
**Final Initial Study and Mitigated Negative Declaration,
Responses to Comments, and
Mitigation Monitoring and Reporting Plan**

HIGH DESERT SOLAR PROJECT

Case Number PLAN18-00048

July 2019

Lead Agency:



City of Victorville

14343 Civic Drive

Victorville, CA 92393

Prepared by:



**215 North 5th Street
Redlands, CA 92374**

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HIGH DESERT SOLAR PROJECT

Final

Initial Study/Mitigated Negative Declaration

JULY 2019

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**FINAL MITIGATED NEGATIVE DECLARATION
HIGH DESERT SOLAR PROJECT**

Lead Agency: City of Victorville

Project Proponent: HDSI, LLC

Project Location: The Proposed Project is located in the City of Victorville, in Township 6 North, Range 5 West, San Bernardino Base and Meridian. The project site would be located mostly east of Helendale Road and west of Floreate Road/Mojave River directly north and east of the Southern California Logistics Airport (SCLA) and to the west of the Victor Valley Wastewater Reclamation Authority (VWRA).

Project Description:

The High Desert Solar Project (HDSP or Proposed Project) would be a nominal 108-megawatt (MWac) solar photovoltaic (PV) power facility and related substation with an integrated battery energy storage system (BESS), located in the City of Victorville, San Bernardino County, California. The HDSP would provide renewable energy and critically needed flexibility attributes needed to advance California’s Renewable Portfolio Standard (RPS) goals, climate policies, and to enhance electrical grid reliability.

The Proposed Project would be developed on a total of approximately 624 acres (project site) consisting of an approximately 581-acre solar PV field, BESS, substation, and balance of system, collectively referred to as the **Solar Field Area**, and an approximately 35-acre corridor consisting of a 2.3-mile 230-kilovolt (kV) Gen-Tie line that would run east and then south in a defined and studied corridor to connect to the existing Victor-Caldwell 230kV line, upstream of the first pole on the Southern California Edison system. Additionally, a 1.7-mile 12.47kV Service Line would connect to the Victorville Municipal Utility Services (VMUS) system. This line would run as underbuilt with the 230kV line for the first mile and then diverge to the west and run on standard distribution utility poles to connect to the VMUS system near the Victorville Industrial Wastewater Treatment Facility southwest of the Solar Field Area. The Gen-Tie line and Service Line are collectively referred to as the **Interconnection Facilities**. The Interconnection Facilities would be located within linear corridors, 120 feet and 40 feet wide respectively, covering a total area of approximately 35 acres of which only a small portion would actually be disturbed. An approximately 8-acre **Gen-Tie Laydown Area** would be located on a vacant parcel of land adjacent and to the west and north of the existing High Desert Power Plant.

Public Review Period: May 28, 2019 to June 26, 2019

Mitigation Measures Incorporated into the Project to Avoid Significant Effects:

Air Quality

AQ-1: During solar facility installation activities all off-road mobile construction equipment such as rubber-tired dozers, graders, scrapers, excavators, and tractors shall be California Air Resources Board (CARB) Tier 4 Certified. On-site pick-up trucks used to traverse the construction site and equipment used for site grading, and road construction activities are exempted from this requirement.

Biological Resources

BIO-1: Joshua Trees: Prior to seeking approval from the City's Director of Community Services (or the Director's designee) for Joshua tree removal and/or relocation, a Joshua tree health assessment and final inventory will be performed to document the size, location, and general health of all Joshua trees that will be affected by the project. Authorization to remove and/or relocate Joshua trees will be obtained in accordance with the City's Joshua Tree Ordinance (Ordinance Number 1224; Municipal Code Chapter 13.33; 2018).

BIO-2: Compensatory Mitigation for Impacts to Habitat for Listed Species: The project area provides suitable habitat in the native vegetation communities for both desert tortoise and MGS. A total of 567.75 acres of occupied desert tortoise and presumed occupied MGS habitat will be directly affected as a result of the project. Impacts to occupied desert tortoise and MGS habitat will be offset through acquisition of compensatory land within suitable and occupied desert tortoise and MGS habitat and/or monetary contributions to other recovery efforts in the West Mojave. Impacts to occupied MGS habitat will be mitigated for at a ratio of 2:1, occupied desert tortoise habitat will be nested within the MGS mitigation requirement, with occupied desert tortoise habitat mitigated for at a ratio of 1:1. Final mitigation acreage are subject to the approval of the state and federal wildlife agencies.

BIO-3: Desert Tortoise Translocation: Pre-construction desert tortoise clearance surveys will be performed prior to ground-breaking project activities occurring. All desert tortoises encountered during clearance surveys and subsequent monitoring efforts will be permanently removed from the project area and translocated to an off-site recipient site. The Applicant's site-specific Desert Tortoise Translocation Plan will provide details on the proposed recipient site, desert tortoise clearance surveys and relocation, definitions for Authorized Biologists and qualified desert tortoise biologists, exclusion fencing guidelines, protocols for managing desert tortoise found during active versus inactive seasons, protocols for incidental tortoise death or injury, and will be consistent with project permits and current USFWS guidelines (USFWS 2009; USFWS 2018a). The Plan will also include a requirement for communication and coordination with the BLM regarding the desert tortoise recipient site. Prior to construction, the Plan will be subject to the approval of the CDFW and the USFWS.

BIO-4: Biological Monitoring: A qualified biologist (biological monitor) with experience monitoring for and identifying sensitive biological resources known to occur in the area will be present during all ground-disturbing activities related to the project. As required by project permits, the qualifications of a biological monitor may need to be submitted to appropriate wildlife agencies for approval based on the resources the biologist will be monitoring. Biological monitoring duties will include, but are not limited to, conducting worker education training, verifying compliance with project permits, ensuring project activities stay within designated work areas, and inspection of desert tortoise exclusion fencing. The biological monitor will have the right to halt all activities in the area affected if a special-status species is identified in a work area and is in danger of injury or mortality. If work is halted in the area affected as determined by the biological monitor, work will proceed only after the hazards to the individual is removed and the animal is no longer at risk, or the individual has been moved from harm's way in accordance with the project's permits and/or management/translocation plans. The biological monitor will take representative photographs of the daily activities and will also maintain a daily log that documents general project activities and compliance with the project's permit conditions. Non-compliances will also be documented in the daily log, including any measures that were implemented to rectify the issue.

BIO-5: Worker Environmental Awareness Program: Prior to the start of construction, a Worker Environmental Awareness Program (WEAP) will be developed by the Applicant. A qualified biologist with experience with the sensitive biological resources in the region will present the WEAP to all personnel working in the project area (either temporarily or permanently) prior to the start of project activities. The WEAP may be videotaped and used to train newly hired workers or those not present for the initial WEAP. The WEAP could include, but will not be limited to: discussions of the sensitive biological resources associated with the project, project-specific measures to avoid or eliminate impacts to these resources, consequences for not complying with project permits and agreements, and contact information for the lead biologist. Logs of personnel who have taken the training will be kept on the site at the construction or project office.

BIO-6: Burrowing Owl Management Plan: Prior to the start of construction, a Burrowing Owl Management Plan will be prepared in consultation with CDFW that will outline protection and avoidance and minimization measures that will be implemented for the project. These measures may include, but are not limited to, definition of qualified burrowing owl biologists, survey methodology and timing, methods for exclusion and burrow excavation, disturbance limit buffers, and seasonal restrictions for work activities in the vicinity of active burrows. The Burrowing Owl Management Plan will be subject to the approval of CDFW.

BIO-7: Desert Kit Fox and American Badger Management Plan: Prior to the start of construction, a Desert Kit Fox and American Badger Management Plan will be developed in consultation between the Applicant and CDFW and will be subject to approval by CDFW. The Plan could

include, but may not be limited to, qualified desert kit fox/American badger biologist definitions, pre-construction clearance survey methods and timing, disturbance limit buffer distances around active burrows based on construction activity and sensitivity of dens/foxes, and measures for avoidance, exclusion, and/or passive relocation.

BIO-8: Nesting Bird Management and Bird Protection Plan: Prior to the start of construction, a Nesting Bird Management and Bird Protection Plan will be developed in consultation between the Applicant, CDFW, and USFWS and will be subject to the approval of CDFW and USFWS. The Plan could include but may not be limited to: pre-construction clearance survey methods and timing, buffer distances based on construction activity and sensitivity of nests/birds, measures for avoidance of impact during nesting season (e.g., seasonal work restrictions), implementation of construction noise and dust minimization measures, biological monitoring, acceptable methods for nest deterrents (i.e., netting/covering equipment, supplies, or perches), implementing anti-perching devices and avian visual deterrents, and using emerging technologies such as antireflective film overlays on the panels and/or chemosensory and sonic deterrents. The Plan will be in compliance with the MBTA and California Fish and Game Code Sections 3503, 3503.5 and 3513.

BIO-9: Regulatory Permitting: Prior to the commencement of project construction activities that will impact the jurisdictional features on the project site, authorization for impacts shall be acquired through the permitting process from the USACE, RWQCB, and CDFW pursuant to the CWA Section 404 and 401 and California Fish and Game Code Section 1600, respectively. Project specific mitigation for impacts to features jurisdictional to state and federal agencies will be determined during the permitting process.

Cultural Resources

CUL-1: A qualified archaeologist and a tribal representative shall monitor all ground disturbing activities within native sediments. If subsurface deposits believed to be cultural or human in origin are discovered during construction, then all work must halt within a 100-foot radius of the discovery. The archaeologist shall evaluate the significance of the find and shall have the authority to modify the no-work radius as appropriate, using professional judgment. Depending on the nature of the find, the following notifications may be required:

- If the professional archaeologist determines that the find does not represent a cultural resource, then work may resume immediately, and no agency notifications are required.
- If the professional archaeologist determines that the find does represent a cultural resource from any time period or cultural affiliation, then the archaeologist shall immediately notify the City of Victorville and applicable landowner. The City of Victorville shall make a finding of eligibility and implement appropriate treatment measures, if the find is determined to be Historical Resource under CEQA, as defined

in Section 15064.5(a) of the CEQA Guidelines. Work cannot resume within the no-work radius until the City, through consultation as appropriate, determines that the site either: 1) is not a Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines; or 2) that the treatment measures have been completed to their satisfaction.

- If the find includes human remains, or remains that are potentially human, then the archaeologist shall ensure reasonable protection measures are taken to protect the discovery from disturbance (AB 2641). The archaeologist shall notify the San Bernardino County Coroner (per Section 7050.5 of the Health and Safety Code). The provisions of Section 7050.5 of the California Health and Safety Code, Section 5097.98 of the California Public Resources Code, and Assembly Bill 2641 will be implemented. Work cannot resume within the no-work radius until the City, through consultation as appropriate, determines that the treatment measures have been completed to their satisfaction.

CUL-2: A qualified paleontologist shall be retained to determine if the older Quaternary sediments are being disturbed during deep excavations of ten feet below the ground surface or greater. If so, the paleontologist shall establish a monitoring program to recover any significant fossils that may be encountered. Sediment samples shall be collected and processed to determine the small fossil potential in the project area. Any fossils recovered during mitigation shall be deposited in an accredited and permanent scientific institution in consultation with the City of Victorville.

Hazards and Hazardous Materials

HAZ-1: Prior to demolition of buildings or structures and removal of illegal dump sites, a survey for building-related hazardous materials shall be conducted by qualified and properly certified individuals. Asbestos surveys must be conducted by a California Division of Occupational Safety and Health-certified asbestos consultant or site surveillance technician. Surveys for lead-based/bearing substances and lead-containing surface coatings must be conducted by a California Department of Health Service-certified lead inspector/risk assessor. If present, all recommendations regarding the removal and disposal of hazardous materials in accordance with federal, state, and local regulations shall be observed.

A Health and Safety Plan (HASP) shall be prepared prior to any work conducted on site in accordance with OSHA and California Occupational Safety and Health Administration (Cal/OSHA) standards.

HAZ-2: All asbestos disturbance and/or removal operations shall be conducted by a Cal/OSHA registered and State licensed asbestos removal contractor. All disturbance and/or abatement operations shall be under the direction of a California Certified Asbestos Consultant. At no

time shall identified or suspect asbestos-containing materials be drilled, cut, sanded, scraped, or otherwise disturbed by untrained personnel.

HAZ-3: All construction activities that may affect asbestos-containing materials shall be conducted in accordance with Title 8 of the California Code of Regulations, Section 1529.

HAZ-4: For all abatement activities that will involve the removal of asbestos-containing materials, notification shall be made to the Mojave Desert Air Quality Management District (MDAQMD), in accordance to MDAQMD Rule 302 and to Cal/OSHA. Notification to both entities shall occur 10 working days prior to the initiation of such activities.

HAZ-5: Notification to employees and contractors working within the buildings/structures shall be made in accordance with the California Health and Safety Code Section 25915 et seq. and Proposition 65.

HAZ-6: All demolition involving potential and identified lead-containing surfaces shall be conducted in accordance with 8 CCR 1532.1 and 29 CFR 1926.62. In addition, all activities involving identified lead-based paints shall be conducted in accordance with 17 CCR, Division 1, Chapter 8, Sections 35001 through 36100.

HAZ-7: Any welding, cutting, or heating of interior metal surfaces containing lead surface coating shall be conducted in accordance with 29 CFR 1926.354.

HAZ-8: Proper waste characterization and disposal of lead contaminated debris shall be conducted in accordance with Title 22 of the California Code of Regulations and the California Health and Safety Code.

Tribal Cultural Resources

TCR-1: Potential Impact to Archaeological Resources: Due to the potential impact to a significant archaeological site currently only known to exist outside of the project area and known to be a Historical Resource pursuant to CEQA, CA-SBR-72, subsurface archaeological presence/absence testing shall be conducted by at least one archaeologist with at least 3 years of regional experience in archaeology and a Tribal monitor representing the San Manuel Band of Mission Indians near this resource within the area of concern identified by the Tribe during consultation. Testing shall be conducted prior to project implementation and may be conducted via the employ of a number of subsurface investigative methods, including shovel test probes, and/or deep testing via controlled units, augers or trenching to confirm presence or absence of subsurface material and to delineate site boundaries. The area of concern will be determined in the testing plan and shall be dug and dry-sifted through 1/8-inch mesh screens, prior to any ground-disturbing activity. A Testing Plan shall be created by the archaeologist and submitted to the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) and the Lead Agency for review at least 10 business days prior to implementation, so as to provide time to review/modify the Plan, if needed. The

Plan shall outline the protocol of presence/absence testing and contain a treatment protocol detailing that 1) no collection of artifacts or excavation of features shall occur during testing, and 2) all discovered resources confirmed to be associated with site CA-SBR-72 shall be properly recorded and reburied *in situ*. The results of testing shall be presented to the applicant, Lead Agency, and SMBMI in the format of a report, which shall include details regarding testing methodology, soil assessment, and photographs. If the results of testing, as approved by SMBMI, are positive, then SMBMI and the Lead Agency shall, in good faith, consult concerning appropriate treatment of the resource(s), guidance for which is outlined in CUL-2. If the results of testing, as approved by SMBMI, are negative, then SMBMI will determine that no further action is needed unless and until any discoveries are made during project implementation. Any and all discoveries made during project implementation shall be subject to the treatment protocol outlined within the Testing Plan, as well as the treatment guidelines within CUL-2.

TCR-2: Treatment of Non-Funerary Archaeological Discoveries: If a pre-contact cultural resource confirmed by the Lead Agency through consultation with the Project Archaeologist and SMBMI to be associated with site CA-SBR-72 and therefore a Historical Resource is discovered during archaeological presence/absence testing, the discovery shall be properly recorded and then reburied *in situ*. In the event that material associated with historic-age Euro-American occupation of the area is identified during testing, the protocols for unanticipated discoveries in CUL-3 will be implemented.

If a pre-contact cultural resource is discovered during project implementation, ground disturbing activities shall be suspended 100 feet around the resource(s) and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. Representatives from the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI), a qualified archaeologist/applicant, and the Lead Agency shall confer regarding treatment of the discovered resource(s). As outlined in CEQA, the applicant shall make a good faith effort to redesign the project area in such a way that impacts to the identified resource(s) can be avoided/preserved in place. Should any resource(s) not be a candidate for avoidance/preservation in place, and therefore the removal of the resource(s) is necessary to mitigate impacts, a research design shall be developed in consultation with SMBMI.

In the event that an unanticipated discovery is considered potentially significant and cannot be assumed to be eligible for the California Register of Historical Resources, a research design will be prepared by the Project Archaeologist, through consultation with the Lead Agency and the SMBMI. The research design will include a plan to formally evaluate the resource(s) for significance under CEQA criteria, as well as to formally address the resource(s) place within the landscape identified as a Tribal Cultural Resource (TCR) by the SMBMI. Additionally, the research design shall include a comprehensive discussion of sampling

strategies, resource processing, analysis, and reporting protocols/obligations. Removal of any cultural resource(s) shall be conducted with the presence of a Tribal monitor representing the Tribe, unless otherwise decided by SMBMI. All plans for analysis shall be reviewed and approved by the applicant, Lead Agency, and SMBMI prior to implementation, and all removed material shall be temporarily curated on-site or other mutually agreed upon location.

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

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

Construction can resume in the ESA boundary once the Lead Agency, through consultation with the Project Archaeologist and SMBMI, has determined that either the find is not significant or the fieldwork portion of the data recovery is complete.

All draft archaeological records/reports created throughout the life of the project shall be prepared by the archaeologist and submitted to the applicant, Lead Agency, and SMBMI for their review and approval. After approval from all Parties, the final reports and site/isolate records are to be submitted to the local CHRIS Information Center, the Lead Agency, and SMBMI.

TCR-3: Inadvertent Discoveries of Human Remains/Funerary Objects: In the event that any human remains are discovered within the project area, ground disturbing activities shall be suspended 100 feet around the resource(s) and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. The on-site lead/foreman shall then immediately notify SMBMI, the applicant/developer, and the Lead Agency. The Lead Agency and the applicant/developer shall then immediately contact the San Bernardino County Coroner regarding the discovery. If the Coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, the Coroner shall ensure that notification is provided to the Native American Heritage Commission (NAHC) within twenty-four (24) hours of the determination, as required by California Health and Safety Code § 7050.5 (c). The provisions of Section 7050.5 of the California Health and Safety Code, Section 5097.98 of the California Public Resources Code, and Assembly Bill 2641 will be implemented. Work cannot resume within the no-work radius until the City, through consultation as appropriate, determines that the treatment measures have been completed to their satisfaction.

Reburial of human remains and/or funerary objects (those artifacts associated with any human remains or funerary rites) shall be accomplished in compliance with the California Public Resources Code § 5097.98 (a) and (b). The landowner in consultation with the NAHC identified Most Likely Descendant (MLD), shall make the final discretionary determination regarding the appropriate disposition and treatment of human remains and funerary objects. All Parties are aware that the MLD may wish to rebury the human remains and associated funerary objects on or near the site of their discovery, in an area that shall not be subject to future subsurface disturbances. To the extent feasible the applicant/developer/landowner should accommodate on-site reburial in a location mutually agreed upon by the Parties.

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

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SECTION 1.0 INTRODUCTION

This document is the Final Initial Study/Mitigated Negative Declaration (IS/MND), including the Responses to Comments and the Mitigation Monitoring and Reporting Plan (MMRP), for the High Desert Solar Project (Proposed Project). It has been prepared in accordance with the California Environmental Quality Act (CEQA) (Public Resource Code Section 21000 et. seq.) and the State CEQA Guidelines (California Code of Regulations Section 15000 et seq.), as amended. This Final IS/MND document supplements the Draft IS/MND released for public review on May 28, 2019. The Draft IS/MND is incorporated into this Final IS/MND by reference.

The City of Victorville is the Lead Agency for the Proposed Project. On May 28, 2019 the City of Victorville distributed the Draft IS/MND for the Proposed Project to public agencies and the general public for review and comment. In accordance with the State CEQA Guidelines, a 30-day review period, which ended on June 26, 2019, was completed. During the public review period, fifteen comment letters on the Draft IS/MND were received. This Final IS/MND and MMRP document is organized as follows:

- Section 1.0 provides a discussion of the purpose of the document and discusses the structure of the document;
- Section 2.0 contains a summary of the project description;
- Section 3.0 includes the comment letters received and responses to these comments;
- Section 4.0 contains the Mitigation Monitoring and Reporting Plan (MMRP).

This Final IS/MND and MMRP document and the Draft IS/MND together constitute the environmental document for the Proposed Project.

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SECTION 2.0 PROJECT OVERVIEW

2.1 Project Location

The Proposed Project is located in the City of Victorville, in Township 6 North, Range 5 West, San Bernardino Base and Meridian. The project site would be located mostly east of Helendale Road and west of Floreate Road/Mojave River directly north and east of the Southern California Logistics Airport (SCLA) and to the west of the Victor Valley Wastewater Reclamation Authority (VWVRA).

