



Appendix A

Notice of Preparation and Comment Letters



**NOTICE OF PREPARATION OF A DRAFT EIR
AND SCOPING MEETING**

DATE: July 14, 2021
TO: Responsible Agencies and Interested Parties
SUBJECT: Notice of Preparation of a Draft Environmental Impact Report and Scoping Meeting

Pursuant to the California Environmental Quality Act (CEQA), the County of San Bernardino (County) must conduct a review of the environmental impacts of the Lockhart Solar PV II Project (project). Implementation of the project will require discretionary approvals from state and local agencies, and therefore, the project is subject to the environmental review requirements of CEQA. As the lead agency under CEQA, and due to the involvement of potentially significant impacts to the environment, the County is therefore issuing this Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the project.

PROJECT TITLE: Lockhart Solar PV II Project

PROJECT APPLICANT: Lockhart Solar PV II, LLC

ASSESSOR'S PARCEL NUMBERS: 0490-101-54, 0490-101-56, and 0490-223-33

PROJECT DESCRIPTION

The Lockhart Solar PV II Project (Project) includes development of a utility scale, solar photovoltaic (PV) electricity generation and energy storage facility that would produce up to 150 megawatts (MW) of solar power and include up to 4 gigawatt hours (GWh) of energy storage capacity rate in a battery energy storage system (BESS) on up to approximately 690 acres of land. The Project will be processed under three separate Conditional Use Permits (CUPs), described below. The Project is bordered on the south by the approved Lockhart Solar I Facility. The Project would share existing operations and maintenance facilities (i.e. O&M building, warehouse and employee building), water and septic systems, as well as switchyard and electrical transmission infrastructure, and a new collector substation (approved and to be constructed) within the Lockhart Solar I Facility site to connect the Project to the existing transmission line which runs to the SCE-owned Kramer Junction substation. The Project is largely sited on land previously approved by the California Energy Commission (CEC) for development of Solar Energy Generating System X (SEGS X), a solar thermal power facility which was never fully constructed. The Project Site has been subject to near complete surface disturbance associated with past agricultural use, grading during partial construction of the SEGS X facility, as well as construction of the shared facilities area for the existing SEGS VIII and IX Solar Thermal Power Plants. Development includes demolition of existing SEGS X concrete foundations (as needed) to allow for construction of Project facilities.

Project Objectives

The Project would provide San Bernardino County and the State of California with additional renewable energy sources on previously disturbed land that would assist the state in complying with the Renewables Portfolio Standard under Senate Bill 100 which requires that by December

31, 2030, 60% of all electricity sold in the state shall be generated from renewable energy sources. The following are the Project objectives:

- Develop a power-generating facility with solar PV and energy storage on previously graded and disturbed land.
- Establish solar PV power-generating facilities and energy storage of sufficient size and configuration to produce reliable electricity in an economically feasible and commercially financeable manner that can be marketed to different power utility companies.
- Use proven and established PV and energy storage technology that is efficient and requires low maintenance.
- Assist California in meeting greenhouse gas emission reduction goals by 2030 as required by the California Global Warming Solutions Act (Assembly Bill 32), as amended by Senate Bill 32 in 2016.
- Meets the County's Renewable Energy and Conservation Element (RECE) requirements by not being in or near adopted Community Plan areas or in Rural Living land use districts.

Project Site

The Project Site is in unincorporated Hinkley, CA, approximately 7 miles north of the intersection of Harper Lake Road and Mojave-Barstow Highway 58. The Project Site consists of three parcels, each of which contain vacant, previously disturbed land or miscellaneous concrete foundations and various electrical lines and poles. The Project Site is bordered on the south by the existing SEGS VIII and IX Solar Thermal Power Plants, which the County approved for repowering to PV solar and battery storage in 2019 as part of the Lockhart Solar I Facility (CUP Project #201900125 approved in 2019), Harper Lake Road to the east; Hoffman Road to the west; and vacant land to the north. Vehicular access is provided via Harper Lake Road and a private road through the Lockhart Solar I Facility site.

Project Background

During the late-1980s, construction of the SEGS X solar thermal facility was initiated on the Project Site. SEGS X was part of a series of three solar thermal power plants certified by the CEC which were to be built adjacent to each other in order to share supporting facilities. SEGS X was fully permitted and certified as an 80-megawatt solar thermal facility. Approximately 600-acres were identified for the SEGS X power plant including land for associated facilities to be shared with the two adjacent solar thermal power plants (SEGS VIII and IX). Per the SEGS IX and X CEC certification, permanent impacts to loss of high-quality habitats were mitigated through purchase of 1,680 acres of conservation land at a 5 to 1 ratio for both Mohave ground squirrel and desert tortoise, pursuant to the California Department of Fish and Game (CDFG), now known as the California Department of Fish and Wildlife (CDFW), requirements and approvals. All of these mitigation lands were protected even though the SEGS X project was never fully constructed.

In 1991, the SEGS X owner was unable to continue construction due to lack of financing and construction was halted. Prior to work stoppage, several concrete foundations for the power block as well as concrete foundations for solar racking had been installed in portions of the Project Site. The Lockhart Solar PV II Project, as outlined below, proposes to use these already disturbed parcels and the CDFW conservation lands already protected to construct a solar PV and BESS facility.

Project Overview and Design

The Project includes the development of solar PV facilities, BESS, and associated infrastructure with the capacity to generate up to 150 MW of solar energy and up to 4 GWh of energy storage capacity rate. The previously installed SEGS X concrete foundations will be removed if the foundations conflict with installation of Project facilities; they will otherwise be left in place. Concrete from SEGS X foundations would be demolished and exported from the site for proper disposal at a licensed landfill. Previously constructed concrete solar racking piers in the southwest portion of the site will remain in place as newer steel foundation piles can be driven around the old piers further reducing soil disturbance and offsite hauling and landfilling of debris.

Existing operations and maintenance buildings, warehouse and the employee building within the Lockhart Solar I Facility would be shared by Project operations staff. These shared facilities are located within the approximately 110-acre "Shared Facilities Area" within the Lockhart Solar I Facility site. The Project would also be served by shared, and already approved, water and septic systems within the adjacent Lockhart Solar I Facility site to the south. The Shared Facilities Area includes the already approved BESS for Lockhart Solar I and the new BESS for Lockhart Solar PV II, as these facilities are integral to the collector substation. In addition, the already approved collector substation and the existing switchyard located at the Lockhart Solar I Facility site will be upgraded, as necessary, to connect the Project to the existing transmission line which runs to SCE-owned Kramer Junction substation as a shared facility. The Project is subject to conditional use permit approval. In anticipation that power from the project may be sold to different off-takers and/or may be financed by separate entities, the Applicant is requesting three CUPs be approved¹. This will allow for the site to be divided to deliver power to multiple off-takers as well as enable financing required for the Project. Each of the three CUPs include facilities sharing, as described above, within the Shared Facilities Area.

The Project consists of the following components:

CUP 1: Solar PV Generating Facilities and Solar Modules: CUP 1 covers an approximately 560-acre area and includes installation of solar facilities capable of generating up to 135 MW of renewable electrical energy via PV modules made of thin film or polycrystalline silicon material covered by glass, mounted on a single-axis tracking system and connected to inverters and to the BESS. Depending on the type of modules used, panels would measure between approximately 4 and 7 feet in length, and the total height of the panel system measured from the ground surface would be approximately 7 to 12 feet. Single-axis systems would employ a motor mechanism that would allow the arrays to track the path of the sun throughout the day. CUP 1 also includes extension of the existing open channel berm along the western and northern boundary of the CUP 1 area for collection and routing of offsite run-on.

CUP 2: Solar PV Generating Facilities and Solar Modules: CUP 2 covers an approximately 80-acre area and includes installation of solar facilities capable of generating up to 15 MW of renewable electrical energy via PV modules made of thin film or polycrystalline silicon material covered by glass, mounted on a single-axis tracking system and connected to inverters and to the BESS. Depending on the type of modules used, panels would measure between approximately 4 and 7 feet in length, and the total height of the panel system measured from the ground surface would be approximately 7 to 12 feet. Single-axis systems would employ a motor mechanism that would allow the arrays to track the path of the sun throughout the day.

¹ Refer to the CUP Area Map for the location of each requested CUP area.

- **CUP 3: Battery Energy Storage System (BESS):** The BESS system is proposed to be permitted under its own CUP (CUP #3) within up to 50-acres of the 110-acre Shared Facilities Area. The Project would install a battery energy storage system and associated equipment to provide the ability to store up to 4 GWh of energy storage capacity rate for the electric grid. All of the proposed BESS would be installed within up to approximately 50-acres within the Shared Facilities Area (refer to Plot Plan). The Applicant proposes to install the BESS components in phases over the life of this CUP, for an installed capacity of up to 4 GWh of energy storage capacity rate.

The batteries would be stored in individual containers; dimensions of the containers would be up to approximately 51 feet in length, 14 feet in width and 21.6 feet in height, including height needed for HVAC. The batteries would be housed in open-air-style racking within its enclosed container (similar to computer racking). The associated inverters, transformers, and switchgear would be located immediately adjacent to the individual containers on concrete pads or on pier mounted skids.

The BESS containers would have a fire rating in conformance with County standards and specialized fire suppression systems. The containers would also have HVAC cooling to maintain energy efficiency and to protect the batteries. Power to the HVAC, lighting, etc. would be provided via a connection to the permitted, but not yet constructed, collector substation service transformer within the Shared Facilities Area with connection lines installed above ground and/or below ground. The BESS would be operated primarily via remote control with onsite periodic inspections and maintenance performed, as necessary. The energy storage technology has not been determined at this time but could include any commercially available and proved large-scale battery technology, including but not limited to lithium iron, lead acid, sodium sulfur, and sodium or nickel hydride. Power stored by the BESS would be gathered into 34.5 kV circuits and be stepped-up to 230 kV at the substation.

- **Upgrade of Shared Collector Substation and Switchyard:** The collector substation permitted, but not yet constructed, and the existing switchyard located in the Shared Facilities Area will be upgraded, as necessary, to serve the Lockhart Solar PV II Project (refer to Plot Plan). The existing switchyard currently serves the SEGS VIII and IX solar thermal facilities. This type of facilities sharing lessens the overall environmental impacts of this development and further reduces redundancy.
- **Electrical Collector System and Inverters:** Overhead and underground collection systems will be built throughout the solar facilities. Collection systems would be aggregated at multiple circuit breakers or medium-voltage switchgear positions, leading to the permitted, but not yet constructed, shared collector substation located in the Shared Facilities Area.
- **Shared Gen-Tie Power Line and Interconnection with the Statewide Grid:** A 230 kV on-site gen-tie will connect the power generated from this Project to the existing switchyard located at the southern edge of the Shared Facilities Area. From there, an existing 13.8-mile gen-tie transmission line will be used to transmit the power generated from the Project to the existing SCE-owned substation at Kramer Junction (a shared facility).
- **Telecommunication Facilities:** Telecommunication equipment, including underground and overhead fiber optics, microwave, and meteorological data collection systems or supervisory control and data acquisition would be installed.

- **Site Access, Security, and Lighting:** Existing security fencing and electronic gate will be used for the Project. On-site access roads, perimeter security fencing and installed nighttime directional lighting would provide site access and security.

