of GHGs are presented in Table 9 above. The Project would emit GHGs from fuel burned in mobile equipment and vehicle engines; however, the quantity of fuel consumed would be minimal. Specifically, onsite construction activities would be temporary in nature (take approximately two months to complete). Similarly, because the facility would be monitored remotely once placed into operation, operational fuel consumption would also be minimal (estimate a maximum of up to one inspection per week). Transportation fuel suppliers and importers, such as the ones the Applicant would use during both construction and operation, are required to report emissions under the Cap-and-Trade which is designed to reduce GHG emissions as needed to achieve emissions reductions described in related planning documents, which primarily consists of the AB 32 Scoping Plan(s), described previously. Thus, the emissions reductions will occur at a level in the supply chain above

the Project which will have no choice but to use fuels with GHG intensities that are consistent with the CARB's Scoping Plan.

Furthermore, because the Project involves renewable PV solar facilities, development of the Project would help California meet their state-wide climate change goals by producing clean renewable electricity within Inyo County. Energy generated by the Project likely would replace energy produced by the burning of fossil fuels elsewhere in the region, thereby resulting in a net reduction of GHG emissions. For example, based upon data described within the EIR published for the County's REGPA, a renewable solar project with a capacity of 900 MW could offset up to 1 million MT of CO<sub>2</sub>e per year. As noted above, collectively the Project would have a total capacity of approximately 4.2 MW, which would result in significant GHG offsets per the REGPA methodology.

In summary, the GHGs associated with the Project would be consistent with the AB 32 Scoping Plan and applicable County and GBUAPCD policies. Conversely, by generating sustainable solar electricity, the Project is expected to offset GHG emissions that would otherwise result due to the burning of fossil fuels at other power generating facilities, which would therefore result in a beneficial impact. Therefore, the Project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases, and there would be no impact.

#### **CONCLUSIONS**

In summary, the Project would generate a small amount of air quality and GHG emissions due to fuel combustion within offroad construction equipment and on-road vehicles. These impacts will be less than significant per the applicable CEQA guidance and significance thresholds. Specifically, onsite equipment and offsite vehicles travelling to and from the site during the Project's construction phase would generate minimal and short-term air emissions over an approximately two month period, and onsite construction emissions were found to be below applicable numeric thresholds.

Once the facility is constructed and put into operation, long-term air emissions would also be minimal and well below applicable CEQA thresholds. Because the solar facilities would be monitored remotely and would generally operate without the need for a permanent onsite staff, at most is estimated that a single-light duty truck would travel to and from the site no more than once per week to conduct routine inspections and maintenance. As such, air emissions associated with ongoing operations were also found to be less than significant.

In addition to combustion emissions, fugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment track-out onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout the life of the Project, which will in turn ensure impacts remain less than significant.

Lastly, because the proposed facility is a renewable energy project, the Project would have a beneficial impact related to GHG emissions and climate change. The County, through adoption of their REGPA, is promoting

renewable solar development to reduce GHG emissions and help the region and state meet their aggressive climate change goals. Once operational, the Project would provide a renewable source of electricity that would offset existing electrical generating facilities that rely upon the combustion of fossil fuels. As such, the Project would be consistent with the County's REGPA and would have a beneficial effect related to GHG.

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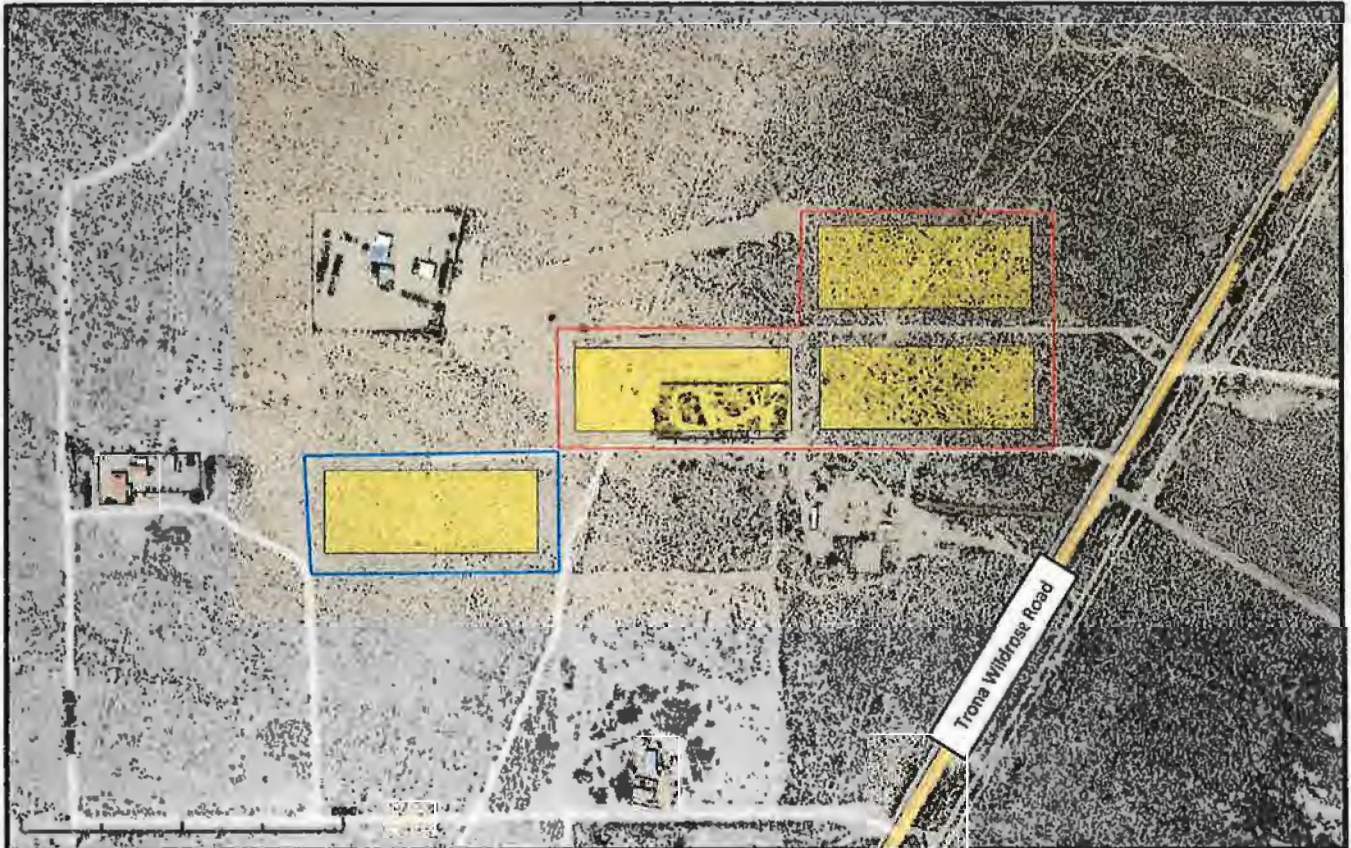
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#### **ATTACHMENTS**

- A. Figures
- B. Project Emissions Summary (Construction and Operations)
- C. SCAQMD's Health Risk Screening Tool Output File/Results
- D. CalEEMod Output File/Results

**ATTACHMENT A**

Figures



Source: Google Earth™ (2023)

- Project Site Boundary - Trona 4 (approx.)
- Project Site Boundary - Trona 7 (approx.)
- Proposed Solar Array Footprint/Construction Area (approx.)



**SESPE**  
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FIGURE

1

PROJECT OVERVIEW

Inyo County Solar Project  
Trona Wildrose Road  
Inyo County, California

PROJECT #:	230510-0036	DATE:	6/5/23
SCALE:	See Above	DRAWN BY:	GPS

**ATTACHMENT B**

Project Emissions Summary (Construction and Operations)

Summary of Project Emissions						
Criteria Pollutant	Annual Threshold (short tons) <sup>A</sup>	Maximum Year Project Emissions (short tons)	Annual Threshold Exceeded?	Daily Threshold (pounds) <sup>A</sup>	Max Day Project Emissions (pounds)	Daily Threshold Exceeded?
Greenhouse Gases (CO <sub>2</sub> e)	100,000	63	No	548,000	6,388	No
Carbon Monoxide (CO)	100	0.4	No	548	32	No
Oxides of Nitrogen (NO <sub>x</sub> )	25	0.2	No	137	16	No
Volatile Organic Compounds (VOC)	25	0.009	No	137	0.8	No
Oxides of Sulfur (SO <sub>x</sub> )	25	0.001	No	137	0.1	No
Particulate Matter (PM <sub>10</sub> )	15	0.130	No	82	0.001	No
Particulate Matter (PM <sub>2.5</sub> )	12	0.028	No	65	0.5	No
Hydrogen Sulfide (H <sub>2</sub> S) <sup>B</sup>	10	0	No	54	0	No
Lead (Pb)	0.6	3.0E-06	No	3	0.0001	No

## Footnotes:

A - Annual and daily thresholds taken from MDAQMD's *California Environmental Quality Act (CEQA) and Federal Conformity Guidelines* (February 2020).

B - Note, none of the Project's construction or operational emissions sources would emit Hydrogen Sulfide (H<sub>2</sub>S).

**Onsite Construction Phase Emissions (from CalEEMod)**

**2. Emissions Summary**

**2.1 Construction Emissions Compared Against Thresholds**

	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	TOG	NOx	CO	SO <sub>2</sub>	CO <sub>2</sub>
Daily, Winter (Max) Unmit. (lbs)	0.1150	0.1493	0.2643	0.1150	0.0150	0.1500	0.3172	16.0921	32.2832	0.0562	6282.57
Average Daily (Max) Unmit. (lbs)	0.0068	0.0088	0.0156	0.0068	0.0021	0.0069	0.0479	0.9552	1.9178	0.0033	371.23
Annual (Max) Unmit. (tons)	0.0012	0.0016	0.0028	0.0012	0.0004	0.0016	0.0087	0.1743	0.3500	0.0006	61.46

**Offsite Construction Phase Emissions (Calculated)**

Construction Emissions	PM10 (total)	PM10 (Dust)	Exhaust Emissions								
			PM10	PM2.5	NOx	CO <sub>2</sub>	N <sub>2</sub> O	ROG	TOG	CO	SO <sub>2</sub>
Offsite Emissions (lbs/day)	0.00665278	N/A	5.87E-03	0.00188557	0.01582079	109,879,352.4	0.000283472	0.016681332	0.006102966	0.006947864	0.0608884
Offsite Emissions (lbs/yr)	0.171631949	N/A	0.17163	0.007272	0.49702	2646.98331	0.00709	0.41709	0.15257	0.17970	1.52221

Off-site operation - LD12 Miles Per Day: 150 (Emissions based on 150 Miles Per Day)

Off-site operation - LD12 Miles Per Year: 3750 (Emissions based on 3750 Miles Per Year)

**Onsite and Offsite Operation Phase Emissions (Calculated)**

Operation Emissions	PM10 (total)	PM10 (Dust)	Exhaust Emissions								
			PM10	PM2.5	NOx	CO <sub>2</sub>	N <sub>2</sub> O	ROG	TOG	CO	SO <sub>2</sub>
Onsite Emissions (lbs/hr)	2.6	2.6	4.58E-05	2.19E-05	1.06E-04	7.06E-01	1.89E-06	1.11E-04	4.07E-05	4.53E-05	4.06E-04
Onsite Emissions (lbs/day)	2.6	2.6	4.58E-05	2.12577E-05	0.00010587	0.705862216	1.88981E-06	0.000111209	4.06866E-05	4.6319E-05	0.0004056
Onsite Emissions (lbs/yr)	260	260	0.011899815	0.005527005	0.0275267	183.5241762	0.000491352	0.028934309	0.010578509	0.01204293	0.1058399
Offsite Emissions (lbs/day)	0.00069	N/A	5.87E-06	0.000318666	0.00156906	10.58793324	2.83472E-05	0.001668133	0.000610799	0.000694784	0.0068884
Offsite Emissions (lbs/yr)	0.11	N/A	0.17497227	0.022905075	0.41290054	2752.662643	0.007370273	0.43321463	0.15867764	0.18064984	1.5830921

Onsite operation - LD12 Miles Per Day Traveled: 1

Off-site operation - LD12 Miles Per Day Traveled: 15

**Health Risk Screening Inputs**

Onsite Pollutant Emissions	Construction Acute (Screen 1)	Cancer/Chronic (Screen 2a)	Cancer/Chronic (Screen 2b)	Operation Acute (Screen 3)
	Max Day Emissions Rate - Construction (lbs/hr)	Max Year Average Emissions Rate - Construction (lbs/hr)	Max Year Average Emissions Rate - Operation (lbs/hr)	Max Day Emissions Rate - Construction (lbs/hr)
Arsenic and Compounds (Inorganic)	3.73317E-07	7.34124E-09	2.73973E-07	3.16022E-05
Beryllium and Compounds	1.86658E-08	3.67062E-10	1.36986E-08	2.58011E-06
Cadmium and Compounds	1.86658E-06	3.67062E-10	1.36986E-08	2.58011E-05
Copper and Compounds	1.86658E-06	3.67062E-08	1.36986E-06	0.000758011
Lead and Compounds (Inorganic)	9.33292E-07	1.83531E-08	6.84932E-07	0.000129005
Manganese and Compounds	9.33292E-06	1.83531E-07	6.84932E-06	0.001290055
Nickel and Compounds	3.73317E-07	7.34124E-09	2.73973E-07	5.16022E-05
Selenium and Compounds	9.33292E-08	1.83531E-09	6.84932E-08	1.29005E-05
Total Particulate (PM)	0.014372816	0.000283404	1.35843E-06	4.58E-05

Screen 1 - Acute Onsite Emissions and Hourly Emissions Rate for the first hour of the day, construction activity from the first hour of the day of operation.  
 Screen 2a - Cancer/Chronic (44) - Maximum Yearly Emissions Rate - Construction based on annual total of the maximum day of the year of the construction.  
 Screen 2b - Cancer/Chronic (44) - Maximum Yearly Emissions Rate - Operation based on average annual operation emissions.  
 Screen 3 - Acute Onsite Emissions and Hourly Emissions Rate for the first hour of the day, construction activity from the first hour of the day of operation.



**On-Road Vehicle Emissions Factors (EMFAC DATA):**

Source: EMFAC2021 (v1.0.2) Emissions Inventory

Region Type: Sub-Area

Region: Inyo (GBV)

Calendar Year: 2024

Season: Annual

Vehicle Classification: EMFAC202x Categories

Units: miles/day for CVMT and EVMT, trips/day for Trips, kWh/day for Energy Consumption, tons/day for Emissions, 1000 gallons/day for Fuel Consumption

Region	Calendar Year	Vehicle Category	Model Year	Speed	Fuel	Population	Total VMT	CVMT	EVMT	Trips	Energy Consumption
Inyo (GBV)	2024	LDT2	Aggregate	Aggregate	Diesel	50,696,9863	2134,2364	2134,2364		0 241,24064	0

NOx_TOTEX	PM2.5_TOTAL	PM10_TOTAL	CO2_TOTEX	CH4_TOTEX	N2O_TOTEX	ROG_TOTAL	TOG_TOTAL	CO_RUNEX	CO_TOTEX	SOx_TOTEX	NH3_RUNEX
0.000112978	2.26845E-05	4.88404E-05	0.7532384	2.017E-06	0.00011867	4.3417E-05	4.943E-05	0.0004332	0.0004332	7.137E-06	7.29304E-06

**Calculated Emissions Factors (lb/vmt)**

PM10	PM2.5	NOx	CO2	N2O	ROG	TOG	CO	SOx
4.57685E-05	2.12577E-05	0.000105872	0.7058622	1.89E-06	0.00011121	4.0687E-05	4.632E-05	0.0004059

**Haul Road Fugitive Dust Factors**

**Fugitive Dust Speciation Profile**

Pollutant	Concentration (ppm)	Concentration
Arsenic	20	0.00002
Beryllium	1	0.000001
Cadmium	1	0.000001
Copper	100	0.0001
Lead	50	0.00005
Manganese	500	0.0005
Nickel	20	0.00002
Selenium	5	0.000005
Zinc	200	0.0002

Source: San Diego APCD Table R01 - HAUL ROADS, GENERAL PAVED & UNPAVED, WITH DEFAULT TRACE METAL COMPOSITION

Note: The table above includes toxic air contaminants presented in both the SDAPCD speciation profile, and the SCAQMD Risk Tool

**Unpaved Road Emission Factors**

Unpaved Road emissions factor from AP42 Section 13.2.2

$$EF \text{ (lb/VMT)} = 4.9 * (S/12)^{0.7} + (W/3)^{0.45}$$

S = silt content (%) =

W = avg truck weight

$$EF \text{ (lb/VMT)} =$$

Control Efficiency =

$$\text{Emission Factor (lb/VMT)} =$$

Silt content based on green Sand and Gravel Processing from AP-42 Table 13.2.2-1.

PM2.5 emissions are 21.2% of PM10 for unpaved roads (SCAQMD Updated CEIDARS Table)

On-Road Light Truck	
PM10	PM2.5
4.8	
3	
2.58	0.55
0%	0%
2.58	0.55

**ATTACHMENT C**

SCAQMD's Health Risk Screening Tool Output

**TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT**

*(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool V1.105*

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

1. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wks/yr
Control Efficiency	0.000	
Does source have T-BACT?	NO	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
	5000	
Distance-Residential	130	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	2	years

Conversion Units (select unit)  
 From  feet  
 To  meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	3.73E-07	74.92	3.73E-07	0.00000	3.73317E-07
B8	Beryllium and Compounds	1.87E-08	9.012	1.87E-08	0.00000	1.86658E-08
C1	Cadmium and Compounds	1.87E-08	112.41	1.87E-08	0.00000	1.86658E-08
C23	Copper and Compounds	1.87E-06	63.55	1.87E-06	0.00000	1.86658E-06
L1	Lead and Compounds (Inorganic)	9.33E-07	207.2	9.33E-07	0.00000	9.33292E-07
M2	Manganese and Compounds	9.33E-06	54.938	9.33E-06	0.00000	9.33292E-06
N12	Nickel and Compounds	3.73E-07	58.71	3.73E-07	0.00000	3.73317E-07
S1	Selenium and Compounds	9.33E-08	78.96	9.33E-08	0.00000	9.33292E-08
P1	Particulate Emissions from Diesel-Fueled Engines	1.44E-02	350	1.44E-02	0.00000	0.014372816

6. Hazard Index Summary

A/N: N/A

Application deemed complete date: 06/08/21

HIA =  $(Q(\text{hr}) * (X/Q)_{\text{acute}} * MWF) / \text{Acute REL}$

HIC =  $(Q(\text{hr}) * (X/Q) * MP * MWF) / \text{Chronic REL}$

HIC 8-hr =  $(Q(\text{hr}) * (X/Q) * WAF * MWF) / \text{8-hr Chronic REL}$

Target Organs	Acute	Chronic	8-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	8-hr Chronic Pass/Fail
Alimentary system (stomach) - AL		6.97E-05		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	2.53E-04	4.27E-02	4.85E-04	Pass	Pass	Pass
Developmental - DEV	1.53E-04	4.32E-02	4.85E-04	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eye				Pass	Pass	Pass
Hematopoietic system - HEM		5.19E-04		Pass	Pass	Pass
Immune system - IMM	2.53E-04	5.19E-05	1.21E-04	Pass	Pass	Pass
Kidney - KID		3.59E-05		Pass	Pass	Pass
Nervous system - NS	2.53E-04	4.47E-02	1.55E-03	Pass	Pass	Pass
Reproductive system - REP	2.53E-04	4.32E-02	4.85E-04	Pass	Pass	Pass
Respiratory system - RESP	2.53E-06	9.93E-02	6.06E-04	Pass	Pass	Pass
Skin		4.27E-02	4.85E-04	Pass	Pass	Pass

**TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT**

*(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool V1.105*

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

1. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wks/yr
Control Efficiency	0.000	
Does source have T-BACT?	YES	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
	5000	ft
Distance-Residential	130	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	2	years

**Conversion Units (select units)**  
 From  feet  
 To  meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	7.34E-09	74.92	7.34E-09	0.00000	7.34124E-09
B8	Beryllium and Compounds	3.67E-10	9.012	3.67E-10	0.00000	3.67062E-10
C1	Cadmium and Compounds	3.67E-10	112.41	3.67E-10	0.00000	3.67062E-10
C23	Copper and Compounds	3.67E-08	63.55	3.67E-08	0.00000	3.67062E-08
L1	Lead and Compounds (Inorganic)	1.84E-08	207.2	1.84E-08	0.00000	1.83531E-08
M2	Manganese and Compounds	1.84E-07	54.938	1.84E-07	0.00000	1.83531E-07
N12	Nickel and Compounds	7.34E-09	58.71	7.34E-09	0.00000	7.34124E-09
S1	Selenium and Compounds	1.84E-09	78.96	1.84E-09	0.00000	1.83531E-09
P1	Particulate Emissions from Diesel-Fueled Engines	2.83E-04	350	2.83E-04	0.00000	0.000283404

**5a. MICR**

$MICR_{Resident} = CP (mg/kg\text{-}day)^{-1} \cdot Q (ton/yr) \cdot (X/Q)_{Resident} \cdot CEF_{Resident} \cdot MF_{Resident} \cdot 1e-6 \cdot MWAF$

$MICR_{Worker} = CP (mg/kg\text{-}day)^{-1} \cdot Q (ton/yr) \cdot (X/Q)_{Worker} \cdot CEF_{Worker} \cdot MF_{Worker} \cdot WAF_{Worker} \cdot 1e-6 \cdot MWAF$

Compound	Residential	Commercial
Arsenic and Compounds (Inorganic)	6.99E-09	6.70E-13
Beryllium and Compounds	1.87E-11	5.42E-15
Cadmium and Compounds	3.34E-11	9.67E-15
Copper and Compounds		
Lead and Compounds (Inorganic)	7.12E-11	7.62E-15
Manganese and Compounds		
Nickel and Compounds	4.05E-11	1.17E-14
Selenium and Compounds		
Particulate Emissions from Diesel-Pooled En	1.89E-06	5.48E-10
<b>Total</b>	<b>1.90E-06</b>	<b>5.48E-10</b>
	<b>PASS</b>	<b>PASS</b>

**5b. Is Cancer Burden Calculation Needed (MICR > 1E-07)**

**YES**

New X/Q at which MICR<sub>90%</sub> is one-in-a-million [(µg/m³)(ton/yr)]:

9.54E-01

New Distance, interpolated from X/Q table using New X/Q (miles):

284.01

Zone Impact Area (km²):

2.53E-01

Zone of Impact Population (7000 person/km²):

1.77E+03

Cancer Burden:

8.29E-03

Cancer Burden is less than or equal to 0.5

**PASS**

6. Hazard Index Summary

HIA =  $(C(\text{lb/hr}) * (D/Q)_{\text{air}} * \text{MWAF}) / \text{Acute REL}$

HIC =  $(C(\text{ton/yr}) * (D/Q) * \text{MF} * \text{MWAF}) / \text{Chronic REL}$

HIC 3-hr =  $(C(\text{ton/yr}) * (D/Q) * \text{WAF} * \text{MWAF}) / \text{3-hr Chronic REL}$

A/N: N/A

Application deemed complete date: 06/04/23

Target Organs	Acute	Chronic	3-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	3-hr Chronic Pass/Fail
Adipose system (liver) - AL		1.37E-06		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	4.98E-06	4.40E-04	9.53E-06	Pass	Pass	Pass
Developmental - DEV	4.98E-06	4.50E-04	9.53E-06	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eyes				Pass	Pass	Pass
Hematopoietic system - HEM		1.02E-05		Pass	Pass	Pass
Immune system - IMM	4.98E-06	1.02E-06	2.38E-06	Pass	Pass	Pass
Kidney - KID		2.05E-07		Pass	Pass	Pass
Nervous system - NS	4.98E-06	2.79E-04	3.06E-05	Pass	Pass	Pass
Reproductive system - REP	4.98E-06	8.50E-04	9.53E-06	Pass	Pass	Pass
Respiratory system - RESP	4.98E-06	1.96E-03	1.19E-05	Pass	Pass	Pass
Skin		4.30E-04	9.53E-06	Pass	Pass	Pass

**TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT**

*(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool V1.105*

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

I. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wks/yr
Control Efficiency	0.000	
Does source have T-BACT?	NO	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
Building Area		
Distance-Residential	1000	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	30	years

Conversion Units (select units)

From  feet

To  meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	2.74E-07	74.92	2.74E-07	0.00000	2.73973E-07
B8	Beryllium and Compounds	1.37E-08	9.012	1.37E-08	0.00000	1.36986E-08
C1	Cadmium and Compounds	1.37E-08	112.41	1.37E-08	0.00000	1.36986E-08
C23	Copper and Compounds	1.37E-06	63.55	1.37E-06	0.00000	1.36986E-06
L1	Lead and Compounds (Inorganic)	6.85E-07	207.2	6.85E-07	0.00000	6.84932E-07
M2	Manganese and Compounds	6.85E-06	54.938	6.85E-06	0.00000	6.84932E-06
N12	Nickel and Compounds	2.74E-07	58.71	2.74E-07	0.00000	2.73973E-07
S1	Selenium and Compounds	6.85E-08	78.96	6.85E-08	0.00000	6.84932E-08
P1	Particulate Emissions from Diesel-Fueled Engines	1.36E-06	350	1.36E-06	0.00000	1.35843E-06



**5a. MICH**

MICR Resident = CP (mg/kg-day)<sup>-1</sup> \* Q (ton/yr) \* (X/Q) Resident \* CEF Resident \* MP Resident \* 1e-6 \* MWAF

MICR Worker = CP (mg/kg-day)<sup>-1</sup> \* Q (ton/yr) \* (X/Q) Worker \* CEF Worker \* MP Worker \* WAF Worker \* 1e-6 \* MWAF

Compound	Residential	Commercial
Arsenic and Compounds (Inorganic)	8.50E-09	3.26E-10
Beryllium and Compounds	3.06E-11	2.53E-12
Cadmium and Compounds	5.47E-11	4.51E-12
Copper and Compounds		
Lead and Compounds (Inorganic)	8.74E-11	3.68E-12
Manganese and Compounds		
Nickel and Compounds	6.64E-11	5.47E-12
Selenium and Compounds		
Particulate Emissions from Diesel-Fueled Ev	3.98E-10	3.28E-11
<b>Total</b>	<b>9.14E-09</b>	<b>3.75E-10</b>
	<b>PASS</b>	<b>PASS</b>

5b. Is Cancer Burden Calculation Needed (MICH > 1E-6)?

NO

New X/Q at which MICR<sub>100</sub> is one-in-a-million [(ug/m<sup>3</sup>)(ton/yr)]:

New Distance, interpolated from X/Q table using New X/Q (meter):

Zone Impact Area (km<sup>2</sup>):

Zone of Impact Population (7000 persons/km<sup>2</sup>):

Cancer Burden:

6. Hazard Index Summary

A/N: N/A

Application derived complete date: 06/08/23

HIA =  $[Q(\text{b/hr}) * (X/Q)_{\text{max}} * MWF] / \text{Acute REL}$

HIC =  $[Q(\text{mg/yr}) * (X/Q) * MP * MWF] / \text{Chronic REL}$

HIC 8-hr =  $[Q(\text{mg/yr}) * (X/Q) * WAF * MWF] / \text{8-hr Chronic REL}$

Target Organs	Acute	Chronic	8-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	8-hr Chronic Pass/Fail
Alimentary system (liver) - AL		1.03E-06		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	3.67E-06	6.37E-04	7.18E-06	Pass	Pass	Pass
Developmental - DEV	3.67E-06	6.40E-04	7.18E-06	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eye				Pass	Pass	Pass
Hematopoietic system - HEM		7.69E-06		Pass	Pass	Pass
Immune system - IMM	3.67E-06	7.69E-07	1.80E-06	Pass	Pass	Pass
Kidney - KID		3.37E-07		Pass	Pass	Pass
Nervous system - NS	3.67E-06	6.62E-04	2.30E-05	Pass	Pass	Pass
Reproductive system - REP	3.67E-06	6.40E-04	7.18E-06	Pass	Pass	Pass
Respiratory system - RESP	3.67E-06	6.41E-04	8.98E-06	Pass	Pass	Pass
Skin		6.32E-04	7.18E-06	Pass	Pass	Pass

**TIER 1/TIER 2 SCREENING RISK ASSESSMENT DATA INPUT**

*(Procedure Version 8.1 & Package N, September 1, 2017) - Risk Tool VI.105*

Application Deemed Complete Date	06/08/23
A/N	N/A
Facility Name	HTHJ Inyo Solar

1. Stack Data	Input	Units
Hours/Day	24	hrs/day
Days/Week	7	days/wk
Weeks/Year	52	wka/yr
Control Efficiency	0.000	
Does source have T-BACT?	NO	
Source type (Point or Volume)	P	P or V
Stack Height or Building Height	20	feet
Building Area		
Distance-Residential	1000	meters
Distance-Commercial	1000	meters
Meteorological Station	Desert Hot Springs Airport	
Project Duration (Short term options: 2, 5, or 9 years; Else 30 years)	2	years

Conversion Units (select unit)

From  feet

To  meter

Source Type	Other
Screening Mode (NO = Tier 1 or Tier 2; YES = Tier 3)	NO

FOR SOURCE TYPE OTHER THAN BOILER, CREMATORY, ICE, PRESSURE WASHER, OR SPRAY BOOTH, FILL IN THE USER DEFINED TABLE BELOW

Fac Name: HTHJ Inyo Solar A/N: N/A

TAC Code	Compound	Emission Rate (lbs/hr)	Molecular Weight	R1 - Uncontrolled (lbs/hr)	Efficiency Factor (Fraction range 0-1)	R2-Controlled (lbs/hr)
A11	Arsenic and Compounds (Inorganic)	5.16E-05	74.92	5.16E-05	0.00000	5.16022E-05
B8	Beryllium and Compounds	2.58E-06	9.012	2.58E-06	0.00000	2.58011E-06
C1	Cadmium and Compounds	2.58E-06	112.41	2.58E-06	0.00000	2.58011E-06
C23	Copper and Compounds	2.58E-04	63.55	2.58E-04	0.00000	0.000258011
L1	Lead and Compounds (Inorganic)	1.29E-04	207.2	1.29E-04	0.00000	0.000129005
M2	Manganese and Compounds	1.29E-03	54.938	1.29E-03	0.00000	0.001290055
N12	Nickel and Compounds	5.16E-05	58.71	5.16E-05	0.00000	5.16022E-05
S1	Selenium and Compounds	1.29E-05	78.96	1.29E-05	0.00000	1.29005E-05
P1	Particulate Emissions from Diesel-Fueled Engines	4.58E-05	350	4.58E-05	0.00000	4.57685E-05

6. Hazard Index Summary

A/N: N/A

Application deemed complete date: 06/08/13

HIA =  $[Q(\text{hr}) * (X/Q)_{\text{max}} * MWAF] / \text{Acute REL}$

HIC =  $[Q(\text{month}) * (X/Q) * MP * MWAF] / \text{Chronic REL}$

HIC 8-hr =  $[Q(\text{8-hr}) * (X/Q) * WAF * MWAF] / \text{8-hr Chronic REL}$

Target Organs	Acute	Chronic	8-hr Chronic	Acute Pass/Fail	Chronic Pass/Fail	8-hr Chronic Pass/Fail
Alimentary system - AL		1.94E-04		Pass	Pass	Pass
Bones and teeth - BN				Pass	Pass	Pass
Cardiovascular system - CV	6.91E-04	1.19E-01	1.35E-03	Pass	Pass	Pass
Developmental - DEV	6.91E-04	1.20E-01	1.35E-03	Pass	Pass	Pass
Endocrine system - END				Pass	Pass	Pass
Eye				Pass	Pass	Pass
Hematopoietic system - HEM		1.45E-03		Pass	Pass	Pass
Immune system - IMM	6.91E-04	1.45E-04	3.39E-04	Pass	Pass	Pass
Kidney - KD		1.00E-04		Pass	Pass	Pass
Nervous system - NS	6.91E-04	1.25E-01	4.34E-03	Pass	Pass	Pass
Reproductive system - RBP	6.91E-04	1.20E-01	1.35E-03	Pass	Pass	Pass
Respiratory system - RESP	6.91E-06	1.21E-01	1.62E-03	Pass	Pass	Pass
Skin		1.19E-01	1.35E-03	Pass	Pass	Pass

6a. Hazard Index Acute - Resident  
 HIA = (Q/Tbhc) \* (C/Q)max resident \* MWAF / Acute REL

A/N: N/A

Application deemed complete date: 2/6/2023

Compound	HIA - Residential									
	AL	CV	DEV	EYE	HBM	IMM	NS	REP	RESP	SKIN
Arsenic and Compounds (Inorganic)		6.91E-04	6.91E-04				6.91E-04	6.91E-04		
Beryllium and Compounds										
Cadmium and Compounds									6.91E-06	
Copper and Compounds										
Lead and Compounds (Inorganic)										
Manganese and Compounds						6.91E-04				
Nickel and Compounds										
Selenium and Compounds										
Particulate Emissions from Diesel-Fueled En										
<b>Total</b>		6.91E-04	6.91E-04			6.91E-04	6.91E-04	6.91E-04	6.91E-06	

**ATTACHMENT D**

CalEEMod Output Files

# Inyo Solar Summary Report

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# 1. Basic Project Information

## 1.1. Basic Project Information

Data Field	Value
Project Name	Inyo Solar
Construction Start Date	1/1/2024
Lead Agency	—
Land Use Scale	Project/site
Analysis Level for Defaults	County
Windspeed (m/s)	3.70
Precipitation (days)	9.60
Location	100 Moses Ln, Trona, CA 93562, USA
County	Inyo
City	Unincorporated
Air District	Great Basin UAPCD
Air Basin	Great Basin Valleys
TAZ	3013
EDFZ	10
Electric Utility	Southern California Edison
Gas Utility	—
App Version	2022.1.1.14

## 1.2. Land Use Types

Land Use Subtype	Size	Unit	Lot Acreage	Building Area (sq ft)	Landscape Area (sq ft)	Special Landscape Area (sq ft)	Population	Description
User Defined Industrial	20.0	User Defined Unit	20.0	0.00	0.00	—	—	—



### 1.3. User-Selected Emission Reduction Measures by Emissions Sector

No measures selected

## 2. Emissions Summary

### 2.1. Construction Emissions Compared Against Thresholds

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Un/Mit.	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e	
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.82	0.81	16.0	32.4	0.03	0.11	0.15	0.26	0.11	0.04	0.15	—	6,260	6,260	0.25	0.06	0.02	6,283	
Average Daily (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.05	0.05	0.98	1.92	< 0.005	0.01	0.01	0.02	0.01	< 0.005	0.01	—	370	370	0.02	< 0.005	0.02	371	
Annual (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.01	0.01	0.17	0.35	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	—	61.2	61.2	< 0.005	< 0.005	< 0.005	61.5	

## 6. Climate Risk Detailed Report

### 6.2. Initial Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	1	0	0	N/A
Sea Level Rise	N/A	N/A	N/A	N/A
Wildfire	1	0	0	N/A
Flooding	N/A	N/A	N/A	N/A

Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	0	0	0	N/A
Air Quality Degradation	N/A	N/A	N/A	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores do not include implementation of climate risk reduction measures.

### 6.3. Adjusted Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	1	1	1	2
Sea Level Rise	N/A	N/A	N/A	N/A
Wildfire	1	1	1	2
Flooding	N/A	N/A	N/A	N/A
Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	1	1	1	2
Air Quality Degradation	N/A	N/A	N/A	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores include implementation of climate risk reduction measures.

## 7. Health and Equity Details

### 7.3. Overall Health & Equity Scores

Metric	Result for Project Census Tract
CalEnviroScreen 4.0 Score for Project Location (a)	46.0

Healthy Places Index Score for Project Location (b)	51.0
Project Located In a Designated Disadvantaged Community (Senate Bill 635)	No
Project Located in a Low-Income Community (Assembly Bill 1550)	Yes
Project Located In a Community Air Protection Program Community (Assembly Bill 617)	No

a: The maximum CalEnviroScreen score is 100. A high score (i.e., greater than 50) reflects a higher pollution burden compared to other census tracts in the state.

b: The maximum Health Places Index score is 100. A high score (i.e., greater than 50) reflects healthier community conditions compared to other census tracts in the state.

### 7.5. Evaluation Scorecard

Health & Equity Evaluation Scorecard not completed.

# **EXHIBIT 3**

**INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT  
PROGRAM ENVIRONMENTAL IMPACT REPORT**

**Mitigation Monitoring and Reporting Program**

*Prepared for:*

County of Inyo  
168 N. Edwards Street  
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*Prepared by:*

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**March 2015**

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The California Environmental Quality Act (CEQA), Public Resources Code Section 21081.6, requires that a Mitigation Monitoring and Reporting Program (MMRP) be established upon completing findings. CEQA stipulates that “the public agency shall adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation.”

This MMRP has been developed in compliance with Section 21081.6 of CEQA. The County of Inyo (County) is the lead agency for the project under CEQA and will administer and implement the MMRP. The County is responsible for review of all monitoring reports, enforcement actions, and document disposition. The County will rely on information provided by the project site observers/monitors (e.g., construction manager, project manager, biologist, archaeologist, etc.) as accurate and up-to-date and will provide personnel to field check mitigation measure status, as required.

The mitigation measures in this MMRP are derived from the Program Environmental Impact Report (PEIR) for the proposed Renewable Energy General Plan Amendment (REGPA) project (proposed project) dated November 2014. To sufficiently track and document the status of mitigation measures for the proposed project, a mitigation matrix (Table 1) has been prepared and includes the following items:

- Mitigation Measure Number
- Mitigation Measure (text)
- Phase of Implementation / Mitigation Timing
- Frequency and/or Duration of Required Monitoring
- Enforcement or Reporting Agency / Action Notes
- Record Document Location

Mitigation measure timing has been noted in several specific timing increments, the most common being:

- During the design phase
- Prior to permit issuance
- During construction
- At completion of construction

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**Table 1**  
**INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR**  
**MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
<b>AESTHETICS</b>				
<p><b>AES-1: Prepare visual studies that include existing views, scenic vistas, and visual resources and evaluate the potential impacts to existing visual resources.</b></p> <p>Site-specific visual studies shall be prepared to assess potential visual impacts for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA. The visual study shall include assessment of the existing visual environment, including existing views, scenic vistas, and visual resources, and evaluate the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. The study shall include assessment of public views from key observation points, the locations of which shall be determined in consultation with County staff and, if applicable, other public agencies with jurisdiction over the project site (e.g., BLM). Visual simulations shall be prepared to conceptually depict post-development views from the identified key observation points.</p> <p>The analysis and results of the study shall be documented in a memorandum that will include: (1) an assessment of the existing visual environment, including existing views, scenic vistas, and visual resources and (2) an evaluation of the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. Applicable recommendations from the project-specific visual analysis shall be incorporated into the associated individual project design to address identified potential visual impacts.</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department, and/or other applicable agencies.</p>	

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<b>AESTHETICS (cont.)</b>				
<p><b>AES-2: Reduce potential effects of glare by preparing site-specific glare studies that inform project design.</b></p> <p>Site-specific glare studies shall be prepared for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA to assess potential glare impacts. Applicable results and recommendations from the project specific glare study shall be incorporated into the associated individual project designs to address identified potential visual impacts.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department	
<p><b>AES-3: Minimize visual contrast using colors that blend with surrounding landscape and do not create excessive glare.</b></p> <p>For proposed solar energy projects that are greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources, the surfaces of structures and buildings that are visible from public viewpoints shall be treated so that (1) their colors minimize visual contrast by blending with the surrounding landscape and (2) their colors and finishes do not create excessive glare. Surface color treatments shall include painting or tinting in earth tone colors to blend in with the surroundings desert and mountains. Materials, coatings, or paints having little or no reflectivity shall be used.</p>	Prior to / during construction	Prior to construction	Inyo County Planning Department and/or other applicable agencies.	
<p><b>AES-4: Install natural screens to protect ground-level views into the project.</b></p> <p>For all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, and where existing screening topography and vegetation are absent or minimal, natural-looking earthwork landforms (such as berms or contour slopes), vegetative, or architectural screening shall be installed to screen ground-level views into the project site. The</p>	Prior to / during construction	Prior to construction	Inyo County Planning Department	

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<p>shape and height of the earthwork landforms shall be context sensitive and consider distance and viewing angle from nearby public viewpoints.</p>				
<p><b>AES-5: Prepare lighting plan using BMPs consistent with the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010) to reduce night lighting during construction and operation.</b></p> <p>The project applicant shall prepare a lighting plan for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA that documents how project lighting would be designed and installed to minimize night sky impacts during construction and operation. The lighting plan shall include, at minimum, the following lighting design parameters:</p> <ul style="list-style-type: none"> <li>• Lighting shall be of the minimum necessary brightness consistent with operational safety and security requirements.</li> <li>• Lighting shall incorporate fixture hoods/shielding with light directed downward and toward the area to be illuminated.</li> <li>• Light fixtures that are visible from beyond the project boundary shall have cutoff angles that are sufficient to prevent lamps and reflectors from being visible beyond the project boundary, except where necessary for security.</li> <li>• Project lighting shall be kept off when not in use whenever feasible and consistent with safety and security requirements.</li> </ul>	<p>Prior to construction</p>	<p>Prior to construction</p>	<p>Inyo County Planning Department</p>	
<p><b>AES-6: Treat PV solar panel glass with anti-reflective coating.</b></p> <p>For proposed PV facilities greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, glass used to cover solar panels shall be treated with an anti-reflective coating to further decrease reflection and increase the transmission of light through the glass to the cells.</p>	<p>Prior to / during construction</p>	<p>Prior to construction</p>	<p>Inyo County Planning Department</p>	

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<p><b>AES-7: Coordinate with the Federal Aviation Administration when considering the use of audio visual warning systems.</b></p> <p>For projects requiring aircraft warning lights, the project applicant shall coordinate with the Federal Aviation Administration (FAA) to consider the use and installation of audio visual warning systems technology on tower structures. If the FAA denies a permit for the use of audio visual warning systems, the project applicant shall limit lighting to the minimum required to meet FAA safety requirements.</p>	Prior to / during construction	Prior to construction	Inyo County Planning Department and/or other applicable agencies.	
<p><b>AES-8: Projects on federal land will comply with the respective federal agency's visual guidelines and policies.</b></p> <p>Solar energy projects proposed on federal land within individual SEDAs and the OVSA shall be coordinated with the federal agency that is responsible for the management of the land and shall comply with the respective federal agency's visual guidelines and policies.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	
<p><b>AES-9: The project will implement BMPs and measures during construction to reduce the visual and aesthetic effects of the construction site.</b></p> <p>The following measures shall be implemented for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA during construction:</p> <ul style="list-style-type: none"> <li>• Construction boundaries and staging areas shall be clearly delineated and where appropriate fenced to prevent encroachment onto adjacent natural areas.</li> <li>• Construction staging and laydown areas visible from nearby roads, residences, and recreational areas shall be visually screened using temporary fencing. Fencing shall be of an appropriate design and color to visually blend with the site's surroundings.</li> <li>• Existing native vegetation shall be preserved to the greatest extent possible.</li> <li>• Project grading shall utilize undulating surface edges and contours</li> </ul>	During construction	During construction	Inyo County Planning Department Inyo County Department of Public Works	

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<p>that repeat the natural shapes, forms, textures, and lines of the surrounding landscape.</p> <ul style="list-style-type: none"> <li>• Exposed soils shall be restored to their original contour and vegetation.</li> <li>• Stockpiled topsoils shall be reapplied to disturbed surfaces.</li> </ul>				
<p><b>AES-10: Projects requiring overhead electrical transmission connections will consider design and installation techniques that reduce visual impacts.</b></p> <p>For projects that require overhead electrical transmission connections to existing transmission lines and for the potential off-site transmission corridor to serve the Trona, Chicago Valley, and Charleston View SEDAs, the following shall be considered in the design and alignment of the transmission line connections:</p> <ul style="list-style-type: none"> <li>• Avoid placing transmission towers and structures along ridgelines, peaks, or other locations where skylining effects would occur such that they would silhouette against the sky.</li> <li>• Place transmission corridor connection alignments along edges of clearings or at transition areas (i.e., natural breaks in vegetation or topography).</li> <li>• To the extent practicable, treat transmission towers and structures with color and surfaces to reduce visual contrast with the surrounding visual landscape. Alternative methods to reduce visual impacts may be considered for structures that cannot use conventional methods of painting without impeding electrical conveyance or without causing long-term environmental impacts through the constant reapplication of paint. These methods may include, but shall not be limited to, galvanizing or similar factory-applied conductive non-paint treatments.</li> <li>• Use of appropriate and context-sensitive transmission tower types (i.e., lattice structures compared to monopoles) to reduce visual contrast with the surrounding visual landscape.</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<b>AGRICULTURE AND FORESTRY RESOURCES</b>				
<p><b>AG-1: Review development proposals for potential impacts to agricultural operations.</b></p> <p>The County Agricultural Commissioner shall be responsible for reviewing new development proposals adjacent to agricultural operations to ensure they do not significantly impact agricultural operations.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Agriculture Commissioner/ Planning Department/	
<p><b>AG-2: Conduct site-specific investigations for agricultural lands.</b></p> <p>Site-specific agricultural resource investigations shall be completed for proposed solar development projects within the individual SEDAs and the OVSA that are located on lands utilized for agricultural operations prior to final project design approval. If agricultural operations are identified within the project area, alternative designs should be implemented to avoid and/or minimize impacts to those resources. This may include mitigating conversion of agricultural lands based on the mitigation ratios identified in consultation with affected agencies at the cost of the project applicant to the satisfaction of the County. Mitigation ratios and impact fees assessed, if any, shall be outlined in the Renewable Energy Development Agreement, Renewable Energy Permit, or Renewable Energy Impact Determination.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department Inyo County Agriculture Commissioner	
<p><b>AG-3: Invasive plant species or noxious weeds.</b></p> <p>To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> <li>• The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes.</li> <li>• Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site.</li> <li>• Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored.</li> </ul>	Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation	Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> <li>• The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned.</li> <li>• Native vegetation shall be re-established as quickly as practicable on disturbed sites.</li> <li>• Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions.</li> <li>• Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations.</li> </ul>				
<b>AIR QUALITY</b>				
<p><b>AQ-1: Prepare site-specific air quality technical report.</b></p> <p>Prior to issuance of Major Use Permits for solar energy projects, a site-specific air quality technical report shall be prepared and approved by the County, which will verify compliance with County and Great Basin Unified Air Pollution Control District standards during construction and operation of the solar project.</p> <p>Mitigation Measures AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report, and will be implemented during construction and operation of future projects. These measures require implementation of dust control practices during construction activities and solar project operations.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	
<p><b>AQ-2: Reduce fugitive dust and particulate matter emissions during construction.</b></p> <p>To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rules 401 and 402 as well as applicable best management practices (BMP)s from the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010), solar projects shall implement fugitive dust and particulate matter emissions control measures including, but not limited to the following:</p> <ul style="list-style-type: none"> <li>• Water and/or coarse rock all active construction areas as necessary and indicated by soil and air conditions;</li> <li>• Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;</li> </ul>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> <li>• Pave or apply (non-toxic) soil stabilizers on all unpaved access roads;</li> <li>• Sweep daily (with water sweepers) all paved access roads; Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;</li> <li>• Suspend excavation and grading activity when sustained winds make reasonable dust control difficult to implement, e.g., for winds over 25 miles per hour (mph).</li> <li>• Limit the speed of on-site vehicles to 15 mph.</li> </ul>				
<p><b>AQ-3: Implement dust control measures during operation.</b></p> <p>To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rule 401 and 402 as well as applicable BMPs from REAT’s Best Management Practices and Guidance Manual (REAT 2010), solar projects shall incorporate feasible dust control measures into the site design including, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Incorporate perimeter sand fencing into the overall design to prevent migration of exposed soils into the surrounding areas. The perimeter fence is intended to provide long-term protection around vulnerable portions of the site boundary; it is also intended to prevent off-road site access and sand migration across site boundaries and the associated impacts.</li> <li>• Incorporate wind deflectors intermittently across solar project sites. The solar panels themselves, especially where installed to transverse primary wind direction, will provide some measure of protection of the ground surface. Wind deflectors enhance this effect by lifting winds that may otherwise jet beneath panels, thereby disrupting long wind fetches, and reducing surface wind velocities and sand migration.</li> <li>• Orient infrastructure/solar panels perpendicular to primary wind directions.</li> <li>• Adjust panel operating angles to reduce wind speeds under panels.</li> <li>• Perform revegetation in areas temporarily denuded during construction. These areas would be replanted with native plant species that exist on the site presently. Irrigation would be applied temporarily during the plant establishment period (typically multiple</li> </ul>	During operation	During operation	Inyo County Planning Department and/or other applicable agencies.	



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<p>years), but after establishment it is expected that these areas would require little or no maintenance. Vegetation provides dust control by protecting and preventing threshold wind velocities at the soil surface. Studies have shown that an 11 to 54 percent vegetation cover on a site can provide up to 99 percent PM10 control efficiency (GBUAPCD 2008).</p> <ul style="list-style-type: none"> <li>As the installation of solar panels and associated equipment progresses, each area that is completed (i.e. where no further soil disturbance is anticipated) will be treated with a dust palliative to prevent wind erosion. CARB certifications indicate that the application of dust suppressants can reduce PM10 emissions by 84 percent or more (CARB 2011).</li> </ul>				
<b>BIOLOGICAL RESOURCES</b>				
<p><b>BIO-1: Prepare project level biological resources evaluation and mitigation and monitoring plan.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact biological resources as determined by a qualified biologist (defined as a biologist with documented experience or training related to the subject species), a project level biological resource evaluation shall be prepared by a qualified biologist for the project. The biological resource evaluation shall include field reconnaissance and focused surveys as determined necessary by a qualified biologist to identify special status species and natural communities present or having the potential to occur on the site, an evaluation of the extent of those habitats, an evaluation of the potential for impacts to each special status species and/or habitat, and shall prescribe specific mitigation measures to avoid impacts to biological resources to the maximum extent practicable. The qualifications of any biologists conducting special status species surveys or focused habitat assessments will be submitted to CDFW prior to conducting fieldwork. The level of biological resource analysis will be based on factors such as the size of the proposed project, the extent of impacts to biological resources, and the sufficiency of existing data to determine impacts.</p> <p>An evaluation of the potential for off-site impacts to special status species and sensitive habitats will be included in the biological resources</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>evaluation, especially for projects involving groundwater pumping. Chapter 2 of the Basin Plan protects beneficial uses for groundwater with respect to groundwater recharge and freshwater replenishment and beneficial uses for wildlife habitats and flora and fauna including cold freshwater habitat, warm freshwater habitat, wildlife habitat, rare, threatened, or endangered species, spawning, reproduction, and development, preservation of biological habitats of special significance, and migration of aquatic organisms (RWQCB 1995). A project-specific evaluation of potential impacts to beneficial uses for groundwater as specified in the Basin Plan will be included in the biological resources evaluation.</p> <p>For projects in the Chicago Valley or Charleston View SEDAs, potential impacts to special status species and/or riparian and other groundwater dependent habitat in the Amargosa Watershed will be evaluated. If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch. USFWS and CDFW shall be contacted during preparation of the biological resources evaluation to obtain the best available scientific data on such potential impacts including existing hydrologic studies (e.g., the unpublished State of the Basin Report-2014 prepared by Zdon and Associates, Inc.).</p> <p>For projects with the potential to impact on- or off-site special status species or habitats as determined in the biological resources evaluation, a project-specific biological resources mitigation and monitoring plan shall be prepared that meets the approval of permitting agencies. The plan shall be implemented during all phases of the project and shall identify appropriate mitigation levels to compensate for significant direct, indirect, and cumulative impacts, including habitat, special status plant, and wildlife species losses as well as impacts to groundwater dependent vegetation or off-site impacts to special status species or sensitive habitats due to groundwater pumping. The plan shall address at a minimum:</p> <ul style="list-style-type: none"> <li>• Biological resource avoidance and minimization measures and mitigation, monitoring and compliance measures required by federal, state, and local applicable permitting agencies.</li> </ul>				

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<ul style="list-style-type: none"> <li>• Documentation (based on surveys) of sensitive plant and wildlife expected to be affected by all phases of the project (project construction, operation, abandonment, and decommissioning). Agencies may request additional surveying, based on the documentation or past experience working with the resources. Include measures to avoid or minimize impacts to species and habitat.</li> <li>• A detailed description of measures to minimize or mitigate permanent and temporary disturbances from construction activities.</li> <li>• All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction.</li> <li>• Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities.</li> <li>• Duration for each type of monitoring and a description of monitoring methodologies and frequency.</li> <li>• Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful.</li> <li>• All standards and remedial measures to be implemented if performance standards and criteria are not met.</li> <li>• A closure/decommissioning or abandonment plan, including a description of funding mechanism(s).</li> <li>• A process for proposing plan modifications to the County project manager.</li> <li>• All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction.</li> <li>• Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities.</li> <li>• Duration for each type of monitoring and a description of monitoring methodologies and frequency.</li> <li>• Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful.</li> <li>• All standards and remedial measures to be implemented if performance standards and criteria are not met.</li> <li>• A closure/decommissioning or abandonment plan, including a</li> </ul>				

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<p>description of funding mechanism(s).</p> <ul style="list-style-type: none"> <li>A process for proposing plan modifications to the County project manager.</li> </ul>				
<p><b>BIO-2: Minimize impacts to special status plants.</b></p> <ul style="list-style-type: none"> <li>Prior to the approval of any solar development projects or related infrastructure under the REGPA, a CDFW-approved botanist shall evaluate the potential for special status plant species to occur on the site and conduct surveys, if necessary, to determine presence or infer absence of special status plants on the site following the November 24, 2009 <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities</i> or the most current guidelines. When special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, to the maximum extent feasible, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs.</li> </ul> <p>If special status plants are identified in the project area and complete avoidance of direct and indirect impacts is not feasible as determined by the County, the following measures shall be implemented to avoid and minimize impacts on special status plants:</p> <ul style="list-style-type: none"> <li>If feasible, when special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs. For projects that are determined to have the potential to result in "take" of state or federally-listed plant species, consultation shall be conducted with CDFW or USFWS</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<b>Mitigation Measure</b>	<b>Phase of Implementation / Mitigation Timing</b>	<b>Frequency and/or Duration of Required Monitoring</b>	<b>Enforcement or Reporting Agency / Action Notes</b>	<b>Record Document Location</b>
<p>respectively prior to project commencement, and appropriate mitigation measures developed if necessary.</p> <ul style="list-style-type: none"> <li>When individuals of a special status species occur within an area proposed for construction and take cannot be avoided, mitigation shall be developed in coordination with USFWS and/or CDFW to reduce impacts on the local population of the special status species. Mitigation measures approved by USFWS and/or CDFW may include translocation under the direction of a CDFW-approved botanist if translocation of such species is deemed likely to succeed, or seed shall be collected prior to destruction of the plants and dispersed in suitable habitats not impacted by construction, if such habitats exist and seed collection is deemed likely to be successful by a CDFW-approved botanist with experience propagating the species in question. In all cases, CDFW will be notified at least 10 days prior to removal of any special status plant to allow translocation or collection of seed at their discretion. If transplanting is proposed, the botanist shall coordinate with the appropriate resource agencies and local experts to determine whether translocation is feasible. If the agencies concur that translocation is a feasible mitigation measure, the botanist shall develop and implement a translocation plan through coordination with the appropriate agencies. The special status plant translocation plan shall involve identifying a suitable transplant site; moving some or all of the plant material and seed bank to the transplant site; collecting seed material and propagating it in a nursery (in some cases it is appropriate to keep plants onsite as nursery plants and sources for seed material); and monitoring the transplant sites to document recruitment and survival rates. Monitoring shall be conducted for a period of five years and translocation shall be considered successful if an 80 percent survival rate has been achieved by the end of the five-year monitoring period.</li> <li>A mitigation and monitoring plan shall be developed by a qualified botanist/ restoration ecologist and submitted to CDFW for approval prior to approval of the proposed project. The mitigation and monitoring plan will dictate appropriate avoidance and minimization measures, compensatory mitigation, and monitoring requirements as</li> </ul>				

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<p>pertinent to the specific species and level of impact(s). Mitigation shall include, but is not limited to 1) protection of special status plant populations not directly impacted by construction or implementation of the project as stated above; 2) transplantaion and/or collection of seed from impacted plants if feasible, as stated above; and 3) the preservation in perpetuity of an equivalent or larger off-site population for every individual or population of special status plant impacted including sufficient land surrounding the preserved population to ensure its survival in perpetuity as determined by a qualified botanist/ restoration ecologist. The qualified botanist/ restoration ecologist shall include plans to restore and enhance the preserved populations to the extent feasible.</p> <ul style="list-style-type: none"> <li>• If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch, pursuant to Mitigation Measure HYD-2 in Section 4.9, Hydrology and Water Quality. If any solar development projects are proposed in the Chicago Valley or Charleston View SEDAs that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for down-watershed impacts to the habitats for special status plants in the Amargosa Watershed including the portion of the Amargosa River that has been designated by Congress as "Wild and Scenic." If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status plant species (e.g., Fish Slough, marshes, riparian areas, alkaline flats in the Amargosa Watershed and the portion of the Amargosa River that has been designated by Congress as "Wild and Scenic"), a management plan will be prepared in coordination with the County and submitted to the appropriate resource agency with oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on off-site habitat for special status plants such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County.</li> </ul>				

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<p><b>BIO-3: Minimize impacts to special status wildlife.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact special status wildlife as determined by a qualified biologist, a CDFW-approved wildlife biologist shall conduct a survey to document the presence or absence of suitable habitat for special status wildlife in the project site. The following steps shall be implemented to document special status wildlife and their habitats for each project, as determined by the CDFW-approved wildlife biologist:</p> <ul style="list-style-type: none"> <li>• Review Existing Information. The wildlife biologist shall review existing information to develop a list of special status wildlife species that could occur in the project area or be impacted by the proposed project, either directly or indirectly (e.g., groundwater pumping could result in indirect impacts to off-site habitats for special status wildlife). The following information shall be reviewed as part of this process: the USFWS special status species list for the project region, CDFW's CNDDDB, previously prepared environmental documents, and USFWS issued biological opinions for previous projects. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of special status wildlife from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.</li> <li>• Coordinate with State and Federal Agencies. The wildlife biologist shall coordinate with the appropriate agencies (CDFW, USFWS, BLM) to discuss wildlife resource issues in the project region and determine the appropriate level of surveys necessary to document special status wildlife and their habitats.</li> <li>• Conduct Field Studies. The wildlife biologist shall evaluate existing habitat conditions and determine what level of biological surveys may be required. The type of survey required shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on the existing conditions in the project area and the proposed construction activity, one or a combination of the following</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>levels of survey may be required:</p> <ul style="list-style-type: none"> <li>• <b>Habitat Assessment.</b> A habitat assessment determines whether suitable habitat is present. The wildlife biologist shall conduct project-specific habitat assessments consistent with protocols and guidelines issued by responsible agencies for certain special status species (e.g., USFWS' 2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California). Habitat assessments are used to assess and characterize habitat conditions and to determine whether return surveys are necessary. If no suitable habitat is present for a given special status species, no additional species-focused or protocol surveys shall be required.</li> <li>• <b>Species-Focused Surveys.</b> Project-specific species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status wildlife and if it is necessary to determine the presence or absence of the species in the project area. The wildlife biologist shall conduct project-specific surveys focusing on special status wildlife species that have the potential to occur in the region. The surveys shall be conducted during a period when the target species are present and/or active.</li> <li>• <b>Protocol-Level Wildlife Surveys.</b> The wildlife biologist shall conduct project specific protocol level surveys for special status species with the potential to be impacted by the proposed project. The surveys shall comply with the appropriate protocols and guidelines issued by responsible agencies for the special status species. USFWS and CDFW have issued survey protocols and guidelines for several special- status wildlife species that could occur in the project region, including (but not limited to): bald eagle, burrowing owl, golden eagle, Swainson's hawk, least Bell's vireo, willow flycatcher, desert tortoise, and desert kit fox. The protocols and guidelines may require that surveys be conducted during a particular time of year and/or time of day when the species is present and active. Many survey protocols require that only a USFWS- or CDFW-approved biologist perform the surveys. The project proponent shall coordinate with the appropriate state or federal agency biologist before the initiation of protocol-level surveys to</li> </ul>				



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<p>ensure that the survey results would be valid. Because some species can be difficult to detect or observe, multiple field techniques may be used during a survey period and additional surveys may be required in subsequent seasons or years as outlined in the protocol or guidelines for each species.</p> <ul style="list-style-type: none"> <li>• Habitat Mapping. The wildlife biologist shall map special status wildlife or suitable habitat identified during the project-specific field surveys.</li> <li>• A Scientific Collecting Permit is required to take, collect, capture, mark, or salvage, for scientific, educational, and non-commercial propagation purposes, mammals, birds and their nests and eggs, reptiles, amphibians, fishes and invertebrates (Fish and Game Code Section 1002 and Title 14 Sections 650 and 670.7). All biologists will be required to obtain a Scientific Collecting Permit that may be required to handle any live or dead animals during construction or operation of a project.</li> </ul> <p>In addition, the following measures should be implemented to avoid and minimize impacts on special status species and their habitats if they occur within a site:</p> <ul style="list-style-type: none"> <li>• For projects that are determined to have the potential to result in "take" of state or federally-listed animal species, consultation shall be conducted with CDFW or USFWS respectively and appropriate mitigation measures developed as necessary, and take authorization shall be obtained prior to project commencement, if relevant.</li> <li>• If ground disturbing activities are required prior to site mobilization, such as for geotechnical borings or hazardous waste evaluations, a CDFW-approved biologist shall be present to monitor any actions that could disturb soil, vegetation, or wildlife.</li> <li>• In areas that could support desert tortoise or any other sensitive wildlife species, a qualified biologist with the appropriate CDFW and/or USFWS approvals for the species being relocated shall be onsite and respond accordingly should an animal need to be relocated...</li> </ul>				

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<ul style="list-style-type: none"> <li>• Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. Vehicles shall not exceed 25 mph on the project site. Vehicles shall abide by posted speed limits on paved roads.</li>   <li>• A CDFW-approved biologist shall be designated to oversee compliance with biological resources avoidance and minimization measures during mobilization, ground disturbance, grading, construction, operation, and closure/decommissioning, or project abandonment, particularly in areas containing or known to have contained sensitive biological resources, such as special status species and unique plant assemblages. The CDFW-approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The boundaries of all areas to be disturbed (including staging areas, access roads, and sites for temporary placement of spoils) shall be delineated with stakes and flagging prior to construction activities in consultation with the biological monitor. Spoils shall be stockpiled in disturbed areas lacking native vegetation and which do not provide habitat for special status species. Parking areas, staging and disposal site locations shall also be located in areas without native vegetation or special status species habitat. All disturbances, vehicles, and equipment shall be confined to the flagged areas. The CDFW-approved biologist shall be responsible for actions including, but not limited to, the following:           <ul style="list-style-type: none"> <li>○ Clearly marking sensitive biological resource areas and inspecting the areas at appropriate intervals for meeting regulatory terms and conditions.</li> <li>○ Inspecting, daily, active construction areas where wildlife may have become trapped (for example, trenches, bores, and other excavation sites that constitute wildlife pitfalls outside the permanently fenced area) before beginning construction. At the end of the day, conducting wildlife inspections of installed structures that would entrap or not allow escape during periods of construction inactivity. Periodically inspecting areas with</li> </ul> </li> </ul>				

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<p>high vehicle activity (such as parking lots) for wildlife in harm's way.</p> <ul style="list-style-type: none"> <li>○ Periodically inspect stockpiled material and other construction material and equipment (including within the fenced areas) throughout the day as some species such as desert kit fox may enter the project site at any time.</li> <li>○ Overseeing special status plant salvage operations.</li> <li>○ Immediately recording and reporting hazardous spills immediately as directed in the project hazardous materials management plan.</li> <li>○ Coordinating directly and regularly with permitting agency representatives regarding biological resources issues, and implementation of the biological resource avoidance and minimization measures.</li> <li>○ Maintaining written records regarding implementation of the biological resource avoidance and minimization measures, and providing a summary of these records periodically in a report to the appropriate agencies.</li> <li>○ Notifying the project owner and appropriate agencies of non-compliance with biological resource avoidance and minimization measures.</li> <li>○ At the end of each work day, the biological monitor shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled or if backfilling is not feasible, the biological monitor shall ensure that all trenches, bores, and other excavations are sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with desert tortoise-exclusion fencing. All trenches, bores, and other excavations outside the areas permanently fenced with desert tortoise exclusion fencing shall be inspected periodically, but no less than three times, throughout the day and at the end of each workday by the CDFW-approved biologist. Should a tortoise or other wildlife become trapped, the CDFW and USFWS-approved desert tortoise biologist shall remove and relocate the individual as described in the project's Desert Tortoise Relocation/Translocation Plan. Any wildlife encountered during</li> </ul>				

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<p>the course of construction shall be allowed to leave the construction area unharmed.</p> <ul style="list-style-type: none"> <li>○ Any construction pipe, culvert, or similar structure with a diameter greater than 1 inch, stored less than 8 inches aboveground, and within desert tortoise habitat (i.e., outside the permanently fenced area) for one or more nights, shall be inspected by the biological monitor for desert tortoises or other special status species such as fringe-toed lizard, before the material is moved, buried, or capped. As an alternative, all such structures may be capped before being stored outside the fenced area, or placed on pipe racks. These materials would not need to be inspected or capped if they are stored within the permanently fenced area after the clearance surveys have been completed.</li> <li>● Access roads, pulling sites, storage and parking areas outside of the fenced solar facility area shall be designed, installed, and maintained with the goal of minimizing impacts to native plant communities and sensitive biological resources. Transmission lines and all electrical components shall be designed, installed, and maintained in accordance with the APLIC Suggested Practices for Avian Protection on Power Lines (APLIC 2006) and Mitigating Bird Collisions with Power Lines (APLIC 2004) to reduce the likelihood of bird electrocutions and collisions.</li> <li>● Facility lighting shall be designed, installed, and maintained to direct light downwards towards the project site and avoid light spillover to wildlife habitat.</li> <li>● Construction and operation related noise levels shall be minimized to minimize impacts to wildlife.</li> <li>● All vertical pipes shall be capped to prevent the entrapment of birds and other wildlife.</li> <li>● All vehicles and equipment shall be maintained in proper working condition to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials. The biological monitor shall be informed of any hazardous spills immediately. Hazardous spills shall be immediately cleaned up and</li> </ul>				

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<p>the contaminated soil properly disposed of at a licensed facility. Servicing of construction equipment shall take place only at a designated area. Service/maintenance vehicles shall carry a bucket and pads to absorb leaks or spills.</p> <ul style="list-style-type: none"> <li>• Road surfacing and sealants as well as soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants. Anticoagulants shall not be used for rodent control. Pre-emergents and other herbicides with documented residual toxicity shall not be used. Herbicides shall be applied in conformance with federal, state, and local laws and according to the guidelines for wildlife- safe use of herbicides in BIO 24 (Weed Management Plan).</li> <li>• The following measures shall be implemented to minimize attractants to wildlife:             <ul style="list-style-type: none"> <li>○ If the application of water is needed to abate dust in construction areas and on dirt roads, use the least amount needed to meet safety and air quality standards and prevent the formation of puddles, which could attract wildlife to construction sites. The biological monitor shall patrol these areas to ensure water does not puddle and attract desert tortoise, common ravens, and other wildlife to the site and shall take appropriate action to reduce water application where necessary.</li> <li>○ Water shall be prohibited from collecting or pooling for more than 24 hours after a storm event within the project retention basin. Standing water within the retention basin shall be removed, pumped, raked, or covered. Alternative methods or the timeframe for allowing the water to pool may be modified with the approval of the biological monitor.</li> <li>○ Dispose trash and food-related items in self-closing, sealable containers with lids that latch to prevent wind and wildlife from opening containers. Empty trash containers daily and remove from the project site those associated with construction when construction is complete.</li> <li>○ To avoid attracting insectivorous birds and bats, prepare a facility vector (such as mosquitoes or rodents) control plan, as appropriate, that meets the permitting agency approval and</li> </ul> </li> </ul>				

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<p>would be implemented during all phases of the project.</p> <ul style="list-style-type: none"> <li>• Workers or visitors, while on project property, shall be prohibited from feeding wildlife, bringing domestic pets to the project site, collecting native plants, or harassing wildlife.</li> <li>• To reduce the potential for the transmission of fugitive dust the project proponent shall implement dust control measures. These shall include: <ul style="list-style-type: none"> <li>○ The project proponent shall apply non-toxic soil binders, equivalent or better in efficiencies than the CARB- approved soil binders, to active unpaved roadways, unpaved staging areas, and unpaved parking area(s) throughout construction to reduce fugitive dust emissions.</li> <li>○ Water the disturbed areas of the active construction sites at least three times per day and more often if uncontrolled fugitive dust is noted. Enclose, cover, water twice daily, and/or apply non-toxic soil binders according to manufacturer's specifications to exposed piles with a 5 percent or greater silt content. Agents with known toxicity to wildlife shall not be used.</li> <li>○ Establish a vegetative ground cover (in compliance with biological resources impact mitigation measures above) or otherwise create stabilized surfaces on all unpaved areas at each of the construction sites within 21 days after active construction operations have ceased.</li> <li>○ Increase the frequency of watering, if water is used as a soil binder for disturbed surfaces, or implement other additional fugitive dust mitigation measures, to all active disturbed fugitive dust emission sources when wind speeds (as instantaneous wind gusts) exceed 25 mph.</li> </ul> </li> <li>• A project-specific worker environmental awareness program (WEAP) shall be developed and carried out during all phases of the project (site mobilization, ground disturbance, grading, construction, operation, closure/decommissioning, or project abandonment, and restoration/reclamation activities). The WEAP shall include the biological resources present and the measures for minimizing impacts</li> </ul>				

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<p>to those resources. Interpretation for non-English speaking workers shall be provided, and all new workers shall be instructed in the WEAP. The project field construction office files will contain the names of onsite personnel (for example, surveyors, construction engineers, employees, contractors, contractor's employees/ subcontractors) who have participated in the education program. All employees and contractors shall be trained to carry out the WEAP and on their role in ensuring the effectiveness of implementing the Plan. At a minimum, the WEAP shall including the following:</p> <ul style="list-style-type: none"> <li>○ Photos and habitat descriptions for special status species that may occur on the project site and information on their distribution, general behavior, and ecology.</li> <li>○ Species sensitivity to human activities.</li> <li>○ Legal protections afforded the species.</li> <li>○ Project measures for protecting species.</li> <li>○ State and federal law violation penalties.</li> <li>○ Worker responsibilities for trash disposal and safe/ humane treatment of special status species found on the project site, associated reporting requirements, and specific required measures to prevent taking of threatened or endangered species.</li> <li>○ Handout materials summarizing the contractual obligations and protective requirements specified in project permits and approvals.</li> <li>○ Project site speed limit requirements and penalties.</li> </ul> <ul style="list-style-type: none"> <li>● A project specific restoration, re-vegetation, and reclamation plan that meets the approval of permitting agencies shall be prepared and carried out for all projects. The plan shall address at a minimum:           <ul style="list-style-type: none"> <li>○ Minimizing natural vegetation removal and the consideration of cutting or mowing vegetation rather than total removal, whenever possible.</li> <li>○ Salvage and relocation of cactus and yucca from the site before beginning construction.</li> <li>○ Identification of protocols to be used for vegetation salvage.</li> <li>○ Reclaiming areas of temporarily disturbed soil using certified weed free native vegetation and topsoil salvaged from</li> </ul> </li> </ul>				

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<p>excavations and construction activities.</p> <ul style="list-style-type: none"> <li>○ Restoration and reclamation of temporarily disturbed areas, including pipelines, transmission lines, staging areas, and temporary construction-related roads as soon as possible after completion of construction activities. The actions are recommended to reduce the amount of habitat converted at any one time and promote recovery to natural habitats.</li> <li>○ Specifying proper seasons and timing of restoration and reclamation activities to ensure success.</li> </ul> <ul style="list-style-type: none"> <li>● If any solar development projects are proposed that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for indirect off-site impacts to special status wildlife species and/or their habitats. If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status wildlife species (e.g., Amargosa vole, Ash Meadows naucorid), a management plan will be prepared in coordination with the County and submitted for approval to the appropriate resource agency with regulatory oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on off-site habitat for special status wildlife such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County.</li> </ul>				
<p><b>BIO-4: Minimize impacts to special status fish.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status fish, a project-specific groundwater impact analysis will be conducted to address potential impacts to habitat for special status fish. In addition, consultation with USFWS shall be conducted for projects with the potential to impact federally listed species including Owens pupfish or Owens tui chub and coordination with CDFW will be conducted for projects with the potential to impact state listed species or CDFW species of special concern including Owens sucker and Owens</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	



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<p>speckled dace. For projects that are determined to have the potential to result in “take” of state or federally listed fish species, consultation shall be conducted with CDFW or USFWS respectively and take authorization obtained prior to project commencement.</p> <p>For all projects proposed in the Charleston View and Chicago Valley SEDAs, an analysis of potential down-watershed impacts to special-status fish species in the Amargosa Watershed will be conducted prior to project approval, if the project involves impacts to groundwater and/or requires pumping of groundwater (e.g. solar thermal projects). If the project is determined to have the potential to result in down-watershed impacts that could alter the hydrology of habitats for special-status fish species, a mitigation and monitoring plan will be prepared by the applicant to address potential impacts to groundwater and down-watershed biological resources and submitted to USFWS and CDFW for approval prior to project implementation. Mitigation measures will be developed in coordination with USFWS and CDFW to offset these impacts. Mitigation measures should include but are not limited to 1) a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio; 2) hydrological and biological monitoring of the impacts of groundwater pumping on the groundwater system and the sensitive habitats down-watershed; and 3) adaptive management to increase the ratio of water rights purchased and retired and restore habitats down-watershed if hydrological and biological monitoring indicates that the projects groundwater pumping is having detrimental effects to sensitive biological resources (e.g., special status species or sensitive natural communities as designated by USFWS, CDFW, or CNPS) within the watershed as determined by a qualified hydrologist/hydrogeologist or biologist in coordination with USFWS and/or CDFW.</p>				
<p><b>BIO-5: Minimize impacts to amphibians.</b></p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status amphibians.</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
<ul style="list-style-type: none"> <li>• Surveys for special status amphibians including but not limited to northern leopard frog, Owens Valley web-toed salamander, and Inyo Mountains slender salamander shall be conducted by a CDFW-approved biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction.</li> <li>• If any of these species are found on a project site during the surveys, CDFW shall be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats.</li> <li>• If federal or state-listed amphibians not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project, consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species. For projects that are determined to have the potential to result in "take" of state or federally-listed amphibian species, consultation shall be conducted with CDFW or USFWS respectively and take authorization shall be obtained prior to project commencement.</li> </ul>				
<p><b>BIO-6: Minimize impacts to desert tortoise.</b></p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

**Table 1**  
**INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR**  
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<p>BIO-1) to have the potential to affect desert tortoise in order to avoid, minimize, and mitigate for impacts:</p> <ul style="list-style-type: none"> <li>• Consultation shall be conducted with CDFW and USFWS for any projects where desert tortoise or signs of their presence is found on the site and/or the project is determined by a CDFW-approved biologist to have the potential to impact desert tortoise. In such cases, permits under Section 2080 of the Fish and Game Code and Section 7/10 of FESA authorizing incidental take of desert tortoise will be obtained from CDFW and USFWS respectively prior to implementation of the project, including any project-related ground disturbing activities. All requirements of the 2081/2080.1 permit and the Biological Opinion shall be implemented.</li> <li>• The project proponent shall fully mitigate for habitat loss and potential take of desert tortoise. The project specific mitigation shall be developed in coordination with CDFW and USFWS, and would be reflective of the mitigation measures described in the Biological Opinion prepared by the USFWS for the project.</li> <li>• The project developer shall provide funds for regional management of common ravens through the payment of a per-acre fee as determined in consultation with the USFWS. The fee shall be commensurate with current per-acre fees (at the time of project approval) required by the BLM and the CEC for development projects in the desert with the potential to provide subsidies to common ravens such as shelter, perching sites, and food. The fee shall be used by the Desert Managers Group to manage common ravens in the California desert with the goal of reducing their predation on desert tortoises.</li> <li>• Projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, Areas of Critical Environmental Concern, Desert Wildlife Management Areas, Priority Connectivity Areas, and other areas or easements managed for desert tortoises).</li> </ul>				

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<ul style="list-style-type: none"> <li>• On project sites containing desert tortoise, consultation shall be conducted with USFWS and CDFW to determine the need for and/or feasibility of conducting desert tortoise translocation (changing location or position) to minimize the taking of the tortoises, if they are observed within the proposed project area. See <a href="http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/">http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/</a> for federal translocation plan guidance. Translocation plan development and implementation may require, but not be limited to: additional surveys of potential recipient sites; translocated and resident tortoise disease testing and health assessments; monitoring protocols; and consideration of climatic conditions at the time of translocation. Due to the potential magnitude of proposed renewable energy project impacts on desert tortoises, USFWS and CDFW must evaluate translocation efforts on a project by project basis in the context of cumulative effects.</li> <li>• A desert tortoise authorized biologist approved by CDFW and USFWS shall be contracted to oversee and be responsible for ensuring compliance with desert tortoise avoidance and minimization measures before initiation of and during ground-disturbing activities. The desert tortoise biologist shall conduct clearance surveys, tortoise handling, artificial burrow construction, egg handling, and other procedures in accordance with the Guidelines for Handling Desert Tortoise During Construction Projects (Desert Tortoise Council 1999) or the most current USFWS guidance. The desert tortoise biologist shall be present on site from March 15 through October 31 (active season) during ground-disturbing activities in areas outside the tortoise exclusion fencing. It is recommended that the biologist be on call from November 1 to March 14 (inactive season) and checks such construction areas immediately before construction activities begin.</li> <li>• Refer to the Ventura Fish and Wildlife Office website &lt;<a href="http://www.fws.gov/ventura/endangered/species/surveys-protocol.html">http://www.fws.gov/ventura/endangered/species/surveys-protocol.html</a>&gt; for desert tortoise authorized biologist and monitor responsibilities and qualifications, and survey and translocation guidance, and refer to the Nevada Fish and Wildlife Office (desert</li> </ul>				

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<p>tortoise recovery office) website &lt;<a href="http://www.fws.gov/nevada/desert_tortoise/dtro/.html">http://www.fws.gov/nevada/desert_tortoise/dtro/.html</a>&gt; for desert tortoise federal recovery plan documents. Methods for clearance surveys, fence specification and installation, tortoise handling, artificial burrow construction, egg handling and other procedures shall be consistent with those described in the 2013 USFWS Desert Tortoise Field Manual available at the Ventura Fish and Wildlife Office website listed above, or more current guidance provided by CDFW and USFWS. All terms and conditions described in the Biological Opinion for the project prepared by the USFWS shall be implemented.</p> <ul style="list-style-type: none"> <li>• The project owner shall undertake appropriate measures to manage the construction site and related facilities in a manner to avoid or minimize impacts to desert tortoise. These measures include, but are not limited to, the following:           <ul style="list-style-type: none"> <li>○ The project applicant shall notify the USFWS and CDFW prior to project commencement and prior to the commencement of any ground disturbing activities.</li> <li>○ Before starting project ground disturbing activities, the project proponent shall avoid potential desert tortoise harm by incorporating desert tortoise exclusion fencing into permanent fencing surrounding the proposed facility, and installing desert tortoise exclusion fencing around temporary project construction areas such as staging area, storage yards, excavations, and linear facilities. The tortoise exclusion fencing shall be constructed consistent with the USFWS 2010 Desert Tortoise Exclusion Fence Specifications or the most current guidance provided by USFWS and CDFW, and should be constructed in late winter or early spring to minimize impacts to desert tortoise and accommodate subsequent tortoise surveys.</li> <li>○ Within 24 hours before starting tortoise exclusion fence construction, the desert tortoise biologist shall survey the fence alignment and utility right-of-way alignments and clear desert tortoises from the area. The surveys and relocation methods shall be conducted using techniques approved by the CDFW and USFWS. Following construction of the tortoise exclusion fence,</li> </ul> </li> </ul>				

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<p>the desert tortoise biologist shall conduct clearance surveys within the fenced area to ensure as many desert tortoises as possible have been removed from the site. Burrows and tortoises identified within the project area shall be handled according to the 2013 USFWS Desert Tortoise Field Manual, and tortoises requiring relocation shall be handled in accordance with the project Desert Tortoise Relocation/Translocation Plan.</p> <ul style="list-style-type: none"> <li>○ Heavy equipment may enter the project site following the completion of project area desert tortoise clearance surveys by the desert tortoise biologist. Monitoring initial clearing and grading activities by the biologist will help ensure that tortoises missed during the initial clearance survey are moved from harm's way.</li> <li>○ The desert tortoise biologist shall be responsible for appropriate documentation and reporting to the permitting agencies for desert tortoises handled, in accordance with the project Desert Tortoise Relocation/Translocation Plan.</li> <li>○ Security gates shall be designed with minimal ground clearance to deter ingress by tortoises. The gates shall be kept closed, except for the immediate passage of vehicles, to prevent desert tortoise passage into the project area.</li> <li>○ Following installation of the desert tortoise exclusion fencing – both the permanent site fencing and temporary fencing in the utility corridors – the fencing shall be regularly inspected by the biological monitor. The biological monitor shall ensure that damage to the permanent or temporary fencing is immediately blocked to prevent tortoise access and permanently repaired within 72 hours between March 15 and October 31, and within 7 days between November 1 and March 14. The biological monitor shall inspect permanent fencing quarterly and after major rains to ensure fences are intact and there is no ground clearance under the fence that would allow tortoises to pass. The biologist shall inspect construction pipes, culverts, or similar structures: (a) with a diameter greater than 3 inches, (b) stored for one or more nights, (c) less than 8 inches aboveground, and (d) within desert tortoise habitat (outside the permanently fenced area), before the materials are moved, buried, or capped. As an</li> </ul>				

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<p>alternative, the materials may be capped before storing outside the fenced area or placing on pipe racks. Inspection or capping is not necessary if the materials are stored within the permanently fenced area after completing desert tortoise clearance surveys.</p> <ul style="list-style-type: none"> <li>○ The project proponent shall ensure vehicular traffic does not exceed 25 miles per hour within the delineated project areas or on access roads in desert tortoise habitat. On unpaved roads suppress dust and protect air quality by observing a 10-mile per hour speed limit.</li> <li>○ To avoid vehicle impacts to desert tortoise, workers shall be responsible for inspecting the ground under the vehicle for the presence of desert tortoise any time a vehicle or construction equipment is parked in desert tortoise habitat outside the permanently fenced area. If a desert tortoise is seen, it may move on its own. If it does not move within 15 minutes, the desert tortoise biologist may remove and relocate the animal to a safe location.</li> <li>● The project proponent shall develop and implement a Desert Tortoise Relocation/Translocation Plan that is consistent with current USFWS approved guidelines. The goal of the plan will be to safely exclude desert tortoises from within the fenced project area and relocate/translocate them to suitable habitat capable of supporting them, while minimizing stress and potential for disease transmission. The plan shall be developed in consultation with the USFWS to ensure the document does not conflict with conditions issued under an Incidental Take Statement. The plan will utilize the most recent USFWS guidance on translocation that includes siting criteria for the translocation site and control site, methods for translocation/relocation including the holding pen, and post translocation/relocation monitoring. Development and implementation of a translocation plan may require, but may not be limited to, additional surveys of potential recipient sites; disease testing and health assessments of translocated and resident tortoises; and consideration of climatic conditions at the time of translocation. The plan shall designate a relocation site as close as possible to the disturbance site that provides suitable conditions for long term</li> </ul>				