2.2 Project Description

The Proposed Project would be a nominal 108-megawatt (MWac) solar photovoltaic (PV) power facility and related substation with an integrated battery energy storage system (BESS), located in the City of Victorville, San Bernardino County, California. The HDSP would provide renewable energy and critically needed flexibility attributes needed to advance California's Renewable Portfolio Standard goals, climate policies, and to enhance electrical grid reliability. The Proposed Project would be developed on a total of approximately 624 acres (project site) consisting of an approximately 581-acre solar PV field, BESS, substation, and balance of system, collectively referred to as the **Solar Field Area**, and an approximately 35-acre corridor consisting of a 2.3-mile 230-kilovolt (kV) Gen-Tie line that would run east and then south in a defined and studied corridor to connect to the existing Victor-Caldwell 230kV line, upstream of the first pole on the Southern California Edison system. Additionally, a 1.7-mile 12.47kV Service Line would connect to the Victorville Municipal Utility Services (VMUS) system. This line would run as underbuilt with the 230kV line for the first mile and then diverge to the west and run on standard distribution utility poles to connect to the VMUS system near the Victorville Industrial Wastewater Treatment Facility south of the Solar Field Area. The Gen-Tie line and Service Line are collectively referred to as the **Interconnection Facilities**. The Interconnection Facilities would be located within linear corridors, 120 feet and 40 feet wide respectively, covering a total area of approximately 35 acres of which only a small portion would actually be disturbed. An approximately 8-acre **Gen-Tie Laydown Area** would be located on a vacant parcel of land adjacent and to the west and north of the existing High Desert Power Plant.

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SECTION 3.0 COMMENTS AND RESPONSES

This section of the document contains copies of the comment letters received during the 30-day public review period, which began on May 28, 2019 and ended on June 26, 2019. In conformance with Section 15088(a) of the State CEQA Guidelines, the City of Victorville has considered comments on fifteen (15) letters that were received regarding the IS/MND. Eleven of the letters were received during the public comment period and four of the letters were received after the completion of the public comment period. These letters and the responses to the comments are provided in this section.

3.1 List of Comment Letters

Letter Number	Sender	Date Received
1	Save Our Mojave (Law Offices of John A. Belcher)	5/29/2019
2	Twenty-Nine Palms Band of Mission Indians	5/30/2019
3	Mojave Desert Air Quality Management District	6/3/2019
4	Victor Valley Chamber of Commerce	6/25/2019
5	Robert A. Lovingood, Supervisor, First District (Board of Supervisors County of San Bernardino)	6/25/2019
6	Senator Scott Wilk, Twenty-First Senate District (California State Senate)	6/25/2019
7	San Bernardino County Department of Public Works	6/25/2019
8	City of Adelanto	6/25/2019
9	Save Our Mojave (Law Offices of John A. Belcher)	6/26/2019
10	Bob Landwehr	6/26/2019
11	California Unions for Reliable Energy	6/26/2019
12	Mojave Desert Air Quality Management District*	6/27/2019
13	Lahontan Regional Water Quality Control Board*	6/27/2019
14	Caltrans*	6/28/2019
15	Governor's Office of Planning and Research*	7/1/2019

Note: * = letter received after the close of the public comment period.

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**Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project**

Letter 1 - Save Our Mojave

Law Offices of John A. Belcher

ATTORNEYS AT LAW
150 EAST COLORADO BOULEVARD, SUITE 215
PASADENA, CALIFORNIA 91105
TELEPHONE (626) 577-5771
FAX (626) 577-7769

May 29, 2019

Via Email

Michael Szarzynski
City of Victorville
14343 Civic Drive
Victorville, CA 92393
Phone: (760) 955-5135
Email: mszarzynski@victorvilleca.gov

Re: Protest of the proposed High Desert Solar Project, SCH Number: 2019059120

Dear Mr. Szarzynski:

My law firm represents Save Our Mojave, a 501(c)(3) non-profit organization working to raise public awareness about some of the most pressing issues facing California's deserts, including unchecked damage to the environment and wildlife. Pursuant to California law, Save Our Mojave makes the following requests:

REQUEST FOR NOTICES:

My client hereby requests to be included in all notices related to the proposed High Desert Solar Project (the "Project"). Specifically, please send to Save Our Mojave, care of my law firm, notice of any and all actions or hearings related to activities undertaken, authorized, approved, permitted, licensed, or certified the Bureau of Land Management and any of its subdivisions, and/or supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from the Bureau of Land Management, that are connected in any way to the Project, including, but not limited to the following:

- Notice of any public hearing in connection with the Project.
- Any and all notices prepared pursuant to the California Environmental Quality Act ("CEQA") and involving the Project including, but not limited to:
 - i. Notices of any public hearing held pursuant to CEQA and related to the Project.
 - ii. Notices of determination that an Environmental Impact Report ("EIR") or supplemental EIR for the Project is required or finalized, prepared pursuant to Public Resources Code Section 21080.4.

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**Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project**

Letter 1 – continued

Michael Szarzynski
City of Victorville
May 29, 2019
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- iii. Notices of availability of an EIR for the Project or a negative declaration for the Project prepared pursuant to Public Resources Code Section 21152 and Section 15087 of Title 14 of the California Code of Regulations.
- iv. Notices of approval and/or determination to carry out the Project, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
- v. Notice of approval or certification of any EIR or negative declaration for the Project prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
- vi. Notice of exemption from CEQA for the Project prepared pursuant to Public Resources Code section 21152 or any other provision of law.
- vii. Notice of any Final EIR for the Project prepared pursuant to CEQA.

Please note that Save Our Mojave is requesting notices of CEQA actions and notices of any public hearings to be held in connection with the Project under any provision of Title 7 of the California Government Code governing California Planning and Zoning Law. This request is filed pursuant to Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092, which require the County to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

Please send notice by mail and electronic mail to:

Law Offices of John A. Belcher
150 East Colorado Boulevard, Suite 215
Pasadena, California 91105
Phone: (626) 577-5771
Fax: (626) 577-7769
Email: johnbelcher@insuringlaw.com

REQUEST FOR PUBLIC RECORDS:

Save Our Mojave also requests access to records in your possession either electronically (if you have such documents in electronic form) or for the purpose of inspection and copying pursuant to the California Public Records Act (Government Code Section 6250 et seq.). The information she requests is as follows:

- Any and all application documents associated with the Project.

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cont.**

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Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project

Letter 1 – continued

Michael Szarzynski
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May 29, 2019
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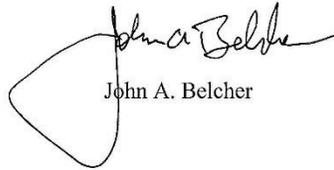
- Any and all staff emails related to the Project.
- Any and all correspondence with developer related to the Project.
- Any and all contracts related to the Project.

This request reasonably describes identifiable records. To our knowledge, there is no express provision of law exempting the records from disclosure. Pursuant to Government Code § 6253.9 (see Appendix A hereto), Save Our Mojave requests that you provide the documents in electronic format at no cost. The documents should be sent care of the Law Offices of John A. Belcher to the following email address: johnbelcher@insuringlaw.com

If you do not have such records electronically, pursuant to Government Code § 6253(b), please make the records available for inspection and copying, based on our payment of “fees covering direct costs of duplication, or statutory fee, if applicable.”

Thank you for your timely attention to this request. Do not hesitate to contact me if my office can be of assistance to you as you assemble these documents.

Sincerely,



John A. Belcher

**1-2
cont.**

Letter 1 – continued

Michael Szarzynski
City of Victorville
May 29, 2019
Page 4

California Government Code § 6253.9 — Information in Electronic Format

(a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by any person and, when applicable, shall comply with the following:

(1) The agency shall make the information available in any electronic format in which it holds the information.

(2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with the provisions of subdivision (a), the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

(c) Nothing in this section shall be construed to require the public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

(d) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.

(e) Nothing in this section shall be construed to permit an agency to make information available only in an electronic format.

(f) Nothing in this section shall be construed to require the public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

(g) Nothing in this section shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.

Letter 1 Response to Comments

Response to Comment 1-1:

The commenter requests all notices related to the Proposed Project, including, but not limited to, notice of any public hearing and all notices pursuant to CEQA. Comment has been noted.

Response to Comment 1-2:

The commenter requests access to City of Victorville records associated with the Proposed Project pursuant to the California Public Records Act. Comment has been noted.

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Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project



Letter 2 - Twenty-Nine Palms Band of Mission Indians

TWENTY-NINE PALMS BAND OF MISSION INDIANS

46-200 Harrison Place . Coachella, California . 92236 . Ph. 760.863.2444 . Fax: 760.863.2449

May 22, 2019

Mike Szarzynski, Senior Planner
City of Victorville | Development Department
14343 Civic Dr.
P.O. Box 5001
Victorville, CA 92395-5001

RECEIVED

MAY 30 2019

DEVELOPMENT
DEPARTMENT

**RE: Consultation Conclusion for the High Desert Solar Project in the City of Victorville –
PLAN 18-00048**

Dear Mr. Szarzynski,

This letter is in regards to consultation in compliance with AB 52 (California Public Resources Code § 21080.3.1) for the Case Plan 18-00048. This project proposes a solar photovoltaic power facility and related substation in the City of Victorville. As stated in our letter sent January 30, 2019, the Twenty-Nine Palms Band of Mission Indians Tribal Historic Preservation Office (THPO) is not aware of any additional cultural resources or Tribal Cultural Resources, as defined California Public Resources Code § 21074 (a) (1) (A)-(B) in the project area that pertains to the Twenty-Nine Palms Band of Mission Indians (Tribe). However, the project is in an underdeveloped area within the Tribe's Traditional Use Area. After review of the cultural report, the THPO noted in the aforementioned letter that Tribal Monitors are including during ground-disturbing activities of the project. The THPO is in receipt of a letter dated May 14, 2019, that describes the City of Victorville's response and the including of Native American monitoring in Mitigation Measure CUL-1. While the Tribe requests consultation throughout the life of the project, with the additional wording to MM CUL – 1 in place the THPO currently does not have any additional concerns.

2-1

If you have any questions, please do not hesitate to contact the THPO at (760) 775-3259 or by email: TNPConsultation@29palmsbomi-nsn.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony Madrigal, Jr.".

Anthony Madrigal, Jr.
Director of the Tribal Historic Preservation Office

cc: Darrell Mike, Twenty-Nine Palms Tribal Chairman
Sarah Bliss, Twenty-Nine Palms Cultural Resources Manager

Letter 2 Response to Comments

Response to Comment 2-1:

The Twenty-Nine Palms Band of Mission Indians Tribal Historic Preservation Office (THPO) notes that the Proposed Project would be located within an undeveloped area within the Tribe's Traditional Use Area. The THPO has determined that, with the inclusion of Native American monitoring in Mitigation Measure CUL-1, the THPO does not have any additional concerns. This comment is noted.

Letter 2 - Mojave Desert Air Quality Management District

Mojave Desert Air Quality Management District

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

May 29, 2019

Michael Szarzynski
Senior Planner
City of Victorville
14343 Civic Drive
Victorville, CA 92392

RECEIVED
JUN 03 2019
DEVELOPMENT
DEPARTMENT



Subject: Notice of Availability of a Draft Environmental Impact Report for the High Desert Solar Project

Dear Mr. Szarzynski:

The Mojave Desert Air Quality Management District (District) has received the request for comments for the Notice of Availability of a Draft Environmental Impact Report for the High Desert Solar Project, a nominal 108 MWac solar photovoltaic power facility and related substation with an integrated battery energy storage system (BESS). This project would be developed on a total of approximately 624 acres consisting of an approximately 581-acre solar PV field, BESS, substation, and balance of system, collectively referred to as the Solar Field Area, and an approximately 35-acre corridor consisting of a 2.3-mile 230-kilovolt (kV) Gen-Tie line that would run east and then south in a defined and studied corridor to connect to the existing Victor-Caldwell 230kV line, upstream of the first pole on the Southern California Edison system. Additionally, a 1.7-mile kV Service Line would connect to the Victorville Municipal Utility Services (VMUS) system, running as underbuilt with the 230kV line for the first mile and then diverge to the west and run on standard distribution utility poles to connect to the VMUS system at the Victorville Industrial Wastewater Treatment Facility south of the Solar Field Area. Both the Gen-Tie line and the Service Line are collectively referred to as the Interconnection Facilities. The Interconnection Facilities would be located within linear corridors, 120 feet and 40 feet wide, respectively, covering a total area of approximately 35 acres of which only a small portion would actually be disturbed. An approximately 8-acre Gen-Tie Laydown Area would be located on a vacant parcel of land adjacent to the west and north of the existing High Desert Power Plant. The project is located in the City of Victorville, San Bernardino County, California.

The District has reviewed the Draft Initial Study and Mitigated Negative Declaration and concurs with the scope of analysis proposed in the Section 4.3 – Air Quality and Section 4.8 – Greenhouse Gas Emissions, as well as the Mitigation Measures to be employed in AQ-1 addressing potential air quality issues. For your reference, MDAQMD Designations and Classifications are available at <http://mdaqmd.ca.gov/home/showdocument?id=538>. The District also recommends that the following dust mitigation measures be required for the construction of the solar photovoltaic project (enforceable by the District AND by the land use agency):

- Prepare and submit to the MDAQMD, prior to commencing earth-moving activity, a dust control plan that describes all applicable dust control measures that will be implemented at the project;
- The following signage shall be erected not later than the commencement of construction:

3-1

3-2

**Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project**

Letter 3 – continued

A minimum 48-inch high by 96-inch wide sign containing the following shall be located within 50 feet of each project site entrance, meeting the specified minimum text height, black text on white background, on one-inch A/C laminated plywood board, with the lower edge between six and seven feet above grade, with the contact name of a responsible official for the site and a local or toll-free number that is accessible 24 hours per day:

“[Site Name] {four-inch text}
[Project Name/Project Number] {four-inch text}
IF YOU SEE DUST COMING FROM {four-inch text}
THIS PROJECT CALL: {four-inch text}
[Contact Name], PHONE NUMBER XXX-XXXX {six-inch text}
If you do not receive a response, Please Call {three-inch text}
The MDAQMD at 1-800-635-4617 {three-inch text}”

- Use a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. For projects with exposed sand or fines deposits (and for projects that expose such soils through earthmoving), chemical stabilization or covering with a stabilizing layer of gravel will be required to eliminate visible dust/sand from sand/fines deposits.
- All perimeter fencing shall be wind fencing or the equivalent, to a minimum of four feet of height or the top of all perimeter fencing. The owner/operator shall maintain the wind fencing as needed to keep it intact and remove windblown dropout. This wind fencing requirement may be superseded by local ordinance, rule or project-specific biological mitigation prohibiting wind fencing.
- All maintenance and access vehicular roads and parking areas shall be stabilized with chemical, gravel or asphaltic pavement sufficient to eliminate visible fugitive dust from vehicular travel and wind erosion. Take actions to prevent project-related trackout onto paved surfaces, and clean any project-related trackout within 24 hours. All other earthen surfaces within the project area shall be stabilized by natural or irrigated vegetation, compaction, chemical or other means sufficient to prohibit visible fugitive dust from wind erosion.

**3-2
cont.**

The District supports the development of renewable energy sources; such development is expected to produce cumulative and regional environmental benefits.

3-3

Thank you for the opportunity to review this planning document. If you have any questions regarding this letter, please contact me at (760) 245-1661, extension 6726, or Kevin Hendrawan at extension 4007.

Sincerely,



Alan J. De Salvo
Deputy Director – Mojave Desert Operations

AJD/kh

Notice of Availability of a Draft EIR for the High Desert Solar Project

Letter 3 Response to Comments

Response to Comment 3-1:

This comments states that the Mojave Desert Air Quality Management District (MDAQMD) concurs with the scope of analysis of the air quality and greenhouse gas emissions sections of the Draft IS/MND as well as Mitigation Measure AQ-1. This comment has been noted.

Response to Comment 3-2:

This comment lists the MDAQMD's recommendations concerning dust mitigation and related measures for the construction of the Proposed Project. Recommendations include the preparation of a dust control plan, site signage with contact information, use of a water truck or chemical stabilizers, use of wind fencing, and stabilization of all maintenance and access roads and parking areas with chemical, gravel, or asphaltic pavement. Project specific measures, including the need for wind fencing, will be determined in consultation with the MDAQMD during the preparation of the Dust Control Plan, as required by Rule 403.2.

As described in the Draft IS/MND, Section 4.3.2, response to question b), construction activities would be subject to MDAQMD Rule 403 (Fugitive Dust), including Rule 403.2 (Fugitive Dust Control for the Mojave Desert Planning Area). The purpose of this rule is to prohibit visible dust beyond the property line of the emission source, require "every reasonable precaution" to minimize fugitive dust emissions, and prevent track-out of materials onto public roadways. Compliance with MDAQMD Rule 403 would reduce project-related dust impacts. The Proposed Project will comply with MDAQMD Rule 403, including Rule 403.2 (Fugitive Dust Control for the Mojave Desert Planning Area), and additional mitigation measures are not required.

Response to Comment 3-3:

The comments states that the MDAQMD supports the development of renewable energy sources. The comment is noted.

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Letter 4 - Victor Valley Chamber of Commerce



June 24, 2019

Mr. Michael Szarzynski
Senior Planner
City of Victorville
14343 Civic Drive
Victorville, CA 92393

RE: High Desert Solar

Dear Mr. Szarzynski,

On behalf of the Victor Valley Chamber of Commerce, I am writing to you to state the Chamber's support for the proposed 108 megawatt High Desert Solar project adjacent to the Southern California Logistics Airport.

The project will significantly benefit the region economically. Two hundred fifty construction workers will be needed to build out the solar array over an 18 month period. Another fifty part-time maintenance and operations people will be hired to run the facility. Other regional businesses from gas stations to restaurants to hotels will experience ancillary benefits due to the construction and development of the solar project.

The proposed project will provide a portion of its power to Victorville Municipal Utilities Services. This will help the city meet its renewable energy goals. The additional megawatts will help stabilize the electric system in the region and even allow the airport to expand operations.

The High Desert Solar project will help strengthen the local economy and improve the existing infrastructure. It is for these reasons that I ask that you approve this project.

Sincerely,



Mark Creffield
President/CEO
Victor Valley Chamber of Commerce

4-1

Letter 4 Response to Comments

Response to Comment 4-1:

This letter from the Victor Valley Chamber of Commerce expresses support for the Proposed Project. These comments have been noted.

Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project

Letter 5 - Robert A. Lovingood, Supervisor, First District

Board of Supervisors
County of San Bernardino

ROBERT A. LOVINGOOD
SUPERVISOR, FIRST DISTRICT



June 19, 2019

Mr. Michael Szarzynski
Senior Planner
City of Victorville
14343 Civic Drive
Victorville, CA 92393

RE: High Desert Solar

Dear Mr. Szarzynski,

I am writing in recognition of the City of Victorville's work on a proposed High Desert Solar project. It is my understanding that High Desert Solar will be 108-megawatt solar array with battery potential on disturbed land adjacent to the Southern California Logistics Airport. This project is noted to help the region meet its renewable energy goals, provide some stability to the energy grid in the area, and create jobs in the community.

With the solar project creating enough energy to power more than 47,000 homes annually and plans for a portion of the power to be provided to Victorville Municipal Utilities System to aid in the City meeting its renewable energy goals, it seems to be a meaningful project for the area.

I am confident the City of Victorville will make the best decision in consideration of this project as it continues to serve the residents of the region well with a long-term goal in mind. I look forward to following the progress.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. Lovingood".

ROBERT A. LOVINGOOD
First District Supervisor
San Bernardino County Board of Supervisors

San Bernardino County Government Center • 385 North Arrowhead Avenue, Fifth Floor • San Bernardino, CA 92415-0110 • (909) 387-4830
High Desert Office • 12474-A Cottonwood Avenue • Victorville, CA 92395 • (760) 995-8100 • (800) 472-8597

5-1

Letter 5 Response to Comments

Response to Comment 5-1:

This letter from Robert A. Lovingood, County of San Bernardino Board Supervisor (First District), expresses support for the Proposed Project. These comments have been noted.

Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project

Letter 6 - Senator Scott Wilk, Twenty-First Senate District

ANTELOPE VALLEY DISTRICT OFFICE
848 W. LANCASTER BLVD., SUITE 101
LANCASTER, CA 93534
TEL (661) 729-6232
FAX (661) 729-1683

VICTOR VALLEY DISTRICT OFFICE
14343 CIVIC DRIVE, FIRST FLOOR
VICTORVILLE, CA 92392
TEL (760) 843-8414
FAX (760) 843-8348

SANTA CLARITA DISTRICT OFFICE
23920 VALENCIA BLVD., SUITE 250
SANTA CLARITA, CA 91355
TEL (661) 286-1471
FAX (661) 286-2543

California State Senate

SENATOR
SCOTT WILK
TWENTY-FIRST SENATE DISTRICT



COMMITTEES
AGRICULTURE
VICE CHAIR
EDUCATION
VICE CHAIR
GOVERNMENTAL
ORGANIZATION
VICE CHAIR
RULES
VICE CHAIR
BUSINESS, PROFESSIONS
& ECONOMIC DEVELOPMENT
VETERANS AFFAIRS

June 21, 2019

Michael Szarzynski
Senior Planner
City of Victorville
14343 Civic Drive
Victorville, CA 92393

RE: HIGH DESERT SOLAR PROJECT

Dear Mr. Szarzynski,

I write to request your fullest consideration for the 108 megawatt High Desert Solar project proposed to be built on previously disturbed land adjacent to the Southern California Logistics Airport.