Construction

Schedule and Workforce

Project construction is anticipated to be completed over a period of up to approximately 14 months. Project construction activities generally fall into three main categories: (1) site preparation, (2) system installation, and (3) testing, commissioning, and cleanup.

The on-site construction workforce is expected to peak at approximately 340 individuals; however, the average daily workforce on-site is expected to be between 225 and 250 construction, supervisory, support, and construction management personnel. Construction would primarily occur during daylight hours, Monday through Friday, between 7:00 a.m. and 6:00 p.m., as required to meet the construction schedule. Any construction work performed outside of the normal work schedule would be coordinated with the appropriate agencies and would conform to the County Noise Ordinance.

Site Grading and Earthwork

Site grading and earthwork activities are expected to include mowing, excavation, and pile-driving. Grading of the Project Site would be limited to the greatest extent possible to control dust. Micro-grading would occur to maintain pile foundation tolerances and grading would be required for installation of site roads and preparation of equipment foundation pads. Solar panels are attached to driven piles and do not require foundation pads. Grading is also anticipated along the western and northern boundary of the Project Site to extend the existing open channel berm for the collection and routing of offsite run-on. Flows would be discharged to the existing watershed which drains toward Harper Dry Lake. Site preparation and construction would occur in accordance with all federal, state, and County zoning codes and requirements. Noise-generating construction activities would be limited to the construction hours noted above.

All applicable local, state, and federal requirements and best management practices (BMPs) would be incorporated into Project construction activities. The construction contractor would be required to incorporate BMPs consistent with the County zoning ordinance and with guidelines provided in the California Stormwater Quality Association's Construction Best Management Practice Handbook, including the preparation of a Stormwater Pollution Prevention Plan and a Soil Erosion and Sedimentation Control Plan to reduce potential impacts related to construction of the Project.

Solar Array Assembly

Erection of the solar arrays would include support structures and associated electrical equipment and cabling. During this work, there would be multiple crews working on the site with various equipment and vehicles, including special vehicles for transporting the modules and other equipment. As the solar arrays are installed, the collection substation and switchyard facility upgrades would be constructed, as needed, and the electrical collection and communication systems would be installed. Within the solar fields, the electrical and communication wiring would be installed in underground trenches, although some of the mid-voltage collection runs and communication systems may be on overhead lines.

Construction Water Use

During Project construction, water would be required for common construction-related purposes, including but not limited to dust suppression, soil compaction, and grading. Construction water usage is anticipated to be approximately 240 acre-feet (AF) during the construction period. During construction, the water used is anticipated to be supplied by existing permitted use groundwater sources. A water supply assessment will be prepared.

Solid and Nonhazardous Waste

The Project would produce a small amount of solid waste from construction activities. This may include paper, wood, glass, plastics from packing material, waste lumber, insulation, scrap metal and concrete, empty nonhazardous containers, and vegetation waste. These wastes would be segregated, where practical, for recycling. Non-recyclable wastes would be placed in covered dumpsters and removed on a regular basis by a certified waste-handling contractor for disposal at a Class III landfill. Vegetation waste generated by site clearing and grubbing would be chipped/mulched and spread onsite or hauled off site to an appropriate green waste facility.

Hazardous Materials

Hazardous materials used during Project construction would be typical of most construction projects of this type. Materials may include small quantities of gasoline, diesel fuel, oils, lubricants, solvents, detergents, degreasers, paints, ethylene glycol, dust palliative, herbicides, and welding materials/supplies. A hazardous materials business plan would be provided to the County Environmental Health Services Division/Hazardous Materials Section that would include a complete list of all materials used on site and information regarding how the materials would be transported and in what form they would be used. This information would be recorded to maintain safety and prevent possible environmental contamination or worker exposure. During Project construction, material safety data sheets for all applicable materials present at the site would be made readily available to on-site personnel.

Hazardous Waste

Small quantities of hazardous waste may be generated during Project construction. These wastes may include waste paint, spent construction solvents, waste cleaners, waste oil, oily rags, waste batteries, and spent welding materials. Workers would be trained to properly identify and handle all hazardous materials. Hazardous waste would be either recycled or disposed of, as allowed by permitting, at a permitted and licensed treatment and/or disposal facility.

Operations

Operations and Maintenance Activities

Typical O&M activities during Project operations include, but are not limited to, facility monitoring; administration and reporting; remote operations of inverters, BESS system and other equipment; site security and management; communication protocol; repair and maintenance of solar facilities, substation, electrical transmission lines, and other Project facilities; and periodic panel washing.

Operations Water Use

During Project O&M, it is anticipated that water would be required for solar panel washing, equipment washing, non-sanitary uses, and other miscellaneous water uses. Solar panel washing is expected to occur one to four times per year. Although the Applicant only expects to wash the PV panels once per year, the panels may need to be washed more frequently based on site conditions. Therefore, water consumption for the explicit use of washing panels is expected to be approximately 4.5 AF of water per year. This amount is in addition to the water necessary for operations staff, fire suppression and site maintenance, which is a small amount

of water (i.e., approximately 0.45 AF). Water washing is by deluge and no chemicals or other materials are used.

Decommissioning

At the end of the Project's operational term, the Applicant may determine that the Project should be decommissioned and deconstructed, or it may seek an extension of its conditional use permit. The Applicant will work with the County to ensure decommissioning of the Project after its productive lifetime complies with all applicable local, state, and federal requirements BMPs. The Project would include BMPs to ensure the collection and recycling of modules and to avoid the potential for modules to be disposed of as municipal waste.

Equipment would be de-energized prior to removal, salvaged (where possible), placed in appropriate shipping containers, and secured in a truck transport trailer for shipment off site to be recycled or disposed of at an appropriately licensed disposal facility. Site infrastructure would be removed, including fences and concrete pads that may support the inverters, transformers, and related equipment. The exterior fencing and gates would be removed, and materials would be recycled to the extent feasible. Project roads would be restored to their pre-construction condition to the extent feasible unless the landowner elects to retain the improved roads for access throughout the property. A collection and recycling program would be utilized to promote recycling of Project components and minimize disposal in landfills.

EIR SCOPE

As set forth in the California Public Resources Code Section et seq., and the CEQA Guidelines, codified in the California Code of Regulations, Title 14, Section 15000 et seq, the County has determined, based on substantial evidence and in light of the whole record before the lead agency, that the project may have a significant effect on the environment and that an Environmental Impact Report shall be prepared for the project. (PRC Sections 21080(d) and (e); 21802.2(d); 21083(b); and CEQA Guidelines Sections 15060(d) and 15081)

The lead agency has initially identified the following environmental considerations as potentially significant effects of the project:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Energy Conservation and Climate Change
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology/Water Quality
- Noise
- Public Services and Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems

The EIR will assess the effects of the project on the environment, identify potentially significant impacts, identify feasible mitigation measures to reduce or eliminate potentially significant environmental impacts, and discuss potentially feasible alternatives to the project that may accomplish basic project objectives while lessening or eliminating any potentially significant project impacts.

RESPONSIBLE AGENCIES

A responsible agency means a public agency other than the lead agency, which has permitting authority or approval power over some aspect of the overall project. This Notice provides a description of the project and solicits comments from responsible agencies, trustee agencies, federal, state and local agencies, and other interested parties on the scope and content of the environmental document to be prepared to analyze the environmental impacts of the project.

Comments received in response to this Notice will be reviewed and considered by the lead agency in determining the scope of the EIR. Due to time limits, as defined by CEQA, your response should be sent at the earliest possible date, but no later than thirty (30) days after publication of this notice. We need to know the views of your agency as to the scope and content of the environmental information that is germane to you or to your agency's statutory responsibilities in connection with the project. Your agency may need to use the EIR prepared by our agency when considering your permit or other approval for the project.

OPPORTUNITY FOR PUBLIC REVIEW AND COMMENT

The NOP is available for public review on the County's website at:

<http://cms.sbcounty.gov/lus/Planning/Environmental/Desert.aspx>

Additionally, a copy of the NOP is available for public review at the following locations:

San Bernardino County High Desert
Government Center
15900 Smoke Tree Street, Suite 1331
Hesperia, CA 92345

San Bernardino County Library
Barstow Branch
304 E. Buena Vista Street
Barstow, CA 92311

San Bernardino County Government Center
385 North Arrowhead Avenue, Second Floor
San Bernardino, CA 92415

We would like to hear what you think. Comments and/or questions should be directed to Anthony DeLuca, Senior Planner, via U.S. mail or email **by no later than 5:00 p.m. on August 17, 2021.**

County of San Bernardino, Land Use Services Department
Attn.: Anthony DeLuca, Senior Planner
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415
Email: Anthony.DeLuca@lus.sbcounty.gov

Please include the name, phone number, and address of your agency's contact person in your response.

PUBLIC SCOPING MEETING

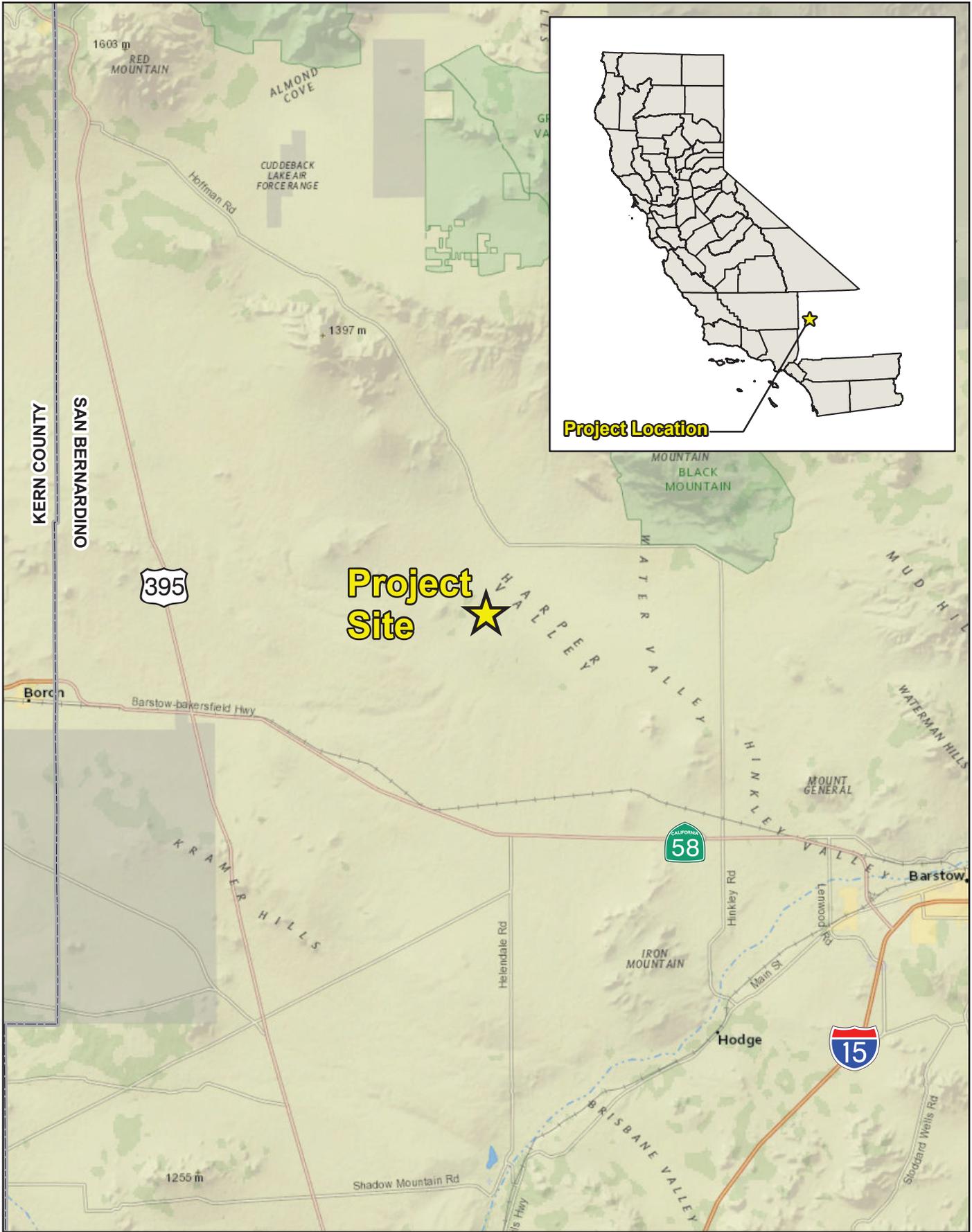
The CEQA process encourages comments and questions from the public throughout the planning process. Consistent with Section 21083.9 of the CEQA statute, a Public Scoping Meeting will be held to solicit public comments on the scope and content of the EIR. A virtual scoping meeting will be held for this project. The date and meeting details are as follows:

Date and Time: July 28, 2021 from 5:00 p.m. to 7:00 pm (Pacific Standard Time)

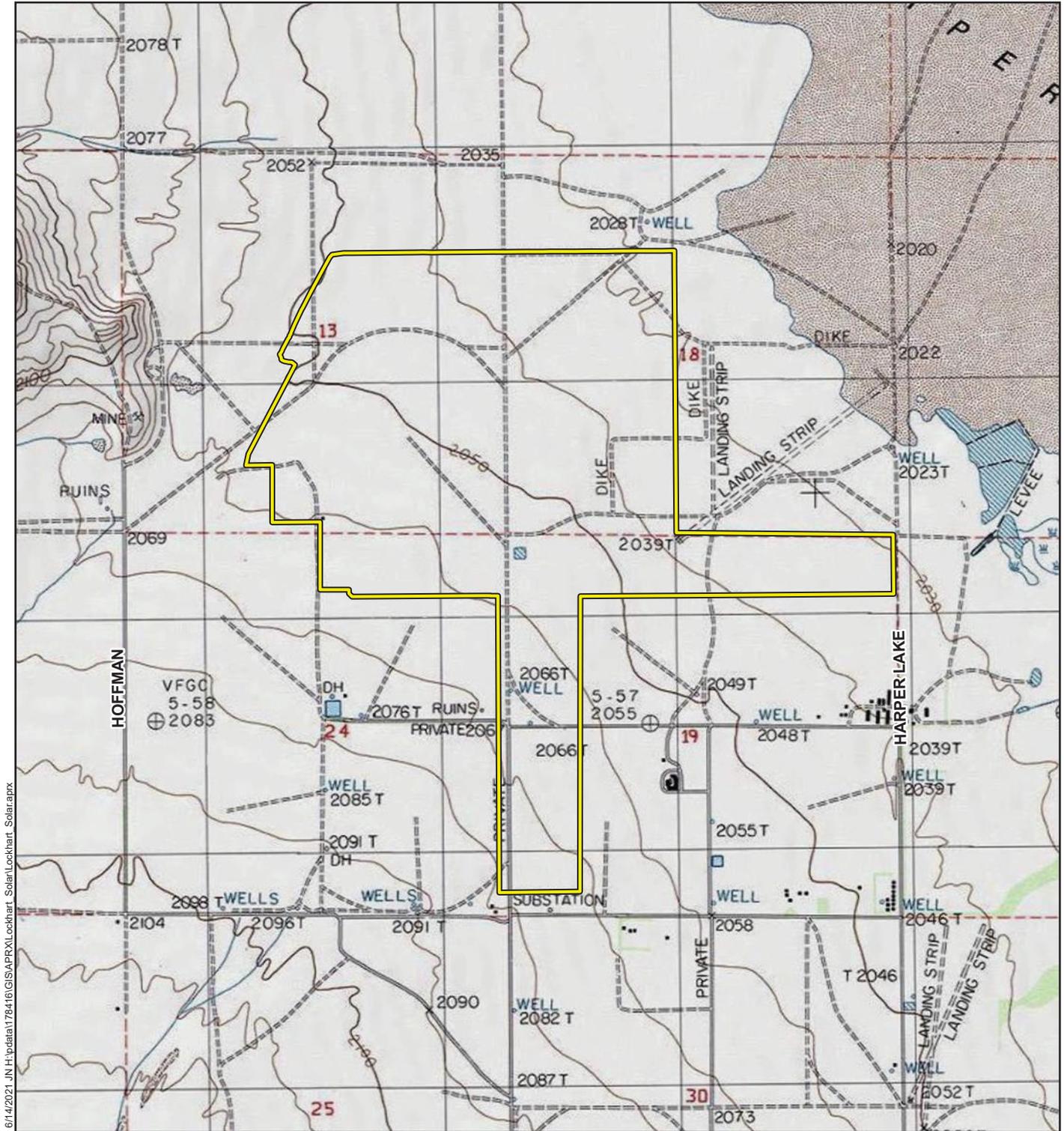
Place: Via Zoom:
[\[https://us06web.zoom.us/webinar/register/WN_dv7teEUjRfejt5MmziZOLA\]](https://us06web.zoom.us/webinar/register/WN_dv7teEUjRfejt5MmziZOLA)

The zoom meeting may also be accessed through the zoom website by using the following
Webinar ID: 861 9205 6411

If you require additional information please contact Anthony DeLuca, Senior Planner, at (909) 601-4662.



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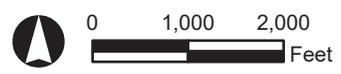


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Legend

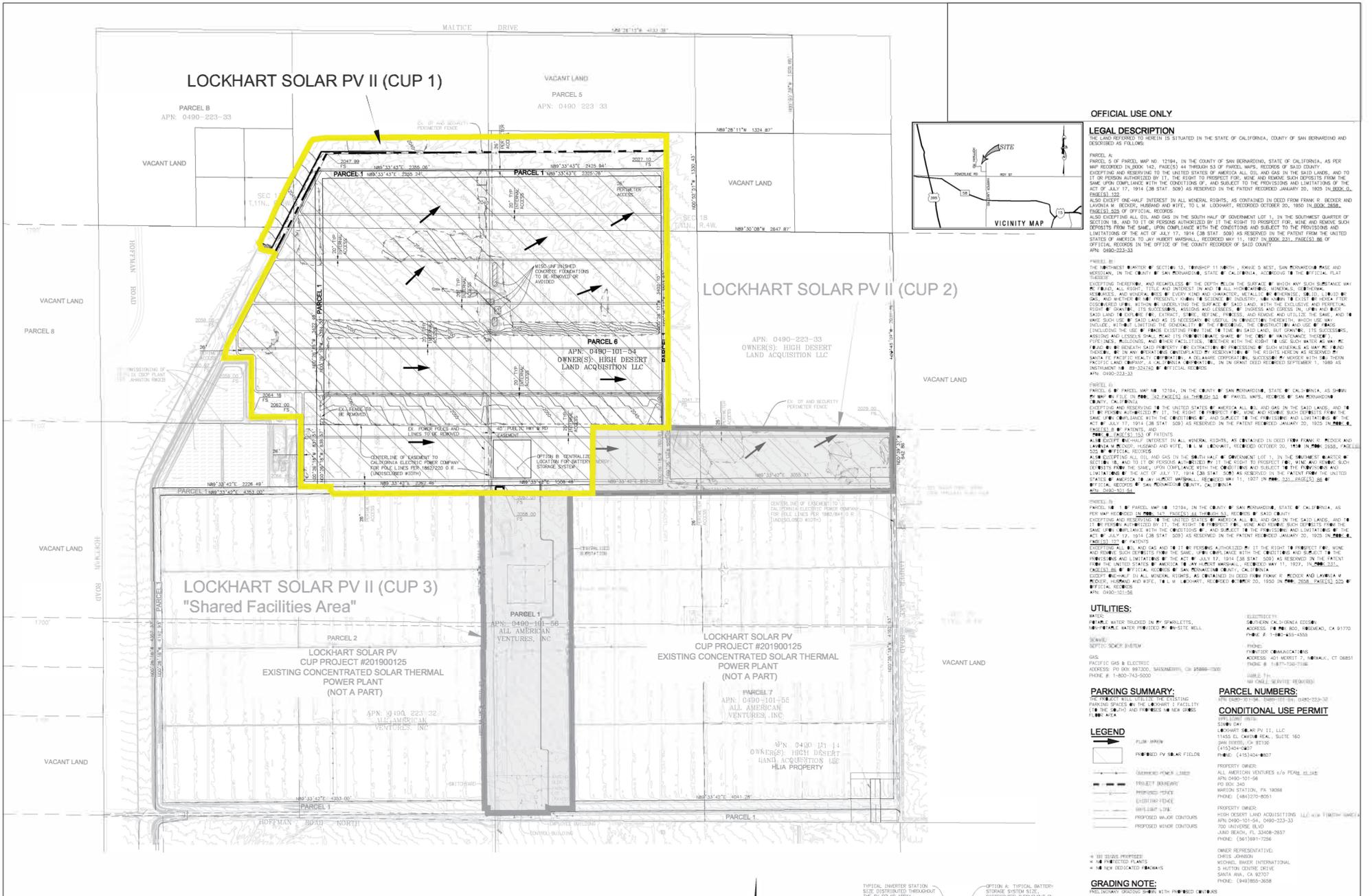
Project Study Area

LOCKHART SOLAR II PROJECT
Local Vicinity Map



Source: ArcGIS Online, 2018, USGS 7.5-Minute topographic quadrangle maps: Lockhart, California (2018)

Figure 2



OFFICIAL USE ONLY

LEGAL DESCRIPTION

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

PARCEL 5 OF PARCEL MAP NO. 12194-A, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 142, PAGE 48 THROUGH 53 OF PARCEL MAPS, RECORDS OF SAN BERNARDINO COUNTY EXCEPTING AND RESERVING TO THE UNITED STATES OF AMERICA ALL OIL AND GAS IN THE SAID LANDS, AND TO IT OR PERSONS AUTHORIZED BY IT, THE RIGHT TO PROSPECT FOR, WINE AND REMOVE SUCH DEPOSITS FROM THE SAME UPON COMPLIANCE WITH THE CONDITIONS OF, AND SUBJECT TO THE PROVISIONS AND LIMITATIONS OF THE ACT OF JULY 17, 1914 (38 STAT. 500) AS RECORDED IN THE PATENT RECORDED JANUARY 20, 1923 IN RECORD 233, PARCELS 122 AND 123 OF PATENTS.

ALSO EXCEPT THE ONE-HALF INTEREST IN ALL MINERAL RIGHTS, AS CONTAINED IN DEED FROM FRANK R. REEDER AND LAWRENCE M. REEDER, HUSBAND AND WIFE, TO L. M. LOCKHART, RECORDED OCTOBER 20, 1920 IN BOOK 288, PARCELS 122 AND 123 OF PATENTS.