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<p>survival of the relocated desert tortoise and outline a method for monitoring the relocated tortoise.</p> <ul style="list-style-type: none"> <li>• The Desert Tortoise Relocation/Translocation Plan must be approved by the County, CDFW and USFWS prior to any project-related ground disturbing activity.</li> <li>• Within 30 days after initiation of relocation and/or translocation activities, the Designated Biologist shall provide to the Project Manager for review and approval, a written report identifying which items of the plan have been completed, and a summary of all modifications to measures made during implementation of the plan. Written monthly progress reports shall be provided to the Project Manager for the duration of the plan implementation.</li> <li>• The project proponent shall design and implement a Raven Monitoring, Management, and Control Plan that is consistent with the most current USFWS raven management guidelines. The goal of the plan shall be to minimize predation on desert tortoises by minimizing project-related increases in raven abundance. The plan shall be approved by the County, CDFW and USFWS prior to the start of any project-related ground disturbing activities.</li> </ul>				
<p><b>BIO-7: Minimize impacts to special status reptiles (except desert tortoise).</b></p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status reptiles (with the exception of desert tortoise which has separate mitigation measures):</p> <ul style="list-style-type: none"> <li>• Surveys for special status reptiles including but not limited to northern sagebrush lizard, Panamint alligator lizard, and Mojave fringe-toed lizard shall be conducted by a CDFW-approved biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	



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<p>construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction.</p> <ul style="list-style-type: none"> <li>• If any of these species are found on a project site during the surveys, CDFW will be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats.</li> <li>• If federal or state-listed reptiles not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project, consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species.</li> </ul>				
<p><b>BIO-8: Minimize impacts to Swainson’s hawk.</b></p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect Swainson’s hawk:</p> <ul style="list-style-type: none"> <li>• Surveys shall be conducted for Swainson’s hawk by a CDFW-approved biologist according to the 2010 Swainson’s Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (California Department of Fish and Game [CDFG] 2010) or more recent guidance, unless otherwise directed by CDFW. This guidance dictates survey methods for detecting Swainson’s hawk nesting in or in the vicinity of a project site and measure to avoid and/or reduce impacts to nesting Swainson’s hawk if they are found. The project applicant shall be</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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responsible for coordinating with CDFW and ensuring that the CDFW guidance is implemented.				
<p><b>BIO-9: Minimize impacts to burrowing owl.</b></p> <p>The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect burrowing owl, unless otherwise directed by CDFW:</p> <ul style="list-style-type: none"> <li>• In the calendar year that construction is scheduled to commence, surveys will be conducted by a CDFW-approved biologist to determine presence/absence of burrowing owls and/or occupied burrows in the project site and accessible areas within 500 feet according to the <i>CDFW's Staff Report on Burrowing Owls</i> (CDFG 2012). A non-breeding season survey will be conducted between December 1 and January 31 and a breeding season survey will be conducted between April 15 and July 15 according to established protocols (CDFG 2012). Pre-construction surveys will also be conducted within 30 days prior to construction to ensure that no additional burrowing owls have established territories since the initial surveys. If no burrowing owls are found during any of the surveys, no further mitigation will be necessary. If burrowing owls are found, then the following measures shall be implemented prior to the commencement of construction: <ul style="list-style-type: none"> <li>○ During the non-breeding season (September 1 through January 31) burrowing owls should be evicted by passive relocation as described in the Staff Report on Burrowing Owls (CDFG 2012).</li> <li>○ Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) occupied burrows shall not be disturbed and shall be provided with a 75-meter protective buffer unless a qualified biologist approved by CDFW verifies through non-invasive means that either: (1) the birds have not begun egg laying or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival.</li> </ul> </li> </ul>	Prior to approval and/or issuance of Major Use Permits / prior to construction	Prior to approval and/or issuance of Major Use Permits / prior to construction	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> <li>○ If on-site avoidance is required, the location of the buffer zone will be determined by a qualified biologist. The developer shall mark the limit of the 75-meter buffer zone with yellow caution tape, stakes, or temporary fencing. The buffer will be maintained throughout the construction period.</li> <li>○ Where on-site avoidance is not possible, CDFW should be consulted regarding the appropriate avoidance and minimization measures to avoid impacts to this species.</li> </ul>				
<p><b>BIO-10: Minimize impacts to western snowy plover, western yellow-billed cuckoo, Inyo California towhee, and bank swallow.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect federally-listed bird species for which survey protocols have not been published, including the western snowy plover, Inyo California towhee, and bank swallow, the USFWS shall be contacted to develop project specific measures to determine the potential for presence/absence of the species in the project area and appropriate avoidance and mitigation measures. For projects in the desert portions of the County, contact the Palm Springs Fish and Wildlife Office. For projects in the forested portions of the County or the Owens Valley, contact the Nevada Fish and Wildlife Office. Mitigation measures shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take” of federally-listed bird species, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. Western yellow-billed cuckoo, Inyo California towhee, and bank swallow are also state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of these species (as</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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defined by the Fish and Game Code).				
<p><b>BIO-11: Minimize impacts to southwestern willow flycatcher.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect southwestern willow flycatcher, surveys shall be conducted according to Southwestern Willow Flycatcher Protocol Revision 2010 (<a href="http://www.fws.gov/mountain-prairie/endspp/protocols/SWWFReport.pdf">http://www.fws.gov/mountain-prairie/endspp/protocols/SWWFReport.pdf</a>) following the guidelines for the revised protocol for project-related surveys or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office. For projects that are determined to have the potential to result in “take” of southwestern willow flycatcher, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. Southwestern willow flycatcher is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as defined by the Fish and Game Code). Mitigation measures shall be implemented and shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	
<p><b>BIO-12: Minimize impacts to bald and golden eagle.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect bald and golden eagles, the project proponent shall implement the following measures to avoid and offset impacts:</p> <ul style="list-style-type: none"> <li>• Site specific surveys and monitoring of known or suspected eagle nesting and foraging habitat in areas where eagles occur (i.e., all of California) shall be conducted to provide background information</li> </ul>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	

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<p>related to bald eagle take permits (golden eagle is fully protected pursuant to Fish and Game Code and no permits may be issued for their take). Surveys shall be conducted using (at least) methods and qualified personnel as recommended by CDFW and USFWS. Surveys shall be conducted according to the USFWS 2010 Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations (available online at <a href="http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/usfws_interim_goea_monitoring_protocol_10march2010.pdf">http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/usfws_interim_goea_monitoring_protocol_10march2010.pdf</a>), the USFWS's 2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California and CDFW's 2010 Bald Eagle Breeding Survey Instructions (both documents are available online at <a href="http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html">http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html</a>) or the most recent guidance regarding non-breeding season surveys for winter, migratory, and floating populations of eagles determined in coordination with CDFW and USFWS.</p> <ul style="list-style-type: none"> <li>• Where proposed projects may result in take of bald eagles, the USFWS shall be consulted to determine the standards and requirements for the permit titled "Eagle Take - Necessary to Protect Interests in a Particular Locality." Bald eagle take permits are performance based and will hinge on the merits of the application. The permit application form and related information are on the USFWS website: <a href="http://www.fws.gov/migratorybirds/baldeagle.htm">http://www.fws.gov/migratorybirds/baldeagle.htm</a>. The final rule (Federal Register / Vol. 74, No. 175, September 11, 2009), Environmental Assessment (<a href="http://www.fws.gov/migratorybirds/CurrentBirdIssues/BaldEagle/EA_EagleTakePermit_Final.pdf">http://www.fws.gov/migratorybirds/CurrentBirdIssues/BaldEagle/EA_EagleTakePermit_Final.pdf</a>), implementation and protocol documents, and consultations with USFWS will provide additional guidance.</li> <li>• Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas</li> </ul>				

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<p>used by eagles for thermal or orographic lift.</p> <ul style="list-style-type: none"> <li>• Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas used by eagles for thermal or orographic lift.</li> <li>• Projects shall incorporate actions to avoid eagle disturbance (refer to the USFWS National Bald Eagle Management Guidelines, May 2007 and Interim Golden Eagle Technical Guidance: Inventory and Monitoring Protocols; and Other Recommendations in Support of Golden Eagle Management and Permit Issuance, Attachment II) in consultation with the USFWS to obtain the most current guidance and measures.</li> </ul>				
<p><b>BIO-13: Minimize impacts to least Bell’s vireo.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to contain habitat for least Bell’s vireo on or adjacent to the site, surveys shall be conducted according to the USFWS’s Least Bell’s Vireo Survey Guidelines (<a href="http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/LBVireo.2001.protocol.pdf">http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/LBVireo.2001.protocol.pdf</a>) or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office.</p> <p>For projects that are determined to have the potential to result in “take” of least Bell’s vireo, either on or off-site due to direct or indirect impacts, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. Least Bell’s vireo is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>defined by the Fish and Game Code).</p> <p>For projects with the potential to result in direct or indirect impacts to least Bell’s vireo or its habitat, mitigation measures shall be developed in consultation with USFWS and CDFW and shall be implemented prior to project implementation. Such measures shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, habitat restoration, and compensatory mitigation for loss of habitat that may include implementation of captive breeding programs</p>				
<p><b>BIO-14: Minimize impacts to bighorn sheep.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect bighorn sheep, the project applicant shall retain a qualified biologist, approved by the USFWS and CDFW, to conduct preconstruction surveys for Sierra Nevada bighorn sheep and/or Peninsular and Mojave bighorn sheep depending on the location of the project. Due to low detection probabilities, the following data shall be used when evaluating potential projects impacts to the species: data relative to historic ranges of bighorn sheep; known and potential wildlife corridors (such as, those identified in the BLM Mojave and Colorado deserts land use plans); point location data; and existing literature. If bighorn sheep or their migration routes exist, are known or likely to occur on or in the vicinity of the project site, and may be affected by project-related activities, consultation shall be conducted with USFWS, CDFW, and other stakeholders, as appropriate, regarding avoidance, minimization, compensatory mitigation, or site abandonment.</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	
<p><b>BIO-15: Minimize impacts to Sierra Nevada red fox.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect Sierra Nevada red fox, CDFW shall be contacted to</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>develop project specific measures to determine the potential for presence/absence of this species in the project area and appropriate avoidance and mitigation measures. Mitigation measures shall include, but are not limited to, a species specific habitat assessment and/or focused surveys to determine whether Sierra Nevada red fox or its habitat is present in or adjacent to the project site, measures to avoid or minimize impacts to this species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take,” consultation will be conducted with CDFW under the California Endangered Species Act and incidental take authorization will be obtained prior to project commencement.</p>				
<p><b>BIO-16: Minimize impacts to Mohave ground squirrel.</b></p> <p>Protocol Mohave ground squirrel surveys shall be required for projects that propose impacts to habitat with potential to support Mohave ground squirrel or are within or adjacent to the species’ known range. Mohave ground squirrel surveys consist of a visual survey followed by 3 trapping sessions of 5 nights each (CDFW 2003). Each trapping session must be conducted during a specific time frame. The first session must be conducted between March 15 and April 30; the second between May 1 and May 31; and the third between June 15 and July 15. Trapping can be discontinued if a Mohave ground squirrel is trapped or observed, in which case the survey area is deemed to be occupied. If survey results are negative, the survey area will be deemed to be unoccupied for one year during which pre-construction surveys are not required. If survey results are positive, the project shall obtain an incidental take permit from CDFW under CESA Section 2081.</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	
<p><b>BIO-17: Minimize impacts to American badger and kit fox.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (mitigation measure BIO-1) to have the potential to affect American badger and/or kit fox, the following measures shall be implemented to avoid, minimize, and mitigate for impacts to these species:</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	



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<ul style="list-style-type: none"> <li>• The project proponent shall prepare and implement an American badger and/or kit fox management plan. The plan shall be prepared in accordance with the most current CDFW guidelines for these species. The plan shall be approved by CDFW prior to implementation. The plan shall include the following components:               <ul style="list-style-type: none"> <li>○ Preconstruction surveys and mapping efforts: biological monitors shall perform pre- construction surveys for badger and kit fox dens in the project area, including areas within 250 feet of all project facilities, utility corridors, and access roads. If dens are detected, each den shall be classified as inactive, potentially active, or definitely active, including characterization of den type for kit fox (natal, pupping, likely satellite, atypical) per CDFW guidance, and mapped along with major project design elements.</li> <li>○ Inactive dens that would be directly impacted by construction activities shall be excavated by hand and backfilled to prevent reuse by badgers or kit fox. Excavation and filling activities shall be performed by a CDFW-approved biologist. Potentially and confirmed active dens shall not be disturbed during the whelping/pupping season (February 1 to September 30).</li> <li>○ Monitoring requirements. Potentially and definitely active dens that would be directly impacted by construction activities shall be monitored by the CDFW-approved biologist for three consecutive nights (during weather conditions favorable for detection) using a tracking medium (such as diatomaceous earth or fire clay) and/or infrared camera stations at the entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand. If tracks are observed, the den shall be progressively blocked with natural materials (rocks, dirt, sticks, and vegetation piled in front of the entrance) for the next three to five nights to discourage the badger or kit fox from continued use. After verification that the den is unoccupied it shall then be excavated and backfilled by hand to ensure that no badgers or kit fox are trapped in the den.</li> <li>○ Passive relocation strategies. The management plan shall contain, at a minimum, several strategies to passively relocate</li> </ul> </li> </ul>				

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<p>animals from the site. These methods may entail strategic mowing, fencing, or other feasible construction methods to assist in moving animals offsite toward desirable land. The plan shall address location of preferred offsite movement of animals, based on CDFW data and land ownership. Even with permission from the landowner, private land is to be avoided to the maximum extent practicable.</p> <ul style="list-style-type: none"> <li>○ Escape dens shall be installed along the perimeter fencing to reduce predation risk.</li> <li>○ Kit fox disease prevention measures. The CDFW-approved biologist shall notify the County project manager and CDFW within 24 hours if a dead kit fox is found or appears sick. The plan must also detail a response to a kit fox injury, including a necropsy plan, reporting methods, and scope of adaptive methods in the event of a known or suspected outbreak. The project owner will pay for any necropsy work.</li> </ul>				
<p><b>BIO-18: Minimize impacts to other special status birds, raptors, migratory birds, nesting birds and bats.</b></p> <p>The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact nesting birds and/or bats and shall be implemented to avoid, minimize, and mitigate for impacts to birds and bats. These measures are for bird species without established protocols and non-listed bird species that lack species-specific mitigation measures (not applicable to the common raven). For future development proposed to be located on or near land with old mines, specific survey protocols and mine closure considerations shall be developed.</p> <p><b>Pre-Construction Bird Surveys and Avoidance Measures</b>        If project construction occurs between roughly February 1 and August 31, a CDFW-approved biologist shall conduct preconstruction surveys for nesting birds. The biologist(s) conducting the surveys shall be experienced bird surveyors and familiar with standard nest-locating techniques. Surveys shall be conducted in accordance with the following guidelines:</p> <ul style="list-style-type: none"> <li>• CDFW and/or USFWS (depending on the avian species in question)</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction / during operation</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction / during operation</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>shall be contacted to obtain approval of pre-construction survey methodology prior to commencement of the surveys.</p> <ul style="list-style-type: none"> <li>• Surveys shall cover all potential nesting habitat in the project site and within 500 feet of the project site and linear facilities boundaries - inaccessible areas outside of the project boundary may be surveyed from within the project site or publicly accessible land with the aid of binoculars.</li> <li>• Vegetation removal or other ground disturbing activities should be avoided between February 1 and August 31; however if it cannot be avoided, the CDFW-approved biologist shall survey breeding/nesting habitat within the survey radius described within one week prior to the start of project activities.</li> <li>• CDFW and/or USFWS must provide concurrence with the survey findings prior to the start of construction. Site preparation and construction activities may begin after receiving the concurrence and if no breeding/nesting birds are observed. Additional follow up surveys shall be conducted if periods of construction inactivity exceed one week in any given area, an interval during which birds may establish a nesting territory and initiate egg laying and incubation.</li> </ul> <p>If active nests are detected during the survey, a no-disturbance buffer zone (protected area surrounding the nest, the size of which is to be determined by the project biologist in consultation with CDFW and/or USFWS) and a monitoring plan shall be developed. The nesting bird plan shall identify the types of birds that may nest in the project area, the proposed buffers, monitoring requirements, and reporting standards that will be implemented to ensure compliance with the MBTA and Fish and Game Codes 3505 and 3505.3. The CDFW-approved biologist shall monitor the nest until he or she determines that nestlings have fledged and dispersed.</p> <p><b>Pre-Construction Bat Surveys and Avoidance Measures</b>          Preconstruction bat surveys shall be conducted by a CDFW-approved biologist(s) familiar with standard bat survey techniques. If night or day roosting bats are identified in project structures they shall not be disturbed and a 100 foot non-disturbance buffer shall be placed between the roost and</p>				

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<p>the construction activities until a determination is made whether the roost is a maternity roost or a non-breeding roost. Maternity colonies shall not be disturbed until coordination with CDFW is conducted to determine appropriate measures including an appropriate no-disturbance buffer. If the CDFW-approved bat biologist determines roosting bats consist of a non-breeding roost, the individuals shall be safely evicted under the direction of a CDFW-approved bat biologist. CDFW shall be notified of any bat evictions within 48 hours.</p> <p><b>Bat and Avian Protection Plan</b>            A bird and bat conservation strategy (BBCS) shall be prepared to reduce potential project impacts on migratory birds. The BBCS shall describe proposed actions to avoid, minimize, and mitigate adverse effects to migratory birds protected under the MBTA during construction and operations of the proposed project. The BBCS shall be submitted to USFWS and CDFW for approval prior to the start of ground disturbing activities. The BBCS shall address buffer distances for specific bird species and include a robust, systematic monitoring protocol to document mortality and habitat effects to birds. The monitoring protocol should incorporate the following objectives at a minimum: (1) a minimum of weekly monitoring for mortality and immediate necropsy to determine cause of death, both during construction and throughout the life of the project; (2) systematic data collection and reporting of bird mortality including data on the following: species, date, time, how the animal died (e.g., exhaustion, trauma), as well as any information on what might be attracting animals to the photovoltaic cells (light, insects, etc.); (3) a method to estimate the overall annual avian mortality rate associated with the facility, including mortality associated with all the features of the project that are likely to result in injury and mortality (e.g., fences, ponds, solar panels); and (4) methods to determine whether there is spatial differentiation within the solar field in the rates of mortality (i.e., panels on the edge of the field versus interior of the field). Biologists performing this work would be required to have a Scientific Collecting Permit from CDFW. Standardized and systematic data on bird and bat mortalities will be collected to contribute to the improvement of the scientific communities' understanding of both baseline and photovoltaic related mortality that occurs in solar projects in the desert and is needed in order to identify improved methods</p>				

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<p>to minimize adverse effects on migrating birds and bats.</p> <p>In the absence of a permit from the USFWS, the temporary or permanent possession of protected migratory birds and their carcasses is a violation of the MBTA. Because of the need for carcass collection to adequately monitor avian impacts during BBCS implementation and to reduce the food subsidy that carcasses may provide to common ravens (<i>Corvus corax</i>) and other predators, developers shall be required to obtain a special purpose utility permit from the USFWS allowing the collection of migratory birds and/or their carcasses prior to implementation of the monitoring protocol.</p> <p><b>General Bird Mortality Avoidance Measures</b>  The following measures shall be implemented to minimize bird mortality from birds attracted to solar facilities:</p> <ul style="list-style-type: none"> <li>• All potential nesting vegetation (e.g., trees, shrubs) shall be removed within the fenced area of the facility to decrease attractive habitat.</li> <li>• The most current science regarding visual cues to birds that the solar panel is a solid structure shall be implemented. This may include but is not limited to UV-reflective or solid, contrasting bands spaced no further than 28 centimeters from each other. An adaptive management approach for reducing bird collisions with solar panels shall be implemented in coordination with the USFWS so that measures used are systematically tested and modified as appropriate.</li> <li>• Projects with documented avian mortality shall work with the USFWS to conduct additional research to test measures for reducing avian mortality. Such measures could include, but are not limited to, experimental lighting within the solar field and use of detection and deterrent technologies.</li> <li>• Developers of power tower operations shall implement adaptive management in consultation with the USFWS should mortality monitoring indicate that suspension of power tower operations during certain periods is necessary to reduce impacts on local or regional bird populations. Such measures may include, but are not limited to, suspending or reducing project operations during peak migration</li> </ul>				

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<p>seasons.</p> <ul style="list-style-type: none"> <li>Vertical orientation of mirrors shall be avoided whenever possible (for example, mirrors shall be tilted during washing). Perch deterrent devices shall be placed on tower railings.</li> <li>Exclusionary measures shall be employed to prevent bats from roosting in and around the facility.</li> </ul> <p><b>Minimize Impacts from Solar Flux</b>            The following mitigation measures shall be implemented in order to minimize avian impacts from solar flux:</p> <ul style="list-style-type: none"> <li>Solar thermal developments utilizing solar power tower technologies shall be sited a minimum of 1,000 feet from Important Bird Areas, the OVSA, or riparian or other aquatic habitats including lakes, ponds, rivers, streams, and perennial wetland habitats unless potentially significant impacts are avoided, although the appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies. This requirement generally does not apply to seasonal or ephemeral wetland habitats unless deemed necessary by a qualified biologist in light of the wetland’s specific habitat value for bird species.</li> <li>The County shall require developers proposing solar power tower technology to coordinate with the USFWS during project planning. As part of that coordination process, and in conjunction with the project’s next tier of CEQA review, the USFWS will advise the County whether a Bird and Bat Conservation Strategy would be necessary for the project, and if required, would adequately reduce the effects of the project on migratory birds and bats.</li> </ul> <p><b>Minimize Impacts from Open Evaporation Ponds</b>            The following mitigation measures shall be implemented for projects that require the use of open evaporation ponds:</p> <ul style="list-style-type: none"> <li>An evaporation pond management plan shall be prepared and submitted to CDFW for approval prior to project approval.</li> </ul>				

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<ul style="list-style-type: none"> <li>• If the use of open evaporation ponds is permitted for the project and especially if the water would be considered toxic to wildlife, ponds shall be designed to discourage bird and other wildlife use by properly netting or otherwise covering the pond.</li> </ul> <p><b>Avoid Impacts from Electric Lines and Lights</b>  The following design measures shall be implemented for applicable projects to minimize impacts to bats and birds:</p> <ul style="list-style-type: none"> <li>• Transmission lines and electrical components shall be installed and maintained in accordance with the Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006 (APLIC 2006) or the most recent guidance to reduce the likelihood of electrocutions of raptors and other large birds, .</li> <li>• Transmission lines and electrical components shall be installed and maintained in accordance with the APLIC's <i>Reducing Avian Collisions with Power Lines: The State of the Art in 2012</i> (Edison Electric Institute 2012) or the most recent guidance to reduce the likelihood of bird collisions.</li> <li>• Low and medium voltage connecting power lines shall be placed underground, if feasible. If burial of the lines is not feasible due to cost or other logistical reasons (for example in shallow bedrock areas) or may cause unacceptable impacts to biological habitats and their dependent species, overhead lines may be installed in compliance with the following requirements: <ul style="list-style-type: none"> <li>○ low and medium voltage overhead lines shall be sited away from high bird crossing locations, such as between roosting and feeding areas or between lakes, rivers, and nesting areas; and/or</li> <li>○ low and medium voltage overhead lines shall be installed parallel to tree lines or be otherwise screened so that collision risk is reduced.</li> </ul> </li> <li>• Permanent communication towers and permanent meteorological towers shall not be constructed with guy wires, if feasible. If guy wires are necessary for permanent or temporary towers, bird flight diverters or high visibility marking devices shall be used. In such</li> </ul>				

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<p>cases a monitoring plan shall be developed and carried out to determine the diverters'/devices' effectiveness in reducing bird and bat mortality.</p> <ul style="list-style-type: none"> <li>• Facility lighting shall be installed and maintained to prevent upward and side casting of light towards wildlife habitat and motion sensors shall be used. If the FAA requires turbine or tower lighting to alert aircraft, red or white strobe lights shall be used on the structures to minimize avian collision risks. The strobes shall be on for as brief of a period as possible and the time between strobe or flashes shall be the longest allowable. Strobes shall be synchronized so that a strobe effect is achieved and towers are not constantly illuminated.</li> <li>• Lights with sensors and switches shall be used to keep lights off when not required.</li> <li>• The use of high-intensity lighting, steady-burning, or bright lights such as sodium vapor or spotlights shall be minimized.</li> </ul> <p><b>Compensatory Mitigation for the Cumulative Loss of Migratory Bird Habitat along the Pacific Flyway</b>  The County shall require solar development projects implemented under the REGPA to mitigate for the loss of habitat by funding activities to restore, enhance, or conserve important habitat for migratory birds or to remove other mortality sources from the Pacific Flyway. Such funding may be directed to the Sonoran Joint Venture (<a href="http://sonoranjv.org">http://sonoranjv.org</a>), Central Valley Joint Venture (<a href="http://www.centralvalleyjointventure.org">http://www.centralvalleyjointventure.org</a>), or Intermountain West Joint Venture (<a href="http://iwjv.org">http://iwjv.org</a>), or other groups able to implement conservation of migratory birds within the Pacific Flyway. The amount of funding will be determined by the County in coordination with USFWS and shall be commensurate with the level of impact.</p>				
<p><b>BIO-19: Minimize impacts to special status natural communities and protected natural areas.</b></p> <p>Solar development authorized under the REGPA will not be sited within any special status natural communities or protected natural areas. If solar development is sited adjacent to any special status natural communities or protected natural areas or is determined to have the potential to impact any</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	



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<p>off-site special status natural communities or protected natural areas during the project level biological resources evaluation (e.g., projects in the Laws SEDA could impact the hydrology of critical habitat for Fish Slough milk-vetch; projects in the Chicago Valley SEDA could negatively impact off-site mesquite bosque by altering drainage patterns or altering groundwater levels; projects in the Charleston View and Chicago Valley SEDAs could impact down-watershed habitats in the Amargosa Watershed (including habitats within the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic.”), a management plan will be developed in consultation with CDFW and/or USFWS. The management plan will address the potential offsite effects of the construction and on-going operations of the facility on special status species including but not limited to the effects of human disturbance, noise, nighttime maintenance activities, increased lighting, increased traffic on desert roads, and barriers to movement for special status species. The management plan will also address potential mechanisms of offsite habitat degradation such as introduction of invasive weeds, introduction or attraction of feral animals or other species attracted to areas with anthropogenic disturbance, hydrologic disruption due to groundwater impacts or alteration of surface drainage patterns, and increased risk of wildfires. The management plan will also outline the specific measures to be undertaken to avoid and/or minimize indirect effects of the solar development on the adjacent sensitive habitat and special status species and include a plan for long term monitoring of the adjacent habitat as well as an adaptive management plan.</p> <p>If riparian communities (other than water birch riparian scrub – a special status natural community that must be avoided) are present in a project area, impacts to riparian communities shall be avoided or minimized by implementing the following measures:</p> <ul style="list-style-type: none"> <li>• The project shall be redesigned or modified to avoid direct and indirect impacts on riparian communities, if feasible.</li> <li>• Riparian communities adjacent to the project site shall be protected by installing environmentally sensitive area fencing, if necessary, in coordination with the project biologist.</li> <li>• The potential for long term loss of riparian vegetation shall be</li> </ul>				

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<p>minimized by trimming vegetation rather than removing the entire shrub. Shrub vegetation shall be cut at least 1 foot above ground level to leave the root systems intact and allow for more rapid regeneration of the species. Cutting shall be limited to a minimum area necessary within the construction zone. This type of removal shall be allowed only for shrub species (all trees shall be avoided) in areas that do not provide habitat for sensitive species (e.g., willow flycatcher).</p> <ul style="list-style-type: none"> <li>If riparian vegetation is removed as part of a project, the loss of riparian vegetation shall be mitigated to ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW and USFWS). Compensation shall be provided at a minimum 1:1 ratio (1 acre restored or created for every 1 acre removed) and may be a combination of on-site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented that describes how riparian habitat shall be enhanced or recreated and monitored over a minimum period of time, as determined by the appropriate state and federal agencies.</li> </ul>				
<p><b>BIO-20: Minimize impacts to waters of the US/State, including wetlands.</b></p> <p>The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact waters of the US or waters of the State, including wetlands, and shall be implemented to avoid, minimize, and mitigate for such impacts. These measures shall be incorporated into contract specifications and implemented by the construction contractor. In addition, the project proponent shall ensure that the contractor incorporates all state and federal permit conditions into construction specifications.</p> <ul style="list-style-type: none"> <li>Wetlands and other waters of the US/state shall be delineated on the project site using both USACE and CDFW definitions of wetlands. USACE jurisdictional wetlands shall be delineated using the methods outlined in the USACE 1987 Wetlands Delineation Manual and the</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>Arid West Manual, or the most recent guidance. This information shall be mapped and documented as part of the CEQA documentation, as applicable, and in wetland delineation reports. All applicable permits shall be obtained prior to impacting waters of the US/State including CWA Section 404 and 401 permits from the USACE and the RWQCB respectively and a Streambed Alteration Agreement from CDFW.</p> <ul style="list-style-type: none"> <li>• The project shall be redesigned or modified to avoid direct and indirect impacts on waters of the U.S./State, if feasible.</li> <li>• Standard erosion control measures shall be implemented for all phases of construction and operation where sediment runoff from exposed slopes threatens to enter waters of the State and/or waters of the US. Sediment and other flow-restricting materials shall be moved to a location where they shall not be washed back into the stream. All disturbed soils and roads within the project site shall be stabilized to reduce erosion potential, both during and following construction. Areas of disturbed soils (access and staging areas) with slopes trending towards a drainage shall be stabilized to reduce erosion potential.</li> <li>• Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing, if necessary, in coordination with the project biologist.</li> <li>• All construction vehicles and equipment shall use existing roadways to the extent feasible to avoid or reduce impacts to waters of the U.S./State.</li> <li>• Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used.</li> <li>• Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing at least 20 feet from the edge of the wetland. Depending on site-specific conditions and</li> </ul>				

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<p>permit requirements, this buffer may be wider than 20 feet in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within the fenced environmentally sensitive area.</p> <ul style="list-style-type: none"> <li>• Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used.</li> <li>• Where determined necessary by resource specialists, geotextile cushions and other materials (e.g., timber pads, prefabricated equipment pads, or geotextile fabric) shall be used in saturated conditions to minimize damage to the substrate and vegetation.</li> <li>• Exposed slopes and stream banks shall be stabilized immediately on completion of installation activities. Other waters of the US shall be restored in a manner that encourages vegetation to reestablish to its pre-project condition and reduces the effects of erosion on the drainage system.</li> <li>• In highly erodible stream systems, banks shall be stabilized using a non-vegetative material that will bind the soil initially and break down within a few years. If the project engineers determine that more aggressive erosion control treatments are needed, geotextile mats, excelsior blankets, or other soil stabilization products shall be used.</li> <li>• During construction, trees, shrubs, debris, or soils that are inadvertently deposited below the ordinary high-water mark of drainages shall be removed in a manner that minimizes disturbance of the drainage bed and bank.</li> <li>• If wetlands are filled or disturbed as part of the solar project, compensation will be implemented for the loss of wetland habitat to</li> </ul>				

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<p>ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW, USFWS, and USACE). The compensation shall be at a minimum 1:1 ratio (1 acre restored or created for every 1 acre filled) and may be a combination of on site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented if onsite or offsite restoration or creation is chosen. The plan shall describe how wetlands shall be created and monitored for the duration established by the regulatory agency.</p> <ul style="list-style-type: none"> <li>For solar projects proposing groundwater pumping, hydrological studies shall be performed to assess the potential for off-site impacts to jurisdictional waters that depend on groundwater. Projects shall be designed to avoid and/or minimize impacts to groundwater-dependent jurisdictional resources off-site, and all proposed impacts to such resources shall be reviewed by the agencies with jurisdiction over the affected resources, and mitigated according to those agencies' requirements.</li> </ul>				
<p><b>BIO-21: Minimize impacts to movement or migratory corridors or native wildlife nursery sites.</b></p> <p>The following mitigation measures will be implemented to minimize impacts to movement or migratory corridors or native wildlife nursery sites:</p> <ul style="list-style-type: none"> <li>Solar development authorized under the REGPA shall not be sited in or within 1,000 feet of any areas determined by the County in consultation with responsible and trustee agencies to be Important Bird Areas, essential connectivity areas or linkages identified in the 2001 Missing Links in California's Landscape Project (Penrod et al. 2001), or tule elk and mule deer movement corridors unless potentially significant impacts are avoided. The appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies.</li> <li>Any proposed solar development projects in the OVSA shall be</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>required to study the potential impact of the project on tule elk and mule deer movement corridors prior to project approval. If a proposed project is determined to be located within an important tule elk and mule deer movement corridor, the applicant shall be responsible for the preparation of a plan to avoid and/or minimize impacts to such corridors in coordination with CDFW.</p> <ul style="list-style-type: none"> <li>As stated in Mitigation Measure BIO-6, projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Draft Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, ACECs, DWMAs, priority connectivity areas, and other areas or easements managed for desert tortoises)</li> </ul>				
<p><b>BIO-22: Minimize impacts to invasive plant species or noxious weeds.</b></p> <p>For projects implemented under the REGPA that are determined during the project level biological resource evaluation to have the potential to result in the spread of invasive plant species or noxious weeds, the following mitigation measures shall be implemented.</p> <p>To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> <li>The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes.</li> <li>Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site.</li> <li>Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored.</li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction / during operation</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<ul style="list-style-type: none"> <li>• The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned.</li> <li>• Native vegetation shall be re-established quickly on disturbed sites.</li> <li>• Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions.</li> <li>• Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations.</li> </ul>				
<p><b>BIO-23: Implement general design guidelines to minimize impacts to biological resources.</b></p> <p>All projects authorized under the REGPA will incorporate the following design guidelines as applicable in coordination with the County:</p> <ul style="list-style-type: none"> <li>• Design and site the project, in consultation with the permitting agencies, to avoid or minimize impacts to sensitive and unique habitats and wildlife species. Locate energy generation facilities, roads, transmission lines, and ancillary facilities in the least environmentally sensitive areas (such as away from riparian habitats, streams, wetlands, vernal pools, drainages, sand dunes, critical wildlife habitats, wildlife conservation, management, other protected areas, or unique plant assemblages).           <ul style="list-style-type: none"> <li>○ Design facilities to use existing roads and utility corridors as much as possible to minimize the number and length/size of new roads, laydown, and borrow areas.</li> <li>○ Design transmission line poles, access roads, pulling sites, storage, and parking areas to avoid special status species or unique plant assemblages adjacent to linear facilities.</li> <li>○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions.</li> <li>○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions.</li> <li>○ Design facilities to discourage their use as bird perching, drinking, or nesting sites.</li> <li>○ Design facility lighting to prevent side casting of light toward wildlife habitat and skyward protection of light that may</li> </ul> </li> </ul>	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction</p>	<p>Prior to approval and/or issuance of Major Use Permits / prior to construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>disorient night-migrating birds.</p> <ul style="list-style-type: none"> <li>○ Avoid using or degrading high value or large intact habitat areas, such as areas identified as sensitive natural habitat, Wilderness Areas, Areas of Critical Environmental Concern, critical habitat; riparian, sand dunes.</li> <li>○ Avoid severing movement and connectivity corridors. Consider existing conservation investments such as protected areas and lands held in trust for conservation purposes.</li> <li>○ Locate facilities so they do not disrupt sand transport processes nor remove some or all of a sand source that contributes to sand dune systems harboring listed or otherwise sensitive species. Avoid armoring nearby dune system.</li> </ul>				
<p><b>BIO-24: Minimize impacts to groundwater dependent vegetation.</b></p> <p>Any solar development projects or related infrastructure implemented under the REGPA which are located on City of Los Angeles-owned land or which could affect City of Los Angeles-owned land shall comply with the terms of the Agreement. A qualified biologist/botanist with experience in Inyo County shall evaluate the potential for any project implemented under the REGPA to impact groundwater dependent vegetation or ecosystems located on City of Los Angeles-owned land. If the qualified biologist/botanist determines that the project has the potential to impact groundwater dependent vegetation or ecosystems, a groundwater dependent vegetation management plan will be prepared. The plan will include an evaluation of the potential impacts to groundwater dependent vegetation or ecosystems and appropriate measures to avoid or reduce the impacts to the extent feasible. The plan shall be prepared in coordination with the County and LADWP and should describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on groundwater dependent vegetation or ecosystems as deemed appropriate by the qualified biologist in coordination with the County and LADWP. Projects that are likely to affect groundwater resources in a manner that would result in a substantial loss of riparian or wetland natural communities and/or habitat for sensitive flora and fauna associated with such habitats shall be avoided to the extent feasible and impacts shall be mitigated to a level determined to be acceptable by the County. The project and vegetation management plan</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department          Inyo County Water Department and/or other applicable agencies.</p>	



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shall be approved by both the County and LADWP prior to implementation.				
<p><b>MM BIO-25: Minimize potential indirect impacts due to groundwater pumping.</b></p> <p>Mitigation measures for potential indirect impacts due to groundwater pumping are included in Mitigation Measure BIO-1, Mitigation Measure BIO-2, Mitigation Measure BIO-3, and Mitigation Measure BIO-4. Prior to approval of any project under the REGPA requiring groundwater pumping, the potential effects of the groundwater pumping on biological resources will be evaluated during preparation of the project-specific biological resources evaluation and will be based on the results of the hydrologic study conducted as a requirement of Mitigation Measure HYD-2 in Section 4.9, Hydrology and Water Quality. If groundwater pumping is determined to have the potential to result in off-site impacts to biological resources, measures will be included in the project-specific biological resources mitigation and monitoring plan to avoid, minimize, and mitigate for any such impacts. The measures will be commensurate with the resource and level of impact and may include but are not limited to vegetation and/or water table monitoring, preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County, and a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio.</p>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department Inyo County Water Department and/or other applicable agencies.	
<b>CULTURAL RESOURCES</b>				
<p><b>CUL-1: Minimize impacts to cultural resources.</b></p> <p>Adverse effects to historical resources (CRHP-eligible cultural resources) would be resolved on a project-specific level. As part of this process, resource identification efforts including pedestrian surveys, formal government-to-government tribal consultation with state lead agencies, and engagement with Native American communities would be necessary. Examples of ways to resolve adverse effects include:</p> <ul style="list-style-type: none"> <li>• Plan ground disturbance to avoid cultural resources.</li> <li>• Deed cultural resources into permanent conservation easements.</li> <li>• Cap or cover archaeological resources with a layer of soil before building on the location.</li> </ul>	Prior to approval and/or issuance of Major Use Permits	Prior to approval and/or issuance of Major Use Permits	Inyo County Planning Department and/or other applicable agencies.	

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<ul style="list-style-type: none"> <li>• Plan parks, greenspace, or other open space to incorporate cultural resources.</li> <li>• Write synthetic documents summarizing the current understanding of the history and prehistory of the project area and vicinity.</li> <li>• Recover data for archaeological resources.</li> <li>• Develop interpretive material to correspond with recreational uses to educate the public about protecting cultural resources and avoiding disturbance of sensitive resources.</li> <li>• Develop partnerships to assist in the training of groups and individuals to participate in site stewardship programs.</li> <li>• Coordinate with visual resources staff to ensure visual management standards consider cultural resources and tribal consultation to include landmarks of cultural significance to Native Americans (e.g., TCPs, trails).</li> <li>• Measures to address visual impacts to the setting of built-environment resources include:               <ul style="list-style-type: none"> <li>○ Existing mature plant specimens shall be used for screening during construction, operation, and decommissioning phases. The identification of plant specimens that are determined to be mature and retained shall occur as part of the design phase and mapped/identified by a qualified plant ecologist or biologist and integrated into the final design and project implementation.</li> <li>○ Revegetation of disturbed areas within the project area shall occur as various activities are completed. Plans and specifications for revegetation shall be developed by a qualified plant ecologist or biologist before any extant vegetation is disturbed. The revegetation plan shall include specification of maintenance and monitoring requirements, which shall be implemented for a period of 5 years after project construction or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist. Plant material shall be consistent with surrounding native vegetation.</li> <li>○ The color of the wells, pipelines, storage tanks, control structures, and utilities shall consist of muted, earth-tone colors that are consistent with the surrounding natural color palette. Matte finishes shall be used to prevent reflectivity. For example,</li> </ul> </li> </ul>				

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<p>integral color concrete should be used in place of standard gray concrete.</p> <ul style="list-style-type: none"> <li>○ The final revegetation and painting plans and specifications shall be reviewed and approved by an architect, landscape architect, or allied design professional licensed in the State of California to ensure that the design objectives and criteria are being met.</li> <li>○ Specific impact identification and adjustments to finish specifications shall occur during project design. Implementation of the revegetation and coloration plans shall occur during oilfield development. Maintenance and monitoring requirements shall be implemented after initial project construction for a period of 5 years, or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist.</li> </ul> <ul style="list-style-type: none"> <li>● Protective measures and monitoring protocols can be implemented for built environment resources located in close proximity to a project but that are not anticipated to be directly impacted by demolition or development but which may be subject to other direct impacts such as change in historic setting, vibration, noise, or inadvertent damage include:           <ul style="list-style-type: none"> <li>○ Historic Structures Reports (HSR) shall be prepared for buildings and structures adjacent to the project area for which detailed information is required to develop protection measures. Reports shall be completed for buildings and structures that appear to be in poor condition and, therefore, potentially sensitive to development-related activities such as vibration. These reports shall determine if predevelopment stabilization through temporary shoring and bracing of these buildings is warranted.</li> <li>○ Predevelopment condition assessments shall be prepared for buildings and structures that qualify as historical resources that are adjacent to the project area and are structurally stable, but could be unintentionally damaged during development. Should there be any question as to whether the project caused damage, these condition assessments will provide confirmation of the predevelopment condition.</li> </ul> </li> </ul>				

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<ul style="list-style-type: none"> <li>○ Precautions to protect built environment historical resources from construction vehicles, debris, and dust may include fencing or debris meshing. Temporary mothballing, and fire and intrusion protection may be needed if the buildings are unoccupied during oil and gas field development.</li> <li>○ Protective measures shall be field checked as needed during development by a qualified architectural historian with demonstrated experience conducting monitoring of this nature. Vibration monitoring may be required for buildings determined susceptible to vibration damage located in close proximity to development activities or machinery that cause vibration.</li> <li>○ These measures are designed to avoid direct impacts such as vibration that may result in structural damage or inadvertent direct impacts. Structural damage or demolition would otherwise potentially result in a significant impact because character-defining features and aspects of historic integrity that convey the resource’s significance could be materially impaired.</li> <li>○ Redesign of relevant facilities shall be used to avoid destruction or damage where feasible.</li> <li>● For built resources that will be directly and significantly impacted, mitigation typically includes:             <ul style="list-style-type: none"> <li>○ Historic American Building Survey (HABS), Historic American Engineering Record (HAER), and Historic American Landscape Survey (HALS) records will be prepared for historical resources that will be demolished. The HABS/HAER/HALS documentation will be prepared as appropriate for the impacted historical resource with HABS normally completed at Level II. These reports will include written and photographic documentation of the significant and character-defining features of these properties. While this documentation will not reduce impacts to a less than a significant level, it is needed to capture and preserve a description of the significant information and characteristics associated with the resource.</li> <li>○ All HABS/HAER/HALS reports are subject to review and approval by the NPS. Following approval, the lead agencies will produce sufficient copies for distribution to identified</li> </ul> </li> </ul>				

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<p>repositories, including the Library of Congress, the California State Library, the University of California Water Resources Center Archives, and any local repositories, as appropriate and agreed upon with the County Planning Department and interested parties. Distribution will ensure the formal documentation is retained and conveyed to a wide audience.</p> <ul style="list-style-type: none"> <li>○ Deconstruction and salvage of materials from demolished buildings will be performed to the extent feasible to enable the restoration of similar buildings and structures outside of the area of direct impact. Deconstruction and salvage will not reduce impacts to a less than significant level, but will help to ensure that similar resources are restored and maintained in manner that will ensure that examples of the resource type are preserved.</li> <li>○ Relocate historically significant resources for which demolition cannot be feasibly avoided by development. In such circumstances, relocation must meet the requirements for the Special Criteria Consideration for Moved Buildings, Structures, and Objects to ensure the significance of the building is retained.</li> <li>○ Require that the preservation or reuse of an eligible structure follow Department of the Interior (DOI) Standards and Guidelines for Archeology and Historic Preservation. If the building is considered a historic resource under CEQA, the local building inspector must grant code alternatives under the State Historic Building Code.</li> <li>○ In a case where HABS/HAER documentation does not provide adequate mitigation to reduce impacts to a less than significant level, projects would normally be required to take additional steps to capture the history and memory of the resource and share this information with the public using various methods such as Web media, static displays, interpretive signs, use of on-site volunteer docents, or informational brochures.</li> </ul> <ul style="list-style-type: none"> <li>● Avoidance and minimization are the preferred means by which the County would prevent potential impacts to cultural resources, including cultural landscapes. Preservation in place is the preferred manner to avoid and minimize impacts to historical and archaeological resources. All impacts to cultural resources that are</li> </ul>				

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<p>eligible or potentially eligible for listing on the CRHR shall be avoided, to the greatest extent possible. Preservation in place may be accomplished by, but is not limited to, the following: Avoidance of significant or potentially significant cultural resources through project redesign and the relocation of project element.</p> <ul style="list-style-type: none"> <li>• Following avoidance and minimization, measures to address impacts to cultural resources at a landscape scale should follow the guidance in <i>A Strategy for Improving Mitigation Policies and Practices of the Department of the Interior</i> (DOI 2014) and the National Park Service Preservation Brief 36 - Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes, including but not limited to: <ul style="list-style-type: none"> <li>○ Document the individual landscape characteristics and features in the context of the landscape as a whole in a Cultural Landscape Report, including contributing and non-contributing features.</li> <li>○ Develop compensatory mitigation.</li> <li>○ Coordinate with other agencies.</li> <li>○ Monitor and evaluate the progress of long-term mitigation.</li> <li>○ Develop and maintain geospatial information systems for use in identifying existing and potential conservation strategies and development opportunities.</li> </ul> </li> </ul>				
<p><b>CUL-1a: Designate project Cultural Resources Staff.</b></p> <p><u>Project Cultural Resources Specialist.</u> Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County Planning Department, a cultural resources specialist whose training and background conforms to the US Secretary of Interior’s Professional Qualifications Standards, as published in Code of Federal Regulations Title 36, part 61 shall be retained by the project owner to conduct a cultural resources inventory, evaluate any resources, produce a Cultural Resources Management and Treatment Plan and other related plans for the approved project and to implement any required plans and mitigation, as necessary as determined by the cultural resource specialist. Their qualifications shall be appropriate to the needs of</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Prior to approval and/or issuance of Major Use Permits</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>the project, and shall include local knowledge. If the project primarily impacts resources archaeological in nature, the cultural resources specialist shall have a background in archaeology, anthropology or cultural resource management. If the project impacts primarily built environment resources, the cultural resources specialist shall have a background in architectural history. Resumes of the proposed cultural resources staff shall be submitted to the County Planning Department or other CEQA lead agency for review and approval. The Monitoring and Treatment Plan (mitigation measure CUL-1c) shall be prepared and implemented under the direction of the cultural resources specialist and shall address and incorporate CUL-1a through CUL 1g.</p> <p><u>Additional Cultural Resources Staff.</u> The project’s cultural resources specialist may obtain the services of specialists, cultural resources monitors and field crew if needed, to assist in identification, evaluation, mitigation, monitoring, and curation activities. Cultural Resources Staff shall have a Bachelor’s degree in anthropology, archaeology, history, architectural history or related field, and demonstrated field experience. These individuals must also meet local lead agency qualifications and their resumes must be reviewed and approved by local lead agency staff prior to beginning work.</p>				
<p><b>CUL-1b: Draft a Historical Resources Treatment Plan.</b></p> <p>To mitigate the potential impacts on historical resources identified during inventory of the project area, a treatment plan for historical resources shall be developed by, depending on the nature of the resources identified, an archaeologist and/or architectural historian who meets the Secretary of Interior’s Professional Qualifications Standards. This treatment plan would include data recovery plans that would address National Register of Historic Places/California Register for Historic Resources-eligible cultural resources that would be impacted by the project by requiring some level of extracting the scientific value and analysis of the resources prior to development.</p>	Prior to construction	Prior to construction / during inventory of the project area	Inyo County Planning Department and/or other applicable agencies.	

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<p><b>CUL-1c: Draft a Monitoring and Treatment Plan.</b></p> <p>To mitigate the potential impacts related to inadvertent discovery of archaeological resources during construction, the project proponents shall have a Secretary of the Interior-qualified archaeologist implement a monitoring program and an unanticipated archaeological resource treatment plan. The qualified archaeologist will evaluate any resources uncovered during ground disturbing activities implement appropriate treatment as specified in the archaeological resource treatment plan. During all phases of the project that include ground disturbance, these ground-disturbing activities will be observed by an archaeological monitor, as determined necessary by the archaeologist.</p> <ol style="list-style-type: none"> <li>a. If, during the course of monitoring, a potentially significant resource is discovered, the qualified archaeologist will have the authority to stop or redirect ground disturbing activities away from the resource until it can be evaluated.</li> <li>b. If previously unknown cultural deposits are discovered during the course of construction, such as previously undiscovered stratified cultural deposits, a testing program will be implemented to evaluate the stratified cultural deposit.</li> <li>c. A separate Native American monitor shall be retained by the project proponent to monitor ground disturbing activities in and around archaeological resources. The Native American monitor shall be selected through consultation with Native American tribal groups. The Native American monitor shall work in conjunction with the qualified archaeologist.</li> </ol>	Prior to / during construction	Prior to / during construction	Inyo County Planning Department and/or other applicable agencies.	
<p><b>CUL-1d: Authority to halt project activities.</b></p> <p>Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County or the relevant CEQA lead agency, the project owner shall submit a written document granting authority to halt project related activities to the project's cultural resources specialist (as defined in mitigation measure CUL-1a) and cultural resources monitors in the event of a discovery or possible damage to a cultural resource. Redirection of project related activities shall be accomplished under the direction of the project supervisor in consultation with the cultural resources specialist. The details of this</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	



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agreement shall be stipulated in the Cultural Resources Management and Treatment Plan as required in mitigation measure CUL-1b.				
<p><b>CUL-1e: Cultural Resources Worker Environmental Awareness Program.</b></p> <p>Prior to and for the duration of project activities, the project owner shall provide WEAP training to all new workers within their first week of employment at the project site. The training shall be prepared by the Project cultural resources specialist (as defined in CUL-1) in consultation with local Native Americans and shall incorporate the traditions and beliefs of local Native American groups into the presentation. The presentation may be conducted by any qualified cultural resources specialist and a Native American, if possible, and may be presented in the form of a video. A consulting fee or honorarium shall be negotiated with the local Native American consultants and presenter and paid to them for their participation. The training may be discontinued when project activities are completed or suspended, but must be resumed when project activities resume.</p> <p>The training shall include:</p> <ol style="list-style-type: none"> <li>1. A discussion of applicable laws and penalties under the law;</li> <li>2. Samples or visuals of artifacts that might be found in the project vicinity;</li> <li>3. A discussion of what such artifacts may look like when partially buried, or wholly buried and then freshly exposed;</li> <li>4. A discussion of what prehistoric and historical archaeological deposits look like at the surface and when exposed during ground-disturbance, and the range of variation in the appearance of such deposits;</li> <li>5. A discussion of what local Native American beliefs are, how those beliefs are related to cultural resources that may be found in the area, and the appropriate respectful behavior towards sacred places and objects;</li> <li>6. Instruction that all cultural resources specialists have the authority to halt ground disturbance in the area of a discovery to an extent sufficient to ensure that the resource is protected from further impacts, as determined by the project cultural resources specialist (as defined in CUL-1);</li> </ol>	Prior to / during construction	Prior to / during construction / for the duration of project activities	Inyo County Planning Department and/or other applicable agencies.	

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7. Instruction that employees are to avoid areas flagged as sensitive for cultural resources; 8. Instruction that employees are to halt work on their own in the vicinity of a potential cultural resources discovery and shall contact their supervisor and the project cultural resources specialist (as defined in CUL-1), and that redirection of work would be determined by the project supervisor and the project cultural resources specialist; 9. An informational brochure that identifies reporting procedures in the event of a discovery; 10. An acknowledgement form signed by each worker indicating that they have received the training which shall be submitted to the County Planning Department and any other CEQA lead agency; and 11. A sticker that shall be placed on hard hats indicating that environmental training has been completed.				
<p><b>CUL-1f: Conduct cultural resources reporting.</b></p> <p>The project cultural resources specialist shall document results in interim and final reports as necessary. The contents and timing of these reports shall be stipulated in the Cultural Resources Management and Treatment Plan (CUL-1b).</p> <p>Final reports for archaeological resources, human remains, and some landscapes, shall be written by or under the direction of a Secretary of the Interior qualified archaeologist or architectural historian as appropriate for the project. Reports shall be provided in the California Office of Historic Preservation’s Archaeological Resource Management Reports: Recommended Contents and Format and local agency formats. Final documents shall report on all field activities including dates, times and locations, results, samplings, and analyses. All survey reports, Department of Parks and Recreation 523 series forms, data recovery reports, and any additional research reports not previously submitted to the California Historical Resource Information System and the State Historic Preservation Officer shall be included as appendices.</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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<p><b>CUL-1g: Proper curation of cultural resources collections.</b></p> <p>All archaeological materials retained as a result of the cultural resources investigations (survey, testing, data recovery) shall be curated in accordance the California State Historical Resources Commission’s <i>Guidelines for the Curation of Archaeological Collections</i>, into a retrievable storage collection in a public repository or museum. Additionally, all collection and retention of archaeological materials as a result of cultural resources investigations must comply with the regulations and policies of the land managing agency or property owner.</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	
<p><b>CUL-2: Implement proper actions in the event of the incidental discovery of human remains.</b></p> <p>In accordance with Section 7050.5 of the California Health and Safety Code, if human remains are found, the County Coroner shall be notified within 24 hours of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie potential remains shall occur until the County Coroner has determined, within two working days of notification of the discovery, the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains are or are believed to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with Section 5097.98 of the California Public Resources Code, the NAHC must immediately notify those persons it believes to be the most likely descendant of the deceased Native American. The descendants shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the County, the disposition of the human remains.</p> <p>Should human remains be discovered at any time during construction of the project, construction in the vicinity would halt and the County Coroner would be contacted immediately. If the Coroner determines that the remains do not require an assessment of cause of death and are probably Native American, then the NAHC would be contacted to identify the Most Likely Descendant.</p>	During construction	During construction	Inyo County Planning Department and/or other applicable agencies.	

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<p><b>PALEO-1a: Protect paleontological resources.</b></p> <p>Project developers shall document in a paleontological resources assessment report whether paleontological resources exist in a project area on the basis of the following: the geologic context of the region and site and its potential to contain paleontological resources (including the fossil yield potential), a records search of institutions holding paleontological collections from California desert regions, a review of published and unpublished literature for past paleontological finds in the area, and coordination with paleontological researchers working locally in potentially affected geographic areas (or studying similar geologic strata).</p> <p>If paleontological resources are present at the site or if the geologic units to be encountered by the project (at the surface or the subsurface) have a high/very high or moderate/unknown fossil yield, a Paleontological Resources Management Plan shall be developed.</p> <p>The plan shall include the following types of requirements:</p> <ol style="list-style-type: none"> <li>1. The qualifications of the principal investigator and monitoring personnel</li> <li>2. Construction crew awareness training content, procedures, and requirements</li> <li>3. Any measures to prevent potential looting, vandalism, or erosion impacts</li> <li>4. The location, frequency, and schedule for on-site monitoring activities</li> <li>5. Criteria for identifying and evaluating potential fossil specimens or localities</li> <li>6. A plan for the use of protective barriers and signs, or implementation of other physical or administrative protection measures</li> <li>7. Collection and salvage procedures</li> <li>8. Identification of an institution or museum willing and able to accept any fossils discovered</li> <li>9. Compliance monitoring and reporting procedures</li> </ol> <p>If the geologic units that would be affected by the project have been determined to have low fossil yield potential, paleontological resources shall</p>	<p>Prior to / during construction</p>	<p>Prior to / during construction</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>be included as an element in construction worker awareness training. The training shall include measures to be followed in the event of unanticipated discoveries, including suspension of construction activities in the vicinity.</p> <p>The Paleontological Resources Management Plan shall evaluate all of the construction methods proposed, including destructive excavation techniques. Where applicable, the principal investigator shall include in the plan an evaluation of the potential for such techniques to disturb or destroy paleontological resources, an evaluation of whether loss of such fossils would represent a significant impact, and discussion of mitigation or compensatory measures (such as recordation/recovery of similar resources elsewhere on the site) that are necessary to avoid or substantially reduce the impact.</p>				
<b>GEOLOGY AND SOILS</b>				
<p><b>GEO-1: Conduct site-specific geotechnical investigations.</b></p> <p>Site-specific geotechnical investigations will be completed for all applicable proposed development within the individual SEDAs and the OVSA, and the potential off-site transmission corridors associated with the Charleston View, Chicago Valley, and Trona SEDAs (if applicable), prior to final project design approval. These investigations will identify site-specific criteria related to considerations such as grading, excavation, fill, and structure/facility design. All applicable results and recommendations from the geotechnical investigations will be incorporated into the associated individual project design documents to address identified potential geologic and soil hazards, including but not necessarily limited to: ground rupture; ground acceleration (ground shaking); soil liquefaction (and related issues such as dynamic settlement and lateral spreading); landslides/slope instability; geologic and soil instability (including compressible/collapsible soils, subsidence, and corrosive soils); and expansive soils. The final project design documents will also encompass applicable standard design and construction practices from sources including the California Building Code (CBC), International Building Code (IBC), and County standards, as well as the results/recommendations of County plan review and on-the-ground geotechnical observations and testing to be conducted during project excavation, grading and construction activities (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of remedial measures</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>typically associated with identified potential geologic and soil hazards, pursuant to applicable regulatory and industry standards (as noted), is provided below. The remedial measures identified/recommended as part of the described site-specific geotechnical investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p>				
<ul style="list-style-type: none"> <li>• <b>Ground Rupture:</b> (1) locate (or relocate) applicable facilities away from known active (or potentially active) faults and outside of associated CGS Earthquake Fault Zones; and (2) require appropriate (typically 50-foot) building exclusion buffers on either side of applicable fault traces.</li> <li>• <b>Ground Acceleration (Ground Shaking):</b> (1) incorporate applicable seismic loading factors (e.g., IBC/CBC criteria) into the design of facilities such as structures, foundations/slabs, pavement, utilities, manufactured slopes, retaining walls and drainage facilities; (2) use remedial grading techniques where appropriate (e.g., removing/replacing and/or reconditioning unsuitable soils); and (3) use properly engineered fill per applicable industry/regulatory standards (e.g., IBC/CBC), including criteria such as appropriate fill composition, placement methodology, compaction levels, and moisture content.</li> <li>• <b>Liquefaction and Related Effects:</b> 1) remove unsuitable soils and replace with engineered fill (as previously described), per applicable regulatory/industry standards (e.g., IBC/CBC); (2) employ measures such as deep soil mixing (i.e., introducing cement to consolidate loose soils) or use of subsurface structures (e.g., stone columns or piles) to provide support (i.e., by extending structures into competent underlying units); (3) use subdrains in appropriate areas to avoid or reduce near-surface saturation; and (4) design for potential settlement of liquefiable materials through means such as use of post-tensioned foundations and/or flexible couplings for utility connections.</li> <li>• <b>Landslides/Slope Instability:</b> (1) construct properly drained shear keys and/or replace susceptible deposits with manufactured buttress fills where appropriate; (2) employ applicable slope laybacks (i.e., shallower slopes) and/or structural setbacks; (3) incorporate structures such as retaining walls and stability fills where appropriate</li> </ul>				

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<p>to provide support; and (4) implement proper slope drainage and landscaping where applicable per established regulatory/industry standards (e.g., IBC/CBC).</p> <ul style="list-style-type: none"> <li>• <b>Geologic and Soil Instability:</b> (1) use standard efforts such as over-excavation and recompaction or replacement of unsuitable soils with engineered fill, and enhanced foundation design in applicable areas (e.g., post-tensioned or mat slab foundations); (2) use engineered fill, subdrains, surcharging (i.e., loading prior to construction to induce settlement) and/or settlement monitoring (e.g., through the use of settlement monuments) in appropriate areas; (3) implement groundwater withdrawal monitoring/restrictions per established legal/regulatory/industry standards (if applicable); and (4) remove unsuitable deposits and replace with non-corrosive fill, use corrosion-resistant construction materials (e.g., corrosion-resistant concrete and coated or non-metallic facilities), and install cathodic protection devices (e.g., use of a more easily corroded “sacrificial metal” to serve as an anode and draw current away from the structure to be protected) per established regulatory/industry standards (e.g., IBC/CBC).</li> <li>• <b>Expansive Soils:</b> (1) replace and/or mix expansive materials with non-expansive fill; and (2) cap expansive soils in place with an appropriate thickness of non-expansive fill per established regulatory/industry standards (e.g., IBC/CBC).</li> </ul>				
<b>GREENHOUSE GAS EMISSIONS</b>				
<p><b>GHG-1: Prepare site-specific Greenhouse Gas Report.</b></p> <p>Prior to approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination for a solar energy project, a site-specific greenhouse gas technical report will be prepared and approved by the County. The site-specific technical report will identify project-specific emissions to ensure compliance with the interim SCAQMD GHG thresholds, as well as measures to reduce operational greenhouse gas emissions. The technical report will be completed and approved by the County prior to the County’s action.</p>	<p>Prior to approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination</p>	<p>Prior to approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination</p>	<p>Inyo County Planning Department</p>	

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<b>HAZARDS AND HAZARDOUS MATERIALS</b>				
<p><b>HAZ-1: Conduct site-specific Phase I ESA.</b></p> <p>Site-specific Phase I Environmental Site Assessments (ESAs) shall be completed for all proposed development projects within the nine individual SEDAs and the OVSA, as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. Specifically, Phase I ESA investigations shall be conducted for the noted areas to identify the potential occurrence of hazardous materials and Recognized Environmental Conditions, (RECs, as defined in ASTM International E1527-05, Section 1.1.1), potentially involving the presence of contaminated soil or groundwater, and/or structures or facilities containing hazardous materials such as asbestos insulation, lead-based paint and polychlorinated biphenyls. Phase I investigations shall include: (1) appropriate regulatory database records review; (2) site reconnaissance; (3) review of appropriate maps, aerial photographs and other pertinent documents; (4) interviews with current/previous property owners, local government/industry officials, and other individuals with knowledge of the property and/or local environmental conditions; (5) documentation of known or potential RECs; and (6) identification of recommendations to address RECs or other concerns, if applicable (including Phase II ESA investigations, as outlined below).</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department and/or other applicable agencies.	
<p>Depending on the results of the described Phase I ESAs, one or more Phase II ESA investigations shall be conducted if identified as part of the Phase I recommendations. Phase II ESAs consist of “intrusive” investigations, in which original samples of soil, groundwater and/or building materials are collected and submitted for laboratory analysis to identify applicable contaminants. Based on the results of this testing, the Phase II ESAs shall identify the type and extent of REC (or other) contamination, and provide appropriate remedial measures to address associated hazards. Typical remedial measures may include efforts such as removal and proper disposal of contaminated materials (or on-site treatment and reuse, if applicable), or in situ treatments such as oxidation (use of aerobic bacteria to accelerate natural attenuation of organic contaminants) or bioremediation (e.g., using bacteria to remove contaminants from groundwater).</p> <p>All ESAs conducted for the proposed project shall be prepared in</p>				



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<p>conformance with applicable regulatory and industry standards, including ASTM International E1527-05 Standard Practice for Environmental Site Assessments, and Code of Federal Regulations Part 312, Standards and Practices for All Appropriate Inquiries. Applicable results and recommendations from the described Phase I and Phase II investigations shall be incorporated into the associated individual final project design documents to address identified potential hazardous material concerns.</p>				
<p><b>HAZ-2: Conduct site-specific Airport Safety Investigations.</b>          Site-specific Airport Safety Investigations shall be completed for all proposed development projects in the Laws, Trona, Charleston View, and Sandy Valley SEDAs, the OVSA, and related potential off-site transmission line corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs that are within two miles of a public or private airport prior to final project design approval. These investigations will assess the site-specific design and location of proposed facilities to determine if they are compatible with existing and planned future activities at nearby airports. The Airport Safety Investigations shall utilize applicable criteria from proposed project design information (e.g., facility locations and heights), airport comprehensive land use plans and/or management plans (if applicable), the Inyo County Airport Hazard Overlay Ordinance, and/or other pertinent information related to considerations such as airport hazard zones and traffic patterns, to identify potential safety conflicts. If such conflicts are identified, the Airport Safety Investigations shall provide remedial measures to address these concerns, potentially including efforts such as relocating and/or redesigning proposed facilities to avoid potential hazards. Applicable results and recommendations from the described Airport Safety Investigations shall be incorporated into the associated individual final project design documents to address identified potential airport-related concerns.</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	
<p><b>HAZ-3: Conduct site-specific School Safety Investigations.</b>          Site-specific School Safety Investigations shall be completed for all proposed development projects in the OVSA that are within one-quarter mile of an existing or proposed school, prior to final project design approval. These investigations will assess the site-specific design and location of proposed facilities to determine if they are compatible with</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department</p>	

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<p>existing and planned future activities at schools located within one-quarter mile. The School Safety Investigations shall utilize applicable criteria from proposed project design information, such as proposed hazardous material use/storage, associated facility locations, and required measures in Hazardous Materials Business Emergency/Contingency Plans and/or Risk Management Plans (e.g., proper inventory documentation, storage/containment, transport, employee training, and spill response/clean-up measures) to assess potential hazards to local schools from the use or emission of hazardous materials or wastes. If such hazards are identified, the School Safety Investigations shall provide remedial measures to address these concerns, potentially including efforts such as relocating (i.e., outside of the one quarter mile boundary) and/or redesigning proposed facilities (e.g., providing enclosures or secondary containment) to avoid potential hazards. Applicable results and recommendations from the described School Safety Investigations shall be incorporated into the associated individual final project design documents to address identified potential school-related concerns.</p>				
<p><b>HAZ-4: Conduct site-specific Wildfire Safety Investigations.</b></p> <p>Site-specific Wildfire Safety Investigations shall be completed for all proposed projects within the nine individual SEDAs and the OVSA, as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), that are in areas rated as moderate or high for wildfire hazards by California Department of Forestry and Fire Protection prior to final project design approval. Specifically, the Wildfire Safety Investigations shall be conducted for the noted areas to identify site-specific fire hazard ratings and associated risks to people and structures at proposed development sites. The Wildfire Safety Investigations shall include assessment of the following criteria for the noted areas and surrounding environments: (1) fire history; (2) fuel (vegetation) types; (3) climatic conditions (including wind patterns); (4) projected fire behavior (including flame lengths) from computer modeling (e.g., BehavePlus Fire Modeling System 5.0.4); (5) documentation of known or potential wildfire hazards to on-site people and structures; and (6) identification of remedial measures, if applicable (per applicable regulatory standards such as the California Building, Fire, and Residential Codes), potentially including efforts such as the use of fuel</p>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department and/or other applicable agencies.</p>	

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<p>modification, structural features (e.g., non-combustible materials and fire/ember/smoke barriers), alarm systems, and/or automatic sprinklers. Applicable results and recommendations from the described Wildfire Safety Investigations shall be incorporated into the associated individual final project design documents to address identified potential wildfire-related concerns.</p>				
<b>HYDROLOGY AND WATER QUALITY</b>				
<p><b>HYD-1: Conduct site-specific hydrologic investigations.</b></p> <p>Site-specific hydrologic investigations will be completed for proposed utility scale solar facility development projects within the individual SEDAs and the OVSA (i.e., those with grading, excavation or other activities potentially affecting hydrologic conditions, as determined by the County), as well as the potential off site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential hydrologic concerns, including but not necessarily limited to: drainage alteration, runoff rates and amounts, flood hazards, and existing/planned storm drain system capacity. The final project design documents will also encompass applicable standard design and construction practices from sources including NPDES, Basin Plan and County standards, as well as the results/recommendations of County plan review (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of remedial measures typically associated with identified potential hydrologic concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The remedial measures identified/recommended as part of the described site-specific hydrologic investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> <li>• Drainage Alteration: (1) locate applicable facilities and activities (e.g., staging areas and soil/material stockpiles) outside of surface drainage courses and drainage channels; (2) re-route surface around applicable facilities, with such rerouting to be limited to the smallest</li> </ul>	<p>Prior to final project design approval</p>	<p>Prior to final project design approval</p>	<p>Inyo County Planning Department          Inyo County Department of Public Works          Inyo County Water Department          Inyo County Department of Environmental Health and/or other applicable agencies.</p>	

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<p>area feasible and re-routed drainage to be directed back to the original drainage course at the closest feasible location (i.e., the closest location to the point of diversion); and (3) use drainage structures to convey flows within/through development areas and maintain existing drainage patterns.</p> <ul style="list-style-type: none"> <li>• Runoff Rates and Amounts: (1) minimize the installation of new impervious surfaces (e.g., by surfacing with pervious pavement, gravel or decomposed granite); and (2) use flow regulation facilities (e.g., detention/retention basins) and velocity control structures (e.g., riprap dissipation aprons at drainage outlets), to maintain pre-development runoff rates and amounts.</li> <li>• Flood Hazards: (1) work to locate proposed facilities and activities outside of mapped 100 year floodplain boundaries; (2) based on technical analyses such as Hydrologic Engineering Center-River Analysis System (HEC-RAS) studies, restrict facility locations to avoid adverse impacts related to impeding or redirecting flood waters; and (3) based on HEC RAS studies, use measures such as raised fill pads to elevate proposed structures above calculated flood levels, and/or utilize protection/containment structures (e.g., berms, barriers or waterproof doors) to avoid flood damage.</li> <li>• Storm Drain System Capacity: (1) implement similar measures as noted above for runoff rates and amounts; and (2) utilize additional and/or enlarged facilities to ensure adequate on- and off-site storm drain system capacity.</li> </ul>				
<p><b>HYD-2: Conduct site-specific groundwater investigations.</b></p> <p>Site-specific groundwater investigations will be completed for all proposed solar facility development projects within the individual SEDAs and the OVSA proposing to utilize groundwater resources, prior to final project design approval. These investigations will identify site-specific criteria related to considerations such as local aquifer volumes and hydrogeologic characteristics, current/proposed withdrawals, inflow/recharge capacity, and potential effects to local aquifer and well levels from proposed project withdrawals. All applicable results and recommendations from these investigations will be incorporated into the associated individual project design documents to address identified potential impacts to groundwater</p>	Prior to final project design approval	Prior to final project design approval	<p>Inyo County Planning Department</p> <p>Inyo County Water Department and/or other applicable agencies.</p>	

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<p>resources (per applicable regulatory standards), with all related requirements to be included in associated engineering/design drawings and construction contract specifications. A summary of the types of remedial measures typically associated with identified potential effects to groundwater resources is provided below. The remedial measures identified/recommended as part of the described site-specific groundwater investigations will take priority over the more general types of standard measures listed below.</p> <ul style="list-style-type: none"> <li>• Aquifer/Well drawdown: (1) monitor local aquifer and private/production well levels to verify the presence or absence of project-related effects during pre-construction, construction, and operation periods (based on a methodology and monitoring schedule approved by the RWQCB and County); (2) document background and pre-construction groundwater conditions and comparable project-related construction and operation trends, along with related factors such as precipitation levels and groundwater budgets; (3) prepare scaled maps depicting the associated site(s), existing and proposed monitoring well locations, relevant natural (e.g., springs and groundwater-dependent vegetation) and other features (e.g., reservoirs), and pre- post-project groundwater contours, along with a description of cumulative water level changes; (4) restrict project-related groundwater withdrawals to appropriate levels to avoid significant adverse effects to local aquifers/wells and/or other groundwater-dependent uses (e.g., vegetation, springs or other related surface water features), based on thresholds approved by the RWQCB and County; and (5) provide mitigation for affected wells or other uses where applicable, potentially including well modifications (e.g., deepening pumps or wells) and/or financial compensation.</li> <li>• Groundwater Recharge Capacity: (1) reduce the area of on-site impervious surface if appropriate, through increased use of surfacing materials such as gravel, decomposed granite, or pervious pavement; and (2) use facilities such as retention/percolation basins and unlined drainage facilities to increase local infiltration and groundwater recharge. The County may employ water injection as a method of groundwater recharge</li> </ul>				

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as deemed appropriate on a case by case basis. This decision would be made during project specific CEQA analysis for a given solar energy development proposal.				
<p><b>HYD-3: Conduct site-specific water quality investigations.</b></p> <p>Site-specific water quality investigations will be completed for long-term solar facility operations associated with applicable proposed development projects within the individual SEDAs and the OVSA (i.e., those with activities potentially affecting water quality conditions, as determined by the County), as well as the potential off site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential long-term water quality issues related to conditions such as: anticipated and potential pollutants to be used, stored or generated on-site; the location and nature (e.g., impaired status) of on-site and downstream receiving waters; and project design features to avoid/address potential pollutant discharges. The final project design documents will also encompass applicable standard design practices from sources including NPDES, Basin Plan and County standards, as well as the results/recommendations of project-related hazardous materials investigations and regulatory standards (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of BMPs typically associated with identified potential water concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The BMPs identified/recommended as part of the described site-specific water quality investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> <li>• Low Impact Development (LID)/Site Design BMPs: LID/site design BMPs are intended to avoid, minimize and/or control post development runoff, erosion potential and pollutant generation to the maximum extent practicable by mimicking the natural hydrologic regime. The LID process employs design practices and techniques to effectively capture, filter, store, evaporate, detain and infiltrate runoff</li> </ul>	Prior to final project design approval	Prior to final project design approval	<p>Inyo County Planning Department</p> <p>Inyo County Water Department  Inyo County Department of Environmental Health  and/or other applicable agencies.</p>	

**Table 1  
 INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR  
 MITIGATION MONITORING AND REPORTING PROGRAM**

<b>Mitigation Measure</b>	<b>Phase of Implementation / Mitigation Timing</b>	<b>Frequency and/or Duration of Required Monitoring</b>	<b>Enforcement or Reporting Agency / Action Notes</b>	<b>Record Document Location</b>
<p>close to its source through efforts such as: (1) minimizing developed/disturbed areas to the maximum extent feasible; (2) utilizing natural and/or unlined drainage features in on-site storm water systems; (3) disconnecting impervious pervious to slow concentration times, and directing flows from impervious surfaces into landscaped or vegetated areas; and (4) using pervious surfaces in developed areas to the maximum extent feasible.</p> <ul style="list-style-type: none"> <li>• Source Control BMPs: Source control BMPs are intended to avoid or minimize the introduction of pollutants into storm drains and natural drainages to the maximum extent practicable by reducing on-site pollutant generation and off-site pollutant transport through measures such as: (1) installing no dumping” stencils/tiles and/or signs with prohibitive language (per current County guidelines) at applicable locations such as drainages and storm drain inlets to discourage illegal dumping; (2) designing trash storage areas to reduce litter/pollutant discharge through methods such as paving with impervious surfaces, installing screens or walls to prevent trash dispersal, and providing attached lids and/or roofs for trash containers; (3) designing site landscaping (if applicable) to maximize the retention of native vegetation and use of appropriate native, pest-resistant and/or drought-tolerant varieties to reduce irrigation and pesticide application requirements; and (4) providing secondary containment (e.g., enclosed structures, walls or berms) for applicable areas such as trash or hazardous material use/storage.</li> <li>• Treatment Control/LID BMPs: Treatment control (or structural) BMPs are designed to remove pollutants from runoff to the maximum extent practicable through means such as filtering, treatment or infiltration. Treatment control and/or LID BMPs are required to address applicable pollutants, and must provide medium or high levels of removal efficiency for these pollutants (per applicable regulatory requirements). Based on the anticipated pollutants of concern, potential LID and treatment control BMPs may include (1) providing water quality treatment and related facilities such as sediment basins, vegetated swales, infiltration basins, filtration devices and velocity dissipators to treat appropriate runoff flows and reduce volumes prior to off-site discharge (per applicable regulatory requirements); and (2) conducting</li> </ul>				

**Table 1  
 INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR  
 MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
regular inspection, maintenance and as-needed repairs of pertinent facilities and structures.				
<b>LAND USE AND PLANNING</b>				
No mitigation measures are required.				
<b>MINERAL RESOURCES</b>				
<p><b>MIN-1: Conduct site-specific mineral resource investigations.</b></p> <p>Site-specific mineral resource investigations will be completed for proposed development projects within the individual SEDAs, the OVSA, and the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. These investigations will include the following elements: (1) descriptions of regional and on-site geologic environments; (2) identification of site-specific potential for the occurrence of mineral resources; (3) assessment of estimated mineral resource quantities and extents (as applicable); (4) evaluation of associated potential for economic resource recovery, including considerations such as supply and demand, and production, processing and transportation costs; (5) determination of the presence of mineral entries such as mining claims and mineral leases, including descriptions of individual mineral entry types, issuing agencies and status; (6) assessment of potential impacts from project implementation to identified regionally- or locally-important mineral resources, associated exploration/recovery efforts, and valid mineral entries; and (7) development of remedial measures to address identified impacts to mineral resources, operations and entries, as feasible, potentially including efforts such as avoidance, use of proposed project development timing or phasing to accommodate mineral operations, or locating proposed project facilities to accommodate multiple use operations (e.g., through shared use of access or infrastructure). All applicable results and recommendations from the described investigations identifying identified potential mineral resource impacts and remedial measures will be incorporated into the associated individual project design documents.</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department	
<b>NOISE</b>				
<b>NOI-1: Prepare technical noise report for solar facilities proposed within 500 feet of noise sensitive land uses.</b>	Prior to approval and/or issuance of	Prior to approval and/or issuance of	Inyo County Planning Department	



**Table 1  
 INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR  
 MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
<p>If a proposed utility scale solar energy project resulting from implementation of the REGPA is within 500 feet of a residence or other noise sensitive land use, prior to issuance of a Major Use Permit, a site-specific noise technical report will be prepared and approved by the County. The technical report will verify compliance with all applicable County laws, regulations, and policies during operation of the solar project, including that noise levels would not exceed the relevant thresholds described in the General Plan Noise Element (60 dBA LDN for noise sensitive land uses such as residences, schools, transient lodging and medical facilities). The site specific noise technical report will include project specifications, applicable noise calculations, project design features, applicable BMPs and related information from the REAT’s Best Management Practices and Guidance Manual (REAT 2010), and mitigation measures applicable to the project. The technical noise report will address operational related noise sources, as well as noise from the use of generators during an emergency. The technical report will calculate specific anticipated noise and vibration levels from operations in accordance with County standards and provide specific mitigation when noise levels are expected to exceed County standards.</p>	Major Use Permits	Major Use Permits	Building and Safety Department	
<p><b>NOI-2: Implement construction noise reduction measures.</b></p> <p>If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT’s Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:</p> <ul style="list-style-type: none"> <li>• Whenever feasible, electrical power will be used to run air compressors and similar power tools.</li> <li>• Equipment staging areas will be located as far as feasible from occupied residences or schools.</li> <li>• All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.</li> <li>• Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.</li> <li>• Stockpiling and vehicle staging areas shall be located as far as</li> </ul>	During construction	During construction	Inyo County Planning Department	

**Table 1  
 INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR  
 MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
practical from occupied dwellings.				
<p><b>NOI-3: Helicopter Noise Control Plan.</b></p> <p>In the event that a utility scale solar project site would have limited access and would require the use of helicopters during operation or maintenance of a facility, the County shall prepare a Helicopter Noise Control Plan that indicates where helicopters would be used and the frequency and duration for such use. The plan shall demonstrate compliance with the noise level limits within the County Noise Element for helicopter noise to properties within 1,600 feet of proposed helicopter use locations.</p>	During construction	During construction	Inyo County Planning Department	
<b>POPULATION AND HOUSING</b>				
No mitigation measures are required.				
<b>PUBLIC SERVICES</b>				
<p><b>PUB-1: Analyze public safety and protection response times and staff levels for each project.</b></p> <p>Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project's impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department and/or other applicable agencies.	
<p><b>PUB-2: Provide onsite security during the construction and long-term operation of the project.</b></p> <p>For project sites associated with proposed future solar development projects that are determined through Mitigation Measure PUB-1 to have insufficient law enforcement protection services or significant impacts to law enforcement services, project proponents shall be required to provide adequate, onsite private security for the duration of construction activities and during the long-term operation of the project to the satisfaction of the County. The actual size and configuration of the security detail shall be determined by the County during preparation of the Development</p>	During construction and operations	During construction and operations	Inyo County Planning Department	

**Table 1**  
**INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR**  
**MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
Agreement for the future solar energy project.				
<p><b>PUB-3: Pay mitigation fees for public safety and protection services.</b></p> <p>The County shall require project proponents to pay established County development mitigation fees for fire and police protection services. Said fees shall be used to maintain proper staffing levels for fire, police protection, and emergency services and to sustain adequate response times as required by the County.</p>	Prior to final project design approval	Prior to final project design approval	Inyo County Planning Department and/or other applicable agencies.	
<b>RECREATION</b>				
No mitigation measures are required.				
<b>SOCIOECONOMICS</b>				
<p><b>SOC-1: Minimize Impacts on transient housing.</b></p> <p>To further offset potential negative effects and increased demand on transient housing, General Plan Policy ED-4.5, Employ and Train Local Labor, shall be supplemented with the following:</p> <ul style="list-style-type: none"> <li>• For renewable energy projects where the construction schedule exceeds one-year, community monitoring programs shall be developed that would identify and evaluate transient housing demand and other socioeconomic effects utilizing economic models such as JEDI. Measures developed for monitoring may include the collection of data reflecting the workforce demands and social effects (such as tracking any demonstrable drop in recreational usership) as a result of increased transient housing demand from construction workers at the local and County level.</li> <li>• Project developers shall work with the County, local chambers of commerce, and/or other applicable local groups to assist transient workers in finding temporary lodging. If temporary lodging is not available, developers of utility scale projects shall consider the feasibility of providing on-site temporary housing accommodations for all projects.</li> </ul>	During construction	During construction	Inyo County Planning Department	
<p><b>SOC-2: Minimize Impacts on County Public Services.</b></p> <p>To further off-set potential negative effects on County public services, General Plan Policy ED 4.4, Offset the Cost to the County for Service</p>	Prior to issuance of building permit	Prior to issuance of building permit	Inyo County Planning Department	

**Table 1**  
**INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR**  
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Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
<p>Provision, shall be supplemented with the following:</p> <ul style="list-style-type: none"> <li>• Cooperative agreements between project applicants and the County shall be secured prior to issuance of a building permit or project-specific entitlement to ensure the following:</li> <li>• Unless property taxation of a renewable energy installation is deemed sufficient by the County, project applicants shall pay a fair-share public service impact fee. A potential method for estimating a fair-share contribution could be calculated by:</li> <li>• [annual service budget] X [estimated number of temporary workers temporarily in-migrating ÷ County population served].</li> <li>• The public service fee (and formula used for calculating fair-share) shall be adjusted based on the duration of project construction (e.g., a project only lasting 9 months would utilize 75 percent of the annual budget, one lasting 1.5 years would utilize 150 percent of the annual budget, etc.); and</li> <li>• Project applicants shall maximize the County's receipt of sales and use taxes paid in connection with construction of the project by methods such as including language in construction contracts identifying jobsites to be located within the County and requiring construction contractors to attribute sales and use taxes to the County in their Board of Equalization filings and permits.</li> </ul>				
<b>TRANSPORTATION AND CIRCULATION</b>				
<p><b>TRA-1: Prepare site-specific traffic control plans for individual projects.</b></p> <p>Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.</p>	Prior to / during construction	Prior to / during construction	Inyo County Planning Department and/or other applicable agencies.	
<p><b>TRA-2: Implement recommendations from traffic impact analysis on surrounding roadways and intersections.</b></p>	During construction	During construction	Inyo County Planning Department	

**Table 1**  
**INYO COUNTY RENEWABLE ENERGY GENERAL PLAN AMENDMENT PEIR**  
**MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Phase of Implementation / Mitigation Timing	Frequency and/or Duration of Required Monitoring	Enforcement or Reporting Agency / Action Notes	Record Document Location
Site-specific construction traffic impact analyses shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to evaluate potential traffic impacts on surrounding roadways and intersections during the construction period. Applicable results and recommendations from the project-specific construction traffic impact analysis shall be implemented during the appropriate construction phase to address identified potential construction traffic impacts.			and/or other applicable agencies.	
<b>UTILITIES AND SERVICE SYSTEMS</b>				
<p><b>UTIL-1: Projects within the western solar energy group will not exceed a combined maximum of 250 MW or 1,500 acres.</b></p> <p>Future projects within the Western Solar Energy Group shall be limited to a combined maximum of 250 MW or 1,500 acres of development area). The County shall implement a tracking program to ensure all future solar development projects within the Western Solar Energy Group do not exceed 250 MW. Once the 250 MW (or 1,500 acres of development area) is reached, the County shall not approve further projects within the Western Solar Energy Group unless project applicants can provide proof of adequate and existing transmission capabilities for the project.</p>	Prior to issuance of building permit	At the beginning and completion of each project	Inyo County Planning Department	
<p><b>UTIL-2: Projects within the Southern and Eastern Solar Energy Groups will be required have necessary and/or adequate transmission lines.</b></p> <p>Future development within the Southern and Eastern Solar Energy Groups shall be required to include the necessary transmission lines or provide proof of adequate transmission capabilities for the project.</p>	Prior to issuance of building permit	Prior to issuance of building permit	Inyo County Planning Department and/or other applicable agencies.	