With transmission lines near the property, High Desert proposes to take the same area and use it for a solar array with battery potential. This proposal allows for the land to be used as zoned, while improving the energy infrastructure by helping to stabilize the regional grid. The additional power in the region should allow for expanded operations at the airport and will also aid the Victorville Municipal Utilities System in meeting its renewable energy goals. Two hundred fifty construction workers are expected build the solar array. Part-time maintenance and operations workers are expected to account for another 50 positions, providing much needed economic relief to the region.

The High Desert Solar project will strengthen the local economy and improve existing infrastructure. It is for these reasons that I respectfully ask for your fullest consideration of this project. Should you have any questions, please feel free to contact Baltazar Cornejo in my Capitol office at 916-651-4021.

Sincerely,

A handwritten signature in black ink that reads "Scott Wilk".

Scott Wilk
Senator, 21st District

CAPITOL OFFICE: STATE CAPITOL, ROOM 3063 • SACRAMENTO, CA 95814 • TEL (916) 651-4021 • FAX (916) 651-4921
SENATOR.WILK@SEN.CA.GOV

6-1

Letter 6 Response to Comments

Response to Comment 6-1:

This letter from Scott Wilk, California State Senator (21st Senate District), expresses support for the Proposed Project. These comments have been noted.

Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project



825 East Third Street, San Bernardino, CA 92415-0835 | Phone: 909.387.8109 Fax: 909.387.7876

Letter 7 - San Bernardino County of Public Works
Department of Public Works

www.SBCounty.gov

- Flood Control
- Operations
- Solid Waste Management
- Surveyor
- Transportation

Kevin Blakeslee, P.E.
Director

Transmitted Via Email

June 20, 2019

City of Victorville
Attn: Michael Szarzynski
Senior Planner
14343 Civic Drive
Victorville, CA 92392

File: 10(ENV)-4.01

**RE: CEQA – NOTICE OF INTENT TO ADOPT AN INITIAL STUDY MITIGATED
NEGATIVE DECLARATION FOR THE HIGH DESERT SOLAR PROJECT FOR
THE CITY OF VICTORVILLE**

Dear Mr. Szarzynski:

Thank you for allowing the San Bernardino County Department of Public Works the opportunity to comment on the above-referenced project. **We received this request on May 29, 2019** and pursuant to our review, the following comments are provided:

GENERAL COMMENTS

1. We are aware there may be storm drains in and around the site that may be affected by the proposed Project. When planning for or altering existing or future storm drains, be advised that the Project is subject to the San Bernardino County Comprehensive Storm Drain Plan No. 7, dated December 1982. It is to be used as a guideline for drainage in the area and is available in the County's Flood Control District offices. Any revision to the drainage should be reviewed and approved by the City. **7-1**
2. According to the most recent FEMA Flood Insurance Rate Maps, Panels 06071C5125H and 06071C5785H, dated August 28, 2008, the project lies in both Zones D and X-unshaded (outside the 0.2% annual chance of floodplain). **7-2**

Flood Control Planning Division (Michael Fam, PWE III, 909-387-8120):

1. One of the transmission lines running due south of the proposed Project is crossing an area of San Bernardino County Flood Control District (FCD) easement 4-101.200 (9547/1440 OR) located on Victor Valley Wastewater Reclamation Authority property (APNs: 0468-111-15, 16). Be advised that any encroachment on FCD's right-of-way will require a permit from the FCD. If you have any questions regarding this process, please contact the FCD Permit Section at (909)387-7995. The necessity for any, or all of these permits, and any impacts associated with **7-3**

BOARD OF SUPERVISORS

ROBERT A. LOVINGOOD
First District

JANICE RUTHERFORD
Second District

DAWN ROWE
Third District

CURT HAGMAN
Chairman, Fourth District

JOSIE GONZALES
Vice Chair, Fifth District

Gary McBride
Chief Executive Officer

Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project

Letter 7 – continued

M. Szarzynski, City of Victorville
CEQA NOI Adopt IS High Desert Solar Project
June 20, 2019
Page 2 of 2

them, should be addressed in the Initial Study prior to adoption and certification of the Mitigated Negative Declaration.

**7-3
cont.**

We respectfully request to be included on the circulation list for all project notices, public reviews, or public hearings. In closing, I would like to thank you again for allowing the San Bernardino County Department of Public Works the opportunity to comment on the above-referenced project. Should you have any questions or need additional clarification, please contact the individuals who provided the specific comment, as listed above.

7-4

Sincerely,


DARREN J. MEEKE, Chief
Environmental Management

DJM:AJG:sr
Email: mszarzynski@victorvilleca.gov

Letter 7 Response to Comments

Response to Comment 7-1:

The comment states that the Proposed Project would be subject to the San Bernardino County Comprehensive Storm Drain Plan No. 7. This comment is noted.

The comment also states that any revision to drainage should be reviewed and approved by the City. A Preliminary Drainage Study has been prepared for the Proposed Project and is included as Appendix H of the Draft IS/MND. The Preliminary Drainage Study was reviewed by the City of Victorville. Final project plans, including drainage plans, will reviewed and approved by the City as part of the City's project review process.

Response to Comment 7-2:

This comment states that the project lies in Zones D and X-unshaded (outside of the 0.2 percent annual change of flood) as depicted in the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), Panels 06071C5125H and 06071C5785H. The Initial Study identifies the FEMA designation for the site and potential impacts from flooding in Section 4.10.2, Hydrology and Water Quality. This comment is noted.

Response to Comment 7-3:

This comment states that the San Bernardino County Flood Control District (FCD) has an easement located within VVWRA in the area in which the proposed Gen-Tie line would be located. Encroachment on FCDs right-of-way would require a permit from the FCD. This comment is noted.

The comment also states that the necessity for any permit and any impacts associated with them should be addressed in the Initial Study prior to adoption and certification of the MND. The Draft IS/MND considered impacts from construction of the Gen-Tie line throughout, in the Project Description and the analyses in Sections 2 and 4, in particular.

Response to Comment 7-4:

This comment requests that the San Bernardino County Department of Public Works be included on the circulation list for all project notices, public reviews, or public hearings. The comment is noted, and San Bernardino County Department of Public Works will be added to the project notification list.

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**Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project**

Letter 8 - City of Adelanto

From: [Alfredo Aguirre](#)
To: [Alfredo Aguirre](#)
Subject: FW: Notice of Intent - HIGH DESERT SOLAR PROJECT proposed HDSP
Date: Wednesday, June 26, 2019 10:03:19 AM
Importance: High

From: Charles Rangel [<mailto:CRangel@ci.adelanto.ca.us>]
Sent: Tuesday, June 25, 2019 5:39 PM
To: Michael Szarzynski
Cc: Victor Ponto; Jessie Flores; Dave Martinez; Mary Blais; Brian Wolfe
Subject: Notice of Intent - HIGH DESERT SOLAR PROJECT proposed HDSP
Importance: High

Dear Mr.Szarzynski:

The City of Adelanto is **opposed** to the HIGH DESERT SOLAR PROJECT. As shown on the area site plan which you sent me, the project proposes to take its main access from Colusa Road which is an unimproved road in the City of Adelanto. The developer has made no effort to communicate with our City staff to discuss how to mitigate the impacts associated with utilizing Colusa as a main point of access. Furthermore, The City is therefore requesting the City of Victorville to postpone any further processing of this project until or unless the proponent shares with the City of Adelanto the traffic impact analysis with our City Engineer, Brian Wolf and propose how impacts to our city roads will be mitigated, however should this item get agenized we respectfully request that you notify all parties attached to this email so that Adelanto staff can attend the hearing and voice our concerns.

8-1

Best regards

Cc: Jessie Flores, City Manager
Victor Ponto, City Attorney

Charles Rangel
Development Services Director
CITY OF ADELANTO
116 AIR EXPRESSWAY
ADELANTO, CA 92301
CRangel@ci.adelanto.ca.us
Tel. 760-245-2300 Ext. 11176
Tuesday & Thurs - 7:00 a.m. 6:00 p.m.
Closed Every Friday
ci.adelanto.ca.us



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Letter 8 Response to Comments

Response to Comment 8-1:

This letter from the City of Adelanto is in opposition to the Proposed Project due to concerns regarding impacts to Colusa Road from use for construction access by the Proposed Project. The City of Adelanto states that the developer made no effort in communicating with City of Adelanto Staff to discuss the impacts associated with the use of Colusa Road. The Applicant met with Jessie Flores, City Manager, Mayor Gabriel Reyes, and Mayor Pro Tem Steevonna Evans on December 19, 2018. An overview of the project was discussed, including plans to improve Colusa Road. A project description and contact information was given to the City officials to discuss any issues they may have.

The City of Adelanto has also requested information from the Applicant on how impacts to Adelanto city roads will be mitigated and notification of any project hearings. As described in the Draft IS/MND in Section 2.3.7, Access Roads and Site Maintenance Roads, construction access to the Proposed Project's Solar Field Area would be via Highway 395 to Colusa Road. This segment of Colusa Road measures approximately 3 miles and is under the jurisdiction of the County of San Bernardino, City of Adelanto, and the City of Victorville. An approximately 0.5 mile segment of the road is within the City of Adelanto, from approximately Adelanto Road to Perimeter Road. Construction would be temporary with an anticipated duration of 10 to 22 months.

Through the December 2018 meeting and as presented in the Draft IS/MND, the City of Adelanto has been provided the traffic impact analyses for review and comment by the City Engineer. As described in the Draft IS/MND in Section 2.3.7, Access Roads and Site Maintenance Roads, and Section 4.17 Transportation/Traffic, portions of Colusa Road from Highway 395 to the Solar Field Area would be improved where the existing road condition is deteriorated. Proposed improvements would be limited to blading, adding road base material, and compacting, as needed. All road improvements would occur within the existing improved portion of the unpaved roadway and would not extend into undisturbed areas. During the construction phase the contractor would water this segment of Colusa Road to prevent fugitive dust. Proposed improvements would likely require encroachment permits from the cities of Victorville and Adelanto and the County of San Bernardino. Before construction commences the Applicant would comply with all necessary permit requirements. Notices will continue to be provided consistent with existing law.

Letter 9 - Save Our Mojave

Law Offices of John A. Belcher

ATTORNEYS AT LAW
150 EAST COLORADO BOULEVARD, SUITE 215
PASADENA, CALIFORNIA 91105
TELEPHONE (626) 577-5771
FAX (626) 577-7769

June 26, 2019

Via Regular Mail and Email

Michael Szarzynski
City of Victorville
14343 Civic Drive
Victorville, CA 92393
(760) 955-5135
mszarzynski@victorvilleca.gov

Re: Protest re proposed High Desert Solar Project, SCH# 2019059120

Dear Mr. Szarzynski:

This law firm represents Save Our Mojave, a 501(c)(3) non-profit organization working to raise public awareness about some of the most pressing issues facing California's deserts, including unchecked damage to the environment and wildlife.

Save Our Mojave has reviewed the Initial Study and Mitigated Negative Declaration ("MND") for the proposed High Desert Solar Project (the "Project"). The High Desert Solar Project calls for 108-megawatt (MWac) solar photovoltaic (PV) power facility and related substation with an integrated battery energy storage system (BESS). The proposed Project would be developed on a total of approximately 624 acres consisting of an approximately 581-acre solar PV field, BESS, substation, and balance of system ("the Project area"), and an approximately 35-acre corridor consisting of a 2.3-mile 230-kilovolt (kV) Gen-Tie line that would run east and then south in a defined and studied corridor to connect to the existing Victor-Caldwell 230kV line, upstream of the first pole on the Southern California Edison system. Additionally, a 1.7-mile 12.47kV Service Line would connect to the Victorville Municipal Utility Services (VMUS) system.

The MND describes the proposed Project and assesses the potential adverse impacts on the surrounding physical environment, but concludes that the effects could be mitigated to "less-than-significant" levels. After investigation and after review of publicly available documents, Save Our Mojave believes that the Project does not adequately mitigate the impact of the Project

9-1

Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project

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on the environment and local wildlife, and neither does it adequately explore the cumulative impacts of this Project relative to others in the area.

“CEQA does not require technical perfection in an EIR, but rather adequacy, completeness, and a good-faith effort at full disclosure.” CEQA Guidelines § 15003(I). Absent complete environmental impact analysis of the effect on the local environment and wildlife, the MND is not a “good faith effort at full disclosure.”

**9-1
cont.**

Our primary concern is for the sensitive plant and animal species that occupy, or have high potential to occupy, the proposed Project area. Those species include, but are not limited to:

- Desert Tortoise
- Burrowing Owl
- Mohave ground squirrel
- Desert Kit Fox
- Swainson’s Hawk
- Northern Harrier
- Yellow-headed black bird
- Loggerhead shrike
- American badger
- Short-joint beavertail cactus
- White pygmy-poppy
- Beaver Dam breadroot

9-2

The desert tortoise is an especially sensitive species that occupies the Project area. The MND makes an effort to emphasize the “low-quality” of tortoise habitat throughout the Project site. The fact remains however, that desert tortoises burrow, forage and breed across the proposed Project area. The cumulative impact of habitat degradation and fragmentation due to renewable energy projects is as of yet unknown.

As of November 2010, six solar projects in California and one in Nevada were approved on public lands within the range of the desert tortoise, constituting 3,037.5 megawatts (MW) on 9,683 hectares (23,926 acres) and 430 MW on 3,173 hectares (7,840 acres), respectively. Three additional solar projects on private lands in California have been approved totaling 1,063 MW on 1,686 hectares (4,165 acres). Seven solar projects on public lands were still pending, totaling 1,450 MW on 4,314 hectares (10,659 acres) in California and 900 MW on 6,955 hectares (17,186 acres) in Nevada...

9-3

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[P]otential long-term effects of large-scale energy development fragmenting or isolating desert tortoise conservation areas and cutting off gene flow between these areas have not been evaluated.

U.S. Fish and Wildlife Service, *Revised Recovery Plan for the Mojave Population of the Desert Tortoise* § 16 (2011). It is important for each proposed Project to participate in cumulative assessment in relation to the impact of other projects in the area, including proposed, in development, and already completed.

[B]ecause desert tortoises occupy large home ranges, the long-term persistence of extensive, unfragmented habitats is essential for the survival of the species [citation]. The loss or degradation of these habitats to urbanization, habitat conversion from frequent wildfire, or other landscape modifying activities place the desert tortoise at increased risk of extirpation because the tortoise depends on the cover of shrubs and annuals for forage provided by contiguous native vegetation communities.

(Emphasis added) U.S. Fish and Wildlife Service, *Revised Recovery Plan for the Mojave Population of the Desert Tortoise* § 32 (2011).

The proposed mitigation plan for the desert tortoises found in and around the Project area is translocation. Not only does translocation have inconsistent results, but the Project would leave the habitat in and around the site permanently fragmented and degraded. A recent study showed that relocated tortoises reproduce at a lower rate, mainly because relocated males may not sire any new offspring in their new territory. As tortoises are territorial and have complex social relationships, it stands to reason that relocated tortoises would have a difficult time adjusting. As such, we find the MND’s mitigation plan for desert tortoises insufficient.

We are also deeply concerned about the impact of the Project on the area’s burrowing owl population. Long-term studies would need to be conducted on burrowing owls in the area. Previous studies are minimal and preconstruction surveys, while protecting specific owls in the short-term, would not accurately represent any long-term effects on local populations.

Western burrowing owls are at risk of going extinct in areas of California, and habitat degradation and fragmentation are the most pressing issues facing the species. This project has a potentially significant impact. As burrowing owls are ground nesting, there are almost no possible methods of mitigation, and any amount of disturbance in their direct habitat would eliminate them. Attempts have been made to relocate burrowing owls in other areas of California, but the success rates has been inconsistent. Attempts have also been made to create

9-3
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9-4

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imitation burrows to attract owls to a new area, but those have also been mostly unsuccessful. San Diego Zoo conservationists affirm that current mitigation strategies have no proven record of success and further research is required into the best methods of mitigation for this species.

The MND discusses surveying the construction site for owl burrows or nests before construction begins, but does not make mention of the potential for burrowing owls to occupy the construction site once it has begun. Burrowing owls have been known to occupy pipes and culverts, so it is vital that inspections would continue throughout the construction process if the Project is approved.

Protection of the burrowing owls themselves is not the only relevant factor, as the owls rely heavily on ground squirrels as a primary source of prey. The Project could also potentially impact local ground squirrel populations. The MND admits that increased development and traffic could significantly increase ground squirrel fatalities due to unnatural causes. Further surveys need to be done in order to better understand the permanent direct and indirect impacts on the area ground squirrel population.

Like the burrowing owl, the desert kit fox relies on small rodents, such as the ground squirrel, for prey. There has never been a range-wide survey completed of the kit fox, only regional-scale surveys, so the true impact of habitat and range fragmentation is still unknown. Home ranges of the kit fox are often determined by prey density, so more focused prey surveys should be performed in and around the Project site to better determine how disturbance would impact predator behavior. While one individual solar project may have a “less-than-significant” impact, renewable energy development is inundating the Mojave desert and cumulatively fragmenting the desert kit fox range.

Habitat loss and fragmentation from the rapid expansion of large-scale industrial solar and wind energy development in the Mojave and Colorado Deserts pose a current and growing threat to the desert kit fox... In sum, the current and potential development for solar energy projects in desert kit fox habitat totals approximately 165,000 acres at present.

Center for Biological Diversity, *A Petition to List the Desert Kit Fox (*Vulpes macrotis arsipus*) as Threatened under the California Endangered Species Act § 15* (2013).

[K]ey threats from large-scale industrial solar development to the desert kit fox include habitat loss, degradation, fragmentation, and loss of connectivity, as well as direct and indirect impacts resulting from reduced ability for movement,

9-4
cont.

9-5

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increased competition and depredation, increased in non-native cover, mortality from roads, and displacement of foxes from den sites.

Id. § 24.

‘[T]he dispersal of kit foxes would likely be hindered by tortoise exclusion fencing that would enclose the project site (i.e., a chain link fence and a tortoise exclusion fence)... Indirect impacts on this species would consist primarily of ongoing project related disturbance and habitat degradation from the compaction of soils, introduction or spread of nonnative or invasive plant species, and the loss or alteration of its prey base. Another indirect impact would be the increased risk of predation from the placement of fencing, transmission towers, and other aboveground structures (e.g., SunCatchers) that would provide roosting opportunities for avian predators.’

Id. § 23.

The Center for Biological Diversity notes that passive relocation or translocation are not always viable solutions:

[These] measures have the potential to harm kit foxes by forcing them to establish new territories and dens in areas outside of the project site that may be less optimal or already occupied. In addition, some kit foxes repeatedly try to return to their onsite territories which can cause stress to foxes as they try to create new dens, avoid humans, and search for food on the project site. Foxes have been observed climbing eight-foot chain link fences and crossing electrified fencing to return to their territories.

Id. § 25.

Neither does the MND satisfactorily examine or mitigate the impact on nesting birds such as the yellow-headed blackbird and the loggerhead shrike. The MND states at 4-41:

Potential nesting habitat for migratory birds was present throughout the entire project area and in the vicinity. Raptors and nesting birds are known to occupy the same habitats as burrowing owl, including desert saltbush scrub, disturbed rabbitbrush scrub, Mojave creosote bush scrub, Mojave creosote bush scrub (disturbed), and Mojave desert wash scrub vegetation communities.

9-5
cont.

9-6

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For these nesting birds there have been greatly reduced numbers and range, especially due to habitat encroachment and fragmentation. Even relatively small habitat and range areas can be essential for nesting and foraging.

Not only would this Project destroy pristine scrub land that is highly viable nesting and foraging territory, but solar arrays have been shown to be incredibly dangerous for birds. The larger the solar field, the more likely for high amounts of avian fatality. Discussion of this aspect of heat and glare is completely absent from the MND, which only accounts for glare in relation to residential and commercial effects. Long-term surveys of these bird species in the area need to be conducted, and the element of heat and glare from the solar panels needs to be incorporated.