ALSO EXCEPTING ALL OIL AND GAS IN THE SOUTH HALF OF GOVERNMENT LOT 1, IN THE SOUTHWEST QUARTER OF SECTION 16, AND TO IT OR PERSONS AUTHORIZED BY IT, THE RIGHT TO PROSPECT FOR, WINE AND REMOVE SUCH DEPOSITS FROM THE SAME, UPON COMPLIANCE WITH THE CONDITIONS AND SUBJECT TO THE PROVISIONS AND LIMITATIONS OF THE ACT OF JULY 17, 1914 (38 STAT. 500) AS RECORDED IN THE PATENT FROM THE UNITED STATES OF AMERICA TO JAY HURD MARSHALL, RECORDED MAY 11, 1927 IN RECORD 233, PARCELS 206 & 207 OF PATENTS.

APN: 0490-223-33

PARCEL 6:

THE INTEREST OF SECTION 13, TOWNSHIP 11 NORTH, RANGE 5 WEST, SAN BERNARDINO RANGE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PARCEL MAP NO. 12194-A, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 142, PAGE 48 THROUGH 53 OF PARCEL MAPS, RECORDS OF SAN BERNARDINO COUNTY EXCEPTING AND RESERVING TO THE UNITED STATES OF AMERICA ALL OIL AND GAS IN THE SAID LANDS, AND TO IT OR PERSONS AUTHORIZED BY IT, THE RIGHT TO PROSPECT FOR, WINE AND REMOVE SUCH DEPOSITS FROM THE SAME UPON COMPLIANCE WITH THE CONDITIONS OF, AND SUBJECT TO THE PROVISIONS AND LIMITATIONS OF THE ACT OF JULY 17, 1914 (38 STAT. 500) AS RECORDED IN THE PATENT RECORDED JANUARY 20, 1923 IN RECORD 233, PARCELS 122 AND 123 OF PATENTS.

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APN: 0490-223-33

PARCEL 7:

PARCEL 6 OF PARCEL MAP NO. 12194-A, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 142, PAGE 48 THROUGH 53 OF PARCEL MAPS, RECORDS OF SAN BERNARDINO COUNTY EXCEPTING AND RESERVING TO THE UNITED STATES OF AMERICA ALL OIL AND GAS IN THE SAID LANDS, AND TO IT OR PERSONS AUTHORIZED BY IT, THE RIGHT TO PROSPECT FOR, WINE AND REMOVE SUCH DEPOSITS FROM THE SAME UPON COMPLIANCE WITH THE CONDITIONS OF, AND SUBJECT TO THE PROVISIONS AND LIMITATIONS OF THE ACT OF JULY 17, 1914 (38 STAT. 500) AS RECORDED IN THE PATENT RECORDED JANUARY 20, 1923 IN RECORD 233, PARCELS 122 AND 123 OF PATENTS.

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APN: 0490-223-33

UTILITIES:

WATER: AVAILABLE WATER DELIVERED BY SPARKLETT, SOUTHERN CALIFORNIA Edison, ADDRESS: PO BOX 800, FIREBEAD, CA 91770 PHONE: 951-845-4525

SEWER: SEWER WATER PROVIDED BY SITE WELL

POWER: RENEWABLE POWER PROVIDED BY SITE

GAS: PACIFIC GAS & ELECTRIC, ADDRESS: 1000 97TH STREET, SIMI VALLEY, CA 91769-0200 PHONE: 1-800-743-5000

PARKING SUMMARY:

SEE THE CITY WELL UTILIZED EXISTING PARKING SPACES AT THE LOCKHART 1 FACILITY

SEE THE CITY AND FIRE DEPT. FOR MORE DETAILS

PARCEL NUMBERS:

LOCKHART PV II, LLC
1100 EL CAMINO REAL, SUITE 160
SAN BERNARDINO, CA 92410
(951) 440-0707
PHONE: (951) 410-4807

CONDITIONAL USE PERMIT

APPLICANT:

LOCKHART PV II, LLC
1100 EL CAMINO REAL, SUITE 160
SAN BERNARDINO, CA 92410
(951) 440-0707
PHONE: (951) 410-4807

LEGEND

- FLYING WING
- PROPOSED PV SOLAR FIELDS
- EXISTING POWER LINES
- PROPOSED POWER LINES
- EXISTING POWER
- EXISTING POWER
- PROPOSED MAJOR CONTOURS
- PROPOSED MINOR CONTOURS

GRADING NOTE:

PRELIMINARY GRADING SHOWN WITH PROPOSED CONTOURS

NOTE:

THE FINAL LAYOUT OF PV ARRAYS ARE SUBJECT TO MODIFICATION PURSUANT TO FINAL DESIGN ENGINEERING. HOWEVER, ROADS AND RAILROADS ARE OWNERS' AT THE PERMITTER'S RISK. INTERIOR AND 36" FOR PERIMETER ROADWAY WIDTHS PER SO COUNTY FIRE AUTHORITY REQUIREMENTS. SHALL THE LOCATION AND/OR REQUIRED ACCESS ROUTES CHANGE THEY SHALL BE FOUND IN SUBSTANTIAL CONFORMANCE PROVIDED THE ABOVE CRITERIA IS MET AND WITHIN THE EXISTING AREA OF DEVELOPMENT.

LOCKHART SOLAR PV II PROJECT
Conditional Use Permit (CUP) Area 1
 Figure 3a

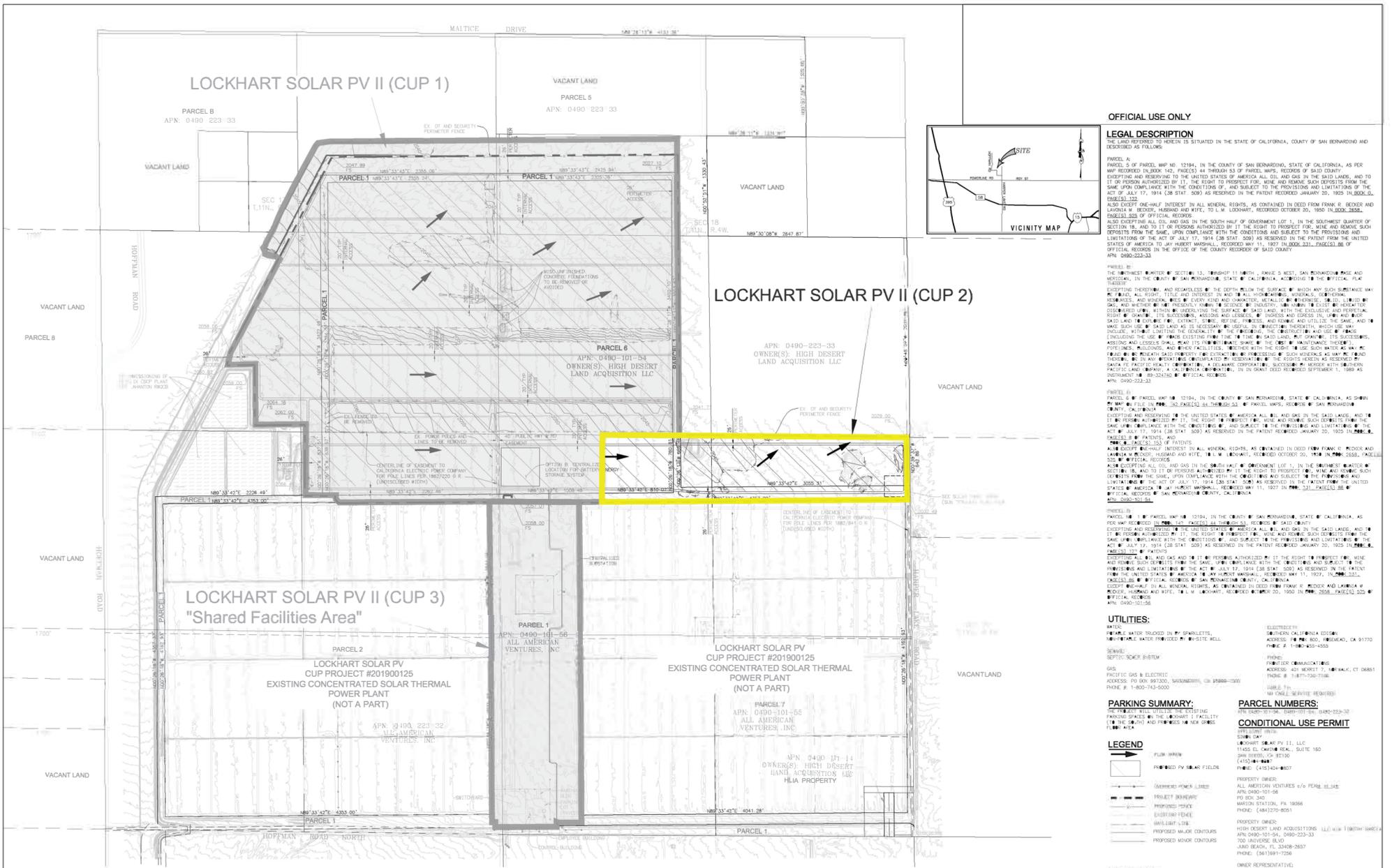
0 100 200 300 400 500
 SCALE: 1"=400'

SOLAR PANEL ARRAY (SINGLE AXIS TRACKER) PLAN VIEW

DATE: 12/17/2020

Michael Baker INTERNATIONAL
 51400 Center Drive, Suite 200
 Santa Ana, CA 92707
 Phone: (949) 472-2000
 www.mbakintl.com

LOCKHART SOLAR II PLOT PLAN (FORMERLY SEGS X)
 SHEET 7 OF 7
 COUNTY OF SAN BERNARDINO



OFFICIAL USE ONLY

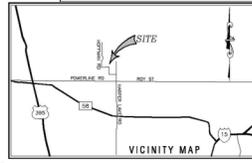
LEGAL DESCRIPTION

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

PARCEL 5: PARCEL 5 OF PARCEL MAP NO. 12194, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 142, PAGE 48 THROUGH 53 OF PARCEL MAPS, RECORDS OF SAID COUNTY. EXCEPTING AND RESERVING TO THE UNITED STATES OF AMERICA ALL OIL AND GAS IN THE SAID LANDS, AND TO IT OR PERSONS AUTHORIZED BY IT, THE RIGHT TO PROSPECT FOR, MINE AND REMOVE SUCH DEPOSITS FROM THE SAME UPON COMPLIANCE WITH THE CONDITIONS OF, AND SUBJECT TO THE PROVISIONS AND LIMITATIONS OF THE ACT OF JULY 17, 1914 (38 STAT. 503) AS RESERVED IN THE PATENT RECORDED JANUARY 20, 1923 IN PUBLIC RECORDS (PAGE 132).

ALSO EXCEPT THE HALF INTEREST IN ALL MINERAL RIGHTS, AS CONTAINED IN DEED FROM FRANK R. MOORE AND LAWONIA M. MOORE, HUSBAND AND WIFE, TO L. M. LOCKHART, RECORDED OCTOBER 20, 1980 IN BOOK 2658, PAGE 132 OF OFFICIAL RECORDS.