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August 25, 2023

FROM: John Mays

85517 12<sup>th</sup> St. (P.O. Box 583)

Trona, CA 93592

TO: Inyo County Planning Department via email [inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us)

Attn: Cynthia Draper [cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)

CC: Patrick Soluri [patrick@semlawyers.com](mailto:patrick@semlawyers.com), Tom Kidder [tkidder85@gmail.com](mailto:tkidder85@gmail.com), Amanda Mcnamara-Ball [akmcmamara80@gmail.com](mailto:akmcmamara80@gmail.com), Brian McNamara [b.mcnamara1951@gmail.com](mailto:b.mcnamara1951@gmail.com)

RE: Comments on Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Study (Initial Study) dated July 19, 2023, for REP 2022-01 and REP 2022-02

1.) The new documents fail to sufficiently address any comments previously submitted on REP 2022-01 and REP 2022-02 by myself, the others included on this email, or by my legal representation. All of these comments are resubmitted here by reference including those by Tom Kidder, Amanda, McNamara-Ball, and Brian McNamara. The additional comments herein are also being submitted on their behalf. Also, we wish to incorporate all our complaints sent to Inyo County regarding these projects since 2021 by reference.

2.) The Initial Study shows Inyo County Planning Departments repeated reluctance to perform the necessary CEQA analysis as guided by the Renewable Energy General Plan Amendment Final Programmatic Environmental Impact Report dated March 2015 (PEIR). Inyo County has failed to comply with CEQA requirements and effectively bypassed CEQA requirements by not performing the necessary environmental analyses that are enumerated by the PEIR. Compounded by the lack of enforcement and the repeated disregard for permitting procedures, destruction of environmental resources and endangerment of human health has occurred. The Inyo County Planning Department should not be allowed to conduct any such approval for solar permits until it can demonstrate proper compliance with CEQA requirements and its own regulations.

3.) The new biological evaluation as provided with the new Initial Study is a grossly insufficient analysis designed only to advance the project. It represents a token glance done in only 58 minutes at the project site. The necessary biological evaluation that is needed to accurately assess biological impacts is described in detail by the PEIR and has been mentioned at length in previous comments. A representative evaluation would require multiple visits over the full year to account for seasonal variations of wildlife and plant species and multiple observations to substantiate the presence of or lack of any species. The authors' own comments confirm that the study is insufficient, stating it is "limited by the scope of work performed" and "limited by conditions present at the time of the study." The US FWS

letter appears to be a form letter automatically generated on the same day of the study and represents no actual consultation with US FWS. All of this is typical of the methods of cursory review repeatedly applied by the Inyo County Planning Department. This has nothing to do with accurately assessing impacts but purely designed to avoid substantial review by understating the impacts on the ecology of the project.

4.) The biological evaluation does, however, strongly document the destruction of wildlife habitat and plant life caused by the illegal and repeated pre-permit construction efforts. Despite numerous reports and documentation provided, Inyo County has continued to allow this site destruction repeatedly throughout the permit process. This directly subverts the environmental laws of the State of California and requirements of CEQA. Clearly, the lack of concern for wildlife being present at the project and minimal impacts on wildlife and plants within the biological evaluation resides primarily on the fact that the project “has been disked and exhibits little vegetation regrowth” and is thus devoid of habitat. In fact, the site has been graded with vegetation removed so extensively that it represents an intentional farming practice that completely turns the soil. Such disking destroys any animal burrows which would be evidence of food sources or homes for species. It also destroys the vegetation on which such Endangered or Special Status Species live upon or within.

5.) The eye-blink biological evaluation is essentially certain to have overlooked species which may have been just simply missed, transient, or seasonal to the site including Mojave Ground Squirrel, Burrowing Owl, Desert Tortoise, and other Endangered and Special Status Species as listed by US FWS as potentially occurring in the area. These are all typical in the region, have been reported by the observations of residents, and not addressed by the Initial study or mitigation provided.

6.) The new biological evaluation states that more detailed additional studies be done before construction. However, realistic, comprehensive biological studies need to be done before permit approval to ensure proper mitigation has been put in place before the permit can be issued.

As proposed by the approach in the biological evaluation, a vast number of species with potential to be present but that were not observed in this single 58-minute survey would not be protected. The biological evaluation recommends only surveying and mitigation for the desert kit fox and migratory birds but does not detail surveys or mitigation for numerous other wildlife and vegetation species which US FWS say could be present. This grossly avoids substantial mitigations required to protect wildlife and vegetation and thus increases the potential for a take. For this reason, complete biological studies must be completed in advance of a permit approval so that proper mitigation is in place.

7.) A report with analysis on dust generated provided by the new Initial Study is insufficient. It does not account for:

- dust generated from bare grounds during high winds
- actual conditions where dust control is not implemented
- a realistic construction period which is much greater than the assumed overall period of 2 months and 2 weeks of “minor” grading. This is especially overly optimistic as no grading or drainage plan has been envisioned. There is no provision for removal of large boulders which are prevalent through the subsurface and cause major difficulties in drilling the panel supports.



- dust generated from accumulated sand dune deposits at project fencing as evidenced in examples of California City solar plants as provided with previous comments. Does not account for fence construction and maintenance for windblown sand accumulations.

- does not account for heavy truck traffic on local roads to deliver project construction materials and operating supplies. Does not provide location of roads to be traveled as no access or road plan is provided. If using local dirt roads, this could be within a few feet of residences.

- does not assess the long-term and short-term effects on several nearby receptors which are residences within less than 500 ft, especially during wind events

- incorrectly steps the facility footprint substantial back from parcel boundaries although this is not the design, and no permit conditions require this. (fig.1). This improper mechanism to avoid dust and pollutants traveling across the project boundary.

- does not include the existing operating facility in its assessment of long-term and short-term impacts, REP 2021-01

The current solar facility, REP 2021-01, which is less than half the size of these proposed permits, has taken at least a couple of years to be constructed. Even now apparently, construction is still not finished. The project currently has stockpiled earthen materials and construction equipment on site. There has been grading of the site and placement of gravel during recent months.

As documented to Inyo County Planning Department, as reported January 13, 2022, all the surface of REP 2022-01 and REP 2022-02 was graded without dust control methods being applied and has been left that way since that date. Additional construction work with no dust control has been documented and reported in the last few months. Video was provided to Inyo County officials documenting extreme dust generation during high wind events.

An evaluation of impacts from dust generation and resulting health and equity impacts have not been sufficiently addressed by the new Initial Study and are grossly understated by the new analysis.

7.) The Initial Study does not address the fact that Inyo County is unable and unwilling to enforce dust control at the current operating solar facility and the proposed sites. It has been demonstrated by numerous reports that dust control procedures are not being followed and other unlawful construction practices are being allowed by the Inyo County without recourse. This negates any mitigation provided in the Initial Study proclaiming that dust control measures will be implemented and negates the determinations made by Inyo County in the Initial Study on impacts from dust.

8.) Attached is evidence of other complaints on Facebook regarding another solar site in Inyokern. This site is owned and being developed by the same owner/developer as REP 2022-01 and REP 2022-02 on July 22, 2023. This was during the same time when complaints were made regarding the Trona facility. The developer's repeated lack of compliance must be enforced otherwise there is no substance to mitigation that the Initial study is based upon. Inyo County cannot proceed with these permits until it can demonstrate proper management of its solar facilities, it has set a precedent to the contrary. Otherwise, substantial impacts to public health can occur.



WTF IS HAPPENING IN RIDGECREST · ...

Follow

Russ Lester · Jun 22 at 17:45 · 🌐

To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that...

See more 🗨️

To the guy on Inyokern Rd who decided to clear and grub 19 Acres of ur property. Can u do something about the 3hr dust storm that everyone has to drive thru. Just sayin

👍👎👤 41

25 comments

👍 Like

💬 Comment

➦ Send

👍👎👤 23

15 comments

👍 Like

💬 Comment

👍 23 >

Top comments


**Kady Buckholz**  
I was just talking about this.  
1h Like Reply


**Jamie Weston**  
😂😂😂 I saw that the other day when I was doing a delivery.  
1h Like Reply

**Maria Jordan**  
Lamooo that's dumb lol like we can control when the wind blows  
49m Like Reply

**Donald Hitt**  
Solar field going in  
39m Like Reply

**Sharon Boyer**  
Drove through it!!  
1h Like Reply


**Mindy Spivey**  
  
1h Like Reply

**Ginger Brown**  
  
40m Like Reply

**Amanda McNamara**  
Call Kern County Planning Commission and complain. It's an air permit violation. They are supposed to keep a water truck on it all the time.  
2m Like Reply

**Tina Flanigan**  
Solar power.  
1h Like Reply

**Tamy Rice**  
Agreed  
1h Like Reply

**Ginger Brown**  
Call the county...valley fever because of clearing land like this ...o the county forgot to tell us ... U have to request the test if u have symptoms....and they need to water truck this to keep the dust down...they also must have a permit....people need to call...here is your info...  
  
40m Like Reply

**Anthony Levesque**  
No  
10m Like Reply

**Robbie Harper**  
Or at least plow the north 40 at less than 60!  
1h Like Reply

Write a comment...

9:02 [status icons]

Login

LLC (202130910556)		
M&S INYOKERN CORP. (4661667)	> 11/05/2020	Active
RB INYOKERN SOLAR LLC (201615410405)	> 05/25/2016	Suspended - FTB
RB INYOKERN SOLAR WDAT 1203 LLC (202206311083)	> 03/02/2022	Active
RB INYOKERN SOLAR WDAT 1281 LLC (202206311152)	> 03/02/2022	Active
RIDGECREST INYOKERN RD, LLC (201623510120)	> 08/15/2016	Active
SIERRA PACIFIC INDUSTRIES, INYOKERN DIVISION (375961)	> 05/25/1959	Suspended - FTB
TA - INYOKERN, LLC (200932310149)	> 11/13/2009	Terminated

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9.) A full EIR is prescribed by CEQA for these projects and is required for these projects to advance. This was required by Kern County Planning for the owner/developer's solar facility in Inyokern. That study may be found here and serves as an example of the more extensive impact evaluation and coordination on biological evaluation necessary. This permitting action required incidental take permits for the Desert

Tortoise and Mojave ground squirrel. Since Inyo County allowed pre-permit construction this take may have already occurred.

<https://kernplanning.com/environmental-doc/rb-inyokern-solar-project/>



**California Program Office**

P.O. Box 401, Folsom, California 95763 | 916-313-5800

[www.defenders.org](http://www.defenders.org)

August 25, 2023

Cynthia M. Draper, Assistant Planner  
Inyo County Planning Department  
168 N. Edwards Street  
Independence, CA 93526  
Delivered via email to: [cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)

RE: Renewable Energy Permit – Barker-Trona 4 (SCH 2022110323) and  
Renewable Energy Permit – Barker-Trona 7 (SCH 2022110344)

Dear Ms. Draper:

Thank you for the opportunity to provide comments in response to the Recirculated Draft Mitigated Negative Declaration of Environmental Impact and Initial Studies (DMND) for the proposed Barker-Trona 4 Solar and Barker-Trona 7 Solar Farms (collectively, the “Projects”). Defenders of Wildlife (Defenders) is dedicated to protecting all wild animals and plants in their natural communities and has nearly 2.1 million members and supporters in the United States, with more than 316,000 residing in California. We strongly support renewable energy development that will help meet California’s emission reduction goals and avoids destruction of important wildlife habitat and the loss of at-risk species. Achieving a low-carbon energy future is critical for protecting California’s internationally treasured wildlife, landscapes and diverse habitats.

The proposed Projects are solar photovoltaic PV electricity generating facilities and associated infrastructure: Barker-Trona 4 would generate 3.0 MW of renewable energy on a 15-acre parcel and Barker-Trona 7 would generate 1.2 MW on an adjacent 5-acre parcel, located in Inyo County west of Trona Wildrose Road, between the Trona Airport and the border of San Bernardino County. The Projects were submitted under separate applications due to their separate interconnections to the existing Southern California Edison 33kV transmission line that passes through the area. The Project site is zoned as rural residential, and the area of both Projects is described as graded and “highly disturbed,” with “no natural vegetation, habitat, water features, or structures.” Portions of the Barker-Trona 4 site were previously used as “a private dirt track and a junk yard.” Additionally, the Projects are located within a designated Inyo County Solar Energy Development Area,<sup>1</sup> and are not located within Natural Landscape Blocks,<sup>2</sup>

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<sup>1</sup> See <https://databasin.org/maps/new/#datasets=d035971f69f84ba9b3fdb2ed551a442>

<sup>2</sup> See <https://databasin.org/maps/new/#datasets=e1bb8c9a9631413f97b28cc72a5efe93>

Essential Connectivity Areas,<sup>3</sup> mapped critical habitat,<sup>4</sup> or state or global Important Bird Areas.<sup>5</sup> While the site lies partially in areas designated as modeled predicted occupied habitat for the desert tortoise,<sup>6</sup> Defenders concurs with the Projects' Biological Resource Evaluation, which concluded that neither tortoises nor suitable habitat are present on the site.

As we transition toward a clean energy future, it is imperative that we consider the near-term impact of solar development on our biodiversity, fish and wildlife habitat, and natural landscapes while addressing the long-term impacts of climate change. Therefore, renewable energy projects must be planned, sited, developed and operated to avoid, minimize and mitigate adverse impacts on wildlife and lands with known high-resource values. Defenders finds the Projects are fully consistent with these criteria through being sited on previously distributed lands and applying appropriate mitigation measures to reduce the impact on special-status species in the region, including desert kit fox and birds protected by the Migratory Bird Treaty Act, as outlined on page 6-18 of the Biological Resource Evaluation. These measures include conducting pre-activity surveys and equipment inspections, avoidance buffers, worker training, speed limits, covering of holes and trenches, and proper waste management processes. We encourage the County to continue siting renewable energy projects in low-conflict areas in order to avoid or minimize impacts on sensitive species.

Thank you once again for the opportunity to provide comments on the DMND for the Barker-Trona 4 and 7 projects and for considering our comments. We look forward to reviewing the Final Environmental Documents for the Projects and request to be notified when they are available. Please feel free to contact us with any questions.

Respectfully submitted,



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<sup>3</sup> See <https://databasin.org/maps/new/#datasets=c57212b3aa1243d28216a1b7db18a1ca>

<sup>4</sup> Per Figure 4-1, Trona 4 and 7 Solar Project Biological Resource Evaluation, at <https://ceqanet.opr.ca.gov/2022110323/2>

<sup>5</sup> See <https://databasin.org/maps/new/#datasets=1180b50bafef4871a019245da1c8b6b2>

<sup>6</sup> See <https://databasin.org/maps/new/#datasets=a1f5e25b9b944f9fa6aa3be8f54f8a2e>

October 10, 2023

**Via Electronic Mail**

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Inyoplanning@inyocounty.us

***Re: Response to Comments on Renewal Energy Permit Nos. 2022-01/2022-02***

Dear Ms. Draper,

This law firm represents Robbie Barker and Valley Wide Engineering & Construction, Inc. (collectively, the “applicant”) regarding applications for two renewable energy permits, Nos. 2022-01 and 2022-02, (the “Projects”) set to be heard by the Inyo County Planning Commission on October 25, 2023. This letter responds to an August 24, 2023 comment letter submitted by the Soluri Meserve law firm on behalf of its client, John Mays.

By way of overview, the comment letter fails to demonstrate any procedural or substantive defect in the County’s decision to prepare Mitigated Negative Declarations (MNDs). These are small solar energy facilities, to be installed on a total of 20 acres in a sparsely populated area located north of the Trona community, within a Solar Energy Development Area (“SEDA”) designated by the Board of Supervisors in 2015. The single-axis tracker panels will be placed on flat land without special scenic or habitat value, using accepted best management practices for dust control. No significant adverse environmental impacts whatsoever are expected.

Of particular note, the Projects have a combined generating output of only 4.2 megawatts (“MW”). This makes these Projects far smaller than the “utility-scale” solar projects (i.e., more than 20 MW) that were the main focus of the Renewable Energy General Plan Amendment (“REGPA”) adopted by the Board of Supervisors in 2015. We raise this because the Board also certified a Programmatic EIR (“PEIR”) for the REGPA, and the PEIR contained several mitigation measures which the comment letter demands to be applied to these Projects. As we explain below, however, most of the PEIR’s mitigation measures apply to utility-scale projects, not to small projects like this. Thus, the County did not err by deciding that many of those mitigations were inappropriate for these Projects.

Below, we have set forth each of the August 24, 2023 comments in italics, then provided the applicant’s response. As our responses show, the County’s treatment of the Projects, and the County’s decision to adopt MNDs, is correct and well supported by the record.

## RESPONSES TO COMMENTS

### **A. Failure to Include Mitigation Monitoring and Reporting Plan**

*Although clearly identifying each document as an “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeatedly checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County fails to prepare Mitigation Monitoring and Reporting Program(s) (“MMRP”(s)). This violates CEQA (CEQA Guidelines, § 15097) and also the Inyo County Code. (County Code, Ch. 15.44.) To wit:*

#### *15.44.005 General.*

*The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)*

#### *15.44.010 Application.*

*A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)*

#### *15.44.020 Timing.*

***Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment. The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)***

#### *15.44.030 Contents.*

*The monitoring plan shall contain, at a minimum, the following:*

- A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;*
- B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);*



*C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;*

*D. Identification of the person or entity responsible for monitoring and verification;*

*E. The method of reporting monitoring results to the county.  
(Ord. 957 § 1 (part), 1995.)*

#### *15.44.040 Enforcement.*

*Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)*

*Setting aside the RMND's practice of not identifying mitigation measures required to reduce Project impacts, the RMND's expressly identify mitigation measures in Sections IV(a), XIII(a) and XXI(a). Thus, the RMND's require a draft MMRP that is circulated for public comment. The RMND's are therefore procedurally invalid. A new RMND or EIR must be recirculated for public review along with the required MMRP.*

### **Response:**

The commenter contends that it was error for the County not to circulate a Mitigation, Monitoring and Reporting Plan (MMRP) along with the MND. The commenter appears, however, to have misread the applicable requirements. The County's ordinances permit a MMRP to be adopted by the County at the time of project approval and adoption of a MND, which has not yet occurred. Section 15.44.020 requires that a draft MMRP "be subject to public review and comment," but does not require that it be circulated (or recirculated) with a MND. Similarly, nothing in the CEQA Guidelines requires that a MMRP be circulated with an MND. (See CEQA Guidelines, §§ 15073 [public review of MNDs], 15073.5 [recirculation of MNDs], 15097 [rules for MMRPs].) To the contrary, section 15097 indicates that a MMRP is formulated after the public review process, not before. Here, therefore, the County may comply with its ordinances and CEQA by ensuring that the MMRP is made available for public review before it adopts a MND.

### **B. Project Piecemealing**

*CEQA's conception of the term "project" is broad to maximize protection of the environment. (Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist. (2007) 147 Cal.App.4th 643, 653; San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27*

*Cal.App.4th 713, 730. “This big picture approach to the definition of a project (i.e., including “the whole of an action”) prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project into smaller components which, when considered separately, may not have a significant environmental effect.” (Nelson v. County of Kern (2010) 190 Cal.App.4th 252, 270-271.)*

*The County is dividing a project into smaller components. The Project consists of two REPs for photovoltaic solar power generation on adjacent parcels owned by the same person, Robbie Barker. The RMNDs explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)*

*Notwithstanding this, the County has prepared two separate RMNDs for the Project. These RMNDs include:*

- *“RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-01/Barker- Trona 7” (See Exhibit 1.)*
- *“RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-02/Barker- Trona 4” (See Exhibit 2.)*

*Dividing a single project into two CEQA documents violates CEQA. The relevant test is whether the activities have “substantial independent utility.” (Del Mar Terrace Conservancy, Inc. v. City Council (1992) 10 Cal.App.4th 712, 736.) It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by preparing two separate RMNDs for what it concedes is a single project under CEQA. A reviewing court would exercise its independent judgment on this issue with no deference to the agency. (Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)*

*We previously commented on this issue, and the RMNDs provided make the case for piecemealed review even stronger. Both RMND’s technical reports analyze the two REPs as a single project. The air quality report explains, “Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site*

*(collectively referred to herein as the ‘Project’).” Similarly, the biological resources report states, “Biological Resource Evaluation – Trona 4 and 7 Solar Project.” The RMNDs themselves explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)*

*It appears that the County now recognizes the two REPs constitute a single CEQA project. If so, the County must prepare a single CEQA document for that single project. The County’s continued reliance on two separate CEQA documents for a single CEQA project violates CEQA.*

**Response:**

The commenter asserts that the County analyzed the Projects in a “piecemeal” manner that is generally prohibited by CEQA. Precisely the opposite took place.

Piecemealing occurs if a lead agency “split[s] one large project into smaller ones, resulting in piecemeal environmental review that obscures the project’s full environmental consequences.” (*Make UC a Good Neighbor v. Regents of Univ. of California* (2023) 88 Cal.App.5th 656, 683, citing *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1222; see also CEQA Guidelines § 15378 [“project” means “the whole of the action...”].)

No piecemealing occurred here. Mr. Barker filed two separate solar applications with the County, one for each of the connections that Mr. Barker needs to make to the utility grid. Rather than analyze the applications separately, the County analyzed both as a single project in the Initial Study and throughout all of the supporting documents (photographs, biological evaluation, air emissions analysis). Thus, there was no piecemealing at all, because the County analyzed both applications together as a single project.

The commenter’s confusion appears to stem from the fact that the County has prepared two separate MNDs. The commenter has not shown that this was error. The County organized its MNDs in this way for the obvious reason that the applicant submitted two separate applications for approval. The County thus prepared two separate approvals to fulfill the County’s procedural need to render a decision on each application. The commenter offers no legal authority prohibiting a lead agency from preparing multiple approvals, each supported by a separate MND, for multiple applications supported by a single, combined environmental review.

Finally, the commenter appears to believe that the County’s treatment of the applications requires consideration of the issue of “independent utility.” (See *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 108; *Planning & Conserv. League v. Castaic Lake Wat. Agency* (2009) 180 Cal.App.4th 210, 235.) The question of “independent utility” arises if a lead agency performs separate environmental reviews for related projects. Here, in contrast, the County analyzed the applications together, as a single project, in a single environmental review. Thus, the independent utility doctrine has no application here.

### C. Failure to Adequately Analyze Cumulative Impacts

*A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an environmental impact report (“EIR”). (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4<sup>th</sup> 1184, 1214.)*

*Despite this mandate, the two RMNDs’ cumulative impacts analyses continue to be impermissibly cursory. Each RMND’s cumulative impact analysis provide in full:*

*No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note **in the vicinity are PV solar projects within the Trona SEDA**, but the overall number and size of these projects are **likely to be less than analyzed in the PEIR**. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.*

*(RMND, § XXI(b), emphasis added.)*

*This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) Here, the RMNDs appear to limit the scope of cumulative projects to those “within the Trona SEDA.” The RMNDs fail to explain this limitation, which violates CEQA. (CEQA Guidelines, § 15130, subd. (b)(3) [“Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used”].) The EIR for the Inyo County Renewable General Plan Amendment (“REGPA”) provided a reasonably expansive list of cumulative projects. (REGPA EIR, Table 5-1.) The County could have relied on that list of projects so long as*

*it complied with CEQA’s requirements for tiering/incorporation by reference as well as updating a cumulative project list, but the County did not follow that procedure. (CEQA Guidelines, § 15130, subd. (b)(1); § 15150, subd. (c); § 15152.)*

*Similarly, the RMNDs appear to limit the scope of cumulative projects by stating that PV solar projects are the only projects “of note.” The RMNDs fails to explain what is meant by limiting cumulative projects to only those “of note.” CEQA includes no such limitation, and instead requires a CEQA document to set forth “[a] list of past, present, and probably future projects producing related or cumulative impacts.” (CEQA Guidelines, § 15130, subd. (b)(1)(A).) For example, the Project will unquestionably result in dust generation. Projects other than PV solar projects may also generate dust and therefore must be identified as cumulative projects.*

**Response:**

The comment letter fails to recognize the difference between the “cumulative” analysis that CEQA requires for an EIR versus that required for an initial study supporting a negative declaration. As one court observed:

Substantial confusion exists about the scope of analysis of cumulative impacts required in an initial study. Many practitioners treat the question of whether impacts are “cumulatively considerable” under 14 Cal Code Regs § 15065(c) as equivalent to “significant cumulative effects” under 14 Cal Code Regs § 15130 and 15355, which govern the cumulative impacts analysis in an EIR... There appears to be a difference between the “cumulative impacts” analysis required in an EIR and the question of whether a project’s impacts are “cumulatively considerable” for purposes of determining whether an EIR must be prepared at all.

*(San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1996) 42 Cal.App.4th 608, 623 [citations and some internal quotations omitted].)*

The comment letter exhibits this confusion. The letter relies on CEQA Guidelines sections 15130 and 15355, which govern the cumulative impacts analysis in an EIR. Similarly, its reliance upon *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184 is misplaced because the case involved an EIR, not an initial study. For the same reason, the commenter mistakenly relies on the discussion of cumulative impacts in the PEIR as a template for the Initial Study.

The correct method for assessing – in an initial study – whether impacts are cumulatively considerable is described in Section 15065(a)(3) of the CEQA Guidelines, as interpreted and applied by *San Joaquin Raptor/Wildlife Rescue Center* and related cases. The question is whether the “incremental effects” of a project are “considerable” when evaluated against the backdrop of environmental effects of other projects. (*San Joaquin Raptor*, 42 Cal.App.4th at pp. 623-624.) Where the initial study concludes

that these effects are absent, a challenger must point to some substantial evidence that a cumulatively considerable incremental effect exists.

Here, the comment letter attacks the Initial Study’s conclusions with respect to potential dust generation. The letter does not, however, provide evidence of any existing cumulative impact involving dust, or that an incremental effect of the Projects on that impact is considerable. Without such evidence, the challenge fails. (See *San Joaquin Raptor*, 42 Cal.App.4th at pp. 624-625 [rejecting unsubstantiated claim of cumulatively considerable effects]; *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1358 [no evidence that projects would have cumulative effects or that any such effects would be considerable]; see also Kostka & Zischke, *Practice Under The California Environmental Quality Act* (C.E.B. 2023) § 6.34, p. 6-33.)

The comment letter also fails to acknowledge that the Initial Study and its attachments affirmatively provide evidence that no cumulatively considerable dust effect will occur. As explained in the Initial Study, the Trona area is in “attainment” for PM-10 and only one other small project is planned for the area. The Appendix C air quality memorandum stated that particular matter (PM-10 and PM-2.5) will be orders of magnitude below significance thresholds, and in addition, the projects would be subject to dust control mitigation measures. (See IS, pp. 2-3, Sec. III, Exhibit C, p. 9.) In sum, the Initial Study is supported by substantial evidence showing that the Projects will have no considerable incremental dust effects requiring study in an EIR.

#### **D. RMNDs Failed to Adequately Analyze And Mitigate Project Impacts**

*The RMNDs failed to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 74 (No Oil I).) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (Citizens Action to Serve All Students v. Thornley (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (No Oil I, supra, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (Id. At p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.*

*In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This*

*is assured by incorporation into an MMRP. (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (Federation of Hillside & Canyon v. City of Los Angeles (2000) 83 Cal.App.4th 1252, 1261 (Federation).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See San Bernardino Valley Audubon Society v. Metropolitan Water District (1999) 71 Cal.App.4th 382, 392.)*

*Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, 311 (Sundstrom).) For example, in Sundstrom the court held that the absence of information explaining why no alternative sludge disposal site is available “permits the reasonable inference that sludge disposal presents a material environmental impact.” (Ibid.) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.*

## **Response:**

This commenter recites various legal principles to conclude that an EIR is necessary, but does not offer facts to explain why. In this regard, “substantial evidence” is “facts, reasonable assumptions predicated upon facts, expert opinion supported by facts...” (CEQA Guidelines, § 15384.) It does not include “argument, speculation, [or] unsubstantiated opinion or narrative...” (Id.) As the comment is nothing more than argument and unsubstantiated opinion, it fails to show any error in the County’s treatment of the Projects.

### **D.1. RMNDs Impermissibly Conflate Analysis of Impacts and Mitigation**

*For every resource area, the RMNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (Lotus v. Department of Transportation (2014) 223*

*Cal.App.4th 645, 658 (Lotus) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.*

*For example, with respect to whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the RMNDs assert, “No . . . The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) CEQA requires the RMNDs to disclose the significance of the impact without regard for mitigation, separately identify all feasible mitigation measures and assess their effectiveness at reducing the impact. (Lotus, supra, 223 Cal.App.4th at 655-656 [“Caltrans compounds this omission by incorporating the proposed mitigation measures into its description of the project and then concluding that any potential impacts from the project will be less than significant. . . . By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA”].) The RMNDs follow this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.*

## **Response:**

The commenter errs in two basic ways.

First, the commenter attempts to apply EIR-level standards to an initial study. The commenter cites *Lotus v. Department of Transp.* (2014) 223 Cal.App.4th 645, where an EIR failed to consider the impact of placing a roadway in proximity to the roots of old growth trees. The commenter also cites *San Joaquin Raptor Rescue Center v. Cnty. of Merced* (2007) 149 Cal.App.4th 645, 663-664, where the EIR failed to adequately disclose certain groundwater impacts. Both courts applied the CEQA requirement that EIRs have a “detailed statement” of a project’s significant effects. (CEQA, § 21100, subd. (b); CEQA Guidelines, § 15126(a).)

An initial study, in contrast, is subject to different standards. “[A]n initial study is neither intended nor required to include the level of detail included in an EIR.” (CEQA Guidelines, § 15063(a)(3); *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1192-



1194 [an initial study should be “brief” and is not subject to EIR standards]; see also Kostka & Zischke, supra, § 6.18, p. 6-19 (“[a]n initial study need not be a mini EIR...”). The commenter applies the wrong standards.

Second, and more importantly, the commenter fails to show that the Initial Study neglected to analyze any significant adverse effect. The only specific complaint raised by the letter is that the Initial Study did not analyze if the Projects would “[c]onflict with or obstruct implementation of the applicable air quality plan... (IS, § III.a.) The commenter’s analysis, however, omitted critical language when it quoted the Initial Study. This language omitted by is in bold below:

**No. There is no applicable air quality plan for the area in which the project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards.** The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. **(See Appendix C, Air Quality and Greenhouse Gas Memorandum.) The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.**

(IS, III.a.)

In short, the commenter omitted that part of the passage which explained that the Projects will not obstruct the implementation of any applicable air quality plan because there is no applicable plan for the area. By only partially quoting the Initial Study, the comment obscured the impact analysis set forth within the Initial Study. In any event, the commenter does not challenge the conclusion that the Projects will not conflict with any applicable air quality plan. In sum, the comment does not demonstrate any error by the County.

#### **D.2.a. Mitigation Measures are not Adequately Defined**

*CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See Sierra Club v. County of San Diego (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; Gray v. County of Madera (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (Federation, supra, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (Preserve Wild Santee v. City of Santee (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the*

*formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. Sacramento Old City Association v. City Council of Sacramento (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound in the RMNDs. Just a few representative examples are provided.*

**Response:**

This comment cites various legal authorities, without offering any facts or analysis, to support the conclusory statement that the MNDs are defective. As such, the commenter does not provide any substantial evidence showing error. (CEQA Guidelines, § 15384.) Also, every case and regulation cited in this comment involves mitigation requirements for an EIR, not an initial study or mitigated negative declaration. As such, the comment is of questionable value.

**D.2.b. Mitigation Measures are not Adequately Defined**

*The RMNDs claim that construction air quality will be less than significant because “[t]he applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) The RMNDs fail to adequately define these “standard techniques.” Are the “standard techniques” limited to the three identified techniques? If so, why are the RMNDs excluding other techniques disclosed in mitigation measure AQ-2 of the REGPA EIR? Further, the RMNDs fail to adequately describe the mere three techniques mentioned that would allow an assessment of their effectiveness. For example, how frequently will water trucks be used? Is there a standard for when water trucks will be required during construction? How is limestone used effectively to reduce dust? How are dust suppressants used? Are there other possible dust suppressants other than EarthGlue? If so, are any of these other dust suppressants more effective than EarthGlue? What are the tests or triggers for application of limestone or dust suppressants?*

**Response:**

The comment is correct that the “standard techniques” that would be used for dust control include: (1) wetting down areas, (2) applying limestone to stabilize the ground surface and (3) applying dust suppressants such as EarthGlue. These three control measures are identified in the Initial Study in section III.a, and in the air quality memorandum in Appendix C, at pages 7-8.

The comment also questions why the MNDs have not incorporated all of the dust control techniques listed in Mitigation Measure AQ-2 of the PEIR. The answer is in the PEIR itself. The PEIR

states that AQ-2 was developed for “utility scale” solar projects (i.e., over 20 MW generating capacity). (PEIR, p. 4.3-17.) For smaller-scale projects like these, which total 4.2 MW of generating capacity, “the need for implementation of [MM AQ-2] shall be determined based on the professional judgment of a qualified County planner...” (PEIR, p. 4.3-17.) Thus, the County had the discretion to determine that “utility-scale” mitigation is unnecessary here due to the small scale of the Projects.

The commenter also questions whether the dust controls are sufficiently detailed and seeks additional data regarding their efficacy and alternatives. This depth of analysis is not necessary due to the scale of the impact. According to Appendix C, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the thresholds of significance for PM-10 and PM-2.5 emissions. This is orders of magnitude below the threshold. Considering the miniscule impact, it is unnecessary to conduct a comparative analysis of dust control techniques to determine that MNDs are proper.

Finally, it should be noted that dust control measures are not, in practice, as specific as the commenter appears to desire. For example, MM AQ-2 from the PEIR is “[w]ater and/or coarse rock all active construction areas as necessary and as indicated by soil and air conditions.” (PEIR, p. 4.3-18.) In addition, the PEIR refers to REAT Best Management Practices (2010), which includes the following provision for dust control:

Use dust suppressant applications or other suppressant techniques to control dust emissions from onsite unpaved roads and unpaved parking areas, as well as to mitigate fugitive dust emissions from wind erosion on areas disturbed by construction activities. When considering the use of water or chemical dust suppressants take into account water supply and chemical dust suppressant issues.

(REAT, p. 29.) Such measures leave the details of implementation to the discretion of the approving agency. The dust control measures followed by the applicant here allow the same flexibility.

#### **D.2.c. Mitigation Measures are not Adequately Defined**

*Addressing some or all of these questions is necessary for the RMNDs to adequately inform the public and decision-makers that mitigation is effective to reduce the impact to less than significant on sensitive receptors such as the adjacent residential properties. An MND cannot rely on a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (King & Gardiner Farms, supra, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 511.) The RMNDs have failed to provide evidence that its vague mitigation will be effective.*

**Response:**

As an initial matter, the cases cited in the comment (*King & Gardiner Farms* and *Sierra Club*) analyzed EIRs rather than initial studies or negative declarations, and therefore are of questionable value here.

In any event, the comment incorrectly assumes that the dust controls listed in the Initial Study are required to reduce dust impacts to a less-than-significant level. The record does not support such an assumption. As documented in the Appendix C memo, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the typical thresholds of significance for PM-10 and PM-2.5 particulate emissions. This is before the application of dust controls. As such, the Initial Study did not need to rely upon these controls to find that fugitive dust impacts are less-than-significant. Such dust controls would only further reduce an already small and insignificant effect.

**D.2.d. Mitigation Measures are not Adequately Defined**

*Further, the RMNDs also failed to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant's REP 2018-01 that was issued in 2018.*

**Response:**

Statements by non-expert members of the public may, in limited circumstances, constitute substantial evidence that merits consideration by a CEQA lead agency. Generally, these are limited to personal observations on non-technical subjects. (See *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.) Neighbors' observations of noise and traffic conditions, in particular, are often accepted by courts as substantial evidence because no special expertise is needed to render those observations. (See, e.g., *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 730 [noise]; *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1152 [traffic congestion].)

In contrast, when the subject matter requires technical expertise, neighbors' opinions or observations do not qualify as substantial evidence. For example, in *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, non-expert residents performed their own noise calculations and tried to submit them as substantial evidence of a noise impact. The court held: "[a]lthough they present their numbers as scientific fact, we find appellants' calculations are essentially opinions rendered by nonexperts, which do not amount to substantial evidence." (*Id.*, at p. 894.) Similarly, in *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, neighbors challenged the decision to adopt a mitigated negative declaration, arguing that data showing groundwater contamination raised a fair argument of a hazardous material impact that required study in an EIR. The court held:

Statements of area residents who are not environmental experts may qualify as substantial evidence if they are based on relevant personal observations or involve "nontechnical" issues... However, a complex scientific issue such as the migration of chemicals through land calls for

expert evaluation, and the Neighbors do not profess any expertise that would qualify them to opine on that subject... Accordingly, ACC's conclusion that there was a "low" potential for contamination from hazardous materials from the adjacent property stands unrefuted, and an EIR is not required to address the subject.

(Bowman, at p. 583.)

Here, the comment suffers from two problems. First, the question of air quality impacts is inherently technical in nature and the opinions of non-expert neighbors are not substantial evidence. The questions analyzed in the Initial Study – such as, would the project “violate any air quality standard,” or “expose sensitive receptors to substantial pollutant concentrations” – are technical in nature. The Appendix C air quality memorandum, for instance, answered these questions through computer modeling prepared by expert consultants. In this setting, opinions by non-expert members of the public are not substantial evidence.

Second, the neighbors' reported concerns<sup>1</sup> involve a different project. Generalized concerns stemming from neighbors' observations of different projects are not substantial evidence relative to the specific project at issue. In *Lucas Valley Homeowners Assn. v. County of Marin* (1991) 233 Cal.App.3d 130, neighbors attacked a negative declaration a use permit granted to an orthodox Jewish congregation that applied to turn a house into a synagogue. The neighbors offered testimony of “generalized concerns and fears about traffic and parking impacts, or relate anecdotes of parking problems generated by [the applicant] at a different site.” According to the court, such evidence “does not rise to the level of a fair argument” of a significant adverse impact. (*Id.*, at p. 163.) Similarly, the testimony of neighbors in this case regarding the applicant's purported actions in regard to a separate project are not substantial evidence here.

#### **D.2.e. Mitigation Measures are not Adequately Defined**

*The RMNDs also improperly assume, without adequate project-specific analysis, that regulatory compliance will mitigate impacts. Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the RMNDs assert, “No . . . The applicant will be conditioned to obtain any required permits, and follow best management practices required by the GBUAPCD.” (RMND, § III(a).) This is inadequate under CEQA because a determination that regulatory compliance is adequate must be based on project-specific analysis. (Californians for Alternatives to Toxics v. Dept. of Food and Agriculture (2005) 136 Cal.App.4th 1.) Here, the RMNDs do not even identify what is required by the Great Basin Unified Air Pollution Control District (“GBUAPCD”), much less provide a project-specific analysis of how those requirements would be effective here. While the County may be inclined to point to an Air Quality Memorandum as supplying that missing analysis, this effort fails for two reasons. First, the*

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<sup>1</sup> The commenter does not identify exactly what the neighbors' opinions are, or where those opinions are expressed.

*analysis does not provide the missing information, explaining only, “Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollution emissions, including those required under their new source review requirements.” (AQ Memorandum, p. 7.) Thus discussion fails to describe applicable requirements, much less how those requirements applied here would effectively mitigate impacts. Second, even if the Air Quality Memorandum did provide some additional information, CEQA caselaw explains that such information cannot be buried in an appendix. (Vineyard Area Citizens, supra, 40 Cal.4th at 442. [information “buried in an appendix is not a substitute for good faith reasoned analysis”].)*

**Response:**

The commenter takes issue with the County’s proposed condition to require the applicant to obtain any required permits from the Great Basin Unified Air Pollution Control District (GBUAPDC) and to follow any of GBUAPDC’s best management practices. This condition is entirely appropriate and typical and does not reflect any error by the County.

“A condition requiring compliance with environmental regulations is a common and reasonable mitigation measure.” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308, citing *Perley v. Board of Supervisors* (1982) 137 Cal.App.3d 424, 430; see also *Gentry v. City of Murrieta* (1995) 36 Cal.App.3d 1359, 1396 [approval of habitat conservation plan]; *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236-237 [mitigation measure requiring applicant to secure wetlands permits from Army Corps and Cal. Department of Fish & Wildlife].)

The commenter correctly notes that problems can arise when a lead agency employs such a condition to defer the environmental review to another agency. (See *Sundstrom*, 202 Cal.App.3d at pp. 308-309 [rather than studying issue of sewage sludge disposal, county attempted to defer analysis to the water board permit process]; *Californians for Alternatives to Toxics v. Dept. of Food and Agric.* (2005) 136 Cal.App.4th 1 [Dept. Food & Agric. evaded duty to prepare a complete EIR for an pest-control proposal by deferring issue to a separate review by Dept. of Pesticide Regulation].)

It is apparent from the record that the County conducted (and did not defer) the air quality analysis. The Initial Study explained that these are small projects, involving low impact and short-term construction, in an “attainment” area with few residents and no nearby schools or hospitals. The Initial Study appended a technical analysis of the air emissions, which were all well below accepted thresholds of significance. (IS, Appendix C, p. 9.) In short, there is no evidence that the County deferred any part of its analysis to the GBUAPDC.

**D.2.f. Mitigation Measures are not Adequately Defined**

*The RMNDs then attempts to cite to the REGPA programmatic EIR (“PEIR”) and its MMRP in an attempt to dismiss significance of these*

*impacts. (RMND, §III(a).) The plain language of the PEIR refutes this effort:*

*The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. However, since the air basin is within the Owens Valley PM10 Planning Area, **fugitive dust emissions from construction must be mitigated.***

*(PEIR, p. 4.3-10, emphasis added.) Here, however, there is no such mitigation. For example, the AQ-2 includes such measures as “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph.” The RMNDs conspicuously fail to mention these additional mitigation measures, much less identify them as such in an enforceable MMRP for the Project.*

### **Response:**

The commenter incorrectly states that the Projects are in the Owens Valley PM-10 Planning Area. As stated on page 3 of the Initial Study, and page 7 of the Appendix C memorandum, the Projects are in the Coso Junction PM-10 Planning Area which (unlike Owens Valley) is “in attainment” for PM-10. The comment also incorrectly assumes that, even if the Projects were located in the Owens Valley, dust controls in Mitigation Measure AQ-2 are mandatory. As noted above, the PEIR gave County staff discretion to determine whether the PEIR’s mitigation measures should be applied to projects smaller than utility scale. (PEIR, p. 4.3-17.)

### **D.2.g. Mitigation Measures are not Adequately Defined**

*Finally, the RMNDs claim that PEIR mitigation measures AQ-1 through -3 “applied to utility-scale projects of greater than 20 MW and did not apply to smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner.” This is inexcusably false. The plain language of AQ-1 through -3 as revised and approved does not include such limitations. (Exhibit 3, March 2015 MMRP.)*

*PEIR AQ-1 states, “AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report.” The RMNDs violate this mandate because the Air Quality report does not incorporate the specific requirements of AQ-2 and AQ-3. It merely states, “[T]he Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.” PEIR mitigation measures AQ-1, -2 and -3 are not “goals and policies” of the REGPA; they are mitigation measures under CEQA. The Air Quality report does not even identify these mitigation measures, much*

*less “incorporate” them into its “site-specific technical report.” At best, the Air Quality Memo states:*

*[F]ugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment trackout onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout the life of the Project, which will in turn ensure impacts remain less than significant.*

*(Air Quality Memo, p. 12.0.)*

*While this provides a general discussion of some mitigation measures that could be used to address dust emissions, this discussion fails to comply with CEQA. This discussion fails to correlate the identified measures to the requirements of the GBUAPCD or the PEIR. Are these measures the only ones that will be used to satisfy the requirements of the PEIR and GBUAPCD? If so, why does this discussion omit any reference to “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph” as set forth in AQ-2. Further, this discussion in the Air Quality Memo does not explain how this discussion is enforceable against the project. This is precisely the function of mitigation measures and an MMRP.*

## **Response:**

The commenter first asserts that the language of Mitigation Measures AQ-1 – AQ-3 does not provide County staff with the discretion to determine which, if any, of those mitigations are appropriate for projects smaller than utility scale. The comment overlooks language in the PEIR that does exactly that. Section 4.3.5 of the PEIR provides, in relevant part:

Air quality mitigation measures have been developed for solar energy development projects producing more than 20 MW of electricity for off-site use (utility scale) and would be implemented to mitigate adverse impacts to air quality. As previously mentioned, small scale solar energy projects are considered to result in no impacts under CEQA; however, all individual solar energy facility projects applications (including small scale, community scale, and ~~distributed generation~~ commercial scale) shall



be reviewed by the county **and the need for implementation of the following mitigation measures shall be determined based on the professional judgment of a qualified county planner...**

If a proposed ~~distribution-generation~~ commercial scale or community scale solar development project is determined by the county to have the potential to impact air quality, then the following mitigation measures shall be implemented **as determined necessary by the qualified county planner...**

(PEIR, p. 4.3-17 [underlines and strikethroughs in original; bold emphasis added].)

Plainly, the PEIR gave County staff the flexibility to determine whether the PEIR mitigation measures should be applied to solar projects generating less than 20 MW. Given that the output for the Projects is 4.2 MW, and the Projects will occupy far less land than a 20 MW solar array, the County is within its discretion to determine that some or all of the mitigation applicable to 20 MW+ projects are inappropriate here.

We suspect that the comment reflects some confusion between the relationship between a MMRP and an EIR. A MMRP is designed to: “ensure that the mitigation measures and project revisions identified in the negative declaration of are implemented.” (CEQA Guidelines, § 15097; see also CEQA, § 21081.6(a)(1).) Said differently, a MMRP only implements measures contained in an EIR or negative declaration. If an MMRP does not do so faithfully, the EIR or negative declaration control. Here, to the extent that the 2015 MMRP did not fully capture the PEIR’s mitigation, the language in the PEIR itself still controls.

#### **D.2.h. Mitigation Measures are not Adequately Defined**

*Finally, regulatory compliance is only permissible when it is reasonable to assume that they will actually be complied with. “[C]ompliance with regulations is a common and reasonable mitigation measure, and may be proper where it is reasonable to expect compliance.” (Oakland Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884, 906.) Here, the project applicant has repeatedly violated County and air district rules and permits with respect to this Project and earlier projects. These repeated violations have been documented by County staff and establish that it is not reasonable to simply assume that the project applicant will comply with such permit terms in the future.*

#### **Response:**

The commenter asserts, without supporting facts, that the applicant violated County and air district rules. However, unsubstantiated narrative is not substantial evidence. (See CEQA Guidelines, § 15384.) Further, CEQA requires a lead agency to accept existing “baseline” conditions when preparing a CEQA review, even if those conditions result from an alleged violation of law. (See *Communities for a Better Environmental v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 321, fn. 7;

*Eureka Citizens for Responsible Gov. v. City of Eureka* (2007) 147 Cal.App.4th 357, 370-371 [baseline for school playground project was existing playground, even though past construction may have violated city code]; *Fat v. Cnty. of Sacramento* (2002) 97 Cal.App.4th 1270, 1278-1281 [existing airport activity part of baseline, even if it occurred previously without permit]; *Riverwatch v. Cnty. of San Diego* (1999) 76 Cal.App.4th 1428, 1453 [improper to extend baseline into past to capture illegal mining activity]; see also *Bottini v. City of San Diego* (2018) 27 Cal.App.5th 281, 303 [noting caselaw.] Thus, the comment has not identified any flaw in the County’s treatment of the Projects.

### **D.2.i. Mitigation Measures are not Adequately Defined**

*In short, the RMNDs improperly rely on mitigation to avoid analysis of project impacts and fail to provide adequate information in order to determine whether mitigation is effective and enforceable. Without this necessary information, the RMND’s significance determinations are not supported by substantial evidence.*

#### **Response:**

For the reasons stated above, the commenter has not shown that the County erred in any way. The impacts of these small solar Projects are uniformly less than significant. The dust controls and other measures adopted here are in the nature of best management practices that are applied without regard to the scale or significance of impacts. The applicant should not be penalized for committing to do more than is strictly required to mitigate non-existent impacts.

### **D.3. RMNDs Inconsistently apply the PEIR’s Mitigation Measures**

*Our prior comment letter explains that the original MNDs appeared to have ignored literally dozens of mitigation measures adopted pursuant to the PEIR. The RMNDs now appear to incorporate the PEIR’s mitigation measures but have done so inconsistently and in violation of CEQA. For example, sections IV(a) (Biological Resources) and XIII(a) (Noise) appear to incorporate mitigation measures set forth in the PEIR in order to address the Project’s potentially significant impacts in those resource areas. Setting aside the procedural deficiency of not circulating an MMRP including these mitigation measures, the RMNDs fail to explain why the same procedure was not followed in other resource areas [fn: Examples include air quality, agricultural impacts, transportation, water quality and visual resources] where the PEIR requires mitigation in order to support a less-than-significant determination. The leading CEQA treatise explains, “As activities within the program are approved, the agency must incorporate, if feasible, the mitigation measures and alternatives developed in the program EIR in its action approving the activity.” (I Kostka and Zischke, Practice Under the Cal. Environmental Quality Act (2nd ed. 2023) § 10.16, p. 10-20.)*

## **Response:**

The commenter has not shown any inconsistency in application of the PEIR’s mitigation measures. The comment fails to appreciate that the PEIR applied mainly to large solar projects (20 MW or greater generating capacity), and that the PEIR left it to County staff’s discretion to apply the PEIR’s mitigation measures to smaller-scale projects. The biological resources and noise analysis are examples in which the County exercised its discretion in appropriate ways.

With respect to biological resources, the PEIR provided County staff the discretion, for small-scale projects, whether to require a biological resource evaluation or implement the biological resource mitigation measures in the PEIR. (PEIR, p. 4.4-123.) Here, County staff examined the sites and found no species or habitat that would be affected. (IS, IV.a.) The record also contains a biological resource evaluation prepared on the applicant’s behalf which corroborates staff’s observations but also noted that certain species (desert kit fox, protected birds) could unexpectedly visit, and listed mitigation measures to ensure the risks to these species are less than significant. The Initial Study stated that these measures were “consistent with” the PEIR, but the Initial Study did not incorporate the PEIR’s mitigation measures, which County staff had the discretion not to do.

With respect to noise, the PEIR gave County staff similar discretion to determine whether to impose the PEIR mitigation measures on projects less than utility-scale. (PEIR, p. 4.12-19.) However, the PEIR also noted that the General Plan Noise Element requires noise mitigation for construction that is within 500 feet of a residential receptor. (PEIR, p. 4.12-9.) Portions of the Projects are approximately 400 feet from two residential structures. (See IS, XIII.a.) Thus, the County reasonably imposed PEIR Mitigation Measure NOI-2 to mitigate construction noise within that 500-foot area. That decision gives effect to the General Plan and implements the PEIR mitigations to the extent needed, which the County has the discretion to do.

The County also had discretion to impose, or not to impose, the PEIR’s mitigation for the other resource areas cited by the commenter (air quality, agricultural impacts, transportation, water quality and visual resources). (See PEIR, pp. 4.3-17 [air quality], 4.2-14 [agriculture], 4.17-12 [transportation]; 4.9-44-45 [water quality]; 4.1-25-26 [visual; resources].) The County was not obligated to incorporate any of them given the small size of the Projects. The commenter has not shown that the County’s proposed exercise of discretion is contrary to the record.

## **E. The County Does Not Explain the Lack of Visual Simulations**

*The RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR. AES-1 requires “site-specific visual studies . . . to assess potential visual impacts.” “Visual simulations shall be prepared to conceptually depict-post development views from the identified key observation points.” No such studies were prepared. Instead, Appendix A consists solely of low-quality “representative photographs” of apparently existing conditions.*

*The RMND states, “Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a*

*qualified planner to not have a potential to impact visual resources, including a scenic vista.” The RMNDs conspicuously fails to provide any substantial evidence supporting this conclusion. The RMNDs fail to set forth any analysis, much less written report, supporting this conclusion. The RMNDs fail to identify the County planner purportedly making this determination, the date of the determination, the criteria followed by the County planner or any specific facts supporting this determination. There is no evidence, much less substantial evidence, supporting the MND’s conclusory assertion that an unspecified “qualified County planner” determined that the Project would not have the potential to impact visual resources.*

**Response:**

The comment errs in a number of ways.

First, the commenter states, incorrectly, that “[t]he RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR.” The Initial Study stated only that the Projects were “consistent with” the PEIR which did not require site-specific visual studies for projects with less than 20 MW generating capacity. This comment thus mischaracterizes the Initial Study.

Second, the commenter asserts that no substantial evidence supports the conclusion that the Projects would not have a significant impact on a scenic vista. Such evidence is clear from the record. The Initial Study states that the Projects are not located near a scenic vista (IS, I.a.), and the comment provides no contrary evidence. Moreover, the Initial Study explains that the Projects are located on the valley floor, on a site without scenic resources, near junk and scrap yards, in an area removed from any scenic highways or recognized scenic resources. (IS, pp. 3-4, I.a.) These observations were buttressed by corroborative photographs. (IS, Appendix A.) Thus, the County had a factual basis for its determination and was clear in its rationale.

Third, the commenter states that the record fails to identify the planner making the visual resources determination. This also is not accurate. The Initial Study was signed by Cynthia Draper, an Assistant Planner with the Inyo County Planning Department, on July 19, 2023. The commenter must presume that this planner made the determinations in the initial study.

Fourth and finally, the comment incorrectly assumes that there is substantial evidence in the record giving rise to the need for a visual study. Such evidence does not exist, nor has the commenter offered any. (CEQA Guidelines, § 15384 [substantial evidence not include “argument, speculation, [or] unsubstantiated opinion or narrative...”].) Rather, the evidence shows that these are small projects, in a sparsely populated area and few residents, in an area without recognized scenic resources. There is no error in the County’s analysis.

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**F. The RMNDs Fail to Include a Traffic Control Plan:**

*PEIR mitigation measure TRA-1 provides:*

*Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.*

*The RMNDs do not include the required traffic control plan, nor even mention mitigation measure TRA-1. While the RMNDs state that the Project “will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase,” there is no attempt to explain why these “few” construction vehicles do not require a traffic control plan to avoid conflicts with adjacent and nearby residents.*

**Response:**

The commenter again overlooks language in the PEIR that makes the transportation mitigation measures (including TRA-1) applicable only to utility-scale solar projects, and which gives County staff discretion to determine whether the PEIR mitigation measures are appropriate for a smaller-scale project like this. (PEIR, p. 4.17-12.) Here, the Initial Study documented that the Projects would generate only a small amount of traffic on a lightly-used road:

The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.

(IS, XVII.a.) The Appendix C air memorandum, similarly, conservatively assumed that approximately ten contractors would visit per day for 25 days during construction, and almost no traffic (one daily trip) would occur in operations. (IS, Appendix C, p. 6.) These are small traffic volumes on a lightly-traveled road. The record does not suggest that a site-specific traffic control plan is necessary. The County’s treatment of the Projects is supported by substantial evidence.

**G. The MNDs Fail to Address Impacts Associated with Noxious Weeds:**

*Mitigation measure AG-3 provides, “To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed.” In violation of this mitigation measure, no weed-abatement plan appears to have been prepared, and the RMNDs make no reference to such a plan.*

**Response:**

Again, the commenter overlooks language in the PEIR that makes the agricultural mitigation measures (including AG-3) applicable only to utility-scale solar projects, and which gives County staff discretion to determine if they are appropriate for smaller-scale projects. (PEIR, p. 4.2-14.) As stated in the initial study, agriculture and farming are not significant land uses in the area, the Projects would not result in the conversion of agricultural land. (IS, pp. 3, II.) Thus, the Projects are not expected to have any impacts to agriculture that warrant a weed management program, and the County was within its discretion to determine that such a mitigation measure was unnecessary.

**CONCLUSION**

On behalf of Mr. Barker, we appreciate the County’s work on the Projects, and the opportunity to respond to the comments. If you have any questions, please do not hesitate to contact me at (916) 501-2395 or [shungerford@hthglaw.com](mailto:shungerford@hthglaw.com).

Very truly yours,  
HARRISON, TEMBLADOR, HUNGERFORD & GUERNSEY



By  
Sean Hungerford

cc: Client



October 10, 2023

**Via Electronic Mail**

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***Re: Response to Comments on Renewal Energy Permit Nos. 2022-01/2022-02***

Dear Ms. Draper,

This law firm represents Robbie Barker and Valley Wide Engineering & Construction, Inc. (collectively, the “applicant”) regarding applications for two renewable energy permits, Nos. 2022-01 and 2022-02, (the “Projects”) set to be heard by the Inyo County Planning Commission on October 25, 2023. This letter responds to an August 24, 2023 comment letter submitted by the Soluri Meserve law firm on behalf of its client, John Mays.

By way of overview, the comment letter fails to demonstrate any procedural or substantive defect in the County’s decision to prepare Mitigated Negative Declarations (MNDs). These are small solar energy facilities, to be installed on a total of 20 acres in a sparsely populated area located north of the Trona community, within a Solar Energy Development Area (“SEDA”) designated by the Board of Supervisors in 2015. The single-axis tracker panels will be placed on flat land without special scenic or habitat value, using accepted best management practices for dust control. No significant adverse environmental impacts whatsoever are expected.

Of particular note, the Projects have a combined generating output of only 4.2 megawatts (“MW”). This makes these Projects far smaller than the “utility-scale” solar projects (i.e., more than 20 MW) that were the main focus of the Renewable Energy General Plan Amendment (“REGPA”) adopted by the Board of Supervisors in 2015. We raise this because the Board also certified a Programmatic EIR (“PEIR”) for the REGPA, and the PEIR contained several mitigation measures which the comment letter demands to be applied to these Projects. As we explain below, however, most of the PEIR’s mitigation measures apply to utility-scale projects, not to small projects like this. Thus, the County did not err by deciding that many of those mitigations were inappropriate for these Projects.

Below, we have set forth each of the August 24, 2023 comments in italics, then provided the applicant’s response. As our responses show, the County’s treatment of the Projects, and the County’s decision to adopt MNDs, is correct and well supported by the record.



## RESPONSES TO COMMENTS

### **A. Failure to Include Mitigation Monitoring and Reporting Plan**

*Although clearly identifying each document as an “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeatedly checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County fails to prepare Mitigation Monitoring and Reporting Program(s) (“MMRP”(s)). This violates CEQA (CEQA Guidelines, § 15097) and also the Inyo County Code. (County Code, Ch. 15.44.) To wit:*

#### *15.44.005 General.*

*The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)*

#### *15.44.010 Application.*

*A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)*

#### *15.44.020 Timing.*

***Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment.***  
*The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)*

#### *15.44.030 Contents.*

*The monitoring plan shall contain, at a minimum, the following:*

- A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;*
- B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);*

*C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;*

*D. Identification of the person or entity responsible for monitoring and verification;*

*E. The method of reporting monitoring results to the county.  
(Ord. 957 § 1 (part), 1995.)*

#### *15.44.040 Enforcement.*

*Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)*

*Setting aside the RMND's practice of not identifying mitigation measures required to reduce Project impacts, the RMND's expressly identify mitigation measures in Sections IV(a), XIII(a) and XXI(a). Thus, the RMND's require a draft MMRP that is circulated for public comment. The RMND's are therefore procedurally invalid. A new RMND or EIR must be recirculated for public review along with the required MMRP.*

### **Response:**

The commenter contends that it was error for the County not to circulate a Mitigation, Monitoring and Reporting Plan (MMRP) along with the MND. The commenter appears, however, to have misread the applicable requirements. The County's ordinances permit a MMRP to be adopted by the County at the time of project approval and adoption of a MND, which has not yet occurred. Section 15.44.020 requires that a draft MMRP "be subject to public review and comment," but does not require that it be circulated (or recirculated) with a MND. Similarly, nothing in the CEQA Guidelines requires that a MMRP be circulated with an MND. (See CEQA Guidelines, §§ 15073 [public review of MNDs], 15073.5 [recirculation of MNDs], 15097 [rules for MMRPs].) To the contrary, section 15097 indicates that a MMRP is formulated after the public review process, not before. Here, therefore, the County may comply with its ordinances and CEQA by ensuring that the MMRP is made available for public review before it adopts a MND.

### **B. Project Piecemealing**

*CEQA's conception of the term "project" is broad to maximize protection of the environment. (Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist. (2007) 147 Cal.App.4th 643, 653; San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27*

*Cal.App.4th 713, 730. “This big picture approach to the definition of a project (i.e., including “the whole of an action”) prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project into smaller components which, when considered separately, may not have a significant environmental effect.” (Nelson v. County of Kern (2010) 190 Cal.App.4th 252, 270-271.)*

*The County is dividing a project into smaller components. The Project consists of two REPs for photovoltaic solar power generation on adjacent parcels owned by the same person, Robbie Barker. The RMNDs explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)*

*Notwithstanding this, the County has prepared two separate RMNDs for the Project. These RMNDs include:*

- *“RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-01/Barker- Trona 7” (See Exhibit 1.)*
- *“RECIRCULATED INITIAL STUDY with MITIGATED NEGATIVE DECLARATION / ENVIRONMENTAL CHECKLIST FORM / Renewable Energy Permit 2022-02/Barker- Trona 4” (See Exhibit 2.)*

*Dividing a single project into two CEQA documents violates CEQA. The relevant test is whether the activities have “substantial independent utility.” (Del Mar Terrace Conservancy, Inc. v. City Council (1992) 10 Cal.App.4th 712, 736.) It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by preparing two separate RMNDs for what it concedes is a single project under CEQA. A reviewing court would exercise its independent judgment on this issue with no deference to the agency. (Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)*

*We previously commented on this issue, and the RMNDs provided make the case for piecemealed review even stronger. Both RMND’s technical reports analyze the two REPs as a single project. The air quality report explains, “Valley Wide Engineering & Construction Services (the “Applicant”) is proposing to develop the PV solar facilities on two separate parcels of land, specifically a 15-acre property referred to as the Trona 4 site, and a 5-acre property referred to as the Trona 7 site*

*(collectively referred to herein as the ‘Project’).” Similarly, the biological resources report states, “Biological Resource Evaluation – Trona 4 and 7 Solar Project.” The RMNDs themselves explain, “This Initial Study studies the impacts of both applications as one Project because both facilities have a common applicant, are in proximity to each other, and would have similar impacts.” (RMND, p. 3.)*

*It appears that the County now recognizes the two REPs constitute a single CEQA project. If so, the County must prepare a single CEQA document for that single project. The County’s continued reliance on two separate CEQA documents for a single CEQA project violates CEQA.*

**Response:**

The commenter asserts that the County analyzed the Projects in a “piecemeal” manner that is generally prohibited by CEQA. Precisely the opposite took place.

Piecemealing occurs if a lead agency “split[s] one large project into smaller ones, resulting in piecemeal environmental review that obscures the project’s full environmental consequences.” (*Make UC a Good Neighbor v. Regents of Univ. of California* (2023) 88 Cal.App.5th 656, 683, citing *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1222; see also CEQA Guidelines § 15378 [“project” means “the whole of the action...”].)

No piecemealing occurred here. Mr. Barker filed two separate solar applications with the County, one for each of the connections that Mr. Barker needs to make to the utility grid. Rather than analyze the applications separately, the County analyzed both as a single project in the Initial Study and throughout all of the supporting documents (photographs, biological evaluation, air emissions analysis). Thus, there was no piecemealing at all, because the County analyzed both applications together as a single project.

The commenter’s confusion appears to stem from the fact that the County has prepared two separate MNDs. The commenter has not shown that this was error. The County organized its MNDs in this way for the obvious reason that the applicant submitted two separate applications for approval. The County thus prepared two separate approvals to fulfill the County’s procedural need to render a decision on each application. The commenter offers no legal authority prohibiting a lead agency from preparing multiple approvals, each supported by a separate MND, for multiple applications supported by a single, combined environmental review.

Finally, the commenter appears to believe that the County’s treatment of the applications requires consideration of the issue of “independent utility.” (See *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 108; *Planning & Conserv. League v. Castaic Lake Wat. Agency* (2009) 180 Cal.App.4th 210, 235.) The question of “independent utility” arises if a lead agency performs separate environmental reviews for related projects. Here, in contrast, the County analyzed the applications together, as a single project, in a single environmental review. Thus, the independent utility doctrine has no application here.

### C. Failure to Adequately Analyze Cumulative Impacts

*A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an environmental impact report (“EIR”). (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4<sup>th</sup> 1184, 1214.)*

*Despite this mandate, the two RMNDs’ cumulative impacts analyses continue to be impermissibly cursory. Each RMND’s cumulative impact analysis provide in full:*

*No. The proposed Project does not have impacts that are individually limited, but cumulatively considerable. The only existing and potentially future projects of note **in the vicinity are PV solar projects within the Trona SEDA**, but the overall number and size of these projects are **likely to be less than analyzed in the PEIR**. The Project is the second PV solar project in the SEDA as stated in the Project Description. Future solar projects in the Trona SEDA beyond those existing, proposed or planned, appear to be unlikely without significant improvements to offsite SCE transmission infrastructure.*

*(RMND, § XXI(b), emphasis added.)*

*This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) Here, the RMNDs appear to limit the scope of cumulative projects to those “within the Trona SEDA.” The RMNDs fail to explain this limitation, which violates CEQA. (CEQA Guidelines, § 15130, subd. (b)(3) [“Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used”].) The EIR for the Inyo County Renewable General Plan Amendment (“REGPA”) provided a reasonably expansive list of cumulative projects. (REGPA EIR, Table 5-1.) The County could have relied on that list of projects so long as*

*it complied with CEQA's requirements for tiering/incorporation by reference as well as updating a cumulative project list, but the County did not follow that procedure. (CEQA Guidelines, § 15130, subd. (b)(1); § 15150, subd. (c); § 15152.)*

*Similarly, the RMNDs appear to limit the scope of cumulative projects by stating that PV solar projects are the only projects "of note." The RMNDs fails to explain what is meant by limiting cumulative projects to only those "of note." CEQA includes no such limitation, and instead requires a CEQA document to set forth "[a] list of past, present, and probably future projects producing related or cumulative impacts." (CEQA Guidelines, § 15130, subd. (b)(1)(A).) For example, the Project will unquestionably result in dust generation. Projects other than PV solar projects may also generate dust and therefore must be identified as cumulative projects.*

**Response:**

The comment letter fails to recognize the difference between the "cumulative" analysis that CEQA requires for an EIR versus that required for an initial study supporting a negative declaration. As one court observed:

Substantial confusion exists about the scope of analysis of cumulative impacts required in an initial study. Many practitioners treat the question of whether impacts are "cumulatively considerable" under 14 Cal Code Regs § 15065(c) as equivalent to "significant cumulative effects" under 14 Cal Code Regs § 15130 and 15355, which govern the cumulative impacts analysis in an EIR... There appears to be a difference between the "cumulative impacts" analysis required in an EIR and the question of whether a project's impacts are "cumulatively considerable" for purposes of determining whether an EIR must be prepared at all.

*(San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1996) 42 Cal.App.4th 608, 623 [citations and some internal quotations omitted].)*

The comment letter exhibits this confusion. The letter relies on CEQA Guidelines sections 15130 and 15355, which govern the cumulative impacts analysis in an EIR. Similarly, its reliance upon *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184 is misplaced because the case involved an EIR, not an initial study. For the same reason, the commenter mistakenly relies on the discussion of cumulative impacts in the PEIR as a template for the Initial Study.

The correct method for assessing – in an initial study – whether impacts are cumulatively considerable is described in Section 15065(a)(3) of the CEQA Guidelines, as interpreted and applied by *San Joaquin Raptor/Wildlife Rescue Center* and related cases. The question is whether the "incremental effects" of a project are "considerable" when evaluated against the backdrop of environmental effects of other projects. (*San Joaquin Raptor*, 42 Cal.App.4th at pp. 623-624.) Where the initial study concludes

that these effects are absent, a challenger must point to some substantial evidence that a cumulatively considerable incremental effect exists.

Here, the comment letter attacks the Initial Study’s conclusions with respect to potential dust generation. The letter does not, however, provide evidence of any existing cumulative impact involving dust, or that an incremental effect of the Projects on that impact is considerable. Without such evidence, the challenge fails. (See *San Joaquin Raptor*, 42 Cal.App.4th at pp. 624-625 [rejecting unsubstantiated claim of cumulatively considerable effects]; *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1358 [no evidence that projects would have cumulative effects or that any such effects would be considerable]; see also Kostka & Zischke, *Practice Under The California Environmental Quality Act* (C.E.B. 2023) § 6.34, p. 6-33.)

The comment letter also fails to acknowledge that the Initial Study and its attachments affirmatively provide evidence that no cumulatively considerable dust effect will occur. As explained in the Initial Study, the Trona area is in “attainment” for PM-10 and only one other small project is planned for the area. The Appendix C air quality memorandum stated that particular matter (PM-10 and PM-2.5) will be orders of magnitude below significance thresholds, and in addition, the projects would be subject to dust control mitigation measures. (See IS, pp. 2-3, Sec. III, Exhibit C, p. 9.) In sum, the Initial Study is supported by substantial evidence showing that the Projects will have no considerable incremental dust effects requiring study in an EIR.

#### **D. RMNDs Failed to Adequately Analyze And Mitigate Project Impacts**

*The RMNDs failed to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 74 (No Oil I).) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (Citizens Action to Serve All Students v. Thornley (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (No Oil I, supra, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (Id. At p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.*

*In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This*

*is assured by incorporation into an MMRP. (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (Federation of Hillside & Canyon v. City of Los Angeles (2000) 83 Cal.App.4th 1252, 1261 (Federation).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See San Bernardino Valley Audubon Society v. Metropolitan Water District (1999) 71 Cal.App.4th 382, 392.)*

*Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, 311 (Sundstrom).) For example, in Sundstrom the court held that the absence of information explaining why no alternative sludge disposal site is available “permits the reasonable inference that sludge disposal presents a material environmental impact.” (Ibid.) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.*

## **Response:**

This commenter recites various legal principles to conclude that an EIR is necessary, but does not offer facts to explain why. In this regard, “substantial evidence” is “facts, reasonable assumptions predicated upon facts, expert opinion supported by facts...” (CEQA Guidelines, § 15384.) It does not include “argument, speculation, [or] unsubstantiated opinion or narrative...” (Id.) As the comment is nothing more than argument and unsubstantiated opinion, it fails to show any error in the County’s treatment of the Projects.

### **D.1. RMNDs Impermissibly Conflate Analysis of Impacts and Mitigation**

*For every resource area, the RMNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (Lotus v. Department of Transportation (2014) 223*



*Cal.App.4th 645, 658 (Lotus) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.*

*For example, with respect to whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the RMNDs assert, “No . . . The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) CEQA requires the RMNDs to disclose the significance of the impact without regard for mitigation, separately identify all feasible mitigation measures and assess their effectiveness at reducing the impact. (Lotus, supra, 223 Cal.App.4th at 655-656 [“Caltrans compounds this omission by incorporating the proposed mitigation measures into its description of the project and then concluding that any potential impacts from the project will be less than significant. . . . By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA”].) The RMNDs follow this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.*

## **Response:**

The commenter errs in two basic ways.

First, the commenter attempts to apply EIR-level standards to an initial study. The commenter cites *Lotus v. Department of Transp.* (2014) 223 Cal.App.4th 645, where an EIR failed to consider the impact of placing a roadway in proximity to the roots of old growth trees. The commenter also cites *San Joaquin Raptor Rescue Center v. Cnty. of Merced* (2007) 149 Cal.App.4th 645, 663-664, where the EIR failed to adequately disclose certain groundwater impacts. Both courts applied the CEQA requirement that EIRs have a “detailed statement” of a project’s significant effects. (CEQA, § 21100, subd. (b); CEQA Guidelines, § 15126(a).)

An initial study, in contrast, is subject to different standards. “[A]n initial study is neither intended nor required to include the level of detail included in an EIR.” (CEQA Guidelines, § 15063(a)(3); *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1192-

1194 [an initial study should be “brief” and is not subject to EIR standards]; see also Kostka & Zischke, supra, § 6.18, p. 6-19 (“[a]n initial study need not be a mini EIR...”). The commenter applies the wrong standards.

Second, and more importantly, the commenter fails to show that the Initial Study neglected to analyze any significant adverse effect. The only specific complaint raised by the letter is that the Initial Study did not analyze if the Projects would “[c]onflict with or obstruct implementation of the applicable air quality plan... (IS, § III.a.) The commenter’s analysis, however, omitted critical language when it quoted the Initial Study. This language omitted by is in bold below:

**No. There is no applicable air quality plan for the area in which the project is proposed. The Project is in an area considered to be in attainment for PM-10 in reference to National Ambient Air Quality Standards.** The predominant air quality concern is windblown dust. The applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts. **(See Appendix C, Air Quality and Greenhouse Gas Memorandum.) The applicant will be conditioned to obtain any required permits, and follow best management practices, required by the GBUAPCD.**

(IS, III.a.)

In short, the commenter omitted that part of the passage which explained that the Projects will not obstruct the implementation of any applicable air quality plan because there is no applicable plan for the area. By only partially quoting the Initial Study, the comment obscured the impact analysis set forth within the Initial Study. In any event, the commenter does not challenge the conclusion that the Projects will not conflict with any applicable air quality plan. In sum, the comment does not demonstrate any error by the County.

#### **D.2.a. Mitigation Measures are not Adequately Defined**

*CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See Sierra Club v. County of San Diego (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; Gray v. County of Madera (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (Federation, supra, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (Preserve Wild Santee v. City of Santee (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the*

*formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. Sacramento Old City Association v. City Council of Sacramento (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound in the RMNDs. Just a few representative examples are provided.*

**Response:**

This comment cites various legal authorities, without offering any facts or analysis, to support the conclusory statement that the MNDs are defective. As such, the commenter does not provide any substantial evidence showing error. (CEQA Guidelines, § 15384.) Also, every case and regulation cited in this comment involves mitigation requirements for an EIR, not an initial study or mitigated negative declaration. As such, the comment is of questionable value.

**D.2.b. Mitigation Measures are not Adequately Defined**

*The RMNDs claim that construction air quality will be less than significant because “[t]he applicant will control dust during construction by standard techniques that include use of a water truck to wet down disturbed areas, the use of limestone to stabilize the ground surface, and application of dust suppressants including EarthGlue, which will ensure there are no significant impacts.” (RMND, § III(a).) The RMNDs fail to adequately define these “standard techniques.” Are the “standard techniques” limited to the three identified techniques? If so, why are the RMNDs excluding other techniques disclosed in mitigation measure AQ-2 of the REGPA EIR? Further, the RMNDs fail to adequately describe the mere three techniques mentioned that would allow an assessment of their effectiveness. For example, how frequently will water trucks be used? Is there a standard for when water trucks will be required during construction? How is limestone used effectively to reduce dust? How are dust suppressants used? Are there other possible dust suppressants other than EarthGlue? If so, are any of these other dust suppressants more effective than EarthGlue? What are the tests or triggers for application of limestone or dust suppressants?*

**Response:**

The comment is correct that the “standard techniques” that would be used for dust control include: (1) wetting down areas, (2) applying limestone to stabilize the ground surface and (3) applying dust suppressants such as EarthGlue. These three control measures are identified in the Initial Study in section III.a, and in the air quality memorandum in Appendix C, at pages 7-8.

The comment also questions why the MNDs have not incorporated all of the dust control techniques listed in Mitigation Measure AQ-2 of the PEIR. The answer is in the PEIR itself. The PEIR

states that AQ-2 was developed for “utility scale” solar projects (i.e., over 20 MW generating capacity). (PEIR, p. 4.3-17.) For smaller-scale projects like these, which total 4.2 MW of generating capacity, “the need for implementation of [MM AQ-2] shall be determined based on the professional judgment of a qualified County planner...” (PEIR, p. 4.3-17.) Thus, the County had the discretion to determine that “utility-scale” mitigation is unnecessary here due to the small scale of the Projects.

The commenter also questions whether the dust controls are sufficiently detailed and seeks additional data regarding their efficacy and alternatives. This depth of analysis is not necessary due to the scale of the impact. According to Appendix C, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the thresholds of significance for PM-10 and PM-2.5 emissions. This is orders of magnitude below the threshold. Considering the miniscule impact, it is unnecessary to conduct a comparative analysis of dust control techniques to determine that MNDs are proper.

Finally, it should be noted that dust control measures are not, in practice, as specific as the commenter appears to desire. For example, MM AQ-2 from the PEIR is “[w]ater and/or coarse rock all active construction areas as necessary and as indicated by soil and air conditions.” (PEIR, p. 4.3-18.) In addition, the PEIR refers to REAT Best Management Practices (2010), which includes the following provision for dust control:

Use dust suppressant applications or other suppressant techniques to control dust emissions from onsite unpaved roads and unpaved parking areas, as well as to mitigate fugitive dust emissions from wind erosion on areas disturbed by construction activities. When considering the use of water or chemical dust suppressants take into account water supply and chemical dust suppressant issues.

(REAT, p. 29.) Such measures leave the details of implementation to the discretion of the approving agency. The dust control measures followed by the applicant here allow the same flexibility.

#### **D.2.c. Mitigation Measures are not Adequately Defined**

*Addressing some or all of these questions is necessary for the RMNDs to adequately inform the public and decision-makers that mitigation is effective to reduce the impact to less than significant on sensitive receptors such as the adjacent residential properties. An MND cannot rely on a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (King & Gardiner Farms, supra, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (Sierra Club v. County of Fresno (2018) 6 Cal.5th 502, 511.) The RMNDs have failed to provide evidence that its vague mitigation will be effective.*

**Response:**

As an initial matter, the cases cited in the comment (*King & Gardiner Farms* and *Sierra Club*) analyzed EIRs rather than initial studies or negative declarations, and therefore are of questionable value here.

In any event, the comment incorrectly assumes that the dust controls listed in the Initial Study are required to reduce dust impacts to a less-than-significant level. The record does not support such an assumption. As documented in the Appendix C memo, page 9, the daily emissions of fugitive dust from the Projects will be between 0.007 and 0.00001 percent of the typical thresholds of significance for PM-10 and PM-2.5 particulate emissions. This is before the application of dust controls. As such, the Initial Study did not need to rely upon these controls to find that fugitive dust impacts are less-than-significant. Such dust controls would only further reduce an already small and insignificant effect.

**D.2.d. Mitigation Measures are not Adequately Defined**

*Further, the RMNDs also failed to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant's REP 2018-01 that was issued in 2018.*

**Response:**

Statements by non-expert members of the public may, in limited circumstances, constitute substantial evidence that merits consideration by a CEQA lead agency. Generally, these are limited to personal observations on non-technical subjects. (See *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.) Neighbors' observations of noise and traffic conditions, in particular, are often accepted by courts as substantial evidence because no special expertise is needed to render those observations. (See, e.g., *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 730 [noise]; *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1152 [traffic congestion].)

In contrast, when the subject matter requires technical expertise, neighbors' opinions or observations do not qualify as substantial evidence. For example, in *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, non-expert residents performed their own noise calculations and tried to submit them as substantial evidence of a noise impact. The court held: "[a]lthough they present their numbers as scientific fact, we find appellants' calculations are essentially opinions rendered by nonexperts, which do not amount to substantial evidence." (*Id.*, at p. 894.) Similarly, in *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, neighbors challenged the decision to adopt a mitigated negative declaration, arguing that data showing groundwater contamination raised a fair argument of a hazardous material impact that required study in an EIR. The court held:

Statements of area residents who are not environmental experts may qualify as substantial evidence if they are based on relevant personal observations or involve "nontechnical" issues... However, a complex scientific issue such as the migration of chemicals through land calls for

expert evaluation, and the Neighbors do not profess any expertise that would qualify them to opine on that subject... Accordingly, ACC's conclusion that there was a "low" potential for contamination from hazardous materials from the adjacent property stands unrefuted, and an EIR is not required to address the subject.

(Bowman, at p. 583.)

Here, the comment suffers from two problems. First, the question of air quality impacts is inherently technical in nature and the opinions of non-expert neighbors are not substantial evidence. The questions analyzed in the Initial Study – such as, would the project “violate any air quality standard,” or “expose sensitive receptors to substantial pollutant concentrations” – are technical in nature. The Appendix C air quality memorandum, for instance, answered these questions through computer modeling prepared by expert consultants. In this setting, opinions by non-expert members of the public are not substantial evidence.

Second, the neighbors' reported concerns<sup>1</sup> involve a different project. Generalized concerns stemming from neighbors' observations of different projects are not substantial evidence relative to the specific project at issue. In *Lucas Valley Homeowners Assn. v. County of Marin* (1991) 233 Cal.App.3d 130, neighbors attacked a negative declaration a use permit granted to an orthodox Jewish congregation that applied to turn a house into a synagogue. The neighbors offered testimony of “generalized concerns and fears about traffic and parking impacts, or relate anecdotes of parking problems generated by [the applicant] at a different site.” According to the court, such evidence “does not rise to the level of a fair argument” of a significant adverse impact. (*Id.*, at p. 163.) Similarly, the testimony of neighbors in this case regarding the applicant's purported actions in regard to a separate project are not substantial evidence here.

#### **D.2.e. Mitigation Measures are not Adequately Defined**

*The RMNDs also improperly assume, without adequate project-specific analysis, that regulatory compliance will mitigate impacts. Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the RMNDs assert, “No . . . The applicant will be conditioned to obtain any required permits, and follow best management practices required by the GBUAPCD.” (RMND, § III(a).) This is inadequate under CEQA because a determination that regulatory compliance is adequate must be based on project-specific analysis. (Californians for Alternatives to Toxics v. Dept. of Food and Agriculture (2005) 136 Cal.App.4th 1.) Here, the RMNDs do not even identify what is required by the Great Basin Unified Air Pollution Control District (“GBUAPCD”), much less provide a project-specific analysis of how those requirements would be effective here. While the County may be inclined to point to an Air Quality Memorandum as supplying that missing analysis, this effort fails for two reasons. First, the*

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<sup>1</sup> The commenter does not identify exactly what the neighbors' opinions are, or where those opinions are expressed.