**9-6
cont.**

Due again to habitat loss and encroachment, the Swainson’s hawk and northern harrier are threatened and protected species. If there is any chance that the grasslands on or around the Project site support foraging for these raptors than stronger mitigation measures would need to be enacted. The MND acknowledges that the Joshua trees present on the site may be suitable nesting habitat for the hawks, so further surveys are required. The Swainson’s hawk and northern harrier would also be susceptible to heat and glare from the solar panels as discussed previously.

The Project will also result in significantly compromised air quality in the area throughout the construction process, and potentially once the Project is completed. Removal of stabilized soils and biological soil crust creates a destructive cycle of airborne particulates and erosion. As more stabilized soils are removed, blowing particulates from recently eroded areas act as abrasive catalysts that erode the remaining crusts thus resulting in more airborne particulates.

9-7

Erosion and the removal of the stabilized soils effect both air quality and water quality. As stated in the MND, “implementation of the Proposed Project would require ground-disturbing activities, such as grading, that could potentially result in soil erosion or loss of topsoil.” The construction period especially has the potential to compromise top soil and drainage patterns due to grading and heavy construction vehicles. Considering the Project site’s vicinity to the Mojave River and the surrounding watershed, the quality of drainage and groundwater is of the utmost importance. The quality of the river’s hydrology effects human life as well as plant and animal life. The MND does not provide satisfactory long-term plans for preventing degradation resulting from erosion and sediment, and for mitigating the resulting impacts on the Mojave River watershed area

9-8

In addition, according to the MND, “construction-generated emissions are temporary and short term but have the potential to represent a significant air quality impact. ”

9-9

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The MND needs to go farther in addressing the spike in greenhouse gas emissions during the potentially 2-year construction period. Due to the use of heavy construction equipment, unsafe levels of air pollutants would have an impact on the surrounding community and wildlife during that time. The presence of toxic air contaminants during construction is discussed in relation the sensitive human receptors, but ignores construction pollutant impact on wildlife and the ecosystem.

**9-9
cont.**

Noise pollution, like air pollution, has significant health implications. Construction and traffic noise are some of the largest producers of noise pollution. Prolonged exposure to noise pollution can lead to hypertension and heart disease, hearing loss and consequential sleep disturbances. Noise pollution does not only adversely effect human lives. Wildlife, especially birds, are heavily impacted by increased noise pollution. Communication, mating behavior, hunting and survival instincts of animals are altered by excessive noise. The MND does not adequately address potential the potential impacts of heightened noise pollution during the construction period and beyond.

9-10

The MND indicates that several mitigation measures have been deemed necessary in order for the Project to avoid making a significant negative impact on the surrounding environment. The language employed in addressing these potential impacts misguides the reader and downplays the significant risks inherent in the implementation of this project. The requirement of so many mitigation measures indicates how damaging the project has the potential to be.

9-11

As written, the MND glosses over the aggregate environmental impacts of the Project and misleads the reader through words such as “may” and “potentially.” Additionally, this Project cannot be viewed independently from other developing Projects in the region. The MND needs to address the cumulative effects of the Project in relation to other nearby projects.

The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

9-12

CEQA Guidelines § 15355(b). Greenhouse gas emissions, noise and air pollution, and habitat fragmentation are aggregate and have cumulative effects. It would be a massive oversight for this Project to be allowed to move forward without fully analyzing its impact in relation to the overall impact of other projects in the region that are currently in development or in the planning stages.

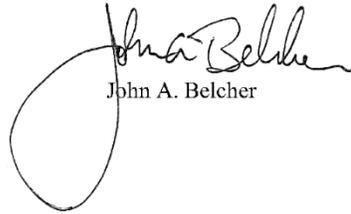
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For all of the reasons stated above, we oppose the project as currently proposed. The current MND misleads the reader as to the impact of the Project, and only a rewritten cumulative impacts analysis will allow the public to understand the true impact of the Project.

9-13

Sincerely,



John A. Belcher

Letter 9 Response to Comments

Response to Comment 9-1:

The commenter states the commenter's belief that the Draft IS/MND does not adequately mitigate the effects of the Proposed Project on the environment and local wildlife and does not adequately explore cumulative impact of this project relative to others in the area. The Draft IS/MND was prepared in accordance with CEQA, Public Resources Code Section 2100 et seq., and the State CEQA Guidelines, California Code of Regulations Section 15000 et seq. Project-specific analyses were prepared by professionals with the appropriate licenses, registrations, knowledge, skills, expertise and experience to understand the resources in the Victorville area and provide professional analyses. This letter quotes CEQA Guidelines and states the commenter's opinion that absent complete environmental impact analysis of the effect on the local environment and wildlife, the MND is not a good faith effort at full disclosure. This comment is also noted.

Response to Comment 9-2:

The commenter states that several special-status plant and wildlife species occupy or have high potential to occupy the Proposed Project area, including desert tortoise, burrowing owl, Mohave ground squirrel, desert kit fox, Swainson's hawk, northern harrier, yellow-headed blackbird, loggerhead shrike, American badger, short-joint beavertail cactus, white pygmy-poppy, and Beaver Dam breadroot. The biological analysis presented in Section 4.1 of the *Comprehensive Biological Technical Report* (Appendix B of the Draft IS/MND; ECORP 2018), is consistent with this comment. Detailed results of the focused surveys conducted for the Proposed Project and incidentally observed special-status species are found in Sections 4.4 and 4.5 of the *Comprehensive Biological Technical Report*. Potential Project-related impacts to these species were analyzed in the *Biological Impact Analysis and Mitigation Report* (Appendix C of the IS/MND; ECORP 2019). As discussed in Section 4.4, Biological Resources, of the Draft IS/MND, no impacts to special-status plant species were identified because focused rare plant survey results were negative. Impacts to special-status wildlife species were found to be less than significant with mitigation. Mitigation Measures BIO-2 through BIO-8 were developed to avoid or offset potential project impacts to these special-status species.

Response to Comment 9-3:

The commenter states that desert tortoises burrow, forage, and breed across the project area. The biological analysis presented in Section 4.2 of the *Comprehensive Biological Technical Report* (Appendix B of the Draft IS/MND), is consistent with with this comment. Desert tortoises and their sign (e.g., burrows, scat, carcasses) were identified on and adjacent to the project site during focused surveys conducted for the Proposed Project. This information was incorporated into the analysis of

project-related impacts discussed in Section 3.3 of the *Biological Impact Analysis and Mitigation Report* (Appendix C of the IS/MND; ECORP 2019).

The commenter also states that the cumulative impact of habitat degradation and fragmentation due to renewable energy projects is still unknown and cites the *Revised Recovery Plan for the Mojave Population of the Desert Tortoise* (USFWS 2011) as supporting documentation. Impacts to the desert tortoise from habitat fragmentation and degradation as a result of the Proposed Project was analyzed in detail in Section 3.3 of the *Biological Impact Analysis and Mitigation Report* (Appendix C of the IS/MND; ECORP 2019). It was determined that this is a potentially significant impact, but with implementation of Mitigation Measure BIO-2, designation of off-site mitigation lands, effects would be reduced to a less-than-significant level. Furthermore, the desert tortoises in the project area would not be subject to the effects of habitat fragmentation and degradation resulting from the Proposed Project because the individuals would be translocated to an off-site recipient location with high quality habitat prior to the start of project activities.

The commenter states that translocation of desert tortoises has inconsistent results and may result in additional impacts to the individuals that are translocated, such as low reproductive success. The comment cites to an unspecified "recent study" on reproduction and adjustments.. These comments are noted. In response, the Proposed Project's effects on desert tortoise related to translocation activities were detailed in Section 3.3 of the *Biological Impact Analysis and Mitigation Report* (Appendix C of the IS/MND; ECORP 2019). Furthermore, the Project team has been in close coordination with USFWS and California Department of Fish and Wildlife (CDFW) regarding the potential project-related impacts to desert tortoise (and other special-status species) prior to permit application submittal. It was determined during the pre-application coordination with USFWS and CDFW that, although translocation activities do present certain risks to translocated individuals, translocation is the best option for the few individuals that were found to occupy the project area. This is because the few individuals identified in the project area would effectively become isolated from habitat and desert tortoises occupying other parts of the species' range. Translocation would provide the relocated individuals higher quality habitat at the translocation recipient site and may also provide better and more frequent opportunities for reproduction than if they remained in the project area. Details on the desert tortoise translocation activities, including implementation of protection measures and follow-up monitoring activities, will be outlined in the Desert Tortoise Translocation Plan, consistent with Mitigation Measure BIO-3. The Desert Tortoise Translocation Plan's contents will be subject to approval by USFWS and CDFW. See also the response to Comment 9-2 above.

Response to Comment 9-4:

The commenter expresses concern over burrowing owls in the project area and states that long-term studies need to be conducted on the species to determine effects of the project on the population.

These comments are noted. The commenter also states that previous studies are minimal and that pre-construction surveys would not accurately represent long-term effects on local burrowing owl populations. In this case, the biological resources studies prepared for the Proposed Project determined that burrowing owl habitat was present on the project site, as well as an individual burrowing owl, and that it was likely that burrowing owls would be adversely affected by ground disturbing activities from construction of the Proposed Project. This impact was determined to be potentially significant and mitigation measures were required, as discussed below.

The commenter states that the Proposed Project has a potentially significant impact to burrowing owls in the form of habitat fragmentation and degradation, and that there are almost no possible methods of mitigation. These comments are noted. The biological analysis in Section 3.5 of the *Biological Impact Analysis and Mitigation Report* (Appendix C of the IS/MND; ECORP 2019) states that the Proposed Project would potentially result in significant impacts to burrowing owls in the form of habitat fragmentation and degradation. Mitigation was developed to reduce these impacts to a less than significant level (BIO-2). Comments on mitigation measures, relocations, and efforts by the San Diego Zoo are noted. Mitigation Measure BIO-6 requires the preparation of a Burrowing Owl Management Plan that will be subject to the approval of CDFW, the agency that mandates protection of burrowing owl. The Burrowing Owl Management Plan will outline additional protection and avoidance and minimization measures that will further protect burrowing owls in the project area and reduce the project-related impacts to individuals. These are mitigation methods that are generally accepted by the CDFW for mitigating for potential project-related impacts to burrowing owl.

The commenter acknowledges that the Draft IS/MND discusses surveying for the species prior to construction but states that the Draft IS/MND does not discuss the potential for burrowing owls to occupy the project site during construction activities, particularly in pipes and culverts. The commenter states that inspections conducted during construction would be vital to identify burrowing owl use of the project site. Burrowing owls are, in fact, drawn to burrows and burrow-like structures, such as uncapped pipes and covered culverts. Mitigation Measure BIO-4 identifies the precautions that the project must take to quickly identify sensitive species that may occupy the site after pre-construction surveys but during construction activities, and what measures to take if these species are identified on the site during construction. As stated in Mitigation Measure BIO-4, the biological monitor would monitor for and identify sensitive biological resources on and adjacent to the project site, including looking for burrowing owls using burrow-like structures on or adjacent to the project site, during ground disturbing activities. If a special-status species, such as the burrowing owl, is observed on the project site or is at risk for injury or mortality, then the biological monitor would have the authority to halt project activities in the area until the animal is no longer at risk. The Burrowing Owl Management Plan (required by Mitigation Measure BIO-6) would have additional monitoring requirements for burrowing owl presence on and adjacent to the project site as well as

methods and required actions to implement if a burrowing owl is found using the site during and after project construction.

The commenter also discusses conducting ground squirrel surveys to assess the Proposed Project's effect on local ground squirrel populations. A detailed impacts assessment on the state-listed (threatened) Mohave ground squirrel was included in Section 3.4 of the *Biological Impact Analysis and Mitigation Report* (Appendix C of the IS/MND; ECORP 2019). It is assumed that the commenter is referencing the common ground squirrel species that have potential to occur on and around the project site, the antelope ground squirrel and the California ground squirrel. Neither of these ground squirrel species are federally or state-listed, nor do they have a special-status designation by CDFW. The IS/MND identifies that the "habitat on the site is considered suitable, for burrowing owl **foraging**, migration, sheltering (burrow sites), and/or reproduction (emphasis added)", thereby acknowledging the presence of ground squirrel and other sources of prey for the burrowing owl. Identifying the presence of common ground squirrel species is considered in the Draft IS/MND and accounted for by avoidance and by the implementation of the Biological Resources mitigation measures.

Response to Comment 9-5:

The commenter states that the true impacts of habitat and range fragmentation is still unknown for desert kit fox. Habitat degradation and fragmentation was found to be a potentially significant impact resulting from the Proposed Project, but with implementation of Mitigation Measure BIO-2, designating mitigation lands for impacts to desert tortoise and Mohave ground squirrel, these impacts were found to be less than significant because the desert kit fox occupies the same habitats as desert tortoise and Mohave ground squirrel. This is mitigation that is accepted by CDFW and other state and federal resource agencies as mitigation for potential impacts to desert kit fox in the form of habitat degradation and fragmentation

The commenter states that home ranges for desert kit fox are often determined by prey density and requests that more focused prey surveys be conducted in and around the project site to determine how disturbance would affect predator behavior. In this case, the biological resources studies prepared for the Proposed Project determined that desert kit fox habitat was present on the project site and desert kit fox individuals were observed in areas adjacent to the project site. It was found to be likely that desert kit fox would be adversely affected by the Proposed Project in Section 3.6 of the *Biological Impact Analysis and Mitigation Report* (Appendix C of the Draft IS/MND; ECORP 2019). Impact to the desert kit fox foraging habitat were determined to be potentially significant and mitigation measures were required. Mitigation Measures BIO-2, BIO-4, BIO-5 and BIO-7 provide mitigation for these potential impacts.

The commenter also states that renewable energy development is becoming prevalent in the Mojave Desert and is resulting in fragmented range for desert kit fox. Potential cumulative impacts are

addressed by Conditions BIO-2 and BIO-7. The commenter cites portions of the petition to list the desert kit fox under the California Endangered Species Act (Center for Biological Diversity 2013) pertaining to general project-related impacts to desert kit fox, including habitat loss/degradation and fragmentation, exclusion fencing affecting travel, loss or alteration of prey base, and increased avian predation. The citations to the petition by the Center for Biological Diversity are noted. The *Biological Impact Analysis and Mitigation Report* (Appendix C of the Draft IS/MND; ECORP 2019) agrees with these statements and mitigation measures have been proposed to avoid or reduce these impacts to a less than significant level. Furthermore, the Desert Kit Fox and American Badger Management Plan required in Mitigation Measure BIO-7 would contain additional protection and avoidance measures, such as elevated gates at the Solar Field Area installed post-construction activities, to be implemented to further avoid project-related impacts to desert kit fox.

The commenter states that passive relocation or translocation of desert kit foxes are not always viable solutions and cites the listing petition again (Center for Biological Diversity 2013). The comment has been noted and will be taken into consideration when developing the Desert Kit Fox and American Badger Management Plan (BIO-7).

Response to Comment 9-6:

The commenter states that the Draft IS/MND does not examine or adequately mitigate the impact on nesting birds, including the yellow-headed blackbird and loggerhead shrike. The commenter further states that population and range of nesting birds have been reduced due to habitat encroachment and fragmentation, and that even small habitat and range areas can be essential for nesting and foraging. The project site was found to provide habitat for nesting birds and raptors, and evidence of loggerhead shrike nesting activity was documented. Section 3.7 of the *Biological Impact Analysis and Mitigation Report* (Appendix C of the Draft IS/MND; ECORP 2019) discusses the potential project-related impacts to nesting birds and raptors in detail, and habitat loss, degradation, and fragmentation were found to be potentially significant impacts to nesting birds. Mitigation measures were developed for the Proposed Project to offset or reduce these impacts to nesting birds and raptors, including Mitigation Measures BIO-2, BIO-4, BIO-5 and BIO-8. It should also be noted that yellow-headed blackbirds occupy and nest in marshes adjacent to open water, habitat that is not found on or adjacent to the project site. Although a yellow-headed blackbird was incidentally observed flying overhead during a focused survey conducted for the Proposed Project, there is no suitable nesting habitat on site for this species. It is likely that individual was observed while traveling on a migration route.

The commenter states that the Proposed Project would affect high quality nesting and foraging habitat and that solar projects have been known to result in high levels of avian fatality, particularly related to heat and glare from the solar panels. The commenter requests long-term surveys of nesting bird species in the area be conducted and that impacts to avian species resulting from heat

and glare of the solar panels be incorporated into the impacts analysis. The biological analysis in Section 3.7 of the *Biological Impact Analysis and Mitigation Report* (Appendix C of the Draft IS/MND; ECORP 2019) agrees that the project would result in potentially significant impacts to nesting birds and raptors in the form of mortality and injury. Potential forms of avian mortality associated with the Proposed Project were discussed, including electrocution and collision with structures (including the photovoltaic panels) due to the glare or a phenomenon known as the "lake effect." Potential heat related thermal injury associated with solar thermal projects are not present for PV projects and there are no thermal combustion sources associated with the Proposed Project. Because the potential for project-related impacts to nesting birds in the form of mortality and injury were found to be significant, mitigation measures were developed to reduce or eliminate these project impacts, including Mitigation Measures BIO-2, BIO-4, BIO-5 and BIO-8. These mitigation measures are listed in the response question a) under Raptors and Nesting Birds of Section 4.4.2, Biological Resources (IV) Environmental Checklist and Discussion, of the Draft IS/MND.

The commenter requests surveys. Performing long-term surveys of nesting birds in the project area is not required by any applicable laws, ordinances, regulations or standards and are not indicated based on the analyses set forth in Sections 2 of the Draft IS/MND. In addition, the Proposed Project is required to meet the minimum guidelines published by the Avian Power Line Interaction Committee (APLIC 2006) and will implement best management practices that would be outlined in the Nesting Bird Management and Bird Protection Plan (Mitigation Measure BIO-8) to reduce impacts on nesting bird and raptor species, such as anti-perching devices, avian visual deterrents, trash abatement, and using emergent technologies like antireflective film overlays, and/or chemosensory and sonic deterrents.

The commenter states that habitat loss and encroachment have led to the state-listing (as threatened) status of Swainson's hawk and the California Species of Special (SSC) status of the northern harrier. The commenter also requests stronger mitigation measures if any grasslands on or around the project site support foraging activities for these species, and that additional surveys are required to survey the Joshua trees as nesting habitat for these two species. The biological analysis in Section 3.8 of the *Biological Impact Analysis and Mitigation Report* (Appendix C of the Draft IS/MND; ECORP 2019) determined that foraging habitat for Swainson's hawk, northern harrier, and three other special-status avian species is present in and around the project site. Grassland habitat was not mapped on or adjacent to the Project site, but the suitable foraging habitat for these species is present in the native desert scrub vegetation communities that were mapped during the biological surveys. Project-related impacts to nesting and foraging habitat for special-status avian species and/or species protected under the federal Migratory Bird Treaty Act (MBTA) were found to be significant and mitigation measures were developed to offset or avoid these impacts. Performing additional surveys of the Joshua trees in the project area would not change the conclusion that the Proposed Project could result in significant impacts to nesting and special-status avian species and the mitigation measures that were developed for the Proposed Project. Mitigation Measure BIO-1

addresses issues associated with Joshua trees. The mitigation measures that would be required for the Proposed Project (i.e., development of a Nesting Bird Management and Bird Protection Plan, biological monitoring, and worker education training) are mitigation measures that are generally accepted by CDFW and USFWS for impacts to nesting birds and raptors and avian species protected under the MBTA. Mitigation measures were developed to reduce or eliminate these project impacts, including Mitigation Measure BIO-2, BIO-4, BIO-5 and BIO-8.

The commenter states that Swainson's hawk and northern harrier are subject to heat and glare from the solar panels. Project-related impacts to nesting birds in the form of heat and glare from the solar panels were addressed earlier in this comment response.

Response to Comment 9-7:

The commenter states that the Proposed Project would result in significantly compromised air quality in the area during construction and potentially during project operations. The Commenter also states that removal of stabilized soils and biological soil crust creates a destructive cycle of airborne particulates and erosion. As more stabilized soils are removed, blowing particulates from recently eroded areas act as abrasive catalysts that erode the remaining crusts thus resulting in more airborne particulates.

As described in Section 4.3.2, Air Quality, both coarse particulate matter (PM₁₀) and fine particulate matter (PM_{2.5}) from construction and operation of the project were modeled and compared to the significance thresholds from the Mojave Desert Air Quality Management District (MDAQMD). The model determined that no significant effects from dust would occur. As described in the Draft IS/MND Section 2.4.1, Site Disturbance, limited grading is expected to be required because of the low impact development (LID) approach and nearly flat terrain. Grading would be required on slopes greater than 5 percent for PV power blocks. Project grading requirements are anticipated to be approximately 116 acres, mainly along the eastern side of the Solar Field Area and in the locations of the substation, BESS, and laydown areas. Furthermore, existing vegetation would be left in place and mowed and maintained to a height of less than 18 inches to help in preventing soil erosion from wind and water.