ALSO EXCEPTING ALL OIL AND GAS IN THE SOUTH HALF OF GOVERNMENT LOT 1, IN THE SOUTHWEST QUARTER OF SECTION 16, AND TO IT OR PERSONS AUTHORIZED BY IT, THE RIGHT TO PROSPECT FOR, MINE AND REMOVE SUCH DEPOSITS FROM THE SAME, UPON COMPLIANCE WITH THE CONDITIONS AND SUBJECT TO THE PROVISIONS AND LIMITATIONS OF THE ACT OF JULY 17, 1914 (38 STAT. 503) AS RESERVED IN THE PATENT FROM THE UNITED STATES OF AMERICA BY JAY HUBERT MARSHALL, RECORDED MAY 11, 1927 IN PUBLIC RECORDS (PAGE 88) OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. APN: 0490-223-33.



LOCKHART SOLAR PV II (CUP 2)

PARCEL 6: THE UNDIVIDED QUARTER SECTION 13, TOWNSHIP 11 NORTH, RANGE 5 WEST, SAN BERNARDINO MERIDIAN AND NEIGHBORLY, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS DESCRIBED IN THE OFFICIAL PLAT EXCEPTING THEREFROM AND RESERVING TO THE DEPTHS BELOW THE SURFACE WHICH ANY SUCH SUBSTANCE MAY BE FOUND, AND RESERVING TO THE UNITED STATES OF AMERICA ALL OIL AND GAS IN THE SAID LANDS, AND TO IT OR PERSONS AUTHORIZED BY IT, THE RIGHT TO PROSPECT FOR, MINE AND REMOVE SUCH DEPOSITS FROM THE SAME UPON COMPLIANCE WITH THE CONDITIONS OF, AND SUBJECT TO THE PROVISIONS AND LIMITATIONS OF THE ACT OF JULY 17, 1914 (38 STAT. 503) AS RESERVED IN THE PATENT RECORDED JANUARY 20, 1923 IN PUBLIC RECORDS (PAGE 132).

ALSO EXCEPT THE HALF INTEREST IN ALL MINERAL RIGHTS, AS CONTAINED IN DEED FROM FRANK R. MOORE AND LAWONIA M. MOORE, HUSBAND AND WIFE, TO L. M. LOCKHART, RECORDED OCTOBER 20, 1980 IN BOOK 2658, PAGE 132 OF OFFICIAL RECORDS.

ALSO EXCEPTING ALL OIL AND GAS IN THE SOUTH HALF OF GOVERNMENT LOT 1, IN THE SOUTHWEST QUARTER OF SECTION 16, AND TO IT OR PERSONS AUTHORIZED BY IT, THE RIGHT TO PROSPECT FOR, MINE AND REMOVE SUCH DEPOSITS FROM THE SAME, UPON COMPLIANCE WITH THE CONDITIONS AND SUBJECT TO THE PROVISIONS AND LIMITATIONS OF THE ACT OF JULY 17, 1914 (38 STAT. 503) AS RESERVED IN THE PATENT FROM THE UNITED STATES OF AMERICA BY JAY HUBERT MARSHALL, RECORDED MAY 11, 1927 IN PUBLIC RECORDS (PAGE 88) OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. APN: 0490-223-33.

PARCEL 7: PARCEL 7 OF PARCEL MAP NO. 12194, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 142, PAGE 48 THROUGH 53 OF PARCEL MAPS, RECORDS OF SAID COUNTY. EXCEPTING AND RESERVING TO THE UNITED STATES OF AMERICA ALL OIL AND GAS IN THE SAID LANDS, AND TO IT OR PERSONS AUTHORIZED BY IT, THE RIGHT TO PROSPECT FOR, MINE AND REMOVE SUCH DEPOSITS FROM THE SAME UPON COMPLIANCE WITH THE CONDITIONS OF, AND SUBJECT TO THE PROVISIONS AND LIMITATIONS OF THE ACT OF JULY 17, 1914 (38 STAT. 503) AS RESERVED IN THE PATENT RECORDED JANUARY 20, 1923 IN PUBLIC RECORDS (PAGE 132).

ALSO EXCEPT THE HALF INTEREST IN ALL MINERAL RIGHTS, AS CONTAINED IN DEED FROM FRANK R. MOORE AND LAWONIA M. MOORE, HUSBAND AND WIFE, TO L. M. LOCKHART, RECORDED OCTOBER 20, 1980 IN BOOK 2658, PAGE 132 OF OFFICIAL RECORDS.

ALSO EXCEPTING ALL OIL AND GAS IN THE SOUTH HALF OF GOVERNMENT LOT 1, IN THE SOUTHWEST QUARTER OF SECTION 16, AND TO IT OR PERSONS AUTHORIZED BY IT, THE RIGHT TO PROSPECT FOR, MINE AND REMOVE SUCH DEPOSITS FROM THE SAME, UPON COMPLIANCE WITH THE CONDITIONS AND SUBJECT TO THE PROVISIONS AND LIMITATIONS OF THE ACT OF JULY 17, 1914 (38 STAT. 503) AS RESERVED IN THE PATENT FROM THE UNITED STATES OF AMERICA BY JAY HUBERT MARSHALL, RECORDED MAY 11, 1927 IN PUBLIC RECORDS (PAGE 88) OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. APN: 0490-223-33.

PARCEL 8: PARCEL 8 OF PARCEL MAP NO. 12194, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 142, PAGE 48 THROUGH 53 OF PARCEL MAPS, RECORDS OF SAID COUNTY. EXCEPTING AND RESERVING TO THE UNITED STATES OF AMERICA ALL OIL AND GAS IN THE SAID LANDS, AND TO IT OR PERSONS AUTHORIZED BY IT, THE RIGHT TO PROSPECT FOR, MINE AND REMOVE SUCH DEPOSITS FROM THE SAME UPON COMPLIANCE WITH THE CONDITIONS OF, AND SUBJECT TO THE PROVISIONS AND LIMITATIONS OF THE ACT OF JULY 17, 1914 (38 STAT. 503) AS RESERVED IN THE PATENT RECORDED JANUARY 20, 1923 IN PUBLIC RECORDS (PAGE 132).

ALSO EXCEPT THE HALF INTEREST IN ALL MINERAL RIGHTS, AS CONTAINED IN DEED FROM FRANK R. MOORE AND LAWONIA M. MOORE, HUSBAND AND WIFE, TO L. M. LOCKHART, RECORDED OCTOBER 20, 1980 IN BOOK 2658, PAGE 132 OF OFFICIAL RECORDS.

ALSO EXCEPTING ALL OIL AND GAS IN THE SOUTH HALF OF GOVERNMENT LOT 1, IN THE SOUTHWEST QUARTER OF SECTION 16, AND TO IT OR PERSONS AUTHORIZED BY IT, THE RIGHT TO PROSPECT FOR, MINE AND REMOVE SUCH DEPOSITS FROM THE SAME, UPON COMPLIANCE WITH THE CONDITIONS AND SUBJECT TO THE PROVISIONS AND LIMITATIONS OF THE ACT OF JULY 17, 1914 (38 STAT. 503) AS RESERVED IN THE PATENT FROM THE UNITED STATES OF AMERICA BY JAY HUBERT MARSHALL, RECORDED MAY 11, 1927 IN PUBLIC RECORDS (PAGE 88) OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. APN: 0490-223-33.

UTILITIES:

WATER: AVAILABLE WATER DELIVERED BY SPARKLETT, SOUTHERN CALIFORNIA Edison ADDRESS: PO BOX 800, FRENCHCREEK, CA 91700 PHONE: (916) 845-4550

SEWER: SEWER WATER PROVIDED BY SITE WELL ADDRESS: PO BOX 800, FRENCHCREEK, CA 91700 PHONE: (916) 845-4550

GEN: GENCO POWER SYSTEM PHONE: (818) 732-1158 ADDRESS: 10000 W. 15TH AVENUE, BAKERSFIELD, CA 93311 PHONE: (805) 338-1158

GAS: PACIFIC GAS & ELECTRIC ADDRESS: 1000 W. 15TH AVENUE, BAKERSFIELD, CA 93311 PHONE: 1-800-743-5000

PARKING SUMMARY:

THE PROJECT WILL UTILIZE EXISTING PARKING SPACES AT THE LOCKHART 1 FACILITY. THE LOCKHART 1 AND 2 ARE NOT TO BE USED.

PARCEL NUMBERS:

LOCKHART SOLAR PV II, LLC 0490-223-33 1100 EL CAMINO REAL, SUITE 160 SAN DIEGO, CA 92108 (619) 444-8807

CONDITIONAL USE PERMIT:

LOCKHART SOLAR PV II, LLC 0490-223-33 1100 EL CAMINO REAL, SUITE 160 SAN DIEGO, CA 92108 (619) 444-8807

LEGEND

- FLYING ARROW: PROPOSED PV SOLAR FIELDS
- SOLID LINE: EXISTING POWER LINES
- DASHED LINE: PROPOSED POWER LINES
- DOTTED LINE: EXISTING FENCE
- SOLID LINE: PROPOSED MAJOR CONTOURS
- DASHED LINE: PROPOSED MINOR CONTOURS
- STAR: 10' BUFFER ZONE
- CIRCLE: PROTECTED PLANTS
- SQUARE: NOT DEPENDENT PLANTS

GRADING NOTE:

PRELIMINARY GRADING SHOWN WITH PROPOSED LOT LINES

NOTE:

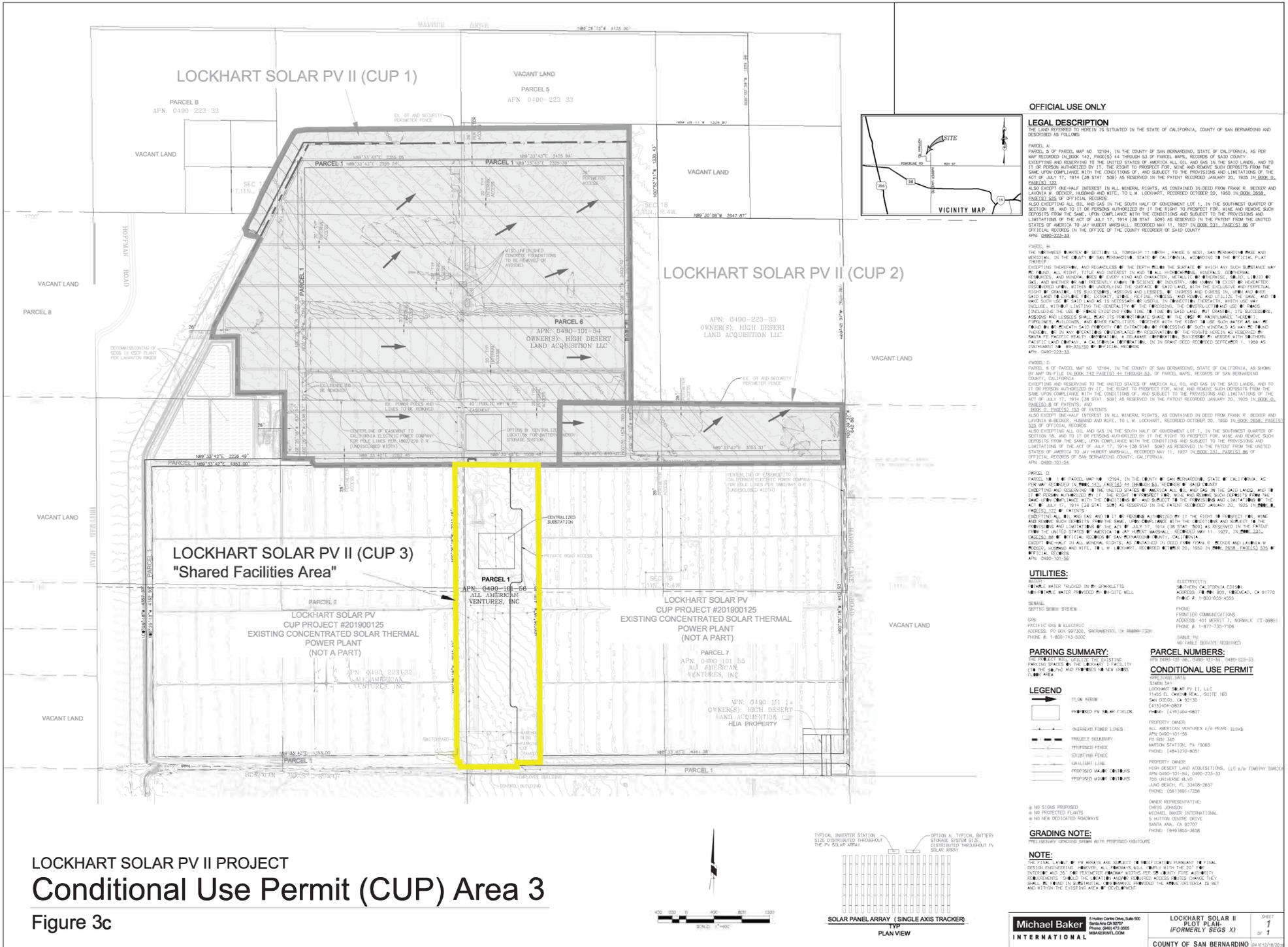
THE FINAL LAYOUT OF PV ARRAYS ARE SUBJECT TO MODIFICATION PRESUMPT TO FINAL DESIGN ENGINEERING. HOWEVER, BOUNDARY AND OWNER'S ADEQUATE FOR INTERIOR AND 36" FOR PERIMETER FOOTING WIDTHS PER SB COUNTY FIRE AUTHORITY REQUIREMENTS. SHALL THE LOCATION AND/OR REQUIRED ACCESS BEING CHANGED THEY SHALL BE FOUND IN SUBSTANTIAL CONFORMANCE PROVIDED THE ABOVE CRITERIA IS MET AND WITHIN THE EXISTING AREA OF DEVELOPMENT.

LOCKHART SOLAR PV II PROJECT
Conditional Use Permit (CUP) Area 2

Figure 3b

Michael Baker INTERNATIONAL
 51400 Center Drive, Suite 200
 San Diego, CA 92121
 Phone: (619) 472-2000
 www.mbakintl.com

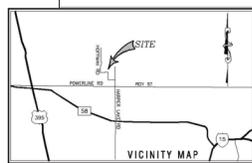
LOCKHART SOLAR II PLOT PLAN (FORMERLY SEGS X)
 SHEET 7 OF 11
 COUNTY OF SAN BERNARDINO DATE 12/17/2020



LOCKHART SOLAR PV II PROJECT
Conditional Use Permit (CUP) Area 3
 Figure 3c

OFFICIAL USE ONLY
LEGAL DESCRIPTION
 THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO AND DESCRIBED AS FOLLOWS:

PARCEL 5
 PARCEL 5 OF PARCEL MAP NO. 12194, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 142, PAGE(S) 44 THROUGH 43 OF PARCEL MAPS, RECORDS OF SAID COUNTY...
PARCEL 6
 PARCEL 6 OF PARCEL MAP NO. 12194, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 142, PAGE(S) 44 THROUGH 43 OF PARCEL MAPS, RECORDS OF SAID COUNTY...



PARCEL 7
 THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 11 NORTH, RANGE 5 WEST, SAN BERNARDINO RANGE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF...
PARCEL 8
 PARCEL 8 OF PARCEL MAP NO. 12194, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 142, PAGE(S) 44 THROUGH 43, OF PARCEL MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA...

PARCEL 9
 PARCEL 9 OF PARCEL MAP NO. 12194, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 142, PAGE(S) 44 THROUGH 43, OF PARCEL MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA...
PARCEL 10
 PARCEL 10 OF PARCEL MAP NO. 12194, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 142, PAGE(S) 44 THROUGH 43 OF PARCEL MAPS, RECORDS OF SAID COUNTY...

UTILITIES:
 AVAILABLE WATER TRANSDUCED IN PIPE ALLEYS (ELECTRICITY)
 AVAILABLE WATER PROVIDED BY WELLS (WATER TREATMENT PLANT)
 GAS (FRONTIER COMMUNICATIONS)
 ADDRESS: PO BOX 987000, BURNING WOODS DR #2880-7200
 PHONE: 1-877-730-7106
 ADDRESS: 1-800-743-5000

PARKING SUMMARY:
 THE TOTAL AVAILABLE UTILITIES (EXISTING AND PROPOSED) ARE:
 TOTAL SPACES: 100
 TOTAL SPACES: 100
 TOTAL SPACES: 100

CONDITIONAL USE PERMIT
 THE PERMITTEE SHALL COMPLY WITH THE FOLLOWING CONDITIONS:
 1. THE PERMITTEE SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

LEGEND
 FLOW: FLOW
 PROPOSED PV SOLAR FIELDS
 OVERHEAD POWER LINES
 PROPOSED FENCE
 EXISTING FENCE
 LIGHTNING LINE
 PROPOSED MAIN CANALS
 PROPOSED MAIN CANALS

GRADING NOTE:
 PRELIMINARY GRADING SHOWN WITH PROPOSED OBSTACLES

NOTE:
 THE FINAL LAYOUT OF PV AREAS ARE SUBJECT TO THE FINAL DESIGN ENGINEERING. ALL PERMITS SHALL BE OBTAINED FROM THE COUNTY ENGINEER AND THE COUNTY FIRE AUTHORITY.





NATIVE AMERICAN HERITAGE COMMISSION

July 7, 2021

Anthony DeLuca, Senior Planner
County of San Bernardino, Land Use Services Department
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415

2021 JUL 15 AM 8:31
LAND USE SERVICES
ADMINISTRATION
RECEIVED

CHAIRPERSON
Laura Miranda
Luiseño

VICE CHAIRPERSON
Reginald Pagaling
Chumash

SECRETARY
Merri Lopez-Keifer
Luiseño

PARLIAMENTARIAN
Russell Atebery
Karuk

COMMISSIONER
William Mungary
Paiute/White Mountain
Apache

COMMISSIONER
Julie Tumamait-
Stenslie
Chumash

COMMISSIONER
[Vacant]

COMMISSIONER
[Vacant]

COMMISSIONER
[Vacant]

EXECUTIVE SECRETARY
Christina Snider
Pomo

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

Re: 2021070070, Lockhart Solar PV II Project, San Bernardino County

Dear Mr. DeLuca: ..

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015. If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). Both SB 18 and AB 52 have tribal consultation requirements. If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a.** A brief description of the project.
 - b.** The lead agency contact information.
 - c.** Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d.** A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
 - a.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a.** Alternatives to the project.
 - b.** Recommended mitigation measures.
 - c.** Significant effects. (Pub. Resources Code §21080.3.2 (a)).

- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:
 - a.** Type of environmental review necessary.
 - b.** Significance of the tribal cultural resources.
 - c.** Significance of the project's impacts on tribal cultural resources.
 - d.** If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a.** Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b.** Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b.** A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a.** Avoidance and preservation of the resources in place, including, but not limited to:
 - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i.** Protecting the cultural character and integrity of the resource.
 - ii.** Protecting the traditional use of the resource.
 - iii.** Protecting the confidentiality of the resource.
 - c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at:

https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subs. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:

Andrew.Green@nahc.ca.gov.

Sincerely,



Andrew Green
Cultural Resources Analyst

cc: State Clearinghouse

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

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LAND USE SERVICES
ADMINISTRATION



July 19, 2021

County of San Bernardino
Land Use Services Department
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415
Attn.: Anthony DeLuca, Senior Planner

Subject: Lockhart Solar PV II Project; Notice of Preparation of a Draft Environmental Impact Report and Scoping Meeting

Dear Mr. DeLuca:

The Mojave Desert Air Quality Management District (District) has received the request for comments for the Draft Environmental Impact Statement/Environmental Impact Report for the Lockhart Solar PV II Project (project). The Lockhart Solar PV II Project (Project) includes development of a utility scale, solar photovoltaic (PV) electricity generation and energy storage facility that would produce up to 150 megawatts (MW) of solar power and include up to 4 gigawatt hours (GWh) of energy storage capacity rate in a battery energy storage system (BESS) on up to approximately 690 acres of land. The Project is bordered on the south by the approved Lockhart Solar I Facility. The Project would share existing operations and maintenance facilities (i.e. O&M building, warehouse and employee building), water and septic systems, as well as switchyard and electrical transmission infrastructure, and a new collector substation (approved and to be constructed) within the Lockhart Solar I Facility site to connect the Project to the existing transmission line which runs to the SCE-owned Kramer Junction substation. The Project is largely sited on land previously approved by the California Energy Commission (CEC) for development of Solar Energy Generating System X (SEGS X), a solar thermal power facility which was never fully constructed. The Project Site has been subject to near complete surface disturbance associated with past agricultural use, grading during partial construction of the SEGS X facility, as well as construction of the shared facilities area for the existing SEGS VIII and IX Solar Thermal Power Plants. Development includes demolition of existing SEGS X concrete foundations (as needed) to allow for construction of Project facilities.

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

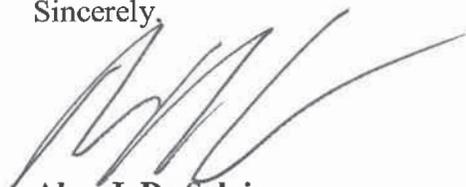
Additionally, the District will require:

- Signage compliant with Rule 403 Attachment B shall be erected at each project site entrance not later than the commencement of construction.
- Use a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. For projects with exposed sand or fines deposits (and for projects that expose such soils through earthmoving), chemical stabilization or covering with a stabilizing layer of gravel will be required to eliminate visible dust/sand from sand/fines deposits.
- All perimeter fencing shall be wind fencing or the equivalent, to a minimum of four feet of height or the top of all perimeter fencing. The owner/operator shall maintain the wind fencing as needed to keep it intact and remove windblown dropout. This wind fencing requirement may be superseded by local ordinance, rule or project-specific biological mitigation prohibiting wind fencing.
- All maintenance and access vehicular roads and parking areas shall be stabilized with chemical, gravel or asphaltic pavement sufficient to eliminate visible fugitive dust from vehicular travel and wind erosion. Take actions to prevent project-related trackout onto paved surfaces, and clean any project-related trackout within 24 hours. All other earthen surfaces within the project area shall be stabilized by natural or irrigated vegetation, compaction, chemical or other means sufficient to prohibit visible fugitive dust from wind erosion.
- Review MDAQMD asbestos program policies for the demolition portions of the project. Information regarding the District's asbestos program can be found at: <https://www.mdaqmd.ca.gov/permitting/asbestos-information>

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

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

Sincerely,



Alan J. De Salvio

Deputy Director – Mojave Desert Operations

AJD/bg

Lockhart Solar PV II Project



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

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



August 16, 2021

Mr. Anthony DeLuca
County of San Bernardino
385 N. Arrowhead Ave., First Floor
San Bernardino, CA 92415
Anthony.DeLuca@lus.sbcounty.gov

Subject: Notice of Preparation of a Draft Environmental Impact Report
Lockhart Solar PV II Project
State Clearinghouse No. 2021070070

Dear Mr. DeLuca:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation of a Draft Environmental Impact Report (DEIR) from the County of San Bernardino (Lead Agency) for Lockhart Solar PV II Project (Project) pursuant to California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

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

ROLE OF CDFW

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

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As

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

proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT LOCATION AND DESCRIPTION

CEQA Lead: County of San Bernardino

Applicant: Lockhart Solar PV II, LLC

The proposed Project is located in unincorporated Lockhart area of the San Bernardino County, approximately 7 miles north of Mojave-Barstow Highway 58, east of Hoffman Road, west of Harper Lake Road. The Project site comprises Assessor Parcel Numbers (APNs) 0490-101-54, 0490-101-56 and 0490-223-33. The Project will be developed mainly on the site of Solar Energy Generating System X (SEGS X) facility.