*analysis does not provide the missing information, explaining only, “Project contractors and operators would be required to comply with regional air quality rules promulgated by the GBUAPCD, and participate in reducing air pollution emissions, including those required under their new source review requirements.” (AQ Memorandum, p. 7.) Thus discussion fails to describe applicable requirements, much less how those requirements applied here would effectively mitigate impacts. Second, even if the Air Quality Memorandum did provide some additional information, CEQA caselaw explains that such information cannot be buried in an appendix. (Vineyard Area Citizens, supra, 40 Cal.4th at 442. [information “buried in an appendix is not a substitute for good faith reasoned analysis”].)*

**Response:**

The commenter takes issue with the County’s proposed condition to require the applicant to obtain any required permits from the Great Basin Unified Air Pollution Control District (GBUAPDC) and to follow any of GBUAPDC’s best management practices. This condition is entirely appropriate and typical and does not reflect any error by the County.

“A condition requiring compliance with environmental regulations is a common and reasonable mitigation measure.” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308, citing *Perley v. Board of Supervisors* (1982) 137 Cal.App.3d 424, 430; see also *Gentry v. City of Murrieta* (1995) 36 Cal.App.3d 1359, 1396 [approval of habitat conservation plan]; *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236-237 [mitigation measure requiring applicant to secure wetlands permits from Army Corps and Cal. Department of Fish & Wildlife].)

The commenter correctly notes that problems can arise when a lead agency employs such a condition to defer the environmental review to another agency. (See *Sundstrom*, 202 Cal.App.3d at pp. 308-309 [rather than studying issue of sewage sludge disposal, county attempted to defer analysis to the water board permit process]; *Californians for Alternatives to Toxics v. Dept. of Food and Agric.* (2005) 136 Cal.App.4th 1 [Dept. Food & Agric. evaded duty to prepare a complete EIR for an pest-control proposal by deferring issue to a separate review by Dept. of Pesticide Regulation].)

It is apparent from the record that the County conducted (and did not defer) the air quality analysis. The Initial Study explained that these are small projects, involving low impact and short-term construction, in an “attainment” area with few residents and no nearby schools or hospitals. The Initial Study appended a technical analysis of the air emissions, which were all well below accepted thresholds of significance. (IS, Appendix C, p. 9.) In short, there is no evidence that the County deferred any part of its analysis to the GBUAPDC.

**D.2.f. Mitigation Measures are not Adequately Defined**

*The RMNDs then attempts to cite to the REGPA programmatic EIR (“PEIR”) and its MMRP in an attempt to dismiss significance of these*

*impacts. (RMND, §III(a).) The plain language of the PEIR refutes this effort:*

*The GBUAPCD considers short-term construction equipment exhaust emissions to be less than significant. However, since the air basin is within the Owens Valley PM10 Planning Area, **fugitive dust emissions from construction must be mitigated.***

*(PEIR, p. 4.3-10, emphasis added.) Here, however, there is no such mitigation. For example, the AQ-2 includes such measures as “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph.” The RMNDs conspicuously fail to mention these additional mitigation measures, much less identify them as such in an enforceable MMRP for the Project.*

### **Response:**

The commenter incorrectly states that the Projects are in the Owens Valley PM-10 Planning Area. As stated on page 3 of the Initial Study, and page 7 of the Appendix C memorandum, the Projects are in the Coso Junction PM-10 Planning Area which (unlike Owens Valley) is “in attainment” for PM-10. The comment also incorrectly assumes that, even if the Projects were located in the Owens Valley, dust controls in Mitigation Measure AQ-2 are mandatory. As noted above, the PEIR gave County staff discretion to determine whether the PEIR’s mitigation measures should be applied to projects smaller than utility scale. (PEIR, p. 4.3-17.)

### **D.2.g. Mitigation Measures are not Adequately Defined**

*Finally, the RMNDs claim that PEIR mitigation measures AQ-1 through -3 “applied to utility-scale projects of greater than 20 MW and did not apply to smaller, commercial-scale projects unless determined to be needed on a case-by-case basis by a qualified County planner.” This is inexcusably false. The plain language of AQ-1 through -3 as revised and approved does not include such limitations. (Exhibit 3, March 2015 MMRP.)*

*PEIR AQ-1 states, “AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report.” The RMNDs violate this mandate because the Air Quality report does not incorporate the specific requirements of AQ-2 and AQ-3. It merely states, “[T]he Project would comply with applicable goals and policies outlined in the REGPA that are meant to reduce air emissions during construction and operation.” PEIR mitigation measures AQ-1, -2 and -3 are not “goals and policies” of the REGPA; they are mitigation measures under CEQA. The Air Quality report does not even identify these mitigation measures, much*



*less “incorporate” them into its “site-specific technical report.” At best, the Air Quality Memo states:*

*[F]ugitive dust due to ground disturbing activities and vehicles/equipment travelling on unpaved roadways were also quantified. Water trucks will be utilized as needed throughout the Project construction phase to control dust, and crushed limestone and/or non-toxic clay polymer compounds will be applied to exposed surfaces during construction and operations to further ensure fugitive dust is sufficiently controlled. Stabilized entrance and exits will be installed and maintained at driveways to reduce sediment trackout onto the adjacent public roadway. As stated above, the control of fugitive dust is critical to solar operations, as panels coated by dust do not function at full capacity. Therefore, dust controls will remain in place throughout the life of the Project, which will in turn ensure impacts remain less than significant.*

*(Air Quality Memo, p. 12.0.)*

*While this provides a general discussion of some mitigation measures that could be used to address dust emissions, this discussion fails to comply with CEQA. This discussion fails to correlate the identified measures to the requirements of the GBUAPCD or the PEIR. Are these measures the only ones that will be used to satisfy the requirements of the PEIR and GBUAPCD? If so, why does this discussion omit any reference to “sweep streets daily (with water sweepers),” “cover all trucks hauling soil, sand and other loose materials,” and “limit the speed of on-site vehicles to 15 mph” as set forth in AQ-2. Further, this discussion in the Air Quality Memo does not explain how this discussion is enforceable against the project. This is precisely the function of mitigation measures and an MMRP.*

## **Response:**

The commenter first asserts that the language of Mitigation Measures AQ-1 – AQ-3 does not provide County staff with the discretion to determine which, if any, of those mitigations are appropriate for projects smaller than utility scale. The comment overlooks language in the PEIR that does exactly that. Section 4.3.5 of the PEIR provides, in relevant part:

Air quality mitigation measures have been developed for solar energy development projects producing more than 20 MW of electricity for off-site use (utility scale) and would be implemented to mitigate adverse impacts to air quality. As previously mentioned, small scale solar energy projects are considered to result in no impacts under CEQA; however, all individual solar energy facility projects applications (including small scale, community scale, and ~~distributed generation~~ commercial scale) shall

be reviewed by the county **and the need for implementation of the following mitigation measures shall be determined based on the professional judgment of a qualified county planner...**

If a proposed ~~distribution-generation~~ commercial scale or community scale solar development project is determined by the county to have the potential to impact air quality, then the following mitigation measures shall be implemented **as determined necessary by the qualified county planner...**

(PEIR, p. 4.3-17 [underlines and strikethroughs in original; bold emphasis added].)

Plainly, the PEIR gave County staff the flexibility to determine whether the PEIR mitigation measures should be applied to solar projects generating less than 20 MW. Given that the output for the Projects is 4.2 MW, and the Projects will occupy far less land than a 20 MW solar array, the County is within its discretion to determine that some or all of the mitigation applicable to 20 MW+ projects are inappropriate here.

We suspect that the comment reflects some confusion between the relationship between a MMRP and an EIR. A MMRP is designed to: “ensure that the mitigation measures and project revisions identified in the negative declaration of are implemented.” (CEQA Guidelines, § 15097; see also CEQA, § 21081.6(a)(1).) Said differently, a MMRP only implements measures contained in an EIR or negative declaration. If an MMRP does not do so faithfully, the EIR or negative declaration control. Here, to the extent that the 2015 MMRP did not fully capture the PEIR’s mitigation, the language in the PEIR itself still controls.

#### **D.2.h. Mitigation Measures are not Adequately Defined**

*Finally, regulatory compliance is only permissible when it is reasonable to assume that they will actually be complied with. “[C]ompliance with regulations is a common and reasonable mitigation measure, and may be proper where it is reasonable to expect compliance.” (Oakland Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884, 906.) Here, the project applicant has repeatedly violated County and air district rules and permits with respect to this Project and earlier projects. These repeated violations have been documented by County staff and establish that it is not reasonable to simply assume that the project applicant will comply with such permit terms in the future.*

#### **Response:**

The commenter asserts, without supporting facts, that the applicant violated County and air district rules. However, unsubstantiated narrative is not substantial evidence. (See CEQA Guidelines, § 15384.) Further, CEQA requires a lead agency to accept existing “baseline” conditions when preparing a CEQA review, even if those conditions result from an alleged violation of law. (See *Communities for a Better Environmental v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 321, fn. 7;

*Eureka Citizens for Responsible Gov. v. City of Eureka* (2007) 147 Cal.App.4th 357, 370-371 [baseline for school playground project was existing playground, even though past construction may have violated city code]; *Fat v. Cnty. of Sacramento* (2002) 97 Cal.App.4th 1270, 1278-1281 [existing airport activity part of baseline, even if it occurred previously without permit]; *Riverwatch v. Cnty. of San Diego* (1999) 76 Cal.App.4th 1428, 1453 [improper to extend baseline into past to capture illegal mining activity]; see also *Bottini v. City of San Diego* (2018) 27 Cal.App.5th 281, 303 [noting caselaw.]. Thus, the comment has not identified any flaw in the County’s treatment of the Projects.

### **D.2.i. Mitigation Measures are not Adequately Defined**

*In short, the RMNDs improperly rely on mitigation to avoid analysis of project impacts and fail to provide adequate information in order to determine whether mitigation is effective and enforceable. Without this necessary information, the RMND’s significance determinations are not supported by substantial evidence.*

#### **Response:**

For the reasons stated above, the commenter has not shown that the County erred in any way. The impacts of these small solar Projects are uniformly less than significant. The dust controls and other measures adopted here are in the nature of best management practices that are applied without regard to the scale or significance of impacts. The applicant should not be penalized for committing to do more than is strictly required to mitigate non-existent impacts.

### **D.3. RMNDs Inconsistently apply the PEIR’s Mitigation Measures**

*Our prior comment letter explains that the original MNDs appeared to have ignored literally dozens of mitigation measures adopted pursuant to the PEIR. The RMNDs now appear to incorporate the PEIR’s mitigation measures but have done so inconsistently and in violation of CEQA. For example, sections IV(a) (Biological Resources) and XIII(a) (Noise) appear to incorporate mitigation measures set forth in the PEIR in order to address the Project’s potentially significant impacts in those resource areas. Setting aside the procedural deficiency of not circulating an MMRP including these mitigation measures, the RMNDs fail to explain why the same procedure was not followed in other resource areas [fn: Examples include air quality, agricultural impacts, transportation, water quality and visual resources] where the PEIR requires mitigation in order to support a less-than-significant determination. The leading CEQA treatise explains, “As activities within the program are approved, the agency must incorporate, if feasible, the mitigation measures and alternatives developed in the program EIR in its action approving the activity.” (I Kostka and Zischke, Practice Under the Cal. Environmental Quality Act (2nd ed. 2023) § 10.16, p. 10-20.)*

## **Response:**

The commenter has not shown any inconsistency in application of the PEIR’s mitigation measures. The comment fails to appreciate that the PEIR applied mainly to large solar projects (20 MW or greater generating capacity), and that the PEIR left it to County staff’s discretion to apply the PEIR’s mitigation measures to smaller-scale projects. The biological resources and noise analysis are examples in which the County exercised its discretion in appropriate ways.

With respect to biological resources, the PEIR provided County staff the discretion, for small-scale projects, whether to require a biological resource evaluation or implement the biological resource mitigation measures in the PEIR. (PEIR, p. 4.4-123.) Here, County staff examined the sites and found no species or habitat that would be affected. (IS, IV.a.) The record also contains a biological resource evaluation prepared on the applicant’s behalf which corroborates staff’s observations but also noted that certain species (desert kit fox, protected birds) could unexpectedly visit, and listed mitigation measures to ensure the risks to these species are less than significant. The Initial Study stated that these measures were “consistent with” the PEIR, but the Initial Study did not incorporate the PEIR’s mitigation measures, which County staff had the discretion not to do.

With respect to noise, the PEIR gave County staff similar discretion to determine whether to impose the PEIR mitigation measures on projects less than utility-scale. (PEIR, p. 4.12-19.) However, the PEIR also noted that the General Plan Noise Element requires noise mitigation for construction that is within 500 feet of a residential receptor. (PEIR, p. 4.12-9.) Portions of the Projects are approximately 400 feet from two residential structures. (See IS, XIII.a.) Thus, the County reasonably imposed PEIR Mitigation Measure NOI-2 to mitigate construction noise within that 500-foot area. That decision gives effect to the General Plan and implements the PEIR mitigations to the extent needed, which the County has the discretion to do.

The County also had discretion to impose, or not to impose, the PEIR’s mitigation for the other resource areas cited by the commenter (air quality, agricultural impacts, transportation, water quality and visual resources). (See PEIR, pp. 4.3-17 [air quality], 4.2-14 [agriculture], 4.17-12 [transportation]; 4.9-44-45 [water quality]; 4.1-25-26 [visual; resources].) The County was not obligated to incorporate any of them given the small size of the Projects. The commenter has not shown that the County’s proposed exercise of discretion is contrary to the record.

## **E. The County Does Not Explain the Lack of Visual Simulations**

*The RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR. AES-1 requires “site-specific visual studies . . . to assess potential visual impacts.” “Visual simulations shall be prepared to conceptually depict-post development views from the identified key observation points.” No such studies were prepared. Instead, Appendix A consists solely of low-quality “representative photographs” of apparently existing conditions.*

*The RMND states, “Here, the Project involves a small, commercial-scale facilities that, due to its size and location, have been determined by a*

*qualified planner to not have a potential to impact visual resources, including a scenic vista.” The RMNDs conspicuously fails to provide any substantial evidence supporting this conclusion. The RMNDs fail to set forth any analysis, much less written report, supporting this conclusion. The RMNDs fail to identify the County planner purportedly making this determination, the date of the determination, the criteria followed by the County planner or any specific facts supporting this determination. There is no evidence, much less substantial evidence, supporting the MND’s conclusory assertion that an unspecified “qualified County planner” determined that the Project would not have the potential to impact visual resources.*

**Response:**

The comment errs in a number of ways.

First, the commenter states, incorrectly, that “[t]he RMNDs acknowledge that the Project is subject to the mitigation measures set forth in the PEIR.” The Initial Study stated only that the Projects were “consistent with” the PEIR which did not require site-specific visual studies for projects with less than 20 MW generating capacity. This comment thus mischaracterizes the Initial Study.

Second, the commenter asserts that no substantial evidence supports the conclusion that the Projects would not have a significant impact on a scenic vista. Such evidence is clear from the record. The Initial Study states that the Projects are not located near a scenic vista (IS, I.a.), and the comment provides no contrary evidence. Moreover, the Initial Study explains that the Projects are located on the valley floor, on a site without scenic resources, near junk and scrap yards, in an area removed from any scenic highways or recognized scenic resources. (IS, pp. 3-4, I.a.) These observations were buttressed by corroborative photographs. (IS, Appendix A.) Thus, the County had a factual basis for its determination and was clear in its rationale.

Third, the commenter states that the record fails to identify the planner making the visual resources determination. This also is not accurate. The Initial Study was signed by Cynthia Draper, an Assistant Planner with the Inyo County Planning Department, on July 19, 2023. The commenter must presume that this planner made the determinations in the initial study.

Fourth and finally, the comment incorrectly assumes that there is substantial evidence in the record giving rise to the need for a visual study. Such evidence does not exist, nor has the commenter offered any. (CEQA Guidelines, § 15384 [substantial evidence not include “argument, speculation, [or] unsubstantiated opinion or narrative...”].) Rather, the evidence shows that these are small projects, in a sparsely populated area and few residents, in an area without recognized scenic resources. There is no error in the County’s analysis.

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**F. The RMNDs Fail to Include a Traffic Control Plan:**

*PEIR mitigation measure TRA-1 provides:*

*Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.*

*The RMNDs do not include the required traffic control plan, nor even mention mitigation measure TRA-1. While the RMNDs state that the Project “will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase,” there is no attempt to explain why these “few” construction vehicles do not require a traffic control plan to avoid conflicts with adjacent and nearby residents.*

**Response:**

The commenter again overlooks language in the PEIR that makes the transportation mitigation measures (including TRA-1) applicable only to utility-scale solar projects, and which gives County staff discretion to determine whether the PEIR mitigation measures are appropriate for a smaller-scale project like this. (PEIR, p. 4.17-12.) Here, the Initial Study documented that the Projects would generate only a small amount of traffic on a lightly-used road:

The connecting road, Trona Wildrose Road, is lightly traveled. The Project will add no more than a few vehicles per day to Trona Wildrose Road during the construction phase, and no regular vehicle traffic during operations. During operations, the solar facilities will be remotely monitored and visited only occasionally (weekly, on average) by a light vehicle for inspection or maintenance. The Project will not result in a significant increase in traffic that is substantial in relation to the existing traffic load or capacity of the existing road system. The Project will not conflict with any existing transit, roadway, bicycle, or pedestrian facilities.

(IS, XVII.a.) The Appendix C air memorandum, similarly, conservatively assumed that approximately ten contractors would visit per day for 25 days during construction, and almost no traffic (one daily trip) would occur in operations. (IS, Appendix C, p. 6.) These are small traffic volumes on a lightly-traveled road. The record does not suggest that a site-specific traffic control plan is necessary. The County’s treatment of the Projects is supported by substantial evidence.

**G. The MNDs Fail to Address Impacts Associated with Noxious Weeds:**

*Mitigation measure AG-3 provides, “To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed.” In violation of this mitigation measure, no weed-abatement plan appears to have been prepared, and the RMNDs make no reference to such a plan.*

**Response:**

Again, the commenter overlooks language in the PEIR that makes the agricultural mitigation measures (including AG-3) applicable only to utility-scale solar projects, and which gives County staff discretion to determine if they are appropriate for smaller-scale projects. (PEIR, p. 4.2-14.) As stated in the initial study, agriculture and farming are not significant land uses in the area, the Projects would not result in the conversion of agricultural land. (IS, pp. 3, II.) Thus, the Projects are not expected to have any impacts to agriculture that warrant a weed management program, and the County was within its discretion to determine that such a mitigation measure was unnecessary.

**CONCLUSION**

On behalf of Mr. Barker, we appreciate the County’s work on the Projects, and the opportunity to respond to the comments. If you have any questions, please do not hesitate to contact me at (916) 501-2395 or [shungerford@hthglaw.com](mailto:shungerford@hthglaw.com).

Very truly yours,  
HARRISON, TEMBLADOR, HUNGERFORD & GUERNSEY



By  
Sean Hungerford

cc: Client

ATTACHMENT- D  
PLANNING COMMISSION  
STAFF REPORT PACKET





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**AGENDA ITEM NO.:** Action Item No. 6  
**PLANNING COMMISSION MEETING DATE:** October 25, 2023  
**SUBJECT:** Renewable Energy Permit # 2022-02 /Barker

**EXECUTIVE SUMMARY**

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

**PROJECT INFORMATION**

**Supervisory District:** 5

**Project Applicant:** Robbie Barker

**Site Address:** Trona, CA 93592

**Community:** Trona, CA

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

**General Plan:** Residential Estate (RE); SEDA Overlay

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

**Size of Parcel:** 15 acres.

**SURROUNDING LAND USE**

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

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

**Alternatives:**

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

**Project Planner:**

Cynthia Draper

**STAFF ANALYSIS**

Background

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

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

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

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

## Overview

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

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

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

## General Plan Consistency

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

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

### Zoning Ordinance Consistency

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

### Environmental Review

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

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

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

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

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

### **NOTICING & REVIEW**

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

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

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

## RECOMMENDATION

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

## FINDINGS

1. The proposed Renewable Energy Permit has met the provisions of necessary review, pursuant to the California Environmental Quality Act.  
*[Evidence: The Inyo County 2015 REGPA, the Initial Study for this project (December 2022 & August 2023), and the addition of the Mitigation and Monitoring Program recommended for this permit, have eliminated the potential for adverse environmental impacts that will exceed thresholds of significance, either individually or cumulatively.]*
2. The proposed Renewable Energy Permit is consistent with the Inyo County General Plan Land Use Designation of Residential Estate (RE)/ SEDA, as adopted by Inyo County.  
*[Evidence: In 2015, Inyo County updated its General Plan to include policies for solar energy development within the County. New goals, policies, implementation measures, and actual sites, were identified in locations referred to in the REGPA as SEDAs. The current project falls within Inyo County's southern SEDA and therefore has consistency with the General Plan]*
3. The proposed Renewable Energy Permit is consistent with the Inyo County Zoning Ordinance.  
*[Evidence: Utility scale and commercial scale renewable energy solar facilities are allowed within any zoning district, under Title 18 of the Inyo County Code, and pursuant to Inyo County Code Title 21 if the facilities are proposed within a SEDA. The new land use policy created by the REGPA means that applications will be considered regardless of zoning designation, with approval of the permit decided by the Planning Commission, as long as they are located in a SEDA.]*
4. The proposed Renewable Energy Permit is necessary or desirable.  
*[Evidence: In 2015, the Inyo County Board of Supervisors decided it was necessary to adopt new land use policies that were consistent with and met the broader goals and visions for the County as expressed in the General Plan. These amended land use policies regulate and direct the type, siting, and size of potential future renewable energy development within the County. Given that the proposed project is within the southern SEDA, the project is consistent with what the County has deemed necessary and desirable (REGPA, ES-2, 2015).]*
5. The proposed Renewable Energy Permit is properly related to other uses and transportation and service facilities in the vicinity.  
*[Evidence: The proposed Renewable Energy Permit is properly related to transportation and service facilities and will not adversely affect these facilities. The project is located in an area where it can*

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

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

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

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

## **CONDITIONS OF APPROVAL**

### *1. Hold Harmless*

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

### *2. Compliance with County Code*

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

### *3. Decommissioning Plan and Financial Assurance*

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

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

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

### *4. Notification of local American Tribes*

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

*4. Air Quality*

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

*6. Desert kit fox and nesting birds*

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

*7. Noise*

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

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

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

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

[https://library.qcode.us/lib/inyo\\_county\\_ca/pub/county\\_code/item/title\\_21-chapter\\_21\\_16](https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_21-chapter_21_16)

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

[https://library.qcode.us/lib/inyo\\_county\\_ca/pub/county\\_code/item/title\\_21-chapter\\_21\\_04-21\\_04\\_030](https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_21-chapter_21_04-21_04_030)

[https://library.qcode.us/lib/inyo\\_county\\_ca/pub/county\\_code/item/title\\_21-chapter\\_21\\_16-21\\_16\\_060](https://library.qcode.us/lib/inyo_county_ca/pub/county_code/item/title_21-chapter_21_16-21_16_060)

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PRC&sectionNum=21080.3.1.](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC&sectionNum=21080.3.1)

**ATTACHMENTS:**

Vicinity map

Vicinity map – 2

Vicinity map- Proposed and existing solar fields

Public Resource Code Section 21166

Site Plan

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

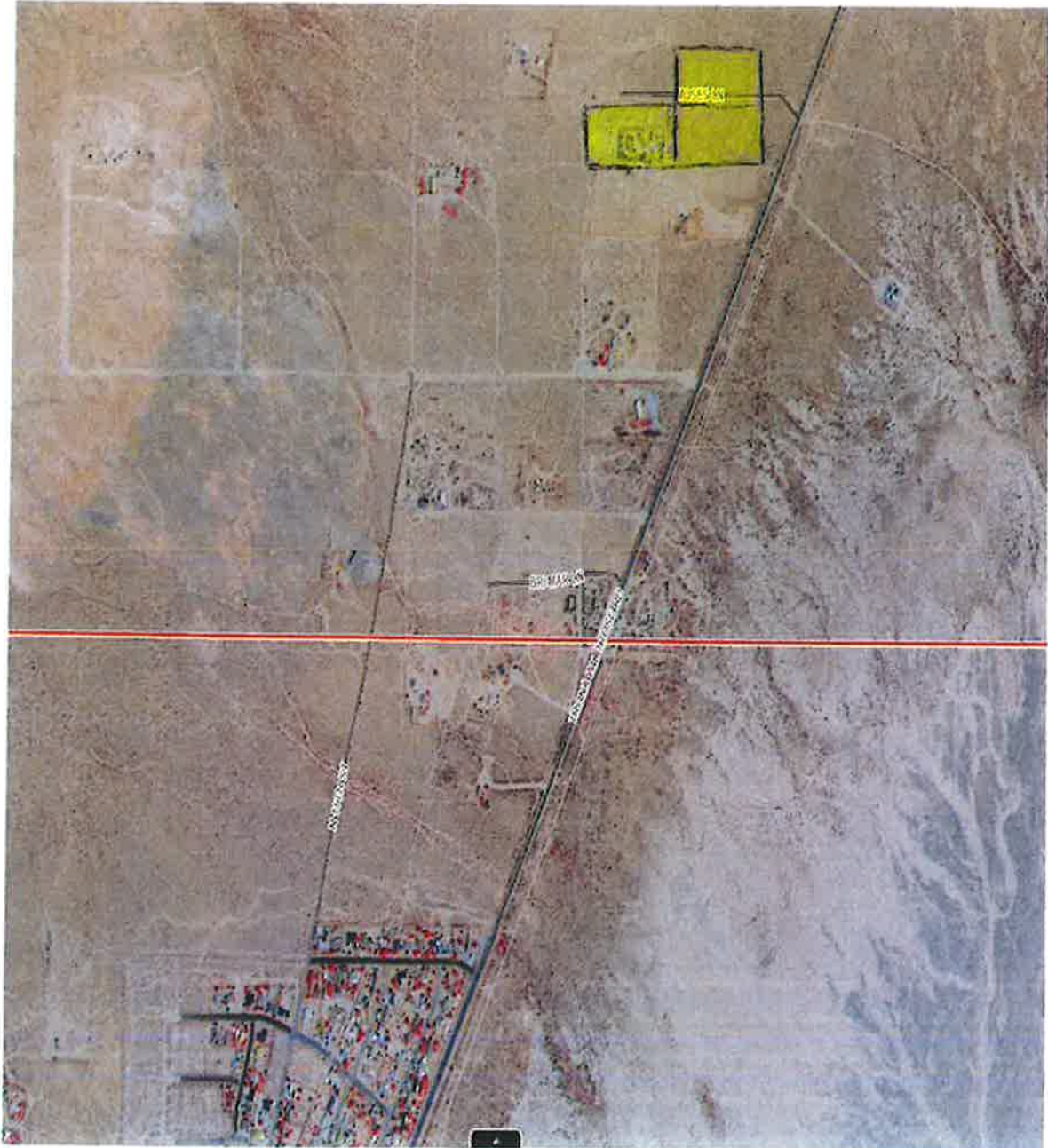
Diagram 32f: Solar Energy Development area- Trona

Mitigation and Monitoring Program

# VICINITY MAP

REP 2022-02/BARKER

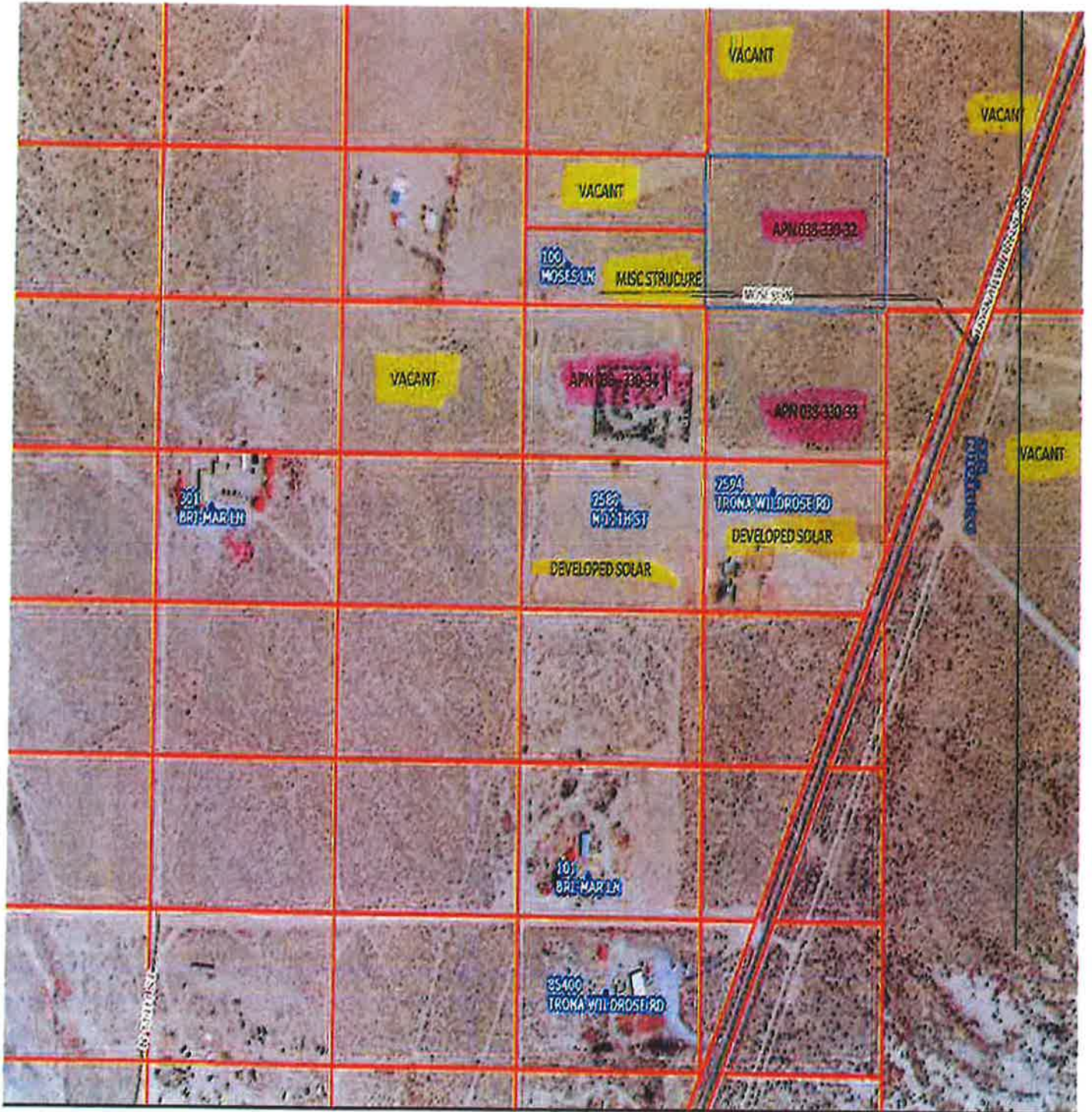
APN 038-330-32;33;34



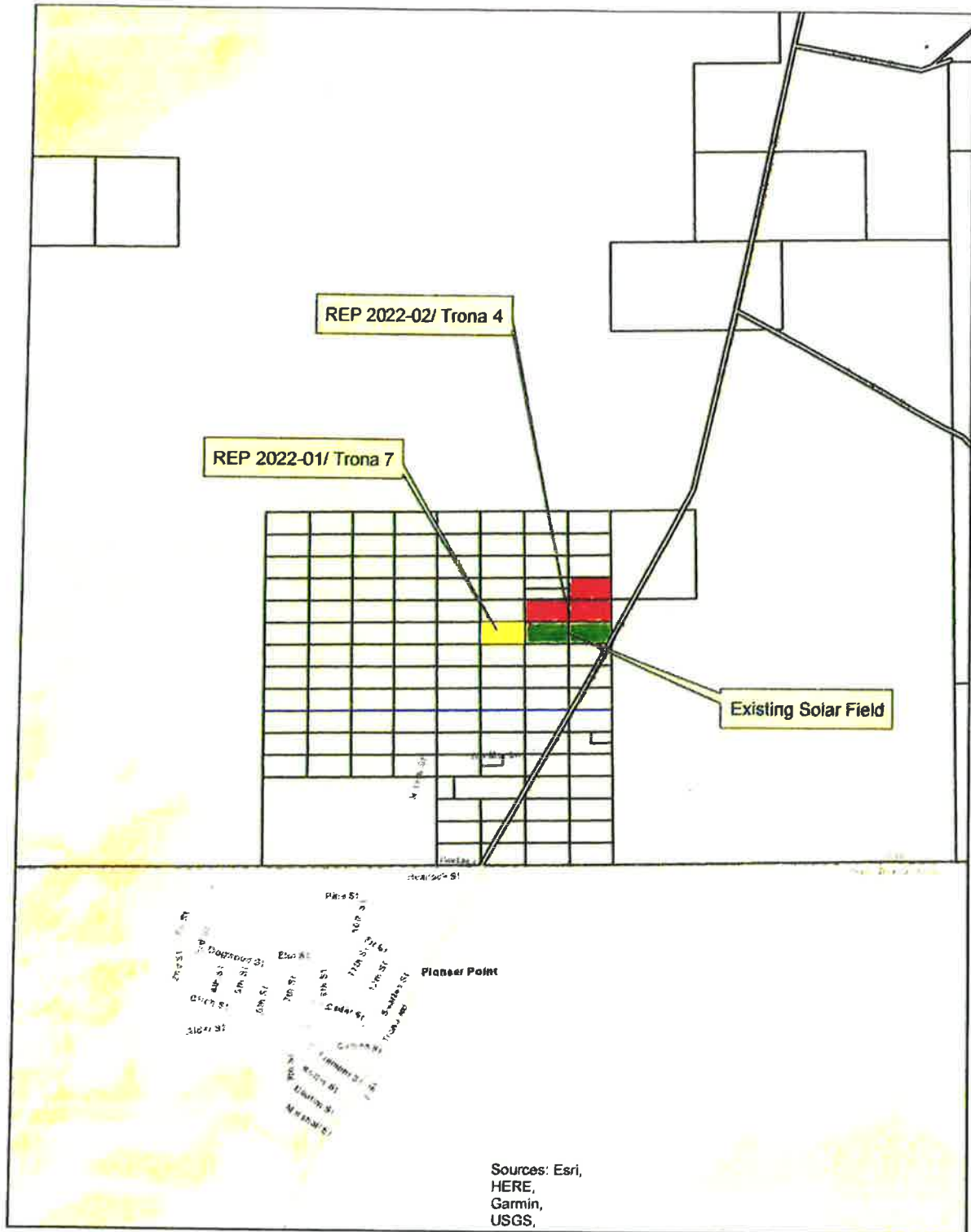


# VICINITY MAP- 2

## REP 2022-02/ BARKER



# Vicinity Map- Proposed and existing solar fields



# Cal. Pub. Resources Code § 21166

[Download PDF](#)

Current through the 2023 Legislative Session.

[Section 21166 - Subsequent or supplemental report required](#)

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

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

*Ca. Pub. Res. Code § 21166*

[Previous Section](#)

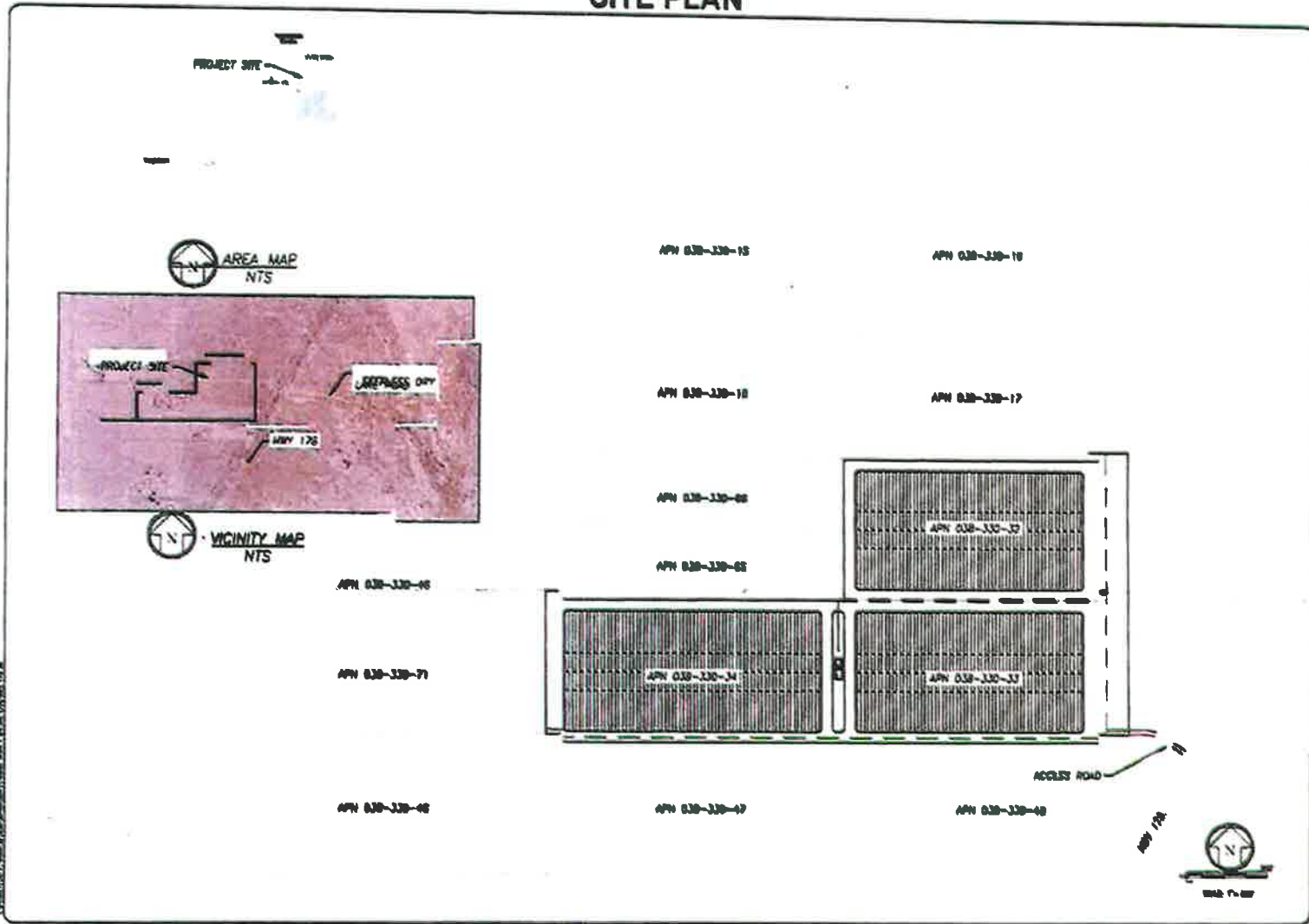
[Section 21165 - Project carried out by two or more public agencies](#)

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[Next Section](#)

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

# REP 2022-02/BARKER SITE PLAN



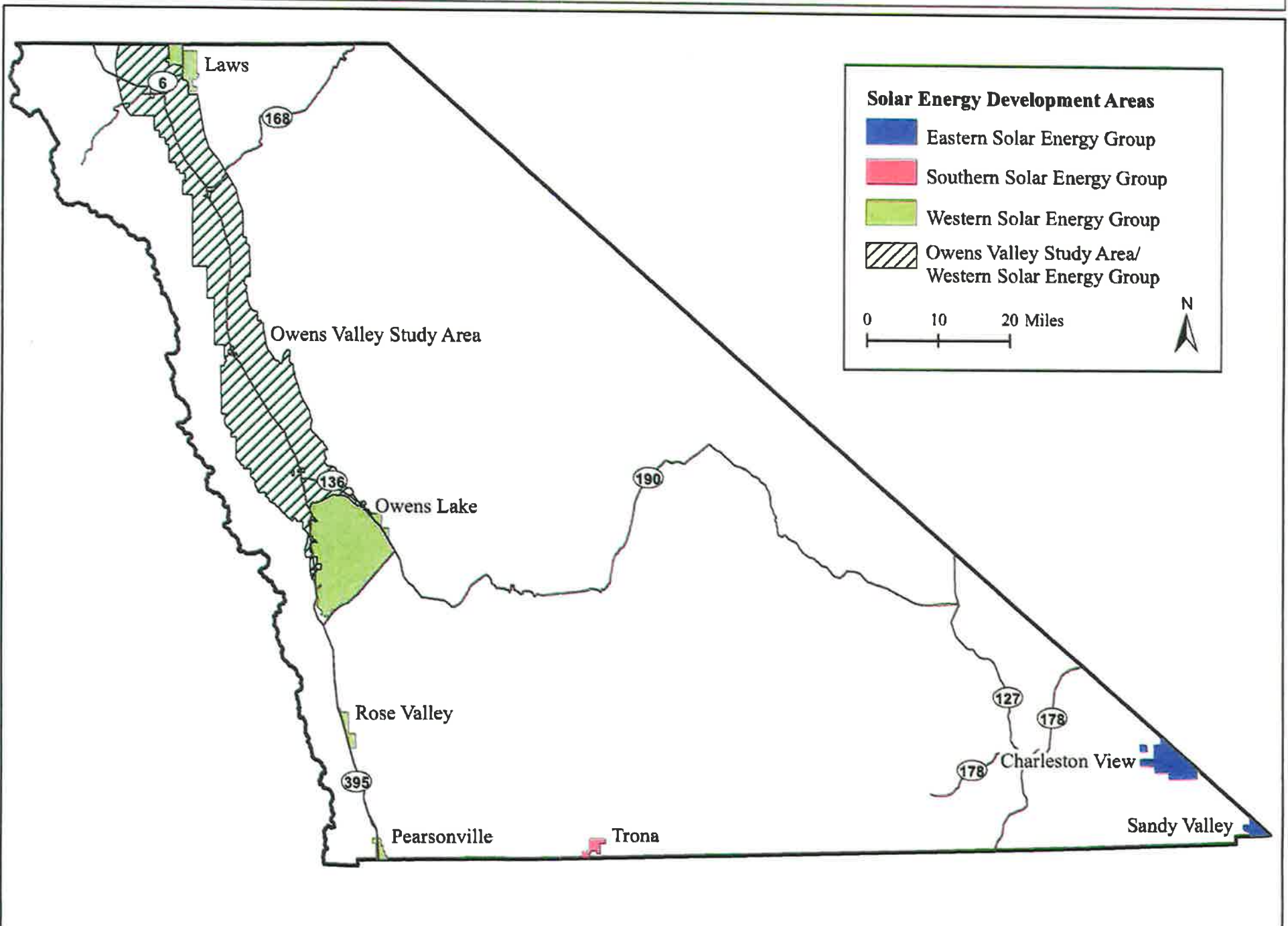
VALLEY VIEW CONSTRUCTION SERVICES  
 10000 17th St  
 Suite 100  
 Berkeley, CA 94709  
 (925) 835-1111  
 www.valleyviewcs.com

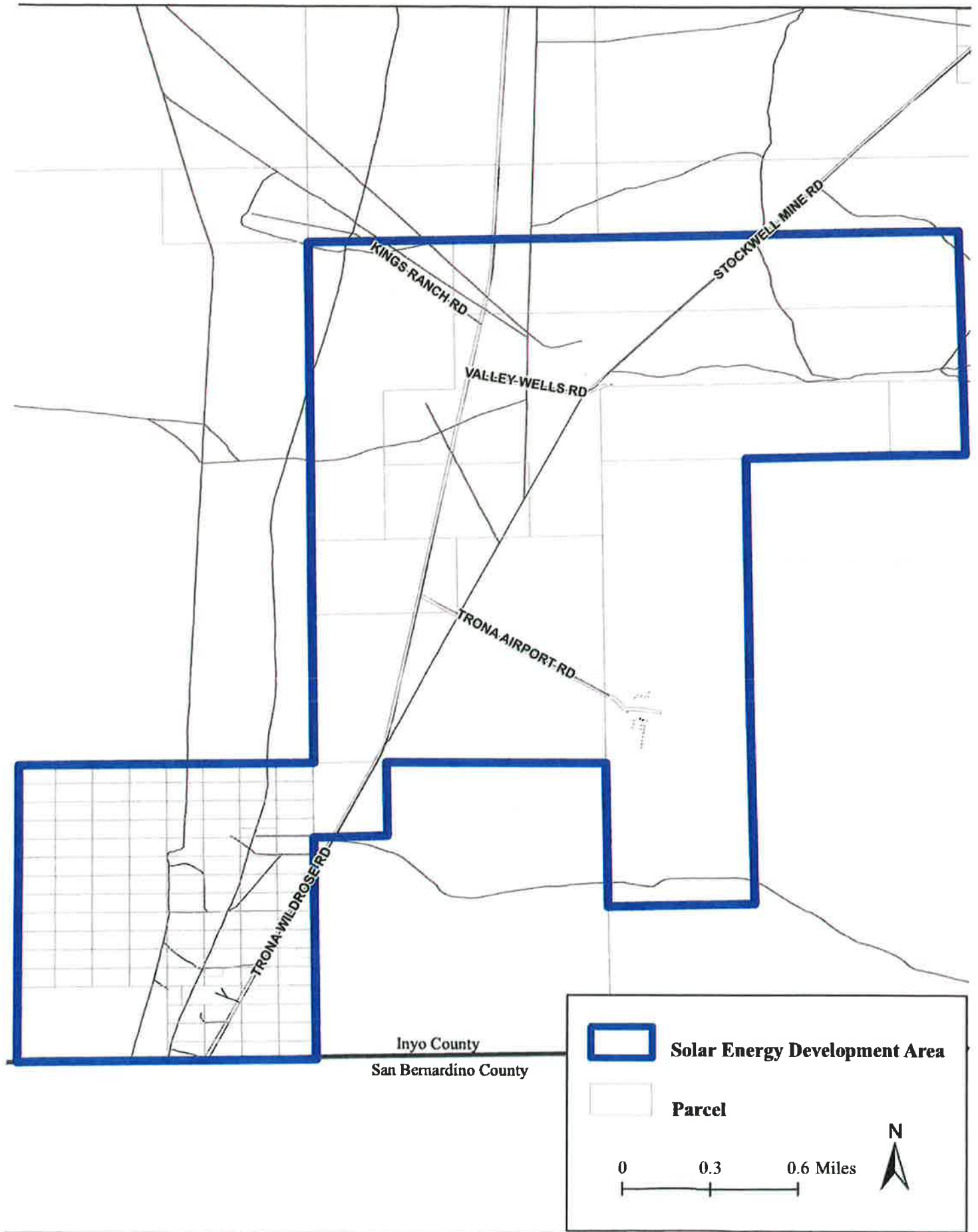


A:\Projects\2022\REP 2022-02\BARKER\2022-02-02\BARKER\_SIT PLAN.dwg

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

GPA #2013-02, March 24, 2015





# MITIGATION & MONITORING PROGRAM

## Renewable Energy Permit 2022-2/ BARKER

### INTRODUCTION

This Mitigation and Monitoring Program (MMP) has been developed for Renewable Energy Permit/2202-02/Barker, pursuant to Inyo County Code ICC 15.44. The MMP describes changes to the project or conditions of approval that mitigate or avoid the project’s potential significant effects on the environment. Based on the Initial Study and Mitigated Negative Declaration of Environmental Impact, and the administrative record, as a whole, there is no substantial evidence that the Project may have a significant impact on the environment. The IS/MND identifies potential significant environmental impacts of the Project, in accordance with CEQA, and incorporates mitigation measures to reduce impacts to a level below significant.

Mitigation Measure	Monitoring Responsibility	Schedule
<b>Air Quality</b>		
<p>IIIa) During construction the following measures to control fugitive dust and emissions of particles shall be employed:</p> <ul style="list-style-type: none"> <li>• Provision of equipment and staffing for watering of all exposed or disturbed soil surfaces or use of an appropriate dust palliative or suppressant.</li> <li>• Watering or treating of all disturbed but inactive portions of the site with appropriate dust suppressant.</li> <li>• Watering or treating of all disturbed but inactive portions of</li> </ul>	<p>On-site contractor(s)</p> <p>Great Basin Unified Air Pollution Control District (GBUAPCD)</p> <p>Public Works (Building and Safety)</p> <p>Planning Department</p>	<p>On-site contractors will be responsible for dust control implementation during construction.</p> <p>Applicant will be responsible for dust control implementation during the life of the project.</p> <p>The GBUAPCD will be responsible for air quality monitoring.</p> <p>Inyo County Public Works (Building and Safety) will be responsible for construction inspections.</p> <p>Inyo County Planning Department staff will be responsible for yearly inspections.</p>

<p>the site with an appropriate dust suppressant.</p> <ul style="list-style-type: none"> <li>• Covering of materials transported by truck to control dust.</li> <li>• Daily clean-up of mud and dirt carried onto paved streets from the site.</li> <li>• Suspension of dust-producing activities during periods of sustained high winds (gusts exceeding 25 mph) when dust control measures are unable to avoid visible dust plumes.</li> </ul>		
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<p><b>Biological Resources</b></p>		
<p>IVa) A Pre-activity survey of the Project and a 250-foot buffer for desert kit fox and nesting migratory birds and a 500-foot buffer for nesting raptors surrounding the Project footprint shall be conducted.</p> <p>The survey should occur no less than 14 days prior to the start of construction activities and no more than 30 days prior to the start of construction activities.</p> <p>If construction is delayed beyond 30 days from the time of the survey, then another survey will need to be conducted.</p> <p>The survey shall be conducted by a qualified biologist.</p>	<p>Developer</p> <p>Inyo County Planning Department.</p>	<p>Preconstruction survey documents shall be presented to the Inyo County Planning Department prior to issuance of a building permit.</p> <p>Workers' Environmental Awareness training program documents shall be presented to the Inyo County Planning Department prior to issuance of a building permit.</p> <p>20MPH speed limit signs shall be posted on the project site prior to construction and maintained throughout the life of the project.</p> <p>Inyo County Planning Department will inspect the project site yearly.</p>



**Nesting migratory birds and raptors:**

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

**Desert Kit Fox:**

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

<p>approves and monitors the activity.</p> <ul style="list-style-type: none"><li>• A Worker Environmental Awareness Training Program shall be prepared and presented to all workers that will be on-site during construction activities to minimize or eliminate impacts to sensitive biological resources.</li><li>• Project-related vehicles shall observe a 20-mph speed limit in all Project areas except on County roads and state and federal highways</li><li>• During work activities, the contractor shall cover all excavated , steep-walled holes or trenches more than 2 feet deep at the close of each working day. Before such holes are filled, the contractor shall thoroughly inspect them for trapped wildlife.</li><li>• All construction pipes, culverts or similar structures with a diameter of 4 inches or greater that are stored at the construction site for one or more overnight periods shall be inspected for wildlife before the pipe is</li></ul>		
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<p>buried, capped, or otherwise moved or used. If a kit fox is discovered inside a pipe, the section of pipe shall not be moved until the designated biologist has been consulted.</p> <ul style="list-style-type: none"> <li>• All trash and food items that attract wildlife shall be discarded into closed containers and properly disposed of each workday.</li> <li>• To prevent harassment or mortality of listed species, no pets shall be permitted on the project site.</li> </ul>		
<b>Noise</b>		
<p>XIII a) Noise generated by onsite construction activities: Contractor(s) shall implement The MM NOI-2 incorporated best management practices (BMPs) from REAT's Best Management Practices within 500 feet of a residence or other sensitive receptor.</p> <p>See the following:</p>	<p>Inyo County Public works (Building and safety) Sheriff's Department</p>	<p>The Inyo County Public Works (Building and Safety) Department will verify that noise related contract specifications are in place before issuing demolition, grading, or building permits.</p> <p>The Public Works (Building and Safety) and Sheriff's Departments will respond to any noise complaints received and adjust measures as appropriate</p>

<ul style="list-style-type: none"><li>• Whenever feasible, electrical power will be used to run air compressors and similar power tools.</li><li>• Equipment staging areas will be located as far as feasible from occupied residences or schools.</li><li>• All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.</li><li>• Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.</li><li>• Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings.</li></ul> <p>1)Ensure noisy construction activities (including truck and rail deliveries, pile driving and blasting) are limited to the least noise-sensitive times of day (i.e., weekdays only 45 between 7 a.m. and 7 p.m.) for projects near residential or recreational areas.</p> <p>2)Consider use of noise barriers such as berms and vegetation to limit ambient noise at plant property lines, especially where sensitive noise receptors may be present.</p>		
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<p>3) Ensure all project equipment has sound-control devices no less effective than those provided on the original equipment. All construction equipment used should be adequately muzzled and maintained. Consider use of battery powered forklifts and other facility vehicles.</p> <p>4) Ensure all stationary construction equipment (i.e., compressors and generators) is located as far as practicable from nearby residences.</p> <p>5) If blasting or other noisy activities are required during the construction period, notify nearby residents and the permitting agencies 24 hours in advance.</p> <p>6) Properly maintain mufflers, brakes and all loose items on construction and operation related vehicles to minimize noise and ensure safe operations. Keep truck operations to the quietest operating speeds. Advise about downshifting and vehicle operations in residential communities to keep truck noise to a minimum.</p> <p>7) Use noise controls on standard construction equipment, shield impact tools. Consider use of flashing lights instead of audible back-up alarms on mobile equipment.</p>		
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8) Install mufflers on air coolers and exhaust stacks of all diesel and gas-driven engines. Equip all emergency pressure relief valves and steam blow-down lines with silencers to limit noise levels.

9) Contain facilities within buildings or other types of effective noise enclosures.

10) Employ engineering controls, including sound-insulated equipment and control rooms, to reduce the average noise level in normal work areas.

ATTACHMENT- E  
NOTICE OF DECISION  
AND DETERMINATION



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

**Phone: (760) 878-0263  
FAX: (760) 878-0382  
E-Mail: [inyoplanning@  
inyocounty.us](mailto:inyoplanning@inyocounty.us)**

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**NOTICE OF DECISION**

October 25, 2023

Robbie Barker  
82740 Trona Rd  
Trona, CA 93562

**SUBJECT: Approval of Renewable Energy Permit (REP) 2022-02/Barker**

On October 25, 2023, the Inyo County Planning Commission considered the above action, which would allow for a Renewable Energy Permit to construct a 3-Megawatt photovoltaic solar facility that uses approximately 6,000 single axis tracker solar panels. The property is zoned Rural Residential-5.0-acre min and is located on APN's 038-330-32;33;34, in the community of Trona. The project is a Mitigated Negative Declaration of Environmental Impact under the California Environmental Quality Act (CEQA)

After deliberation, the Planning Commission voted 4-0 to approve the project with the following Findings and Conditions of Approval:

**FINDINGS**

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

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

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

[Evidence: In 2015, Inyo County updated its General Plan to include policies for solar energy development within the County. New goals, policies, implementation



measures, and actual sites, were identified in locations referred to in the REGPA as SEDAs. The current project falls within Inyo County's southern SEDA; and therefore, has consistency with the General Plan.]

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

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

5. The proposed Renewable Energy Permit is properly related to other uses and transportation and service facilities in the vicinity. [Evidence: The proposed Renewable Energy Permit is properly related to transportation and service facilities and will not adversely affect these facilities. The project is located in an area where it can connect to Southern California Edison's electrical transmission lines. This project is secluded enough to avoid burdens to Inyo County maintained roads, in this case Trona Wildrose Road. Additionally, it is over a mile away from the Trona airport.]

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

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

## CONDITIONS OF APPROVAL

### 1. Hold Harmless

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

### 2. Compliance with County Code

The owner/developer shall conform to all applicable provisions of the Inyo County General Plan, Zoning Code and County and State regulations, including the California Building and Health and Safety Codes. Failure to comply may result in the revocation of Renewable Energy Permit No. 2022-02/Barker. If the use provided by this REP is not established within one year of approval date it will become void.

### 3. Decommissioning Plan and Financial Assurance

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

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

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

### 4. Notification of local American Tribes

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

### 5. Air Quality

The owner/developer shall implement and follow the Mitigation and Monitoring Program. Failure to do so will result in the revocation of Renewable Energy Permit No. 2022-02/Barker

### 6. Desert kit fox and nesting birds

The owner/developer shall implement and follow the Mitigation and Monitoring Program. Failure to do so will result in the revocation of Renewable Energy Permit No. 2022-02/Barker

7. Noise

The owner/developer shall implement and follow the Mitigation and Monitoring Program. Failure to do so will result in the revocation of Renewable Energy Permit No. 2022-02/Barker

If there are any questions regarding the above information, please contact the Inyo County Planning office at (760) 878-0263.

Respectfully,

Cynthia Draper, Inyo County Assistant Planner

**Notice of Determination**

**Appendix D**

**To:**

Office of Planning and Research  
U.S. Mail: Street Address:  
P.O. Box 3044 1400 Tenth St., Rm 113  
Sacramento, CA 95812-3044 Sacramento, CA 95814

County Clerk  
County of: Inyo  
Address: P.O. Box F  
Independence, CA 93526

**From:**

Public Agency: Inyo County Planning  
Address: P.O. Drawer L  
Independence CA 93528

Contact: Cynthia Draper  
Phone: 760-878-0265

Lead Agency (if different from above):

Address: OCT 25 2023

Contact: INYO CO. CLERK  
Phone: DANIELLE SEXTON, CLERK

**FILED**

**SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.**

State Clearinghouse Number (if submitted to State Clearinghouse): 20022110323

Project Title: Renewable Energy Permit 2022-02/Barker

Project Applicant: Robbie Barker- 82740 Trona Road, Trona California 93562/ 760-372-4734

Project Location (include county): APN's 038-330-32;33;34, Trona California - Inyo County

**Project Description:**

Renewable Energy Permit located on three private parcels (APN:038-330-32;33;34) in Trona, California. This permit will allow the applicant to construct a 3-megawatt (MW) commercial scale photovoltaic solar facility, referred to as Trona 7. The project proposes approximately 6,000 single axis tracker solar panels, encompassing 15-acres of pre-disturbed land. The project is a Mitigated Negative Declaration of Environmental Impact under the California Environmental Quality Act (CEQA).

This is to advise that the Inyo County Planning Commission has approved the above  
( Lead Agency or  Responsible Agency)

described project on October 25, 2023 and has made the following determinations regarding the above  
(date)  
described project.

1. The project [ will  will not] have a significant effect on the environment.
2.  An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.  
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [ were  were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [ was  was not] adopted for this project.
5. A statement of Overriding Considerations [ was  was not] adopted for this project.
6. Findings [ were  were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

<https://www.inyocounty.us/services/planning-department/current-projects>

Signature (Public Agency) Cynthia Draper Title: Assistant Planner

Date: October 25, 2023 Date Received for filing at OPR: October 26, 2023

Authority cited: Sections 21083, Public Resources Code.  
Reference Section 21000-21174, Public Resources Code.

Revised 2011

**23-00036**

ATTACHMENT- F  
PLANNING  
COMMISSION MEETING  
MINUTES- OCTOBER 25,  
2023

# COUNTY OF INYO PLANNING COMMISSION

## MINUTES OF October 25, 2023 MEETING

### COMMISSIONERS:

HOWARD LEHWALD  
CAITLIN (KATE) J. MORLEY  
TODD VOGEL  
CALLIE PEEK  
SCOTT KEMP

FIRST DISTRICT  
SECOND DISTRICT  
THIRD DISTRICT (CHAIR)  
FOURTH DISTRICT (VICE)  
FIFTH DISTRICT

Inyo County Planning Commission  
Post Office Drawer L  
Independence, CA 93526  
(760) 878-0263  
(760) 872-0712 FAX

### STAFF:

CATHREEN RICHARDS  
CHRISTIAN MILOVICH  
RYAN STANDRIDGE  
SALLY FAIRCLOTH  
NATE GREENBERG  
MIKE ERRANTE

PLANNING DIRECTOR  
ASSISTANT COUNTY COUNSEL  
ASSOCIATE PLANNER  
PROJECT COORDINATOR  
COUNTY ADMINISTRATOR  
PUBLIC WORKS DIRECTOR

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The Inyo County Planning Commission met in regular session on Wednesday, October 25, 2023. Commissioner Vogel opened the meeting at 10:02 a.m. These minutes are to be considered for approval by the Planning Commission at their next scheduled meeting.

**ITEM 1:**     **PLEDGE OF ALLEGIANCE** – All recited the Pledge of Allegiance at 10:03 a.m.

**ITEM 2:**     **ROLL CALL** - Commissioners, Todd Vogel, Kate Morley, Callie Peek, and Howard Lehwald were present.

Staff present: Cathreen Richards, Planning Director, Ryan Standridge, Associate Planner, Cynthia Draper, Assistant Planner, and Christian Milovich, Assistant County Counsel.

Staff absent: Nate Greenberg, County Administrator; Michael Errante, Public Works Director.

**ITEM 3:**     **PUBLIC COMMENT PERIOD** – This item provides the opportunity for the public to address the Planning Commission on any planning subject that is not scheduled on the agenda.

Commissioner Vogel opened the Public Comment Period at 10:03 a.m.  
No comments were made.

**ITEM 4:**     **APPROVAL OF MINUTES (Action Item)** – Approval of the Minutes from the August 23, 2023, meeting of the Planning Commission.

**MOTION:**     Commissioner Morley made the motion to approve the minutes. The motion was seconded by Commissioner Peek.

The Motion passed 4-0-1 with commissioner Kemp absent.

**ITEM 5: RENEWABLE ENERGY PERMIT-2022-01/BARKER** - The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on one parcel (APN: 038-330-46), in Trona, California. This permit would allow the applicant to construct a proposed 1.2 megawatt (MW) photovoltaic solar facility that uses approximately 2,300 single axis tracker solar panels. The project encompasses 5-acres of pre-disturbed land. This project is a Mitigated Negative Declaration pursuant to CEQA.

Cynthia Draper, Assistant Planner, notified the Commissioners that a revision to the mitigation and monitoring program was being submitted for Commissions review prior to presenting the staff report. Once the revision was submitted for record, she presented the project.

Commissioner Morley acknowledged that the SCE Renewable Energy Program is not a county run program but asked if the county had additional information.

Cynthia Draper, Assistant Planner answered that the county does not have much information and stated that the program is an application process with Southern California Edison (SCE) and is based on qualifications.

Commissioner Morley asked Cynthia to summarize the revisions to the mitigation monitoring program.

Cynthia Draper, Assistant Planner stated that the revision was an expansion of the current monitoring program that included fifteen additional mitigations pertaining to noise.

Commissioner Lehwald had concerns about who would be doing the monitoring and how the conditions would be reported.

Cynthia Draper, Assistant planner clarified that the monitoring and reporting concerns were specific to the noise. She also explained that policing would be the responsibility of the neighboring parcels. They would need to contact the Planning Department or the Sheriff's Department to report the disturbance. She explained that if the developer did not comply with the conditions, it could lead to revocation of the permit.

Commissioner Morley requested clarification on the reporting requirements for dust.

Cynthia Draper, Assistant Planner stated that according to the mitigation and monitoring program, the Great Basin Unified Air Pollution Control District would be contacted directly for dust mitigation issues.

Cathreen Richards, Director provided a follow-up statement explaining to the commissioners that Great Basin is the regulatory and enforcement agency for dust control. However, the county would also go out to verify the complaint because it is part of the condition of approval. Any violation to the conditions of approval, are subject to possible revocation of the renewable energy permit.

Commissioner Lehwald had concerns about fire suppression at the site and wanted to confirm that the county had done its due diligence.

Cynthia Draper, Assistant planner confirmed with the applicant that in addition to the San Bernardino County fire department there was a volunteer fire department that would respond. She

said that she informed the San Bernardino County fire department of the project, and no issue or comments were received.

Commissioner Lehwald had concerns with setbacks based on comments received and asked for clarification.

Cynthia Draper, Assistant Planner explained that there are residences within 400 feet of the project site and that the project meets the required setbacks.

Commissioner Lehwald expressed concerns about the visual aspects of the project.

Cathreen Richards, Director explained that the visual resources were considered and addressed in the CEQA document for the Renewal Energy General Plan Amendment. No mitigation was required.

**Public Comment-** Commissioner Vogel opened the Public Hearing at 10:31 a.m.

Sean Hungerford, the attorney representing Robbie Barker explained that he came on board with the project when CEQA questions arose. His firm submitted a written response to public comments that was included in the staff report. He stated he was available to answer any questions after he clarified the new noise mitigations. The source of the changes to the new mitigations came directly out of the program EIR for the SEDA approved in 2015. The mitigations related to the construction noise within 500 feet of a residence and other sensitive receptors were added to the monitoring program.

Commissioner Vogel asked how long construction will take.

Sean Hungerford answered that it would take two weeks for trenching and grading and eight weeks to do poles and paneling.

Commissioner Vogel asked what kind of noise the facility will emit post construction.

Sean Hungerford said no impact based off the REGPA baseline study. The inverters are centrally located within the project and are not within the 500 feet of any structures.

Commissioner Peek asked how much traffic will impact the area once construction is finished.

Sean Hungerford answered that once construction was complete not much traffic would occur except for the occasional routine maintenance and checking for vandalism.

Robbie Barker of Valley Wide Construction commented that he was available to answer any questions the Commissioner may have.

Commissioner Vogel asked Robbie Barker what type of hazardous or combustible materials are on site after construction is complete.

Robbie Barker answered that there would be none. He went on to say that the only potential hazard material would be the inverter but when built to specs and tests are passed it removes the hazard. The solar array has an automatic monitoring system that also mitigates issues that arise.



Commissioner Vogel asked Planning staff if the project could create a larger buffer between the residences by moving the project west within the setback and closer to the existing Solar Array.

Cathreen Richards, Director explained that it could not be done without a setback variance.

Commissioner Lehwald asked if future expansion of solar arrays in this area is anticipated in the future.

Robbie Barker of Valley Wide engineering stated that based on SCE existing infrastructure the system may allow for two more.

Commissioner Peek asked if dust mitigation was used on his previous solar array project.

Robbie Barker answered that no dust mitigation was used, but it is now, and this project will have dust mitigation

Tom Kidder, property owner to the west of the solar project addressed the commissioners explaining that his family has owned the property for sixty years and that the project parcels are residential and not commercial and believes the solar should not be allowed. Mr. Kidder expressed concern on how CEQA was completed and has concerns for dust mitigation during the upcoming construction.

Mr. Kidder also had a fencing complaint, but it pertained to project REP 2022-02 and was tabled until the following agenda item because they are different projects.

Commissioner Vogel asked Mr. Kidder if adding security screening would help eliminate some of his visual concerns. Mr. Kidder Replied no, then the view would be of a fence.

Commissioner Lehwald initiated a discussion about Visual Resources based on concerns he received prior to the hearing. Staff explained that visual resources were addressed in the program

EIR and in the mitigated negative declaration documents. It was determined that no mitigation was required.

Commissioner Vogel closed the Public Hearing at 10:57 a.m.

**Commissioner Discussion-** Commissioner Vogel opened the Commissioner Discussion

A brief discussion ensued to clarify which public comments pertained to 2022-01/Barker. One of Commissioner Morley's questions pertained to this project. A written comment had alleged that the applicant had graded in preparation for the solar installation.

Cathreen Richards, Director explained that staff does not work off supposition, once the permit application was received, the planner went to the site and witnessed that the parcel were devoid of vegetation.

**MOTION:** Commissioner Vogel made a motion to approve renewable energy permit-2022-01/Barker as presented by Cynthia Draper

Commissioner Peek seconded the motion.

The Motion passed 4-0-1 with commissioner Kemp absent.

**ITEM 6: RENEWABLE ENERGY PERMIT 2022-02/BARKER-** The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on three parcels (038-330-32, 33, 34), in Trona California. This permit would allow the applicant to construct a proposed 3 megawatt (MW) photovoltaic solar facility that uses approximately 6,000 single axis tracker solar panels. The project encompasses 15-acres of pre-disturbed land. This project is a Mitigated Negative Declaration pursuant to CEQA.

Cynthia Draper, Assistant Planner gave the staff report.

Commissioner Morley inquired about the Moses Lane jurisdiction with regard to public comment.

Cynthia Draper, Assistant Planner explained that Moses Lane is on private property and is termed as a prescriptive right of way. The prescriptive right of way is a civil matter between the two property owners and does not pertain to the solar project being approved.

Christian Milovich, Assistant County counsel, assured the planning commissioners that the prescriptive right of way is not under the purview of the planning commission, and it is a civil matter.

**Public Comment- Commissioner Vogel opened the Public Hearing at 11:23 a.m.**

Tom Kidder, property owner to the west of the solar project provided a brief statement that reiterated his concerns mentioned in the previous project. Mr. Ritter expressed his disagreement with the county's view of the prescriptive right of way as it will block access to his driveway. He stated that the prescriptive right of way should be considered by the commission prior to issuance

of the permit. Mr. Kidder also disagreed with the staff's analysis of the property during CEQA review because he alleged that the applicant graded during the previously permitted solar project. Mr. Kidder said he believes that the SEDA, allowing commercial use in a residential zone, will affect future development and solar projects should be done on BLM land.

Sean Hungerford, attorney representing Robbie Barker of Valley Wide Construction, reassured the commissioners that the prescriptive right of way is a title issue that will be worked out, but it does not require Planning Commission deliberation. He informed the Commission that he advised his client not to talk about the right of way issue because it is a civil matter that has not been resolved.

Commissioner Lehwald asked if the applicant was aware of Mr. Kidder's application to install the mobile home. On the parcel next to the project.

Sean Hungerford, the attorney representing Robbie Barker of Valley Wide Construction, explained to the Commissioners that Mr. Ritter has property rights and can also build to standards governed by Inyo County.

**MOTION:** Commissioner Vogel made a motion to approve renewable energy permit 2022-02/Barker. Commissioner Peek made the second.

The Motion passed 4-0-1 with commissioner Kemp absent.

### **COMMISSIONERS' REPORT/COMMENTS**

No comments were made.

### **DIRECTOR'S REPORT**

Director Richards announced that Sally Faircloth was present and will be taking over as Planning Commission Secretary. The Commissioners all welcomed her and congratulated her. Director Richards went on to announce that a Special meeting will need to be held for an appeal for a revocation of a hosted short-term rental. After a brief discussion about availability, it was decided that the next scheduled meeting would be on November 15, 2023, at 10:00 a.m.

### **ADJOURNMENT**

Commissioner Vogel adjourned the meeting at 11:45 a.m.

Prepared by:  
Ryan Standridge  
Planning Department

**From:** Howard Smith <[hsmotorsports@msn.com](mailto:hsmotorsports@msn.com)>  
**Sent:** Monday, May 1, 2023 7:47 PM  
**To:** Cynthia Draper <[cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)>  
**Subject:** Comments on Renewal Barker Solar and Renewable Energy Permit.

You don't often get email from [hsmotorsports@msn.com](mailto:hsmotorsports@msn.com). [Learn why this is important](#)

May 1,  
2023

To whom it may  
concern.

My name is Howard D. Smith. I live at 2021 Homewood Canyon Road Homewood Canyon. Ca. 93592. I support the proposed Solar and Renewable Energy project near Trona. I have lived in the Trona area since 1977. I owned a 5- acre parcel of land next to the newly finished Barker Solar and Renewable Energy facility since 1980. My 5 acres were mostly fenced & used to store junk cars & scrap metal. I have spent much time on the property & did not experience any inconvenience while the present facility was being built. One big reason I support this project is I own 6 rental properties in Trona. Trona has two very large coal fired boilers. I can go to my properties on any given day & find coal dust lying on the cars. I know that Solar and Renewable Energies are clean & safe. Trona is a small town so news travels fast. I hear there maybe one or two people objecting to this project. One of the persons objecting had concerns about the area being rural residential and not industrial development is not appropriate for the area and will damage property rights and the health and lifestyle of families living in the area. It will introduce industrial activities that will create additional safety concerns for residents and children who live and play in the area. This is a ridiculous statement! Not many years ago the Inyo board of supervisors had a very good meeting at the golf course near Trona. The meeting was well posted in advance. My wife & I attended along with about 50 other local residents. The future plans for the area we are talking about were talked about, inc. solar, wind and pot cultivation at that time. NO ONE voted no to any of this. I would like to address another concern. One person in opposition is saying that, 1. Inyo County has allowed the operator to destroy existing vegetation and wildlife habitat just months prior to the permits being submitted despite the use being clearly for solar development. 2. At a minimum the public is unaware the project area is actually home to the largest habitat of the endangered Mojave Ground Squirrel in California, and likely other species of concern as Inyo County says there are none present such as the Desert Tortoise, and Burrowing Owl which are mentioned in the permit documents. This is not true. I worked for Mojave pistachio relocating the Mojave Ground Squirrel. It lives 45 miles to our north & cannot live in this heat. I also relocated the Desert Tortoise, and Burrowing Owl. Because of my previous experience I took great time & effort searching for Desert Tortoise, Burrowing Owl and snakes. I have spent over 6 months clearing my 5 acres looking for all the above. I did not find any birds, snakes or tortoise! Not one in all that time. Thank you, Howard Smith

Permit 2022-01/Barker Solar Permit 2022-02/Barker Solar and Renewable Energy Permit

Tom Kidder  
100 Moses Lane  
P. O. Box 1045  
Trona, CA 93592

My name is Tom Kidder Property owner bordering on two sides of the project site. I am a retired Facilities Manager for California State Parks. While employed by CSP I was a project manager/consultant for multiple solar projects state wide. I say this so it is known that I am an advocate of solar and not against solar in the appropriate locations following the law and proper procedures. In addition to my comments, I would like it to be known that I concur with all comments and finding made by my neighbor John Mays P.O. Box 583 Trona, CA 93502

No notification from County or Applicant – REGPA 2015 General Plan Revision Gov-2.3 County shall provide the opportunity for the public to engage in the planning process at the onset. and 2.4 Developer must notify residents and/or land owners.

Applicant has stated his intent to block my driveway (Moses Ln.) Moses Ln. has been maintain by my family and has been the access to my home for more that 60 yrs.

Staff report states “Located on land that is highly disturbed with no natural habitat and has been previously graded” Applicant circumvented CEQA law by clearing the land just months before submitting project applications and with total disregard for the law or health and welfare of the nearby residents. Three of the four lots purposed in these two projects where unspoiled desert fauna with the same vegetation and wildlife habitat as the adjacent protected BLM lands. Inyo county is complicit in this action by their own admission as stated in the staff report “Has been previously graded”. The evidence is also readily available on Google Earth. In addition, work on these projects continues to move forward even though there is not a permit to do so. Crush rock has been delivered to the project site for months and continues to be delivered a recent as today 4/28/2023. There is several hundred yards of crushed rock now onsite and zero dust control measures have been taken. (Attached photos taken 4/27/2023)

The now damaged project site was habitat for the listed and endangered desert tortious and Mojave ground squirrel and potentially others. In fact, I have seen both of these species on and near my property. Because proper surveys were not completed, we do not know if there has been any take and therefore should assume there was.

Environmental Review - Mitigated Negative Declaration is the improper environmental review process for the above reasons just stated.

Staff Report states - Vacant land to the north, south and west? My home shares borders to the north and east of the project. The project is 350 feet from my front porch and directly in my viewshed. There is also a home site 30 feet from the project site. The permitted manufactured

home was removed in the 80's and the infrastructure is still there I intend on placing a new home in this location. This property value will plummet if this project moves forward.

This community is zoned Rural Residential, Residential being the word to emphasize. It is completely improper to put a purely commercial operation in a residential community. The county and the applicant are attempting to take advantage of a disadvantaged community. I have personally spoke with many of my neighbors about these solar projects. Every person I've spoken with is upset about it but not willing to speak up. Many are afraid of the county and the applicant. The county and the applicant are attempting to take advantage of an underserved low-income community. Inyo County Code clearly states the purpose for rural residential properties are "to provide suitable areas and appropriate environments for low density, single family rural estate type uses"

I have health concerns from the dust that the barren land is now producing this affects not only the residents in our Inyo County community but the residents in Trona as well.

These projects will bring increased traffic, road impacts to our unpaved roads and safety concerns in our community.

These solar projects set a bad precedent for future development. I am a 3<sup>rd</sup> generation owner of this property my daughter and grandchildren (4<sup>th</sup> and 5<sup>th</sup> generations) live in Trona and will own our little piece a paradise someday. It will be a sad day if we are over taken and surrounded by solar panels.

The REGPA 2015 General plan amendment needs to be revisited. It is inappropriate and unacceptable that all of the 5-acre rural residential parcels are included in the Trona SEDA. These purely commercial uses are a detriment and have many negative impacts to the natural environment and residents of our small community. Ultimately, I would like to see these 5-acre RR parcels removed from the Trona SEDA and returned to the Residential Estate designation.

I ask that these projects be denied and the REGPA 2015 General plan amendment be revisited and adjusted with the wildlife, environment, health wellbeing and quality of life of the residents in consideration.

**Comments on Renewal Energy Permit 2022-01/Barker Solar and Renewable Energy Permit  
2022-02/Barker Solar**

March 21, 2023

***Due to anticipated potential retaliation and nature of my highly specific comments within I would request that my comments be kept strictly confidential.***

My name is John Mays. I am a licensed professional engineer in California, Colorado, and South Dakota. I live directly adjacent or very close to both proposed permits in question and have observed first-hand the activities of the proposed and existing projects and its developer/operator over about 2 years now. I have worked in the mining industry, often as a leading corporate executive or manger, for over 30 years working during much of this time supervising and implementing regulatory efforts, environmental compliance, regulatory litigation, and project development across several states in the US.

Never in 30 years of being a participant of many similar regulatory actions have I ever seen such apparent negligence and lack of involvement by a regulatory agency. The proposals here are a violation of existing rights and not in the public's best interest. The number of procedural errors and incorrect statements make the current proposals technically unsound and legally indefensible. Review of these proposals show Inyo County unqualified to perform such evaluations and their recent actions demonstrate they are incapable of properly enforcing compliance at this remote location. Inyo County's own procedures as found in the REGPA, have been fundamentally violated to a great extent, and federal state, and local laws and regulations have likely been violated as well. The magnitude and number of these violations support a legal challenge should it be necessary. This could include pursuit of relief from the properly approved Renewable Energy Permit 2021-01 which has been allowed to operate in violation of requirements for several months.

I request that the Board immediately deny the proposal for Renewal Energy Permit 22-01/Barker and Renewable Energy Permit 22-02/Barker. As well, the County needs to update the 2015 REGPA and remove all the rural residential parcels from the Trona SEDA. These areas are clearly not suitable for solar development as this is an active residential community which has been lived in many decades, it is home to families right at the edge of this development who will have their lives, health, and property rights seriously diminished by such improper industrial development. Additionally, these two new proposals set a precedent for a future that expands and exacerbates impacts across this private residential area paving the way for expansive unregulated solar development. The following reasons are why these permits must be denied:

- 1.) The area is rural residential and not industrial development is not appropriate for the area and will damage property rights and the health and lifestyle of families living in the area. It will introduce industrial activities that will create additional safety concerns for residents and children who live and play in the area. My son is an autistic teenager with severe development display that leaves him unable to verbally communicate and unable to comprehend the dangers involved by industrial traffic, nor dangers associated with the project. We moved here to specifically here to avoid such danger. The proposals here will increase use of roads and lands in very close proximity to my home that is not appropriate for a residential area. A substantial buffer zone of a half mile should be in place between

residences and this solar activity to avoid impacts to residents. Additionally, Inyo County has misinterpreted and not properly assessed impacts to several parcels adjacent to the proposals as “vacant” because these are contiguous with our residences and are an active part of our homes.

2.) Inyo County has repeatedly mischaracterized and improperly announced the project as heavily disturbed and with no natural vegetation in public statements. The developer purchased the properties soon after he received permits for Renewable Energy Permit 2021-01 and has commenced removal of all vegetation and topsoil just a few months before submitting permits completely contrary to Inyo Counties regulations.

3.) Inyo County did not properly follow its own requirements found in the REGPA to provide an meaningful opportunity to landowners and the community to “engage”. Such requirements need to occur at the onset of the project, meaning when an application is submitted. This did not occur. Despite the obtuse wording of their regulations placing the burden on the uninformed local party, it is realistically should be Inyo Counties responsibility to try to meaningfully engage with those immediately impacted by the project upfront to avoid a giant mess and legal issues in the aftermath. Given the nature of Inyo Counties actions here appears that it is trying as much as possible to avoid this communication so that the permits will be resolved without anyone’s knowledge. This is completely contrary to the intent of any permit process as well as the REGPA.

4.) Inyo County has allowed the operator to destroy existing vegetation and wildlife habitat just months prior to the permits being submitted despite the use being clearly for solar development. This is specifically not allowed in the Inyo County regulations. By these actions, it allows developers to escape reclamation requirements and eliminate environmental aspects of concern. This is made possible by purchasing private land and destroying vegetation prior to permit submittal and should not be allowed.

5.) Inyo County has not conducted a proper assessment of impacts to biological resources including a wildlife survey with on-site identification of species of concern prior to issuance of permits. No protection is given to avian species of concern in including raptors and migratory birds as well as their food sources such as lagomorphs which reside in local vegetation. Proper avoidance buffers of nesting locations need to be identified. Wildlife habitat and food sources of species of concern were destroyed by the developer/operator prior to the permit issuance. The presence of wildlife and protective measures were not discussed or evaluated, except to be handled later. This does not give comfort and does not inform the public properly. It also puts this wildlife at risk. Indeed, at a minimum the public is unaware the project area is actually home to the largest habitat of the endangered Mojave Ground Squirrel in California, and likely other species of concern as Inyo County says there are none present such as the Desert Tortoise, and Burrowing Owl which are mentioned in the permit documents. The need to be evaluated prior to permit issuance in consultation with the proper agencies.

6.) Inyo County has not properly managed the existing project REP 2021-01 and allowed violations for many months of its own requirements (REGPA, MER-2.7) for minimizing dust emissions and has thus endangered the public health,

7.) Inyo County has not properly assessed visual impacts and aesthetics which would be greatly altered by the projects. Solar is a drastic change to the landscape including the “desert kitsch” in the immediate community. This old and dilapidated aesthetic has been used extensively in dozens of films, commercials, TV shows, music videos, video games, and other cultural media and is of a recognizable



character worldwide. Such filming occurred in the recent year. The movie “Just Add Water” filmed in Trona is set in this very setting. It is suggested the Inyo County may learn more of this from the Ridgecrest Regional Film Society. Junk yards make up this aesthetic, but modern solar cells do not. This existing solar facility has already had a substantial impact on the viewshed from my home and other residents which has not been properly mitigated. Further expansion of this facility as proposed here will destroy this viewshed for myself, residents, and tourists.

8.) Inyo County has not properly assessed impacts to tourism in area well known as one of the main routes of tourism into Death Valley and onward into Inyo County. This is industrial development immediately adjacent to the highway used to enter Death Valley National Park and is within a few miles of the park boundary. These solar cells constitute negative visual impacts detrimental to the attraction of the National Park.

9.) Inyo County has disproportionately affected disadvantaged communities by the design of its REGPA and the proposal which disproportionately impacts ethnic groups and those living in poverty. Inyo County has not performed the necessary outreach for these communities, who are likely fearful and unable to properly respond. Diagram 32 in the REGPA suspiciously lacks Solar Energy Development Areas near the main population centers of Inyo County where electricity would mostly be needed. Instead, the REGPA locates the SEDA’s far away in small, disadvantaged communities who were likely without knowledge of Inyo County’s solar plan and not able to engage because the lack of meaningful outreach.

10.) Inyo County has not properly assessed hazardous chemicals to be stored at the project which potentially include highly flammable lithium batteries and fuel among others stating there will be none.

11.) Inyo County has not properly assessed fugitive dust, an EPA deemed pollutant. It is clear that this pollutant will be generated in substantial quantities yet Inyo County states there will be no pollutants. Inyo County needs to do dispersion modeling on fugitive dust to evaluate air impacts within miles of the project and also provide an analysis of its impact on public health prior to issuing permits.

12.) Inyo County has not provided documents allowing for proper review by the public including information that support its environmental assessments during the REGPA or regarding these proposals, the project applications, reclamation plans, grading plans, and maps and design information of the project. Nor have any of the documents been provided to the public in Spanish.