Construction activities, such as excavation and grading operations, construction vehicle traffic, and wind blowing over exposed soils, generate fugitive particulate matter emissions that affect local air quality at various times during construction. Effects would be variable depending on the weather, soil conditions, the amount of activity taking place, and the nature of dust control efforts. The Proposed Project would be required to implement several dust control measures as promulgated through various Mojave Desert Air Quality Management District Rules. For instance, Rule 401 – *Visible Emissions*, limits visibility of fugitive dust to less than No. 1 on the Ringelmann Chart (i.e., 20 percent opacity). The Ringelmann scale is a scale for measuring the apparent density or opacity of

smoke. The scale has 5 levels of density inferred from a grid of black lines on a white surface which, if viewed from a distance, merge into known shades of grey. Shade 1 is slightly grey and is usually categorized by air pollution boards as acceptable. It corresponds to an opacity of 20 percent. Shades 2, 3, 4 and 5 correspond to opacities of 40 percent, 60 percent, 80 percent and 100 percent (completely black). Rule 403 – *Fugitive Dust*, prohibits visible dust beyond the property line of the emission source, requires “every reasonable precaution” to minimize fugitive dust emissions and prevent track-out of materials onto public roadways and prohibits greater than 100 µg/m³ difference between upwind and downwind particulate concentrations. Every reasonable precaution may include, but is not limited to, seeding portions of a construction site that remain inactive longer than a period of three months and watering until grass cover is grown or otherwise stabilized, watering unpaved roads periodically, sufficiently watering or securely covering all material transported off-site to prevent excessive amounts of dust, and sweeping daily or washing down adjacent public street where vehicles enter and leave a construction site to remove soil tracked onto the paved surface. Mitigation Measure AQ-1 also addresses these comments.

Response to Comment 9-8:

This comment states that erosion and the removal of stabilized soils will affect both air and water quality. These comments on top soils and drainage and the project’s location in the watershed are consistent with the descriptions and analyses in Section 2 of the IS/MND. Please also see the response to comment 9-7 regarding effects to air quality.

Soil erosion with respect to water quality is discussed in Section 4.7.2, Geology and Soils and in Section 4.9.2, Hydrology and Water Quality. As described in Section 2.4.1, Site Disturbance, of the Draft IS/MND, limited grading is expected to be required because of the Low Impact Development (LID) approach and nearly flat terrain. Grading would be required on slopes greater than 5 percent for PV power blocks. Project grading requirements are anticipated to be approximately 116 acres, mainly along the eastern side of the Solar Field Area and in the locations of the substation, BESS, and laydown areas. Furthermore, existing vegetation would be left in place and mowed and maintained to a height of less than 18 inches to help in preventing soil erosion from wind and water. To protect water quality the Proposed Project would comply with the statewide National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (General Permit). During construction, to comply with the General Permit the applicant would be required to implement a Stormwater Pollution and Prevention Plan (SWPPP), which would include Best Management Practices (BMPs) to prevent construction pollutants and products from violating any water quality standards or any waste discharge requirements. Compliance with the provisions of the NPDES General Permit would reduce impacts associated with water quality standards and discharge requirements during construction to a less than significant level.

A Water Quality Management Plan (WQMP) has been prepared for the Proposed Project, which details stormwater treatment and other stormwater quality and quantity control measures that would be implemented to manage stormwater during project operations. As detailed in the Draft IS/MND Section 4.10.2, Hydrology and Water Quality (X) Environmental Checklist and Discussion, in the response to question a), the solar racking system throughout the project site would be elevated above the ground, supported on vertical posts driven into the ground with no excavation or concrete foundations. The ground surfaces beneath the solar cells would remain with native on-site soil and vegetation. Vegetation would remain in non-graded areas and would be mowed to a maximum height of 18 inches. Precipitation would fall on the solar cells, run off the lower edges onto the ground surface, sheet flow across the site under the solar cells, and infiltrate into the ground similar to the pre-developed conditions. Concrete equipment foundations for inverter skids and substation equipment would be located sporadically throughout the project site. Excess runoff would primarily be shallow sheet-like flows across the surfaces of the site. After flowing across the site, the runoff would enter new on-site retention basins along the downstream site perimeters, and then would overtop these basins as wide, shallow flow. The basins would be designed and constructed to overtop in a manner so as to preserve the existing runoff characteristics and locations to the greatest extent practical. As part of final design, erosion control would be included where flows enter and exit the retention basins. With the implementation of the WQMP impacts to water quality during project operations was determined to be less than significant.

Response to Comment 9-9:

The commenter is correct in stating that construction-generated emissions are temporary and short term but have the potential to represent a significant air quality impact. This potential impact is disclosed in the IS/MND and summarized in this response. In order to reduce emissions generated during construction activities, Mitigation Measure AQ-1 is required. This mitigation requires the Proposed Project to employ the use of California Air Resources Board (CARB) Tier 4 Certified off-road mobile construction equipment during solar facility installation activities. As stated on page 4-13 of the Draft IS/MND, Tier 4 construction equipment engine standards reduce emissions of particulate matter (PM) and nitrogen oxides (NO_x) about 90 percent. With implementation of Mitigation Measure AQ-1, construction-generated emissions would be reduced to a maximum daily emission rate below the MDAQMD threshold. Thus, criteria pollutant emissions generated during Proposed Project construction would not result in a violation of air quality standards and thus would be considered less than significant.

The Draft IS/MND further analyzed the potential effects to sensitive receptors associated with the generation of toxic air contaminants during construction. As stated on page 4-13 of the Draft IS/MND, sensitive receptors are defined as facilities or land uses that include members of the

population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses. Examples of these sensitive receptors are residences, schools, hospitals, and daycare centers. The California Air Resources Board (CARB) has identified the following groups of individuals as the most likely to be affected by air pollution: the elderly over 65, children under 14, athletes, and persons with cardiovascular and chronic respiratory diseases such as asthma, emphysema, and bronchitis. The nearest sensitive receptor is a single-family residence located approximately 4,100 feet west of the site (generally upwind from the site). The commenter is referred to Subsection 4.4, Biological Resources, of the Draft IS/MND for a CEQA-consistent analysis of potential impacts to wildlife.

The comments suggest an increase in potential Greenhouse Gases during construction. The comments also raise the potential impacts on wildlife and the ecosystem. Concerning construction-generated greenhouse gas (GHG) emissions, construction-related activities that would generate GHGs include worker commute trips, haul trucks carrying supplies and materials to and from the project site, and off-road construction equipment, as stated on page 4-62 of the Draft IS/MND. Construction-generated GHG emissions would not exceed MDAQMD significance thresholds, and thus a less than significant impact would occur, and no additional mitigation is required.

Response to Comment 9-10:

The commenter states that the Draft IS/MND does not adequately address the potential impacts of noise during the construction period and beyond, including potential noise effects on humans and wildlife. The comments state that potential human health and wildlife effects may occur. The noise analysis in the Draft IS/MND has been prepared in accordance with CEQA, Public Resources Code Section 21000 et seq., and the State CEQA Guidelines, California Code of Regulations Section 15000 et seq. The commenter is referred to Subsection 4.4, Biological Resources, of the Draft IS/MND for a CEQA-consistent analysis of potential impacts to wildlife. The noise analysis contained in Section 4.13 of the Draft IS/MND relies on Appendix G of the State CEQA Guidelines, which includes analytical requirements to meet the requisites for an adequate Initial Study under CEQA. These analytical requirements include examining the Proposed Project's potential to result in exposure of *persons* to or generation of noise and vibration levels in excess of standards established by the City of Victorville.

It is noted that the effects of noise on wildlife has recently been, and continues to be, the subject of much study. For instance, the study, *How and Why Environmental Noise Impacts Animals: An Integrative, Mechanistic Review* (Caitlin R. Kight and John P. Swaddle, Institute for Integrated Bird Behavior Studies, Biology Department, College of William and Mary, 2010), concludes that while some types and levels of noise may be harmful, others may enhance or even play an integral role in development, and that researchers need to develop nonlinear predictions of how biological systems

respond to noise. Similarly, the study, *Synthesis of Noise Effects on Wildlife Populations* (2004), conducted by the Federal Highway Administration, notes that there are large gaps in the understanding of the impact of noise on wildlife populations. For instances, according to this study which specifically focused on roadway noise, there is relatively little study on the effects of noise on invertebrates and lower vertebrates (fish, reptiles, amphibians), and the small amount of analysis conducted shows no clear indication of a strong adverse response. Noise effects on reptiles and amphibians appear to be localized and likely linked with a barrier to movement. Noise can apparently have a significant effect on birds; however, the results are not universal with some species being adversely affected, many unaffected and still others becoming more common near noise-intensive interstate highways. Finally, mammals (particularly large species) may avoid noise according to this study. A more recent examination of related data conducted at Penn State University titled, *Noise Impacts to Wildlife – A Review of Pertinent Studies* (2014), also identifies the notion that wildlife responses to noise varies among species and individuals unpredictably. Mitigation Measures address these issues, including Mitigation Measures BIO-2, BIO-4, BIO-5, and BIO-8.

Response to Comment 9-11:

This comment states that the language employed in addressing potential impacts misguides the reader and downplays the significant risks inherent in the implementation of the Proposed Project. The Draft IS/MND was prepared in accordance with CEQA, Public Resources Code Section 2100 et seq., and the State CEQA Guidelines, California Code of Regulations Section 15000 et seq. The IS/MND identifies potentially significant impacts requiring mitigation in five environmental resource areas.

The comment further states that the requirement of so many mitigation measures indicates how damaging the project has the potential to be. CEQA requires that all feasible mitigation measures that would mitigate or lessen significant impacts be identified and adopted by the project. CEQA does not place a limit on how many mitigation measures can be implemented for a project. The identification of these measures is one of the purposes of CEQA. According to the CEQA Statute Section 21002, the procedures in CEQA are intended to “assist public agencies in identifying both the significant environmental effects of proposed projects and the feasible...mitigation measures which will avoid or substantially lessen such significant effects.” This IS/MND will be provided to the City decisionmakers so that they are aware of the impacts and mitigations proposed. The comments are noted.

Response to Comment 9-12:

This comment states that the Draft IS/MND does not adequately address the cumulative environmental impacts of the Proposed Project. Section 15355(b) of the California Environmental

Quality Act ("CEQA") Guidelines defines "cumulative impacts" in pertinent part as follows: "The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects." Under Section 15130 of the CEQA Guidelines, an Environmental Impact Report ("EIR") is required to discuss cumulative impacts when the project's incremental effect is "cumulatively considerable." Section 15065(a)(3) defines "cumulatively considerable" as meaning "that the incremental effects of an individual project are significant when viewed in connection with the effects of other closely related past projects, the effects of other current projects and the effects of probable future projects."

Each environmental discipline set forth in Section 4 of the IS/MND evaluated the project potential direct, indirect, and cumulative impacts. Past, present and reasonably foreseeable projects were considered in the IS/MND. See, for example Section 4.3.2 on Air Quality and consideration of potential cumulative impacts. The IS/MND includes the Mandatory Findings of Significance related to potential cumulative impacts in Section 4.20. The analysis of each resource/issues area in the Draft IS/MND considered cumulative impacts. All potentially significant impacts identified in the Draft IS/MND were reduced to a less than significant level with the implementation of mitigation measures. As such, no cumulative considerable impacts are anticipated from the Proposed Project.

Response to Comment 9-13:

This comment states that Save Our Mojave opposes the Proposed Project. This comment is noted.

**Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project**

Letter 10 - Bob Landwehr

June 26, 2019

Development Department
City of Victorville
14343 Civic Drive
Victorville, CA 92395-5001

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DEPARTMENT

Comments to Adopt an Initial Study/Mitigated Declaration, Plan18-00048

My family and I own the 5.13-acre parcel (APN 0460-242-05) in the center of this 581 acre solar field referenced as the High Desert Solar Project consisting of 642 total acres. We have never been contacted by anyone involved in this planned development on the effects and impacts of this proposed project.

I have attempted to contact Senior Planner Michael Szarzynski as invited per notice to no avail. I have tried to reach City Planner Scott Webb and according to an auto e-mail response, Planner Webb is outside the office until July 8th, 2019, which is two days before the Planning Commission Hearing on July 10th. We have yet to read and fully understand the nearly 2000 pages of documents of the Initial Study/Mitigated Declaration.

10-1

Not being allowed to participate in this process is contrary to basic planning and outside the *Ethical Principles of Planning*. Also by excluding us in this development process violates the guidelines found in the California Environmental Quality Act, Chapter 3, Title 14 (see sections 15002(a), (f)(2), (g), (j); 15003(h),(i),(j); 15070 California Code of Regulations)

In addition to the above, there are several statements of facts and omissions that do not support this mitigated negative declaration. Some are:

1.3 Project Site Description

No indication that there is a privately owned 5.13 acre parcel in the center of the solar field, which is entitled to its 65-year access of Martin Hollow Road of which this parcel abuts.

10-2

2.2 Site Selection Criteria – Feasibility of Site Control

The applicant does not or will not have site control of the center of the solar field.

10-3

2.37 Access Roads and Site Maintenance Roads

Privately owned 5.13 acre parcel access will continue to be provided via Martin Hollow Road with no security gate or complete access to gate controls. Martin Hollow Road will enjoy the same road design for emergency access as those described by the applicant.

10-4

1

**Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project**

Letter 10 – continued

2.4.4 Water Dust control for the privately owned 5.13 acre parcel is mandated per MDAQMD Rule 403 (Fugitive Dust). The purpose of this rule is to prohibit visible dust beyond the property line of the emission source.	10-5
2.4.2 Erosion Control For the privately owned 5.13 acre parcel additional civil engineering measures will be required to address slope and grade. How high will the retaining walls be? How would blowing sand and debris be controlled? How will storm water be mitigated?	10-6
2.4.3 Utilities Easements Martin Hollow Road utility easement will need to be maintained. The solar easement of the 5.13 acre parcel will be recognized and not infringed.	10-7
2.6.1 Project Pre-Construction The pre-construction safety and environmental meeting needs to also include the private property owners via a Skype connection and in person.	10-8
2.7.1 Operations – Security First responders will not be impeded or delayed access at any time. Any type of cameras, infrared imaging, etc. will not be permitted to view or monitor the 5.13 acre private property.	10-9
2.7.2 Maintenance Access to the site cannot restrict property owners or their guests. Martin Hollow Road will remain the access point and not Floreate Road as identified on Page 160.	10-10
3.1 Environmental Factors Potentially Affected Aesthetics, Air Quality and Noise are not mitigated or accurately represented for the 5.13 acre parcel in the center of the solar field. These are significant impacts!	10-11
4.1 Aesthetics The owners enjoy an unobstructed desert view and desert sounds of the Mohave River, Silver Mountain, National Trails Highway, Roy Rogers Ranch and rail line to the east. There is a 360 degree scenic view of the decades old native scrub will be either buried and then covered with solar panels and cut to no taller than 18 inches. This would be a permanent impact. The applicant’s barbed wire fencing, cargo containers and monitoring towers further impact aesthetics.	10-12
4.2 Air Quality <i>“Would the project expose sensitive receptors to substantial pollutant concentrations? CARB has identified the following groups of individuals as the most likely to be affected by air pollution: the elderly over 65, children under 14, athletes and persons with cardiovascular and chronic respiratory diseases such as asthma, emphysema, and bronchitis. <u>The nearest sensitive</u></i>	10-13

Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project

Letter 10 – continued

receptor is a single-family residence located approximately 4,100 feet west of the site (generally upwind from the site)” What about those in the center of the solar field on their 5.13 acre parcel or their guests traversing to it? Air Quality will be an impact. Mitigation is mandatory.

10-13
cont.

4.13 Noise

“There are no sensitive receptors in the immediate vicinity to the project site”. What about those in the center of the solar field? Mitigation is again mandatory.

10-14

4.15.2 Public Services

First responders for emergency services would be not be delayed by gates.

10-15

Additionally:

This Initial Study/Mitigated Negative Declaration fails to include any information about the 30+ year land-lease contract between the applicant and the Lead Agency. That land-lease contract also includes agreements between the Lead Agency and the applicant referencing our family’s parcel and easement (APN 0460-242-05) of which we were not a party to. Those access/easement changes are identified on Page 160 of this Initial Study/Mitigated Negative Declaration.

Also of concern in this same land-lease agreement is the Lead Agency’s agreement to use “best efforts” to ensure non-interference by other parties in the applicant’s solar access.

The applicant, HDSI, LLC is represented by Mark Kubow. Mark Kubow is also the president of Middle River Power. Middle River Power’s web page claims ownership of the High Desert Solar Project. Middle River Power is owned by Avenue Capital Group, whose chairman and CEO is Marc “Vulture” Lasry, billionaire and co-owner of the Milwaukee Bucks.

10-16

In August of 2016, the High Desert Power Project was purchased by Middle River Power. On November 1, 2016, the Lead Agency met in closed session to consider the purchase of the Victorville 2 foot print parcels, by MRP Generation Holdings represented by Mark Kubow. There was no reportable action.

On May 2, 2017, David R. Dunbar, who is VP of Operations & Development at Middle River Power signed the purchase agreement for 13612 Martin Hollow Road, two 5-acre parcels owned by Linda Iseman for \$82,400. According to a *Daily Press* article dated December 6, 2008, Linda Iseman who was living at 13612 Martin Hollow Road is quoted saying, “They ruined my life” after the Lead Agency withdrew the previously accepted purchase offer of \$522,000 under the claim that the parcels were no longer needed for the Victorville 2 project. (*The Initial Study/Mitigated Negative Declaration states that no one has lived within the project site for several decades.*) The California Energy Commission did include the Iseman parcels as a part of the Victorville 2 footprint and associated licensing case.

**Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project**

Letter 10 – continued

In December of 2017, Lead Agency staff was given approval to enter into a Letter of Intent with HDSI, LLC to negotiate a ground lease for land owned by the Lead Agency for the Victorville 2 footprint parcels.

On February 19, 2019, the Lead Agency and the SCLAA approved the ground lease with HDSI, LLC. Once the High Desert Solar Project becomes operational, the Lead Agency will be paid \$200,000 per year with a 2% increase each year following. The Lead Agency has previously paid over \$8 million to purchase the VV2 footprint parcels.

On May 7, 2019, the SCLAA purchased the Iseman parcels from HDSI, LLC for \$82,400. (APN 0460-242-07 & APN 0460-242-08) and are now part of the land-lease contract.

The High Desert Solar Project is a 108 MW solar farm. According to an article in the *Desert Sun* dated August 13, 2018, EDF Renewable Energy which operates solar farms on federal land near Joshua Tree, receives \$50,000 per MW per year providing green energy credits to Anaheim, Burbank and Vernon. (108 x \$50,000 = \$5.4 million?)

Suggestions:

The "steam rolling" actions of the Lead Agency in this High Desert Solar Project mimic those same behaviors our family experienced in the Lead Agency's failed eminent domain action for the Victorville 2 Power Plant Project. Therefore, please consider:

- Reviewing the findings of the 2012 San Bernardino County Grand Jury Report in regards to VV2, City of Victorville, SCLAA and Inland Energy, Inc.
- Requiring City Planners to be certified by The American Institute of Certified Planners.
- Hiring an outside and credible agency to conduct Ethics Training for management staff.
- And above all, do **not** adopt this sham Initial Study/Mitigated Negative Declaration.

Disclaimer:

The High Desert Power Project was built by Inland Energy, Inc. Inland Energy, Inc. is owned by William "Buck" Johns. The High Desert Power Project is now one of several power plants in the portfolio of Middle River Power which is owned by Avenue Capital Group whose Chairman and CEO is Marc Lasry. No connection should be drawn or inferred in any way that Mark Kubow, David Dunbar or Marc Lasry has been or is associated with Inland Energy, Inc and "Buck" Johns. Likewise there is no connection between Buck Johns and the Milwaukee Bucks.

There likewise should be no connection drawn or inferred between a CNBC report on June 20, 2019 stating that Marc "Vulture" Lasry likes U.S. energy debt: "We're finding huge opportunities" and this High Desert Solar Project.


Bob Landwehr
27961 Cella Road
Murrieta, CA 92563

4

**10-16
cont.**

Letter 10 Response to Comments

Response to Comment 10-1:

The commenter states that they have never been contacted concerning the effects of the Proposed Project, that they have been unsuccessful in contacting City staff, and that they have been excluded from the development process.

The Proposed Project has complied with all CEQA noticing requirement in accordance with CEQA Guidelines Section 15072. The following noticing was completed for the Proposed Project.

- The Notice of Intent to Adopt an Initial Study/Mitigated Negative Declaration (NOI) was posted at the San Bernardino County Clerk on May 28, 2019.
- A Notice of Completion (NOC) and fifteen copies of the NOI and Draft IS/MND were submitted to the State Clearinghouse (SCH Number 2019059120).
- The Notice of Public Hearing and the NOI was published in the newspaper the Daily Press on May 24, 2019.
- The City of Victorville mailed the NOI to surrounding property owners, including the property owners of the subject 5.13 acre parcel (APN 0460-242-05).