Overall Project activities will include development of a utility scale, solar photovoltaic (PV) electricity generation and energy storage facility that would produce up to 150 megawatts (MW) of solar power and include up to 4 gigawatt hours (GWh) of energy storage capacity rate in a battery energy storage system (BESS) on approximately 690 acres of land. Existing SEGS X concrete foundations will be demolished, as needed, to allow for construction of the proposed Project facilities. The Project would share operations and maintenance facilities, water and septic systems, as well as switchyard and electrical transmission infrastructure, and a new collector substation to be constructed within the abutting Lockhart Solar I Facility site to connect the Project to the existing transmission line which runs to the Southern California Edison-owned Kramer Junction substation.

Site grading and earthwork activities are expected to include mowing, excavation, and piledriving. Grading of the Project Site would be limited to the greatest extent possible to control dust. Micro-grading would occur to maintain pile foundation tolerances and grading would be required for installation of site roads and preparation of equipment foundation pads. Grading is also anticipated along the western and northern boundary of the Project Site to extend the existing open channel berm for the collection and routing of offsite run-on. Flows would be discharged to the existing watershed which drains toward Harper Dry Lake. Site preparation and construction would occur in accordance with all federal, state, and County zoning codes and requirements.

Erection of the solar arrays would include support structures and associated electrical equipment and cabling. During this work, there would be multiple crews working on the site with various equipment and vehicles, including special vehicles for transporting the

modules and other equipment. As the solar arrays are installed, the collection substation and switchyard facility upgrades would be constructed, as needed, and the electrical collection and communication systems would be installed. Within the solar fields, the electrical and communication wiring would be installed in underground trenches, although some of the mid-voltage collection runs and communication systems may be on overhead lines.

During Project construction, water would be required for common construction-related purposes, including but not limited to dust suppression, soil compaction, and grading. Construction water usage is anticipated to be approximately 240 acre-feet during the construction period. During construction, the water used is anticipated to be supplied by existing permitted use groundwater sources.

The Project would produce solid waste from construction activities. This may include paper, wood, glass, plastics from packing material, waste lumber, insulation, scrap metal and concrete, empty nonhazardous containers, and vegetation waste. These wastes would be segregated, where practical, for recycling. Vegetation waste generated by site clearing and grubbing would be chipped, mulched and spread onsite or hauled off site to an appropriate green waste facility.

Hazardous materials used during Project construction would include gasoline, diesel fuel, oils, lubricants, solvents, detergents, degreasers, paints, ethylene glycol, dust palliative, herbicides, and welding materials. Hazardous wastes may be generated during Project construction. These wastes may include waste paint, spent construction solvents, waste cleaners, waste oil, oily rags, waste batteries, and spent welding materials.

Operations and Maintenance Activities will include, but are not limited to, facility monitoring; administration and reporting; remote operations of inverters, BESS system and other equipment; site security and management; communication protocol; repair and maintenance of solar facilities, substation, electrical transmission lines, and other Project facilities; and periodic panel washing. It is anticipated that water would be required for solar panel washing, equipment washing, non-sanitary uses, and other miscellaneous water uses. Solar panel washing is expected to occur one to four times per year. Water consumption for the explicit use of washing panels is expected to be approximately 4.5 acre-feet of water per year. This amount is in addition to the water necessary for operations staff, fire suppression and site maintenance.

At the end of the Project's operational term, the Applicant may determine that the Project should be decommissioned and deconstructed, or it may seek an extension of its conditional use permit. Equipment would be de-energized prior to removal, salvaged, where possible, placed in appropriate shipping containers, and secured in a truck transport trailer for shipment off site to be recycled or disposed of at an appropriately licensed disposal facility. Site infrastructure would be removed, including fences and

concrete pads that may support the inverters, transformers, and related equipment. The exterior fencing and gates would be removed, and materials would be recycled.

COMMENTS AND RECOMMENDATIONS

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (biological resources). CDFW offers these comments to assist the Lead Agency for adequately identifying and mitigating the Project's significant, or potentially significant, impacts on biological resources. CDFW recommends that the DEIR addresses the ensuing comments.

Assessment of Biological Resources

Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a Project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. CDFW recommends that floristic, alliance- and/or association-based mapping and assessment be completed following 2009 or current version of The Manual of California Vegetation. Adjoining habitat areas should also be included in this assessment where Site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.

CDFW's California Natural Diversity Database (CNDDDB) in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code, in the vicinity of the proposed Project. CDFW recommends that CNDDDB Field Survey Forms be completed and submitted to CNDDDB to document survey results. Please note that CNDDDB is not exhaustive in terms of the data it houses, nor is it an absence database. The assessment should include a comprehensive, recent inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (SSC) and California Fully Protected Species (Fish and Game Code § 3511). Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380).

The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years.

Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

CDFW recommends species-specific surveys for desert tortoise (*Gopherus agassizii*) and Mohave ground squirrel (*Xerospermophilus mohavensis*). CDFW approved desert tortoise pre-construction surveys cover 100 percent of the project area and adjacent habitat using the methods described in the most recent United States Fish and Wildlife Service (USFWS) Desert Tortoise (Mojave Population) Field Manual. CDFW also recommends a current assessment of Mohave ground squirrel and survey guidelines are provided in The Mohave Ground Squirrel Survey Guidelines (Department of Fish and Game, July 2010) or current version. CDFW recommends survey for burrowing owl (*Athene cunicularia*), a Species of Special Concern. Survey recommendations and guidelines are provided in the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) or current version. Development of a desert kit fox and American badger mitigation and monitoring plan is recommended. Desert kit fox is a protected species, and American badger is a Species of Special Concern. CDFW also recommends a thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities.

CDFW recommends that the DEIR provides a thorough discussion of the direct, indirect, and cumulative impacts expected to adversely affect biological resources as a result of the Project. CDFW considers adverse Project-related impacts to sensitive species and habitats to be significant to both local and regional ecosystems, and the DEIR should include mitigation measures for adverse Project-related impacts to these resources. The DEIR should include appropriate and adequate avoidance, minimization, and/or mitigation measures for all direct, indirect, and cumulative impacts that are expected to occur as a result of the construction and long-term operation and maintenance of the Project. Mitigation measures should emphasize avoidance and reduction of Project impacts. For unavoidable impacts, onsite habitat restoration and/or enhancement should be evaluated and discussed in detail. If onsite mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, offsite mitigation through habitat acquisition, enhancement, conservation, and management in perpetuity should be addressed. The DEIR should include measures to perpetually protect the targeted habitat values within mitigation areas from direct and indirect adverse impacts in order to meet mitigation objectives to offset Project-induced qualitative and quantitative losses of biological values. Specific issues that should be addressed include restrictions on access, proposed land dedications, long-term monitoring, management for invasive species, control of illegal dumping, water pollution, increased human intrusion, and other factors that diminish the habitat value for the target species.

Analysis of Direct, Indirect, and Cumulative Impacts to Biological Resources

The DEIR should provide a thorough discussion of the direct, indirect, and cumulative impacts expected to adversely affect biological resources as a result of the Project. To ensure that Project impacts to biological resources are fully analyzed, the following information should also be included in the DEIR.

1. A discussion of potential impacts from lighting, noise, human activity, and wildlife-human interactions created by zoning of development Projects or other Project activities adjacent to natural areas, exotic and/or invasive species, and drainage. The latter subject should address Project-related changes on drainage patterns and water quality within, upstream, and downstream of the Project Site, including: volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project Site.
2. A discussion of potential indirect Project impacts on biological resources, including resources in areas adjacent to the Project footprint, such as nearby public lands (e.g. National Forests, State Parks, etc.), open space, adjacent natural habitats, riparian ecosystems, wildlife corridors, and any designated and/or proposed reserve or mitigation lands (e.g., preserved lands associated with a Natural Community Conservation Plan, or other conserved lands).
3. An evaluation of impacts to adjacent open space lands from both the construction of the Project and long-term operational and maintenance needs.
4. A cumulative effects analysis developed as described under CEQA Guidelines § 15130. Please include all potential direct and indirect Project related impacts to riparian areas, wetlands, vernal pools, alluvial fan habitats, wildlife corridors or wildlife movement areas, aquatic habitats, sensitive species and other sensitive habitats, open lands, open space, and adjacent natural habitats in the cumulative effects analysis. General and specific plans, as well as past, present, and anticipated future Projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
5. The Project has long life-span and potential loss in habitat expansion and population density changes with time needs be accounted for considering fully mitigated standards. For adequacy of mitigation analysis, there is a need to consider both spatial and temporal effects on habitat as well as cumulative impacts of the activities on habitat biodiversity under microclimate variability.

Burrowing Owl is a CDFW species of special concern and occurs as a year-round resident and winter visitor. Habitat for the burrowing owl includes dry, open, short-grass areas with level to gentle topography and well-drained soils, as well as agricultural

areas. These areas are also often associated with burrowing mammals. The burrowing owl is diurnal and perches during daylight at the entrance to its burrow or on low posts. It is typically found in dry open areas with few trees and short grasses; it is also found in vacant lots near human habitation. It uses uninhabited mammal burrows for roosts and nests, often in close proximity to California ground squirrel (*Otospermophilus beecheyi*) colonies. Northern harrier is a CDFW species of special concern. This species is typically found in open habitats with dense ground cover including grasslands, agricultural fields, and marshes. Northern harriers nest on the ground, preferring wetland habitat for cover. Loggerhead shrike is a CDFW species of special concern. This species prefers open country with scattered shrubs and trees. They frequent agricultural fields, abandoned orchards, desert scrublands, and riparian areas. Black-tailed gnatcatcher is a CDFW watch List species. This species remains in pairs all year, defending permanent territories. Black-tailed gnatcatchers prefer dry washes or desert brush with varied growth of mesquite, acacias, and paloverdes, but are also known to inhabit tamarisk scrub.

Flat-tailed Horned Lizard (*Phrynosoma mcallii*) is a CDFW species of special concern and BLM sensitive species. Flat-tailed horned lizard is found in the low deserts of southwestern Arizona, southeastern California, and adjacent portions of northwestern Sonora and northern Baja California, Mexico. This species is known to inhabit sand dunes, sheets, and hummocks, as well as gravelly washes. It is thought to be most abundant in creosote bush scrub. This species may be found in a variety of desert scrub. Many occurrences of flat-tailed horned lizard have been reported in the undeveloped desert areas.