13.) The developer did not notify landowners and the public as required by REGPA, GOV-2.4

14.) The developer/operator is not suitable for the project based on violation of Inyo County regulations by conducting development without a permit. The operator has already shown general disregard and hostility to landowners in the area without performing any outreach on the project. The developer/operator is responsible for compliance with all applicable regulations including the very common practice of dust control and thus has committed willful violation of such regulations, despite the lack of an air permit. None of this complaint and violation history or the outcomes was provided for viewing by the public. Additionally, the developer/operator has already not shown a good stewardship in terms of other areas of concern including poor housekeeping and visual upkeep of the existing site, infringement of property owner’s rights by placement of refuse on these neighboring lands, a general

lack of security of the site, and untimely efforts to complete construction of the project. Additionally, the developer/operator has also constructed fencing within a right-of-way.

15.) Inyo County has not properly assessed impacts to agriculture despite the fact of subsistence agriculture is present within the Trona SEDA. This includes in the past immediately adjacent to the project and currently with a few hundred feet. The County has ignored the common use of rural residential property for this purpose and well as effects of dust on the existing agriculture.

16.) It appears Inyo County has not engaged in necessary agencies in the area who manage lands in the area which would be impacted by the development. Given that that impacts area from fugitive dust, vegetation and wildlife are far reaching this would be expected include BLM, US FWS, CA Department of Game and Fish, Trona Historical Society, Great Basin Unified Air Pollution District, as well as communities and agencies in San Bernadino County, and likely others. This needs to be done prior to making a staff recommendation so proper information can be provided to the public for review. Additionally, the staff commonly assume that “no response” is meaningful outreach when it may be likely no one ever received such information. This previously occurred with the Great Basin Unified Air Pollution District who did not respond to the request for comment. It was only long after permit issuance and after many months of construction that controls for protection of air quality were put into place. This failure was rectified too late, coming only after complaints were made and not preventing months of unregulated releases of fugitive dust.

17.) Inyo county needs to assess the cumulative effects of the proposals along with impacts that have been documented during the prior construction phase. It needs to account for the effect of other similar impacts found in similar existing solar facilities. The County needs to evaluate the cumulative impacts including an environmental justice assessment should development continue to expand into full 600 acres as allowed by the REGPA. This assessment should account for the greater likelihood that private rural residential parcels of the Trona SEA would likely be the sole property type utilized, therefore greatly impacting homeowners and residents, as this avoids a more complicated federal permitting process. This is a pattern already evident so far.

18.) Inyo County has not properly assessed effects caused by wind erosion, site grading, and protection of topsoil including during normal and extreme rainfall events. No information was provided on any plans for compliance with NPDES (National Pollutant Discharge Elimination System) requirements. There are no observable topsoil stockpiles in the previous and proposed project areas. Runoff channels are readily observable in the project areas.

19.) Inyo County needs to properly set a reclamation bond for the project and use a cash bond or other suitable financial instrument. This evidently is not required on Renewable Energy Permit 21-01 which uses solar cells on the project. This bond needs to set reclamation standards based on vegetation existing before the developer/operator destroyed it prior to submitting an application. Additionally, it is not acceptable to use resale of the projects' solar cells as the reclamation bond. They would depreciate in value. Not requiring a bond before disturbance would allow the operator to highly disturb the project prior to purchasing the solar cells without a guarantee in place.

20.) Inyo County has not properly assessed impacts based on wind-blown accumulations of sand and the formation of sand dunes as result of the removal of vegetation on the project. It has not assessed how

these sand dunes will affect downwind communities and residents including increasing negative air quality impacts and the burial of structures.

21.) There is no apparent documented cost-benefit analysis of the proposed project and assessment of the benefit to the local community. Despite a clear emphasis on the importance of local benefits in the REGPA, including such things as lowered electric rates, it is unclear whether the project will result in any benefit to local residents. This includes what and how much they specifically they will be. As these comments expand upon there appears there will be substantial negative impacts to local homeowners and residents with nothing in return.

22.) Inyo County has not properly assessed archeological or tribal resources and historical preservation as required. by law. Tribal consultation may still be in progress since submittal of the previous permit application in 2018. The Planning Department in its 2021 staff recommendation for approval (Permit 2021-01) identified additional tribal consultation was necessary as the project lies within the Chemehuevi Traditional Use Area. This is not discussed in these new proposals. Ancestral homes are adjacent to the projects, one of which has been inhabited for five generations and another for three generations. The area is part of a substantial mining community over 100 years old. Apparently, Inyo County is proposing and has already allowed disturbance prior to an archeological field survey. This archeology survey would be not simply for tribal artifacts, and it should be conducted by qualified individuals to confirm the presence or lack thereof prior to disturbance. This would also serve to inform tribal interest at the site. Inyo County procedures for unanticipated discoveries rely on identification of tribal or cultural artifact by the operator who is not qualified to make such an assessment.

23.) It is unclear if Inyo County has done necessary evaluation of the flight path into the Trona Airport and supporting documentation to the FAA, in cooperation with airport management.

24.) Inyo County has not provided a road management plan on how the permit areas will be accessed for construction and operation. Due to the amount of activity, a turnaround to access the facility would be expected to be needed on Highway 178. The public and residents have not been advised on how they will be impacted on their private roads and right of ways by the project because the county apparently has not done the proper planning.

#### Extension of Comment Period

I received a informal letter announcing a public meeting on March 15, seven days prior to the hearing scheduled for March 22. Given the short notice, I already have commitments for that date and cannot attend. It is not possible to review the two proposals in such a sort time to obtain a full set of comments for legal standing in the permit process. Also, this is far too little time to prepare a proper response and fully document and support all issues of concern. This would include time necessary to retain legal counsel to potentially review the legality of the action and previous events. The technical nature of many of these concerns would potentially involve seeking input from technical experts and making additional contact with the surrounding public and agencies that manage the area. There are a large amount of relevant material not made available for reievw including permit applications and attachments with project details to the online documents that need to be provided. The REGPA requires that the operator make notification with landowners at the time of submittal and opportunity for local landowners and public to engage in the process, which has not been possible to date. I would request an extension of the time consistent with such a process and assuming a proper notification of

permit submission. **For that reason, I would request an extension of 120 days based on the estimated time to complete a full review.** That is unless Renewable Energy Permit 22-01 and 22-02 cannot be denied outright based on the comments provided herein.

Inyo County and the Operator Did Not Engage or provide the Proper Notification

From the *FINAL REGPA, AS ADOPTED BY THE BOARD OF SUPERVISORS PUBLIC HEARING MARCH 24, 2015.*

- Policy Gov-2.3: Public Involvement: The County shall provide the opportunity for the public to engage in the planning process at the onset of any renewable energy solar facility project and for all other large or potentially controversial projects applied for in the County.
- Policy GOV-2.4: The County shall require that renewable energy solar facility developers notify residents and/or landowners by direct mailings or other appropriate means announcing projects at the time an application is submitted.

“Engage” does not mean to simply notify. It means an opportunity to involve meaningfully, which includes meaningful communication between parties and efforts to ensure effected parties are fully informed and have proper ability to give feedback on the effects of the project. “At the onset” does not mean seven days prior to final approval. Inyo County has completely disregarded its obligation to provide an opportunity to engage in a timely fashion. This is also despite a request to be notified in my email of such permit applications being submitted on December 1, 2021, sent to Cathreen Richards, Planning Director. As well as extensive communication of concern on the proceeding dust emissions from the existing project.

I am the only person in the local community that I am aware of who has been notified about the proposed projects. This was done in an informal hand addressed letter, with no return confirmation receipt, see photo attached. Inyo County mentions no attempts to realistically notice within the local community, most of which is associated with the town of Trona and very remote from most of Inyo County. The Inyo Register is not a proper form of public notice in this case and is not associated with the demographics of this area which is 2 hours or more from away from the main communities of Inyo County such as Independence, Lone Pine, Mammoth, and Bishop. Its residents are commonly associated with San Bernadino County. I am not aware of this paper being for sale at any store in Trona and there is no circulation of any paper in the area. Regardless, the proposed actions effects multiple residents and landowners within the Trona REGPA and the community of Trona did not receive an opportunity to “engage” through a public notice in remote newspaper with no local visibility. Especially given the air impacts impact shown to effect Trona, San Bernadino County and other SEDA residents was documented in emails including photos and video dated November 30, 2021 and January 21, 2022 sent to the planning department.

I did not receive any notification of the Notice of Availability and Intent posted in the Inyo Register on November 14, 2022 for public comment. As discussed, this paper is not available in the area to any local person. Despite my prior request to be notified. Therefore, I was unreasonably denied an opportunity to engage and provide comments on the Initial Study Mitigated Negative Declaration.

I also did not receive any notification from the developer as required by Policy GOV-2.4. Nor any communication from Inyo County on this submittal of applications. Inyo County provides no evidence of this in documents online.

Additionally, I was also not notified or provided the opportunity to engage in the process during the development of the REGPA despite residing with the proposed SEDA.

The county planning department is aware that I previously submitted videos and pictures over a period of several months during the construction of the facility which showed a repeated disregard for dust control procedures and Inyo County regulations for development of Renewable Energy Projects. This correspondence resulted in the discovery that there was lack of an air quality assessment and air permit, which is crucial component to prevent health impacts to the public. Inyo county has again proposed issuance permits and public review without performing an air quality assessment or air quality permitting. Further, it has not included analysis including arising from the reported incidents in this documentation. This lack of information could change public involvement and concern regarding the project.

Communications and a photo documenting the start of scraping away of the topsoil and vegetation by the developer pre-permit was provided to the Inyo County Planning Department on January 13, 2022. This is about 10 months after permits were issued on Renewable Energy Permit 21-01 and appears to coincide with the recent acquisition of the properties by the developer. Regardless that these unpermitted properties were contiguous with Renewable Energy Permit 2021-01, had the same owner which was the developer of REP 2021-01, and that an air quality permit was pending, the County refused to stop this pre-permit development activity based on claim by the owner it was not for solar. A few months later during the same year and the developer applies for solar permits for these same fully stripped parcels. Unbelievably, Inyo County Planning Department is now recommending for approval despite full knowledge of this activity. The developer has violated Inyo County regulations for Renewable Energy Projects and substantially bypassed Inyo County ability evaluate impacts on the native state of the environment, eliminating potential issues of concern, and reduction reclamation requirements. Inyo County describes the two proposed project areas as "heavily disturbed" and "lacking vegetation". However, this was not true just a few months before the developer stripped the lands bare. Inyo County made its evaluations based on an environment following a complete destruction of topsoil, native habitat and vegetation. This is an incorrect and untrue basis. This has the been in turn been misrepresented to the public and the Board of Supervisors. For this reason, the two proposed permit areas must be denied approval.

From Inyo County Code:

#### 21.16.010 Renewable energy permit.

Any person who proposes to construct a facility within the county or modify an existing facility within the county shall, prior to the commencement of construction or modification, first apply for and obtain from the county planning commission a renewable energy permit, unless specifically exempted from such requirements by this title or by state or federal law. (Ord. 1158 § 3, 2010.)

#### 21.24.010 Prohibition.

No person shall construct a facility without first obtaining a renewable energy development agreement, a renewable energy permit or a renewable energy impact determination and no person shall operate a facility in violation of a renewable energy permit or renewable energy development agreement. (Ord. 1158 § 3, 2010.)

#### Vegetation Destruction

Photographic satellite evidence of the pre-existing vegetation on the proposed Renewal Energy Permit 2022-01 and 2022-02 can be found online. Images in 2020 prior to Barker ownership of the parcels clearly show identical vegetation to surrounding undisturbed areas. To be fully accurate, for REP 2022-02 there is a single parcel within #38-330-34 that was previously disturbed though the two other parcels 38-330-32 and 38-330-33 that are indistinguishable from undisturbed lands. For REP 2022-01 there was essentially no prior disturbance and health vegetation similar to undisturbed adjacent lands is readily visible in 2020. Additionally, 2018 satellite information shows the same pre-permit disturbance by the developer was true for the already permitted REP 2021-01 which was classified as heavily disturbed despite one parcel #38-330-47 showing quite the contrary. Satellite images are currently only available up to 2020.

Ground level photos taken March 19, 2023 as provided show the conditions following pre-permit stripping of the topsoil and vegetation.

Vegetation in the form of a hardly scrub brush that takes a considerable time to become established was destroyed on all of these parcels. These plants are about 1-3 feet in height and provide the most important primary stabilization and reduction of airborne topsoil transmission. Examples of this vegetation are provided with the attached photos.

#### Prior Issues with Renewable Energy Permit 21-01/Barker Solar and Dust

For many months perhaps even over more than a year dust was seen emanating from parcels 38-330-47 and 38-330-48 as clearing efforts were underway never was any dust controls measures observed and frequently dust inudating nearby residences particularly the McNamara residence. A complaint was only filed after repeated observations of this activity which also included clear of a considerable amount of material associated with a decaying old mobile home which was also observed being made airborne.

On November 30, 2021 photos showing a fugitive dust were provided to the Inyo County Planning Department. The photos showed a suspended cloud of dust covering a large area of the Searles Valley. This lead to Inyo County referring me to the Greater Basin Unified Air Pollution District. It was advised that no air permit was in place because the GBUAPD had not commented on REP 21-01. Not until Dec 17, 2021 was an air permit issued for the project by GBUAPD.

On December 6, 2021 following discussions by the Great Basin Unified Air Pollution District with the operator of Renewable Energy Project 21-01 additional plumes of dust traveling well outside to the permit area for Renewal Energy Permit 22-01 were provided as requested. Still at this time the operator was allowed to continue activities without a permit

On January 21, 2022 a massive airborne dust plume from the solar plant was filmed during a high wind occurrence and provided to the Inyo County Planning Department and Great Basin Unified Air Pollution

District. This video shows dust inundating and completely occluding from view houses all the way into Pioneer Point (a community of Trona). This plume likely resulted in removal of large amount of topsoil. This dust was observed blowing all the way through to the Trona school and heavily deposited further near the Trona post office which is 4 miles downwind. Video is attached.

For this reason, Inyo County needs to assess fugitive dust in much greater distances than the project boundary and needs to allow comment from those which may have or could be impacted by this project. Such an assessment should include dispersion modeling of construction and operations phases and an evaluation of potential health impacts including and not limited to silicosis and valley fever.

#### Wildlife Concerns

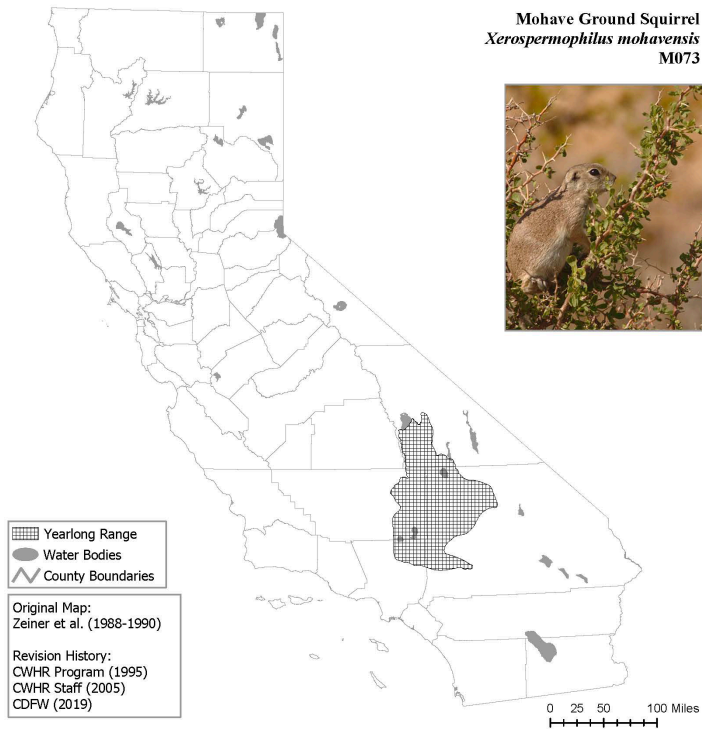
Due to the known presence of endangered species such as the Mojave ground squirrel, Inyo County needs to first perform a full biological assessment and inventory prior to issuing permits. Apparently, Inyo County also did not evaluate migratory birds and raptors which should also be afforded similar protection before permits are issued and may require avoidance buffers for protection. This would ensure critical habitat is not destroyed or negatively affected. Such an inventory needs to include not only the 15 acres within the proposals but a survey of the surrounding area sufficient to protect and prevent impacts to wildlife in the surrounding area. This survey also needs to be conducted over the period of a year to account for seasonal variation of wildlife populations and particularly their food sources. Inyo County needs to fully consult with wildlife agencies prior to permit issuance.

In a similar fashion needs to perform all these same actions before permits are issued for vegetation and identify species of concern. There is no analysis of this in the permit documents

All this information must be provided to the public for review prior to permit issuance. Indeed, without proper wildlife surveys and wildlife agency consultation Inyo County does not provide any protection nor allow any public involvement for plant and animal species as they have not been assessed. Given the documented actions pre-permit of the developer this is paramount.

Special care should be given to the Mojave ground squirrel which appear seasonally and regularly in the immediate area. I personally observe these in great numbers through the permit areas each year when they begin to appear in spring and during the summer. I believe they hibernate during the winter. The following map shows that these proposals are within the single largest habitat in California.

**California Wildlife Habitat Relationships System**  
California Department of Fish and Wildlife  
California Interagency Wildlife Task Group



Range maps are based on available occurrence data and professional knowledge. They represent current, but not historic or potential, range. Unless otherwise noted above, maps were originally published in Zeiner, D.C., W.F. Laudenslayer, Jr., K.E. Mayer, and M. White, eds. 1988-1990. California's Wildlife. Vol. I-III. California Depart. of Fish and Game, Sacramento, California. Updates are noted in maps that have been added or edited since original publication.

Photo by Yathin Krishnappa: <http://yathin.com/wordpress/about/>  
License: <https://creativecommons.org/licenses/by-nc-nd/2.0>

View and download map in BIOS: <https://apps.wildlife.ca.gov/bios/?dslist=908>

Hawks have been regularly observed in and surrounding the permit areas which serve as hunting grounds for lagomorphs and other food sources. Nesting locations of such raptors in the larger area need to be identified to provide proper protection for the protected species. I have even seen at times hawks nesting in the largest tree in my yard which will be a few hundred feet from the project.

I have also heard a number of reports from locals that the Desert Tortoise occurs in the area. This includes the previous owners of home who told me that they lived at one time in rocks on the eastern side of the parcel with my house.

### Other Solar Projects

I have been much more aware and observed numerous solar facilities elsewhere in Nevada and California in other counties. In particular, those nearby California City in the small communities of Ricardo and Cantil. I would like to provide the following observations:

- 1.) some facilities do not remove topsoil and readily build supporting structures for solar cells on top.
- 2.) all of these facilities are well removed from residential areas, completely unlike these Trona permits which are with a few hundred feet or less from inhabited residences. The one exception being the community of Ricardo/Cantil, CA which has suffered considerably.



3.) These facilities are clearly marked with messages allowing for immediately reporting excessive dust and warning people on the highway.

4.) In some, particularly those facilities near Cantil/Ricardo. Downwind of the prevailing wind direction there is significant accumulation of blowing and drifting sand. This sand is at times increasingly burying residential structures and is also easily mobilized in high winds creating a high concentration of fugitive dust that can expose the public to a health risk. This an environmental disaster in this community and we have one in the making with these proposals.

All these need to be accounted for and evaluated by Inyo County prior to permit issuance so that the public may be informed. Given the extreme proximity of these proposals, such downwind accumulations of blowing sand may prohibit the project.

#### **Additional Comments and Photos and Other Information**

**A second document is being provided with many large file size information items. Please refer to this for additional information related to the above as well as additional comments. *It is requested that this document also be kept confidential.***

## Cynthia Draper

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**From:** John Mays <[johnmmays1@gmail.com](mailto:johnmmays1@gmail.com)>  
**Sent:** Wednesday, March 22, 2023 8:05 AM  
**To:** Cynthia Draper  
**Subject:** Re: Comments on REP 2022-01 and REP 2022-02 INYO COUNTY BOARD OF SUPERVISORS MEETING MARCH 22, 2023

Cynthia,

Thank you for following up on my request to keep my comments confidential. Given this I recind my request for confidentiality and you may may use all of my comments publically.

Thank you,

John

On Wed, Mar 22, 2023, 7:38 AM Cynthia Draper <[cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)> wrote:

Sorry about that. It was right before 5 and I was rushing to respond to you. I must have had that name in my head.

Thank you,

Cynthia

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**From:** John Mays <[johnmmays1@gmail.com](mailto:johnmmays1@gmail.com)>  
**Sent:** Tuesday, March 21, 2023 5:03 PM  
**To:** Cynthia Draper <[cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)>  
**Subject:** Re: Comments on REP 2022-01 and REP 2022-02 INYO COUNTY BOARD OF SUPERVISORS MEETING MARCH 22, 2023

You don't often get email from [johnmmays1@gmail.com](mailto:johnmmays1@gmail.com). [Learn why this is important](#)

Thank you Cynthia.

My name is John by the way.

On Mar 21, 2023, at 4:58 PM, Cynthia Draper <[cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)> wrote:

Hello Dave,

I received your comment and attachment just fine. I have sent it to the Commissioners and your name will remain confidential at the meeting.

Thank you, Drive safe.

Cynthia

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**From:** John Mays <[johnmmays1@gmail.com](mailto:johnmmays1@gmail.com)>

**Sent:** Tuesday, March 21, 2023 4:41 PM

**To:** Cynthia Draper <[cdraper@inyocounty.us](mailto:cdraper@inyocounty.us)>

**Subject:** Comments on REP 2022-01 and REP 2022-02 INYO COUNTY BOARD OF SUPERVISORS MEETING MARCH 22, 2023

You don't often get email from [johnmmays1@gmail.com](mailto:johnmmays1@gmail.com). [Learn why this is important](#)

Cynthia,

Please see attached my comments that I request be confidential.

Note that I was not properly notified about the submission of the permit applications and have not been given a reasonable opportunity to engage in these permits. As such I am requesting an extension of the time to review.

I have serious concerns regarding the two permits.

I also have a second document with many large file size items that I would like to deliver but will likely be too large for email. These have substantial information that I would like to have included.

I cannot attend the meeting because I have to travel to Arizona for business and have only a few days to respond to the notice that was mailed by the county announcing the hearing.

Thank you,

John

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

John Mays P.O. Box 583, Trona CA 93592

1.) The scope of proposed solar projects is not consistent with the zoning designation of the residential community in which it is proposed. This community consists of many long-term residents and subsistence agriculture use. The design of solar facilities precludes acceptable rural residential uses that are listed under Inyo County Code. Expansion of such facilities will create an increasing diminishment or such land available for Rural Residential uses. This use is scarce in the region surrounding Trona.

All of the parcels in the areas used by proposed projects are zoned Rural Residential. Nearly all of the surrounding community consists of parcels zoned as Rural Residential. Please see the map of the REGPA, Southern Solar Energy Group. (Referred to here as Trona SEDA)

Inyo County Code states the following as the purpose for the rural residential

### *18.21.010 Purpose.*

*It is the intent and purpose of this chapter to provide suitable areas and appropriate environments for low density, single family rural residential and estate type uses where certain agricultural activities can be successfully maintained in conjunction with residential uses on relatively large parcels. The RR (rural residential) zone is intended to be applied to the areas outside the urban communities of Inyo County which are without fully developed services and where individual residences are expected to be largely self-sustaining, particularly for water and sewage disposal. (Ord. 943 § 4, 1994.)*

Furthermore, under 18.21.020, 18.21.30, and 18.21.04 none of these uses make any mention of commercial uses or solar plant development.

It is important to note that while the REGPA allows that Inyo County **“may consider”** Commercial and Utility scale solar projects within any zoning designation this does not mean that such proposals are automatically consistent with such use and must be approved. Indeed, in this case the proposals preclude and seriously deteriorate the available zoned use. There appears to be a large disconnect in the REGPA when one accounts for the number of available Rural Residential Parcels within the Trona SEDA and the total allowable use of 600 acres for solar development. While the Trona SEDA is much larger than the 600 acres because of a larger amount of BLM lands within it, these BLM lands are not likely to be used due to a more difficult permitting process. This creates the real possibility for complete decimation of the Rural Residential use where such activity is now currently focused with one existing and now three proposed new projects all in the RR zoned area. This is not consistent with the primary purpose of the zoning of these parcels, not to mention the proximity to the residential areas of Trona. As such, this error needs to be corrected and all of the Rural Residential parcels within the Trona SEDA should be removed for possible solar commercial and utility scale consideration by an update to the REGPA. In this way, ongoing future use for housing and agriculture can be preserved. Such housing that allows subsistence agriculture is an important and valuable resource for the county and not widely available in the Trona community.

It should be added that such a situation is not apparent near other more developed parts of Inyo County, where more detailed evaluation is apparently required. This double-standard shows that Trona has been overlooked.

As an alternative to use of rural residential parcels, there is a considerable quantity of other lands within the Trona SEDA at distance from residents that would serve to minimize impacts to residents much more favorably.

2.) Has the developer completed construction on REP 2021-01? This does not appear to be the case as the project continues to have construction equipment, large piles of limestone gravel, and chemical tanks being stored on-site. Also, such piles of gravel ave also been placed in the right of way on another recently announced solar project in the Trona SEDA owned by the developer's brother and blocking one resident's access to his property.



April 10, 2023 picture of REP 2021-01 showing number of piles of limestone gravel and earth, drilling rigs, some portable chemical tanks, refuse rolloff, etc.



April 10, 2023 Same limestone gravel deposited across the right of way and well-established existing access road. Gravel and equipment is on another solar project recently proposed for development by SBC Developments.

3.) Inyo County needs to consider effects beyond the boundaries of the parcels on which the proposed projects are being constructed and also seek input from landowners and the community well beyond a 300 ft limit. From the REGPA,

- *Policy MER-2.6: Avoid, Minimize, or Mitigate Impacts. The County shall work with renewable energy solar developers and other agencies to avoid, minimize, or mitigate impacts to the social, economic, visual, and environmental resources of the County from renewable energy solar facility development.*

Inyo County's limited engagement of the community and residents in this matter is recipe for disaster and will also result in a loss of social, visual, and environmental resources. Indeed, Inyo County has not done proper research into these matters. History includes a lack of improper environmental controls for the first permitted solar facility and the allowance of pre-permit construction on these projects. Inyo County's analysis on these projects indicates that such analysis stops with the parcel, yet many impacts here are far reaching. Such impacts include visual impacts, impacts to wildlife and vegetation, social and economic impacts, and environmental impacts including those on health and safety. Such long ranging impacts have already occurred with the massive amounts of unregulated fugitive dust emissions that were allowed for many months to harm residents immediately adjacent and miles down wind. Roads and power transmission lines are other effects outside of the parcel property lines not considered appropriately in the permit documents.

4.) Inyo County needs to prepare a project specific EIR based on new additional information or substantiate its conclusion that its Draft Mitigated Negative Declaration is appropriate under CEQA

regulations. It has not explained its rationale for not conducting an EIR. It has also not done the necessary environmental review to support the findings here. Given substantial incorrect information in the Draft Negative Declarations for REP 2022-01 and REP 2022-02, it is highly probable these assessments have been made by unqualified individuals with little to no project specific information. Inyo County needs to prepare a sufficient EIR to assess social, visual, and environmental impacts on this project before proceeding and has made no demonstration this has been previously completed or has otherwise obtained the necessary project specific additional analysis required. Outstanding analysis including obtaining an air permit and conducting wildlife studies after the permit is issued are inconsistent with the requirement to avoid and minimize impacts which cannot be done until the environment is first understood. This also means that staff findings have not been completed properly and improperly conveyed to the public for review.

No previous studies, documents, and sources are cited regarding environmental data to support the proposed permits nor in documents that were provided with the permits. Thus, no opportunity has been provided to the public to review any data supporting the conclusions made by staff on this project. Given the lack of information and its apparent inadequacy, it is believed that such information does not exist. In such a case, CEQA regulations require these investigations to be conducted before these permits can be issued.

The last study of the area was in 2015 under the Final Program Environmental Impact Report (EIR). This report is dated and as primary form of mitigation requires a multitude of site-specific field surveys and environmental assessment for each solar project before they are approved. The REGPA states that it should be regularly updated and now is the proper time given the large extent of issues of concern.

One aspect overlooked by Inyo County includes residents including children that are now living adjacent to the proposed facilities including myself and others. No assessment has been done from the point of view of local residents. How are we now going to be impacted? Does Inyo County even care?

#### 5.) Land Compatibility Issues

Inyo County has not undertaken the necessary environmental review as required by the Inyo County Renewable Energy General Plan Amendment, Volume II – Final Program Environmental Impact Report, March 2015 (here after referred to as the EIR)

#### ***4.10.3.4 Land Use Compatibility***

*Future solar energy projects could result in potential land use compatibility issues, depending on the location of such projects and the presence of nearby uses that could perceive nuisances or incompatibilities. For example, noise or glare from a future solar energy project could be inconsistent with adjacent sensitive uses, such as residences or school uses. Based on existing land uses within the SEDAs, it is expected that future solar energy projects within the SEDAs would be relatively isolated from other uses; however, most of the SEDAs do contain some amount of residential uses or other uses that could be sensitive to activities associated with a solar development project, if it was located in close proximity. Future solar development projects would be subject to the applicable land use requirements of the County and additional environmental review. As part of this review, each project would be analyzed to determine impacts regarding the land use compatibility with adjacent uses. Future development of solar energy projects within the SEDAs would require appropriate siting and is subject to further review and approval from the County. As such, the REGPA would not result in significant impacts associated*



*with the land use compatibility. Impacts associated with the proposed REGPA would be less than significant.*

Instead, Inyo County uses the REGPA as a basis for compatibility for land use but provides no additional analysis. Quoting the “Evidence” supporting Findings #2 and #3 from the Staff Report:

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

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

Statements of the Planning Department here conflict with the findings of the EIR which states that additional review is necessary when in proximity to residences which are sensitive to land use and approval is dictated by the results of this analysis not by simply the SEDA designation. Inyo County has not provided or performed this additional environmental analysis.

6.) Inyo County has not performed the necessary Noise Report as required by the EIR as applicable to Commercial scale facilities. Mitigation measure from the EIR:

***MM NOI-1: Prepare technical noise report for solar facilities proposed within 500 feet of noise sensitive land uses.***

*If a proposed utility scale solar energy project resulting from implementation of the REGPA is within 500 feet of a residence or other noise sensitive land use, prior to issuance of a Major Use Permit, a site-specific noise technical report will be prepared and approved by the County. The technical report will verify compliance with all applicable County laws, regulations, and policies during operation of the solar project, including that noise levels would not exceed the relevant thresholds described in the General Plan Noise Element (60 dBA L<sub>DN</sub> for noise sensitive land uses such as residences, schools, transient lodging and medical facilities). The site specific noise technical report will include project specifications, applicable noise calculations, project design*

*features, applicable BMPs and related information from the REAT’s Best Management Practices and Guidance Manual (REAT 2010), and mitigation measures applicable to the project. The technical noise report will address operational related noise sources, as well as noise from the use of generators during an emergency. The technical report will calculate specific anticipated noise and vibration levels from operations in accordance with County standards and provide specific mitigation when noise levels are expected to exceed County standards.*

7.) Impacts on Housing

Table 4.13-6 estimates total housing of 18 within the Trona SEDA and determines impacts not to be significant. However, this analysis does not account for the fact and likelihood that solar development will be solely focused and within the much smaller residential portion of the Trona SEDA where these residents reside. Cumulative impact analysis of multiple solar projects solely located on the Rural

Residential should be undertaken to determine these now disproportionate effects on residents. It should also account for the likelihood that such residents may be of little to no income and not able to relocate, unlike the ease of relocation indicated by the EIR. It should also account for the displacement of future housing use away from rural residential parcels by solar development. This requires additional evaluation as it would be expected to change substantially the impact assessment.

#### 8.) Fire Protection

From the Inyo County General Plan:

- *Policy PSU-8.1: Fire Protection for New Development. Prior to the approval of development projects, the County shall determine the need for fire protection services. New development in unincorporated areas of the County shall not be approved unless adequate fire protection facilities can be provided.*

Staff analysis in the Mitigated Negative Declaration leaves it unclear how sufficient fire protection was determined adequate for the projects or if a specific adequacy analysis here was even performed. The Draft Mitigated Declaration simply says “no concerns” from the San Bernadino Fire Department which is not comforting to a resident in a very remote area and is not sufficient analysis to meet the requirement.

There is no discussion of a fire protection plan or any forward thinking towards fire protection. No mitigation measures to prevent the occurrence of a fire in the proposed solar facility are discussed. This should be analyzed extensively due to the significant potential for loss of life and property. Will the project have fire-fighting services coming from San Bernadino County? Or would these services be travelling an 85 minute drive from Olancho or a 93 minute drive from Lone Pine as described by the EIR? Are the fire fighters sufficiently trained and equipped to fight a large-scale electrical fire? How fast would it spread to local vegetation and further spread before being extinguished?

There are limited resources of the tiny San Bernadino Fire station department in Trona. Is this sufficient to handle a large-scale fire of possibly 30 acres in size with unique electrical hazards? Given a large, concentrated quantity of combustible photovoltaic solar cells as fuel is this response time sufficient to protect residents living adjacent to the solar project from fire propagation and potentially toxic smoke inhalation? Our experiences here indicate absolutely not!

Nothing is discussed in the permit documents to address these concerns.

Mitigation measures from the EIR require greater analysis here,

***MM PUB-1: Analyze public safety and protection response times and staff levels for each utility scale project.***

*Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project's impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.*

#### 9.) Private security

The Draft Mitigated Negative Declaration says private security will be relied upon. I have never once observed any private security personnel at the current solar project REP 2021-01 during construction or operation. Has this been enforced? It also mentions no new police service is required but does not describe how it reached this conclusion. There is insufficient analysis in the permit documents addressing the following mitigation as required by the EIR,

***MM PUB-1: Analyze public safety and protection response times and staff levels for each utility scale project.***

*Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project's impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.*

***MM PUB-2: Provide onsite security during the construction and long-term operation of the utility scale project.***

*For project sites associated with proposed future solar development projects that are determined through mitigation measure PUB-1 to have insufficient law enforcement protection services or significant impacts to law enforcement services, project proponents shall be required to provide adequate, onsite private security for the duration of construction activities and during the long-term operation of the project to the satisfaction of the County. The actual size and configuration of the security detail shall be determined by the County during preparation of the Development Agreement for the future solar energy project.*

10.) Agriculture use

Rural residential properties are deemed necessary for agriculture not just now but also in the future. This is currently taking place within the SEDA and near the proposed permits. Inyo County has not analyzed impacts to agriculture as required by the EIR. As follows:

***MM AG-1: Review development proposals for potential impacts to agricultural operations.***

*The County Agricultural Commissioner shall be responsible for reviewing new development proposals adjacent to agricultural operations to ensure they do not significantly impact agricultural operations.*

***MM AG-2: Conduct site specific investigations for agricultural lands.***

*Site-specific agricultural resource investigations shall be completed for proposed solar development projects within the individual SEDAs and the OVSA that are located on lands utilized for agricultural operations prior to final project design approval. If agricultural operations are identified within the project area, alternative designs should be implemented to avoid and/or minimize impacts to those resources. This may include mitigating conversion of agricultural lands based on the mitigation ratios identified in consultation with affected agencies at the cost of the project applicant to the satisfaction of the County. Mitigation ratios and impact fees assessed, if any, shall be outlined in the Renewable Energy Development Agreement, Renewable Energy Permit, or Renewable Energy Impact Determination.*

***MM AG-3: Invasive plant species or noxious weeds.***

*To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all*

*phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:*

- *The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes.*
- *Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site.*
- *Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored.*
- *The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned.*
- *Native vegetation shall be re-established as quickly as practicable on disturbed sites.*
- *Weed Monitor and quickly implement control measures to ensure early detection and*
- *eradication of weed invasions.*
- *Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations.*

No mitigation is described in the Mitigated Negative Declaration/Staff Report and agriculture is incorrectly described as non-existent.

#### 11.) Fugitive Dust

As required by mitigating measures in the EIR, Inyo County has not revealed a site-specific air quality technical report. Instead, it places reliance on the Great Basin Unified Air Pollution Control District. Such an air permit is not subject to public comment. Inyo Counties approach is here is not consistent with the REGPA nor the EIR which requires Inyo County to follow through here before permits are issued. Again, this mistake has previously occurred and is now occurring again. Note these requirements are PRIOR TO ISSUANCE.

Mitigation from the EIR

#### ***MM AQ-1: Prepare site-specific air quality technical report.***

*Prior to issuance of Major Use Permits for solar energy projects, a site-specific air quality technical report shall be prepared and approved by the County, which will verify compliance with County and GBUAPCD standards during construction and operation of the solar project.*

*Mitigation Measures AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report, and will be implemented during construction and operation of future projects. These measures require implementation of dust control practices during construction activities and solar project operations.*

#### ***MM AQ-2: Reduce fugitive dust and particulate matter emissions during construction.***

*To control emissions of particulate matter, and to ensure compliance with GBUAPCD Rules 401 and 402 as well as applicable BMPs from REAT's Best Management Practices and Guidance Manual (REAT 2010), solar projects shall implement fugitive dust and particulate matter emissions control measures including, but not limited to the following:*

- *Water and/or coarse rock all active construction areas as necessary and indicated by soil and air conditions;*
- *Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;*
- *Pave or apply (non-toxic) soil stabilizers on all unpaved access roads;*
- *Sweep daily (with water sweepers) all paved access roads;*
- *Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;*
- *Suspend excavation and grading activity when sustained winds make reasonable dust control difficult to implement, e.g., for winds over 25 miles per hour (mph).*
- *Limit the speed of on-site vehicles to 15 mph.*

***MM AQ-3: Implement dust control measures during operation.***

- *To control emissions of particulate matter, and to ensure compliance with GBUAPCD Rules 401 and 402 as well as applicable BMPs from REAT's Best Management Practices and Guidance Manual (REAT 2010), solar projects shall incorporate feasible dust control measures into the site design including, but not limited to, the following:*
- *Incorporate perimeter sand fencing into the overall design to prevent migration of exposed soils into the surrounding areas. The perimeter fence is intended to provide long-term protection around vulnerable portions of the site boundary; it is also intended to prevent off-road site access and sand migration across site boundaries and the associated impacts.*
- *Incorporate wind deflectors intermittently across solar project sites. The solar panels themselves, especially where installed to transverse primary wind direction, will provide some measure of protection of the ground surface. Wind deflectors enhance this effect by lifting winds that may otherwise jet beneath panels, thereby disrupting long wind fetches, and reducing surface wind velocities and sand migration.;*
- *Orient infrastructure/solar panels perpendicular to primary wind directions; .and*
- *Adjust panel operating angles to reduce wind speeds under panels.*
- *Perform revegetation in areas temporarily denuded during construction. These areas would be replanted with native plant species that exist on the site presently. Irrigation would be applied temporarily during the plant establishment period (typically multiple years), but after establishment it is expected that these areas would require little or no maintenance. Vegetation provides dust control by protecting and preventing threshold wind velocities at the soil surface. Studies have shown that an 11 to 54 percent vegetation cover on a site can provide up to 99 percent PM10 control efficiency (GBUAPCD 2008).*
- *As the installation of solar panels and associated equipment progresses, each area that is completed (i.e., where no further soil disturbance is anticipated) will be treated with a dust palliative to prevent wind erosion. CARB certifications indicate that the application of dust suppressants can reduce PM<sub>10</sub> emissions by 84 percent or more (CARB 2011).*

None of these mitigations are described in the Mitigated Negative Declaration or Staff Report. The current orientation of the solar cells is parallel and not perpendicular to the primary wind direction. None of these operational mitigations are visually apparent on the currently operating solar site, REP 2021-01, and none were visibly used during construction either. Is Inyo County performing the necessary oversight of these projects? The answer is no.

## 12.) Biological Resources

The EIR lists the following special status species of concern in the Trona SEDA. “Desert tortoise, burrowing owl, golden eagle, prairie falcon, and Mohave ground squirrel,” and monarch butterfly have the potential to occur in the SEDA.

The Draft Mitigated Negative Declaration misleadingly states the following: “There are no CFW or USFW special status species found on the proposed project site. The project is graded, scraped and completely devoid of plants and native habitat.” This statement is incorrect and misleading because:

- Inyo County allowed the developer to grade the site and remove all vegetation pre-permit just a few months prior destroying all habitat and vegetation.
- Inyo County has yet to conduct the required biological inventories as these are a permit condition to be performed later.
- Inyo County is not considering avian and migratory species
- Inyo County is not considering presence of vegetation and wildlife species on adjacent lands and the overall environment that will be impacted.

Furthermore, the EIR indicates potential impacts to the Mojave Ground Squirrel. *“Habitat for Mohave ground squirrel occurs in the Owens Lake, Rose Valley, Pearsonville, and Trona SEDAs. Impacts to this species could occur as a result of implementation of the REGPA if solar development occurred within or adjacent to suitable habitat. Direct effects to this species could include disturbance of individuals from construction and operations activities. Once constructed, solar facilities could also potentially pose a barrier to movement for this species.”*

The EIR goes on to indicate many reasons to be concerned regarding biological resources. From the EIR:

### *“Trona Solar Energy Development Area*

*The total allowable developable area within the Trona SEDA is 600 acres, and utility scale or commercial scale projects in this SEDA may require construction of associated transmission infrastructure. Development of solar projects, including the associated infrastructure, within the Trona SEDA could potentially impact terrestrial habitats including alkali desert scrub and desert scrub. Aquatic habitats potentially containing waters of the US/State including freshwater ponds and freshwater wetland could also be impacted. There is no USFWS-designated critical habitat in the Trona SEDA; however, Inyo California towhee critical habitat is located in the Argus Mountains to the west of the SEDA although this species has been proposed for delisting and the USFWS has found that delisting this species is warranted. The SEDA does not contain essential connectivity areas, missing links, or Important Bird Areas.*

*Table 4.4-9 identifies one special status species of insect, desert tortoise, prairie falcon, and Mohave ground squirrel, one reptile, one mammal, three birds, and one plant species as either being known to occur or having the potential to occur within or adjacent to the Trona SEDA and be impacted by development activities within the SEDA. Special status species may be directly or indirectly affected by future solar projects in the Trona SEDA if the development would encroach on that species habitat or movement corridors. Impacts to special status species would not be expected to be limited to those mapped by the CNDDDB. The CNDDDB relies on reported sightings of special status species, and is not a complete inventory of special status species habitat.*

*Special status species identified as having the potential to be impacted by development within alkali desert scrub and desert scrub of the Trona SEDA include desert tortoise, and Mohave ground squirrel, prairie falcon, golden eagle, and burrowing owl. No special status species were identified as having the potential to occur within aquatic habitats in the SEDA. Although no special status plant species were identified as having the potential to occur in the Trona SEDA, botanical inventories would need to be conducted to support this determination.*

*Project-specific impacts to special status species would depend on the location of the project, the suitability of the habitats present, construction timing, and the species likely to occur. Impacts on rare plants and special status wildlife species could result in a substantial reduction in local population size, lowered reproductive success, or habitat fragmentation.”*

Again, these statements in the EIR indicate that no biological inventories were conducted as a part of the EIR and that these are crucial to a complete environmental assessment and need to be conducted prior to permit issuance. Such inventories could identify real biological concerns and significant impacts.

Additional detail on these impacts is described in the EIR as follows, included here at length to detail the number and magnitude of potential impacts involved:

#### **4.4.3.1 Project Level Impacts to Biological Resources**

##### ***Ground Disturbance or Vegetation Trimming or Removal***

*Future construction and maintenance of solar projects under the REGPA resulting in ground disturbance or vegetation trimming or removal would have the potential to impact special status species or sensitive natural communities. Direct or indirect impacts to special status species or loss/degradation of habitat would be a significant impact.*

##### ***Impacts to Rare Plants***

*Future construction and maintenance of solar projects under the REGPA could result in the direct loss or indirect loss or disturbance of special status plant species individuals or populations occurring within or outside of the project area. Direct impacts could include trampling, clearing or grading of habitat occupied by special status plant species, or other activities that result in habitat removal. Indirect impacts could include spills or runoff of chemicals or other toxic substances from construction areas and/or equipment that enter areas occupied by populations of rare plants adjacent to construction areas, alteration of local drainage patterns, or adverse effects from dust or windborne contaminants. In addition, solar projects requiring groundwater pumping could result in indirect impacts to off-site populations of special status plants through alteration of the water table. Direct and indirect impacts on special status plant species could result in a substantial reduction in local population size, lowered reproductive success, or habitat fragmentation. In addition, construction-related disturbances may allow the introduction or spread of invasive plants which compete with native plants and degrade the habitat.*

*Direct or indirect impacts to special status plant species resulting in loss of individuals or loss/degradation of habitat would be a significant impact.*

##### ***General Impacts to Special Status Wildlife***

*Impacts to special status wildlife species could occur during construction and/or operation of the future solar developments under the REGPA. General impacts to special status wildlife species are presented*

here, and more detailed discussion is provided in following sections with considerations pertinent to certain species and/or life forms.

### **General Construction Impacts**

#### *Habitat Disturbance*

*Biological communities within the construction footprint of solar developments implemented under the REGPA would be reduced or altered through habitat modifications including clearing, trampling or grading vegetation, changes to hydrology, alterations to the existing soil conditions, and filling or removing wetlands or sensitive habitats. Habitat modifications can result in the loss or adverse constriction of migration and wildlife movement corridors. Although habitats adjacent to solar energy projects might remain unaffected, the nearby disturbance on the project site might deter special status species from using habitat near the proposed project. Habitat modifications may also provide increased opportunities to predators (e.g., increased litter or water may attract coyotes, ravens or feral dogs, and structures provide perch sites to raptors). Alternately, habitat modifications may also result in changes to abundance of prey or forage species as a result of ground disturbance and vegetation removal.*

#### *Wildlife Mortality, Injury or Displacement*

*Individuals of special status species occurring within the construction footprint during construction could be injured, killed, or disturbed by construction activities. Special status wildlife species occupying underground burrows (e.g., desert tortoise, kit fox, burrowing owl) could be killed or displaced from the collapse of their burrows resulting from soil compaction. Site clearing and grading can remove vegetation resulting in a loss of dispersal, breeding or foraging habitat, as well as the direct removal of active bird nests. The movement of equipment and vehicles through the project area could negatively affect wildlife by collisions, or increased noise and dust. The noise and disturbance associated with construction-related activities can negatively affect nesting birds and may lead to abandoned eggs or young and subsequent nest failure for nesting raptors and other special status nesting birds. Construction related activities and the associated human presence increase the risk of fire from igniting sources such as vehicles, cigarettes, welding, and increased fuels from invasive plant species.*

#### *Introduction or Spread of Invasive Species*

*Habitat modification also provides opportunities for the introduction or spread of non-native, invasive plant species resulting from soil disturbance, native vegetation removal, and introduction of the species from construction equipment or seed mixes. Invasive species may compete with native species, affecting the viability of native species populations, and may also alter the habitat by making it difficult for wildlife to negotiate the landscape. As previously mentioned, the spread of invasive plant species may also increase the risk of fire by providing an increased fuel source. In arid environments, invasive species of plants often grow more densely than native species and may burn hotter thereby increasing the risk and impacts of fire.*

### **General Operational Impacts**

*Operation of future solar facilities under the REGPA could result in long term persistent impacts to special status wildlife species. These include disturbance to common and sensitive wildlife from vehicle traffic, increased human presence, facility maintenance (includes equipment repairs and washing panels and mirrors, weed and vegetation control, etc.), operational noises associated with daytime operations and nighttime maintenance activities, nighttime lighting and collisions. Death or injury to wildlife as a*



*result of operations would be potentially significant and mitigation would be necessary. Refer to specific wildlife impacts and considerations for additional operational impacts.*

*Construction of heliostat fields involves the placement of cylindrical pipes to support the structures. Vertically placed, open-topped pipes associated with future solar developments pose a threat to birds falling in from perching or nests placed at the opening, or entering in search of nesting cavities or food. Birds (and other animals such as bats, small reptiles, other small mammals) that have descended into vertical pipes may become entrapped and die from starvation and exposure (Brean 2011; American Bird Conservancy 2011; Audubon California 2013).*

*Death or injury to special status wildlife as a result of construction and/or operations would be a significant impact, and mitigation would be necessary.*

### ***Specific Wildlife Impacts and Considerations***

*Following are potential impacts to specific species or wildlife that could occur as a result of implementation of the REGPA based on their life form, status, known potential to occur in the project area, and regulatory considerations.*

#### ***Impacts to Special Status Insects***

*Monarch butterfly is known to migrate through western Inyo County during seasonal movements between the California coast and the Great Basin. This species relies on species of milkweeds (*Asclepias* spp.) as its obligate larval host plant, and migrations span multiple generations. Adult migrating monarchs require sheltered roost sites where temperatures remain cool but above freezing. Reductions in the extent and abundance of milkweeds would reduce larval host plant availability during migrations, and removal of trees could reduce suitable roosting sites if the affected trees were in suitable climatic microsites. In addition, solar thermal projects can promote butterfly mortality both through extreme heat and by attracting avian predators. The USFWS announced on December 29, 2014 that it has begun a review of monarch butterfly for listing under the Endangered Species Act. This listing might also include a designation of critical habitat, which could include habitats found within SEDAs.*

#### ***Impacts to Burrowing Owl***

*Nesting Potential nesting and foraging habitat for burrowing owl occurs within all SEDAs and the OVSA, and the species is known to occupy portions of the Laws, Owens Lake, and Rose Valley SEDAs and the OVSA (located within the Western Solar Energy Group) and this species is known to occupy portions of those locations. Impacts to burrowing owl could occur as a result of implementation of the REGPA if solar development occurred within nesting or foraging habitat for this species. Potential impacts to burrowing owls include nest disturbance, loss of nesting habitat, and loss of foraging habitat. Construction-related activities could potentially disturb nesting burrowing owls on or adjacent to construction sites as well as result in the loss of foraging habitat. Earth-moving activities could potentially trap or injure owls in their burrows, and disturbance near nests could potentially cause nest abandonment. Up to 1,500 acres of potential foraging habitat for burrowing owl could be lost in the Laws, Owens Lake, and Rose Valley SEDAs and the OVSA if all of the total allowable developable acres for the Western Solar Energy Group were developed within suitable foraging habitat for burrowing owl and were within close proximity to a nest. This is likely a significant over-estimation of the potential impacts to burrowing owl habitat because much of the land would not be suitable foraging habitat or within close proximity to a nest.*

*If solar development occurred in proximity to burrowing owl nest sites, human activity may cause owl nest abandonment or interfere with the incubation and feeding of young in a way that reduces reproductive success. Increased owl predation could also potentially occur in proximity to solar development, as a result of the typical increase in human-associated owl predators (Odell and Knight 2001). Mortality because of vehicle strikes may also increase on existing roads because of the increased traffic that would result from the solar development.*

*Loss of burrowing owl nesting or foraging habitat or nest disturbance would be a significant impact.*

#### *Impacts to Bald Eagle and Golden Eagle*

*Bald eagle has been reported nesting within the OVSA in the vicinity of Tinemaha Reservoir. Golden eagle has been reported nesting in the Rose Valley SEDA in the vicinity of the Haiwee Powerhouse. These species Bald eagle typically nests in tall trees away from human disturbances; golden eagle typically nests on cliffs. Golden eagle is considered to have potential to nest in the vicinity of all SEDAs and the OVSA. Impacts to bald and golden eagle could occur as a result of implementation of the REGPA if solar development occurred within or adjacent to nesting or foraging habitat for these species. Potential impacts to eagles could include nest disturbance and loss of nesting habitat.*

*If solar development occurred in proximity to eagle nest sites, human activity may cause nest abandonment or interfere with the incubation and feeding of young in a way that reduces reproductive success. If a suitable nest tree was removed, it could potentially result in the loss of nesting habitat.*

*Loss of bald or golden eagle nesting or foraging habitat or nest disturbance would be a significant impact.*

#### *Impacts to Inyo California Towhee*

*Inyo California towhee is not known to occur within any of the SEDAs or the OVSA. However, Inyo California towhee critical habitat is located in the Argus Mountains to the west of the Trona SEDA. If solar development occurred within or adjacent to nesting or foraging habitat for this species, construction activities and long term operations could result in nest disturbance and loss of nesting habitat.*

*Loss of Inyo California towhee nesting habitat or nest disturbance would be a significant impact.*

#### *Impacts to Mohave Ground Squirrel*

*Habitat for Mohave ground squirrel occurs in the Owens Lake, Rose Valley, Pearsonville, and Trona SEDAs. Impacts to this species could occur as a result of implementation of the REGPA if solar development occurred within or adjacent to suitable habitat. Direct effects to this species could include disturbance of individuals from construction and operations activities. Once constructed, solar facilities could also potentially pose a barrier to movement for this species.*

*Indirect impacts to this species could include habitat degradation due to introduction of invasive weeds, avoidance by this species of areas near manmade structures, increased traffic on desert roads, and increased risk of wildfires.*

*Up to 1,500 acres of suitable habitat for Mohave ground squirrel could be impacted by the proposed project if all of the total allowable developable area within the Western Solar Energy Group was developed within habitat for this species, and an additional 600 acres could be impacted in the Trona SEDA if all of the total allowable developable area within that SEDA was developed within habitat for*

*this species (see Table 3-1 for the total allowable maximum area for each Solar Energy Group). This is likely an over-estimation of the potential impacts to this species as it is unlikely that all of the developable acreage within the OVSA would be within this species habitat.*

*Disturbance of individuals or loss/degradation of habitat for this species would be a significant impact.*

#### *Impacts to Other Special Status Birds, Raptors, Migratory Birds and Bats*

*Special status birds and bats may occur in the SEDAs and the OVSA during project construction and operation and are subject to the general construction and operation impacts described above. Additional considerations specific to bats and birds are presented here.*

#### *Nesting and Roosting Sites*

*Construction and maintenance activities would exclude bird species less tolerant of anthropogenic disturbance. The introduction of structures (i.e., power towers, stacks of pallets, or construction materials) would provide potential roosting opportunities for bats and certain species of birds during construction and operation of the facility. Depending on the species, birds may actively nest on the ground near solar panels, vehicles, foundations, construction trailers, and other equipment left overnight or during a long weekend. Bats may roost in various structures. In areas with phased construction, or during long weekends or holidays with the facilities closed, birds or bats may quickly utilize potential nesting or roosting sites.*

*Impacts to roosting bats or nesting birds, or removal of nests during construction or operation would be considered a significant impact.*

#### *Collisions*

*Solar facilities may include relatively tall structures such as power towers (750 feet high), boilers, and air-cooled condenser units (120 feet high) that create a physical hazard to some wildlife. In particular, birds may collide with communication towers, transmission lines, and other elevated structures including buildings. Some birds species are at high risk for collision with power lines and guy wires that are difficult to see. Collision rates generally increase in low light conditions, during strong winds, and during panic flushes when birds are startled by a disturbance or are fleeing from danger. Bird collisions with power lines may occur for a variety of reasons, such as habitat, lighting, weather, bird species (body size, flight behavior, distribution and abundance, flocking behavior), and the power line configuration and location (Avian Power Line Interaction Committee [APLIC] 2012). Power lines located between feeding and roosting areas of flocking birds may present an increased collision risk, especially near rivers, lakes, or wetlands (APLIC 2014).*

*Lighting may result in increased collisions by attracting birds and bats to the area (lighting attracts insects), or disorienting them (birds). The lighting used may play an important role in preventing avian fatalities from night collisions with tall structures. Gehring et al. (2009) suggested that avian fatalities can be reduced, perhaps by 50 to 71 percent at guyed communication towers by removing steadily-burning red lights. Towers lit with strobe or flashing lights had less avian fatalities than non-flashing red lights (Gehring et al. 2009).*

*Since birds are prone to collisions with reflective surfaces, it could be expected that utility scale solar energy projects could cause bird mortality. Glare from the solar panels may confuse or disorient birds in flight, and cause it to collide with solar energy facilities or other objects. Glare may also attract birds confusing it as water, or attract insects, which attract insect eating birds, which attract predatory birds,*

*increasing the likeliness of collisions. Similarly, solar thermal facilities use water ponds which attract birds (and insects), thereby increasing the likeliness of collision. Operation of solar panels in PV systems could cause an increase in polarized light pollution which occurs from light reflecting off of dark colored structures. Polarized light pollution can compete with water bodies for attracting insects and birds, thereby putting birds at greater risk for collision. Further, polarized light pollution can alter the ability of wildlife to seek out suitable habitat and elude or detect the presence of predators (Horvath et al. 2009). It has also been documented that for a variety of birds and other species polarized light pollution can affect their ability to detect natural polarized light patterns in the sky which can lead to the effect on their navigation ability and ultimately effects on dispersal and reproduction (Horvath et al. 2009).*

*At the 10-MW Solar One facility (a 10-MW pilot thermal energy facility located in the Mojave Desert in San Bernardino County that operated from 1982 to 1988), the results of a 40-week long study indicated that much of the bird mortality consisted predominantly of collisions with the mirrored heliostats; however some were killed by burns received while flying between two standby points. The USFWS Forensics Laboratory conducted a review of bird carcasses from three solar energy facilities, and analysis of the causes of avian mortality at various types of solar facilities in 2013 (Kagan et al. unpub.). It was determined that the size and continuity of the panels may contribute to the likeliness for collisions from birds mistaking the facility for water, or affected by polarized light. Solar systems with vertically oriented, continuously placed solar panels would provide a more continuous sky/water appearance (Kagan et al. unpub.). Although bird response to glare or polarized light pollution from solar panel technology is not well understood, it is likely that large scale facilities will see an increase in birds colliding with mirrors and perish. Solar facilities containing ponds that are accessible to birds may attract birds. Birds attracted to water features become habituated to the presence of accessible aquatic environment, which may also lead to misinterpretation of the glare from the nearby solar facility (Kagan et al. unpub.).*

*The severity of the impact to birds from collisions would vary depending on the species and numbers of birds involved. Studies are currently being conducted to find ways to minimize collisions with solar panels by reducing the attractiveness of solar panels to polarotatic insects and/or installing visual variables to break up the reflective surface and provide a visual cue that the panel is a solid structure (Kagan et al. unpub.). Death or injury to special status birds, raptors, and other migratory birds due to collisions would be considered a significant impact.*

#### *Electrocution*

*Transmission tower and pole design is a major factor in the electrocution risks to birds. Electrocution occurs when a perching bird simultaneously contacts two energized phase conductors or an energized conductor and grounded hardware. This happens most frequently when a bird attempts to perch on a transmission tower/pole with insufficient clearance between these elements.*

*Electrocution can occur when horizontal separation is less than the distance of a bird's wingspan or where vertical separation is less than a bird's length from head-to-foot. Electrocution can also occur when birds perched side-by-side span the distance between these elements (APLIC 2006).*

*The majority of bird electrocutions are caused by lines that are energized at voltage levels between 1 and 60 kV, and "the likelihood of electrocutions occurring at voltages greater than 60 kV is low" because phase-to-phase and phase-to-ground clearances for lines greater than 60 kV are typically sufficient to prevent bird electrocution (APLIC 2006).*

*Impacts to special status birds, raptors, and other migratory birds resulting from electrocution would be considered to be a significant impact.”*

The EIR describes many significant potential impacts to several protected species or those of special status.

Mitigation from the EIR and other regulations require a full project specific biological resource evaluation PRIOR TO APPROVAL. These mitigations also require evaluation for off-site impacts as well as the need to conduct the study over the course of the year to account for seasonal variations. The Draft Mitigated Negative Declaration and Staff Report contain no specific mitigation, other than a study post-permit, to prevent impacts to biological resources and protect vegetation and wildlife species. This is highly insufficient and dangerous to the protection of such resources.

The required mitigation is listed at length here to illustrate the magnitude of the lack of permit requirements that should be in place for these proposals. It is believed that Inyo County has also proceeded with REP 2021-01 without such mitigation.

***MM BIO-1: Prepare project level biological resources evaluation and mitigation and monitoring plan.***

*Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact biological resources as determined by a qualified biologist (defined as a biologist with documented experience or training related to the subject species), a project level biological resource evaluation shall be prepared by a qualified biologist for the project. The biological resource evaluation shall include field reconnaissance and focused surveys as determined necessary by a qualified biologist to identify special status species and natural communities present or having the potential to occur on the site, an evaluation of the extent of those habitats, an evaluation of the potential for impacts to each special status species and/or habitat, and shall prescribe specific mitigation measures to avoid or reduce impacts to biological resources to the maximum extent practicable. The qualifications of any biologists conducting special status species surveys or focused habitat assessments will be submitted to CDFW prior to conducting fieldwork. The level of biological resource analysis will be based on factors such as the size of the proposed project, the and extent of impacts to biological resources, and the sufficiency of existing data to determine impacts.*

*An evaluation of the potential for off-site impacts to special status species and sensitive habitats will be included in the biological resources evaluation, especially for projects involving groundwater pumping. Chapter 2 of the Basin Plan protects beneficial uses for groundwater with respect to groundwater recharge and freshwater replenishment and beneficial uses for wildlife habitats and flora and fauna including cold freshwater habitat, warm freshwater habitat, wildlife habitat, rare, threatened, or endangered species, spawning, reproduction, and development, preservation of biological habitats of special significance, and migration of aquatic organisms (RWQCB 1995). A project-specific evaluation of potential impacts to beneficial uses for groundwater as specified in the Basin Plan will be included in the biological resources evaluation.*

*For projects with the potential to impact on- or off-site special status species or habitats as determined in the biological resources evaluation, a project-specific biological resources mitigation and monitoring plan shall be prepared in cooperation with and that meets the approval of permitting agencies. The plan shall be implemented during all phases of the project and shall identify appropriate mitigation levels to*

*compensate for significant direct, indirect, and cumulative impacts, including habitat, special status plant, and wildlife species losses as well as impacts to groundwater dependent vegetation or off-site impacts to special status species or sensitive habitats due to groundwater pumping. The plan shall address at a minimum:*

- *Biological resource avoidance and minimization measures and mitigation, monitoring and compliance measures required by federal, state, and local applicable permitting agencies.*
- *Documentation (based on surveys) of sensitive plant and wildlife expected to be affected by all phases of the project (project construction, operation, abandonment, and decommissioning). Agencies may request additional surveying, based on the documentation or past experience working with the resources. Include measures to avoid or minimize impacts to species and habitat.*
- *A detailed description of measures to minimize or mitigate permanent and temporary disturbances from construction activities.*
- *All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction.*
- *Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities.*
- *Duration for each type of monitoring and a description of monitoring methodologies and frequency.*
- *Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful.*
- *All standards and remedial measures to be implemented if performance standards and criteria are not met.*
- *A closure/decommissioning or abandonment plan, including a description of funding mechanism(s).*
- *A process for proposing plan modifications to the County project manager.*

***MM BIO-2: Minimize impacts to special status plants.***

- *Prior to the approval of any solar development projects or related infrastructure under the REGPA, a CDFW-approved botanist shall evaluate the potential for special status plant species to occur on the site and conduct surveys, if necessary, to determine presence or infer absence of special status plants on the site following the November 24, 2009 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities or the most current guidelines. When special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, to the maximum extent feasible, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs. with the potential to impact special status plant species as determined by a qualified biologist/botanist, a qualified botanist shall determine the presence or absence of special status plants within the project site. The following steps shall be implemented to document special-status plants, as determined necessary by the botanist:*
- *Review Existing Information. The botanist shall review existing information to develop a list of special status plants that could grow in the specific project area. Sources of information*

*consulted shall include CDFW's CNDDDB, the CNPS electronic inventory, and previously prepared environmental documents. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of sensitive plants from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.*

- *Coordinate with Agencies. The botanist shall coordinate with the appropriate agencies (i.e., CDFW and USFWS) to discuss botanical resource issues and determine the appropriate level of surveys necessary to document special status plants*
- *Conduct Field Studies. The botanist shall evaluate existing habitat conditions for each project and determine what level of botanical surveys may be required. The type of botanical survey shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on these factors and the proposed construction activity, one or a combination of the following levels of survey may be required:*
  - *Habitat Assessment. A habitat assessment shall be conducted to determine whether suitable habitat is present. This type of assessment can be conducted at any time of year and is used to assess and characterize habitat conditions and determine whether return surveys are necessary. If no suitable habitat is present, no additional surveys shall be required.*
  - *Species-Focused Surveys. Species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status plants. The surveys shall focus on special status plants that could grow in the region, and would be conducted during a period when the target species are evident and identifiable.*
  - *Floristic Protocol-Level Surveys. Floristic surveys that follow the CNPS Botanical Survey Guidelines shall be conducted in areas that are relatively undisturbed and/or have a moderate to high potential to support special status plants. The CNPS Botanical Survey Guidelines require that all species be identified to the level necessary to determine whether they qualify as special status plants, or are plant species with unusual or significant range extensions. The guidelines also require that field surveys be conducted when special status plants that could occur in the area are evident and identifiable. To account for different special status plant identification periods, one or more series of field surveys may be required in spring and summer months.*
- *Map Special Status Plants. Special status plant populations identified during the field surveys shall be mapped and documented as part of the CEQA process, as applicable. Project development plans shall consider avoidance to the extent practicable. If avoidance is not practicable while otherwise obtaining the projects objectives, then other suitable measures and mitigation shall be implemented in coordination with the appropriate regulatory agency (i.e., USFWS, CDFW, BLM).*
- *If special status plants are identified in the project area and complete avoidance of direct and indirect impacts is not feasible as determined by the County, the following measures shall be implemented to avoid and minimize impacts on special status plants:*
  - *The project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, if feasible.*
  - *If feasible, when special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs.*

- *For projects that are determined to have the potential to result in “take” of state or federally-listed plant species, consultation shall be conducted with CDFW or USFWS respectively prior to project commencement, and appropriate mitigation measures developed if necessary..*
- *Special status plants near the project site shall be protected by installing environmentally sensitive area fencing (orange construction barrier fencing) around special status plant populations. The environmentally sensitive area fencing shall be installed at least 20 feet from the edge of the population. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within the fenced environmentally sensitive area.*
- *No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. If When individuals of a special status species occur within an area proposed for construction and take cannot be avoided, avoidance of special status plants is not feasible, mitigation shall be developed in coordination with USFWS and/or CDFW to reduce impacts on the local population of the special status species. No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. Mitigation measures approved by USFWS and/or CDFW may include transplantation If individuals of a special status species occur within an area proposed for construction and take cannot be avoided, the plants shall be transplanted under the direction of a qualified CDFW-approved botanist if transplantation of such species is deemed likely to succeed, or seed shall be collected prior to destruction of the plants and dispersed in suitable habitats not impacted by construction, if such habitats exist and seed collection is deemed likely to be successful by a qualified CDFW-approved botanist with experience propagating the species in question. In all cases, CDFW will be notified at least 10 days prior to removal of any special status plant to allow transplantation or collection of seed at their discretion.*
- *If transplanting is proposed, the botanist shall coordinate with the appropriate resource agencies and local experts to determine whether transplantation is feasible. If the agencies concur that transplantation is a feasible mitigation measure, the botanist shall develop and implement a transplantation plan through coordination with the appropriate agencies. The special status plant transplantation plan shall involve identifying a suitable transplant site; moving some or all of the plant material and seed bank to the transplant site; collecting seed material and propagating it in a nursery (in some cases it is appropriate to keep plants onsite as nursery plants and sources for seed material); and monitoring the transplant sites to document recruitment and survival rates. Monitoring shall be conducted for a period of five years and transplantation shall be considered successful if an 80 percent survival rate has been achieved by the end of the five-year monitoring period.*
- *A mitigation and monitoring plan shall be developed by a qualified botanist/ restoration ecologist and submitted to CDFW for approval prior to approval of the proposed project. The mitigation and monitoring plan will dictate appropriate avoidance and minimization measures, compensatory mitigation, and monitoring requirements as pertinent to the specific species and level of impact(s). Mitigation shall include, but is not limited to 1) protection of special status plant populations not directly impacted by construction or implementation of the project as stated above; 2) transplantation and/or collection of seed from impacted plants if feasible, as stated above; and 3) the preservation in perpetuity of an equivalent or larger off-site population for every individual or population of special status plant impacted including sufficient land surrounding the preserved population to ensure its survival in perpetuity as determined by a*



*qualified botanist/ restoration ecologist. The qualified botanist/ restoration ecologist shall include plans to restore and enhance the preserved populations to the extent feasible.*

**MM BIO-3: Minimize impacts to special status wildlife.**

- *Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact special status wildlife as determined by a qualified biologist, a qualified CDFW-approved wildlife biologist shall conduct a survey to document the presence or absence of suitable habitat for special status wildlife in the project site. The following steps shall be implemented to document special status wildlife and their habitats for each project, as determined by the CDFW-approved wildlife biologist:*
- *Review Existing Information. The wildlife biologist shall review existing information to develop a list of special status wildlife species that could occur in the project area or be impacted by the proposed project, either directly or indirectly (e.g., groundwater pumping could result in indirect impacts to off-site habitats for special status wildlife). The following information shall be reviewed as part of this process: the USFWS special status species list for the project region, CDFW's CNDDDB, previously prepared environmental documents, and USFWS issued biological opinions for previous projects. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of special status wildlife from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.*
- *Coordinate with State and Federal Agencies. The wildlife biologist shall coordinate with the appropriate agencies (CDFW, USFWS, BLM) to discuss wildlife resource issues in the project region and determine the appropriate level of surveys necessary to document special status wildlife and their habitats.*
- *Conduct Field Studies. The wildlife biologist shall evaluate existing habitat conditions and determine what level of biological surveys may be required. The type of survey required shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on the existing conditions in the project area and the proposed construction activity, one or a combination of the following levels of survey may be required:*
- *Habitat Assessment. A habitat assessment determines whether suitable habitat is present. The wildlife biologist shall conduct project-specific habitat assessments consistent with protocols and guidelines issued by responsible agencies for certain special status species. (e.g., USFWS' and CDFW have issued protocols for evaluating bald eagle habitat (2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California). Habitat assessments are used to assess and characterize habitat conditions and to determine whether return surveys are necessary. If no suitable habitat is present for a given special status species, no additional species-focused or protocol surveys shall be required.*
- *Species-Focused Surveys. Project-specific species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status wildlife and if it is necessary to determine the presence or absence of the species in the project area. The wildlife biologist shall conduct project-specific surveys focusing on special status wildlife species that have the potential to occur in the region. The surveys shall be conducted during a period when the target species are present and/or active.*
- *Protocol-Level Wildlife Surveys. The wildlife biologist shall conduct project specific protocol level surveys for special status species with the potential to be impacted by the proposed project.*

*The surveys shall comply with the appropriate protocols and guidelines issued by responsible agencies for the special status species. USFWS and CDFW have issued survey protocols and guidelines for several special- status wildlife species that could occur in the project region, including (but not limited to): bald eagle, burrowing owl, golden eagle, Swainson's hawk, least Bell's vireo, willow flycatcher, desert tortoise, and San Joaquin desert kit fox. The protocols and guidelines may require that surveys be conducted during a particular time of year and/or time of day when the species is present and active. Many survey protocols require that only a USFWS- or CDFW-approved biologist perform the surveys. The project proponent shall coordinate with the appropriate state or federal agency biologist before the initiation of protocol-level surveys to ensure that the survey results would be valid. Because some species can be difficult to detect or observe, multiple field techniques may be used during a survey period and additional surveys may be required in subsequent seasons or years as outlined in the protocol or guidelines for each species.*

- *Habitat Mapping. The wildlife biologist shall map special status wildlife or suitable habitat identified during the project-specific field surveys.*
- *A Scientific Collecting Permit is required to take, collect, capture, mark, or salvage, for scientific, educational, and non-commercial propagation purposes, mammals, birds and their nests and eggs, reptiles, amphibians, fishes and invertebrates (Fish and Game Code Section 1002 and Title 14 Sections 650 and 670.7). All biologists will be required to obtain a Scientific Collecting Permit that may be required to handle any live or dead animals during construction or operation of a project.*
- *In addition, the following measures should be implemented to avoid and minimize impacts on special status species and their habitats if they occur within a site:*
- *For projects that are determined to have the potential to result in "take" of state or federally-listed animal species, consultation shall be conducted with CDFW or USFWS respectively and appropriate mitigation measures developed as necessary, and take authorization shall be obtained prior to project commencement, if relevant.*
- *Any special status wildlife and/or their habitats identified within a project site outside of the work area will be protected by installing environmentally sensitive area fencing around habitat features, such as seasonal wetlands, burrows, and nest trees. The environmentally sensitive area fencing or staking shall be installed at a minimum distance from the edge of the resource as determined through coordination with state and federal agency biologists (USFWS and CDFW, BLM). The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction- related activities, vehicle operation, material and equipment storage, and other surface- disturbing activities within the fenced environmentally sensitive area.*
- *If ground disturbing activities are required prior to site mobilization, such as for geotechnical borings or hazardous waste evaluations, a qualified CDFW-approved biologist shall be present to monitor any actions that could disturb soil, vegetation, or wildlife.*
- *In areas that could support desert tortoise or any other sensitive wildlife species, a County-approved qualified biologist with the appropriate CDFW and/or USFWS approvals for the species being salvaged and relocated shall be onsite and respond accordingly should an animal need to be relocated. walk immediately ahead of equipment during the clearing and grading activities to salvage and relocate the wildlife in the path of the operations. The species shall be*

*salvaged and relocated to off-site habitat when conditions will not jeopardize the health and safety of the biologist.*

- *Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. Vehicles shall not exceed 25 mph on the project site. Vehicles shall abide by posted speed limits on paved roads.*
- *For projects with the potential to affect desert tortoise, parking and storage shall occur within the area enclosed by desert tortoise exclusion fencing to the extent feasible. No vehicles or construction equipment parked outside the fenced area shall be moved prior to an inspection of the ground beneath the vehicle for the presence of desert tortoise. If a desert tortoise is observed, it shall be left to move on its own. If it does not move within 15 minutes, a CDFW and USFWS approved desert tortoise biologist may remove and relocate the animal to a safe location if temperatures are within the range described in the Desert Tortoise Field Manual (USFWS 2013 or most recent version, available from the Ventura Fish and Wildlife Office website <http://www.fws.gov/ventura/angered/species/surveys-protocol.html>). All access roads outside of the fenced project footprint shall be delineated with temporary desert tortoise exclusion fencing on either side of the access road, unless otherwise authorized by the County project manager and County biologist.*
- *A qualified CDFW-approved biologist shall be designated to oversee compliance with biological resources avoidance and minimization measures during mobilization, ground disturbance, grading, construction, operation, and closure/decommissioning, or project abandonment, particularly in areas containing or known to have contained sensitive biological resources, such as special status species and unique plant assemblages. The qualified CDFW-approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The boundaries of all areas to be disturbed (including staging areas, access roads, and sites for temporary placement of spoils) shall be delineated with stakes and flagging prior to construction activities in consultation with the biological monitor. Spoils shall be stockpiled in disturbed areas lacking native vegetation and which do not provide habitat for special status species. Parking areas, staging and disposal site locations shall also be located in areas without native vegetation or special status species habitat. All disturbances, vehicles, and equipment shall be confined to the flagged areas. The qualified CDFW-approved biologist shall be responsible for actions including, but not limited to, the following:*
  - *Clearly marking sensitive biological resource areas and inspecting the areas at appropriate intervals for meeting regulatory terms and conditions.*
  - *Inspecting, daily, active construction areas where wildlife may have become trapped (for example, trenches, bores, and other excavation sites that constitute wildlife pitfalls outside the permanently fenced area) before beginning construction. At the end of the day, conducting wildlife inspections of installed structures that would entrap or not allow escape during periods of construction inactivity. Periodically inspecting areas with high vehicle activity (such as parking lots) for wildlife in harm's way.*
  - *Periodically inspect stockpiled material and other construction material and equipment (including within the fenced areas) throughout the day as some species such as desert kit fox may enter the project site at any time.*
  - *Overseeing special status plant salvage operations.*
  - *Immediately recording and reporting hazardous spills immediately as directed in the project hazardous materials management plan.*

- *Coordinating directly and regularly with permitting agency representatives regarding biological resources issues, and implementation of the biological resource avoidance and minimization measures.*
- *Maintaining written records regarding implementation of the biological resource avoidance and minimization measures, and providing a summary of these records periodically in a report to the appropriate agencies.*
- *Notifying the project owner and appropriate agencies of non-compliance with biological resource avoidance and minimization measures.*
- *At the end of each work day, the biological monitor shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled or if backfilling is not feasible, the biological monitor shall ensure that all trenches, bores, and other excavations are sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with desert tortoise-exclusion fencing. All trenches, bores, and other excavations outside the areas permanently fenced with desert tortoise exclusion fencing shall be inspected periodically, but no less than three times, throughout the day and at the end of each workday by the qualified CDFW-approved biologist. Should a tortoise or other wildlife become trapped, the CDFW and USFWS-approved desert tortoise biologist shall remove and relocate the individual as described in the project's Desert Tortoise Relocation/Translocation Plan. Any wildlife encountered during the course of construction shall be allowed to leave the construction area unharmed.*
- *Any construction pipe, culvert, or similar structure with a diameter greater than 3 1 inches, stored less than 8 inches aboveground, and within desert tortoise habitat (i.e., outside the permanently fenced area) for one or more nights, shall be inspected by the biological monitor for desert tortoises or other special status species such as fringe-toed lizard, before the material is moved, buried, or capped. As an alternative, all such structures may be capped before being stored outside the fenced area, or placed on pipe racks. These materials would not need to be inspected or capped if they are stored within the permanently fenced area after the clearance surveys have been completed.*
- *Access roads, pulling sites, storage and parking areas outside of the fenced solar facility area shall be designed, installed, and maintained with the goal of minimizing impacts to native plant communities and sensitive biological resources. Transmission lines and all electrical components shall be designed, installed, and maintained in accordance with the APLIC Suggested Practices for Avian Protection on Power Lines (APLIC 2006) and Mitigating Bird Collisions with Power Lines (APLIC 2004) to reduce the likelihood of bird electrocutions and collisions.*
- *Facility lighting shall be designed, installed, and maintained to direct light downwards towards the project site and avoid light spillover to wildlife habitat.*
- *Construction and operation related noise levels shall be minimized to minimize impacts to wildlife.*
- *All vertical pipes greater than 4 inches in diameter shall be capped to prevent the entrapment of birds and other wildlife.*
- *All vehicles and equipment shall be maintained in proper working condition to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials. The biological monitor shall be informed of any hazardous spills immediately. Hazardous spills shall be immediately cleaned up and the contaminated soil properly disposed of at a licensed facility. Servicing of construction equipment shall take place*

*only at a designated area. Service/maintenance vehicles shall carry a bucket and pads to absorb leaks or spills.*

- *Road surfacing and sealants as well as soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants. Anticoagulants shall not be used for rodent control. Pre-emergents and other herbicides with documented residual toxicity shall not be used. Herbicides shall be applied in conformance with federal, state, and local laws and according to the guidelines for wildlife- safe use of herbicides in BIO-24 (Weed Management Plan).*
- *The following measures shall be implemented to minimize attractants to wildlife:*
- *If the application of water is needed to abate dust in construction areas and on dirt roads, use the least amount needed to meet safety and air quality standards and prevent the formation of puddles, which could attract wildlife to construction sites. The biological monitor shall patrol these areas to ensure water does not puddle and attract desert tortoise, common ravens, and other wildlife to the site and shall take appropriate action to reduce water application where necessary.*
- *Water shall be prohibited from collecting or pooling for more than 24 hours after a storm event within the project retention basin. Standing water within the retention basin shall be removed, pumped, raked, or covered. Alternative methods or the timeframe for allowing the water to pool may be modified with the approval of the biological monitor.*
- *Dispose trash and food-related items in self-closing, sealable containers with lids that latch to prevent wind and wildlife from opening containers. Empty trash containers daily and remove from the project site those associated with construction when construction is complete*
- *To avoid attracting insectivorous birds and bats, prepare a facility vector (such as mosquitoes or rodents) control plan, as appropriate, that meets the permitting agency approval and would be implemented during all phases of the project.*
- *Workers or visitors, while on project property, shall be prohibited from feeding wildlife, bringing domestic pets to the project site, collecting native plants, or harassing wildlife.*
- *To reduce the potential for the transmission of fugitive dust the project proponent shall implement dust control measures. These shall include:*
- *The project proponent shall apply non-toxic soil binders, equivalent or better in efficiencies than the CARB- approved soil binders, to active unpaved roadways, unpaved staging areas, and unpaved parking area(s) throughout construction to reduce fugitive dust emissions.*
- *Water the disturbed areas of the active construction sites at least three times per day and more often if uncontrolled fugitive dust is noted. Enclose, cover, water twice daily, and/or apply non-toxic soil binders according to manufacturer's specifications to exposed piles with a 5 percent or greater silt content. Agents with known toxicity to wildlife shall not be used unless approved by the County biologist and County project manager.*
- *Establish a vegetative ground cover (in compliance with biological resources impact mitigation measures above) or otherwise create stabilized surfaces on all unpaved areas at each of the construction sites within 21 days after active construction operations have ceased.*
- *Increase the frequency of watering, if water is used as a soil binder for disturbed surfaces, or implement other additional fugitive dust mitigation measures, to all active disturbed fugitive dust emission sources when wind speeds (as instantaneous wind gusts) exceed 25 mph.*
- *A project-specific worker environmental awareness program (WEAP) shall be developed and carried out during all phases of the project (site mobilization, ground disturbance, grading, construction, operation, closure/decommissioning, or project abandonment, and restoration/reclamation activities). The WEAP shall include the biological resources present and*

*the measures for minimizing impacts to those resources. Interpretation for non-English speaking workers shall be provided, and all new workers shall be instructed in the WEAP. The project field construction office files will contain the names of onsite personnel (for example, surveyors, construction engineers, employees, contractors, contractor's employees/ subcontractors) who have participated in the education program. All employees and contractors shall be trained to carry out the WEAP and on their role in ensuring the effectiveness of implementing the Plan. At a minimum, the WEAP shall including the following:*

- *Photos and habitat descriptions for special status species that may occur on the project site and information on their distribution, general behavior, and ecology.*
- *Species sensitivity to human activities.*
- *Legal protections afforded the species. o Project measures for protecting species.*
- *State and federal law violation penalties.*
- *Worker responsibilities for trash disposal and safe/ humane treatment of special status species found on the project site, associated reporting requirements, and specific required measures to prevent taking of threatened or endangered species.*
- *Handout materials summarizing the contractual obligations and protective requirements specified in project permits and approvals.*
- *Project site speed limit requirements and penalties.*
- *A project specific restoration, re-vegetation, and reclamation plan that meets the approval of permitting agencies shall be prepared and carried out for all projects. The plan shall address at a minimum:*
- *Minimizing natural vegetation removal and the consideration of cutting or mowing vegetation rather than total removal, whenever possible.*
- *Salvage and relocation of cactus and yucca from the site before beginning construction.*
- *Identification of protocols to be used for vegetation salvage.*
- *Reclaiming areas of temporarily disturbed soil using certified weed free native vegetation and topsoil salvaged from excavations and construction activities.*
- *Restoration and reclamation of temporarily disturbed areas, including pipelines, transmission lines, staging areas, and temporary construction-related roads as soon as possible after completion of construction activities. The actions are recommended to reduce the amount of habitat converted at any one time and promote recovery to natural habitats.*
- *Specifying proper seasons and timing of restoration and reclamation activities to ensure success.*

## BIOLOGICAL RESOURCES CONCLUSION

The EIR requires the Inyo County to prepare biological inventories and studies prior to permit approval. Further, it also requires extensive mitigation during construction and operation that is not apparent in the proposed permit documents. Based on daily observations of the site, it appears that much of the wildlife and vegetation mitigation described by the EIR has not been implemented during REP 2021-01 construction and operation. Such things as turtle fences, and other similarly observable mitigation have not been in apparent use. Inyo County's adherence to the mitigation listed in EIR for biological resources is highly in question.

The Inyo County allowance of pre-permit wildlife and vegetation destruction is in complete violation of its objectives to avoid and minimize environmental impacts, in violation of state and federal laws, and could include a take of a protected species. Such impacts that may have already been caused by this pre-permit activity are enumerated in the EIR analysis of impacts included above.