The purpose of the NOI is to invite the public to comment on the content of the Draft IS/MND concerning the Proposed Project's effects on the environment. The commenter was involved in the CEQA process as evident by the submission of this comment letter.

Response to Comment 10-2:

This comment states that Section 1.3, Project Site Description, of the Draft IS/MND does not mention that there is a privately owned 5.13 acre parcel in the center of the solar field, which is entitled to its 65-year access of Martin Hollow Road to which the parcel abuts. The presence of the parcel is shown in Figure 1-2, Project Location, which is referenced in Section 1.3 of the Draft IS/MND. Figure 1-2 includes a depiction of the parcel and is called out in the figure's legend as "Not a Part". Access to the privately owned 5.13 acre parcel will be via Floreate Road, as discussed in the Draft IS/MND Section 4.17.1, Transportation/Traffic (XVII) Environmental Checklist and Discussion, in the response to question d).

Response to Comment 10-3:

This comment states that the applicant does not or will not have site control of the center of the solar field. This comment is noted. The parcel is not part of the solar field. Figure 1-2 in the IS/MND shows this parcel as "Not a Part" of the project.

Response to Comment 10-4:

This comment states that Martin Hollow Road will continue to provide access to the privately owned 5.13 acre parcel with no security gate or complete access to gate controls. The comment also states that Martin Hollow Road will enjoy the same road design for emergency access as those described by the applicant. Improvements to Martin Hollow Road are not proposed. Access to the privately owned 5.13 acre parcel would be via Floreate Road, as discussed in the Draft IS/MND Section 4.17.1, Transportation/Traffic (XVII) Environmental Checklist and Discussion, in the response to question d).

Response to Comment 10-5:

This comment states that dust control measures are required for the privately owned 5.13 acre parcel. As described in the response to comment 9-7 and in the Draft IS/MND Section 4.3.2, Air Quality (III) Environmental Checklist and Discussion, in the response to question b), construction activities would be subject to MDAQMD Rule 403 (Fugitive Dust), including Rule 403.2 (Fugitive Dust Control for the Mojave Desert Planning Area). The purpose of this rule is to prohibit visible dust beyond the property line of the emission source, require "every reasonable precaution" to minimize fugitive dust emissions, and prevent track-out of materials onto public roadways. As with every project in the MDAQMD, the Proposed Project would be required to comply with MDAQMD Rule 403, including Rule 403.2 (Fugitive Dust Control for the Mojave Desert Planning Area).

Response to Comment 10-6:

This commenter states that civil engineering measures are required to address slope and grade and asks how high will the retaining walls be. As described in the Draft IS/MND Section 2.4.1, Site Disturbance, limited grading is expected to be required because of the LID approach and nearly flat terrain. Grading would be required on slopes greater than 5 percent for PV power blocks. Project grading requirements are anticipated to be approximately 116 acres, mainly along the eastern side of the Solar Field Area and in the locations of the substation, BESS, and laydown areas. No grading is proposed upslope to the north, west, and south of the subject parcel. Limited grading would occur downslope of the subject parcel to the east and southeast. No retaining walls are required or proposed.

The commenter asks how would blowing sand and debris be controlled. During construction the Proposed Project would comply with MDAQMD Rule 403 (Fugitive Dust), including Rule 403.2 (Fugitive Dust Control for the Mojave Desert Planning Area). Dust suppression techniques would include periodic watering of disturbed areas. Furthermore, existing vegetation would be left in place and mowed and maintained to a height of less than 18 inches to help in preventing soil erosion. A solar field perimeter security (chain-link) 7-foot tall fence would be installed along the

aforementioned private parcel property line, this chain-link fence is expected to catch any project-construction generated debris that may blow across the project site and will keep it from leaving the project area.

The commenter asks how will storm water be mitigated. Storm water management by the Proposed Project is discussed in the Draft IS/MND Section 4.10, Hydrology and Water Quality, and in detail in Appendix H, Preliminary Drainage Study, of the Draft IS/MND. During construction, to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (General Permit) the applicant would be required to implement a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP would include Best Management Practices (BMPs) to prevent construction pollutants and products from violating any water quality standards or any waste discharge requirements.

A Water Quality Management Plan (WQMP) has been prepared for the Proposed Project, which details stormwater treatment and other stormwater quality and quantity control measures that would be implemented to manage stormwater during project operations. As detailed in the Draft IS/MND Section 4.10.2, Hydrology and Water Quality (X) Environmental Checklist and Discussion, in the response to question a), the solar racking system throughout the project site would be elevated above the ground, supported on vertical posts driven into the ground with no excavation or concrete foundations. The ground surfaces beneath the solar cells would remain with native on-site soil and vegetation. Vegetation would remain in non-graded areas and would be mowed to a maximum height of 18 inches. Precipitation would fall on the solar cells, run off the lower edges onto the ground surface, sheet flow across the site under the solar cells, and infiltrate into the ground similar to the pre-developed conditions. Concrete equipment foundations for inverter skids and substation equipment would be located sporadically throughout the project site. Excess runoff would primarily be shallow sheet-like flows across the surfaces of the site. After flowing across the site, the runoff would enter new on-site retention basins along the downstream site perimeters, and then would overtop these basins as wide, shallow flow. The basins would be designed and constructed to overtop in a manner so as to preserve the existing runoff characteristics and locations to the greatest extent practical. As part of final designs, erosion control would be needed where flows enter and exit the retention basins. In general, existing runoff locations and characteristics entering and leaving the site would be preserved to the greatest extent practical. The location of proposed retention basins are depicted in Figure 6-1 of Appendix H, Preliminary Drainage Study, of the Draft IS/MND.

Response to Comment 10-7:

This comment states that Martin Hollow Road utility easement will need to be maintained and references a solar easement. No utility easements or solar easements were identified along Martin

Hollow Road in American Land Title Association (ALTA) Surveys completed for the project site, and the City is not aware of any such easements along Martin Hollow Road.

Response to Comment 10-8:

This comment requests that pre-construction safety and environmental meeting needs to also include the private property owners via a Skype connection and in person. The purposes of the pre-construction safety and environmental meeting is to inform construction personnel on safety requirements for the project and on sensitive environmental resources in the project area and discuss the measures that will be implemented to avoid or eliminate impacts to these resources. Because the private property owners are not responsible for implementing the mitigation measures, there is no requirement for them to be present. The comments are noted.

Response to Comment 10-9:

This comment states that first responders will not be impeded or delayed access any time. The comments are noted. Emergency access to the 5.13-acre parcel and the project site will be maintained at all times, as described in the Initial Study. Access to the privately owned 5.13 acre parcel would be provided via Floreate Road. No gates or access controls on Floreate Road are proposed.

The commenter also states that any type of cameras or infrared imaging will not be permitted to view or monitor the private parcel in the middle of the project site. The comment is noted. This comment discusses issues outside of the CEQA process and do not provide comments regarding the Proposed Projects effects on the environment. .

Response to Comment 10-10:

This comment states that access to the site cannot restrict property owners or their guests and that Martin Hollow Road will remain the access point and not Floreate Road. The comment is noted. This comment discusses issues outside of the CEQA process and do not provide comments regarding the Proposed Projects effects on the environment. Please also see the response to comment 10-4.

Response to Comment 10-11:

This comment states that aesthetics, air quality, and noise impacts are not mitigated or accurately represented for the 5.13 acre parcel in the center of the solar field and that there are significant impacts. The comments are noted. The analysis presented in the Draft IS/MND considered the Proposed Project's effects on the environment, including the subject parcel. As shown in the Draft

IS/MND, the majority of the impacts are during construction which would be mitigated to a less than significant level. It should be noted that the parcel is currently vacant. See also Section 4.1, 4.3, and 4.13.

Response to Comment 10-12:

This comment states that the owners of the parcel (APN 0460-242-05) in the middle of the project site enjoy unobstructed views and sounds of the surrounding desert landscape. The commenter also states that a permanent aesthetic impact would result from implementation of the Proposed Project.

The parcel in the middle of the project site is currently vacant. The project site, including the subject parcel of this comment letter, are within the SCLA Specific Plan and have a land use designation of Industrial. As discussed in the Draft IS/MND Section 4.11, Land Use and Planning, response to question b), the proposed power generating use is a permitted use ("Power or Power Generating Plant") allowed through a Conditional Use Permit (CUP) process in areas designated as Industrial in the SCLA Specific Plan. The Draft IS/MND discloses that the Proposed Project would change the undeveloped and disturbed nature of the project site by adding built elements (Section 4.1, Aesthetics, response to question c). However, there is no reasonable expectation for the project site to remain undeveloped.

Response to Comment 10-13:

This comment states that there are sensitive receptors in the center of the solar site that should be accounted for in the air quality emissions impact analysis and that mitigation is mandatory. The parcel in the middle of the Solar Field Area that is not part of the Proposed Project is currently vacant and is thus not considered a sensitive receptor by the APCD. The Air Quality analysis, Section 4.3. found no significant effects on human health result from the construction or operation of the facility with the inclusion of Mitigation Measure AQ-1.

Response to Comment 10-14:

This comment states that there are sensitive receptors in the center of the solar site that should be accounted for in the noise impact analysis. The parcel in the middle of the Solar Field Area that is not part of the Proposed Project is currently vacant. As noted in Section 4.13, Victorville Municipal Code Section 13.01.030 and 13.01.040 limit noise at any location on a residential property at a maximum 65 dBA from 7 a.m. to 10 p.m. and 55 dBA from 10 p.m. to 7 a.m. Section 13.01.030 limits noise at any location on an industrial land use, such as the properties immediately surrounding the project site, at a maximum 75 dBA. As set forth in the IS/MND, the project complies with these requirements.

Response to Comment 10-15:

This comment states that first responders should not be delayed by gates. This comment is noted. Public access to the parcel in the middle of the Solar Field Area that is not part of the Proposed Project would be provided via Floreate Road from the east side of the project site. No gates are proposed for Floreate Road

Response to Comment 10-16:

The comments are noted. These comments discuss issues outside of the CEQA process and do not provide comments regarding the Proposed Projects effects on the environment or compliance with applicable laws, ordinances, regulations or standards.

Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project

Letter 11 - California Unions for Reliable Energy

ADAMS BROADWELL JOSEPH & CARDOZO

DANIEL L. CARDOZO
CHRISTINA M. CARO
YAIR CHAVER
SARA F. DUDLEY
THOMAS A. ENSLOW
ANDREW J. GRAF
TANYA A. GULESSERIAN
KYLE C. JONES
RACHAEL E. KOSS
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CAMILLE G. STOUGH

MARC D. JOSEPH
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A PROFESSIONAL CORPORATION
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SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

June 26, 2019

Via U.S. Mail and E-Mail

Michael Szarzynski
City of Victorville
14343 Civic Drive
Victorville, CA 92393
MSzarzynski@victorvilleca.gov

Re: High Desert Solar Project

Dear Mr. Szarzynski:

We are writing on behalf of California Unions for Reliable Energy whose member unions represent hundreds of men and women living in Victorville and San Bernardino County and working in the construction trades performing work on renewable energy facilities throughout the region.

CURE is pleased to support the High Desert Solar Project. The Project would involve construction and operation of an approximately 108 MW photovoltaic solar power plant and related substation and may include an integrated battery energy storage system. The High Desert Solar Project would provide renewable energy and critically needed flexibility to advance California's Renewable Portfolio Standard goals, climate policies, and to enhance electrical grid reliability.

CURE supports projects, such as the High Desert Solar Project, that provide good jobs and sustained viability and growth of California's renewable energy industry. The Project will hire trained local construction workers, maintain area wage standards and provide health insurance. This will ensure that the project provides maximum economic and employment benefits to the City of Victorville and San Bernardino County. In addition, the Project will provide job training opportunities for the youth of the region for careers in the construction industry through the hiring of apprentices and financial support for joint labor-management apprentice training programs.

11-1

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Letter 11 – continued

June 26, 2019
Page 2

CURE believes that construction and operation of this renewable energy project will benefit the City of Victorville, San Bernardino County and the State of California. We are pleased to be able to support the High Desert Solar Project.

**11-1
cont.**

Sincerely,

Tanya A. Gulesserian / cp
Tanya A. Gulesserian

TAG:acp

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Letter 11 Response to Comments

Response to Comment 11-1:

This letter from the California Unions for Reliable Energy expresses support for the Proposed Project. These comments have been noted.

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Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project

Letter 12 - Mojave Desert Air Quality Management District

Mojave Desert Air Quality Management District

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



June 24, 2019

Michael Szarzynski
Senior Planner
City of Victorville
14343 Civic Drive
Victorville, CA 92392

Subject: PLAN18-00048 High Desert Solar Project

Dear Mr. Szarzynski:

The Mojave Desert Air Quality Management District (District) has received the Request for Comments for PLAN18-00048 (the High Desert Solar Project), a nominal 108 MWac solar photovoltaic power facility and related substation with an integrated battery energy storage system (BESS). This project would be developed on a total of approximately 624 acres consisting of an approximately 581-acre solar PV field, BESS, substation, and balance of system, collectively referred to as the Solar Field Area, and an approximately 35-acre corridor consisting of a 2.3-mile 230-kilovolt (kV) Gen-Tie line that would run east and then south in a defined and studied corridor to connect to the existing Victor-Caldwell 230kV line, upstream of the first pole on the Southern California Edison system. Additionally, a 1.7-mile kV Service Line would connect to the Victorville Municipal Utility Services (VMUS) system, running as underbuilt with the 230kV line for the first mile and then diverge to the west and run on standard distribution utility poles to connect to the VMUS system at the Victorville Industrial Wastewater Treatment Facility south of the Solar Field Area. Both the Gen-Tie line and the Service Line are collectively referred to as the Interconnection Facilities. The Interconnection Facilities would be located within linear corridors, 120 feet and 40 feet wide, respectively, covering a total area of approximately 35 acres of which only a small portion would actually be disturbed. An approximately 8-acre Gen-Tie Laydown Area would be located on a vacant parcel of land adjacent to the west and north of the existing High Desert Power Plant. The project is located in the City of Victorville, San Bernardino County, California, on property within the Southern California Logistics Airport (SCLA) generally located at the intersection of Helendale and Colusa roads north of the SCLA runway, south of the Victorville City limit line east of Helendale Road and west of the Mojave River and the Victorville Wastewater Reclamation Authority Sewage Treatment (VWVRA) Plant.

The District has reviewed the previously-submitted Draft Initial Study and Mitigated Negative Declaration, as well as the recently-submitted site plans, and concurs with the scope of analysis proposed in the Section 4.3 – Air Quality and Section 4.8 – Greenhouse Gas Emissions, as well as the Mitigation Measures to be employed in AQ-1 addressing potential air quality issues. For your reference, MDAQMD Designations and Classifications are available at <http://mdaqmd.ca.gov/home/showdocument?id=538>. The District also recommends that the following dust mitigation measures be required for the construction of the solar photovoltaic project (enforceable by the District AND by the land use agency):

- Prepare and submit to the MDAQMD, prior to commencing earth-moving activity, a dust control plan that describes all applicable dust control measures that will be implemented at the project;

12-1

12-2

**Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project**

Letter 12 – continued

- The following signage shall be erected not later than the commencement of construction:
A minimum 48-inch high by 96-inch wide sign containing the following shall be located within 50 feet of each project site entrance, meeting the specified minimum text height, black text on white background, on one-inch A/C laminated plywood board, with the lower edge between six and seven feet above grade, with the contact name of a responsible official for the site and a local or toll-free number that is accessible 24 hours per day:

“[Site Name] {four-inch text}
[Project Name/Project Number] {four-inch text}
IF YOU SEE DUST COMING FROM {four-inch text}
THIS PROJECT CALL: {four-inch text}
[Contact Name], PHONE NUMBER XXX-XXXX {six-inch text}
If you do not receive a response, Please Call {three-inch text}
The MDAQMD at 1-800-635-4617 {three-inch text}”

- Use a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. For projects with exposed sand or fines deposits (and for projects that expose such soils through earthmoving), chemical stabilization or covering with a stabilizing layer of gravel will be required to eliminate visible dust/sand from sand/fines deposits.
- All perimeter fencing shall be wind fencing or the equivalent, to a minimum of four feet of height or the top of all perimeter fencing. The owner/operator shall maintain the wind fencing as needed to keep it intact and remove windblown dropout. This wind fencing requirement may be superseded by local ordinance, rule or project-specific biological mitigation prohibiting wind fencing.
- All maintenance and access vehicular roads and parking areas shall be stabilized with chemical, gravel or asphaltic pavement sufficient to eliminate visible fugitive dust from vehicular travel and wind erosion. Take actions to prevent project-related trackout onto paved surfaces, and clean any project-related trackout within 24 hours. All other earthen surfaces within the project area shall be stabilized by natural or irrigated vegetation, compaction, chemical or other means sufficient to prohibit visible fugitive dust from wind erosion.

**12-2
cont.**

The District supports the development of renewable energy sources; such development is expected to produce cumulative and regional environmental benefits.

12-3

Thank you for the opportunity to review this planning document. If you have any questions regarding this letter, please contact me at (760) 245-1661, extension 6726, or Kevin Hendrawan at extension 4007.

Sincerely,



Alan J. De Salvo
Deputy Director – Mojave Desert Operations

AJD/kh

Victorville PLAN18-00048 High Desert Solar Project

Letter 12 Response to Comments

This letter, dated June 24, 2019 includes the same substantive comments as Letter 3-1, dated May 29, 2019.

Response to Comment 12-1:

Please see the response to comment 3-1 from Letter 3 – MDAQMD.

Response to Comment 12-2:

Please see the response to comment 3-2 from Letter 3 – MDAQMD.

Response to Comment 12-3:

Please see the response to comment 3-3 from Letter 3 – MDAQMD.

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Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project

Letter 13 - Lahontan Regional Water Quality Control Board



Lahontan Regional Water Quality Control Board

June 27, 2019

File: Environmental Doc Review
San Bernardino City

Michael Szarzynski
City of Victorville
14343 Civic Drive
Victorville, CA 92392
MSzarzynski@victorvilleca.gov

Comments on the Initial Study and Mitigated Negative Declaration for High Desert Solar Project, San Bernardino City

The California Regional Water Quality Control Board, Lahontan Region (Water Board) staff received an Initial Study and Mitigated Negative Declaration (IS/MND) for the above-referenced Project (Project) on May 31, 2019. The IS/MND was prepared by the City of City Victorville (City) and submitted in compliance with provisions of the California Environmental Quality Act (CEQA).

Water Board staff, acting as a responsible agency, is providing these comments to specify the scope and content of the environmental information germane to our statutory responsibilities pursuant to CEQA Guidelines, California Code of Regulations (CCR), title 14, section 15096. We thank the City for providing Water Board staff the opportunity to review and comment on the IS/MND. Based on our review, we recommend the following: (1) natural drainage channels and flow paths should be maintained through the Project site to ensure no net loss of function and value of waters of the state; (2) list hydrology and water quality mitigations that are being incorporated into the Project to avoid or minimize significant affects; (3) identify post-construction storm water management as a significant Project component; and (4) identify and list the beneficial uses of all water resources within the Project area. Our comments are outlined below.

WATER BOARD'S AUTHORITY

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

PETER C. PUMPHREY, CHAIR | PATTY Z. KOLYDUMDJIAN, EXECUTIVE OFFICER

2501 Lake Tahoe Blvd., So. Lake Tahoe, CA 96150 | 15095 Amargosa Road, Bldg 2, Ste 210, Victorville CA 92394
e-mail Lahontan@waterboards.ca.gov | website www.waterboards.ca.gov/lahontan



Letter 13 – continued

Michael Szarzynski

- 2 -

June 27, 2019

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

SPECIFIC COMMENTS

We recommend the following be considered in the environmental review.

1. In general, the installation of Photovoltaic (PV) grid systems for these types of projects has the potential to hydrologically modify natural drainage systems. Of particular concern is the collection of onsite storm water runoff and the concentrated discharge of that storm water to natural drainage channels. Design alternatives that are compatible with low impact development (LID) should be considered. LID components include: maintaining natural drainage paths and landscape features to slow and filter runoff and maximize groundwater recharge; managing runoff as close to the source as possible; and maintaining vegetated areas for storm water management and onsite infiltration. We recommend natural drainage channels and flow paths be maintained through the Project site to avoid no net loss of function and value of waters of the state as a result of Project implementation.
2. The IS/MND should list hydrology and water quality mitigations that are being incorporated into the Project to avoid or minimize significant affects such as those included in a Storm Water Pollution Prevention Plan (SWPPP) or a Water Quality Management Plan. Details regarding how these mitigations will protect water quality should be included in the IS/MND.
3. The IS/MND should identify post-construction storm water management as a significant Project component, and a variety of best management practices (BMPs) that effectively treat post-construction storm water runoff, particularly maintaining native vegetation, should be evaluated as part of the Project. Based on our experience with other solar developments in the Mojave Desert, native vegetation is the most efficient and cost-effective post-construction BMP to treat storm water runoff. Because revegetating disturbed soils in the desert is particularly challenging due to low rainfall, extreme climatic conditions, and relatively slow growth rates, we strongly encourage Project proponents to maintain and mow existing vegetation rather than clear and grub the entire site during construction. For those projects where native vegetation is maintained, we have observed that the need to implement temporary BMPs is greatly minimized

13-1

13-2

13-3

Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project

Letter 13 – continued

Michael Szarzynski

- 3 -

June 27, 2019

and the costs associated with implementation and maintenance of post-construction BMPs is significantly reduced.