13.) Road Planning is not considered. Inyo County provides no support or analysis of road traffic changes that would result from the proposed projects. It is likely these roads will be the same as those used by adjacent residents. It is unclear how the developer will use these roads resulting in an increase in overall traffic and greater use by heavy equipment and large trucks. It is unclear if the developer/operator will have to comply with speed limits or other traffic control measures will be put in place to protect workers and the public. Of particular concern is access on and off the highway for which no planning is apparent. All three homes immediately adjacent to these projects are often occupied by children who use the area for play and recreation. How are they going to be protected?

Mitigation from the EIR requires development of traffic control plans. These would be especially useful and applicable for the proposed projects. This analysis should be done prior to issuance of permits.

**MM TRA-1: Prepare site-specific traffic control plans for utility scale projects.**

Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.

**MM TRA-2: Implement recommendations from traffic impact analysis on surrounding roadways and intersections.**

Site-specific construction traffic impact analyses shall be prepared for all proposed utility scale solar energy projects within the individual SEDAs and the OVSA to evaluate potential traffic impacts on surrounding roadways and intersections during the construction period, including wear and tear on County roads. Applicable results and recommendations from the project-specific construction traffic impact analysis shall be implemented during the appropriate construction phase to address identified potential construction traffic impacts.

14.) Impacts to Recreational Use are not fully considered and some are expected. I think it would be fair to say that OHV is one of the main recreation activities of the community and an important one for nearly all the local community, including Trona's youth who do not have a lot of other opportunities for sport and outdoor recreation. One of these is BLM trail, P105, that passes through the middle of both proposed projects. This trail is the only one following the existing right of way and is the main access to desert riding from Trona into the open riding areas in the north. Is this important trail now going to be blocked? Such a blockage would create a negative impact to OHV use and could in use of the highway.

15.) Cumulative Impacts

There are currently three new Renewable Energy permits proposed before Inyo County. This includes REP 2022-01 and REP 2022-02 of about 20 acres herein as well as a more recent 10 acres from SBC investments. These both expand significantly beyond the approximately 10 acres developed for REP 2021-01. This would create a total of about 40 acres spread across the area should these projects move forward. These projects clearly show an increasing impact to the Rural Residential parcels at the south end of the Trona SEDA. As a result, Inyo County has not performed the necessary assessment for this overall arrangement and cumulative impacts of all of these project areas that is now necessary. The current Draft Mitigated Negative Declarations/Staff Report are insufficient to cover assessment of all of

these projects as a whole. Impacts would expect to be greatly amplified by this piecemeal approach of the solar development. Reasons have been provided why the trend for use of rural residential would be expected to increase and assessment of a full 600 acre development focused on these RR parcels could be necessary. Such an updated assessment would need to account for the alternative of using other non-rural residential parcels in the Trona SEDA for solar.

What all this means is that this Rural Residential zoned area will be irrevocably damaged in a way that is not in the interest of the public and Inyo County. The approach being taken will destroy wildlife, vegetation, and any enjoyable use of rural housing in the area. This housing provides a unique lifestyle connected to the outdoors. Instead, Inyo County would be serving only the pocketbook of just one individual if it approves these permits. Trona is a uniquely rare and unusually wild place to live that should be preserved. Inyo County needs to deny the permits proposed for Renewable Energy Develop herein, rewrite its REGPA, and remove all rural residential parcels from the Trona SEDA.

16.) Inyo county needs to assess visual impacts from the visual perspective of residents living in proximity to the proposed projects. As such a resident, from my analysis these impacts would be severe and significantly detrimental to quality of life. From my home, there are impressive views of the Trona Pinnacles and several scenic surrounding mountain ranges including Telescope Peak which would be interrupted. Unlike what is required by the REGPA, there is no benefit provided by REP 2022-01 or REP 2022-02 offsetting this.

17.) Based on previous emails, I remove the confidentiality requirement included on previous comments such that these comments may be shared within the planning department and with the board of supervisors.

18.) The developer continues to do pre-permit construction efforts. This includes stockpiling of limestone gravel at the proposed project site. This should not be allowed given this permit is currently being considered. Inyo County has previously been notified of such activity which is not allowable under several laws and regulations and therefore is complicit in such activity. The attached pictures were taken on April 24, 2023.





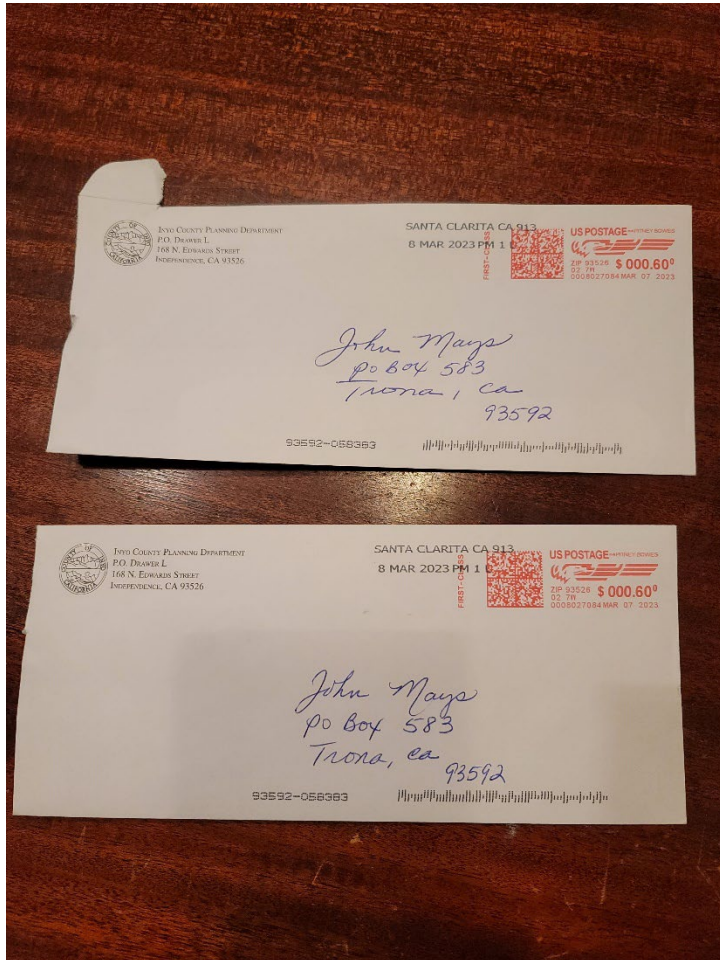
March 21, 2022

Attachments for John Mays Comments on REP 2022-01 and REP 2022-02

- 1.) Photo of delivery method of hearing notices
- 2.) Satellite Photo and Map of Local Project Area
- 3.) Satellite Photo showing relationship of the project areas and town of Trona
- 4.) 2016 satellite photo
- 5.) 2018 satellite photo
- 6.) 2020 satellite photo
- 7.) January 13, 2022 Photo of pre-permit site grading as delivered to Planning dept.
- 8.) March 19, 2023 set of 8 recent photos showing pre-permit vegetation destruction
- 9.) November 30, 2021 Photo of dust emissions as delivered to Planning dept.
- 10.) December 6, 2021 set of two photos showing repeated dust emissions and lack of dust control measures
- 11.) January 21, 2022 set of five photos showing dust plume impacting a number of local homes and Trona
- 12.) March 19, 2023 image of viewshed from Mays Residence towards existing and proposed solar development.
- 13.) Entrance to the REP 2021-01
- 14.) March 21, 2023 Photos of Solar Facilities in the California City Area
- 15.) March 21, 2023 Photos of Ricardo/Cantil CA
- 16.) Emails with Inyo County Planning and Great Basin Unified Air Pollution

Please note that the resolution here in a Word document is not as good as in the actual photos but meant to inform in short time frame that was available to prepare these comments. All photos and video can be provided including many additional ones on different days.

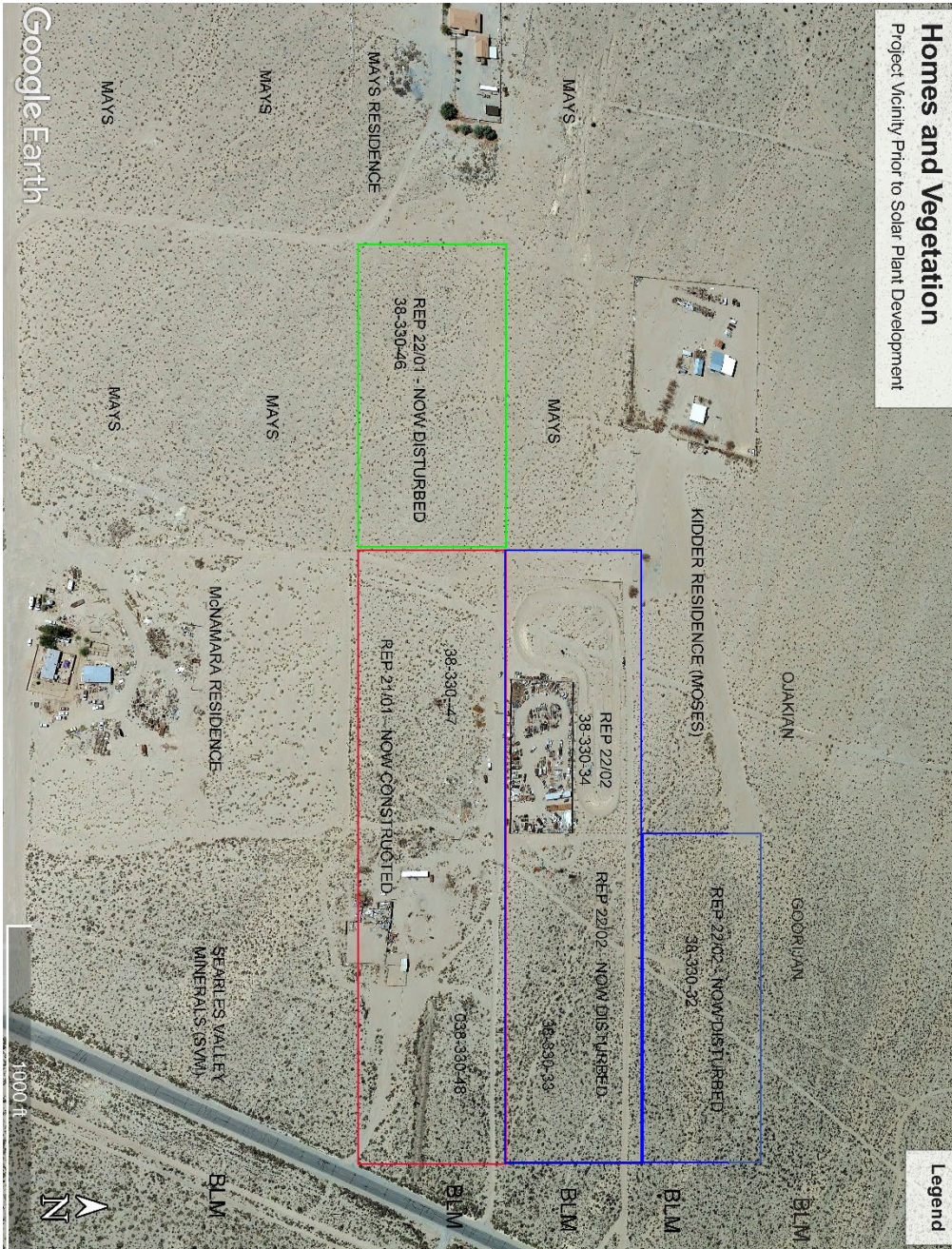
Hearing Notice Envelopes as delivered. How does Inyo County know these were even delivered? Note the date March 8, 2023. These were mailed just two weeks before the final hearing and could have easily been not received in time or lost. This is not proper notification.



Satellite Photo showing relationship of the homes in Trona and the Trona Airport. These homes are approximately 3300 ft from the proposed Renewable Energy Projects and in the primary down wind direction. There are also multiple residences between the REPs and the Pioneer Point (a community of Trona).



Local Map of Homes and Project area prior to all Disturbances for Renewable Energy development (1985) Boundary locations are very approximate for informative purposes.



2016 Satellite Photo – Note Parcel 38-330-47 is not disturbed as about half of 38-330-48 is not disturbed



2018 Satellite Photo – note that the developer has begun wholesale stripping of 38-330-47 and 38-330-48 prior to the permit which was issued in 2021 – no air permits in place. Also, small sand dune formation now that the properties are barren of vegetation.



2020 Satellite Photo – Note the complete lack of protective vegetation absent an air permit now two years later in the area of the REP 2021-01 and prior to its approval. Parcels for the 38-330-46, 38-330-32, 38-330-33 of REP 2022-01 and REP 2022-02 are undisturbed and indistinguishable from undisturbed land with clear presence of large scrub brush.





Photo of pre-permit scraping efforts underway sent to Inyo County Planning Department on Jan 13, 2022. View from Mays Residence. Note the new absence of the large brush which can be seen from aerial photos.



March 19 Photo at Ground Level looking East across Permit area of REP 2022-01 after stripping of land. Note the large depth at which the grading dug into the topsoil.



March 19, 2023 Photo looking west across permit area for REP 2022-01. Note extensive vegetation destruction. Note that the developer pushed soil onto the neighbor's land.



March 19, 2023 Photo looking north across permit area for REP 2022-01 with the Kidder (Moses) residence in the background



March 19, 2023 Photo construction of fence for REP 2021-01 within the right-away between 38-330-47 and 38-330-46. Fence sits right on property line shown by stakes in the foreground. Road moved to the west.



March 19, 2023 looking South across permit area for REP 2022-02. Note extensive vegetation destruction. And lack of scrub brush. The constructed REP 2021-01 in the background.



March 19, 2023 photo looking east across Permit Area for REP 22-02 with Kidder (Moses) residence in the background. This is along the access road to the Kidder residence which has been in place for 60 years and is a well-established road. Note the size of the brush in foreground which is located on BLM surface. This brush has been destroyed by pre-permit scraping and was present fully across 38-330-33 and 38-330-32 prior. Note materials left on the property.



Photo of Dust Emissions from REP 2021-01 Construction provided to Inyo County Planning Department on November 30, 2021. Note the inundated McNamara residence and plume spread at distance throughout the valley. Zoom provided.





Photos of Dust Emissions from REP 2021-01 Construction on December 6, 2021 provided to Inyo County Planning Department and Great Basin Unified Air Pollution District



Photos of Dust Emissions from REP 2021-01 Construction on December 6, 2021 provided to Inyo County Planning Department and Great Basin Unified Air Pollution District. This sort of activity occurred for many months prior to being reported.



January 21, 2022 Photo sequence from video sent to Inyo County Planning and Great Basin Unified Air Pollution District of massive dust emissions from the permit areas of REP 2022-01, 2022-02, and 21-01 during high winds. This is looking east from the Mays Residence and the dust has occluded the fence (see previous January 13, 2021 photo with scraper for reference)



Comparative photo from the same location (March 20, 2023)



Second Photo in the series note that the McNamara residence and another residence is not visible in the dust cloud. A tree by the residence can be seen.



Comparative Photo in from the same location (March 20, 2023). Zoom shows two residences.



Third Photo from video. There are two additional residences which cannot be seen because of the dust cloud. One of these has subsistence agriculture.



Comparative Photo (same as before) with Zoom of another residence on the right.





Fourth photo from the video. The dust hides another residence due south from the Mays residence. Homes in Trona would normally be visible here and are being inundated with dust.



Comparative Photo from the same location (March 20, 2023) Note number of structures and homes which are not visible due to the concentration of the dust cloud. Homes in the community of Trona area visible along the tree line though this is a little hard to see at this resolution.



Fifth photo from the video. This shows edge of the dust plume off in the distance. This dust was found blanketing the street in front of the Trona Post office 4 miles away and as well as the Trails Drive-In. Note this is only a brief clip of the entire video and one of several other days of other similar events that have been photographed and recorded.



Comparative photo taken in the same location (March 20,2023) Note there is a full-time resident in the “junk yard” that is the first structures from this direction.



Picture from Mays Residence west towards REP 2022-01 that is yet constructed and REP 2021-01 as built.



March 21, 2023 Photo Entrance to the REP 2021-01. Please note the material pushed on adjacent land as well as trash And destroyed culvert. Also, the gate allows people and animals to enter. My dog got through there once. This can trap wildlife.



March 21, 2023 Photo of Solar Facilities Near California City. Note the proper gates and hotline phone number. Neuralia Road



March 21, 2023 Photos of Solar Facilities near California City. Note the lighted warning signs for blowing dust and sand and there are many of them along Neuralia Road which passes by a large number of solar facilities.





March 21, 2023 Photos of windblown sand at solar facilities near California City right adjacent to Neuralia Road. Apparent mitigation measures here appear to include scaping away of the dust outside of the fence.



Another similar photo.



March 21, 2023 Photos Of Ricardo/Cantil CA. Note that this town has been buried by blowing dust often a few feet in depth and sometime several feet.. A solar plant is immediately adjacent to the community; however, these photos are at a good distance away at the far end of the community estimated about thousand feet or downwind. Solar facilities can be seen in the background.



Another Photo. The solar facility can be seen at the end of the road in the picture. Note massive sand accumulation.



Another photo with solar cells in the background. Trees indicate the direction of the wind as coming from solar facility.



Another Photo showing the position of the Solar Facility relative to the community.



# Emails

Gmail - RE: [Contact Information] Trona Solar Plant Construction

3/21/23, 7:26 AM



John Mays <johnmays1@gmail.com>

## RE: [Contact Information] Trona Solar Plant Construction

Matt Kingsley <mkingsley@inyocounty.us>  
To: "johnmays1@gmail.com" <johnmays1@gmail.com>

Tue, Nov 30, 2021 at 3:27 PM

John, yes I remember you and thank you for contacting me. I am forwarding your questions and concerns to Cathreen Richards ( Inyo Co. Planning Dept. Director) and Phill Kadoo ( Great Basin Air Pollution Control Officer). I will encourage both to contact you directly. If you do not hear from them in the next couple of days, please call or email to follow up.

Matt

From: web.noreply  
Sent: Tuesday, November 30, 2021 12:51 PM  
To: Matt Kingsley  
Subject: [Contact Information] Trona Solar Plant Construction

John Mays (not verified) (johnmays1@gmail.com) sent a message using the contact form at <https://www.inyocounty.us/contact-information>.

The sender's name  
John Mays  
The sender's email  
johnmays1@gmail.com  
Subject  
Trona Solar Plant Construction  
Comment or Question  
Mr. Kingsley,

Good afternoon, I don't know if you remember me but I met you a meeting at the Trona airport last year.

I live very near a solar facility currently under construction just outside of Trona. The owner of the facility told me today that he recent purchased the property adjacent (parcel #036-330-46) to my home (parcel #036-330-45) and will begin striping and fencing the property for additional solar use. My question to you is the new property been permitted yet for this activity. My concern is that removing the vegetation on a large area will create a large amount of windblown dust, particularly on windy days and this also significantly change the appearance of the area where we live. There are several residential homes currently occupied by families immediately surrounding the project.

Additionally, we have already had significant amounts of dust coming from the current construction over the last several months. I have attached a picture of this activity from a couple months ago. They currently have a scraper in operation at the moment within the solar project.

I would sincerely appreciate your attention to this matter.

Sincerely,

John Mays  
720-415-0426  
Contact ID:  
contact-522  
Images  
[looking east from my residence]

Cathreen Richards <crichards@inyocounty.us>  
To: "johnmays1@gmail.com" <johnmays1@gmail.com>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Good afternoon, Mr. Mays

The properties you are inquiring about, have a permit for a 2MW solar facility (it is for two lots). The permit was granted in late March of this year.

The dust issues will need to be reported to the Great Basin Unified Air Pollution Control District. I will forward your complaint to them as well.

If you have additional questions regarding the permit, please feel free to contact me at:

Cathreen Richards, Planning Director  
Inyo County Planning Department  
PO Drawer L, Independence, CA 93826  
Phone: 760-878-0447  
Email: [crichards@inyocounty.us](mailto:crichards@inyocounty.us)

From: web@nrc.org  
Sent: Tuesday, November 30, 2021 2:51 PM  
To: Matt Kingley  
Subject: [Contact Information] Trona Solar Plant Construction

John Mays (not verified) (johnmays1@gmail.com) sent a message using the contact form at <https://www.innocounty.us/contact-information>.

The sender's name

John Mays

The sender's email

[johnmays1@gmail.com](mailto:johnmays1@gmail.com)

Subject

Trona Solar Plant Construction

Comment or Question

Mr. Kingley,

Good afternoon. I don't know if you remember me but I met you a meeting at the Trona airport last year.

I live very near a solar facility currently under construction just outside of Trona. The owner of the facility told me today that he recent purchased the property adjacent (parcel # 039-230-46) to my home (parcel #039-230-46). Additionally, we have already had significant amounts of dust coming from the current construction over the last several months. I have attached a picture of this activity from a couple months ago. They currently have I would sincerely appreciate your attention to this matter.

Sincerely,

John Mays

730-415-0426

Contact ID

contact-522

Images









---

**John Mays** <johnmays1@gmail.com>  
To: mskingsley@inyocounty.us

Tue, Nov 30, 2021 at 4:51 PM

Thanks Matt. Much appreciated. Good to talk to you again.

---

**John Mays** <johnmays1@gmail.com>  
To: Cathleen Richards, conchards@inyocounty.us  
Cc: Matt Kingsley, mskingsley@inyocounty.us

Tue, Nov 30, 2021 at 6:14 PM

Cathleen,  
Many thanks for the quick response. Just looking at Inyo county GIS it appears that parcels 038-330-47 and 03-330-48 make up the two parcels in the permit and the owner indicated expanding onto parcel 038-330-45 which is adjacent to my home is not in the permit. Is this correct? Would the owner be able to begin on ground preparations, such as stripping the vegetation prior to obtaining a permit on parcel 038-330-45?  
Thanks,

John  
(Unsubscribe)

Cathreen Richards <crichards@inyocounty.us>  
To: John Mays <johnmays1@gmail.com>  
Cc: Matt Kingsley <matk5h@gmail.com>  
Wed, Dec 1, 2021 at 6:35 AM

Good Morning,

The permit is only good for parcels 039-330-47 and 48. The owner may not expand onto 039-330-46 unless they also get a permit for that parcel. I did check in with the owner and they are not doing anything on that particular parcel.

Just to finish answering your question, though, since there is not a permit on 039-330-46 they cannot do anything in preparation for a solar facility, however, if they are clearing for another allowed use it would be fine.

Thank you,  
Cathreen

From: John Mays [mailto:johnmays1@gmail.com]  
Sent: Tuesday, November 30, 2021 6:14 PM  
To: Cathreen Richards  
Cc: Matt Kingsley  
Subject: Re: Trona Solar Plant Construction

**CAUTION:** This email originated from outside of the Inyo County Network. DO NOT click links or open attachments unless you recognize and trust the sender. Contact Information Services with questions or concerns.

John Mays <johnmays1@gmail.com>  
To: Cathreen Richards <crichards@inyocounty.us>  
Cc: Matt Kingsley <matk5h@gmail.com>  
Wed, Dec 1, 2021 at 9:47 AM

Thanks Cathreen.

John Mays <johnmays1@gmail.com>  
To: Cathreen Richards <crichards@inyocounty.us>  
Cc: Matt Kingsley <matk5h@gmail.com>  
Wed, Dec 1, 2021 at 10:06 AM

Cathreen,

Thank you again for your attention to this. I just wanted to add that if a permit is requested that I be contacted at the proper time so I may participate in the process. I know that the County has already been very communicative on these things with us here and I very much appreciate it.

Sincerely,  
John  
(Unsubscribe)

John Mays <johnmays1@gmail.com>  
To: Cathreen Richards <crichards@inyocounty.us>  
Cc: Matt Kingsley <matk5h@gmail.com>  
Thu, Jan 13, 2022 at 4:13 PM

Cathreen,

Good afternoon.

Today we have clearing of the vegetation and scraping of the top soil off of two additional parcels (039-330-46 and 039-330-33) that are adjacent to the solar plant (see below). Is this construction approved? One of the parcels is directly adjacent to my home. The solar plant is currently within proximity to three homes with half a dozen children living in immediate vicinity. Looking online this entire area is zoned as rural residential, but this appears to be industrial activity. It was my understanding from below that there is no permit in place for such expansion. My neighbors and myself would like to be advised of any permitting or re-zoning activity here so that we may directly intervene in opposition. Previously the solar plant owner contacted me wanting to purchase my land to expand the solar project. Now we have a very large and unprotected bare spot which will undoubtedly increase the amount of dust generated during windy conditions substantially.

Thanks.

John

Sent from Mail for Windows

[\[Download picture\]](#)



20220112\_145505.jpg  
3441K

**John Mays** <johnmays1@gmail.com> Fri, Jan 21, 2022 at 12:41 PM  
To: Catherine Richards <crichards@ingocounty.us>, Luke Eisenhardt <leisenhardt@gbuspcd.org>, Ann Logan <ann@gbuspcd.org>  
Cc: Matt Kingdey <mmatt6@gmail.com>

Good morning. Please see the attached video filmed today of the blowing dust being generated by the solar plant and the adjacent stripped areas. This really emphasizes the concern about large areas of unprotected/bare ground. Note that the video begins looking at the solar plant area (and also three adjacent parcels recently stripped by the owner) and ends looking at the community of Pioneer Point. The community and nearby homes downwind are usually visible but are not in the video as they are being miserably inundated by dust. I would like to also bring your attention that no dust is generated where the vegetation is still in place. I would still like to get a response to my previous email. What has the county done to prevent this type of health hazard and what erosion control measures are in place here? There appears to be nothing being done differently since November.

[\[Download picture\]](#)

20220121\_113459\_1\_1\_1.mp4  
1766K

**Ann Logan** <ann@gbuspcd.org> Fri, Jan 21, 2022 at 4:41 PM  
To: John Mays <johnmays1@gmail.com>  
Cc: Catherine Richards <crichards@ingocounty.us>, Luke Eisenhardt <leisenhardt@gbuspcd.org>, Matt Kingdey <mmatt6@gmail.com>

John,  
We have received your photo and video and will be following up on it with the property owner.

[\[Download picture\]](#)

**John Mays** <johnmays1@gmail.com> Mon, Jan 24, 2022 at 11:21 AM  
To: [hs6e65@gmail.com](mailto:hs6e65@gmail.com)

Tom,  
That follow is the latest email with video I sent on Friday. And their response. You might want to read the thread as well as it includes a few things.

[\[Download picture\]](#)



John Mays <johnmays1@gmail.com>

**Trona Solar Plant - Renewable Energy Permit 2021-01**

3 messages

**John Mays** <johnmays1@gmail.com> Fri, Jan 28, 2022 at 4:56 AM  
To: Cathreen Richards <crichards@inyocounty.us>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Cathreen,

I was reading through the documents online regarding Renewable Energy Permit 2021-01/Barker Solar and CEQA addendum both reference a previously lapsed 2018 permit that contains the basis for the staff analysis and mitigation for the project. This was not included in the documents available online and I would like to request a copy of Initial Study and any other relevant documents that were publicly available at that time so that I may understand the permit that has been issued here.

From the CEQA Addendum:

"The ND prepared for the original renewable energy permit application, certified in July 2018, evaluated the project through an Initial Study (IS). The ISND identified several avoidance and minimization measures that were incorporated into project design, as conditions of approval for issuance of the permit, to avoid potentially significant impacts."

The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,

John

**Cathreen Richards** <crichards@inyocounty.us> Fri, Jan 28, 2022 at 9:00 AM  
To: John Mays <johnmays1@gmail.com>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

John,

Attached is the original 2018 staff report and ISMND and the 2021 staff report. It was amended because the applicant increased the project area, but did not exceed the project footprint. The project also had to be amended because the applicant did not produce a reclamation plan in the required time. In other words, the 2021 project added solar panels into the area already evaluated by the original CEQA ISMND and provided the required reclamation plan.

So, a new ISMND was not required.

FYI, the Great Basin Unified Air Pollution Control District did not submit comments during the state agency review period; therefore, the planner who worked on the project had nothing from them to add as a mitigation.

Cathreen

---

**From:** John Mays [mailto:johnmays1@gmail.com]  
**Sent:** Friday, January 28, 2022 4:56 AM  
**To:** Cathreen Richards  
**Cc:** Matt Kingsley  
**Subject:** Trona Solar Plant - Renewable Energy Permit 2021-01

**CAUTION:** This email originated from outside of the Inyo County Network. DO NOT click links or open attachments unless you recognize and trust the sender. Contact Information Services with questions or concerns.

Cathreen,

I was reading through the documents online regarding Renewable Energy Permit 2021-01/Barker Solar and CEQA addendum both reference a previously lapsed 2018 permit that contains the basis for the staff analysis and mitigation for the project. This was not included in the documents available online and I would like to request a copy of Initial Study and any other relevant documents that were publicly available at that time so that I may understand the permit that has been issued here.

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The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.


Thanks,

John

3 attachments

 Solar\_Barker\_Staff\_Report.pdf  
524K

 IS\_ND\_Trona\_SEDA\_signed.pdf  
1387K

 2021-01\_Barker\_staff\_report.pdf  
491K

---

John Mays <johnmays1@gmail.com>  
To: Cathreen Richards <crichards@inyocounty.us>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Mon, Jan 31, 2022 at 9:24 AM

Thank You Cathreen.

Sent from Mail for Windows

---

From: Cathreen Richards  
Sent: Friday, January 28, 2022 9:00 AM  
To: John Mays  
Cc: Matt Kingsley  
Subject: RE: Trona Solar Plant - Renewable Energy Permit 2021-01

John,

Attached is the original 2018 staff report and ISMND and the 2021 staff report. It was amended because the applicant increased the project area, but did not exceed the project footprint. The project also had to be amended because the applicant did not produce a reclamation plan in the required time. In other words, the 2021 project added solar panels into the area already evaluated by the original CEQA ISMND and provided the required reclamation plan.

So, a new ISMND was not required.

FYI, the Great Basin Unified Air Pollution Control District did not submit comments during

the state agency review period; therefore, the planner who worked on the project had nothing from them to add as a mitigation.

Cathreen

---

**From:** John Mays [mailto:johnmays1@gmail.com]  
**Sent:** Friday, January 28, 2022 4:56 AM  
**To:** Cathreen Richards  
**Cc:** Matt Kingsley  
**Subject:** Trona Solar Plant - Renewable Energy Permit 2021-01

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The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,



John



John Mays <johnmays1@gmail.com>

**Trona Solar Plant - Renewable Energy Permit 2021-01**

3 messages

**John Mays** <johnmays1@gmail.com> Fri, Jan 28, 2022 at 4:56 AM  
To: Cathreen Richards <crichards@inyocounty.us>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Cathreen,

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Thanks,

John

**Cathreen Richards** <crichards@inyocounty.us> Fri, Jan 28, 2022 at 9:00 AM  
To: John Mays <johnmays1@gmail.com>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

John,

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So, a new ISMND was not required.

Trona Solar Plant, which was forwarded to us by Matt Kingsley. Regarding the dust emissions, Luke Eisenhardt, one of our Air Quality Specialists, will be following up with the owner regarding the lack of dust mitigation measures, as well as a lack of the proper air district permit for the solar project. If you observe additional dust emissions impacting residences and/or crossing the property boundary please document them and let us know.

Regarding your inquiry about expansion onto additional parcels, we at the air district do not have any information about expansion at this time. Inyo County Planning, whom Matt also forwarded the email to, should be able to answer that question.

Please contact Luke at [leisenhardt@gbuapcd.org](mailto:leisenhardt@gbuapcd.org) or 760-872-8211 ext 228 if you observe additional dust emissions from the project or have any other questions.

Thank you,  
Ann

Ann Logan  
Deputy Air Pollution Control Officer  
Great Basin Unified Air Pollution Control District  
157 Short Street Bishop, California 93514  
(760) 872-8211  
[www.gbuapcd.org](http://www.gbuapcd.org)

---

**John Mays** <[johnmmays1@gmail.com](mailto:johnmmays1@gmail.com)> Mon, Dec 6, 2021 at 10:39 AM  
To: Ann Logan <[ann@gbuapcd.org](mailto:ann@gbuapcd.org)>  
Cc: Luke Eisenhardt <[leisenhardt@gbuapcd.org](mailto:leisenhardt@gbuapcd.org)>, Phill Kiddoo <[pkiddoo@gbuapcd.org](mailto:pkiddoo@gbuapcd.org)>, "mkingsley@inyocounty.us" <[mkingsley@inyocounty.us](mailto:mkingsley@inyocounty.us)>, Cathreen Richards <[crichards@inyocounty.us](mailto:crichards@inyocounty.us)>

Ann,

Just from this morning. As per your request below, appears dust crossing the property line here.

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Thanks,

John

Sent from Mail for Windows

---

**From:** Ann Logan  
**Sent:** Thursday, December 2, 2021 9:59 AM  
**To:** johnmays1@gmail.com  
**Cc:** Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards  
**Subject:** Trona Solar Plant

John,

Good morning. Great Basin Unified Air Pollution Control District received your complaint and inquiry regarding the Trona Solar Plant, which was forwarded to us by Matt Kingsley. Regarding the dust emissions, Luke Eisenhardt, one of our Air Quality Specialists, will be following up with the owner regarding the lack of dust mitigation measures, as well as a lack of the proper air district permit for the solar project. If you observe additional dust emissions impacting residences and/or crossing the property boundary please document them and let us know.

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Please contact Luke at [leisenhardt@gbuapod.org](mailto:leisenhardt@gbuapod.org) or 760-872-8211 ext 228 if you observe additional dust emissions from the project or have any other questions.

Thank you,

Ann

Ann Logan  
Deputy Air Pollution Control Officer  
Great Basin Unified Air Pollution Control District  
157 Short Street Bishop, California 93514  
(760) 872-8211  
[www.gbuapod.org](http://www.gbuapod.org)

---

2 attachments



20211206\_072322.jpg  
3267K



20211206\_081048.jpg  
2183K

**Ann Logan** <ann@gbuapcd.org> Mon, Dec 6, 2021 at 11:43 AM  
To: John Mays <johnmays1@gmail.com>  
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phill Kiddoo <pkiddoo@gbuapcd.org>, "mkingsley@inyocounty.us" <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

John,  
Thank you for the email, photos, and information. We will be following up with the owner. Regarding your questions, it would be good to have a call. Could you please let us know the best number to reach you?

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[www.gbuapcd.org](http://www.gbuapcd.org)



John Mays <johnmays1@gmail.com>

**Trona Solar Plant**

7 messages

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To: Ann Logan <ann@gbuapcd.org>  
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, mkingsley@inyocounty.us, Cathreen Richards <crichards@inyocounty.us>

Ann,  
Thank you very much for looking into this. We will stay in touch if we see anything. Really appreciate your attention to this matter.

Sincerely,

John

On Thu, Dec 2, 2021 at 9:59 AM Ann Logan <ann@gbuapcd.org> wrote:  
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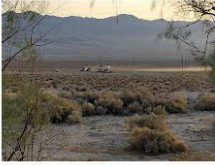
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**2 attachments**



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Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phill Kiddoo <pkiddoo@gbuapcd.org>, "mkingsley@inyocounty.us" <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

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(760) 872-8211

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**John Mays** <johnmays1@gmail.com> Mon, Dec 6, 2021 at 11:50 AM  
To: Ann Logan <ann@gbuapcd.org>  
Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phill Kiddoo <pkiddoo@gbuapcd.org>, Matt Kingsley <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

My phone number is 720-415-0426.

Thanks,

John

On Mon, Dec 6, 2021, 11:44 AM Ann Logan <ann@gbuapcd.org> wrote:

John,  
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---

**Luke Eisenhardt** <[leisenhardt@gbuapcd.org](mailto:leisenhardt@gbuapcd.org)>  
To: John Mays <[johnmays1@gmail.com](mailto:johnmays1@gmail.com)>  
Cc: Ann Logan <[ann@gbuapcd.org](mailto:ann@gbuapcd.org)>

Tue, Dec 7, 2021 at 9:58 AM

Good morning John,

I just called you, but your voicemail box is full. Please call me if you have any questions. If you have any followup complaints, pictures, information, etc. regarding this project, please direct them to me or Ann Logan.

Thank you,

Luke Eisenhardt

**Air Quality Specialist**  
Great Basin Unified Air Pollution Control District  
157 Short Street  
Bishop, California 93514  
760-872-8211, ext. 228  
760-258-9690, direct  
760-920-0327, cell  
[www.gbuapcd.org](http://www.gbuapcd.org)

On Mon, Dec 6, 2021 at 11:50 AM John Mays <[johnmays1@gmail.com](mailto:johnmays1@gmail.com)> wrote:  
My phone number is 720-415-0426.

Thanks,

John

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John Mays <[johnmmays1@gmail.com](mailto:johnmmays1@gmail.com)>  
Draft To: John Mays <[johnmmays1@gmail.com](mailto:johnmmays1@gmail.com)>

Thu, Jan 13, 2022 at 2:31 PM

Sent from Mail for Windows

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**From:** John Mays  
**Sent:** Monday, December 6, 2021 10:39 AM  
**To:** Ann Logan  
**Cc:** Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards  
**Subject:** RE: Trona Solar Plant

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[www.gbuapcd.org](http://www.gbuapcd.org)



the state agency review period; therefore, the planner who worked on the project had nothing from them to add as a mitigation.

Cathreen

---

From: John Mays [mailto:johnmays1@gmail.com]  
Sent: Friday, January 28, 2022 4:56 AM  
To: Cathreen Richards  
Cc: Matt Kingsley  
Subject: Trona Solar Plant - Renewable Energy Permit 2021-01

**CAUTION: This email originated from outside of the Inyo County Network. DO NOT click links or open attachments unless you recognize and trust the sender. Contact Information Services with questions or concerns.**

Cathreen,

I was reading through the documents online regarding Renewable Energy Permit 2021-01/Barker Solar and CEQA addendum both reference a previously lapsed 2018 permit that contains the basis for the staff analysis and mitigation for the project. This was not included in the documents available online and I would like to request a copy of Initial Study and any other relevant documents that were publicly available at that time so that I may understand the permit that has been issued here.

From the CEQA Addendum.

"The ND prepared for the original renewable energy permit application, certified in July 2018, evaluated the project through an Initial Study (IS). The ISND identified several avoidance and minimization measures that were incorporated into project design, as conditions of approval for issuance of the permit, to avoid potentially significant impacts."

The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,

**John**



John Mays <johnmays1@gmail.com>

**Trona Solar Plant - Renewable Energy Permit 2021-01**

John Mays <johnmays1@gmail.com>  
To: Cathreen Richards <crichards@inyocounty.us>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Fri, Jan 28, 2022 at 4:56 AM

Cathreen,

I was reading through the documents online regarding Renewable Energy Permit 2021-01/Barker Solar and CEQA addendum both reference a previously lapsed 2018 permit that contains the basis for the staff analysis and mitigation for the project. This was not included in the documents available online and I would like to request a copy of Initial Study and any other relevant documents that were publicly available at that time so that I may understand the permit that has been issued here.

From the CEQA Addendum,

"The ND prepared for the original renewable energy permit application, certified in July 2018, evaluated the project through an Initial Study (IS). The ISND identified several avoidance and minimization measures that were incorporated into project design, as conditions of approval for issuance of the permit, to avoid potentially significant impacts."

The "several avoidance and minimization features" and "potentially significant impacts" are not otherwise described in the current documents online.

Thanks,

John

Cathreen Richards <crichards@inyocounty.us>  
To: John Mays <johnmays1@gmail.com>  
Cc: Matt Kingsley <mkingsley@inyocounty.us>

Fri, Jan 28, 2022 at 9:00 AM

John,

Attached is the original 2018 staff report and ISMND and the 2021 staff report. It was amended because the applicant increased the project area, but did not exceed the project footprint. The project also had to be amended because the applicant did not produce a reclamation plan in the required time. In other words, the 2021 project added solar panels into the area already evaluated by the original CEQA ISMND and provided the required reclamation plan.

So, a new ISMND was not required.

Trona Solar Plant, which was forwarded to us by Matt Kingsley. Regarding the dust emissions, Luke Eisenhardt, one of our Air Quality Specialists, will be following up with the owner regarding the lack of dust mitigation measures, as well as a lack of the proper air district permit for the solar project. If you observe additional dust emissions impacting residences and/or crossing the property boundary please document them and let us know.

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Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddle <pkiddle@gbuapcd.org>, "mkingsley@inyocounty.us" <mkingsley@inyocounty.us>, Cathreen Richards <crichards@inyocounty.us>

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**Subject:** Trona Solar Plant

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Good morning. Great Basin Unified Air Pollution Control District received your complaint and inquiry regarding the Trona Solar Plant, which was forwarded to us by Matt Kingsley. Regarding the dust emissions, Luke Eisenhardt, one of our Air Quality Specialists, will be following up with the owner regarding the lack of dust mitigation measures, as well as a lack of the proper air district permit for the solar project. If you observe additional dust emissions impacting residences and/or crossing the property boundary please document them and let us know.

Regarding your inquiry about expansion onto additional parcels, we at the air district do not have any information about expansion at this time. Inyo County Planning, whom Matt also forwarded the email to, should be able to answer that question.

Please contact Luke at [leisenhardt@gbuapcd.org](mailto:leisenhardt@gbuapcd.org) or 760-872-8211 ext 226 if you observe additional dust emissions from the project or have any other questions.

Thank you,

Ann

**Ann Logan**  
Deputy Air Pollution Control Officer  
Great Basin Unified Air Pollution Control District  
157 Short Street Bishop, California 93514  
(760) 872-8211  
[www.gbuapcd.org](http://www.gbuapcd.org)

**John Mays** <johnmays1@gmail.com> Mon, Dec 6, 2021 at 11:50 AM  
 To: Ann Logan <ann@gbuapcd.org>  
 Cc: Luke Eisenhardt <leisenhardt@gbuapcd.org>, Phil Kiddoo <pkiddoo@gbuapcd.org>, Matt Kingsley <mkingsley@nyocounty.us>, Cathreen Richards <crichards@nyocounty.us>

My phone number is 720-416-0426.

Thanks,

John

On Mon, Dec 6, 2021, 11:44 AM Ann Logan <ann@gbuapcd.org> wrote:

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 Thank you for the email, photos, and information. We will be following up with the owner. Regarding your questions, it would be good to have a call. Could you please let us know the best number to reach you?  
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Can you advise further on the situation regarding Air Quality for the solar plant? Your email below speaks about lack of proper air district permit. Is construction able to proceed without this permit? If the operator needs to obtain a permit, does this permit go to public comment? Was any enforcement action taken?

Thanks,

John

Sent from Mail for Windows

From: Ann Logan  
 Sent: Thursday, December 2, 2021 9:59 AM  
 To: johnmays1@gmail.com  
 Cc: Luke Eisenhardt; Phil Kiddoo; mkingsley@nyocounty.us; Cathreen Richards





Air Quality Specialist  
Great Basin Unified Air Pollution Control District  
157 Short Street  
Bishop, California 93514  
760-872-8211, ext. 228  
760-258-9690, direct  
760-820-0327, cell  
www.gbupcd.org

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John Mays <[johnmays1@gmail.com](mailto:johnmays1@gmail.com)>  
Draft To: John Mays <[johnmays1@gmail.com](mailto:johnmays1@gmail.com)>

Thu, Jan 13, 2022 at 2:31 PM

Sent from Mail for Windows

**From:** John Meys  
**Sent:** Monday, December 8, 2021 10:39 AM  
**To:** Ann Logan  
**Cc:** Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards  
**Subject:** RE: Trona Solar Plant

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**Cc:** Luke Eisenhardt; Phill Kiddoo; mkingsley@inyocounty.us; Cathreen Richards  
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[www.gbuapod.org](http://www.gbuapod.org)

**From:** [Amanda McNamara-Ball](#)  
**To:** [Cynthia Draper](#)  
**Subject:** Public Comment -Hearing March 22, 2023  
**Date:** Tuesday, March 21, 2023 7:04:54 PM  
**Attachments:** [Resized\\_20230315\\_133336.jpeg](#)  
[Resized\\_20230315\\_133343.jpeg](#)

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You don't often get email from akmcnamara80@gmail.com. [Learn why this is important](#)

Hello,

I am a resident at 33063 Bri-Mar Ln (aka 100 Bri-Mar Ln - in process of getting changed). This residence is directly South and South-East of parcels mentioned in the attached notices. I would like it to be public record that I adopt the comments entered by Mr. John M. Mays and Mr. Thomas Kidder.

Thank you for your time,  
Amanda K. Ball  
760-382-4101

Sent Via Email (inyoplanning@inyocounty.us)

To: County of Inyo, Planning Commission  
168 North Edwards Street  
Post Office Drawer L  
Independence, California 93526

Re: May 3, 2023, County of Inyo Planning Commission Meeting, Agenda Item Nos. 7 (Renewable Energy Permit 2022-01/Barker) and 8 (Renewable Energy Permit 2022-02/Barker)

Dear Members of the Inyo County Planning Commission and Board of Supervisors:

My property is adjacent to the existing solar facility and adjacent to the proposed project expansion involving the two permits under consideration. I have lived with my family on my property since 1974. This includes three generations that currently live with me including my son, daughter, and granddaughter. I have experience with construction projects around Trona over the many years and retired from Caltrans several years ago.

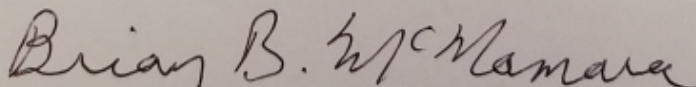
We have used the parcels on which we live for agriculture including raising animals for food including chickens, pigs, cows, and other livestock. We enjoy living in a natural area, with its wildlife and native vegetation as well as the beautiful vistas in every direction. Expansion of this project will destroy this natural area which I grew up in and ruin the quality of life for my family for generations to come. These solar plants eliminate all presence of the natural environment on the land which they are constructed and seriously degrade the surrounding native environment including wildlife, vegetation, air quality, roads, aesthetics, and human health. Inyo County has not evaluated these impacts correctly. The permit documents also do not discuss any impacts to or from power lines or corridors which will be used for transmission or other later projects.

My home is immediately downwind of the current solar plant and these associated proposed projects. We have been affected by blowing dust from them for at least a couple years now. We have repeatedly observed construction of these facilities without any dust control measures. We also have observed no protection for the desert tortoise during the construction. In my experience, it is well known that these measures need to be in place for any construction project in this area. Also, during the construction, a large amount of material was pushed onto my property and left there. We have never observed any security on the project which is unmanned. Overall, the project has been a sloppy, half-complete collection of material piles and unused equipment that shows no concern for visual appearance and protection of the public.

I oppose the construction and operation of these projects. It has been my experience that Inyo County is unable to manage anything in our remote part of the county. This area has been treated by the County for many years as: "Out of sight. Out of mind." This has been shown again with the recent construction and permitting. Also, the owner of the project shows little care for his neighbors or compliance with regulations. I was NOT notified by the owner regarding submittal of applications for the proposed projects as required by the REGPA. Since Inyo County lacks the resources to make any effort to supervise the project nor cares at all about enforcing rules and regulations, we expect even worse things to come if these permits are approved.

My family and I support the comments of John Mays, his legal counsel, and Tom Kidder. We urge the Planning Department and Board of Supervisors to deny these permits and remove all Rural Residential parcels in the area from the Trona REGPA. The solar use as proposed here is not the proper use for these areas.

Thank you,



Brian B. McNamara  
101 Bri-Mar Lane  
P.O.Box 592  
Trona, California 93562



tel: 916.455.7300 · fax: 916.244.7300  
510 8th Street · Sacramento, CA 95814

May 1, 2023

**SENT VIA EMAIL**

(inyoplanning@inyocounty.us;  
Cynthia Draper, Assistant Planner, cdraper@inyocounty.us)

County of Inyo  
Planning Commission  
168 North Edwards Street  
Post Office Drawer L  
Independence, California 93526

**Re: May 3, 2023, County of Inyo Planning Commission Meeting  
Agenda Item Nos. 7 (Renewable Energy Permit 2022-01/Barker)  
and 8 (Renewable Energy Permit 2022-02/Barker)**

Dear Members of the Inyo County Planning Commission:

On behalf of our client, John Mays, this letter provides comments regarding the May 3, 2023, Planning Commission meeting, agenda item numbers 7 (Renewable Energy Permit 2022-01/Barker) and 8 (Renewable Energy Permit 2022-02/Barker) (collectively, the “Projects”).

The County’s approval of the Project is riddled with both procedural and substantive violations of law as set forth more fully below. Further, this letter documents some of the applicable principles that authorize the Planning Commission to deny the Projects. Specifically, section I of this letter describes the County’s violation of the Brown Act that prevents the Planning Commission from taking action on the Project at the May 3, 2023 meeting. Section II describes several substantive and procedural violations of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq. [“CEQA”]) associated with the two mitigated negative declarations (“MNDs”) for the Project. Section III describes the proper framework for the Planning Commission’s discretionary action on the underlying Renewal Energy Permits (“REPs”).

**I. Violations of the Brown Act**

The County has violated the Brown Act by failing to properly disclose to the public that it intends to take action on (namely, adopt) two different MNDs as part of its actions regarding the Project. It is settled that the Brown Act requires agendas to identify

proposed CEQA actions. An agenda must specifically state the action that the body is proposing to take, including a proposed action under CEQA. (*San Joaquin Raptor Rescue Center v. County of Merced* (2013) 216 Cal.App.4th 1167, 1178 (*San Joaquin Raptor*) [agency violated Brown Act by failing to identify action on CEQA document in its posted agenda, reasoning that the Brown Act “mandates that each item of business be described on the agenda, not left to speculation or surmise”].) Neither the public hearing notice (See **Exhibit 1**) nor agenda for the May 3, 2023 Planning Commission meeting (**Exhibit 2**) identify any CEQA actions associated with the Project. This violates the Brown Act. (*San Joaquin Raptor, supra*, 216 Cal.App.4th at 1178.)

As a result of the inadequate public notice, the Planning Commission may not adopt the MNDs on May 3, 2023. Further, the Planning Commission may not approve the REPs subject to later consideration of the MNDs, since CEQA requires consideration of a project’s CEQA analysis prior to taking action on the underlying entitlements. (Cal. Code Regs., tit. 14, § 15000 et seq. [“CEQA Guidelines”]; CEQA Guidelines, § 15074, subd. (b) [“Prior to approving a project, the decision-making body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration”].) However, this does not prejudice either the County or the applicant because, as discussed in the next section, the County may not lawfully approve the Project based on the existing record.

## **II. Violations of CEQA**

The Project, comprised of two separate REPs and MNDs, is riddled with substantive and procedural violations of CEQA. The record contains substantial evidence of a fair argument that the Project will result in significant environmental impacts, including human health impacts to nearby residents, triggering the need to prepare an Environmental Impact Report (“EIR”). (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) At minimum, the City will need to prepare a revised MND that complies with CEQA’s substantive and procedural mandates.

### **A. Project Piecemealing**

CEQA’s conception of the term “project” is broad to maximize protection of the environment. (*Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist.* (2007) 147 Cal.App.4th 643, 653; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730 (*San Joaquin Raptor I*). “This big picture approach to the definition of a project (i.e., including “the whole of an action”) prevents a proponent or a public agency from avoiding CEQA requirements by dividing a project



into smaller components which, when considered separately, may not have a significant environmental effect.” (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 270-271.)

Here, it appears that the County appears to be engaging in impermissible piecemealing by splitting apart a 4.2 megawatt photovoltaic solar facility located on 20 acres with the same operator seeking County approval at exactly the same time — and also happen to be adjacent to a previously approved 1 megawatt solar facility by that same operator. (See **Exhibit 3**, parcel map; **Exhibit 4**, Notice of Determination and Notice of Availability for 2018-01.) The relevant test is whether the activities have “substantial independent utility.” (*Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal.App.4th 712, 736 (*Del Mare Terrace*)). It is difficult to see how exactly the same commercial activities on adjacent properties by the same operator have independent utility from each other. The County violates CEQA by apparently not even considering whether the two requested REPs have independent utility, much less elucidating facts on this issue one way or another. A court would review this issue exercising its independent judgment with no deference to the agency. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 98 [“question of which acts constitute the ‘whole of an action’ for purposes of CEQA is one of law, which we review de novo based on the undisputed facts in the record”].)

## **B. Failure to Analyze Cumulative Impacts**

Even if is determined that the two requested REPs have independent utility and therefore are properly considered separate projects for purposes of CEQA, the two MNDs violate CEQA by not analyzing their cumulative impacts.

A lead agency must assess “whether a cumulative effect” of the project will result in a significant environmental impact, and thus require an EIR. (CEQA Guidelines, § 15064, subd. (h)(1).) CEQA requires analysis of “[t]he cumulative impact from several projects” which “can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, §§ 15355, 15130.) “Proper cumulative impact analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.’ [Citations.]” (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.)

Despite this mandate, the two MNDs' cumulative impacts analyses set forth in cursory fashion:

No, the proposed project does not have impacts that are individually limited but cumulatively considerable. Due to the sparseness of the natural environment and lack of plant or animal habitat, this location is well suited for solar development. More generation capacity may be added to the southern SEDA in Inyo County, but this cumulative effect would still be minimal given the lack of affected resources in the area.

This is impermissibly cursory and inadequate. The first step in a cumulative impact analysis is identifying cumulative projects. (CEQA Guidelines, § 15130, subd. (b)(1).) There is no attempt to do so. Incredibly, each MND's cumulative impact analysis omits any reference to the other concurrently requested REP by the same applicant located immediately adjacent and proposed for approval by the County on the very same day. Nor is there any discussion of the solar facility — also adjacent to each project — that was approved in 2018. (CEQA Guidelines, § 15130, subd. (b)(1)(A) [“A list of past, present, and probable future projects”].)

Neither MND includes any discussion of how each requested REP would interact with the other concurrently-requested REP or the existing REP located immediately adjacent to the two proposed REP sites. Thus, each MND fails to “determine[] whether the incremental impacts of the project are cumulatively considerable by evaluating them against the backdrop of the environmental effects of other projects. The question is . . . whether the effects of the individual project are considerable.” (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1996) 42 Cal.App.4th 608, 624 [internal quotations and emphasis omitted].)

Each MND's analysis of cumulative impacts is wholly inadequate. To the extent it is claimed that the MND's cumulative impact analysis tiers from (CEQA Guidelines, § 15152) or incorporates by reference (CEQA Guidelines, § 15150) the cumulative impact analysis set forth in the Renewable Energy General Plan Amendment Program Environmental Impact Report (SCH No. 2014061039) (“PEIR”), the MND's have failed to comply with CEQA's requirements for each procedure.

The CEQA Guidelines set forth specific requirements for tiering:

When tiering is used, the later EIRs or negative declarations shall refer to the prior EIR and state where a copy of the prior EIR may be examined.

The later EIR or negative declaration should state that the lead agency is using the tiering concept and that it is being tiered with the earlier EIR.

(CEQA Guidelines, § 15152, subd. (g).)

Similarly, the CEQA Guidelines set forth specific requirements for incorporation by reference:

(b) Where part of another document is incorporated by reference, such other document shall be made available to the public for inspection at a public place or public building. The EIR or negative declaration shall state where the incorporated documents will be available for inspection. At a minimum, the incorporated document shall be made available to the public in an office of the lead agency in the county where the project would be carried out or in one or more public buildings such as county offices or public libraries if the lead agency does not have an office in the county.

(c) Where an EIR or negative declaration uses incorporation by reference, the incorporated part of the referenced document shall be briefly summarized where possible or briefly described if the data or information cannot be summarized. The relationship between the incorporated part of the referenced document and the EIR shall be described.

(d) Where an agency incorporates information from an EIR that has previously been reviewed through the state review system, the state identification number of the incorporated document should be included in the summary or designation described in subdivision (c).

(CEQA Guidelines, § 15150.)

The MNDs failed to comply with the requirements for either tiering or incorporation by reference. The MNDs never mentioned the PEIR, much less summarized the relevant discussion[s] purportedly relied upon or identify where the PEIR was available for public inspection. Indeed, our office could only locate Volume II of II of the Final EIR, and not Volume I of the Final EIR or the Draft EIR. Thus, there is no credible claim that the MND's tiered or incorporated by reference the PEIR. Further, our comment letter addresses additional CEQA deficiencies related to the PEIR below.

### **C. The MND's Failed to Adequately Analyze and Mitigate Project Impacts**

The MND fails to include relevant information and fully disclose Project impacts as required by CEQA. In particular, several potentially significant impacts are associated with the Project, necessitating preparation and circulation of an EIR prior to any further proceedings by the County regarding the Project. Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 74 (*No Oil I*.) This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (*Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (*No Oil I, supra*, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.” (*Id.* at p. 85.) An EIR is required even if a different conclusion may also be supported by evidence.

In order to lawfully carry out a project based on an MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where clearly no significant effects would occur.” (CEQA Guidelines, § 15070, subd. (b)(1) (emphasis added).) This is assured by incorporation into a Mitigation Monitoring and Reporting Plan (“MMRP”). (Pub. Resources Code, § 21081.6, subd (a)(1).) “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation of Hillside & Canyon v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 (*Federation*).) An MND is appropriate only when all potentially significant impacts of a project are mitigated to less than significant levels. (CEQA Guidelines, § 15070, subd. (d); Pub. Resources Code, § 21064.5.) An MND is not appropriate when the success of mitigation is uncertain, as that creates a fair argument that an impact will not be mitigated to less-than-significant levels. (See *San Bernardino Valley Audubon Society v. Metropolitan Water District* (1999) 71 Cal.App.4th 382, 392.)

Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311 (*Sundstrom*).) For example, in *Sundstrom* the court held that the absence of information explaining why no alternative sludge disposal site is available

“permits the reasonable inference that sludge disposal presents a material environmental impact.” (*Ibid.*) Potentially significant impacts overlooked by the MND include, but are not limited to, impacts associated with aesthetics, air quality (including impacts to human health), biological resources, cultural resources, and noise. Moreover, the “mitigation measures” included are not legally adequate and do not sufficiently address the potential impacts. Therefore, an EIR is necessary in order to adequately analyze, disclose and mitigate the Project’s potentially significant environmental impacts.

1. The MND Impermissibly Conflates Analysis of Impacts and Mitigation

For every resource area, the MNDs violate CEQA by failing to analyze whether the Project may significantly impact the environment and then perform a separate analysis of whether feasible mitigation exists to ameliorate the impact. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 658 (*Lotus*) [“The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures . . . precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences”]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 663 [“A mitigation measure cannot be used as a device to avoid disclosing project impacts”].) Substituting mitigation for an impact analysis violates CEQA.

For example, regarding whether the Project would “conflict with or obstruct implementation of the applicable air quality plan,” the MNDs assert, “No, control of air quality issues during construction, primarily dust mitigation, will be managed with techniques utilizing, [sic] application of water, and application of dust suppressants.” (MND, § III(a).) Regarding whether the Project would “violate any air quality standard or contribute substantially to an existing or projected air quality violation,” the MNDs assert, “No, the proposed project will be in compliance with air quality standards as the applicant is conditioned with obtaining any required permits and following best management practices as set forth by the Great Basin Unified Air Pollution Control District.” This structure that conflates analysis of project impacts and mitigation violates CEQA. (*Lotus, supra*, 223 Cal.App.4th at 658.) The MND follows this structure for all resource areas including with particularity aesthetic impacts, air quality, biological resources, cultural resources, hazards/hazardous materials, hydrology/water quality, noise, and transportation.

2. The MNDs Fail to adopt Mitigation Measures and Mitigation Monitoring and Reporting Plans

Although clearly identifying each document as a “Mitigated Negative Declaration,” and checking the box plainly stating, “A Mitigated Negative Declaration will be prepared,” and further repeated checking the Initial Study boxes finding Project impacts to be “Less Than Significant With Mitigation Incorporation,” the County incredibly fails to adopt any mitigation measures or incorporate such mitigation measures into an MMRP. This violates CEQA. (CEQA Guidelines, § 15097.) This also violates the Inyo County Code. (County Code, Ch. 15.44.) To wit:

15.44.005 General.

The county shall establish monitoring or reporting procedures for mitigation measures adopted as a condition of project approval to mitigate or avoid significant effects on the environment. Monitoring of such mitigation measures may extend through project permitting, construction and operations, as necessary. (Ord. 957 § 1 (part), 1995.)

15.44.010 Application.

A mitigation monitoring program shall be prepared for any private or public, nonexempt, discretionary project approved by the county that is subject to either a negative declaration or an EIR and that includes mitigation measures. (Ord. 957 § 1 (part), 1995.)

15.44.020 Timing.

Draft mitigation monitoring plans shall be included in proposed mitigated negative declarations and draft EIRs. The draft monitoring plan shall be subject to public review and comment. The mitigation monitoring program shall be adopted at the time the negative declaration is adopted or the CEQA findings are made on the EIR. (Ord. 957 § 1 (part), 1995.)

15.44.030 Contents.

The monitoring plan shall contain, at a minimum, the following:

- A. A listing of every mitigation measure contained in the mitigated negative declaration or final EIR;
- B. Identification of the phase (or date) when each mitigation measure shall be initially implemented (e.g., prior to tentative map application, final map application, issuance of grading permit, issuance of building permit, certificate of occupancy);

C. For mitigation measures that require detailed monitoring, such as wetlands replacement or landscaping, the frequency and duration of required monitoring and the performance criteria for determining the success of the mitigation measure, if appropriate, shall be identified;

D. Identification of the person or entity responsible for monitoring and verification;

E. The method of reporting monitoring results to the county. (Ord. 957 § 1 (part), 1995.)

#### 15.44.040 Enforcement.

Mitigation measure implementation shall be made a condition of project approval and shall be enforced under the county's police powers. Violation of a mitigation requirement, where a mitigation measure is to be implemented during construction, may result in the issuance of a stop-work order by the appropriate county permit-issuing authority until the matter is resolved by the planning commission. (Ord. 957 § 1 (part), 1995.)

The MNDs do not contain the required MMRPs. Further, the conditions of approval cannot credibly be construed as MMRPs because they do not contain the information required by CEQA or the County Code.

### 3. Mitigation Measures are not adequately defined or effective

CEQA imposes substantive requirements regarding the formulation of mitigation measures. (CEQA Guidelines, § 15126.4.) First, the mitigation measure must be demonstrably effective. (See *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1168 [no evidence that recommendations for reducing greenhouse gas emissions would be enforceable or effective]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116 [impacts to adjoining groundwater users not avoided].) To be effective, mitigation measures must not be remote and speculative. (*Federation, supra*, 83 Cal.App.4th at 1260.) A court may find mitigation measures legally inadequate if they are so undefined that it is impossible to gauge their effectiveness. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281.) An agency may not defer the formulation of mitigation measures to a future time, but mitigation measures may specify performance standards that would mitigate the project's significant effects and may be accomplished in more than one specified way. *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011; CEQA Guidelines, § 15126.4(a)(1).) Examples of all of these deficiencies abound. Just a few representative examples are provided.

The MNDs claim that construction air quality will be less than significant because “dust mitigation will be managed with techniques utilizing application of water, and application of dust suppression.” The MND fails to explain what specific “techniques” are proposed. Will the operator use water trucks? If so, how frequently? Will they come on a regular schedule or on call as needed? If on call as needed, what is the trigger for requiring the water trucks? What dust specific dust suppressants are proposed? How are they applied? Can dust suppressants be used along with water trucks? None of these questions, which related directly to the effectiveness of dust mitigation, are answered. An MND cannot use a mitigation measure that does not actually avoid or substantially reduce a significant impact as a basis for finding the impact is reduced to less-than-significant. (*King & Gardiner Farms, supra*, 45 Cal.App.5th at 875.) When mitigation effectiveness is not apparent, the MND must include facts and analysis supporting the claim that the measure “will have a quantifiable ‘substantial’ impact on reducing the adverse effects.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 511.) The MND has failed to provide evidence that its vague mitigation will be effective. Further, the MND also fails to address substantial evidence from neighbors establishing that these same or similar measures have been ineffective to mitigate dust resulting from the applicant’s REP 2018-01 that was issued in 2018.

The MNDs claim that construction noise will be less than significant without the need for any mitigation. The MND asserts that noise “will be well under OSHA standards” because noise “will be minimized with construction during daytime business hours.” The MND does not even identify the relevant noise standard, much less disclose the noise levels from construction equipment. Nor does limiting construction to daytime hours have any effect on the actual noise level during those daytime hours, which is completely undisclosed.

Regarding aesthetic impacts, the MNDs assert there will be less than significant impacts because “[t]he County applied a set of criteria that included avoidance of areas containing scenic resources when identifying the proposed SEDAs.” Does this mean that every property located within the SEDA Overlay area cannot be observed from a scenic vista? This is apparently not the case since the MND states further, “The boundaries and locations of the SEDAs have been sighted in areas where there is no abundance of scenic resources within the SEDA boundaries themselves.” The MND fails to explain what is meant by “abundance” of scenic resources, much less “within the SEDA boundaries themselves.” In short, there is no information suggesting that the undisclosed County “criteria” will effectively reduce aesthetic impacts.

Regarding water quality impacts, the MNDs conclude that the Project will not violate any water quality standards because “[t]he Project will be subject to regulation by



the Lahontan Regional Water Quality Control Board and the Inyo County Environmental Health Department.” The MNDs, however, fail to provide the required project-specific analysis of potential impacts and the effect of regulatory compliance. (*Californians for Alternatives to Toxic v. Dept. of Food & Agriculture* (2005) 136 Cal.App.4th 1.)

In short, the MNDs’ cursory analyses fail to provide adequate information about the effectiveness of proposed “mitigation” measures relied upon by the MNDs to find Project impacts less than significant.

4. The MNDs failed to apply the PEIR’s mitigation measures

The MNDs violate CEQA because they fail to address the PEIR that the County certified in 2015 along with its MMRP. With respect to the PEIR, the staff reports for the Project assert:

An Initial Study with a Mitigated Negative Declaration (ISMND) was performed and considered for possible significant impacts to environmental resources for Renewable Energy Permit 2022-02/Barker. The County of Inyo produced a program level EIR (2015 REGPA), pursuant to Section 15168 of CEQA Guidelines, to address environmental impacts from the planned solar development areas. This document distinguishes all SEDAs that are the most environmentally suitable for solar projects, with the least amount of individual and cumulative impacts to land and resources (2015 REGPA, 3-4). A copy of the ISMND can be found at <https://www.inyocounty.us/services/planning-department/current-projects>.<sup>1</sup>

The staff reports are correct that the PEIR was prepared “to address environmental impacts from the planned solar development areas.” What the staff reports fail to address, however, is that the County adopted an MMRP for the PEIR that includes extensive mitigation measures for later subject project-level approvals in order to reduce environmental impacts. (See **Exhibit 5**, PEIR MMRP.)<sup>2</sup> “The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Federation, supra*, 83 Cal.App.4th at 1261.) The County’s analysis of the

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<sup>1</sup> The County violates CEQA Guidelines sections 15150, 15152 and 15168 by providing a link to the MNDs and not the referenced PEIR.

<sup>2</sup> Reinforcing the County’s violation of CEQA Guidelines sections 15150, 15152 and 15168, the adopted MMRP for the PEIR is not available on the County’s website. The attached **Exhibit 5** is taken from the Final EIR Volume II.

Project violates CEQA because its environmental review wholly ignores those mitigation measures. (CEQA Guidelines, § 15168, subd. (c)(3) [“An agency shall incorporate feasible mitigation measures and alternatives developed in the program EIR into later activities in the program”]; *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1186-1187 [“CEQA requires that feasible mitigation measures actually be implemented as a condition of development, and not merely be adopted and then neglected or disregarded”].)

It appears that the County literally ignored and disregarded the dozens of mitigation measures that are applicable to the Project through the County’s earlier adoption of the PEIR’s MMRP. These mitigation measures include, but are not limited to AES-1, AG-3, AQ-1 through -3, Bio-1 through -23, Bio-25, Cul-1, NOI-1.<sup>3</sup>

Any revised CEQA analysis, whether an EIR or revised and recirculated MND, will need to address these mitigation measures.

### **III. There is ample evidence in the record to deny the requested REPs**

The analysis above documents the various ways in which the Project (comprised of REPs 2022-01 and 2022-02) may have significant impacts on the health and welfare of nearby residents and the environment. Our client and other residents have provided extensive documentation regarding the applicant’s flagrant disregard for nearby residents and the environment. There is little doubt that these actions will continue. In light of this, the Commission should exercise its broad discretionary authority to deny the requested Renewable Energy Permits.

The County Code grants the Planning Commission broad authority to approve or deny Renewable Energy Permits. For example, County Code section 21.320.070 provides:

#### **21.20.070 Health, safety and welfare of the county’s citizens.**

Prior to the issuance of a renewable energy impact determination or the granting of a renewable energy permit, the county planning commission

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<sup>3</sup> Certain PEIR mitigation measures such as AES-1 – 10 apply to projects greater than 20 MW and also “proposed solar energy projects that are distributed generation commercial scale or community scale that have been determined by a qualified County planner to have the potential to impact visual resources within the individual SEDAs and the OVSA.” The staff record provides no information indicating that the County made any such determination for the Project, much less support any such determination with analysis supported by substantial evidence.

must find that, through the imposition of mitigation measures, the approval of a reclamation plan, the receipt of adequate financial assurances, and by other conditions incorporated into the determination or imposed upon the permit, ***the health, safety and welfare of the county's citizens, the county's environment, including its public trust resources, and the county's financial well-being, have been adequately safeguarded.***

(Emphasis added.)

The highlighted language is commonly known as the “health and welfare” standard, which represents broad authority to deny a land use entitlement. (*SP Star Enterprises v. City of Los Angeles* (2009) 173 Cal.App.4th 459, 473.) Further, this language necessarily means that the requested Renewable Energy Permits are subject to denial by the Planning Commission. (*BreakZone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1224 (*BreakZone*) [“[a] CUP is discretionary by definition”].) The County’s decision to deny the Renewable Energy Permits would be afforded great deference by a reviewing court. (Code Civ. Proc., § 1094.5, subd. (b).) The County’s decision will be overturned only if no reasonable person would have reached the same conclusions. (*Harris v. City of Costa Mesa* (1994) 25 Cal.App.4th 963, 969 (*Harris*); *BreakZone, supra*, 81 Cal.App.4th at 1244.) A reviewing court presumes an agency’s decision is correct and will resolve all reasonable doubts in favor of the administrative findings and decision; the party challenging the decision bears the burden to demonstrate otherwise. (Evid. Code, § 664; see *Breneric Associates v. City of Del Mar* (1998) 69 Cal.App.4th 166, 175.)

Further, and importantly, the law is well settled that only one reason is required to deny a CUP. (*Desmond v. County of Contra Costa* (1993) 21 Cal.App.4th 330, 336-337 (*Desmond*)). *Desmond* explains with clarity:

Because we are reviewing a denial of a requested land use permit, it is not necessary to determine that each finding by the Board was supported by substantial evidence. As long as the Board made a finding that any one of the necessary elements enumerated in the ordinances was lacking, and this finding was itself supported by substantial evidence, the Board’s denial of appellant’s application must be upheld.

(*Id.* at 336-337 [italic in original]; see also *Saad v. City of Berkeley* (1994) 24 Cal.App.4th 1206, 1213 [inadequacy of a single finding does not undermine denial of permit when other adequate findings were made].) What is more, a single finding to

deny a CUP may be based solely on neighborhood opposition. The court in *Harris* explains:

“It is appropriate and even necessary for the [agency] to consider the interest of neighboring property owners in reaching a decision whether to grant or deny a land use entitlement, and the opinions of neighbors may constitute substantial evidence on this issue.”

(*Harris, supra*, 25 Cal.App.3d at 973, emphasis added; *Dore v. County of Ventura* (1994) 23 Cal.App.4th 320, 328-329.) We understand that nearby residents have already reached out to the County, explaining that the existing 10-acre solar project is contributing to unacceptable dust and resulting health impacts. These concerns will justify denial of the Renewable Energy Permits even if they are in “technical compliance” with the County’s zoning code, General Plan or other planning documents. The *Desmond* decision explains:

This finding of unsuitability to the character of the surrounding neighborhood is sufficient by itself to support the denial of appellants’ application for a land use permit. (*Guinnane v. San Francisco City Planning Com.*, *supra*, 209 Cal.App.3d at pp. 740-743 [local agency denied permit on basis of finding that large size of house was “not in character” with surrounding neighborhood even though in technical compliance with zoning and building codes; upheld].)

(*Desmond, supra*, 21 Cal.App.4th at 338.)

We encourage the Planning Commission to carefully consider the written comments from neighboring property owners that have already been submitted as well as the additional oral comments that you will no doubt hear at the hearing.

Finally, and importantly, the Planning Commission should not feel constrained to simply adopt the recommended findings prepared by staff since agencies are afforded considerable latitude with regard to the precision and formality of their findings denying a project. (*Young v. City of Coronado* (2017) 10 Cal.App.5th 408, 421.) Findings under Code of Civil Procedure section 1094.5 need not be “extensive or detailed.” (*Environmental Protection Information Center v. California Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 516.) Findings may incorporate matters by reference, or omissions may be filled by relevant references available in the record. (*Craik v. County of Santa Cruz* (2000) 81 Cal.App.4th 880, 884.) An agency may also memorialize its findings in writing after the quasi-adjudicatory decision itself. (See *Levi*

County of Inyo  
Planning Commission  
May 1, 2023  
Page 15 of 15

*Family Partnership, L.P. v. City of Los Angeles* (2015) 241 Cal.App.4th 123 [upholding planning commission findings supporting the decision to deny a permit application given first orally at a public hearing and then memorializing the decision in writing nearly one year later].) The Planning Commission is well within its authority to reject staff's recommendation of approval in the staff report and instead vote to deny the permit along with instructions for staff to come back with written findings consistent with the Commission's reasoning and evidence elucidated at the hearing. Finally, it is not necessary to prepare any CEQA document in order to deny a project. (Pub. Resources Code, § 21080, subd. (b)(5); CEQA Guidelines, § 15270, subd. (a).)

In summary, the Planning Commission is vested with wide discretion to deny the requested Renewable Energy Permits based on broad considerations of public welfare. Only one reason is necessary to deny the Project, which can be supplied by public opposition and will be upheld by a reviewing court unless no reasonable person could reach the same conclusion.

\* \* \*

We thank you for the opportunity to comment.

Very truly yours,

**SOLURI MESERVE**  
A Law Corporation

By:   
Patrick M. Soluri

cc: John Mays (johnmmays1@gmail.com)

Attachments:

Exhibit 1, Public Hearing Notice  
Exhibit 2, Agenda for the May 3, 2023 Planning Commission Meeting  
Exhibit 3, Parcel Map  
Exhibit 4, Notice of Availability and Notice of Determination for 2018-01  
Exhibit 5, PEIR MMRP

# **EXHIBIT 1**



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

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

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## **PUBLIC HEARING NOTICE**

**NOTICE IS HEREBY GIVEN** the Inyo County Planning Commission will hold public hearings Wednesday, May 3, 2023, at 10:00 a.m. in the Board of Supervisors Room, County Administrative Center, at 224 North Edwards Street, Independence, to consider the following:

### **Renewable Energy Permit No. 2022-01/Barker**

The applicant has applied for a Renewable Energy Permit, located on one private parcel (038-330-46) in Trona California. The proposed project will connect to Southern California Edison's transmission infrastructure to generate renewable energy for consumers. The property is zoned Rural Residential (RR)-5-acre minimum, with General Plan designations of Residential Estate (RE). The project area is also part of a Solar Energy Development Area (SEDA) overlay, as adopted by the Inyo County Board of Supervisors in 2015.

If you challenge any finding, determination, or decision made regarding this project in court, you may be limited to raising only the issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered prior to the hearing.

Comments can be made regarding these projects prior to the meeting via U.S. Mail: PO Drawer L, Independence, CA 93526, Fax [(760) 872-2712], or by email ([inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us))

All mailed, faxed, and emailed comments will become part of the official record, and the Planning Commission will take that feedback into consideration as it deliberates.

# **EXHIBIT 2**



# Agenda

# County of Inyo Planning Commission

Board of Supervisors Room  
Inyo County Administrative Center  
Independence, California

**HOWARD LEHWALD**  
**CAITLIN (KATE) J. MORLEY**  
**TODD VOGEL**  
**CALLIE PEEK**  
**SCOTT KEMP**

CATHREEN RICHARDS  
RYAN STANDRIDGE  
CYNTHIA DRAPER  
PAULA RIESEN  
MICHAEL ERRANTE  
NATE GREENBERG  
CHRISTIAN MILOVICH

**FIRST DISTRICT**  
**SECOND DISTRICT**  
**THIRD DISTRICT (CHAIR)**  
**FOURTH DISTRICT (VICE CHAIR)**  
**FIFTH DISTRICT**

PLANNING DIRECTOR  
ASSOCIATE PLANNER  
ASSISTANT PLANNER  
PROJECT COORDINATOR  
PUBLIC WORKS DIRECTOR  
COUNTY ADMINISTRATOR  
COUNTY COUNSEL

Inyo County Planning Commission  
Post Office Drawer L  
Independence, CA 93526  
(760) 878-0263  
(760) 872-2712 FAX  
inyoplanning@inyocounty.us

**This meeting will be held in the Board of Supervisors Room located at 224 N. Edwards Street, in Independence California.**

Items will be heard in the order listed on the agenda unless the Planning Commission rearranges the order or the items are continued. Estimated start times are indicated for each item. The times are approximate and no item will be discussed before its listed time.

Lunch Break will be given at the Planning Commission's convenience.

The Planning Commission Chairperson will announce when public testimony can be given for items on the Agenda. The Commission will consider testimony on both the project and related environmental documents.

The applicant or any interested person may appeal all final decisions of the Planning Commission to the Board of Supervisors. Appeals must be filed in writing to the Inyo County Board of Supervisors within 15 calendar days per ICC Chapter 15 [California Environmental Quality Act (CEQA) Procedures] and Chapter 18 (Zoning), and 10 calendar days per ICC Chapter 16 (Subdivisions), of the action by the Planning Commission. If an appeal is filed, there is a fee of \$300.00. Appeals and accompanying fees must be delivered to the Clerk of the Board Office at County Administrative Center Independence, California. If you challenge in court any finding, determination or decision made pursuant to a public hearing on a matter contained in this agenda, you may be limited to raising only those issues you or someone else raised at the public hearing, or in written correspondence delivered to the Inyo County Planning Commission at, or prior to, the public hearing.

**Public Notice:** In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Planning Department at (760) 878-0263 (28 CFR 35.102-3.104 ADA Title II). Notification 72 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Planning Department 2 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format (Government Code Section 54954.2).

## May 3, 2023

10:00  
A.M.

1. **PLEDGE OF ALLEGIANCE.**
2. **ROLL CALL** – Roll Call to be taken by staff.
3. **PUBLIC COMMENT PERIOD** – This is the opportunity for anyone in the audience to address the Planning Commission on any planning subject that is not scheduled on the Agenda.

Action  
Item

4. **APPROVAL OF MINUTES** – Approval of minutes from the March 22, 2023 Planning Commission Meeting.

Action  
Item  
Public  
Hearing

5. **AMENDMENT TO CONDITIONAL USE PERMIT 1994-2 BROWN'S SUPPLY; RECLAMATION PLAN 1994-2 BROWN'S SUPPLY**-The applicant has applied to amend Conditional Use Permit (CUP) 1994-2 and Reclamation Plan (REC) 1994-2, proposing to remove the east pit of 4.97 acres within the existing mining boundary and update both the CUP and REC to store foreign materials on site.

Action  
Item  
Public  
Hearing

6. **AMENDMENT TO RECLAMATION PLAN 1997-6 INDEPENDENCE MS#118 CALIFORNIA DEPARTMENT OF TRANSPORTATION**-The applicant has applied for an amendment to Reclamation Plan 97-6 with permission from the Bureau of Land Management (BLM). The California Department of Transportation proposing a minor revision of the condition of approval #20, abandoning the well, in the approved plan at the Independence Pit MS #118.

Action  
Item  
Public  
Hearing

7. **RENEWABLE ENERGY PERMIT 2022-01/BARKER**- The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on one privately owned parcel(APN:038-330-46), in Trona California. This permit would allow the applicant to construct a proposed 1-megawatt photovoltaic solar facility that uses approximately 2,300 single axis tracker solar panels. The project encompasses 5-acres of pre-disturbed land.

Action  
Item  
Public  
Hearing

8. **RENEWABLE ENERGY PERMIT 2022-02/BARKER**-The applicant, Robbie Barker, has applied for a Renewable Energy Permit located on three privately owned parcels (APN:038-330-32,33,34), in Trona California. This permit would allow the applicant to construct a proposed 3-megawatt photovoltaic solar facility that uses approximately 6,000 single axis tracker solar panels. The project encompasses 15- acres of pre-disturbed land.

Work  
shop

9. **BROWN ACT REVIEW** – County Counsel will give a presentation to the Planning Commission about the Brown ACT and how it applies to the Planning Commission.

## **COMMISSIONERS' REPORT/COMMENTS**

Commissioners to give their report/comments to staff.

## **PLANNING DIRECTOR'S REPORT**

Planning Director, Cathreen Richards, will update the Commission on various topics.

## **CORRESPONDENCE-INFORMAITONAL**

# **EXHIBIT 3**



# **EXHIBIT 4**

**FILED**

**JUN 05 2018**

**INYO CO. CLERK  
KAMMI FOOTE, CLERK**



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

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

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## **NOTICE OF AVAILABILITY AND INTENT**

Notice is hereby given that an Initial Study and Draft Negative Declaration of Environmental Impact have been prepared pursuant to the California Environmental Quality Act (CEQA) and Inyo County CEQA Procedures, and are available for public review for the following application:

**Renewable Energy Permit #2018-01/Barker**

The applicant has applied for a renewable energy permit to construct a 1 megawatt (MW) photovoltaic solar facility, located on two privately owned parcels (038-330-47 & 038-330-48) in Trona, California. The project will be built on two parcels (5 acres each) with a total project area of 10 acres. The proposed project will connect to Southern California Edison's transmission infrastructure to generate renewable energy for consumers.

**The 30-day review period for this Draft Negative Declaration of Environmental Impact begins on June 6, 2018 and expires on July 5, 2018.** During this period comments may be submitted regarding the Initial Study and Negative Declaration. Inyo County is not required to respond to any comments received after this date. Written comments and all questions should be addressed to the Inyo County Planning Department at P.O. Drawer "L," Independence, CA 93526, faxed to (760) 878-0382, or emailed to [inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us).

Copies of the Initial Study and Draft Negative Declaration of Environmental Impact for this project are available for review at the Inyo County Planning Department (168 N. Edwards Street, Independence), County libraries, and the Inyo County Planning Department's website at [www.inyoplanning.org](http://www.inyoplanning.org).

**18-00018**

JUL 31 2018

INYO CO. CLERK  
KAMMI FOOTE, CLERK

Notice of Determination

Appendix D

To:

Office of Planning and Research  
U.S. Mail: Street Address:  
P.O. Box 3044 1400 Tenth St., Rm 113  
Sacramento, CA 95812-3044 Sacramento, CA 95814

County Clerk  
County of: Inyo  
Address: 168 N. Edwards St, PO Drawer F  
Independence, CA 93526

From:

Public Agency: Inyo County Planning Department  
Address: 168 N. Edwards Street  
Independence, CA 93526

Contact: Cathreen Richards  
Phone: 760-878-0447

Lead Agency (if different from above):

Address:

Contact:

Phone:

**SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.**

State Clearinghouse Number (if submitted to State Clearinghouse): 2018061007

Project Title: Solar 2018-01/Barker

Project Applicant: Robbie Barker, PO Box 907, Trona CA 93592 #760-382-4111

Project Location (include county): Trona, CA / Inyo County

Project Description:

The proposed project would construct a 1 megawatt (MW) photovoltaic solar facility that uses approximately 3,500 fixed tilt or single axis tracker solar panels. The project encompasses 10 acres of pre-disturbed land, which is being used primarily for the storage of miscellaneous equipment. The project would connect to Southern California Edison's transmission and distribution infrastructure, helping the State meet its greenhouse gas emission reduction targets by producing carbon neutral electricity.

This is to advise that the County of Inyo has approved the above (input checked) Lead Agency or (input unchecked) Responsible Agency

described project on 7/25/2018 and has made the following determinations regarding the above (date) described project.

- 1. The project [input unchecked] will [input checked] will not] have a significant effect on the environment.
2. [input unchecked] An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA. [input checked] A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [input checked] were [input unchecked] were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [input unchecked] was [input checked] was not] adopted for this project.
5. A statement of Overriding Considerations [input unchecked] was [input checked] was not] adopted for this project.
6. Findings [input checked] were [input unchecked] were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

http://inyoplanning.org/projects.htm

Signature (Public Agency): [Signature] Title: Planning Director

Date: 7/31/2018 Date Received for filing at OPR:

# **EXHIBIT 5**



<b>Table ES-1 IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>AESTHETICS</b>		
<p>Future solar energy developments within the SEDAs and OVSA could result in potentially significant visual impacts related to: (1) scenic vistas and scenic resources; (2) degradation of the existing visual character or quality of the site and its surroundings; and (3) light and glare.</p>	<p><b>AES-1: Prepare visual studies that include existing views, scenic vistas, and visual resources and evaluate the potential impacts to existing visual resources.</b>                      Site-specific visual studies shall be prepared to assess potential visual impacts for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are <del>distributed generation</del> <u>commercial scale</u> or community scale that have been determined by a <u>qualified</u> County <del>qualified</del>-planner to have the potential to impact visual resources within the individual SEDAs and the OVSA. The visual study shall include assessment of the existing visual environment, including existing views, scenic vistas, and visual resources, and evaluate the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. The study shall include assessment of public views from key observation points, the locations of which shall be determined in consultation with County staff and, if applicable, other public agencies with jurisdiction over the project site (e.g., BLM). Visual simulations shall be prepared to conceptually depict post-development views from the identified key observation points.</p> <p>The analysis and results of the study shall be documented in a memorandum that will include: (1) an assessment of the existing visual environment, including existing views, scenic vistas, and visual resources and (2) an evaluation of the potential of the proposed solar energy project to adversely impact resources and degrade the visual character or quality of the site and its surroundings. Applicable recommendations from the project-specific visual analysis shall be incorporated into the associated individual project design to address identified potential visual impacts.</p> <p><b>AES-2: Reduce potential effects of glare by preparing site-specific glare studies that inform project design.</b>                      Site-specific glare studies shall be prepared for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are <del>distributed generation</del> <u>commercial scale</u> or community scale that have been determined by a <u>qualified</u> County <del>qualified</del>-planner to have the potential to impact visual resources within the individual SEDAs and the OVSA to assess potential glare impacts. Applicable results and recommendations from the project-specific glare study shall be incorporated into the associated individual project designs to address identified potential visual impacts.</p>	<p>Significant and Unavoidable</p>

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>AESTHETICS (cont.)</b>		
	<p><b>AES-3: Minimize visual contrast using colors that blend with surrounding landscape and do not create excessive glare.</b>  <del>The project applicant</del> For future proposed solar energy projects that are greater than 20 MW (utility scale) and for proposed solar energy <u>projects</u> that are <del>distributed generation commercial scale</del> or community scale that have been determined by a <u>qualified County qualified</u> planner to have the potential to impact visual resources, <del>shall treat</del> the surfaces of structures and buildings that are visible from public viewpoints <u>shall be treated</u> so that (1) their colors minimize visual contrast by blending with the surrounding landscape and (2) their colors and finishes do not create excessive glare. Surface color treatments shall include painting or tinting in earth tone colors to blend in with the surroundings desert and mountains. Materials, coatings, or paints having little or no reflectivity shall be used.</p> <p><b>AES-4: Install natural screens to protect ground-level views into the project.</b>  For all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are <u>commercial scale distributed generation</u> or community scale that have been determined by a <u>qualified County qualified</u> planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, <u>and</u> where existing screening topography and vegetation are absent or minimal, natural-looking earthwork landforms (such as berms or contour slopes), vegetative, or architectural screening shall be installed to screen ground-level views into the project site. The shape and height of the earthwork landforms shall be context sensitive and consider distance and viewing angle from nearby public viewpoints.</p> <p><b>AES-5: Prepare lighting plan using BMPs consistent with the Renewable Energy Action Team's (REAT's) Best Management Practices and Guidance Manual (REAT 2010) to reduce night lighting during construction and operation.</b>  The project applicant shall prepare a lighting plan for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are <del>distributed generation commercial scale</del> or community scale that have been determined by a <u>qualified County qualified</u> planner to have the potential to impact visual resources within the individual SEDAs and the OVSA that documents how project lighting would be designed and installed to</p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>AESTHETICS (cont.)</b>		
	<p>minimize night sky impacts during construction and operation. The lighting plan shall include, at minimum, the following lighting design parameters:</p> <ul style="list-style-type: none"> <li>• Lighting shall be of the minimum necessary brightness consistent with operational safety and security <u>requirements</u>.</li> <li>• Lighting shall incorporate fixture hoods/shielding with light directed downward <u>and</u> <del>or</del> toward the area to be illuminated.</li> <li>• Light fixtures that are visible from beyond the project boundary shall have cutoff angles that are sufficient to prevent lamps and reflectors from being visible beyond the project boundary, except where necessary for security.</li> <li>• Project lighting shall be kept off when not in use whenever feasible and consistent with safety and security <u>requirements</u>.</li> <li>•</li> </ul> <p><b>AES-6: Treat PV solar panel glass with anti-reflective coating.</b> For proposed PV facilities greater than 20 MW (utility scale) and for proposed solar energy projects that are <del>distributed generation commercial scale</del> or community scale that have been determined by a <u>qualified</u> County <del>qualified</del> planner to have the potential to impact visual resources within the individual SEDAs and the OVSA, glass used to cover solar panels shall be treated with an anti-reflective coating to further decrease reflection and increase the transmission of light through the glass to the cells.</p> <p><b>AES-7: Coordinate with the Federal Aviation Administration when considering the use of audio visual warning systems.</b> For projects requiring aircraft warning lights, the project applicant shall coordinate with the Federal Aviation Administration (FAA) to consider the use and installation of audio visual warning systems technology<sup>1</sup> on tower structures. If the FAA denies a permit for the use of audio visual warning systems, the project applicant shall limit lighting to the minimum required to meet FAA safety requirements.</p>	

<sup>1</sup> AVWS technology consists of all-weather, day and night, low-voltage, radar-based obstacle avoidance systems that activate lighting and audio signals to alert pilots of the presence of potential obstacles. The lights and audio warnings are inactive when there is no air traffic in the area of potential obstruction.

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>AESTHETICS (cont.)</b>		
	<p><b>AES-8: Projects on federal land will comply with the respective federal agency’s visual guidelines and policies.</b> Solar energy projects proposed on federal land within individual SEDAs and the OVSA shall be coordinated with the federal agency that is responsible for the management of the land and shall comply with the respective federal agency’s visual guidelines and policies.</p> <p><b>AES-9: The project will implement BMPs and measures during construction to reduce the visual and aesthetic effects of the construction site.</b> The following measures shall be implemented for all proposed solar energy projects greater than 20 MW (utility scale) and for proposed solar energy projects that are <del>distributed generation-commercial scale</del> or community scale that have been determined by a <u>qualified</u> County <del>qualified</del>-planner to have the potential to impact visual resources within the individual SEDAs and the OVSA during construction:</p> <ul style="list-style-type: none"> <li>• Construction boundaries and staging areas shall be clearly delineated and where appropriate fenced to prevent encroachment onto adjacent natural areas.</li> <li>• Construction staging and laydown areas visible from nearby roads, residences, and recreational areas shall be visually screened using temporary fencing. Fencing shall be of an appropriate design and color to visually blend with the site’s surroundings.</li> <li>• Existing native vegetation shall be preserved to the greatest extent possible.</li> <li>• Project grading shall utilize undulating surface edges and contours that repeat the natural shapes, forms, textures, and lines of the surrounding landscape.</li> <li>• Exposed soils shall be restored to their original contour and vegetation.</li> <li>• Stockpiled topsoils shall be reapplied to disturbed surfaces.</li> </ul> <p><b>AES-10: Projects requiring overhead electrical transmission connections will consider design and installation techniques that reduce visual impacts.</b> For projects that require overhead electrical transmission connections to existing transmission lines and for the potential off-site transmission corridor to serve the Trona, Chicago Valley, and Charleston View SEDAs, the following shall be considered in the design and alignment of the transmission line connections:</p>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>AESTHETICS (cont.)</b>		
	<ul style="list-style-type: none"> <li>• Avoid placing transmission towers and structures along ridgelines, peaks, or other locations where skylining effects would occur such that they would silhouette against the sky.</li> <li>• Place transmission corridor connection alignments along edges of clearings or at transition areas (i.e., natural breaks in vegetation or topography).</li> <li>• <u>To the extent practicable, treat transmission towers and structures with color and surfaces to reduce visual contrast with the surrounding visual landscape. Alternative methods to reduce visual impacts may be considered for structures that cannot use conventional methods of painting without impeding electrical conveyance or without causing long-term environmental impacts through the constant reapplication of paint. These methods may include, but shall not be limited to, galvanizing or similar factory-applied conductive non-paint treatments.</u></li> <li>• Use of appropriate and context-sensitive transmission tower types (i.e., lattice structures compared to monopoles) to reduce visual contrast with the surrounding visual landscape.</li> </ul>	
<b>AGRICULTURE AND FORESTRY RESOURCES</b>		
<p>Implementation of the REGPA could result in potentially significant impacts to farmlands through the direct and indirect conversion of those resources.</p> <p>No significant impacts to forestry resources would occur with implementation of the REGPA.</p>	<p><b>AG-1: Review development proposals for potential impacts to agricultural operations.</b> The County Agricultural Commissioner shall be responsible for reviewing new development proposals adjacent to agricultural operations to ensure they do not significantly impact agricultural operations.</p> <p><b>AG-2: Conduct site specific investigations for agricultural lands.</b> Site-specific agricultural resource investigations shall be completed for proposed solar development projects within the individual SEDAs and the OVSA that are located on lands utilized for agricultural operations prior to final project design approval. If agricultural operations are identified within the project area, alternative designs should be implemented to avoid and/or minimize impacts to those resources. This may include mitigating conversion of agricultural lands based on the mitigation ratios identified in consultation with affected agencies at the cost of the project applicant to the satisfaction of the County. Mitigation ratios and impact fees assessed, if any, shall be outlined in the Renewable Energy Development Agreement, Renewable Energy Permit, or Renewable Energy Impact Determination.</p>	Less Than Significant

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>AGRICULTURE AND FORESTRY RESOURCES (cont.)</b>		
	<p><b>AG-3: Invasive plant species or noxious weeds.</b>                      To prevent the introduction and spread of noxious weeds, a project-specific integrated weed management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> <li>• The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes.</li> <li>• Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site.</li> <li>• Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored.</li> <li>• The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned.</li> <li>• Native vegetation shall be re-established as quickly as practicable on disturbed sites.</li> <li>• Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions.</li> <li>• Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations.</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>AIR QUALITY</b>		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scaled distributed generation</u>, and/or community scale, and/or facilities) could result in potentially significant impacts related to: (1) daily threshold exceedances during construction activities; (2) daily threshold exceedances during operations; and (3) cumulatively considerable net increase in criteria pollutants during construction activities.</p>	<p><b>AQ-1: Prepare site-specific air quality technical report.</b> Prior to issuance of Major Use Permits for solar energy projects, a site-specific air quality technical report shall be prepared and approved by the County, which will verify compliance with County and Great Basin Unified Air Pollution Control District standards during construction and operation of the solar project.</p> <p>Mitigation measures AQ-2 and AQ-3, as defined below, will be incorporated into the site-specific technical report, and will be implemented during construction and operation of future projects. These measures require implementation of dust control practices during construction activities and solar project operations.</p> <p><b>AQ-2: Reduce fugitive dust and particulate matter emissions during construction.</b> To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rules 401 and 402 as well as applicable best management practices (BMP)s from the Renewable Energy Action Team’s (REAT’s) Best Management Practices and Guidance Manual (REAT 2010), solar projects shall implement fugitive dust and particulate matter emissions control measures including, but not limited to the following:</p> <ul style="list-style-type: none"> <li>• Water and/or coarse rock all active construction areas as necessary and indicated by soil and air conditions;</li> <li>• Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;</li> <li>• Pave or apply (non-toxic) soil stabilizers on all unpaved access roads;</li> <li>• Sweep daily (with water sweepers) all paved access roads; Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;</li> <li>• Suspend excavation and grading activity when sustained winds make reasonable dust control difficult to implement, e.g., for winds over 25 miles per hour (mph).</li> <li>• Limit the speed of on-site vehicles to 15 mph.</li> </ul>	<p>Less Than Significant</p>

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>AIR QUALITY (cont.)</b>		
	<p><b>AQ-3: Implement dust control measures during operation.</b>                      To control emissions of particulate matter, and to ensure compliance with Great Basin Unified Air Pollution Control District Rule 401 and 402 as well as applicable BMPs from REAT’s Best Management Practices and Guidance Manual (REAT 2010), solar projects shall incorporate feasible dust control measures into the site design including, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>• <u>Incorporate perimeter sand fencing into the overall design to prevent migration of exposed soils into the surrounding areas. The perimeter fence is intended to provide long-term protection around vulnerable portions of the site boundary; it is also intended to prevent off-road site access and sand migration across site boundaries and the associated impacts.</u></li> <li>• <u>Incorporate wind deflectors intermittently across solar project sites. The solar panels themselves, especially where installed to transverse primary wind direction, will provide some measure of protection of the ground surface. Wind deflectors enhance this effect by lifting winds that may otherwise jet beneath panels, thereby disrupting long wind fetches, and reducing surface wind velocities and sand migration.</u></li> <li>• <u>Orient infrastructure/solar panels perpendicular to primary wind directions; and</u></li> <li>• <u>Adjust panel operating angles to reduce wind speeds under panels.</u></li> <li>• <u>Perform revegetation in areas temporarily denuded during construction. These areas would be replanted with native plant species that exist on the site presently. Irrigation would be applied temporarily during the plant establishment period (typically multiple years), but after establishment it is expected that these areas would require little or no maintenance. Vegetation provides dust control by protecting and preventing threshold wind velocities at the soil surface. Studies have shown that an 11 to 54 percent vegetation cover on a site can provide up to 99 percent PM10 control efficiency (GBUAPCD 2008).</u></li> <li>• <u>As the installation of solar panels and associated equipment progresses, each area that is completed (i.e. where no further soil disturbance is anticipated) will be treated with a dust palliative to prevent wind erosion. CARB certifications indicate that the application of dust suppressants can reduce PM10 emissions by 84 percent or more (CARB 2011).</u></li> </ul>	



<b>Table ES-1 (cont.)</b> <b>IMPACTS AND PROPOSED MITIGATION</b>		
Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES</b>		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scaled distributed generation, and/or community scale, and/or facilities</u>) could result in potentially significant impacts related to sensitive biological resources. Potential impacts to specific resource areas are described below.</p>	<p><b>BIO-1: Prepare project level biological resources evaluation and mitigation and monitoring plan.</b>  <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact biological resources as determined by a qualified biologist (defined as a biologist with documented experience or training related to the subject species), a project level biological resource evaluation shall be prepared by a qualified biologist for the project. The biological resource evaluation shall include field reconnaissance and focused surveys as determined necessary by a qualified biologist to identify special status species and natural communities present or having the potential to occur on the site, an evaluation of the extent of those habitats, an evaluation of the potential for impacts to each special status species and/or habitat, and shall prescribe specific mitigation measures to avoid or reduce impacts to biological resources to the maximum extent practicable. The qualifications of any biologists conducting special status species surveys or focused habitat assessments will be submitted to CDFW prior to conducting fieldwork. The level of biological resource analysis will be based on factors such as the size of the proposed project, the and extent of impacts to biological resources, and the sufficiency of existing data to determine impacts.</u></p> <p><u>An evaluation of the potential for off-site impacts to special status species and sensitive habitats will be included in the biological resources evaluation, especially for projects involving groundwater pumping. Chapter 2 of the Basin Plan protects beneficial uses for groundwater with respect to groundwater recharge and freshwater replenishment and beneficial uses for wildlife habitats and flora and fauna including cold freshwater habitat, warm freshwater habitat, wildlife habitat, rare, threatened, or endangered species, spawning, reproduction, and development, preservation of biological habitats of special significance, and migration of aquatic organisms (RWQCB 1995). A project-specific evaluation of potential impacts to beneficial uses for groundwater as specified in the Basin Plan will be included in the biological resources evaluation.</u></p>	<p>Significant and Unavoidable</p>

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>For projects in the Chicago Valley or Charleston View SEDAs, potential impacts to special status species and/or riparian and other groundwater dependent habitat in the Amargosa Watershed will be evaluated. If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch. USFWS and CDFW shall be contacted during preparation of the biological resources evaluation to obtain the best available scientific data on such potential impacts including existing hydrologic studies (e.g., the unpublished State of the Basin Report-2014 prepared by Andy Zdon and Associates, Inc).</u></p> <p><u>For projects with the potential to impact on- or off-site special status species or habitats as determined in the biological resources evaluation, a project-specific biological resources mitigation and monitoring plan shall be prepared in cooperation with and that meets the approval of permitting agencies. The plan shall be implemented during all phases of the project and shall identify appropriate mitigation levels to compensate for significant direct, indirect, and cumulative impacts, including habitat, special status plant, and wildlife species losses as well as impacts to groundwater dependent vegetation or off-site impacts to special status species or sensitive habitats due to groundwater pumping. The plan shall address at a minimum:</u></p> <ul style="list-style-type: none"> <li>• Biological resource avoidance and minimization measures and mitigation, monitoring and compliance measures required by federal, state, and local applicable permitting agencies.</li> <li>• Documentation (based on surveys) of sensitive plant and wildlife expected to be affected by all phases of the project (project construction, operation, abandonment, and decommissioning). Agencies may request additional surveying, based on the documentation or past experience working with the resources. Include measures to avoid or minimize impacts to species and habitat.</li> <li>• A detailed description of measures to minimize or mitigate permanent and temporary disturbances from construction activities.</li> <li>•</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>•</li> </ul>	
	<ul style="list-style-type: none"> <li>• All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction.</li> <li>• Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities.</li> <li>• Duration for each type of monitoring and a description of monitoring methodologies and frequency.</li> <li>• Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful.</li> <li>• All standards and remedial measures to be implemented if performance standards and criteria are not met.</li> <li>• A closure/decommissioning or abandonment plan, including a description of funding mechanism(s).</li> <li>• A process for proposing plan modifications to the County project manager.</li> <li>• All locations on a map, at an approved scale, of sensitive plant and wildlife areas subject to disturbance and areas requiring temporary protection and avoidance during construction.</li> <li>• Aerial photographs or images, at an approved scale, of areas to be disturbed during project construction activities.</li> <li>• Duration for each type of monitoring and a description of monitoring methodologies and frequency.</li> <li>• Performance standards and criteria to be used to determine if/when proposed mitigation is or is not successful.</li> <li>• All standards and remedial measures to be implemented if performance standards and criteria are not met.</li> <li>• A closure/decommissioning or abandonment plan, including a description of funding mechanism(s).</li> <li>• A process for proposing plan modifications to the County project manager.</li> </ul>	

<b>Table ES-1 (cont.)</b> <b>IMPACTS AND PROPOSED MITIGATION</b>		
Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
<p>Impacts to special status plant species could occur during construction and/or operation of the future solar developments under the REGPA.</p>	<p><b>BIO-2: Minimize impacts to special status plants.</b>  <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA, a CDFW-approved botanist shall evaluate the potential for special status plant species to occur on the site and conduct surveys, if necessary, to determine presence or infer absence of special status plants on the site following the November 24, 2009 <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities</i> or the most current guidelines. When special status plants are found on a site, the project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, to the maximum extent feasible, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs, with the potential to impact special status plant species as determined by a qualified biologist/botanist, a qualified botanist shall determine the presence or absence of special status plants within the project site. The following steps shall be implemented to document special-status plants, as determined necessary by the botanist:</u></p> <ul style="list-style-type: none"> <li>● <del>Review Existing Information. The botanist shall review existing information to develop a list of special status plants that could grow in the specific project area. Sources of information consulted shall include CDFW’s CNDDDB, the CNPS electronic inventory, and previously prepared environmental documents. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of sensitive plants from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.</del></li> <li>● <del>Coordinate with Agencies. The botanist shall coordinate with the appropriate agencies (i.e., CDFW and USFWS) to discuss botanical resource issues and determine the appropriate level of surveys necessary to document special status plants.</del></li> <li>● <del>Conduct Field Studies. The botanist shall evaluate existing habitat conditions for each project and determine what level of botanical surveys may be required. The type of botanical survey shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on these factors and the proposed construction activity, one or a combination of the</del></li> </ul>	<p>Less Than Significant</p>

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>following levels of survey may be required:</p> <ul style="list-style-type: none"> <li>● <del>Habitat Assessment.</del> A habitat assessment shall be conducted to determine whether suitable habitat is present. This type of assessment can be conducted at any time of year and is used to assess and characterize habitat conditions and determine whether return surveys are necessary. If no suitable habitat is present, no additional surveys shall be required.</li> <li>● <del>Species Focused Surveys.</del> Species focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status plants. The surveys shall focus on special status plants that could grow in the region, and would be conducted during a period when the target species are evident and identifiable.</li> <li>● <del>Floristic Protocol Level Surveys.</del> Floristic surveys that follow the CNPS Botanical Survey Guidelines shall be conducted in areas that are relatively undisturbed and/or have a moderate to high potential to support special status plants. The CNPS Botanical Survey Guidelines require that all species be identified to the level necessary to determine whether they qualify as special status plants, or are plant species with unusual or significant range extensions. The guidelines also require that field surveys be conducted when special status plants that could occur in the area are evident and identifiable. To account for different special status plant identification periods, one or more series of field surveys may be required in spring and summer months.</li> <li>● <del>Map Special Status Plants.</del> Special status plant populations identified during the field surveys shall be mapped and documented as part of the CEQA process, as applicable. Project development plans shall consider avoidance to the extent practicable. If avoidance is not practicable while otherwise obtaining the projects objectives, then other suitable measures and mitigation shall be implemented in coordination with the appropriate regulatory agency (i.e., USEFWS, CDFW, BLM).</li> </ul> <p>If special status plants are identified in the project area <u>and complete avoidance of direct and indirect impacts is not feasible as determined by the County</u>, the following measures shall be implemented to avoid and minimize impacts on special status plants:</p> <ul style="list-style-type: none"> <li>● <del>The project shall be redesigned or modified to avoid direct and indirect impacts on special status plants, if feasible.</del></li> <li>● <del>If feasible, when special status plants are found on a site, the project shall be</del></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>redesigned or modified to avoid direct and indirect impacts on special status plants, as determined by the County. In order to avoid direct and indirect impacts to special status plants, the projects should be re-sited or re-configured to provide an avoidance buffer of at least 0.25 mile from special status plant populations to account for the physical and biological processes that provide these species with their habitat and pollinator needs.</u></p> <ul style="list-style-type: none"> <li>• <u>For projects that are determined to have the potential to result in “take” of state or federally-listed plant species, consultation shall be conducted with CDFW or USFWS respectively prior to project commencement, and appropriate mitigation measures developed if necessary.-</u></li> <li>• <del>Special status plants near the project site shall be protected by installing environmentally sensitive area fencing (orange construction barrier fencing) around special status plant populations. The environmentally sensitive area fencing shall be installed at least 20 feet from the edge of the population. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area.</del></li> <li>• <del>No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. If When individuals of a special status species occur within an area proposed for construction and take cannot be avoided, avoidance of special status plants is not feasible, mitigation shall be developed in coordination with USFWS and/or CDFW to reduce impacts on the local population of the special status species. No project shall destroy the entire known population of a special status plant species within any SEDA or the OVSA. Mitigation measures approved by USFWS and/or CDFW may include transplantation If individuals of a special status species occur within an area proposed for construction and take cannot be avoided, the plants shall be transplanted under the direction of a qualified CDFW-approved botanist if transplantation of such species is deemed likely to succeed, or seed shall be collected prior to destruction of the plants and dispersed in suitable habitats not impacted by construction, if such habitats exist and seed collection is deemed likely to be successful by a qualified CDFW-approved botanist with experience propagating the species in</del></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>question. In all cases, CDFW will be notified at least 10 days prior to removal of any special status plant to allow transplantation or collection of seed at their discretion.</p> <ul style="list-style-type: none"> <li>• <u>If transplanting is proposed, the botanist shall coordinate with the appropriate resource agencies and local experts to determine whether transplantation is feasible. If the agencies concur that transplantation is a feasible mitigation measure, the botanist shall develop and implement a transplantation plan through coordination with the appropriate agencies. The special status plant transplantation plan shall involve identifying a suitable transplant site; moving <u>some or all of the plant material and seed bank to the transplant site; collecting seed material and propagating it in a nursery (in some cases it is appropriate to keep plants onsite as nursery plants and sources for seed material); and monitoring the transplant sites to document recruitment and survival rates. Monitoring shall be conducted for a period of five years and transplantation shall be considered successful if an 80 percent survival rate has been achieved by the end of the five-year monitoring period.</u></u></li> <li>• <u>A mitigation and monitoring plan shall be developed by a qualified botanist/restoration ecologist and submitted to CDFW for approval prior to approval of the proposed project. The mitigation and monitoring plan will dictate appropriate avoidance and minimization measures, compensatory mitigation, and monitoring requirements as pertinent to the specific species and level of impact(s). Mitigation shall include, but is not limited to 1) protection of special status plant populations not directly impacted by construction or implementation of the project as stated above; 2) transplantation and/or collection of seed from impacted plants if feasible, as stated above; and 3) the preservation in perpetuity of an equivalent or larger off-site population for every individual or population of special status plant impacted including sufficient land surrounding the preserved population to ensure its survival in perpetuity as determined by a qualified botanist/restoration ecologist. The qualified botanist/restoration ecologist shall include plans to restore and enhance the preserved populations to the extent feasible.</u></li> <li>• <u>If any solar development projects are proposed in the Laws SEDA that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for impacts to the hydrology of Fish Slough and/or populations of Fish Slough milk-vetch, pursuant to Mitigation Measure HYD-2 in Section 4.9, Hydrology</u></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>and Water Quality. If any solar development projects are proposed in the Chicago Valley or Charleston View SEDAs that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for down-watershed impacts to the habitats for special status plants in the Amargosa Watershed including the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic.” If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status plant species (e.g., Fish Slough, marshes, riparian areas, alkaline flats in the Amargosa Watershed and the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic”), a management plan will be prepared in coordination with the County and submitted to the appropriate resource agency with oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on off-site habitat for special status plants such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County.</u></p>	
<p>Impacts to special status wildlife species could occur as a result of implementation of the REGPA if construction and/or operation of the future solar developments would occur within or adjacent to suitable habitat. This includes potential impacts to special status fish, amphibians, reptiles, birds, and mammals.</p>	<p><b>BIO-3: Minimize impacts to special status wildlife.</b>  <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA with the potential to impact special status wildlife as determined by a qualified biologist, a qualified CDFW-approved wildlife biologist shall conduct a survey to document the presence or absence of suitable habitat for special status wildlife in the project site. The following steps shall be implemented to document special status wildlife and their habitats for each project, as determined by the CDFW-approved wildlife biologist:</u></p> <ul style="list-style-type: none"> <li>• <u>Review Existing Information.</u> The wildlife biologist shall review existing information to develop a list of special status wildlife species that could occur in the project area or be impacted by the proposed project, either directly or indirectly (e.g., groundwater pumping could result in indirect impacts to off-site habitats for special status wildlife). The following information shall be reviewed as part of this process: the USFWS special status species list for the project region, CDFW’s CNDDDB, previously prepared environmental documents, and USFWS issued biological opinions for</li> </ul>	<p>Significant and Unavoidable</p>



**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>previous projects. If the project is taking place on BLM or state administered lands (e.g., BLM, State Trust Lands), the list of special status wildlife from that land managing agency shall be obtained and reviewed in addition to the lists previously mentioned.</p> <ul style="list-style-type: none"> <li>• Coordinate with State and Federal Agencies. The wildlife biologist shall coordinate with the appropriate agencies (CDFW, USFWS, BLM) to discuss wildlife resource issues in the project region and determine the appropriate level of surveys necessary to document special status wildlife and their habitats.</li> <li>• Conduct Field Studies. The wildlife biologist shall evaluate existing habitat conditions and determine what level of biological surveys may be required. The type of survey required shall depend on species richness, habitat type and quality, and the probability of special status species occurring in a particular habitat type. Depending on the existing conditions in the project area and the proposed construction activity, one or a combination of the following levels of survey may be required:</li> <li>• Habitat Assessment. A habitat assessment determines whether suitable habitat is present. The wildlife biologist shall conduct project-specific habitat assessments consistent with protocols and guidelines issued by responsible agencies for certain special status species- (e.g., USFWS' and CDFW have issued protocols for evaluating bald eagle habitat (2004 Protocol for Evaluating Bald Eagle Habitat and Populations in California). Habitat assessments are used to assess and characterize habitat conditions and to determine whether return surveys are necessary. If no suitable habitat is present for a given special status species, no additional species-focused or protocol surveys shall be required.</li> <li>• Species-Focused Surveys. Project-specific species-focused surveys (or target species surveys) shall be conducted if suitable habitat is present for special status wildlife and if it is necessary to determine the presence or absence of the species in the project area. The wildlife biologist shall conduct project-specific surveys focusing on special status wildlife species that have the potential to occur in the region. The surveys shall be conducted during a period when the target species are present and/or active.</li> <li>• Protocol-Level Wildlife Surveys. The wildlife biologist shall conduct project specific protocol level surveys for special status species with the potential to be impacted by the proposed project. The surveys shall comply with the appropriate protocols and</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>guidelines issued by responsible agencies for the special status species. USFWS and CDFW have issued survey protocols and guidelines for several special- status wildlife species that could occur in the project region, including (but not limited to): bald eagle, burrowing owl, golden eagle, Swainson’s hawk, least Bell’s vireo, willow flycatcher, desert tortoise, and <del>San Joaquin</del> desert kit fox. The protocols and guidelines may require that surveys be conducted during a particular time of year and/or time of day when the species is present and active. Many survey protocols require that only a USFWS- or CDFW-approved biologist perform the surveys. The project proponent shall coordinate with the appropriate state or federal agency biologist before the initiation of protocol-level surveys to ensure that the survey results would be valid. Because some species can be difficult to detect or observe, multiple field techniques may be used during a survey period and additional surveys may be required in subsequent seasons or years as outlined in the protocol or guidelines for each species.</p> <ul style="list-style-type: none"> <li>• <u>Habitat Mapping.</u> The wildlife biologist shall map special status wildlife or suitable habitat identified during the project-specific field surveys.</li> <li>• <u>A Scientific Collecting Permit is required to take, collect, capture, mark, or salvage, for scientific, educational, and non-commercial propagation purposes, mammals, birds and their nests and eggs, reptiles, amphibians, fishes and invertebrates (Fish and Game Code Section 1002 and Title 14 Sections 650 and 670.7). All biologists will be required to obtain a Scientific Collecting Permit that may be required to handle any live or dead animals during construction or operation of a project.</u></li> </ul> <p>In addition, the following measures should be implemented to avoid and minimize impacts on special status species and their habitats if they occur within a site:</p> <ul style="list-style-type: none"> <li>• For projects that are determined to have the potential to result in “take” of state or federally-listed animal species, consultation shall be conducted with CDFW or USFWS respectively <u>and appropriate mitigation measures developed as necessary, and take authorization shall be obtained prior to project commencement, if relevant.</u></li> <li>• <del>Any special status wildlife and/or their habitats identified within a project site outside of the work area will be protected by installing environmentally sensitive area fencing around habitat features, such as seasonal wetlands, burrows, and nest trees. The</del></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><del>environmentally sensitive area fencing or staking shall be installed at a minimum distance from the edge of the resource as determined through coordination with state and federal agency biologists (USFWS and CDFW, BLM). The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area.</del></p> <ul style="list-style-type: none"> <li>• If ground disturbing activities are required prior to site mobilization, such as for geotechnical borings or hazardous waste evaluations, a <u>qualified CDFW-approved biologist</u> shall be present to monitor any actions that could disturb soil, vegetation, or wildlife.</li> <li>• <u>In areas that could support desert tortoise or any other sensitive wildlife species, a County-approved qualified biologist with the appropriate CDFW and/or USFWS approvals for the species being salvaged and relocated shall be onsite and respond accordingly should an animal need to be relocated.</u> <del>walk immediately ahead of equipment during the clearing and grading activities to salvage and relocate the wildlife in the path of the operations. The species shall be salvaged and relocated to off-site habitat when conditions will not jeopardize the health and safety of the biologist.</del></li> <li>• Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. Vehicles shall not exceed 25 mph on the project site. Vehicles shall abide by posted speed limits on paved roads.</li> <li>• <del>For projects with the potential to affect desert tortoise, parking and storage shall occur within the area enclosed by desert tortoise exclusion fencing to the extent feasible. No vehicles or construction equipment parked outside the fenced area shall be moved prior to an inspection of the ground beneath the vehicle for the presence of desert tortoise. If a desert tortoise is observed, it shall be left to move on its own. If it does not move within 15 minutes, a CDFW and USFWS approved desert tortoise biologist may remove and relocate the animal to a safe location if temperatures are within the range</del></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><del>described in the Desert Tortoise Field Manual (USFWS 2013 or most recent version, available from the Ventura Fish and Wildlife Office website <a href="http://www.fws.gov/ventura/endangered/species/surveys_protocol.html">http://www.fws.gov/ventura/endangered/species/surveys_protocol.html</a>). All access roads outside of the fenced project footprint shall be delineated with temporary desert tortoise exclusion fencing on either side of the access road, unless otherwise authorized by the County project manager and County biologist.</del></p> <ul style="list-style-type: none"> <li>• A <del>qualified</del> <u>CDFW-approved</u> biologist shall be designated to oversee compliance with biological resources avoidance and minimization measures during mobilization, ground disturbance, grading, construction, operation, and closure/decommissioning, or project abandonment, particularly in areas containing or known to have contained sensitive biological resources, such as special status species and unique plant assemblages. The <del>qualified</del> <u>CDFW-approved</u> biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The boundaries of all areas to be disturbed (including staging areas, access roads, and sites for temporary placement of spoils) shall be delineated with stakes and flagging prior to construction activities in consultation with the biological monitor. Spoils shall be stockpiled in disturbed areas lacking native vegetation and which do not provide habitat for special status species. Parking areas, staging and disposal site locations shall also be located in areas without native vegetation or special status species habitat. All disturbances, vehicles, and equipment shall be confined to the flagged areas. The <del>qualified</del> <u>CDFW-approved</u> biologist shall be responsible for actions including, but not limited to, the following:             <ul style="list-style-type: none"> <li>○ Clearly marking sensitive biological resource areas and inspecting the areas at appropriate intervals for meeting regulatory terms and conditions.</li> <li>○ <u>Inspecting, daily, active construction areas where wildlife may have become trapped (for example, trenches, bores, and other excavation sites that constitute wildlife pitfalls outside the permanently fenced area) before beginning construction. At the end of the day, conducting wildlife inspections of installed structures that would entrap or not allow escape during periods of construction inactivity. Periodically inspecting areas with high vehicle activity (such as parking lots) for wildlife in harm’s way.</u></li> <li>○ <u>Periodically inspect stockpiled material and other construction material and</u></li> </ul> </li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>equipment (including within the fenced areas) throughout the day as some species such as desert kit fox may enter the project site at any time.</u></p> <ul style="list-style-type: none"> <li>○ Overseeing special status plant salvage operations.</li> <li>○ Immediately recording and reporting hazardous spills immediately as directed in the project hazardous materials management plan.</li> <li>○ Coordinating directly and regularly with permitting agency representatives regarding biological resources issues, and implementation of the biological resource avoidance and minimization measures.</li> <li>○ Maintaining written records regarding implementation of the biological resource avoidance and minimization measures, and providing a summary of these records periodically in a report to the appropriate agencies.</li> <li>○ Notifying the project owner and appropriate agencies of non-compliance with biological resource avoidance and minimization measures.</li> <li>○ At the end of each work day, the biological monitor shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled or if backfilling is not feasible, the biological monitor shall ensure that all trenches, bores, and other excavations are sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with desert tortoise-exclusion fencing. All trenches, bores, and other excavations outside the areas permanently fenced with desert tortoise exclusion fencing shall be inspected periodically, but no less than three times, throughout the day and at the end of each workday by the <del>qualified</del>CDFW-approved biologist. Should a tortoise or other wildlife become trapped, the CDFW and USFWS-approved desert tortoise biologist shall remove and relocate the individual as described in the project’s Desert Tortoise Relocation/Translocation Plan. Any wildlife encountered during the course of construction shall be allowed to leave the construction area unharmed.</li> <li>○ Any construction pipe, culvert, or similar structure with a diameter greater than <del>3</del><u>1</u> inches, stored less than 8 inches aboveground, and within desert tortoise habitat (i.e., outside the permanently fenced area) for one or more nights, shall be inspected by the biological monitor for desert tortoises or other</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>special status species such as fringe-toed lizard, before the material is moved, buried, or capped. As an alternative, all such structures may be capped before being stored outside the fenced area, or placed on pipe racks. These materials would not need to be inspected or capped if they are stored within the permanently fenced area after the clearance surveys have been completed.</p> <ul style="list-style-type: none"> <li>• Access roads, pulling sites, storage and parking areas outside of the fenced solar facility area shall be designed, installed, and maintained with the goal of minimizing impacts to native plant communities and sensitive biological resources. Transmission lines and all electrical components shall be designed, installed, and maintained in accordance with the APLIC Suggested Practices for Avian Protection on Power Lines (APLIC 2006) and Mitigating Bird Collisions with Power Lines (APLIC 2004) to reduce the likelihood of bird electrocutions and collisions.</li> <li>• Facility lighting shall be designed, installed, and maintained to direct light downwards towards the project site and avoid light spillover to wildlife habitat.</li> <li>• Construction and operation related noise levels shall be minimized to minimize impacts to wildlife.</li> <li>• All vertical pipes <del>greater than 4 inches in diameter</del> shall be capped to prevent the entrapment of birds and other wildlife.</li> <li>• All vehicles and equipment shall be maintained in proper working condition to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials. The biological monitor shall be informed of any hazardous spills immediately. Hazardous spills shall be immediately cleaned up and the contaminated soil properly disposed of at a licensed facility. Servicing of construction equipment shall take place only at a designated area. Service/maintenance vehicles shall carry a bucket and pads to absorb leaks or spills.</li> <li>• Road surfacing and sealants as well as soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants. Anticoagulants shall not be used for rodent control. Pre-emergents and other herbicides with documented residual toxicity shall not be used. Herbicides shall be applied in conformance with federal, state, and local laws and according to the guidelines for wildlife- safe use of herbicides in BIO-24 (Weed Management Plan).</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>• The following measures shall be implemented to minimize attractants to wildlife:               <ul style="list-style-type: none"> <li>○ If the application of water is needed to abate dust in construction areas and on dirt roads, use the least amount needed to meet safety and air quality standards and prevent the formation of puddles, which could attract wildlife to construction sites. The biological monitor shall patrol these areas to ensure water does not puddle and attract desert tortoise, common ravens, and other wildlife to the site and shall take appropriate action to reduce water application where necessary.</li> <li>○ Water shall be prohibited from collecting or pooling for more than 24 hours after a storm event within the project retention basin. Standing water within the retention basin shall be removed, pumped, raked, or covered. Alternative methods or the timeframe for allowing the water to pool may be modified with the approval of the biological monitor.</li> <li>○ Dispose trash and food-related items in self-closing, sealable containers with lids that latch to prevent wind and wildlife from opening containers. Empty trash containers daily and remove from the project site those associated with construction when construction is complete.</li> <li>○ To avoid attracting insectivorous birds and bats, prepare a facility vector (such as mosquitoes or rodents) control plan, as appropriate, that meets the permitting agency approval and would be implemented during all phases of the project.</li> </ul> </li> <li>• Workers or visitors, while on project property, shall be prohibited from feeding wildlife, bringing domestic pets to the project site, collecting native plants, or harassing wildlife.</li> <li>• To reduce the potential for the transmission of fugitive dust the project proponent shall implement dust control measures. These shall include:               <ul style="list-style-type: none"> <li>○ The project proponent shall apply non-toxic soil binders, equivalent or better in efficiencies than the CARB- approved soil binders, to active unpaved roadways, unpaved staging areas, and unpaved parking area(s) throughout construction to reduce fugitive dust emissions.</li> <li>○ Water the disturbed areas of the active construction sites at least three times per day and more often if uncontrolled fugitive dust is noted. Enclose, cover,</li> </ul> </li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>water twice daily, and/or apply non-toxic soil binders according to manufacturer’s specifications to exposed piles with a 5 percent or greater silt content. Agents with known toxicity to wildlife shall not be used <del>unless approved by the County biologist and County project manager.</del></p> <ul style="list-style-type: none"> <li>○ Establish a vegetative ground cover (in compliance with biological resources impact mitigation measures above) or otherwise create stabilized surfaces on all unpaved areas at each of the construction sites within 21 days after active construction operations have ceased.</li> <li>○ Increase the frequency of watering, if water is used as a soil binder for disturbed surfaces, or implement other additional fugitive dust mitigation measures, to all active disturbed fugitive dust emission sources when wind speeds (as instantaneous wind gusts) exceed 25 mph.</li> <li>● A project-specific worker environmental awareness program (WEAP) shall be developed and carried out during all phases of the project (site mobilization, ground disturbance, grading, construction, operation, closure/decommissioning, or project abandonment, and restoration/reclamation activities). The WEAP shall include the biological resources present and the measures for minimizing impacts to those resources. Interpretation for non-English speaking workers shall be provided, and all new workers shall be instructed in the WEAP. The project field construction office files will contain the names of onsite personnel (for example, surveyors, construction engineers, employees, contractors, contractor’s employees/ subcontractors) who have participated in the education program. All employees and contractors shall be trained to carry out the WEAP and on their role in ensuring the effectiveness of implementing the Plan. At a minimum, the WEAP shall including the following:             <ul style="list-style-type: none"> <li>○ Photos and habitat descriptions for special status species that may occur on the project site and information on their distribution, general behavior, and ecology.</li> <li>○ Species sensitivity to human activities.</li> <li>○ Legal protections afforded the species.</li> <li>○ Project measures for protecting species.</li> <li>○ State and federal law violation penalties.</li> <li>○ Worker responsibilities for trash disposal and safe/ humane treatment of</li> </ul> </li> </ul>	



**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>special status species found on the project site, associated reporting requirements, and specific required measures to prevent taking of threatened or endangered species.</p> <ul style="list-style-type: none"> <li>○ Handout materials summarizing the contractual obligations and protective requirements specified in project permits and approvals.</li> <li>○ Project site speed limit requirements and penalties.</li> <li>● A project specific restoration, re-vegetation, and reclamation plan that meets the approval of permitting agencies shall be prepared and carried out for all projects. The plan shall address at a minimum:             <ul style="list-style-type: none"> <li>○ Minimizing natural vegetation removal and the consideration of cutting or mowing vegetation rather than total removal, whenever possible.</li> <li>○ Salvage and relocation of cactus and yucca from the site before beginning construction.</li> <li>○ Identification of protocols to be used for vegetation salvage.</li> <li>○ Reclaiming areas of temporarily disturbed soil using certified weed free native vegetation and topsoil salvaged from excavations and construction activities.</li> <li>○ Restoration and reclamation of temporarily disturbed areas, including pipelines, transmission lines, staging areas, and temporary construction-related roads as soon as possible after completion of construction activities. The actions are recommended to reduce the amount of habitat converted at any one time and promote recovery to natural habitats.</li> <li>○ <u>Specifying proper seasons and timing of restoration and reclamation activities to ensure success.</u></li> </ul> </li> <li>● <u>If any solar development projects are proposed that would require groundwater pumping, a hydrologic study shall be conducted to determine the potential for indirect off-site impacts to special status wildlife species and/or their habitats. If such studies conclude that any project has the potential to result in indirect impacts to the hydrology of off-site habitat for special status wildlife species (e.g., Amargosa vole, Ash Meadows naucorid), a management plan will be prepared in coordination with the County and submitted for approval to the appropriate resource agency with regulatory oversight for the species or habitat in question. The plan shall describe any appropriate monitoring, such as vegetation and/or water table monitoring, and</u></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>prescribe mitigation to offset the impacts of the project on off-site habitat for special status wildlife such as preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County.</u></p>	
	<p><b>BIO-4: Minimize impacts to special status fish.</b>  <u>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status fish, a project-specific groundwater impact analysis will be conducted to address potential impacts to habitat for special status fish. In addition, consultation with USFWS shall be conducted for projects with the potential to impact federally listed species including Owens pupfish or Owens tui chub and coordination with CDFW will be conducted for projects with the potential to impact state listed species or CDFW species of special concern including Owens sucker and Owens speckled dace. For projects that are determined to have the potential to result in “take” of state or federally listed fish species, consultation shall be conducted with CDFW or USFWS respectively and take authorization obtained prior to project commencement.</u></p> <p><u>For all projects proposed in the Charleston View and Chicago Valley SEDAs, an analysis of potential down-watershed impacts to special-status fish species in the Amargosa Watershed will be conducted prior to project approval, if the project involves impacts to groundwater and/or requires pumping of groundwater (e.g. solar thermal projects). If the project is determined to have the potential to result in down-watershed impacts that could alter the hydrology of habitats for special-status fish species, a mitigation and monitoring plan will be prepared by the applicant to address potential impacts to groundwater and down-watershed biological resources and submitted to USFWS and CDFW for approval prior to project implementation. Mitigation measures will be developed in coordination with USFWS and CDFW to offset these impacts. Mitigation measures should include but are not limited to 1) a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio; 2) hydrological and biological monitoring of the impacts of groundwater pumping on the groundwater system and the sensitive habitats down-watershed; and 3) adaptive management to increase the ratio of water rights purchased and retired and restore habitats down-watershed if hydrological and biological monitoring indicates that the projects groundwater pumping is</u></p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>having detrimental effects to sensitive biological resources (e.g., special status species or sensitive natural communities as designated by USFWS, CDFW, or CNPS) within the watershed as determined by a qualified hydrologist/hydrogeologist or biologist in coordination with USFWS and/or CDFW. For projects that are determined to have the potential to result in “take” of state or federally listed fish species, consultation shall be conducted with CDFW or USFWS respectively and take authorization obtained prior to project commencement.</u></p> <p><b>BIO-5: Minimize impacts to amphibians.</b> The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status amphibians.</p> <ul style="list-style-type: none"> <li>• Surveys for special status amphibians including but not limited to northern leopard frog, Owens Valley web-toed salamander, and Inyo Mountains slender salamander shall be conducted by a <u>qualified CDFW-approved</u> biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction.</li> <li>• If any of these species are found on a project site during the surveys, CDFW shall be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats.</li> <li>• If federal or state-listed amphibians not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project,</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species. For projects that are determined to have the potential to result in “take” of state or federally-listed amphibian species, consultation shall be conducted with CDFW or USFWS respectively and take authorization shall be obtained prior to project commencement.</p>	
	<p><b>BIO-6: Minimize impacts to desert tortoise.</b>                      The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect desert tortoise in order to avoid, minimize, and mitigate for impacts:</p> <ul style="list-style-type: none"> <li>• Consultation shall be conducted with CDFW and USFWS for any projects where desert tortoise or <u>signs of their presence</u> is found on the site and/or the project is determined by a <u>qualified CDFW-approved</u> biologist to have the potential to impact desert tortoise. In such cases, permits under Section 2080 of the Fish and Game Code and Section 7/10 of FESA authorizing incidental take of desert tortoise will be obtained from CDFW and USFWS respectively prior to implementation of the project, including any project-related ground disturbing activities. All requirements of the 2081/2080.1 permit and the Biological Opinion shall be implemented.</li> <li>• The project proponent shall fully mitigate for habitat loss and potential take of desert tortoise. The project specific mitigation shall be developed in coordination with CDFW and USFWS, and would be reflective of the mitigation measures described in the Biological Opinion prepared by the USFWS for the project.</li> <li>• <u>The project developer shall provide funds for regional management of common ravens through the payment of a per-acre fee as determined in consultation with the USFWS. The fee shall be commensurate with current per-acre fees (at the time of project approval) required by the BLM and the CEC for development projects in the desert with the potential to provide subsidies to common ravens such as shelter, perching sites, and food. The fee shall be used by the Desert Managers Group to manage common ravens in the California desert with the goal of reducing their predation on desert tortoises.</u></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>• Projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, Areas of Critical Environmental Concern, Desert Wildlife Management Areas, Priority Connectivity Areas, and other areas or easements managed for desert tortoises).</li> <li>• On project sites containing desert tortoise, consultation shall be conducted with USFWS and CDFW to determine the need for and/or feasibility of conducting desert tortoise translocation (changing location or position) to minimize the taking of the tortoises, if they are observed within the proposed project area. See <a href="http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/">http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/</a> for federal translocation plan guidance. Translocation plan development and implementation may require, but not be limited to: additional surveys of potential recipient sites; translocated and resident tortoise disease testing and health assessments; monitoring protocols; and consideration of climatic conditions at the time of translocation. Due to the potential magnitude of proposed renewable energy project impacts on desert tortoises, USFWS and CDFW must evaluate translocation efforts on a project by project basis in the context of cumulative effects.</li> <li>• A desert tortoise authorized biologist approved by CDFW and USFWS shall be contracted to oversee and be responsible for ensuring compliance with desert tortoise avoidance and minimization measures before initiation of and during ground-disturbing activities. The desert tortoise biologist shall conduct clearance surveys, tortoise handling, artificial burrow construction, egg handling, and other procedures in accordance with the Guidelines for Handling Desert Tortoise During Construction Projects (Desert Tortoise Council 1999) or the most current USFWS guidance. The desert tortoise biologist shall be present on site from March 15 through October 31 (active season) during ground-disturbing activities in areas outside the tortoise exclusion fencing. It is recommended that the biologist be on call from November 1 to March 14 (inactive season) and checks such construction areas immediately before construction activities begin.</li> <li>• Refer to the Ventura Fish and Wildlife Office website &lt;<a href="http://www.fws.gov/ventura/endangered/species/surveys-protocol.html">http://www.fws.gov/ventura/endangered/species/surveys-protocol.html</a>&gt; for desert</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>tortoise authorized biologist and monitor responsibilities and qualifications, and survey and translocation guidance, and refer to the Nevada Fish and Wildlife Office (desert tortoise recovery office) website &lt;<a href="http://www.fws.gov/nevada/desert_tortoise/dtro/.html">http://www.fws.gov/nevada/desert_tortoise/dtro/.html</a>&gt; for desert tortoise federal recovery plan documents. Methods for clearance surveys, fence specification and installation, tortoise handling, artificial burrow construction, egg handling and other procedures shall be consistent with those described in the 2013 USFWS Desert Tortoise Field Manual available at the Ventura Fish and Wildlife Office website listed above, or more current guidance provided by CDFW and USFWS. All terms and conditions described in the Biological Opinion for the project prepared by the USFWS shall be implemented.</p> <ul style="list-style-type: none"> <li>• The project owner shall undertake appropriate measures to manage the construction site and related facilities in a manner to avoid or minimize impacts to desert tortoise. These measures include, but are not limited to, the following:               <ul style="list-style-type: none"> <li>○ <u>The project applicant shall notify the USFWS and CDFW prior to project commencement and prior to the commencement of any ground disturbing activities.</u></li> <li>○ Before starting project ground disturbing activities, the project proponent shall avoid potential desert tortoise harm by incorporating desert tortoise exclusion fencing into permanent fencing surrounding the proposed facility, and installing desert tortoise exclusion fencing around temporary project construction areas such as staging area, storage yards, excavations, and linear facilities. The tortoise exclusion fencing shall be constructed consistent with the USFWS 2010 Desert Tortoise Exclusion Fence Specifications or the most current guidance provided by USFWS and CDFW, and should be constructed in late winter or early spring to minimize impacts to desert tortoise and accommodate subsequent tortoise surveys.</li> <li>○ Within 24 hours before starting tortoise exclusion fence construction, the desert tortoise biologist shall survey the fence alignment and utility right-of-way alignments and clear desert tortoises from the area. The surveys and relocation methods shall be conducted using techniques approved by the CDFW and USFWS. Following construction of the tortoise exclusion fence, the desert tortoise biologist shall conduct clearance surveys within the fenced area to ensure as many</li> </ul> </li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>desert tortoises as possible have been removed from the site. Burrows and tortoises identified within the project area shall be handled according to the 2013 USFWS Desert Tortoise Field Manual, and tortoises requiring relocation shall be handled in accordance with the project Desert Tortoise Relocation/Translocation Plan.</p> <ul style="list-style-type: none"> <li>○ Heavy equipment may enter the project site following the completion of project area desert tortoise clearance surveys by the desert tortoise biologist. Monitoring initial clearing and grading activities by the biologist will help ensure that tortoises missed during the initial clearance survey are moved from harm’s way.</li> <li>○ The desert tortoise biologist shall be responsible for appropriate documentation and reporting to the permitting agencies for desert tortoises handled, in accordance with the project Desert Tortoise Relocation/Translocation Plan.</li> <li>○ Security gates shall be designed with minimal ground clearance to deter ingress by tortoises. The gates shall be kept closed, except for the immediate passage of vehicles, to prevent desert tortoise passage into the project area.</li> <li>○ Following installation of the desert tortoise exclusion fencing, both the permanent site fencing and temporary fencing in the utility corridors, the fencing shall be regularly inspected by the biological monitor. The biological monitor shall ensure that damage to the permanent or temporary fencing is immediately blocked to prevent tortoise access and permanently repaired within 72 hours between March 15 and October 31, and within 7 days between November 1 and March 14. The biological monitor shall inspect permanent fencing quarterly and after major rains to ensure fences are intact and there is no ground clearance under the fence that would allow tortoises to pass. The biologist shall inspect construction pipes, culverts, or similar structures: (a) with a diameter <del>greater than 3 inches</del> <u>of one inch or greater</u>, (b) stored for one or more nights, (c) less than 8 inches aboveground, and (d) within desert tortoise habitat (outside the permanently fenced area), before the materials are moved, buried, or capped. As an alternative, the materials may be capped before storing outside the fenced area or placing on pipe racks. Inspection or capping is not necessary if the materials are stored within the permanently fenced area after completing desert tortoise clearance surveys.</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>○ The project proponent shall ensure vehicular traffic does not exceed 25 miles per hour within the delineated project areas or on access roads in desert tortoise habitat. On unpaved roads suppress dust and protect air quality by observing a 10-mile per hour speed limit.</li> <li>○ To avoid vehicle impacts to desert tortoise, workers shall be responsible for inspecting the ground under the vehicle for the presence of desert tortoise any time a vehicle or construction equipment is parked in desert tortoise habitat outside the permanently fenced area. If a desert tortoise is seen, it may move on its own. If it does not move within 15 minutes, the desert tortoise biologist may remove and relocate the animal to a safe location.</li> <li>● The project proponent shall develop and implement a Desert Tortoise Relocation/Translocation Plan that is consistent with current USFWS approved guidelines. The goal of the plan will be to safely exclude desert tortoises from within the fenced project area and relocate/translocate them to suitable habitat capable of supporting them, while minimizing stress and potential for disease transmission. The plan shall be developed in consultation with the USFWS to ensure the document does not conflict with conditions issued under an Incidental Take Statement. The plan will utilize the most recent USFWS guidance on translocation that includes siting criteria for the translocation site and control site, methods for translocation/relocation including the holding pen, and post translocation/relocation monitoring. Development and implementation of a translocation plan may require, but may not be limited to, additional surveys of potential recipient sites; disease testing and health assessments of translocated and resident tortoises; and consideration of climatic conditions at the time of translocation. The plan shall designate a relocation site as close as possible to the disturbance site that provides suitable conditions for long term survival of the relocated desert tortoise and outline a method for monitoring the relocated tortoise.</li> <li>● The Desert Tortoise Relocation/Translocation Plan must be approved by the County, CDFW and USFWS prior to any project-related ground disturbing activity. <u>Plans may also be subject to approval by the County as part of the conditions of approval for future projects.</u></li> <li>● Within 30 days after initiation of relocation and/or translocation activities, the Designated Biologist shall provide to the Project Manager for review and approval, a</li> </ul>	



<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>written report identifying which items of the plan have been completed, and a summary of all modifications to measures made during implementation of the plan. Written monthly progress reports shall be provided to the Project Manager for the duration of the plan implementation.</p> <ul style="list-style-type: none"> <li>The project proponent shall design and implement a Raven Monitoring, Management, and Control Plan that is consistent with the most current USFWS raven management guidelines. The goal of the plan shall be to minimize predation on desert tortoises by minimizing project-related increases in raven abundance. The plan shall be approved by <del>the County</del>, CDFW and USFWS prior to the start of any project-related ground disturbing activities. <u>Plans may also be subject to approval by the County as part of the conditions of approval for future projects.</u></li> </ul>	
	<p><b>BIO-7: Minimize impacts to special status reptiles (except desert tortoise).</b> The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect special status reptiles (with the exception of desert tortoise which has separate mitigation measures):</p> <ul style="list-style-type: none"> <li>Surveys for special status reptiles including but not limited to northern sagebrush lizard, Panamint alligator lizard, and Mojave fringe-toed lizard shall be conducted by a <del>qualified</del> <u>CDFW-approved</u> biologist with experience surveying for and/or handling these species. If construction is scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted within two weeks prior to the commencement of construction. If construction is not scheduled to commence during the optimal period of identification for these species, then surveys shall be conducted during the optimal period of identification for these species (in the calendar year prior to construction) and again within two weeks prior to the commencement of construction.</li> <li>If any of these species are found on a project site during the surveys, CDFW will be contacted and avoidance and mitigation measures appropriate to the species will be developed. Avoidance measures could include actions such as waiting to begin construction until the animal passively disperses from the project site, active relocation</li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>of the animal, or allowing construction to begin with the institution of an appropriate no disturbance buffer until the animal has passively dispersed. Mitigation measures could include restoration of temporarily disturbed habitats.</p> <ul style="list-style-type: none"> <li>• If federal or state-listed reptiles not discussed above are determined to have the potential to occur on a project site or otherwise be impacted by the project, consultation shall be conducted with USFWS and CDFW respectively to determine the survey protocol and mitigation measures appropriate to the species.</li> </ul>	
	<p><b>BIO-8: Minimize impacts to Swainson’s hawk.</b> The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect Swainson’s hawk:</p> <ul style="list-style-type: none"> <li>• Surveys shall be conducted for Swainson’s hawk by a <u>qualified CDFW-approved</u> biologist according to the 2010 Swainson’s Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (California Department of Fish and Game [CDFG] 2010) or more recent guidance, unless otherwise directed by CDFW. This guidance dictates survey methods for detecting Swainson’s hawk nesting in or in the vicinity of a project site and measure to avoid and/or reduce impacts to nesting Swainson’s hawk if they are found. The project applicant shall be responsible for coordinating with CDFW and ensuring that the CDFW guidance is implemented.</li> </ul>	
	<p><b>BIO-9: Minimize impacts to burrowing owl.</b> The following measures shall be implemented for any solar development project(s) or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect burrowing owl, unless otherwise directed by CDFW:</p> <ul style="list-style-type: none"> <li>• In the calendar year that construction is scheduled to commence, surveys will be conducted by a <u>qualified CDFW-approved</u> biologist to determine presence/absence of</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>burrowing owls and/or occupied burrows in the project site and accessible areas within 500 feet according to the CDFW’s <i>Staff Report on Burrowing Owls</i> (CDFG 2012). A <del>winter non-breeding season</del> survey will be conducted between December 1 and January 31 and a <del>nesting-breeding season</del> survey will be conducted between April 15 and July 15 according to established protocols (CDFG 2012). Pre-construction surveys will also be conducted within 30 days prior to construction to ensure that no additional burrowing owls have established territories since the initial surveys. If no burrowing owls are found during any of the surveys, no further mitigation will be necessary. If burrowing owls are found, then the following measures shall be implemented prior to the commencement of construction:</p> <ul style="list-style-type: none"> <li>○ During the non-breeding season (September 1 through January 31) burrowing owls should be evicted by passive relocation as described in the <i>Staff Report on Burrowing Owl Mitigation</i>s (CDFG 2012). <u>A burrowing owl exclusion plan will be prepared and submitted to CDFW for approval prior to implementation of burrowing owl exclusion or relocation activities.</u></li> <li>○ Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31); occupied burrows shall not be disturbed and shall be provided with a <del>75-meter</del> protective buffer <u>as stipulated in the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG 2012)</u>, unless a qualified biologist approved by CDFW verifies through non-invasive means that either: (1) the birds have not begun egg laying or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival.</li> <li>○ If on-site avoidance is required, the location of the buffer zone will be determined by a <del>qualified</del> <u>CDFW-approved</u> biologist. The developer shall mark the limit of the <del>75-meter</del> buffer zone with yellow caution tape, stakes, or temporary fencing. The buffer will be maintained throughout the construction period.</li> <li>● Where on-site avoidance is not possible, CDFW should be consulted regarding the appropriate avoidance and minimization measures to avoid impacts to this species.</li> <li>○ <u>Impacts to occupied burrowing owl habitat as defined by CDFW will be mitigated in compliance with the <i>Staff Report on Burrowing Owl Mitigation</i> (CDFG 2012) including restoration of temporarily disturbed habitats to pre-</u></li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>project conditions and compensatory mitigation for permanent impacts. A</u></p> <ul style="list-style-type: none"> <li><u>burrowing owl mitigation plan will be prepared and submitted to CDFW for approval prior to commencement of any ground disturbing activities. The plan will describe potential impacts to burrowing owl resulting from the proposed project and prescribe mitigation measures in accordance with CDFW guidelines.</u></li> </ul>	
	<p><b>BIO-10: Minimize impacts to western snowy plover, western yellow-billed cuckoo, Inyo California towhee, and bank swallow.</b></p> <p>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect federally-listed bird species (<del>without published survey protocols</del>)<u>for which survey protocols have not been published</u>, including the western snowy plover, <del>western yellow-billed cuckoo</del>, Inyo California towhee, and bank swallow, the USFWS shall be contacted to develop project specific measures to determine the potential for presence/absence of the species in the project area and appropriate avoidance and mitigation measures. For projects in the desert portions of the County, contact the Palm Springs Fish and Wildlife Office. For projects in the forested portions of the County or the Owens Valley, contact the Nevada Fish and Wildlife Office. Mitigation measures shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take” of federally-listed bird species, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. <u>Western yellow-billed cuckoo, Inyo California towhee, and bank swallow are also state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of these species (as defined by the Fish and Game Code).</u></p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><b>BIO-11: Minimize impacts to southwestern willow flycatcher.</b>                      Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect southwestern willow flycatcher, surveys shall be conducted according to Southwestern Willow Flycatcher Protocol Revision 20010 (<a href="http://www.fws.gov/mountain-prairie/endspp/protocols/SWWFReport.pdf">http://www.fws.gov/mountain-prairie/endspp/protocols/SWWFReport.pdf</a><del><a href="http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/SWWFlycatcher.2000.protocol.pdf">http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/SWWFlycatcher.2000.protocol.pdf</a></del>) following the guidelines for the revised protocol for project-related surveys or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office. For projects that are determined to have the potential to result in “take” of southwestern willow flycatcher, consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. <u>Southwestern willow flycatcher is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as defined by the Fish and Game Code).</u> Mitigation measures shall be implemented and shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, and compensatory mitigation for loss of habitat.</p>	
	<p><b>BIO-12: Minimize impacts to bald and golden eagle.</b>                      Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect bald and golden eagles, the project proponent shall implement the following measures to avoid and offset impacts:</p> <ul style="list-style-type: none"> <li>• Site specific surveys and monitoring of known or suspected eagle nesting and foraging habitat in areas where eagles occur (i.e., all of California) shall be conducted to provide background information related to <u>bald eagle take permits (golden eagle is fully protected pursuant to Fish and Game Code and no permits may be issued for their</u></li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>take). Surveys shall be conducted using (at least) methods and qualified personnel as recommended by CDFW and USFWS. Surveys shall be conducted according to the USFWS's 2010 <i>Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations</i> (available online at <a href="http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/usfws_interim_goea_monitoring_protocol_10march2010.pdf">http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/usfws_interim_goea_monitoring_protocol_10march2010.pdf</a>), the USFWS's 2004 <i>Protocol for Evaluating Bald Eagle Habitat and Populations in California</i> and CDFW's 2010 <i>Bald Eagle Breeding Survey Instructions</i> (both documents are available online at <a href="http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html">http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html</a>) or the most recent guidance regarding non-breeding season surveys for winter, migratory, and floating populations of eagles determined in coordination with CDFW and USFWS.</p> <ul style="list-style-type: none"> <li>• Where proposed projects may result in take of bald or golden eagles, the USFWS shall be consulted to determine the standards and requirements for the permit titled "Eagle Take – Necessary to Protect Interests in a Particular Locality." Bald Eagle take permits are performance based and will hinge on the merits of the application. The permit application form and related information are on the USFWS website: <a href="http://www.fws.gov/migratorybirds/baldeagle.htm">http://www.fws.gov/migratorybirds/baldeagle.htm</a>. The final rule (Federal Register / Vol. 74, No. 175, September 11, 2009), Environmental Assessment (<a href="http://www.fws.gov/migratorybirds/CurrentBirdIssues/BaldEagle/FEA_EagleTakePermit_Final.pdf">http://www.fws.gov/migratorybirds/CurrentBirdIssues/BaldEagle/FEA_EagleTakePermit_Final.pdf</a>), implementation and protocol documents, and consultations with USFWS will provide additional guidance.</li> <li>• Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas used by eagles for thermal or orographic lift.</li> <li>• Projects shall avoid, to the extent needed to comply with state and federal requirements, siting project facilities and infrastructure in a location or manner that would cause bald and golden eagle mortality, injury, and/or disturbance; i.e., locate facilities outside of eagle breeding home ranges as well as important breeding, wintering, and dispersal foraging areas, migration stopovers and corridors, and areas used by eagles for thermal or orographic lift.</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>Projects shall incorporate actions to avoid eagle disturbance (refer to the USFWS National Bald Eagle Management Guidelines, May 2007 and Interim Golden Eagle Technical Guidance: Inventory and Monitoring Protocols; and Other Recommendations in Support of Golden Eagle Management and Permit Issuance, Attachment II) in consultation with the USFWS to obtain the most current guidance and measures.</li> </ul>	
	<p><b>BIO-13: Minimize impacts to least Bell’s vireo.</b>            Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to <u>contain habitat for least Bell’s vireo on or adjacent to the site, have the potential to affect least Bell’s vireo,</u> surveys shall be conducted according to the USFWS’s Least Bell’s Vireo Survey Guidelines (<a href="http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/LBVireo.2001.protocol.pdf">http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/LBVireo.2001.protocol.pdf</a>) or the most recent guidance as determined in coordination with the USFWS Pacific Southwest Region Nevada Fish and Wildlife Office.</p> <p>For projects that are determined to have the potential to result in “take” of least Bell’s vireo, <u>either on or off-site due to direct or indirect impacts,</u> consultation will be conducted with USFWS under either Section 7 or Section 10 of FESA and an Incidental Take Statement will be obtained prior to project commencement. <u>Least Bell’s vireo is also a state-listed species. An Incidental Take Permit from CDFW will also be required if a project or any project-related activity during the life of the project is determined to have the potential to result in “take” of this species (as defined by the Fish and Game Code).</u></p> <p><u>For projects with the potential to result in direct or indirect impacts to least Bell’s vireo or its habitat, mitigation measures shall be developed in consultation with USFWS and CDFW and shall be implemented prior to project implementation. Such measures and shall include, but are not limited to, species specific habitat assessments and/or focused surveys to determine whether federally-listed bird species or their habitat are present in or adjacent to the project site, measures to avoid or minimize impacts to these species during construction and operation of the solar development, habitat restoration, and compensatory mitigation for loss of habitat</u></p>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<u>that may include implementation of captive breeding programs.</u>	
	<p><b>BIO-14: Minimize impacts to bighorn sheep.</b>                      Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect bighorn sheep, the project applicant shall retain a qualified biologist, approved by the USFWS and CDFW, to conduct preconstruction surveys for Sierra Nevada bighorn sheep and/or Peninsular and Mojave bighorn sheep depending on the location of the project. Due to low detection probabilities, the following data shall be used when evaluating potential projects impacts to the species: data relative to historic ranges of bighorn sheep; known and potential wildlife corridors (such as, those identified in the BLM Mojave and Colorado deserts land use plans); point location data; and existing literature. If bighorn sheep or their migration routes exist, are known or likely to occur on or in the vicinity of the project site, and may be affected by project-related activities, the consultation shall be conducted with USFWS, CDFW, and other stakeholders, as appropriate, regarding avoidance, minimization, compensatory mitigation, or site abandonment. <del>For projects that are determined to have the potential to result in “take” of state or federally listed bighorn sheep, consultation shall be conducted with CDFW or USFWS respectively and take authorization shall be obtained prior to project commencement.</del></p> <p><b>BIO-15: Minimize impacts to Sierra Nevada red fox.</b>                      Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect Sierra Nevada red fox, CDFW shall be contacted to develop project specific measures to determine the potential for presence/absence of this species in the project area and appropriate avoidance and mitigation measures. Mitigation measures shall include, but are not limited to, a species specific habitat assessment and/or focused surveys to determine whether Sierra Nevada red fox or its habitat is present in or adjacent to the project site, measures to avoid or minimize impacts to this species during construction and operation of the solar development, and compensatory mitigation for loss of habitat. For projects that are determined to have the potential to result in “take,” consultation will be conducted with CDFW under the California Endangered Species Act and incidental take authorization will be obtained prior to project commencement.</p>	



**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><b>BIO-16: Minimize impacts to Mohave ground squirrel.</b>  <u>Protocol Mohave ground squirrel surveys shall be required for projects that propose impacts to habitat with potential to support Mohave ground squirrel or are within or adjacent to the species’ known range. Mohave ground squirrel surveys consist of a visual survey followed by 3 trapping sessions of 5 nights each (CDFW 2003). Each trapping session must be conducted during a specific time frame. The first session must be conducted between March 15 and April 30; the second between May 1 and May 31; and the third between June 15 and July 15. Trapping can be discontinued if a Mohave ground squirrel is trapped or observed, in which case the survey area is deemed to be occupied. If survey results are negative, the survey area will be deemed to be unoccupied for one year during which pre-construction surveys are not required. If survey results are positive, the project shall obtain an incidental take permit from CDFW under CESA Section 2081.</u>  <del>Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect Mohave ground squirrel, consultation shall be conducted with CDFW to determine the survey protocol and mitigation measures appropriate to the project. For projects that are determined to have the potential to result in “take” of Mohave ground squirrel, consultation shall be conducted with CDFW and take authorization shall be obtained prior to project commencement. Avoidance and mitigation measures shall include but are not limited to the following:                      The project applicant shall retain a CDFW approved Mohave ground squirrel biologist to oversee CDFW required measures including but not limited to tasks such as conducting clearance surveys, handling Mohave ground squirrels, artificial burrow construction, and other procedures in accordance with CDFW protocols.</del></p> <p><b>BIO-17: Minimize impacts to American badger and kit fox.</b>                      Prior to the approval of any solar development projects or related infrastructure under the REGPA that is determined during the project level biological resource evaluation (Mitigation Measure BIO-1) to have the potential to affect American badger and/or kit fox, the following measures shall be implemented to avoid, minimize, and mitigate for impacts to these species:</p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>• The project proponent shall prepare and implement an American badger and/or kit fox management plan. The plan shall be prepared in accordance with the most current CDFW guidelines for these species. The plan shall be approved by CDFW prior to implementation. The plan shall include the following components:               <ul style="list-style-type: none"> <li>○ Preconstruction surveys and mapping efforts: biological monitors shall perform pre- construction surveys for badger and kit fox dens in the project area, including areas within 250 feet of all project facilities, utility corridors, and access roads. If dens are detected, each den shall be classified as inactive, potentially active, or definitely active, including characterization of den type for kit fox (natal, pupping, likely satellite, atypical) per CDFW guidance, and mapped along with major project design elements.</li> <li>○ Inactive dens that would be directly impacted by construction activities shall be excavated by hand and backfilled to prevent reuse by badgers or kit fox. Excavation and filling activities shall be performed by <del>the a qualified</del> <u>CDFW-approved</u> biologist. Potentially and confirmed active dens shall not be disturbed during the whelping/pupping season (February 1 to September 30).</li> <li>○ Monitoring requirements. Potentially and definitely active dens that would be directly impacted by construction activities shall be monitored by the <del>qualified</del> <u>CDFW-approved</u> biologist for three consecutive nights (during weather conditions favorable for detection) using a tracking medium (such as diatomaceous earth or fire clay) and/or infrared camera stations at the entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand. If tracks are observed, the den shall be progressively blocked with natural materials (rocks, dirt, sticks, and vegetation piled in front of the entrance) for the next three to five nights to discourage the badger or kit fox from continued use. After verification that the den is unoccupied it shall then be excavated and backfilled by hand to ensure that no badgers or kit fox are trapped in the den.</li> <li>○ Passive relocation strategies. The management plan shall contain, at a minimum, several strategies to passively relocate animals from the site. These methods may entail strategic mowing, fencing, or other feasible construction methods to assist in moving animals offsite toward desirable land. The plan</li> </ul> </li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>shall address location of preferred offsite movement of animals, based on CDFW data and land ownership. <del>Private</del> <u>Even with permission from the landowner, private</u> land is to be avoided to the maximum extent practicable.</p> <ul style="list-style-type: none"> <li>○ Escape dens shall be installed along the perimeter fencing to reduce predation risk.</li> <li>○ Kit fox disease prevention measures. The <del>qualified</del> <u>CDFW-approved</u> biologist shall notify the County project manager and CDFW within 24 hours if a dead kit fox is found or appears sick. The plan must also detail a response to a kit fox injury, including a necropsy plan, reporting methods, and scope of adaptive methods in the event of a known or suspected outbreak. The project owner will pay for any necropsy work.</li> </ul>	
	<p><b>BIO-18: Minimize impacts to other special status birds, raptors, migratory birds, nesting birds and bats.</b></p> <p>The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact nesting birds and/or bats and shall be implemented to avoid, minimize, and mitigate for impacts to birds and bats. These measures are for bird species without established protocols and non-listed bird species that lack species-specific mitigation measures (not applicable to the common raven). For future development proposed to be located on or near land with old mines, specific survey protocols and mine closure considerations shall be developed.</p> <p><b>Pre-Construction Bird Surveys and Avoidance Measures</b></p> <p>If project construction occurs between roughly February 1 and August 31, a <del>County-approved</del> <u>qualified biologist(s) CDFW-approved biologist</u> shall conduct preconstruction surveys for nesting birds. The biologist(s) conducting the surveys shall be experienced bird surveyors and familiar with standard nest-locating techniques. Surveys shall be conducted in accordance with the following guidelines:</p> <ul style="list-style-type: none"> <li>● <u>CDFW and/or USFWS (depending on the avian species in question) shall be contacted to obtain approval of pre-construction survey methodology prior to commencement of the surveys.</u></li> </ul>	Significant and Unavoidable

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>• Surveys shall cover all potential nesting habitat in the project site and within 500 feet of the project site and linear facilities boundaries – inaccessible areas outside of the project boundary may be surveyed from within the project site or publicly accessible land with the aid of binoculars.</li> <li>• Vegetation removal or other ground disturbing activities should be avoided between February 1 and August 31; however if it cannot be avoided, the <u>CDFW-approved avian</u> biologist shall survey breeding/nesting habitat within the survey radius described within one week prior to the start of project activities.</li> <li>• CDFW and/or USFWS must provide concurrence with the survey findings prior to the start of construction. Site preparation and construction activities may begin after receiving the concurrence and if no breeding/nesting birds are observed. Additional follow up surveys shall be conducted if periods of construction inactivity exceed one week in any given area, an interval during which birds may establish a nesting territory and initiate egg laying and incubation.</li> <li>• If active nests are detected during the survey, a no-disturbance buffer zone (protected area surrounding the nest, the size of which is to be determined by the project biologist in consultation with CDFW and/or USFWS) and a monitoring plan shall be developed. The nesting bird plan shall identify the types of birds that may nest in the project area, the proposed buffers, monitoring requirements, and reporting standards that will be implemented to ensure compliance with the MBTA and Fish and Game Codes 3505 and 3505.3. The <del>avian</del> <u>CDFW-approved</u> biologist shall monitor the nest until he or she determines that nestlings have fledged and dispersed.</li> </ul> <p><b>Pre-Construction Bat Surveys and Avoidance Measures</b></p> <p>Preconstruction bat surveys shall be conducted by a <del>qualified</del> <u>CDFW-approved</u> biologist(s) familiar with standard bat survey techniques. If night or day roosting bats are identified in project structures they shall not be disturbed and a 100-foot non-disturbance buffer shall be placed between the roost and the construction activities until a determination is made whether the roost is a maternity roost or a non-breeding roost. Maternity colonies shall not be disturbed until coordination with CDFW is conducted to determine appropriate measures including an appropriate no-disturbance buffer. If the <del>qualified</del> <u>CDFW-approved</u> bat biologist determines</p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>roosting bats consist of a non-breeding roost, the individuals shall be safely evicted under the direction of a <u>qualified CDFW-approved bat biologist</u>. CDFW shall be notified of any bat evictions within 48 hours.</p> <p><b><u>Bat and Avian Protection Plan</u></b>  <del>A bat and avian protection plan shall be developed to protect bats, migratory birds, and golden eagles while improving conservation, safety, and reliability for utility customers. The plan shall include measures to monitor the death and injury of birds from solar flux, radiance, and collisions with facility features such as reflective mirror-like surfaces. Guidance in the California Guidelines (Appendix D) and Avian Protection Plan Guidelines published by the APLIC and USFWS (2005) shall be consulted. The plan shall be approved by the County, CDFW, and USFWS prior to the start of project construction. The following monitoring/detection recommendations from the USFWS Forensics Laboratory (Kagan et al. unpub.) shall be considered:</del></p> <ul style="list-style-type: none"> <li><del>• Install video cameras sufficient to provide 360 degree coverage around each tower to record birds (and bats) entering and exiting the flux.</del></li> <li><del>• For at least 2 years (and in addition to the planned monitoring protocol), conduct daily surveys for birds (at all 3 facilities), as well as insects and bats around each tower at the base of and immediately adjacent to the towers in the area cleared of vegetation. Timing of daily surveys can be adjusted to minimize scavenger removal of carcasses. Surveys in the late afternoon might be optimal for bird carcasses, and first light for bat carcasses.</del></li> <li><del>• Use dogs for monitoring surveys to detect dead and injured birds that have hidden themselves in the brush, both inside and outside the perimeter of the facility.</del></li> </ul> <p><del>To decrease removal of carcasses, implement appropriate raven deterrent actions.</del></p> <p><b><u>Bird and Bat Conservation Strategy</u></b></p> <p><u>A bird and bat conservation strategy (BBCS) shall be prepared to reduce potential project impacts on migratory birds. The BBCS shall describe proposed actions to avoid, minimize, and mitigate adverse effects to migratory birds protected under the MBTA during construction and operations of the proposed project. The BBCS shall be submitted to USFWS and CDFW for approval prior to the start of ground disturbing activities. The BBCS shall address buffer</u></p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><u>distances for specific bird species and include a robust, systematic monitoring protocol to document mortality and habitat effects to birds. The monitoring protocol should incorporate the following objectives at a minimum: (1) a minimum of weekly monitoring for mortality and immediate necropsy to determine cause of death, both during construction and throughout the life of the project; (2) systematic data collection and reporting of bird mortality including data on the following: species, date, time, how the animal died (e.g., exhaustion, trauma), as well as any information on what might be attracting animals to the photovoltaic cells (light, insects, etc.); (3) a method to estimate the overall annual avian mortality rate associated with the facility, including mortality associated with all the features of the project that are likely to result in injury and mortality (e.g., fences, ponds, solar panels); and (4) methods to determine whether there is spatial differentiation within the solar field in the rates of mortality (i.e., panels on the edge of the field versus interior of the field). Biologists performing this work would be required to have a Scientific Collecting Permit from CDFW. Standardized and systematic data on bird and bat mortalities will be collected to contribute to the improvement of the scientific communities' understanding of both baseline and photovoltaic related mortality that occurs in solar projects in the desert and is needed in order to identify improved methods to minimize adverse effects on migrating birds and bats.</u></p> <p><u>In the absence of a permit from the USFWS, the temporary or permanent possession of protected migratory birds and their carcasses is a violation of the MBTA. Because of the need for carcass collection to adequately monitor avian impacts during BBCS implementation and to reduce the food subsidy that carcasses may provide to common ravens (<i>Corvus corax</i>) and other predators, developers shall be required to obtain a special purpose utility permit from the USFWS allowing the collection of migratory birds and/or their carcasses prior to implementation of the monitoring protocol.</u></p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><b>General Bird Mortality Avoidance Measures</b></p> <p>The following measures are recommended by the USFWS Forensics Laboratory and shall be implemented to minimize bird mortality from birds attracted to solar facilities:</p> <ul style="list-style-type: none"> <li>• All potential nesting vegetation (e.g., trees, shrubs) shall be removed within the fenced area of the facility to decrease attractive habitat.</li> <li>• <u>The most current science regarding visual cues to birds that the solar panel is a solid structure shall be implemented. This may include but is not limited to UV-reflective or solid, contrasting bands spaced no further than 28 centimeters from each other. An adaptive management approach for reducing bird collisions with solar panels shall be implemented in coordination with the USFWS so that measures used are systematically tested and modified as appropriate. This may include but is not limited to UV reflective or solid, contrasting bands spaced no further than 28 centimeters from each other.</u></li> <li>• <u>Projects with documented avian mortality shall work with the USFWS to conduct additional research to test measures for reducing avian mortality. Such measures could include, but are not limited to, experimental lighting within the solar field and use of detection and deterrent technologies.</u></li> <li>• <u>Developers of Ppower tower operations shall be suspended during peak migration times for indicated species. implement adaptive management in consultation with the USFWS should mortality monitoring indicate that suspension of power tower operations during certain periods is necessary to reduce impacts on local or regional bird populations. Such measures may include, but are not limited to, suspending or reducing project operations during peak migration seasons.</u></li> <li>• Vertical orientation of mirrors shall be avoided whenever possible (for example, mirrors shall be tilted during washing).</li> <li>• <del>If the use of open evaporation ponds is permitted for the project and especially if the water would be considered toxic to wildlife, ponds shall be designed to discourage bird and other wildlife use by properly netting or otherwise covering the pond.</del></li> <li>• Perch deterrent devices shall be placed on tower railings.</li> <li>• Exclusionary measures shall be employed to prevent bats from roosting in and around the facility.</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><b>Minimize Impacts from Solar Flux</b></p> <p>The following mitigation measures shall be implemented in order to minimize <u>avian impacts from solar flux</u>:</p> <ul style="list-style-type: none"> <li>• <u>Solar thermal developments utilizing solar power tower technologies shall not be sited in or within a minimum of 1,000 feet of from Important Bird Areas (as determined by the County in consultation with Responsible and Trustee agencies), the OVSA, or riparian or other aquatic habitats including lakes, ponds, rivers, streams, and perennial wetland habitats unless potentially significant impacts are avoided, although the appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies. This requirement generally does not apply to seasonal or ephemeral wetland habitats unless deemed necessary by a qualified biologist in light of the wetland’s specific habitat value for bird species.</u></li> <li>• <u>The County shall require developers proposing solar power tower technology to coordinate with the USFWS during project planning. As part of that coordination process, and in conjunction with the project’s next tier of CEQA review, the USFWS will advise the County whether a Bird and Bat Conservation Strategy would be necessary for the project, and if required, would adequately reduce the effects of the project on migratory birds and bats.</u></li> </ul> <p><b>Minimize Impacts from Open Evaporation Ponds</b></p> <p>The following mitigation measures shall be implemented for projects that require the use of open evaporation ponds:</p> <ul style="list-style-type: none"> <li>• <u>An evaporation pond management plan shall be prepared and submitted to CDFW for approval prior to project approval.</u></li> <li>• <u>If the use of open evaporation ponds is permitted for the project and especially if the water would be considered toxic to wildlife, ponds shall be designed to discourage bird and other wildlife use by properly netting or otherwise covering the pond.</u></li> </ul>	