13-3
cont.

4. The Project is located within the Mojave Hydrologic Unit (Hydrologic Unit No. 628.00) and overlies the Upper Mojave groundwater basin (Basin No. 6-42). The beneficial uses of these waters are listed either by watershed (for surface waters) and by groundwater basin (for groundwater) in Chapter 2 of the Basin Plan. The proposed Project should identify and list the beneficial uses of all water resources within the Project area.

13-4

PERMITTING REQUIREMENTS FOR INDIVIDUAL PROJECTS

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

1. Land disturbance of more than 1 acre may require a CWA, section 402(p) storm water permit, including a *National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit*, Water Quality Order (WQO) 2009-0009-DWQ, obtained from the State Water Board, or individual storm water permit obtained from the Lahontan Water Board.
2. Streambed alteration and/or discharge of fill material to a surface water may require a CWA, section 401 water quality certification for impacts to federal waters (waters of the U.S.), or dredge and fill waste discharge requirements for impacts to non-federal waters, both issued by the Lahontan Water Board

13-5

13-6

Thank you for the opportunity to comment on the IS/MND. If you have any questions regarding this letter, please contact me at (760) 241-7305, tiffany.steinert@waterboards.ca.gov or Jan Zimmerman, Senior Engineering Geologist, at (760) 241-7404, jan.zimmerman@waterboards.ca.gov. Please send all future correspondence regarding this Project to the Water Board's email address at Lahontan@waterboards.ca.gov and be sure to include the State Clearinghouse No. and Project name in the subject line.


Tiffany Steinert
Engineering Geologist

cc: California Department of Fish and Wildlife (AskRegion6@wildlife.ca.gov)

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Letter 13 Response to Comments

Response to Comment 13-1:

The Lahontan Regional Water Quality Control Board (RWQCB) recommends designs that are compatible with low impact development (LID) as defined in the comments.

As described in the Draft IS/MND Section 2.4.1, Site Disturbance, the Proposed Project was designed with a LID approach. Due to the generally flat terrain of the project site limited grading would be required. Grading would be required on slopes greater than 5 percent for PV power blocks. Project grading requirements are anticipated to be approximately 116 acres, mainly along the eastern side of the Solar Field Area and in the locations of the substation, BESS, and laydown areas. A WQMP has been prepared for the Proposed Project, which details stormwater treatment and other stormwater quality and quantity control measures that would be implemented to manage stormwater during project operations. As detailed in the Draft IS/MND Section 4.10.2, Hydrology and Water Quality (X) Environmental Checklist and Discussion, in the response to question a), the solar racking system throughout the project site would be elevated above the ground, supported on vertical posts driven into the ground with no excavation or concrete foundations. The ground surfaces beneath the solar cells would remain with native on-site soil and vegetation. Vegetation would remain in non-graded areas and would be mowed to a maximum height of 18 inches. Precipitation would fall on the solar cells, run off the lower edges onto the ground surface, sheet flow across the site under the solar cells, and infiltrate into the ground similar to the pre-developed conditions. Concrete equipment foundations for inverter skids and substation equipment would be located sporadically throughout the project site. Excess runoff would primarily be shallow sheet-like flows across the surfaces of the site. After flowing across the site, the runoff would enter new on-site retention basins along the downstream site perimeters, and then would overtop these basins as wide, shallow flow. The basins would be designed and constructed to overtop in a manner so as to preserve the existing runoff characteristics and locations to the greatest extent practical. As part of final design, erosion control would be needed where flows enter and exit the retention basins. In general, existing runoff locations and characteristics entering and leaving the site would be preserved to the greatest extent practical.

Response to Comment 13-2:

This comment states that the IS/MND should list hydrology and water quality mitigation that are being incorporated into the Proposed Project to avoid or minimize significant effects, such as those included in the SWPPP and WQMP. As detailed in Section 4.10.2, Hydrology and Water Quality (X) Environmental Checklist and Discussion, of the Draft IS/MND in the response to question a), compliance with existing regulations, such as NPDES General Construction Storm Water Permit requirements and California State Water Resources Control Board Order No. 2013-0001-DWQ, would

ensure project-impacts on hydrology and water quality are less than significant. As such, no additional mitigation measures are required.

As described in Sections 2.4.2, 4.7.2, and 4.10.2, a SWPPP will be prepared for the Proposed Project when the project proponent seeks permitting through the NPDES program. To meet the requirements of California State Water Resources Control Board Order No. 2013-0001-DWQ, a WQMP has been prepared for the Proposed Project. The WQMP is intended to comply with the requirements of the City of Victorville and the Municipal Separate Storm Sewer Systems Permit (Phase II Small MS4 General Permit) for the Mojave River Watershed. The WQMP details stormwater treatment and other stormwater quality and quantity control measures that would be implemented to manage stormwater during project operations.

Response to Comment 13-3:

This comment states that the IS/MND should identify post construction storm water management. Please see the response to Comment 13-1 for a description of post-construction stormwater management. See also Sections 2.4.2, 4.7.2, and 4.10.2 discussing mowing, among other practices consistent with the Lahontan RWQCB's comments.,

Response to Comment 13-4:

This comment requests that all beneficial uses of all water resources within the project area be identified and listed. According to the Lahontan Basin Plan, the project area is located within Mojave Hydrologic Unit 628 and within the Upper Mojave Groundwater Basin 6-42. Chapter 2 of the Plan addresses Present and Potential Beneficial Uses in the Lahontan Region, which are to be designated and maintained. According to Table 2-2 of that section, the Beneficial Uses of this Groundwater Basin are MUN, AGR, IND, FRSH and AQUA. According to Table 2-1, additional Beneficial Uses exist within the Mojave River near the project site: GWR, REC-1, REC-2, COMM, WARM, COLD and WILD. These uses reflect the Mojave River's perennial waterflows and large watershed, which combine to provide a nearly constant water source for the region along with a variety of wetland habitat types to provide wildlife habitat, recreational opportunities, groundwater filtering and a host of additional benefits. The project site's aquatic resources consist of unvegetated, ephemeral drainages that contain water flows only during and immediately after a storm event. The project site's aquatic resources serve primarily to direct stormwater to the Mojave River and, as such, they indirectly benefit the resources therein. Beneficial uses associated with the project site's water resources are limited, therefore, to FRSH and WILD. The Proposed Project's water use is also described in Section 2.4.4., Table 2-2, and Section 4.10.2.

Response to Comment 13-5:

This comment states that land disturbance of more than 1 acre require a Clean Water Act (CWA), section 402(p) storm water permit, including a NPDES General Construction Storm Water Permit. This comment is acknowledged. As stated in the IS/MND in Sections 2.8 and 4.10.2, the Proposed Project proponent, or its contractors, will provide the notices required and will comply with the NPDES program administered by Lahontan RWQCB.

Response to Comment 13-6:

This comment states that a CWA Section 401 water quality certification may be required for impacts to federal waters or a dredge and fill waste discharge requirements for impacts to non-federal waters. This comment is acknowledged. The Proposed Project proponent has applied for a Section 401 Water Quality Certification through the Lahontan Regional Water Quality Control Board. See also Response 13-5.

Mitigation Measure BIO-9 addresses these comments as well: "Regulatory Permitting: Prior to the commencement of project construction activities that will impact the jurisdictional features on the project site, authorization for impacts shall be acquired through the permitting process from the USACE, RWQCB, and CDFW pursuant to the CWA Section 404 and 401 and California Fish and Game Code Section 1600, respectively. Project specific mitigation for impacts to features jurisdictional to state and federal agencies will be determined during the permitting process."

Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project

Letter 14 - Caltrans

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

GAVIN C. NEWSOM, Governor

DEPARTMENT OF TRANSPORTATION

DISTRICT 8
PLANNING (MS 722)
464 WEST 4th STREET, 6th FLOOR
SAN BERNARDINO, CA 92401-1400
PHONE (909) 383-4557
FAX (909) 383-5936
TTY 711
www.dot.ca.gov/dist8



Serious drought.
Help save water!

June 28, 2019

File: 08-SBd-395-PM 19.7

Michael Szarzynski
City of Victorville
P.O. Box 5001
Victorville, CA 92395

Subject: High Desert Solar Project (SCH# 2019059120) – Mitigated Negative Declaration dated May 28, 2019

Dear Mr. Szarzynski:

The California Department of Transportation (Caltrans) has reviewed the Mitigated Negative Declaration for the High Desert Solar Project (project). The project site is located east of the intersection of Colusa Road and Helendale Road in the City of Victorville. The proposed project would be developed on a total of approximately 6.24 acres consisting of an approximately 581-acre solar PV field, BESS, substation, and balance of system, collectively referred to as the Solar Field Area, and an approximately 35 -acre corridor consisting of a 2.3-mile 230-kilovolt (kV) GenTie line that would run east and then south in a defined and studied corridor to connect to the existing Victor-Caldwell 230kV line, upstream of the first pole on the Southern California Edison system.

The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. The Local Development-Intergovernmental Review (LD-IGR) Program reviews land use projects and plans through the lenses of our mission and state planning priorities of infill, conservation, and travel-efficient development. To ensure a safe and efficient transportation system, we encourage early consultation and coordination with local jurisdictions and project proponents on all development projects that utilize the multimodal transportation network.

The Preliminary Drainage Study was reviewed by the Hydraulics unit. We have no comments at this time. This will conclude the IGR preliminary review.

14-1

Please continue to keep us informed of the project and other future updates, which could potentially impact the SHS and interfacing transportation facilities. If you have any questions regarding this letter, please contact Ricky Rivers at (909) 806-3298 or myself at (909) 383-3923.

14-2

"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"

Letter 14 – continued

Mr. Szarzynski
June 28, 2019
Page 2

Sincerely,

ROSA F. CLARK
Office Chief
Local Development - Intergovernmental Review (LD-IGR)

DRAFT

“Provide a safe, sustainable, integrated and efficient transportation system
to enhance California’s economy and livability”

Letter 14 Response to Comments

Response to Comment 14-1:

This comment states that Caltrans has reviewed the Preliminary Drainage Study and has no comment. The comment is noted.

Response to Comment 14-2:

This comment requests that Caltrans be informed of the project and other future updates that could impact the State Highway System and interfacing transportation facilities. This comment is noted.

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Final Initial Study and Mitigated Negative Declaration
High Desert Solar Project

Letter 15 - Governor's Office of Planning and Research



Gavin Newsom
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Kate Gordon
Director

June 28, 2019

Michael Szarzynski
Victorville, City of
14343 Civic Drive
Victorville, CA 92393

Subject: High Desert Solar Project
SCH#: 2019059120

Dear Michael Szarzynski:

The State Clearinghouse submitted the above named MND to selected state agencies for review. The review period closed on 6/27/2019, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act, please visit: <https://ceqanet.opr.ca.gov/2019059120/2> for full details about your project.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

15-1

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL 1-916-445-0613 state.clearinghouse@opr.ca.gov www.opr.ca.gov

Letter 15 Response to Comments

Response to Comment 15-1:

This letter is an acknowledgement that the City of Victorville has complied with the review requirements of CEQA. No response is required.

SECTION 4.0 MITIGATION MONITORING AND REPORTING PLAN

4.1 Introduction

In accordance with CEQA, an IS/MND that identified adverse impacts related to the construction activity for the High Desert Solar Project was prepared. The MND identified mitigation measures that would reduce or eliminate these impacts.

Section 21081.6 of the Public Resources Code and Sections 15091(d) and 15097 of the State CEQA Guidelines require public agencies to adopt a reporting and monitoring plan (MMRP) for 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. A MMRP is required for the Proposed Project, because the IS/MND identified potentially significant adverse impacts related to construction activity, and mitigation measures have been identified to mitigate these impacts. Adoption of the MMRP will occur along with approval of the Proposed Project.

4.2 Purpose of the Mitigation Monitoring and Reporting Plan

This MMRP has been prepared to ensure that all required mitigation measures are implemented and completed according to schedule and maintained in a satisfactory manner during the construction and operation of the Proposed Project, as required. The MMRP may be modified by the City of Victorville during project implementation, as necessary, in response to changing conditions or other project refinements. Table 4-1 has been prepared to assist the responsible parties in implementing the MMRP. This table identifies the category of significant environmental impact(s), individual mitigation measures, monitoring and mitigation timing, responsible person/agency for implementing the measure, monitoring and reporting procedure, and notation space to confirm implementation of the mitigation measures. The numbering of the mitigation measures follows the numbering sequence in the IS/MND.

4.3 Roles and Responsibilities

The City of Victorville, as Lead Agency, is responsible for oversight of compliance of the mitigation measures in the MMRP.

4.4 Mitigation Monitoring and Reporting Plan

The column categories identified in the MMRP table (Table 4-1) are described below.

- **Mitigation Measure** – This column lists the mitigation measures by number.

- **Monitoring Activity/Timing/Frequency/Schedule** – This column lists the activity to be monitored for each mitigation measure, the timing of each activity, and the frequency/schedule of monitoring for each activity.
- **Implementation Responsibility/Verification** – This column identifies the entity responsible for complying with the requirements of the mitigation measure, and provides space for verification initials and date.
- **Responsibility for Oversight of Compliance/Verification** – This column provides the agency responsible for oversight of the mitigation implementation, and is to be dated and initialed by the agency representative based on the documentation provided by the construction contractor or through personal verification by agency staff.
- **Outside Agency Coordination** – this column lists any agencies with which the City of Victorville may coordinate for implementation of the mitigation measure.
- **Comments** – this column provides space for written comments, if necessary.

**Table 4-1
High Desert Solar Project
Mitigation Monitoring and Reporting Plan**

Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
Air Quality Mitigation Measures					
AQ-1: During solar facility installation activities all off-road mobile construction equipment such as rubber-tired dozers, graders, scrapers, excavators, and tractors shall be California Air Resources Board (CARB) Tier 4 Certified. On-site pick-up trucks used to traverse the construction site and equipment used for site grading, and road construction activities are exempted from this requirement.	Activity: All off-road mobile construction equipment shall be CARB Tier 4 Certified. Timing: During construction. Frequency: As needed.	EPC Contractor	City of Victorville	Possible coordination with MDAQMD.	
		Initials	Initials		
		Date	Date		
Biology Resources Mitigation Measures					
BIO-1: Joshua Trees: Prior to seeking approval from the City's Director of Community Services	Activity: Complete a Joshua tree health	Project Biologist	City of Victorville	None.	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<p>(or the Director’s designee) for Joshua tree removal and/or relocation, a Joshua tree health assessment and final inventory will be performed to document the size, location, and general health of all Joshua trees that will be affected by the project. Authorization to remove and/or relocate Joshua trees will be obtained in accordance with the City’s Joshua Tree Ordinance (Ordinance Number 1224; Municipal Code Chapter 13.33; 2018).</p>	<p>assessment and final inventory.</p> <p>Timing: Prior to seeking approval to remove or relocated Joshua trees.</p> <p>Frequency: One time.</p>	<p>_____</p> <p>Initials</p> <p>_____</p> <p>Date</p>	<p>_____</p> <p>Initials</p> <p>_____</p> <p>Date</p>		
<p>BIO-2: Compensatory Mitigation for Impacts to Habitat for Listed Species: The project area provides suitable habitat in the native vegetation communities for both desert tortoise and MGS. A total of 567.75 acres of occupied desert tortoise and presumed occupied MGS habitat will be directly affected as a result of the project. Impacts to occupied desert tortoise and MGS habitat will be offset through acquisition of compensatory land within suitable and occupied desert tortoise and MGS habitat and/or</p>	<p>Activity: Acquire compensatory land within suitable and occupied desert tortoise and MGS habitat and/or monetary contributions to other recovery efforts in the West Mojave.</p>	<p>Project Biologist</p> <p>_____</p> <p>Initials</p> <p>_____</p> <p>Date</p>	<p>City of Victorville</p> <p>_____</p> <p>Initials</p> <p>_____</p> <p>Date</p>	<p>CDFW</p> <p>USFWS</p>	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<p>monetary contributions to other recovery efforts in the West Mojave. Impacts to occupied MGS habitat will be mitigated for at a ratio of 2:1, occupied desert tortoise habitat will be nested within the MGS mitigation requirement, with occupied desert tortoise habitat mitigated for at a ratio of 1:1. Final mitigation acreage are subject to the approval of the state and federal wildlife agencies.</p>	<p>Timing: Prior to construction.</p> <p>Frequency: One time.</p>				
<p>BIO-3: Desert Tortoise Translocation: Pre-construction desert tortoise clearance surveys will be performed prior to ground-breaking project activities occurring. All desert tortoises encountered during clearance surveys and subsequent monitoring efforts will be permanently removed from the project area and translocated to an off-site recipient site. The Applicant's site-specific Desert Tortoise Translocation Plan will provide details on the proposed recipient site, desert tortoise clearance surveys and relocation, definitions for Authorized Biologists and qualified desert</p>	<p>Activity: Pre-construction desert tortoise clearance surveys and translocation of desert tortoises encountered.</p> <p>Timing: Prior to construction.</p> <p>Frequency:</p>	<p>Authorized Biologist</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>City of Victorville</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>CDFW</p> <p>USFWS</p>	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<p>tortoise biologists, exclusion fencing guidelines, protocols for managing desert tortoise found during active versus inactive seasons, protocols for incidental tortoise death or injury, and will be consistent with project permits and current USFWS guidelines (USFWS 2009; USFWS 2018a). The Plan will also include a requirement for communication and coordination with the BLM regarding the desert tortoise recipient site. Prior to construction, the Plan will be subject to the approval of the CDFW and the USFWS.</p>	<p>One time.</p>				
<p>BIO-4: Biological Monitoring: A qualified biologist (biological monitor) with experience monitoring for and identifying sensitive biological resources known to occur in the area will be present during all ground-disturbing activities related to the project. As required by project permits, the qualifications of a biological monitor may need to be submitted to appropriate wildlife agencies for approval based on the resources the biologist will be monitoring. Biological monitoring duties will</p>	<p>Activity: Biological monitoring during ground disturbing activities.</p> <p>Timing: During construction during ground disturbing activities.</p>	<p>Project Biologist</p> <hr/> <p>Initials</p>	<p>City of Victorville</p> <hr/> <p>Initials</p>	<p>Possible coordination with CDFW and USFWS.</p>	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<p>include, but are not limited to, conducting worker education training, verifying compliance with project permits, ensuring project activities stay within designated work areas, and inspection of desert tortoise exclusion fencing. The biological monitor will have the right to halt all activities in the area affected if a special-status species is identified in a work area and is in danger of injury or mortality. If work is halted in the area affected as determined by the biological monitor, work will proceed only after the hazards to the individual is removed and the animal is no longer at risk, or the individual has been moved from harm's way in accordance with the project's permits and/or management/translocation plans. The biological monitor will take representative photographs of the daily activities and will also maintain a daily log that documents general project activities and compliance with the project's permit conditions. Non-compliances will also be documented in the daily log, including any measures that were implemented to rectify the</p>	<p>Frequency: As needed.</p>	<p>Date</p>	<p>Date</p>		