**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p><b>Avoid Impacts from Electric Lines and Lights</b></p> <p>The following design measures shall be implemented for applicable projects to minimize impacts to bats and birds:</p> <ul style="list-style-type: none"> <li>• Transmission lines and electrical components shall be installed and maintained in accordance with the Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006 (APLIC 2006) or the most recent guidance to reduce the likelihood of electrocutions of raptors and other large birds, .</li> <li>• Transmission lines and electrical components shall be installed and maintained in accordance with the APLIC’s <del>Mitigating Bird</del> <u>Reducing Avian Collisions with Power Lines: The State of the Art in 1994-2012</u> (Edison Electric Institute <del>2004</del><u>2012</u>) or the most recent guidance to reduce the likelihood of bird collisions.</li> <li>• Low and medium voltage connecting power lines shall be placed underground, if feasible. If burial of the lines is not feasible due to cost or other logistical reasons (for example in shallow bedrock areas) or may cause unacceptable impacts to biological habitats and their dependent species, overhead lines may be installed in compliance with the following requirements:             <ul style="list-style-type: none"> <li>○ low and medium voltage overhead lines shall be sited away from high bird crossing locations, such as between roosting and feeding areas or between lakes, rivers, and nesting areas; and/or</li> <li>○ low and medium voltage overhead lines shall be installed parallel to tree lines or be otherwise screened so that collision risk is reduced.</li> </ul> </li> <li>• Permanent communication towers and permanent meteorological towers shall not be constructed with guy wires, if feasible. If guy wires are necessary for permanent or temporary towers, bird flight diverters or high visibility marking devices shall be used. In such cases a monitoring plan shall be developed and carried out to determine the diverters’/devices’ effectiveness in reducing bird and bat mortality.</li> <li>• Facility lighting shall be installed and maintained to prevent upward and side casting of light towards wildlife habitat and motion sensors shall be used. If the FAA requires</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>turbine or tower lighting to alert aircraft, red or white strobe lights shall be used on the structures to minimize avian collision risks. The strobes shall be on for as brief of a period as possible and the time between strobe or flashes shall be the longest allowable. Strobes shall be synchronized so that a strobe effect is achieved and towers are not constantly illuminated.</p> <ul style="list-style-type: none"> <li>• Lights with sensors and switches shall be used to keep lights off when not required.</li> <li>• The use of high-intensity lighting, steady-burning, or bright lights such as sodium vapor or spotlights shall be minimized.</li> </ul> <p><b><u>Compensatory Mitigation for the Cumulative Loss of Migratory Bird Habitat along the Pacific Flyway</u></b></p> <p><u>The County shall require solar development projects implemented under the REGPA to mitigate for the loss of habitat by funding activities to restore, enhance, or conserve important habitat for migratory birds or to remove other mortality sources from the Pacific Flyway. Such funding may be directed to the Sonoran Joint Venture (<a href="http://sonoranjv.org">http://sonoranjv.org</a>), Central Valley Joint Venture (<a href="http://www.centralvalleyjointventure.org">http://www.centralvalleyjointventure.org</a>), or Intermountain West Joint Venture (<a href="http://iwjv.org">http://iwjv.org</a>), or other groups able to implement conservation of migratory birds within the Pacific Flyway. The amount of funding will be determined by the County in coordination with USFWS and shall be commensurate with the level of impact.</u></p>	
<p>Impacts to special status natural communities (i.e., vegetation communities of limited distribution statewide or within a county or region) could occur as a result of implementation of the REGPA if construction and/or operation of the future solar developments results in the disturbance or loss of</p>	<p><b>BIO-19: Minimize impacts to special status natural communities and protected natural areas.</b></p> <p>Solar development authorized under the REGPA will not be sited within any special status natural communities or protected natural areas. If solar development is sited adjacent to any special status natural communities or protected natural areas <u>or is determined to have the potential to impact any off-site special status natural communities or protected natural areas during the project level biological resources evaluation (e.g., projects in the Laws SEDA could impact the hydrology of critical habitat for Fish Slough milk-vetch; projects in the Chicago Valley SEDA could negatively impact off-site mesquite bosque by altering drainage patterns or altering groundwater levels; projects in the Charleston View and Chicago Valley SEDAs could impact down-watershed habitats in the Amargosa Watershed (including habitats within</u></p>	<p>Less Than Significant</p>

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
protected natural communities.	<p>the portion of the Amargosa River that has been designated by Congress as “Wild and Scenic.”), a management plan will be developed in consultation with CDFW and/or USFWS. The management plan will address the potential offsite effects of the construction and on-going operations of the facility on special status species including but not limited to the effects of human disturbance, noise, nighttime maintenance activities, increased lighting, increased traffic on desert roads, and barriers to movement for special status species. The management plan will also address potential mechanisms of offsite habitat degradation such as introduction of invasive weeds, introduction or attraction of feral animals or other species attracted to areas with anthropogenic disturbance, hydrologic disruption due to groundwater impacts or alteration of surface drainage patterns, and increased risk of wildfires. The management plan will also outline the specific measures to be undertaken to avoid and/or minimize indirect effects of the solar development on the adjacent sensitive habitat and special status species and include a plan for long term monitoring of the adjacent habitat as well as an adaptive management plan.</p> <p>If riparian communities (other than water birch riparian scrub – a special status natural community that must be avoided) are present in a project area, impacts to riparian communities shall be avoided or minimized by implementing the following measures:</p> <ul style="list-style-type: none"> <li>• The project shall be redesigned or modified to avoid direct and indirect impacts on riparian communities, if feasible.</li> <li>• Riparian communities adjacent to the project site shall be protected by installing environmentally sensitive area fencing, at least 20 feet from the edge of the riparian vegetation. Depending on site specific conditions, this buffer may be narrower or wider than 20 feet if necessary, in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area.</li> <li>• The potential for long term loss of riparian vegetation shall be minimized by trimming vegetation rather than removing the entire shrub. Shrub vegetation shall be cut at least</li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>1 foot above ground level to leave the root systems intact and allow for more rapid regeneration of the species. Cutting shall be limited to a minimum area necessary within the construction zone. This type of removal shall be allowed only for shrub species (all trees shall be avoided) in areas that do not provide habitat for sensitive species (e.g., willow flycatcher).</p> <ul style="list-style-type: none"> <li>• If riparian vegetation is removed as part of a project, the loss of riparian vegetation shall be mitigated to ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW and USFWS). Compensation shall be provided at a minimum 1:1 ratio (1 acre restored or created for every 1 acre removed) and may be a combination of on-site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented that describes how riparian habitat shall be enhanced or recreated and monitored over a minimum period of time, as determined by the appropriate state and federal agencies.</li> </ul>	
<p>Construction and maintenance activities associated with future projects implemented under the REGPA could result in disturbance or loss of waters of the US and/or State. These wetlands or other waters of the US/State could be affected through direct removal, filling, hydrological interruption (including dewatering), alteration of bed and bank, and other construction related activities.</p>	<p><b>BIO-20: Minimize impacts to waters of the US/State, including wetlands.</b> The following measures apply to all projects developed under the REGPA that are determined during the project level biological resource evaluation to have the potential to impact waters of the US or waters of the State, including wetlands, and shall be implemented to avoid, minimize, and mitigate for such impacts. These measures shall be incorporated into contract specifications and implemented by the construction contractor. In addition, the project proponent shall ensure that the contractor incorporates all state and federal permit conditions into construction specifications.</p> <ul style="list-style-type: none"> <li>• <u>Wetlands and other waters of the US/state shall be delineated on the project site using both USACE and CDFW definitions of wetlands. USACE jurisdictional wetlands shall be delineated using the methods outlined in the USACE 1987 Wetlands Delineation Manual and the Arid West Manual, or the most recent guidance.</u> This information shall be mapped and documented as part of the CEQA documentation, as applicable, and in wetland delineation reports. All applicable permits shall be obtained prior to impacting waters of the US/State including CWA Section 404 and 401 permits</li> </ul>	<p>Less Than Significant</p>

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>from the USACE and the RWQCB respectively and a Streambed Alteration Agreement from CDFW.</p> <ul style="list-style-type: none"> <li>• <u>The project shall be redesigned or modified to avoid direct and indirect impacts on waters of the U.S./State, if feasible.</u></li> <li>• Standard erosion control measures shall be implemented for all phases of construction and operation where sediment runoff from exposed slopes threatens to enter waters of the State and/or waters of the US. Sediment and other flow-restricting materials shall be moved to a location where they shall not be washed back into the stream. All disturbed soils and roads within the project site shall be stabilized to reduce erosion potential, both during and following construction. Areas of disturbed soils (access and staging areas) with slopes trending towards a drainage shall be stabilized to reduce erosion potential.</li> <li>• <del>Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing at least 20 feet from the edge of the wetland. Depending on site specific conditions and permit requirements, this buffer may be wider than 20 feet, if necessary, in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the construction drawings. The construction specifications shall contain clear language that prohibits construction related activities, vehicle operation, material and equipment storage, and other surface disturbing activities within the fenced environmentally sensitive area.</del></li> <li>• <u>All construction vehicles and equipment shall use existing roadways to the extent feasible to avoid or reduce impacts to waters of the U.S./State.</u></li> <li>• Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used.</li> <li>• Wetland habitats that occur near the project site shall be protected by installing environmentally sensitive area fencing at least 20 feet from the edge of the wetland. Depending on site-specific conditions and permit requirements, this buffer may be wider than 20 feet in coordination with the project biologist. The location of the fencing shall be marked in the field with stakes and flagging and shown on the</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<p>construction drawings. The construction specifications shall contain clear language that prohibits construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within the fenced environmentally sensitive area.</p> <ul style="list-style-type: none"> <li>• Installation activities shall be avoided in saturated or ponded wetlands during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as use of padding or vehicles with balloon tires, shall be used.</li> <li>• Where determined necessary by resource specialists, geotextile cushions and other materials (e.g., timber pads, prefabricated equipment pads, or geotextile fabric) shall be used in saturated conditions to minimize damage to the substrate and vegetation.</li> <li>• Exposed slopes and stream banks shall be stabilized immediately on completion of installation activities. Other waters of the US shall be restored in a manner that encourages vegetation to reestablish to its pre-project condition and reduces the effects of erosion on the drainage system.</li> <li>• In highly erodible stream systems, banks shall be stabilized using a non-vegetative material that will bind the soil initially and break down within a few years. If the project engineers determine that more aggressive erosion control treatments are needed, geotextile mats, excelsior blankets, or other soil stabilization products shall be used.</li> <li>• During construction, trees, shrubs, debris, or soils that are inadvertently deposited below the ordinary high-water mark of drainages shall be removed in a manner that minimizes disturbance of the drainage bed and bank.</li> <li>• If wetlands are filled or disturbed as part of the <del>highway-solar</del> project, compensation will be implemented for the loss of wetland habitat to ensure no net loss of habitat functions and values. Compensation ratios shall be based on site-specific information and determined through coordination with state and federal agencies (including CDFW, USFWS, and USACE). The compensation shall be at a minimum 1:1 ratio (1 acre restored or created for every 1 acre filled) and may be a combination of on site restoration/creation, off-site restoration, or mitigation credits. A restoration and monitoring plan shall be developed and implemented if onsite or offsite restoration or creation is chosen. The plan shall describe how wetlands shall be created and</li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	monitored for the duration established by the regulatory agency.	
Impacts to wildlife movement or corridors may occur as a result of implementation of the. Project activities that would interfere with the movement of resident or migratory species or impede fish or wildlife corridors, or nursery habitat would be considered to be a potentially significant impact.	<p><b>BIO-21: Minimize impacts to movement or migratory corridors or native wildlife nursery sites.</b>  <u>The following mitigation measures will be implemented to minimize impacts to movement or migratory corridors or native wildlife nursery sites:</u></p> <ul style="list-style-type: none"> <li>• <u>Solar development authorized under the REGPA should shall not be sited in or within 1,000 feet of any areas determined by the County in consultation with responsible and trustee agencies to be Important Bird Areas, essential connectivity areas or linkages identified in the 2001 Missing Links in California’s Landscape Project (Penrod et al. 2001), or USFWS identified desert tortoise priority connectivity areas or tule elk and mule deer movement corridors unless potentially significant impacts are avoided. The appropriate buffer distance shall be determined on a project-by-project basis as determined by the County in consultation with responsible and trustee agencies.</u></li> <li>• <u>Any proposed solar development projects in the OVSA shall be required to study the potential impact of the project on tule elk and mule deer movement corridors prior to project approval. If a proposed project is determined to be located within an important tule elk and mule deer movement corridor, the applicant shall be responsible for the preparation of a plan to avoid and/or minimize impacts to such corridors in coordination with CDFW.</u></li> <li>• <u>As stated in Mitigation Measure BIO-6, projects shall not be sited within areas identified for desert tortoise recovery or conservation according to the Draft Revised Recovery Plan for the Mojave Population of the Desert Tortoise (<i>Gopherus agassizii</i>) (USFWS 2011) (such as designated critical habitat, ACECs, DWMAs, priority connectivity areas, and other areas or easements managed for desert tortoises).</u></li> </ul>	Less Than Significant
The spread of invasive plant species or noxious weeds could occur as a result of implementation of the REGPA. Invasive species impacts would have the potential to cause an	<p><b>BIO-22: Minimize impacts <del>s</del>spread of to invasive plant species or noxious weeds.</b>                      For projects implemented under the REGPA that are determined during the project level biological resource evaluation to have the potential to result in the spread of invasive plant species or noxious weeds, the following mitigation measures shall be implemented:</p> <p>To prevent the introduction and spread of noxious weeds, a project-specific integrated weed</p>	Less Than Significant

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
adverse affect on a variety of special status species and sensitive natural communities through alteration of a broad range of ecological interactions. This would be a potentially significant impact.	<p>management plan shall be developed for approval by the permitting agencies, which would be carried out during all phases of the project. The plan shall include the following measures, at a minimum, to prevent the establishment, spread, and propagation of noxious weeds:</p> <ul style="list-style-type: none"> <li>• The area of vegetation and/or ground disturbance shall be limited to the absolute minimum and motorized ingress and egress shall be limited to defined routes.</li> <li>• Project vehicles shall be stored onsite in designated areas to minimize the need for multiple washings of vehicles that re-enter the project site.</li> <li>• Vehicle wash and inspection stations shall be maintained onsite and the types of materials brought onto the site shall be closely monitored.</li> <li>• The tires and undercarriage of vehicles entering or re-entering the project site shall be thoroughly cleaned.</li> <li>• Native vegetation shall be re-established quickly on disturbed sites.</li> <li>• Weed Monitor and quickly implement control measures to ensure early detection and eradication of weed invasions.</li> <li>• Use certified weed-free straw, hay bales, or equivalent for sediment barrier installations.</li> </ul>	
Implementation of the REGPA has the potential to result in significant impacts to special status plants and wildlife, riparian habitats and other sensitive natural communities, and waters of the US, and/or state.	<p><b>BIO-23: Implement general design guidelines to minimize impacts to biological resources.</b> All projects authorized under the REGPA will incorporate the following design guidelines as applicable in coordination with the County:</p> <ul style="list-style-type: none"> <li>• Design and site the project, in consultation with the permitting agencies, to avoid or minimize impacts to sensitive and unique habitats and wildlife species. Locate energy generation facilities, roads, transmission lines, and ancillary facilities in the least environmentally sensitive areas (such as away from riparian habitats, streams, wetlands, vernal pools, drainages, sand dunes, critical wildlife habitats, wildlife conservation, management, other protected areas, or unique plant assemblages).             <ul style="list-style-type: none"> <li>○ Design facilities to use existing roads and utility corridors as much as possible to minimize the number and length/size of new roads, laydown, and borrow areas.</li> <li>○ Design transmission line poles, access roads, pulling sites, storage, and parking areas to avoid special status species or unique plant assemblages</li> </ul> </li> </ul>	Significant and Unavoidable



<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>adjacent to linear facilities.</li> <li>○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions.</li> <li>○ Locate and/or design facilities to minimize or mitigate wildlife movement disruptions.</li> <li>○ Design facilities to discourage their use as bird perching, drinking, or nesting sites.</li> <li>○ Design facility lighting to prevent side casting of light toward wildlife habitat and skyward protection of light that may disorient night-migrating birds.</li> <li>○ Avoid using or degrading high value or large intact habitat areas, such as areas identified as sensitive natural habitat, Wilderness Areas, Areas of Critical Environmental Concern, critical habitat; riparian, sand dunes.</li> <li>○ Avoid severing movement and connectivity corridors. Consider existing conservation investments such as protected areas and lands held in trust for conservation purposes.</li> <li>○ Locate facilities so they do not disrupt sand transport processes nor remove some or all of a sand source that contributes to sand dune systems harboring listed or otherwise sensitive species. Avoid armoring nearby dune system sand sources.</li> </ul>	
Implementation of the REGPA has the potential to result in significant impacts to groundwater dependent vegetation primarily within the Owens Valley.	<p><b>BIO-24: Minimize impacts to groundwater dependent vegetation and ecosystems.</b></p> <p>Any solar development projects or related infrastructure implemented under the REGPA <u>which are located on City of Los Angeles-owned land or which could affect City of Los Angeles-owned land</u> shall comply with the terms of the Agreement. A qualified biologist/botanist <u>with experience in Inyo County</u> shall evaluate the potential for any project implemented under the REGPA to impact groundwater dependent vegetation <u>or ecosystems located on City of Los Angeles-owned land</u>. If the qualified biologist/botanist determines that the project has the potential to impact groundwater dependent vegetation <u>or ecosystems</u>, a groundwater dependent vegetation management plan will be prepared. The plan will include an evaluation of the potential impacts to groundwater dependent vegetation <u>or ecosystems</u> and appropriate measures to avoid or reduce the impacts to the extent feasible. The plan shall be prepared in coordination with the County <u>and LADWP</u> and should describe any appropriate monitoring, such as vegetation and/or water table monitoring, and prescribe mitigation to offset the impacts of the project on groundwater dependent vegetation <u>or ecosystems</u> as deemed appropriate by</p>	Less Than Significant

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>BIOLOGICAL RESOURCES (cont.)</b>		
	the qualified biologist in coordination with the County and LADWP. <u>Projects that are likely to affect groundwater resources in a manner that would result in a substantial loss of riparian or wetland natural communities and/or habitat for sensitive flora and fauna associated with such habitats shall be avoided to the extent feasible and impacts shall be mitigated to a level determined to be acceptable by the County. The project and vegetation management plan shall be approved by both the County and LADWP prior to implementation.</u>	
<u>Implementation of the REGPA has the potential to result in indirect impacts to sensitive species and their habitats due to groundwater pumping.</u>	<b>BIO-25: Minimize potential indirect impacts due to groundwater pumping</b> <u>Mitigation measures for potential indirect impacts due to groundwater pumping are included in Mitigation Measure BIO-1, Mitigation Measure BIO-2, Mitigation Measure BIO-3, and Mitigation Measure BIO-4. Prior to approval of any project under the REGPA requiring groundwater pumping, the potential effects of the groundwater pumping on biological resources will be evaluated during preparation of the project-specific biological resources evaluation and will be based on the results of the hydrologic study conducted as a requirement of Mitigation Measure HYD-2 in Section 4.9, Hydrology and Water Quality. If groundwater pumping is determined to have the potential to result in off-site impacts to biological resources, measures will be included in the project-specific biological resources mitigation and monitoring plan to avoid, minimize, and mitigate for any such impacts. The measures will be commensurate with the resource and level of impact and may include but are not limited to vegetation and/or water table monitoring, preservation of suitable habitat or funding of activities to restore, enhance or conserve habitat within the County, and a requirement for the project applicant to purchase and retire currently exercised water rights along the same flowpath as the water being used by the facility at a minimum 1:1 ratio.</u>	<u>Less Than Significant</u>

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES</b>		
<p>Implementation of future projects associated with the REGPA has the potential to cause a substantial adverse change in the significance of a historical or archaeological resources, and cultural landscapes, as defined in Section 15064.5 of the State CEQA Guidelines.</p>	<p><b><u>CUL-1: Minimize impacts to cultural resources.</u></b>  <u>Adverse effects to historical resources (CRHP-eligible cultural resources) would be resolved on a project-specific level. As part of this process, resource identification efforts including pedestrian surveys, formal government-to-government tribal consultation with state lead agencies, and engagement with Native American communities would be necessary. Examples of ways to resolve adverse effects include:</u></p> <ul style="list-style-type: none"> <li>• <u>Plan ground disturbance to avoid cultural resources.</u></li> <li>• <u>Deed cultural resources into permanent conservation easements.</u></li> <li>• <u>Cap or cover archaeological resources with a layer of soil before building on the location.</u></li> <li>• <u>Plan parks, greenspace, or other open space to incorporate cultural resources.</u></li> <li>• <u>Write synthetic documents summarizing the current understanding of the history and prehistory of the project area and vicinity.</u></li> <li>• <u>Recover data for archaeological resources.</u></li> <li>• <u>Develop interpretive material to correspond with recreational uses to educate the public about protecting cultural resources and avoiding disturbance of sensitive resources.</u></li> <li>• <u>Develop partnerships to assist in the training of groups and individuals to participate in site stewardship programs.</u></li> <li>• <u>Coordinate with visual resources staff to ensure visual management standards consider cultural resources and tribal consultation to include landmarks of cultural significance to Native Americans (e.g., TCPs, trails).</u></li> </ul>	<p><u>Significant and Unavoidable</u></p>

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>• <u>Measures to address visual impacts to the setting of built-environment resources include:</u> <ul style="list-style-type: none"> <li>○ <u>Existing mature plant specimens shall be used for screening during construction, operation, and decommissioning phases. The identification of plant specimens that are determined to be mature and retained shall occur as part of the design phase and mapped/identified by a qualified plant ecologist or biologist and integrated into the final design and project implementation.</u></li> <li>○ <u>Revegetation of disturbed areas within the project area shall occur as various activities are completed. Plans and specifications for revegetation shall be developed by a qualified plant ecologist or biologist before any extant vegetation is disturbed. The revegetation plan shall include specification of maintenance and monitoring requirements, which shall be implemented for a period of 5 years after project construction or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist. Plant material shall be consistent with surrounding native vegetation.</u></li> <li>○ <u>The color of the wells, pipelines, storage tanks, control structures, and utilities shall consist of muted, earth-tone colors that are consistent with the surrounding natural color palette. Matte finishes shall be used to prevent reflectivity. For example, integral color concrete should be used in place of standard gray concrete.</u></li> <li>○ <u>The final revegetation and painting plans and specifications shall be reviewed and approved by an architect, landscape architect, or allied design professional licensed in the State of California to ensure that the design objectives and criteria are being met.</u></li> <li>○ <u>Specific impact identification and adjustments to finish specifications shall occur during project design. Implementation of the revegetation and coloration plans shall occur during oilfield development. Maintenance and monitoring requirements shall be implemented after initial project construction for a period of 5 years, or after the vegetation has successfully established, as determined by a qualified plant ecologist or biologist.</u></li> </ul> </li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>• <u>Protective measures and monitoring protocols can be implemented for built environment resources located in close proximity to a project but that are not anticipated to be directly impacted by demolition or development but which may be subject to other direct impacts such as change in historic setting, vibration, noise, or inadvertent damage include:</u> <ul style="list-style-type: none"> <li>○ <u>Historic Structures Reports (HSR) shall be prepared for buildings and structures adjacent to the project area for which detailed information is required to develop protection measures. Reports shall be completed for buildings and structures that appear to be in poor condition and, therefore, potentially sensitive to development-related activities such as vibration. These reports shall determine if predevelopment stabilization through temporary shoring and bracing of these buildings is warranted.</u></li> <li>○ <u>Predevelopment condition assessments shall be prepared for buildings and structures that qualify as historical resources that are adjacent to the project area and are structurally stable, but could be unintentionally damaged during development. Should there be any question as to whether the project caused damage, these condition assessments will provide confirmation of the predevelopment condition.</u></li> <li>○ <u>Precautions to protect built environment historical resources from construction vehicles, debris, and dust may include fencing or debris meshing. Temporary mothballing, and fire and intrusion protection may be needed if the buildings are unoccupied during oil and gas field development.</u></li> <li>○ <u>Protective measures shall be field checked as needed during development by a qualified architectural historian with demonstrated experience conducting monitoring of this nature. Vibration monitoring may be required for buildings determined susceptible to vibration damage located in close proximity to development activities or machinery that cause vibration.</u></li> <li>○ <u>These measures are designed to avoid direct impacts such as vibration that may result in structural damage or inadvertent direct impacts. Structural damage or demolition would otherwise potentially result in a significant impact because character-defining features and aspects of historic integrity that convey the resource’s significance could be materially impaired.</u></li> </ul> </li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>○ <u>Redesign of relevant facilities shall be used to avoid destruction or damage where feasible.</u></li> <li>● <u>For built resources that will be directly and significantly impacted, mitigation typically includes:</u> <ul style="list-style-type: none"> <li>○ <u>Historic American Building Survey (HABS), Historic American Engineering Record (HAER), and Historic American Landscape Survey (HALS) records will be prepared for historical resources that will be demolished. The HABS/HAER/HALS documentation will be prepared as appropriate for the impacted historical resource with HABS normally completed at Level II. These reports will include written and photographic documentation of the significant and character-defining features of these properties. While this documentation will not reduce impacts to a less than a significant level, it is needed to capture and preserve a description of the significant information and characteristics associated with the resource.</u></li> <li>○ <u>All HABS/HAER/HALS reports are subject to review and approval by the NPS. Following approval, the lead agencies will produce sufficient copies for distribution to identified repositories, including the Library of Congress, the California State Library, the University of California Water Resources Center Archives, and any local repositories, as appropriate and agreed upon with the County Planning Department and interested parties. Distribution will ensure the formal documentation is retained and conveyed to a wide audience.</u></li> <li>○ <u>Deconstruction and salvage of materials from demolished buildings will be performed to the extent feasible to enable the restoration of similar buildings and structures outside of the area of direct impact. Deconstruction and salvage will not reduce impacts to a less than significant level, but will help to ensure that similar resources are restored and maintained in manner that will ensure that examples of the resource type are preserved.</u></li> <li>○ <u>Relocate historically significant resources for which demolition cannot be feasibly avoided by development. In such circumstances, relocation must meet the requirements for the Special Criteria Consideration for Moved Buildings, Structures, and Objects to ensure the significance of the building is retained.</u></li> </ul> </li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<ul style="list-style-type: none"> <li>○ <u>Require that the preservation or reuse of an eligible structure follow Department of the Interior (DOI) Standards and Guidelines for Archeology and Historic Preservation. If the building is considered a historic resource under CEQA, the local building inspector must grant code alternatives under the State Historic Building Code.</u></li> <li>○ <u>In a case where HABS/HAER documentation does not provide adequate mitigation to reduce impacts to a less than significant level, projects would normally be required to take additional steps to capture the history and memory of the resource and share this information with the public using various methods such as Web media, static displays, interpretive signs, use of on-site volunteer docents, or informational brochures.</u></li> <li>● <u>Avoidance and minimization are the preferred means by which the County would prevent potential impacts to cultural resources, including cultural landscapes. Preservation in place is the preferred manner to avoid and minimize impacts to historical and archaeological resources. All impacts to cultural resources that are eligible or potentially eligible for listing on the CRHR shall be avoided, to the greatest extent possible. Preservation in place may be accomplished by, but is not limited to, the following: Avoidance of significant or potentially significant cultural resources through project redesign and the relocation of project element.</u></li> <li>● <u>Following avoidance and minimization, measures to address impacts to cultural resources at a landscape scale should follow the guidance in <i>A Strategy for Improving Mitigation Policies and Practices of the Department of the Interior</i> (DOI 2014) and the <i>National Park Service Preservation Brief 36 - Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes</i>, including but not limited to:</u> <ul style="list-style-type: none"> <li>○ <u>Document the individual landscape characteristics and features in the context of the landscape as a whole in a Cultural Landscape Report, including contributing and non-contributing features.</u></li> <li>○ <u>Develop compensatory mitigation.</u></li> <li>○ <u>Coordinate with other agencies.</u></li> <li>○ <u>Monitor and evaluate the progress of long-term mitigation.</u></li> <li>○ <u>Develop and maintain geospatial information systems for use in identifying existing and potential conservation strategies and development opportunities.</u></li> </ul> </li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<p>• <b>CUL-1a: Designate project Cultural Resources Staff.</b>  <u>Project Cultural Resources Specialist.</u> Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County Planning Department, a cultural resources specialist whose training and background conforms to the US Secretary of Interior’s Professional Qualifications Standards, as published in Code of Federal Regulations Title 36, part 61 shall be retained by the project owner to conduct a cultural resources inventory, evaluate any resources, produce a Cultural Resources Management and Treatment Plan and other related plans for the approved project and to implement any required plans and mitigation, as necessary as determined by the cultural resource specialist. Their qualifications shall be appropriate to the needs of the project, <u>and shall include local knowledge.</u> If the project primarily impacts resources archaeological in nature, the cultural resources specialist shall have a background in archaeology, anthropology or cultural resource management. If the project impacts primarily built environment resources, the cultural resources specialist shall have a background in architectural history. Resumes of the proposed cultural resources staff shall be submitted to the County Planning Department or other CEQA lead agency for review and approval. The Monitoring and Treatment Plan (Mitigation Measure CUL-1c) shall be prepared and implemented under the direction of the cultural resources specialist and shall address and incorporate CUL-1a through CUL-1g.</p> <p><u>Additional Cultural Resources Staff.</u> The project’s cultural resources specialist may obtain the services of specialists, cultural resources monitors and field crew if needed, to assist in identification, evaluation, mitigation, monitoring, and curation activities. Cultural Resources Staff shall have a Bachelor’s degree in anthropology, archaeology, history, architectural history or related field, and demonstrated field experience. These individuals must also meet local lead agency qualifications and their resumes must be reviewed and approved by local lead agency staff prior to beginning work.</p> <p><b>CUL-1b: Draft a Historical Resources Treatment Plan.</b>                      To mitigate the potential impacts on historical resources identified during inventory of the project area, a treatment plan for historical resources shall be developed by, depending on the nature of the resources identified, an archaeologist and/or architectural historian who meets the</p>	



<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>CULTURAL RESOURCES (cont.)</b>		
	<p>Secretary of Interior’s Professional Qualifications Standards. This treatment plan would include data recovery plans that would address National Register of Historic Places/California Register for Historic Resources-eligible cultural resources that would be impacted by the project by requiring some level of extracting the scientific value and analysis of the resources prior to development.</p> <p><b>CUL-1c: Draft a Monitoring and Treatment Plan.</b> To mitigate the potential impacts related to inadvertent discovery of archaeological resources during construction, the project proponents shall have a Secretary of the Interior-qualified archaeologist implement a monitoring program and an unanticipated archaeological resource treatment plan. The qualified archaeologist will evaluate any resources uncovered during ground disturbing activities implement appropriate treatment as specified in the archaeological resource treatment plan. During all phases of the project that include ground disturbance, these ground-disturbing activities will be observed by an archaeological monitor, as determined necessary by the archaeologist.</p> <ul style="list-style-type: none"> <li>a. If, during the course of monitoring, a potentially significant resource is discovered, the qualified archaeologist will have the authority to stop or redirect ground disturbing activities away from the resource until it can be evaluated.</li> <li>b. If previously unknown cultural deposits are discovered during the course of construction, such as previously undiscovered stratified cultural deposits, a testing program will be implemented to evaluate the stratified cultural deposit.</li> <li>c. A separate Native American monitor shall be retained by the project proponent to monitor ground disturbing activities in and around archaeological resources. The Native American monitor shall be selected through consultation with Native American tribal groups. The Native American monitor shall work in conjunction with the qualified archaeologist.</li> </ul> <p><b>CUL-1d: Grant authority to halt project activities.</b> Prior to the approval of a Renewable Energy Permit, Renewable Energy Development Agreement, or Renewable Energy Impact Determination by the County or the relevant CEQA</p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<p>lead agency, the project owner shall submit a written document granting authority to halt project related activities to the project’s cultural resources specialist (as defined in mitigation measure CUL-1a) and cultural resources monitors in the event of a discovery or possible damage to a cultural resource. Redirection of project related activities shall be accomplished under the direction of the project supervisor in consultation with the cultural resources specialist. The details of this agreement shall be stipulated in the Cultural Resources Management and Treatment Plan as required in Mitigation Measure CUL-1b.</p> <p><b>CUL-1e: Develop a Cultural Resources Worker Environmental Awareness Program.</b> Prior to and for the duration of project activities, the project owner shall provide WEAP training to all new workers within their first week of employment at the project site. The training shall be prepared by the Project cultural resources specialist (as defined in CUL-1) in consultation with local Native Americans and shall incorporate the traditions and beliefs of local Native American groups into the presentation. The presentation may be conducted by any qualified cultural resources specialist and a Native American, if possible, and may be presented in the form of a video. A consulting fee or honorarium shall be negotiated with the local Native American consultants and presenter and paid to them for their participation. The training may be discontinued when project activities are completed or suspended, but must be resumed when project activities resume.</p> <p>The training shall include:</p> <ol style="list-style-type: none"> <li>1. A discussion of applicable laws and penalties under the law;</li> <li>2. Samples or visuals of artifacts that might be found in the project vicinity;</li> <li>3. A discussion of what such artifacts may look like when partially buried, or wholly buried and then freshly exposed;</li> <li>4. A discussion of what prehistoric and historical archaeological deposits look like at the surface and when exposed during ground-disturbance, and the range of variation in the appearance of such deposits;</li> <li>5. A discussion of what local Native American beliefs are, how those beliefs are related to cultural resources that may be found in the area, and the appropriate respectful behavior towards sacred places and objects;</li> </ol>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>CULTURAL RESOURCES (cont.)</b>		
	<ol style="list-style-type: none"> <li>6. Instruction that all cultural resources specialists have the authority to halt ground disturbance in the area of a discovery to an extent sufficient to ensure that the resource is protected from further impacts, as determined by the project cultural resources specialist (as defined in CUL-1);</li> <li>7. Instruction that employees are to avoid areas flagged as sensitive for cultural resources;</li> <li>8. Instruction that employees are to halt work on their own in the vicinity of a potential cultural resources discovery and shall contact their supervisor and the project cultural resources specialist (as defined in CUL-1), and that redirection of work would be determined by the project supervisor and the project cultural resources specialist;</li> <li>9. An informational brochure that identifies reporting procedures in the event of a discovery;</li> <li>10. An acknowledgement form signed by each worker indicating that they have received the training which shall be submitted to the County Planning Department and any other CEQA lead agency; and</li> <li>11. A sticker that shall be placed on hard hats indicating that environmental training has been completed.</li> </ol>	

<b>Table ES-1 (cont.)</b> <b>IMPACTS AND PROPOSED MITIGATION</b>		
Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<p><b>CUL-1f: Conduct cultural resources reporting.</b>                      The project cultural resources specialist shall document results in interim and final reports as necessary. The contents and timing of these reports shall be stipulated in the Cultural Resources Management and Treatment Plan (CUL-1b).</p> <p>Final reports for archaeological resources, human remains, and some landscapes, shall be written by or under the direction of a Secretary of the Interior qualified archaeologist or architectural historian as appropriate for the project. Reports shall be provided in the California Office of Historic Preservation’s Archaeological Resource Management Reports: Recommended Contents and Format and local agency formats. Final documents shall report on all field activities including dates, times and locations, results, samplings, and analyses. All survey reports, Department of Parks and Recreation 523 series forms, data recovery reports, and any additional research reports not previously submitted to the California Historical Resource Information System and the State Historic Preservation Officer shall be included as appendices.</p> <p><b>CUL-1g: Proper curation of cultural resources collections.</b>                      All archaeological materials retained as a result of the cultural resources investigations (survey, testing, data recovery) shall be curated in accordance the California State Historical Resources Commission’s <i>Guidelines for the Curation of Archaeological Collections</i>, into a retrievable storage collection in a public repository or museum. <u>Additionally, all collection and retention of archaeological materials as a result of cultural resources investigations must comply with the regulations and policies of the land managing agency or property owner.</u></p>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>CULTURAL RESOURCES (cont.)</b>		
Implementation of future projects associated with the REGPA may disturb human remains, including those interred outside of formal cemeteries.	<p><b>CUL-2: Implement proper actions in the event of the incidental discovery of human remains.</b></p> <p>In accordance with Section 7050.5 of the California Health and Safety Code, if human remains are found, the County Coroner shall be notified within 24 hours of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie potential remains shall occur until the County Coroner has determined, within two working days of notification of the discovery, the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains are or are believed to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with Section 5097.98 of the California Public Resources Code, the NAHC must immediately notify those persons it believes to be the most likely descendant of the deceased Native American. The descendants shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the County, the disposition of the human remains.</p> <p>Should human remains be discovered at any time during construction of the project, construction in the vicinity would halt and the County Coroner would be contacted immediately. If the Coroner determines that the remains do not require an assessment of cause of death and are probably Native American, then the NAHC would be contacted to identify the Most Likely Descendant.</p>	Significant and Unavoidable
Implementation of future projects associated with the REGPA has the potential to directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	<p><b>PALEO-1a: Protect paleontological resources.</b></p> <p>Project developers shall document in a paleontological resources assessment report whether paleontological resources exist in a project area on the basis of the following: the geologic context of the region and site and its potential to contain paleontological resources (including the fossil yield potential), a records search of institutions holding paleontological collections from California desert regions, a review of published and unpublished literature for past paleontological finds in the area, and coordination with paleontological researchers working locally in potentially affected geographic areas (or studying similar geologic strata).</p> <p>If paleontological resources are present at the site or if the geologic units to be encountered by the project (at the surface or the subsurface) have a high/very high or moderate/unknown fossil</p>	Significant and Unavoidable

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>CULTURAL RESOURCES (cont.)</b>		
	<p>yield, a Paleontological Resources Management Plan shall be developed.</p> <ol style="list-style-type: none"> <li>1. The plan shall include the following types of requirements:</li> <li>2. The qualifications of the principal investigator and monitoring personnel</li> <li>3. Construction crew awareness training content, procedures, and requirements</li> <li>4. Any measures to prevent potential looting, vandalism, or erosion impacts</li> <li>5. The location, frequency, and schedule for on-site monitoring activities</li> <li>6. Criteria for identifying and evaluating potential fossil specimens or localities</li> <li>7. A plan for the use of protective barriers and signs, or implementation of other physical or administrative protection measures</li> <li>8. Collection and salvage procedures</li> <li>9. Identification of an institution or museum willing and able to accept any fossils discovered</li> <li>10. Compliance monitoring and reporting procedures</li> </ol> <p>If the geologic units that would be affected by the project have been determined to have low fossil yield potential, paleontological resources shall be included as an element in construction worker awareness training. The training shall include measures to be followed in the event of unanticipated discoveries, including suspension of construction activities in the vicinity.</p> <p>The Paleontological Resources Management Plan shall evaluate all of the construction methods proposed, including destructive excavation techniques. Where applicable, the principal investigator shall include in the plan an evaluation of the potential for such techniques to disturb or destroy paleontological resources, an evaluation of whether loss of such fossils would represent a significant impact, and discussion of mitigation or compensatory measures (such as recordation/recovery of similar resources elsewhere on the site) that are necessary to avoid or substantially reduce the impact.</p>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>CULTURAL RESOURCES (cont.)</b>		
<b>HYDROLOGY AND WATER QUALITY</b>		
<p>Implementation of a solar facility project as part of the REGPA would result in potentially significant impacts related to hydrologic conditions (including drainage alteration, runoff rates and amounts, flood hazards, and existing/planned storm drain system capacity); groundwater resources; and long-term water quality.</p>	<p><b>HYD-1: Conduct site-specific hydrologic investigations.</b>                      Site-specific hydrologic investigations will be completed for proposed utility scale solar facility development projects within the individual SEDAs and the OVSA (i.e., those with grading, excavation or other activities potentially affecting hydrologic conditions, as determined by the County), as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential hydrologic concerns, including but not necessarily limited to: drainage alteration, runoff rates and amounts, flood hazards, and existing/planned storm drain system capacity. The final project design documents will also encompass applicable standard design and construction practices from sources including NPDES, <u>Basin Plan</u> and County standards, as well as the results/recommendations of County plan review (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of remedial measures typically associated with identified potential hydrologic concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The remedial measures identified/recommended as part of the described site-specific hydrologic investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> <li>• Drainage Alteration: (1) locate applicable facilities <u>and activities (e.g., staging areas and soil/material stockpiles)</u> outside of surface drainage courses and drainage channels; (2) re-route surface around applicable facilities, with such re-routing to be limited to the smallest area feasible and re-routed drainage to be directed back to the original drainage course at the closest feasible location (i.e., the closest location to the point of diversion); and (3) use drainage structures to convey flows within/through development areas and maintain existing drainage patterns.</li> </ul>	<p>Less Than Significant</p>

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>HYDROLOGY AND WATER QUALITY (cont.)</b>		
	<ul style="list-style-type: none"> <li>• Runoff Rates and Amounts: (1) minimize the installation of new impervious surfaces (e.g., by surfacing with pervious pavement, gravel or decomposed granite); and (2) use flow regulation facilities (e.g., detention/retention basins) and velocity control structures (e.g., riprap dissipation aprons at drainage outlets), to maintain pre-development runoff rates and amounts.</li> <li>• Flood Hazards: (1) work to locate proposed facilities <u>and activities</u> outside of mapped 100-year floodplain boundaries; (2) based on technical analyses such as Hydrologic Engineering Center-River Analysis System (HEC-RAS) studies, restrict facility locations to avoid adverse impacts related to impeding or redirecting flood waters; and (3) based on HEC-RAS studies, use measures such as raised fill pads to elevate proposed structures above calculated flood levels, and/or utilize protection/containment structures (e.g., berms, barriers or waterproof doors) to avoid flood damage.</li> <li>• Storm Drain System Capacity: (1) implement similar measures as noted above for runoff rates and amounts; and (2) utilize additional and/or enlarged facilities to ensure adequate on- and off-site storm drain system capacity.</li> <li>•</li> </ul> <p><b>HYD-2: Conduct site-specific groundwater investigations.</b> Site-specific groundwater investigations will be completed for all proposed solar facility development projects within the individual SEDAs and the OVSA proposing to utilize groundwater resources, prior to final project design approval. These investigations will identify site-specific criteria related to considerations such as local aquifer volumes and hydrogeologic characteristics, current/proposed withdrawals, inflow/recharge capacity, and potential effects to local aquifer and well levels, <u>as well as effects to groundwater-dependent surface water features including springs, marshes and bosques</u>, from proposed project withdrawals. All applicable results and recommendations from these investigations will be incorporated into the associated individual project design documents to address identified potential impacts to groundwater resources (per applicable regulatory standards), with all related requirements to be included in associated engineering/design drawings and construction contract specifications. A summary of the types of remedial measures typically associated with identified potential effects to groundwater <u>and related surface water</u> resources is provided below. The remedial measures identified/recommended as part of the described site-specific</p>	



<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>HYDROLOGY AND WATER QUALITY (cont.)</b>		
	<p>groundwater investigations will take priority over the more general types of standard measures listed below.</p> <ul style="list-style-type: none"> <li>• Aquifer/Well drawdown: (1) monitor local aquifer and private/production well levels to verify the presence or absence of project-related effects during pre-construction, construction, and operation periods (based on a methodology and monitoring schedule approved by the RWQCB and County); (2) document background and pre-construction groundwater conditions and comparable project-related construction and operation trends, along with related factors such as precipitation levels and groundwater budgets; (3) prepare scaled maps depicting the associated site(s), existing and proposed monitoring well locations, relevant natural (e.g., springs and groundwater-dependent vegetation) and other features (e.g., reservoirs), and pre- post-project groundwater contours, along with a description of cumulative water level changes; (4) restrict project-related groundwater withdrawals to appropriate levels to avoid significant adverse effects to local aquifers/wells and/or other groundwater-dependent uses (e.g., vegetation, springs or other related surface water features), based on thresholds approved by the RWQCB and County; and (5) provide mitigation for affected wells or other uses/resources where applicable, potentially including well modifications (e.g., deepening pumps or wells), <u>and/or financial compensation, and compensatory mitigation for impacts to groundwater-dependent surface water features and habitats.</u></li> <li>• Groundwater Recharge Capacity: (1) reduce the area of on-site impervious surface if appropriate, through increased use of surfacing materials such as gravel, decomposed granite, or pervious pavement; and (2) use facilities such as retention/percolation basins and unlined drainage facilities to increase local infiltration and groundwater recharge. <u>The County may employ water injection as a method of groundwater recharge as deemed appropriate on a case by case basis. This decision would be made during project specific CEQA analysis for a given solar energy development proposal.</u></li> </ul> <p><b>HYD-3: Conduct site-specific water quality investigations.</b> Site-specific water quality investigations will be completed for long-term solar facility operations associated with applicable proposed development projects within the individual SEDAs and the OVSA (i.e., those with activities potentially affecting water quality conditions,</p>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>HYDROLOGY AND WATER QUALITY (cont.)</b>		
	<p>as determined by the County), as well as the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. All applicable results and recommendations from these investigations will be incorporated into the associated individual final project design documents to address identified potential long-term water quality issues related to conditions such as: anticipated and potential pollutants to be used, stored or generated on-site; the location and nature (e.g., impaired status) of on-site and downstream receiving waters; and project design features to avoid/address potential pollutant discharges. The final project design documents will also encompass applicable standard design practices from sources including NPDES, <u>Basin Plan</u> and County standards, as well as the results/recommendations of project-related hazardous materials investigations and regulatory standards (with all related requirements to be included in applicable engineering/design drawings and construction contract specifications). A summary of the types of BMPs typically associated with identified potential water concerns, pursuant to applicable regulatory and industry standards (as noted), is provided below. The BMPs identified/recommended as part of the described site-specific water quality investigations will take priority over the more general types of standard regulatory/industry measures listed below.</p> <ul style="list-style-type: none"> <li>• Low Impact Development (LID)/Site Design BMPs: LID/site design BMPs are intended to avoid, minimize and/or control post-development runoff, erosion potential and pollutant generation to the maximum extent practicable by mimicking the natural hydrologic regime. The LID process employs design practices and techniques to effectively capture, filter, store, evaporate, detain and infiltrate runoff close to its source through efforts such as: (1) minimizing developed/disturbed areas to the maximum extent feasible; (2) utilizing natural and/or unlined drainage features in on-site storm water systems; (3) disconnecting impervious pervious to slow concentration times, and directing flows from impervious surfaces into landscaped or vegetated areas; and (4) using pervious surfaces in developed areas to the maximum extent feasible.</li> </ul>	

**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>HYDROLOGY AND WATER QUALITY (cont.)</b>		
	<ul style="list-style-type: none"> <li>• Source Control BMPs: Source control BMPs are intended to avoid or minimize the introduction of pollutants into storm drains and natural drainages to the maximum extent practicable by reducing on-site pollutant generation and off-site pollutant transport through measures such as: (1) installing no dumping” stencils/tiles and/or signs with prohibitive language (per current County guidelines) at applicable locations such as drainages and storm drain inlets to discourage illegal dumping; (2) designing trash storage areas to reduce litter/pollutant discharge through methods such as paving with impervious surfaces, installing screens or walls to prevent trash dispersal, and providing attached lids and/or roofs for trash containers; (3) designing site landscaping (if applicable) to maximize the retention of native vegetation and use of appropriate native, pest-resistant and/or drought-tolerant varieties to reduce irrigation and pesticide application requirements; and (4) providing secondary containment (e.g., enclosed structures, walls or berms) for applicable areas such as trash or hazardous material use/storage.</li> <li>• Treatment Control/LID BMPs: Treatment control (or structural) BMPs are designed to remove pollutants from runoff to the maximum extent practicable through means such as filtering, treatment or infiltration. Treatment control and/or LID BMPs are required to address applicable pollutants, and must provide medium or high levels of removal efficiency for these pollutants (per applicable regulatory requirements). Based on the anticipated pollutants of concern, potential LID and treatment control BMPs may include (1) providing water quality treatment and related facilities such as sediment basins, vegetated swales, infiltration basins, filtration devices and velocity dissipators to treat appropriate runoff flows and reduce volumes prior to off-site discharge (per applicable regulatory requirements); and (2) conducting regular inspection, maintenance and as-needed repairs of pertinent facilities and structures.</li> </ul>	
<b>LAND USE AND PLANNING</b>		
No significant, unavoidable adverse land use and planning impacts would result from implementation of the proposed REGPA.	No mitigation measures are required.	Less Than Significant

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>MINERAL RESOURCES</b>		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scale distributed generation, and/or</u> community scale, <del>and/or</del> facilities) could result in potentially significant impacts to mineral resources related to the loss of regionally or locally important mineral resources, as well as associated potential conflicts with valid mineral entries.</p>	<p><b>MIN-1: Conduct site-specific mineral resource investigations.</b>                      Site-specific mineral resource investigations will be completed for proposed development projects within the individual SEDAs, the OVSA, and the potential off-site transmission corridors associated with the Trona, Chicago Valley, and Charleston View SEDAs (if applicable), prior to final project design approval. These investigations will include the following elements: (1) descriptions of regional and on-site geologic environments; (2) identification of site-specific potential for the occurrence of mineral resources; (3) assessment of estimated mineral resource quantities and extents (as applicable); (4) evaluation of associated potential for economic resource recovery, including considerations such as supply and demand, and production, processing and transportation costs; (5) determination of the presence of mineral entries such as mining claims and mineral leases, including descriptions of individual mineral entry types, issuing agencies and status; (6) assessment of potential impacts from project implementation to identified regionally- or locally-important mineral resources, associated exploration/recovery efforts, and valid mineral entries; and (7) development of remedial measures to address identified impacts to mineral resources, operations and entries, as feasible, potentially including efforts such as avoidance, use of proposed project development timing or phasing to accommodate mineral operations, or locating proposed project facilities to accommodate multiple use operations (e.g., through shared use of access or infrastructure). All applicable results and recommendations from the described investigations identifying identified potential mineral resource impacts and remedial measures will be incorporated into the associated individual project design documents.</p>	<p>Less Than Significant</p>

<b>Table ES-1 (cont.)</b> <b>IMPACTS AND PROPOSED MITIGATION</b>		
Impacts	Mitigation Measures	Significance After Mitigation
<b>NOISE</b>		
<p>Implementation of the REGPA (including implementation of utility scale, <u>commercial scale distributed generation, and/or</u> community scale, <del>and/or</del> facilities) could result in potentially significant impacts related to: (1) exposure of persons to or generation of noise levels in excess of established standards during project operations; and (2) temporary or periodic increases in ambient noise levels during construction.</p>	<p><b>NOI-1: Prepare technical noise report for solar facilities proposed within 500 feet of noise sensitive land uses.</b>                      If a proposed utility scale solar energy project resulting from implementation of the REGPA is within 500 feet of a residence or other noise sensitive land use, prior to issuance of a Major Use Permit, a site-specific noise technical report will be prepared and approved by the County. The technical report will verify compliance with all applicable County laws, regulations, and policies during operation of the solar project, including that noise levels would not exceed the relevant thresholds described in the General Plan Noise Element (60 dBA L<sub>DN</sub> for noise sensitive land uses such as residences, schools, transient lodging and medical facilities). The site specific noise technical report will include project specifications, applicable noise calculations, project design features, applicable BMPs and related information from the REAT’s Best Management Practices and Guidance Manual (REAT 2010), and mitigation measures applicable to the project. The technical noise report will address operational related noise sources, as well as noise from the use of generators during an emergency. The technical report will calculate specific anticipated noise and vibration levels from operations in accordance with County standards and provide specific mitigation when noise levels are expected to exceed County standards.</p> <p><b>NOI-2: Implement construction noise reduction measures.</b>                      If utility scale solar development resulting from implementation of the REGPA is proposed within 500 feet of a residence or other noise sensitive receptor, the following measures, in addition to applicable BMPs and related information from REAT’s Best Management Practices and Guidance Manual (REAT 2010), shall be implemented to reduce construction noise to the extent feasible:</p> <ul style="list-style-type: none"> <li>• Whenever feasible, electrical power will be used to run air compressors and similar power tools.</li> <li>• Equipment staging areas will be located as far as feasible from occupied residences or schools.</li> <li>•</li> <li>•</li> <li>•</li> </ul>	<p>Less Than Significant</p>

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>NOISE (cont.)</b>		
	<ul style="list-style-type: none"> <li>• All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.</li> <li>• Stationary equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.</li> <li>• Stockpiling and vehicle staging areas shall be located as far as practical from occupied dwellings.</li> <li>• <b>NOI-3: Prepare a Helicopter Noise Control Plan.</b> In the event that a utility scale solar project site would have limited access and would require the use of helicopters during operation or maintenance of a facility, the County shall prepare a Helicopter Noise Control Plan that indicates where helicopters would be used and the frequency and duration for such use. The plan shall demonstrate compliance with the noise level limits within the County Noise Element for helicopter noise to properties within 1,600 feet of proposed helicopter use locations.</li> </ul>	
<b>POPULATION AND HOUSING</b>		
Implementation of the REGPA would result in less than significant impacts to population and housing.	No mitigation measures are required.	Less Than Significant

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>PUBLIC SERVICES</b>		
<p>Implementation of the REGPA would result in potentially significant impacts associated with fire and police protection services.</p>	<p><b>PUB-1: Analyze public safety and protection response times and staff levels for each project.</b> Site specific analysis of fire and police protection service response times and staffing levels shall be completed for proposed future solar development projects, as deemed appropriate by the County, at the cost of the project applicant, prior to final project design approval of each project. The analysis shall include a determination regarding a project’s impact to fire and police protection services and outline feasible measures to maintain adequate response times for fire and police protection services.</p> <p><b>PUB-2: Provide onsite security during the construction and long-term operation of the project.</b> For project sites associated with proposed future solar development projects that are determined through Mitigation Measure PUB-1 to have insufficient law enforcement protection services or significant impacts to law enforcement services, project proponents shall be required to provide adequate, onsite private security for the duration of construction activities and during the long-term operation of the project to the satisfaction of the County. The actual size and configuration of the security detail shall be determined by the County during preparation of the Development Agreement for the future solar energy project.</p> <p><b>PUB-3: Pay mitigation fees for public safety and protection services.</b> The County shall require project proponents to pay established County development mitigation fees for fire and police protection services. Said fees shall be used to maintain proper staffing levels for fire <del>and</del> police protection, <u>and emergency</u> services and to sustain adequate response times as required by the County.</p>	<p>Less Than Significant</p>

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>RECREATION</b>		
Implementation of the REGPA would result in less than significant impacts to recreational facilities.	No mitigation measures are required.	Less Than Significant
<b>SOCIOECONOMICS</b>		
Implementation of the REGPA would result in potentially adverse socioeconomic effects related to changes in the local economy, housing availability related to temporary construction workers, and levels of public service provision.	<p><b>SOC-1: Minimize impacts on transient housing.</b> To further offset potential negative effects and increased demand on transient housing, General Plan Policy ED-4.5, Employ and Train Local Labor, shall be supplemented with the following:</p> <ul style="list-style-type: none"> <li>• For renewable energy projects where the construction schedule exceeds one-year, community monitoring programs shall be developed that would identify and evaluate transient housing demand and other socioeconomic effects utilizing economic models such as JEDI. Measures developed for monitoring may include the collection of data reflecting the workforce demands and social effects (such as tracking any demonstrable drop in recreational usership) as a result of increased transient housing demand from construction workers at the local and County level.</li> <li>• Project developers shall work with the County, local chambers of commerce, and/or other applicable local groups to assist transient workers in finding temporary lodging. If temporary lodging is not available, developers of utility scale projects shall consider the feasibility of providing on-site temporary housing accommodations for all projects.</li> </ul>	Less Than Significant



**Table ES-1 (cont.)  
IMPACTS AND PROPOSED MITIGATION**

Impacts	Mitigation Measures	Significance After Mitigation
<b>SOCIOECONOMICS</b>		
	<p><b>SOC-2: Minimize impacts on County public services.</b> To further off-set potential negative effects on County public services, General Plan Policy ED-4.4, Offset the Cost to the County for Service Provision, shall be supplemented with the following:</p> <ul style="list-style-type: none"> <li>• Cooperative agreements between project applicants and the County shall be secured prior to issuance of a building permit or project-specific entitlement to ensure the following:</li> <li>• Unless property taxation of a renewable energy installation is deemed sufficient by the County, project applicants shall pay a fair-share public service impact fee. A potential method for estimating a fair-share contribution could be calculated by:</li> <li>• [annual service budget] X [estimated number of temporary workers temporarily in-migrating ÷ County population served].</li> <li>• The public service fee (and formula used for calculating fair-share) shall be adjusted based on the duration of project construction (e.g., a project only lasting 9 months would utilize 75 percent of the annual budget, one lasting 1.5 years would utilize 150 percent of the annual budget, etc.); and</li> <li>• Project applicants shall maximize the County’s receipt of sales and use taxes paid in connection with construction of the project by methods such as including language in construction contracts identifying jobsites to be located within the County and requiring construction contractors to attribute sales and use taxes to the County in their Board of Equalization filings and permits.</li> </ul>	

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>TRANSPORTATION AND CIRCULATION</b>		
<p>Implementation of the REGPA could result in potentially significant traffic impacts related to: (1) construction traffic; (2) air traffic safety hazards; and, (3) design-related traffic hazards.</p>	<p><b>TRA-1: Prepare site-specific traffic control plans for individual projects.</b> Site-specific traffic control plans shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to ensure safe and efficient traffic flow in the area of the solar energy project and within the project site during construction activities. The traffic control plan shall, at minimum, contain project-specific measures to be implemented during construction including measures that address: (1) noticing; (2) signage; (3) temporary road or lane closures; (4) oversized deliveries; (5) construction times; and (6) emergency vehicle access.</p> <p><b>TRA-2: Implement recommendations from traffic impact analysis on surrounding roadways and intersections.</b> Site-specific construction traffic impact analyses shall be prepared for all proposed solar energy projects within the individual SEDAs and the OVSA to evaluate potential traffic impacts on surrounding roadways and intersections during the construction period. Applicable results and recommendations from the project-specific construction traffic impact analysis shall be implemented during the appropriate construction phase to address identified potential construction traffic impacts.</p>	<p>Less Than Significant</p>

<b>Table ES-1 (cont.) IMPACTS AND PROPOSED MITIGATION</b>		
<b>Impacts</b>	<b>Mitigation Measures</b>	<b>Significance After Mitigation</b>
<b>UTILITIES AND SERVICE SYSTEMS</b>		
Utility impacts associated with wastewater, water, stormwater facilities, and solid waste disposal would be less than significant.	No mitigation measures are required.	Less Than Significant
Implementation of the REGPA would result in potentially significant impacts related to the need for new transmission lines to serve future solar development.	<p><b>UTIL-1: Projects within the western solar energy group will not exceed a combined maximum of 250 MW or 1,500 acres.</b>                      Future projects within the Western Solar Energy Group shall be limited to a combined maximum of 250 MW or 1,500 acres of development area). The County shall implement a tracking program to ensure all future solar development projects within the Western Solar Energy Group do not exceed 250 MW. Once the 250 MW (or 1,500 acres of development area) is reached, the County shall not approve further projects within the Western Solar Energy Group unless project applicants can provide proof of adequate and existing transmission capabilities for the project.</p> <p><b>UTIL-2: Projects within the Southern and Eastern Solar Energy Groups will be required have necessary and/or adequate transmission lines.</b>                      Future development within the Southern and Eastern Solar Energy Groups shall be required to include the necessary transmission lines or provide proof of adequate transmission capabilities for the project.</p>	Less Than Significant

**Commissioners**  
**Eric Sklar**, President

Saint Helena

**Erika Zavaleta**, Vice President  
Santa Cruz

**Jacque Hostler-Carmesin**, Member  
McKinleyville

**Samantha Murray**, Member  
La Jolla

**Vacant**, member

STATE OF CALIFORNIA  
Gavin Newsom, Governor

## Fish and Game Commission



*Wildlife Heritage and Conservation  
Since 1870*

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### Meeting Agenda February 14-15, 2024

#### Participate in Person

**Natural Resources Headquarters Building  
715 P Street, Second Floor, Room 2-221  
Sacramento, California 95814**

or

#### Participate via Webinar/Phone

***The meeting will be live streamed; visit [www.fgc.ca.gov](http://www.fgc.ca.gov) the day of the meeting to watch or listen. To provide public comment during the meeting, please join at the in-person location, via Zoom, or by telephone; you may join the webinar directly at <https://us02web.zoom.us/j/84589311763>. For complete instructions on how to join via Zoom or telephone, [click here](#) or visit [fgc.ca.gov/meetings/2024](http://fgc.ca.gov/meetings/2024)***

- Notes:**
- (1) See important meeting deadlines and procedures, including written public comment deadlines, starting on page 12.**
  - (2) Unless otherwise indicated, the California Department of Fish and Wildlife is identified as Department.**
  - (3) All section and subsection references are to Title 14 of the California Code of Regulations, unless otherwise noted.**
  - (4) Consistent with Commission direction in December 2023, “general public comment for items not on the agenda” is listed near the end of the agenda for each day.**

**Invitation:** The Commission invites members of the public to join commissioners and staff for a field trip currently under development for Wednesday, February 14. Details will be available in advance of the Commission meeting. Members of the public are welcome to join but must provide their own transportation.

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**Call to Order and Roll Call to Establish a Quorum**

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1. **Consider approving agenda and order of items**

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**Commission Elections and Committee Assignments**

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2. **Election of Commission president and vice president**

The commissioners annually elect one of their number as a president and one as a vice president, by a concurrent vote of at least three commissioners.  
(Pursuant to Section 102, Fish and Game Code)

3. **Committee assignments**

The Commission forms three committees from its membership, consisting of at least one or up to two commissioners: Marine Resources Committee, Wildlife Resources Committee, and Tribal Committee.  
(Pursuant to sections 105, 106, and 106.5, Fish and Game Code)

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**Discussion and Action Items**

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4. **Commission executive director and Department reports**

- (A) ***Commission executive director's report***

- I. Justice, equity, diversity and inclusion (JEDI) plan update

- (B) ***Department director and Law Enforcement Division***

- I. Presentation and discussion regarding Commission authority related to water
- II. JEDI case study: Historical fish stocking practices in the Department's North Central Region (Region 2)

5. **Recreational take of California halibut**

Consider adopting proposed amendments to regulations for California halibut recreational daily bag and possession limits.  
(Amend Section 28.15)

6. **Recreational take of sea urchin**

Consider adopting proposed amendments to regulations for the recreational take of sea urchin to extend the bag limit exemption sunset date.  
(Amend Section 29.06)

7. **Recreational fishing regulations for federal groundfish**

Discuss proposed amendments to (a) recreational fishing regulations for federal groundfish in state waters for consistency with federal rules in 2024, and (b) recreational groundfish seasons, bag and depth limits.  
(Amend sections 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 28.26, 28.27, 28.28, 28.29, 28.47, 28.48, 28.49, 28.55, and 28.56)

**8. Experimental Fishing Permit (EFP) Program**

(Pursuant to Section 91, Title 14, CCR)

(A) ***EFP application 2023-03***

- I. Receive, consider and potentially act on EFP application 2023-03 to test commercial use of hoop nets in the California Dungeness crab fishery.

(B) ***EFP 2022-03 major amendment request***

- I. Consider approving major amendment to EFP 2022-03 related to testing commercial use of Sub Sea Sonics pop-up gear in the California Dungeness crab fishery and adding testing in the hagfish trap fishery.

**9. Coastal Fishing Communities Policy**

Consider and potentially adopt new Commission policy on coastal fishing communities. (Pursuant to Section 703, California Fish and Game Code)

**10. Regulation change petitions (marine)**

(A) ***New petitions***

Receive new petitions for regulation change. (Pursuant to Section 662)

Consideration of whether to grant, deny, or refer for additional review is expected to be scheduled for the April 17-18, 2024 meeting.

(B) ***Previously received petitions***

Consider whether to grant, deny, or refer for additional review, petitions for regulation change received at previous meetings. Petitions granted today will be added to the Commission's rulemaking calendar for development and future consideration.

(Pursuant to Section 662)

- I. *Petition 2023-14MPA*: Allow commercial take of red sea urchins in nine state marine conservation areas (SMCAs)
- II. *Petition 2023-15MPA*: Reclassify three northern Channel Islands state marine reserves (SMRs) to SMCAs and allow take of highly migratory species, pelagic finfish, and/or coastal pelagic finfish
- III. *Petition 2023-16MPA*: Reclassify Stewarts Point and Bodega Head SMRs to SMCAs and allow commercial take of salmon
- IV. *Petition 2023-18MPA*: Modify allowed uses for four marine protected areas (MPAs) in Santa Barbara Channel and eliminate two special closures.
- V. *Petition 2023-19MPA*: Designate new "Chitqawi" SMCA near Morro Bay for California-Chumash co-management
- VI. *Petition 2023-20MPA*: Reclassify and rename Point Buchon SMR to "Chumash SMCA" for co-management with tribal take exemption.
- VII. *Petition 2023-21MPA*: Modify Pyramid Point SMCA to remove recreational take of surf smelt and allow tribal take exemption for Tolowa Dee-ni' Nation
- VIII. *Petition 2023-22MPA*: Define "rocky intertidal zone," add research, monitoring, restoration and education allowance, and clarify protections in several Orange County MPAs

- IX. *Petition 2023-23MPA*: Reclassify three SMCAs to SMRs, designate one new SMR in Monterey, and make various changes related to kelp restoration
- X. *Petition 2023-24MPA*: Expand Laguna Beach no-take SMCA southward to border of City of Laguna Beach and modify Dana Point SMCA boundaries
- XI. *Petition 2023-25MPA*: Change boundaries and allowed take at several Catalina Island MPAs
- XII. *Petition 2023-26MPA*: Shift Swami's SMCA southward, and clarify protections at three estuarine no-take SMCAs in San Diego County
- XIII. *Petition 2023-27MPA*: Reclassify a portion or all of Anacapa SMCA to an SMR to protect eelgrass
- XIV. *Petition 2023-28MPA*: Designate a new SMR at Point Sal, or designate as an SMCA with a tribal take exemption based on tribal consultation
- XV. *Petition 2023-29MPA*: Designate a new SMCA with a tribal take exemption for and co-management with Santa Ynez Band of Chumash Indians in Santa Barbara
- XVI. *Petition 2023-30MPA*: Revise the recreational crab take regulations for Big River SMCA
- XVII. *Petition 2023-31MPA*: Reclassify Drakes Estero SMCA to an SMR and combine with Estero de Limantour SMR as a single SMR
- XVIII. *Petition 2023-32MPA*: Reclassify Duxbury Reef SMCA as an SMR and expand northern and southern boundaries
- XIX. *Petition 2023-33MPA*: Expand the boundaries of five SMRs and one SMCA, and designate a new SMR off Pleasure Point, in Santa Cruz
- XX. *Petition 2023-34MPA*: Reclassify Point Buchon SMCA to an SMR and modify take at Farnsworth Onshore and Offshore SMCAs to only allow recreational spearfishing

**11. Non-regulatory requests from previous meetings (marine)**

Consider and potentially act on requests for non-regulatory action received from members of the public at previous meetings.

**12. Commission policies**

Receive update on planning and coordination for review of Commission policies, with potential recommendation for next set of policies to review. Consider and potentially adopt amendments to three Commission policies.

(Pursuant to Section 703, California Fish and Game Code)

- (A) ***Legislation Policy***
- (B) ***Designation of Department Controlled Lands as State Wildlife Areas Policy***
- (C) ***Naming Installations Policy***

***Staff will recommend item 12(C) be continued to the April 14-15, 2024 meeting.***

**13. Committee and Department reports**

Receive updates on items of note since the previous Commission meeting from Commission committees and Department divisions.

(A) **Marine Resources Committee**

Discuss referred topics and consider revisions to topics and timing. Consider approving draft agenda topics for the next committee meeting to be held on March 19, 2024 in San Clemente.

(B) **Department Marine Region**

- I. Update and public discussion on Department actions during the recreational Dungeness crab fishing season

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**General Public Comment**

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**14. General public comment for items not on the agenda**

Receive public comment regarding topics within the Commission’s authority that are not included on the agenda. Agenda item 30 on day 2 is an extension of this general public comment agenda item; as such, speakers may comment on one day or the other.

Note: The Commission may not discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting (sections 11125 and 11125.7(a), Government Code).

**Day 2 – February 15, 2024; 8:30 AM**

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**Call to Order and Roll Call to Establish a Quorum**

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**Consent Items**

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Note: Items on the consent calendar are expected to be routine and non-controversial. After public comment, the Commission will consider approving items on the consent calendar in a single vote without discussion. The presiding commissioner may choose to remove any item from the consent calendar and allow a separate discussion and potential action on that item in response to a request by a Commission member, staff, or an interested person.

**15. White sturgeon**

Consider approving the Department’s request for a 30-day extension to review the petition to list white sturgeon (*Acipenser transmontanus*) as a threatened or endangered species under the California Endangered Species Act (CESA).  
(Pursuant to Section 2073.5, Fish and Game Code)

**16. Inyo rock daisy**

Consider ratifying findings on the decision to list Inyo rock daisy (*Laphamia inyoensis*, synonym *Perityle inyoensis*) as threatened under CESA.  
(Pursuant to Section 2075.5, Fish and Game Code)



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## Discussion and Action Items

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**17. Central Valley sport fishing**

Consider authorizing publication of notice of intent to amend central valley sport fishing regulations.

(Amend subsections 7.40(b)(4), (43), (66) and (80))

**18. Klamath River Basin sport fishing**

Consider authorizing publication of notice of intent to amend Klamath River Basin sport fishing regulations.

(Amend subsection 7.40(b)(50))

**19. Waterfowl hunting**

Discuss proposed amendments to waterfowl hunting regulations.

(Amend Section 502)

**20. Mammal hunting**

Discuss proposed amendments to mammal hunting regulations.

(Amend sections 362, 363, 364, 554, 555 and 708.14)

**21. Readoption of white sturgeon emergency regulation**

Consider adopting a 90-day extension of emergency regulations concerning recreational take of white sturgeon (*Acipenser transmontanus*) to support recovery populations and to track fishing pressure and success.

(Amend sections 5.79, 5.80, 27.90, and 27.92)

***Staff will recommend this item be continued to the April 14-15, 2024 meeting***

**22. Klamath River dam removal sport fishing**

Consider adopting proposed amendments to Klamath River dam removal sport fishing regulations.

(Amend subsections 7.40(b)(50) and 7.50(b)(73))

**23. Department lands**

Consider adopting proposed amendments to regulations for lands owned or managed by the Department and consider taking final action under the California Environmental Quality Act (CEQA).

(Add Section 540 and amend sections 550, 551 and 630)

**24. Exotic game mammals and wild pig validation**

Consider adopting proposed amendments to regulations for exotic game mammals and wild pig validation and consider taking final action under CEQA.

(Amend sections 250, 251.5, 252, 257.5, 258, 350, 352, 353, 401, 465.5, 679 and 708.13, repeal section 368, and add sections 375, 376, 377, 378 and 379)

**25. Permits and draws for special hunts**

Consider approving sufficiently-related changes to the regulations adopted by the Commission on August 22, 2023 regarding special hunt permit issuance and drawings in the Department Automated License Data System.

(Amend sections 702 and 715)

- 26. Ballona Wetlands Ecological Reserve**  
Ballona Wetlands Ecological Reserve consistency determination.  
***Staff will recommend this item be continued to the April 14-15, 2024 meeting.***
- 27. Regulation change petitions (wildlife and inland fisheries)**
- (A) ***New petitions***  
Receive new petitions for regulation change. (Pursuant to Section 662)  
Consideration of whether to grant, deny, or refer for additional review is expected to be scheduled for the April 17-18, 2024 meeting.
- (B) ***Previously received petitions***  
Consider whether to grant, deny, or refer for additional review, petitions for regulation change received at previous meetings. Petitions granted today will be added to the Commission's rulemaking calendar for development and future consideration.  
(Pursuant to Section 662)
- I. *Petition 2018-016(a)*: Request to remove Hope Valley Wildlife Area from the Department Lands Pass Program
  - II. *Petition 2022-13*: Request to modify gear type and bag and possession limits for trout in Willow Creek, upstream from the confluence with the West Fork Carson River (Alpine County)
  - III. *Petition 2023-13*: Clarify regulatory language regarding the use of traps for fur-bearing mammals, including trap types and animal disposition
  - IV. *Petition 2023-17*: Add use of horses to list of allowable activities in Bayview Unit of Morro Dunes Ecological Reserve
- 28. Non-regulatory requests from previous meetings (wildlife and inland fisheries)**  
Consider and potentially act on requests for non-regulatory action received from members of the public at previous meetings.
- 29. Committee and Department reports**  
Receive updates on items of note since the previous Commission meeting from Commission committees and Department divisions.
- (A) ***Tribal Committee***  
Discuss referred topics and consider revisions to topics and timing. Consider approving draft agenda topics for the next committee meeting to be held on April 16, 2024 in San Jose.
- (B) ***Wildlife Resources Committee***  
Receive summary and consider approving recommendations from the January 16, 2024 Committee meeting. Discuss referred topics and consider revisions to topics and timing.
- (C) ***Department Wildlife and Fisheries Division, and Department Ecosystem Conservation Division***
- I. Report on necropsies on mountain lions taken under 2023 depredation permits.  
(Pursuant to Section 4807, Fish and Game Code)

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## General Public Comment

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### 30. General public comment for items not on the agenda

Receive public comment regarding topics within the Commission's authority that are not included on the agenda. This item is an extension of the "general public comment for items not on the agenda (Agenda Item 14); as such, speakers may comment on one day or the other.

Note: The Commission may not discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting (sections 11125 and 11125.7(a), Government Code).

### 31. Commission administrative items

(A) ***Legislation***

(B) ***Rulemaking timetable updates***

(C) ***Future meetings and new business***

I. *March 14, 2024 Commission teleconference meeting*

II. *April 17-18, 2024 Commission regular meeting*

Adjourn

## Public Receipt of Documents

This section of the agenda highlights reports or other documents received by the Commission since the previous meeting. Any Commission discussion or action on these documents will be noticed and placed on the agenda of a future meeting. Since November 30, 2023 the Commission received two documents:

1. The Department's one-year status review report on the petition to list Mohave (also known as Agassiz's) desert tortoise (*Gopherus agassizii*) as endangered under CESA.
2. The Department's one-year status review report on the petition to list southern California steelhead (*Oncorhynchus mykiss*) as endangered under CESA.

## **Executive Session**

(Not Open to Public)

At a convenient time during the regular agenda of the meeting listed above, the Commission will recess from the public portion of the agenda and conduct a closed session on the agenda items below. The Commission is authorized to discuss these matters in a closed session pursuant to Government Code Section 11126, subdivisions (a)(1), (c)(3), and (e)(1), and Fish and Game Code Section 309. After closed session, the Commission will reconvene in public session, which may include announcements about actions taken during closed session.

- (A) Pending litigation to which the Commission is a Party
  - I. The Ballona Wetlands Land Trust v. California Fish and Game Commission (Ballona Wetlands Ecological Reserve petition for regulation change)
  - II. Fall River Conservancy and California Trout v. California Fish and Game Commission and California Department of Fish and Wildlife (California Environmental Quality Act determination regarding amendments to inland trout regulations)
  - III. United Water Conservation District v. California Fish and Game Commission (southern California steelhead “may be warranted” determination under the California Endangered Species Act and regulation authorizing limited take under Fish and Game Code Section 2084)
- (B) Possible litigation involving the Commission
- (C) Staffing
- (D) Deliberation and action on license and permit items
  - I. Consider the proposed decision in FGC Case No. 23ALJ03-FGC, regarding revocation of Rustin Wilson’s commercial fishing license and lobster operator permit.

## California Fish and Game Commission Meeting Schedule

**Note: As meeting dates and locations can change, please visit [www.fgc.ca.gov](http://www.fgc.ca.gov) for the most current list of meeting dates and locations. All Commission meetings will include a webinar/teleconference option for attendance and every effort will be made to ensure that committee meetings include the same.**

Meeting Date	Commission Meeting	Committee Meeting
March 14, 2024	Teleconference Trinidad, Fairfield, Sacramento, Santa Cruz and La Jolla	
March 19, 2024		<b>Marine Resources</b> California Department of Parks and Recreation Orange Coast District Office Training Room 3030 Avenida del Presidente San Clemente, CA 92672
April 16, 2024		<b>Tribal</b> San Jose
April 17-18, 2024	San Jose	
May 15, 2024	Teleconference Trinidad, Fairfield, Sacramento, Santa Cruz and La Jolla	
May 16, 2024		<b>Wildlife Resources</b> Yreka
June 19-20, 2024	Mammoth Lakes	
July 18, 2024		<b>Marine Resources</b> Santa Rosa area
August 13, 2024		<b>Tribal</b> Fortuna
August 14-15, 2024	Fortuna	
September 12, 2024		<b>Wildlife Resources</b> San Jose
October 9-10, 2024	California Natural Resources Headquarters Building Auditorium, 1 <sup>st</sup> Floor 715 P Street Sacramento, CA 95814	
November 7, 2024		<b>Marine Resources</b> California Natural Resources Headquarters Building 715 P Street, 2ndFloor

Meeting Date	Commission Meeting	Committee Meeting
		Sacramento, CA 95814
December 10, 2024		<b>Tribal</b> San Diego area
December 11-12, 2024	San Diego area	

## Other Meetings of Interest

### **Association of Fish and Wildlife Agencies**

- September 22-25, 2024 – Madison, WI

### **Pacific Fishery Management Council**

- March 5-11, 2024 – Fresno, CA
- April 6-11, 2024 – Seattle, WA
- June 6-13, 2024 – San Diego, CA
- September 18-24, 2024 – Spokane, WA
- November 13-19, 2024 – Costa Mesa, CA

### **Pacific Flyway Council**

- March 26, 2024 – Grand Rapids, MI
- August 2024 – Date and Location TBD

### **Western Association of Fish and Wildlife Agencies**

- June 3-7, 2024 – Stevenson, WA

### **Wildlife Conservation Board**

- February 15, 2024 – Sacramento, CA
- May 23, 2024 – Sacramento, CA
- August 22, 2024 – Sacramento, CA
- November 21, 2024 – Sacramento, CA

# Important Commission Meeting Procedures Information

## Welcome to a Meeting of the California Fish and Game Commission

This year marks the 154<sup>th</sup> year of operation of the Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making; Commission meetings are vital in achieving that goal and we provide this information to be as effective and efficient toward that end. Welcome, and please let us know if you have any questions.

## Persons with Disabilities

Persons with disabilities needing reasonable accommodation to participate in public meetings or other Commission activities are invited to contact the Department's Civil Rights Office (CRO) at [civilrights@wildlife.ca.gov](mailto:civilrights@wildlife.ca.gov). Accommodation requests for facility and/or meeting accessibility and requests for American Sign Language interpreters should be submitted at least two weeks prior to the event. Requests for real-time captioners should be submitted at least four weeks prior to the event. These timeframes are to help ensure that the requested accommodation is met. If a request for an accommodation has been submitted but is no longer needed, please contact the CRO immediately.

## Stay Informed

To receive meeting agendas and regulatory notices about those subjects of interest to you, visit the Commission's website, [www.fgc.ca.gov](http://www.fgc.ca.gov), to sign up on our electronic mailing lists.

## Submitting Written Comments

The public is encouraged to comment on any agenda item. Submit written comments by one of the following methods: E-mail to [fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov); mail to California Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090; deliver to California Fish and Game Commission, 715 P Street, 16<sup>th</sup> Floor, Sacramento, CA 95814 (you must call at least one business day in advance to arrange delivery); or hand-deliver to a Commission meeting. Materials provided to the Commission will be available to the general public.

## Comment Deadlines

The **Comment Deadline** for this meeting is **5:00 p.m. on February 1, 2024**. Written comments received at the Commission office by this deadline will be made available to Commissioners prior to the meeting.

The **Supplemental Comment Deadline** for this meeting is **noon on February 9, 2024**. Comments received by this deadline will be made available to Commissioners at the meeting.

After these deadlines, written comments may be delivered in person to the meeting. Please bring 12 copies of written comments to the meeting and give them to the designated staff member just prior to speaking.

## Petitions for Regulation Change

Any person requesting that the Commission adopt, amend, or repeal a regulation must complete and submit form FGC 1, *Petition to the California Fish and Game Commission for Regulation Change*, available at <https://fgc.ca.gov/Regulations/Petition-for-Regulation-Change>. To be received by the Commission at this meeting, petition forms must be delivered by the



**Supplemental Comment Deadline** (or delivered in person at the meeting during the regulation change petitions agenda item). Petitions received at this meeting will be scheduled for consideration at the next regularly scheduled business meeting, unless the petition is rejected under staff review pursuant to subsection 662(b).

### **Non-Regulatory Requests**

All non-regulatory requests follow a two-meeting cycle to ensure proper review and thorough consideration of each item. All requests submitted by the **Supplemental Comment Deadline** (or heard during general public comment at the meeting) will be scheduled for receipt at this meeting and scheduled for consideration at the next regularly scheduled business meeting.

### **Speaking at the Meeting**

**To speak on an agenda item in-person**, please complete a “speaker card” and provide it to the designated staff member before the agenda item is announced. Please complete one speaker card per item. Cards will be available near the entrance of the meeting room.

**To speak on an agenda item by webinar/phone**, please “raise” your hand either through the Zoom function or by pressing \*9 once on your phone when prompted at the beginning of the agenda item.

### **In-person and Webinar**

1. In-person speakers will be identified in groups; please line up when your name is called. Speakers by webinar/phone will be identified by your Zoom display name or last three digits of your phone number; please pay attention to when your name or number is called.
2. When addressing the Commission, please give your name and the name of any organization you represent before providing your comments on the item under consideration.
3. If there are several speakers with the same concerns, please appoint a spokesperson and avoid repetitive testimony.
4. The presiding commissioner will allot between one and three minutes per speaker per agenda item, subject to the following exceptions:
  - a. The presiding commissioner may allow up to five minutes to an individual speaker if a minimum of three individuals who are present when the agenda item is called have ceded their time to the designated spokesperson, and the individuals ceding time forfeit their right to speak to the agenda item.
  - b. In-person participants ceding their time shall complete a speaker card and approach the staff table with the spokesperson so that staff may confirm the presence of those ceding their time. If you are participating via Zoom and ceding your time to another speaker, please notify the Commission at [fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov) prior to the start of the agenda item, including to whom you are ceding your time, and be present on Zoom during the agenda item.
  - c. Individuals may receive advance approval for additional time to speak if such requests are received by email or delivery to the Commission office by the **Supplemental Comment Deadline**. The president or designee will approve or deny the request no later than 5:00 p.m. two days prior to the meeting.

- d. An individual requiring an interpreter is entitled to at least twice the allotted speaking time pursuant to Government Code Section 11125.7(c).
- e. An individual may receive additional time to speak to an agenda item at the request of any commissioner.

***Agenda items may be heard in any order and on either day pursuant to the discretion of the presiding commissioner.***

### **Visual Presentations and Associated Materials**

All electronic presentations must be submitted by the ***Supplemental Comment Deadline*** and approved by the Commission executive director before the meeting.

1. Electronic presentations must be provided by email to [fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov). If the presentation file is too large to send via email, contact staff to identify an alternative method for submitting the file.
2. All electronic formats must be Windows PC compatible.
3. If presenting at the in-person meeting location, it is recommended that you bring a print copy of your presentation in case of technical difficulties.
4. If you have written materials to accompany your presentation, please bring 12 copies to the meeting and give them to the designated staff member just prior to presenting.