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
issue.					
<p>BIO-5: Worker Environmental Awareness Program: Prior to the start of construction, a Worker Environmental Awareness Program (WEAP) will be developed by the Applicant. A qualified biologist with experience with the sensitive biological resources in the region will present the WEAP to all personnel working in the project area (either temporarily or permanently) prior to the start of project activities. The WEAP may be videotaped and used to train newly hired workers or those not present for the initial WEAP. The WEAP could include, but will not be limited to: discussions of the sensitive biological resources associated with the project, project-specific measures to avoid or eliminate impacts to these resources, consequences for not complying with project permits and agreements, and contact information for the lead biologist. Logs of personnel who have taken the training will be kept on the site at the construction or project</p>	<p>Activity: Preparation and presentation of a WEAP.</p> <p>Timing: Prior to the start of construction and ongoing during construction.</p> <p>Frequency: As needed.</p>	<p>Project Biologist</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>City of Victorville</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	None	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
office.					
<p>BIO-6: Burrowing Owl Management Plan: Prior to the start of construction, a Burrowing Owl Management Plan will be prepared in consultation with CDFW that will outline protection and avoidance and minimization measures that will be implemented for the project. These measures may include, but are not limited to, definition of qualified burrowing owl biologists, survey methodology and timing, methods for exclusion and burrow excavation, disturbance limit buffers, and seasonal restrictions for work activities in the vicinity of active burrows. The Burrowing Owl Management Plan will be subject to the approval of CDFW.</p>	<p>Activity: Preparation of a Burrowing Owl Management Plan.</p> <p>Timing: Prior to the start of construction.</p> <p>Frequency: One time.</p>	<p>Project Biologist</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>City of Victorville</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	CDFW	
<p>BIO-7: Desert Kit Fox and American Badger Management Plan: Prior to the start of construction, a Desert Kit Fox and American Badger Management Plan will be developed in consultation between the Applicant and CDFW and will be subject to approval by CDFW. The</p>	<p>Activity: Preparation of a Desert Kit Fox and American Badger Management Plan.</p>	<p>Project Biologist</p> <hr/> <p>Initials</p>	<p>City of Victorville</p> <hr/> <p>Initials</p>	CDFW	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<p>Plan could include, but may not be limited to, qualified desert kit fox/American badger biologist definitions, pre-construction clearance survey methods and timing, disturbance limit buffer distances around active burrows based on construction activity and sensitivity of dens/foxes, and measures for avoidance, exclusion, and/or passive relocation.</p>	<p>Timing: Prior to the start of construction.</p> <p>Frequency: One time.</p>	<p>_____</p> <p>Date</p>	<p>_____</p> <p>Date</p>		
<p>BIO-8: Nesting Bird Management and Bird Protection Plan: Prior to the start of construction, a Nesting Bird Management and Bird Protection Plan will be developed in consultation between the Applicant, CDFW, and USFWS and will be subject to the approval of CDFW and USFWS. The Plan could include but may not be limited to: pre-construction clearance survey methods and timing, buffer distances based on construction activity and sensitivity of nests/birds, measures for avoidance of impact during nesting season (e.g., seasonal work restrictions), implementation of construction noise and dust minimization</p>	<p>Activity: Preparation of a nesting bird management and bird protection plan.</p> <p>Timing: Prior to the start of construction.</p> <p>Frequency: One time.</p>	<p>Project Biologist</p> <p>_____</p> <p>Initials</p> <p>_____</p> <p>Date</p>	<p>City of Victorville</p> <p>_____</p> <p>Initials</p> <p>_____</p> <p>Date</p>	<p>CDFW</p> <p>USFWS</p>	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<p>measures, biological monitoring, acceptable methods for nest deterrents (i.e., netting/covering equipment, supplies, or perches), implementing anti-perching devices and avian visual deterrents, and using emerging technologies such as antireflective film overlays on the panels and/or chemosensory and sonic deterrents. The Plan will be in compliance with the MBTA and California Fish and Game Code Sections 3503, 3503.5 and 3513.</p>					
<p>BIO-9: Regulatory Permitting: Prior to the commencement of project construction activities that will impact the jurisdictional features on the project site, authorization for impacts shall be acquired through the permitting process from the USACE, RWQCB, and CDFW pursuant to the CWA Section 404 and 401 and California Fish and Game Code Section 1600, respectively. Project specific mitigation for impacts to features jurisdictional to state and federal agencies will be determined during the permitting process.</p>	<p>Activity: Acquire necessary authorization for impacts to jurisdictional features.</p> <p>Timing: Prior to impacts to the jurisdictional feature occurring.</p>	<p>Regulatory Specialist</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>City of Victorville</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>Coordination with the USACE, RWQCB, and CDFW.</p>	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
	Frequency: One time.				
Cultural Resources Mitigation Measures					
<p>CUL-1: A qualified archaeologist and a tribal representative shall monitor all ground disturbing activities within native sediments. If subsurface deposits believed to be cultural or human in origin are discovered during construction, then all work must halt within a 100-foot radius of the discovery. The archaeologist shall evaluate the significance of the find and shall have the authority to modify the no-work radius as appropriate, using professional judgment. Depending on the nature of the find, the following notifications may be required:</p> <ul style="list-style-type: none"> If the professional archaeologist determines that the find does not represent a cultural resource, then work may resume immediately, and no agency notifications are required. 	<p>Activity: Archaeological and tribal monitoring of all ground disturbing activities within native sediments.</p> <p>Timing: During ground disturbing construction activities.</p> <p>Frequency: As necessary during construction.</p>	<p>Qualified Archaeologist</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>City of Victorville</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>Consulting Native American Tribal Governments</p>	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<ul style="list-style-type: none"> If the professional archaeologist determines that the find does represent a cultural resource from any time period or cultural affiliation, then the archaeologist shall immediately notify the City of Victorville and applicable landowner. The City of Victorville shall make a finding of eligibility and implement appropriate treatment measures, if the find is determined to be Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines. Work cannot resume within the no-work radius until the City, through consultation as appropriate, determines that the site either: 1) is not a Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines; or 2) that the treatment measures have been completed to their satisfaction. If the find includes human remains, or remains that are potentially human, then 					

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<p>the archaeologist shall ensure reasonable protection measures are taken to protect the discovery from disturbance (AB 2641). The archaeologist shall notify the San Bernardino County Coroner (per Section 7050.5 of the Health and Safety Code). The provisions of Section 7050.5 of the California Health and Safety Code, Section 5097.98 of the California Public Resources Code, and Assembly Bill 2641 will be implemented. Work cannot resume within the no-work radius until the City, through consultation as appropriate, determines that the treatment measures have been completed to their satisfaction.</p>					
<p>CUL-2: A qualified paleontologist shall be retained to determine if the older Quaternary sediments are being disturbed during deep excavations of ten feet below the ground surface or greater. If so, the paleontologist shall</p>	<p>Activity: Evaluation of potential paleontological resources by a</p>	<p>Qualified Paleontologist</p>	<p>City of Victorville</p>	<p>None</p>	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<p>establish a monitoring program to recover any significant fossils that may be encountered. Sediment samples shall be collected and processed to determine the small fossil potential in the project area. Any fossils recovered during mitigation shall be deposited in an accredited and permanent scientific institution in consultation with the City of Victorville.</p>	<p>qualified paleontologist.</p> <p>Timing: During construction activities that include deep excavations of ten feet or more.</p> <p>Frequency: As necessary during construction.</p>	<p>_____</p> <p>Initials</p> <p>_____</p> <p>Date</p>	<p>_____</p> <p>Initials</p> <p>_____</p> <p>Date</p>		
Hazards and Hazardous Materials					
<p>HAZ-1: Prior to demolition of buildings or structures and removal of illegal dump sites, a survey for building-related hazardous materials shall be conducted by qualified and properly certified individuals. Asbestos surveys must be conducted by a California Division of Occupational Safety and Health-certified asbestos consultant or site surveillance</p>	<p>Activity: Conduct survey for building-related hazardous materials and preparation of a HASP.</p> <p>Timing:</p>	<p>Cal/OSHA Certified Asbestos Consultant and California Department of Health Service Certified Lead Inspector/Risk Assessor</p>	<p>City of Victorville</p> <p>_____</p> <p>Initials</p>	<p>None</p>	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<p>technician. Surveys for lead-based/bearing substances and lead-containing surface coatings must be conducted by a California Department of Health Service-certified lead inspector/risk assessor. If present, all recommendations regarding the removal and disposal of hazardous materials in accordance with federal, state, and local regulations shall be observed.</p> <p>A Health and Safety Plan (HASP) shall be prepared prior to any work conducted on site in accordance with OSHA and California Occupational Safety and Health Administration (Cal/OSHA) standards.</p>	<p>Prior to demolition of buildings or structures and removal of illegal dump sites.</p> <p>Frequency: Once.</p>	<p>_____</p> <p>Initials</p> <p>_____</p> <p>Date</p>	<p>_____</p> <p>Date</p>		
<p>HAZ-2: All asbestos disturbance and/or removal operations shall be conducted by a Cal/OSHA registered and State licensed asbestos removal contractor. All disturbance and/or abatement operations shall be under the direction of a California Certified Asbestos Consultant. At no time shall identified or suspect asbestos-containing materials be drilled, cut, sanded, scraped, or otherwise disturbed by untrained</p>	<p>Activity: All disturbance and/or abatement operations shall be under the direction of a California Certified Asbestos Consultant</p>	<p>Cal/OSHA Registered and State Licensed Asbestos Removal Contractor</p> <p>_____</p> <p>Initials</p>	<p>City of Victorville</p> <p>_____</p> <p>Initials</p>	<p>None</p>	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
personnel.	<p>Timing: During disturbance and/or removal of asbestos containing materials.</p> <p>Frequency: As needed.</p>	<p>Date</p>	<p>Date</p>		
<p>HAZ-3: All construction activities that may affect asbestos-containing materials shall be conducted in accordance with Title 8 of the California Code of Regulations, Section 1529.</p>	<p>Activity: Compliance with Title 8 of the California Code of Regulations, Section 1529.</p> <p>Timing: During construction activities that may affect asbestos-containing materials.</p> <p>Frequency: As</p>	<p>Cal/OSHA Registered and State Licensed Asbestos Removal Contractor</p> <p>Initials</p> <p>Date</p>	<p>City of Victorville</p> <p>Initials</p> <p>Date</p>	None	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
	needed.				
<p>HAZ-4: For all abatement activities that will involve the removal of asbestos-containing materials, notification shall be made to the Mojave Desert Air Quality Management District (MDAQMD), in accordance to MDAQMD Rule 302 and to Cal/OSHA. Notification to both entities shall occur 10 working days prior to the initiation of such activities.</p>	<p>Activity: Notify MDAQMD of all abatement activities that involve removal of asbestos-containing materials.</p> <p>Timing: Prior to construction activities that may affect asbestos-containing materials.</p> <p>Frequency: As needed.</p>	<p>EPC Contractor</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>City of Victorville</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	MDAQMD	
<p>HAZ-5: Notification to employees and</p>	<p>Activity: Compliance with</p>	<p>EPC Contractor</p>	<p>City of Victorville</p>	None	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<p>contractors working within the buildings/structures shall be made in accordance with the California Health and Safety Code Section 25915 et seq. and Proposition 65.</p>	<p>California Health and Safety Code Section 25915 et seq. and Proposition 65</p> <p>Timing: During project construction.</p> <p>Frequency: Once.</p>	<p>_____</p> <p>Initials</p> <p>_____</p> <p>Date</p>	<p>_____</p> <p>Initials</p> <p>_____</p> <p>Date</p>		
<p>HAZ-6: All demolition involving potential and identified lead-containing surfaces shall be conducted in accordance with 8 CCR 1532.1 and 29 CFR 1926.62. In addition, all activities involving identified lead-based paints shall be conducted in accordance with 17 CCR, Division 1, Chapter 8, Sections 35001 through 36100.</p>	<p>Activity: Compliance with 8 CCR 1532.1 and 29 CFR 1926.62 and 17 CCR, Division 1, Chapter 8, Sections 35001 through 36100.</p> <p>Timing: During demolition involving potential</p>	<p>EPC Contractor</p> <p>_____</p> <p>Initials</p>	<p>City of Victorville</p> <p>_____</p> <p>Initials</p>	<p>None</p>	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
	<p>and identified lead-containing surfaces.</p> <p>Frequency: As needed.</p>	<p>Date</p>	<p>Date</p>		
<p>HAZ-7: Any welding, cutting, or heating of interior metal surfaces containing lead surface coating shall be conducted in accordance with 29 CFR 1926.354.</p>	<p>Activity: Compliance with 29 CFR 1926.354.</p> <p>Timing: During construction activities that involve welding, cutting, or heating of interior metal surfaces containing lead surface coating.</p> <p>Frequency: As needed.</p>	<p>EPC Contractor</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>City of Victorville</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>None</p>	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<p>HAZ-8: Proper waste characterization and disposal of lead contaminated debris shall be conducted in accordance with Title 22 of the California Code of Regulations and the California Health and Safety Code.</p>	<p>Activity: Compliance with Title 22 of the California Code of Regulations and the California Health and Safety Code.</p> <p>Timing: During disposal of lead contaminated debris.</p> <p>Frequency: As needed.</p>	<p>EPC Contractor</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>City of Victorville</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>None</p>	
Tribal Cultural Resources Mitigation Measures					
<p>TCR-1: Potential Impact to Archaeological Resources: Due to the potential impact to a significant archaeological site currently only known to exist outside of the project area and known to be a Historical Resource pursuant to CEQA, CA-SBR-72, subsurface archaeological</p>	<p>Activity: Subsurface archaeological presence/absence testing.</p>	<p>Qualified Archaeologist</p> <hr/> <p>Initials</p>	<p>City of Victorville</p> <hr/> <p>Initials</p>	<p>San Manuel Band of Mission Indians</p>	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<p>presence/absence testing shall be conducted by at least one archaeologist with at least 3 years of regional experience in archaeology and a Tribal monitor representing the San Manuel Band of Mission Indians near this resource within the area of concern identified by the Tribe during consultation. Testing shall be conducted prior to project implementation and may be conducted via the employ of a number of subsurface investigative methods, including shovel test probes, and/or deep testing via controlled units, augers or trenching to confirm presence or absence of subsurface material and to delineate site boundaries. The area of concern will be determined in the testing plan and shall be dug and dry-sifted through 1/8-inch mesh screens, prior to any ground-disturbing activity. A Testing Plan shall be created by the archaeologist and submitted to the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) and the Lead Agency for review at least 10 business days prior to implementation, so as to provide time to review/modify the Plan, if</p>	<p>Timing: Prior to construction.</p> <p>Frequency: As needed.</p>	<p>Date</p>	<p>Date</p>		

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<p>needed. The Plan shall outline the protocol of presence/absence testing and contain a treatment protocol detailing that 1) no collection of artifacts or excavation of features shall occur during testing, and 2) all discovered resources confirmed to be associated with site CA-SBR-72 shall be properly recorded and reburied in situ. The results of testing shall be presented to the applicant, Lead Agency, and SMBMI in the format of a report, which shall include details regarding testing methodology, soil assessment, and photographs. If the results of testing, as approved by SMBMI, are positive, then SMBMI and the Lead Agency shall, in good faith, consult concerning appropriate treatment of the resource(s), guidance for which is outlined in CUL-2. If the results of testing, as approved by SMBMI, are negative, then SMBMI will determine that no further action is needed unless and until any discoveries are made during project implementation. Any and all discoveries made during project implementation shall be subject to the treatment protocol outlined within the</p>					

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
Testing Plan, as well as the treatment guidelines within CUL-2.					
<p>TCR-2: Treatment of Non-Funerary Archaeological Discoveries: If a pre-contact cultural resource confirmed by the Lead Agency through consultation with the Project Archaeologist and SMBMI to be associated with site CA-SBR-72 and therefore a Historical Resource is discovered during archaeological presence/absence testing, the discovery shall be properly recorded and then reburied in situ. In the event that material associated with historic-age Euro-American occupation of the area is identified during testing, the protocols for unanticipated discoveries in CUL-3 will be implemented.</p> <p>If a pre-contact cultural resource is discovered during project implementation, ground disturbing activities shall be suspended 100 feet around the resource(s) and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed.</p>	<p>Activity: Treatment of Non-Funerary Archaeological Discoveries</p> <p>Timing: During testing and construction.</p> <p>Frequency: As needed.</p>	<p>Qualified Archaeologist</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>City of Victorville</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	San Manuel Band of Mission Indians	

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Mitigation Measure	Monitoring Activity/Timing/ Frequency/ Schedule	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
<p>Representatives from the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI), a qualified archaeologist/applicant, and the Lead Agency shall confer regarding treatment of the discovered resource(s). As outlined in CEQA, the applicant shall make a good faith effort to redesign the project area in such a way that impacts to the identified resource(s) can be avoided/preserved in place. Should any resource(s) not be a candidate for avoidance/preservation in place, and therefore the removal of the resource(s) is necessary to mitigate impacts, a research design shall be developed in consultation with SMBMI.</p> <p>In the event that an unanticipated discovery is considered potentially significant and cannot be assumed to be eligible for the California Register of Historical Resources, a research design will be prepared by the Project Archaeologist, through consultation with the Lead Agency and the SMBMI. The research design will include a plan to formally evaluate the resource(s) for significance under CEQA criteria, as well as to</p>					

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<p>formally address the resource(s) place within the landscape identified as a Tribal Cultural Resource (TCR) by the SMBMI. Additionally, the research design shall include a comprehensive discussion of sampling strategies, resource processing, analysis, and reporting protocols/obligations. Removal of any cultural resource(s) shall be conducted with the presence of a Tribal monitor representing the Tribe, unless otherwise decided by SMBMI. All plans for analysis shall be reviewed and approved by the applicant, Lead Agency, and SMBMI prior to implementation, and all removed material shall be temporarily curated on-site or other mutually agreed upon location.</p> <p>It is the preference of SMBMI that removed cultural material be reburied as close to the original find location as possible. However, should reburial within/near the original find location during project implementation not be feasible, then a reburial location for future reburial shall be decided upon by SMBMI, the landowner, and the Lead Agency, and all finds</p>					

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<p>shall be reburied within this location. Additionally, in the case of a single reburial area, reburial shall not occur until all ground-disturbing activities associated with the project have been completed, all cataloguing and basic recordation of cultural resources have been completed, and a final report has been approved by SMBMI and the Lead Agency. All reburials are subject to a reburial agreement that shall be developed between the landowner and SMBMI outlining the determined reburial process/location, and shall include measures and provisions to protect the reburial area from any future impacts (vis a vis project plans, conservation/preservation easements, etc.).</p> <p>Should it occur that avoidance, preservation in place, and on-site reburial are not an option for treatment, the landowner shall relinquish all ownership and rights to this material and confer with SMBMI to identify an American Association of Museums (AAM)-accredited facility within the County that can accession the materials into their permanent collections and provide for the</p>					

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<p>proper care of these objects in accordance with the 1993 CA Curation Guidelines. A curation agreement with an appropriate qualified repository shall be developed between the landowner and museum that legally and physically transfers the collections and associated records to the facility. This agreement shall stipulate the payment of fees necessary for permanent curation of the collections and associated records and the obligation of the project developer/applicant to pay for those fees. Mitigation would be considered complete upon the completion of the site documentation and artifact curation.</p> <p>Construction can resume in the ESA boundary once the Lead Agency, through consultation with the Project Archaeologist and SMBMI, has determined that either the find is not significant or the fieldwork portion of the data recovery is complete.</p> <p>All draft archaeological records/reports created throughout the life of the project shall be</p>					

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<p>prepared by the archaeologist and submitted to the applicant, Lead Agency, and SMBMI for their review and approval. After approval from all Parties, the final reports and site/isolate records are to be submitted to the local CHRIS Information Center, the Lead Agency, and SMBMI.</p>					
<p>TCR-3: Inadvertent Discoveries of Human Remains/Funerary Objects: In the event that any human remains are discovered within the project area, ground disturbing activities shall be suspended 100 feet around the resource(s) and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. The on-site lead/foreman shall then immediately notify SMBMI, the applicant/developer, and the Lead Agency. The Lead Agency and the applicant/developer shall then immediately contact the San Bernardino County Coroner regarding the discovery. If the Coroner recognizes the human remains to be those of a Native American, or has reason to believe that</p>	<p>Activity: Notification compliance if human remains/funerary objects are discovered.</p> <p>Timing: During construction.</p> <p>Frequency: As needed.</p>	<p>City of Victorville</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>City of Victorville</p> <hr/> <p>Initials</p> <hr/> <p>Date</p>	<p>San Manuel Band of Mission Indians</p> <p>San Bernardino County Coroner</p>	

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<p>they are those of a Native American, the Coroner shall ensure that notification is provided to the Native American Heritage Commission (NAHC) within twenty-four (24) hours of the determination, as required by California Health and Safety Code § 7050.5 (c). The provisions of Section 7050.5 of the California Health and Safety Code, Section 5097.98 of the California Public Resources Code, and Assembly Bill 2641 will be implemented. Work cannot resume within the no-work radius until the City, through consultation as appropriate, determines that the treatment measures have been completed to their satisfaction.</p> <p>Reburial of human remains and/or funerary objects (those artifacts associated with any human remains or funerary rites) shall be accomplished in compliance with the California Public Resources Code § 5097.98 (a) and (b). The landowner in consultation with the NAHC identified Most Likely Descendant (MLD), shall make the final discretionary determination regarding the appropriate disposition and</p>					

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<p>treatment of human remains and funerary objects. All Parties are aware that the MLD may wish to rebury the human remains and associated funerary objects on or near the site of their discovery, in an area that shall not be subject to future subsurface disturbances. To the extent feasible the applicant/developer/landowner should accommodate on-site reburial in a location mutually agreed upon by the Parties.</p> <p>It is understood by all Parties that unless otherwise required by law, the site of any reburial of Native American human remains or cultural artifacts shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The Coroner, Parties, and Lead Agency, will be asked to withhold public disclosure information related to such reburial, pursuant to the specific exemption set forth in California Government Code § 6254 (r).</p>					