Loggerhead Shrike (*Lanius ludovicianus*) is a CDFW species of special concern. This species inhabits most of the continental U.S. and Mexico and is an uncommon year-round resident of southern California. It prefers washes with scattered trees or shrubs, or valley floors with scattered thickets of mesquite (*Prosopis* spp.) or saltbush (*Atriplex* spp.). Outside the desert this species inhabits grasslands, agricultural fields, open sage scrub, and chaparral. The loggerhead shrike requires open habitat with tall shrubs or trees to use as perches for hunting and fairly dense shrubs for nesting. It may also use fences or power lines for hunting perches. Loggerhead shrikes are highly territorial and usually lives in pairs in permanent territories. This species feeds on small reptiles, mammals, smaller birds, amphibians, and insects that they often impale on sticks or thorns before eating. This bird may also be associated with freshly plowed or mowed fields, as these activities create foraging opportunities for this species. Loggerhead shrike populations are declining, likely due to urbanization and loss of habitat and, to a lesser degree, pesticide use.

LeConte's Thrasher (*Toxostoma lecontei*) is a CDFW species of special concern. It is a permanent resident in the San Joaquin Valley, Mojave and Colorado Deserts of California, the Sonoran Desert in Arizona, as well as Utah, Nevada, and Baja California, Mexico. This sensitive bird requires undisturbed substrate for foraging under desert

shrubs. Ideal habitat throughout this species' range consists of sparsely vegetated desert flats, dunes, sandy alluvial fans below desert mountains, alkaline dry lakes, or gently rolling hills.

American Badger (*Taxidea taxus*) is a CDFW species of special concern. American badgers are widespread, ranging from the Great Lakes to the Pacific Coast, and from the Canadian Prairie provinces to the Mexican Plateau. This species can be found in a variety of habitats, which include shrub steppes, agricultural fields, open woodland forests, and large grass and sagebrush meadows and valleys. Its breeding season occurs from mid- to late summer, after which egg implantation is delayed until December to February. Declines in American badger populations and distribution have resulted from habitat fragmentation from urbanization and development of roads.

Mitigation Measures for Project Impacts to Biological Resources

The DEIR should include appropriate and adequate avoidance, minimization, and/or mitigation measures for all direct, indirect, and cumulative impacts that are expected to occur as a result of the construction and long-term operation and maintenance of the Project. CDFW recommends consideration of the following comments.

Fully Protected Species

Several Fully Protected Species (Fish and Game Code § 3511) have the potential to occur within or adjacent to the Project area. Fully protected species may not be taken or possessed at any time. Project activities described in the DEIR should be designed to completely avoid any fully protected species that have the potential to be present within or adjacent to the Project area. CDFW also recommends that the DEIR fully analyze potential adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends more robust analysis of appropriate avoidance, minimization and mitigation measures to reduce any possible indirect impacts to fully protected species.

Sensitive Plant Communities

CDFW considers sensitive plant communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S-1, S-2, S-3, and S-4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDDB and are included in the 2009 or current version of The Manual of California Vegetation. The DEIR should include measures to fully avoid and otherwise protect sensitive plant communities from Project-related direct and indirect impacts. Minimization measures may include transplanting perennial species, seed collection and dispersal from annual species, and other conservation strategies that will protect the viability of the local population. If minimization measures are implemented,

monitoring of plant populations will be conducted annually for 5 years to assess the mitigation's effectiveness. The performance standard for mitigation will be no net reduction in the size or viability of the local population.

Western Joshua tree

Western Joshua tree (*Yucca brevifolia*) is a candidate for threatened species (see 2020 Cal. Reg. Notice Register, No. 41-Z, pp. 1349, October 9, 2020) under CESA. CDFW recommends that the DEIR should include risk analysis showing comparative evaluation of adverse impacts of design layouts on various species and their habitat quality and sustainability over time. Edge effects should be considered. The determination should be based on factors including an assessment of the importance of the habitat in the Project area, the extent to which the covered activities will impact the habitat, and estimation of the acreage required to provide for adequate compensation. Avoidance of western Joshua tree and its associated habitat would be a preferred approach. When considering impacts that involve removal of western Joshua tree, including its potential seedbank, impacts to habitat adjacent to western Joshua tree and other suitable habitat should also be evaluated. CDFW recommends the assessment area cover all Project areas that may be impacted and an additional 200-foot-wide area outside of the Project impact area to assess the habitat quality parameters. High quality habitat adjacent to an impact area would generally factor into a quality determination for the impact area. CDFW recommends that assessment of impacts and associated mitigation should evaluate the number and size of western Joshua trees impacted, and the overall quality and extent of habitat that may support western Joshua tree. Generally, areas with greater density, range of size classes, and recruitment of western Joshua tree, along with larger, intact, and connected habitat areas represent high habitat quality areas. The assessment should consider edge effects that may exist from Project design. Areas with larger edge effect and narrow corridors should be considered as having greater indirect impacts on adjacent areas. Impacts include removal of western Joshua tree and its seedbank, and loss of occupied and suitable habitat. Removal of western Joshua tree to "salvage" or relocate elsewhere should be considered an impact at the removal site. Relocation of western Joshua tree is disfavored as relocation is likely to impact habitat at a relocation site and affect other fish and wildlife resources, potentially including special-status species, and a relocation site may not have all required habitat elements for successful reproduction on site, potentially limiting the biological effectiveness of such as measure. CDFW recommends the amount of compensatory mitigation is related to the extent and type of impacts to the species and the quality of the habitat being affected for the biological resources that may be potentially impacted. CDFW recommends mitigation for western Joshua tree be based on acres of impact to occupied and suitable habitat for western Joshua tree, rather than number of trees impacted. CDFW does not view relocation as adequate mitigation for impacts to western Joshua tree and its habitat. For desert tortoise for example, compensatory mitigation ratios from 1:1 to 5:1 of mitigation acres to impacted acres are most typical. The higher mitigation ratios are often used for impacts that most affect the species,

such as impacts to high quality, connected, other important habitat areas, and impacts to areas with a greater distribution and presence of the species. The lower mitigation ratios are often used for impact areas with low habitat value and low to very low presence of the species. The Lead Agency may choose to take a similar approach with western Joshua tree. CDFW recommends the mitigation site is occupied and is of equivalent of higher value for western Joshua tree than the impact site. For compensatory mitigation, CDFW recommends permanent protection through a conservation easement, development of a long-term management plan, and funding sufficient to implement management plan tasks in perpetuity should be completed before starting Project ground-disturbing activities.

CDFW recommends that a CESA Incidental Take Permit (ITP) be obtained if the Project has the potential to result in “take” (California Fish and Game Code Section 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”) of CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). If the Project, including the Project construction or any Project-related activity during the life of the Project, results in take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to Project implementation through an ITP.

Mitigation

CDFW considers adverse Project-related impacts to sensitive species and habitats to be significant to both local and regional ecosystems, and the DEIR should include mitigation measures for adverse Project-related impacts to these resources. Mitigation measures should emphasize avoidance and reduction of Project impacts. For unavoidable impacts, onsite habitat restoration and/or enhancement should be evaluated and discussed in detail. If onsite mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. The DEIR should include measures to perpetually protect the targeted habitat values within mitigation areas from direct and indirect adverse impacts in order to meet mitigation objectives to offset Project-induced qualitative and quantitative losses of biological values. Specific issues that should be addressed include restrictions on access, land dedications, long-term monitoring and management, control of illegal dumping, water pollution, and human intrusion.

Moving out of Harm’s Way

The proposed Project is anticipated to result in the clearing of natural habitats that support native species. To avoid direct mortality, CDFW recommends that the lead agency condition the DEIR to require that a CDFW-approved qualified biologist be retained to be onsite prior to and during all ground- and habitat-disturbing activities to move out of harm’s way special status species or other wildlife of low or limited mobility

that would otherwise be injured or killed from Project-related activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far as necessary to ensure their safety. Furthermore, it should be noted that the temporary relocation of onsite wildlife does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss.

California Endangered Species Act

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to the California Endangered Species Act (CESA). A CESA ITP is issued to conserve, protect, enhance, and restore State-listed CESA species and their habitats. CDFW recommends that a CESA ITP be obtained if the Project has the potential to result in "take" (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). If the Project, including the Project construction or any Project-related activity during the life of the Project, results in take of CESA-listed species, CDFW recommends that the Project proponent seek appropriate authorization prior to Project implementation through an ITP. Desert tortoise and Mohave ground squirrel are two CESA-listed threatened species that have potential to occur within the Project Area, presence needs to be determined by protocol surveys required by the Lead Agency. CDFW encourages early consultation, as significant modification to the proposed Project and avoidance, minimization, and mitigation measures may be necessary to obtain a CESA ITP. Please note that the proposed avoidance, minimization, and mitigation measures must be sufficient for CDFW to conclude that the Project's impacts are fully mitigated and the measures, when taken in aggregate, must meet the full mitigation standard.

Desert Tortoise

For desert tortoise, a CESA-listed threatened and candidate endangered species, a qualified biologist shall conduct a protocol level presence or absence survey no more than 14 days prior to initiating Project activities in accordance with the survey methodology described in U.S. Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. In addition, the survey shall utilize perpendicular survey routes and 100-percent visual coverage of the Project area and 50-foot buffer zone for desert tortoise and their sign. If the survey confirms absence, a qualified biological monitor shall remain on-site during all Project activities to confirm desert tortoise do not enter the Project site. If the survey confirms presence, the Project Proponent shall obtain an ITP for desert tortoise prior to the start of Project activities. If the biological monitor during the life of the Project encounters a desert tortoise, work shall be

suspended, and the Project Proponent shall obtain an ITP for the species prior to the restarting Project activities.

Mohave Ground Squirrel

Project activities have the potential to take Mohave ground squirrel, a CESA-listed species. Take (hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill) is prohibited unless authorized by state law (Fish and Game Code, §§ 2080 & 2085). Protocol surveys are needed during the appropriate time of year to determine Mohave ground squirrel presence, and the specific avoidance, minimization, and mitigation measures are required. If the Project, including the Project construction or any Project-related activity during the life of the Project, results in take of CESA-listed species, CDFW recommends that the Project proponent seeks appropriate authorization prior to Project implementation through an ITP. CDFW recommends inclusion of the following measure in the environmental document: A CDFW-approved qualified biologist shall conduct pre-construction surveys following the Mohave Ground Squirrel Survey Guidelines (CDFG, 2010) or most recent version. The pre-construction surveys shall cover the Project Area and a 50-foot buffer zone. Should Mohave ground squirrel presence be confirmed during the survey, the Project Proponent shall obtain an ITP for Mohave ground squirrel prior to the start of Project activities. CDFW shall be notified if Mohave ground squirrel presence is confirmed during the pre-construction survey. If a Mohave ground squirrel is observed during Project activities, and the Project Proponent does not have an ITP, all work shall immediately stop, and the observation shall be immediately reported to CDFW.

Burrowing Owl

Burrowing owl is a CDFW Species of Special, and potential construction-related direct impacts to burrowing owl could result from destruction of burrowing owl dens, destruction of nests, eggs, and young; and entombment of adults. CDFW recommends inclusion of mitigation measures to avoid potentially significant impacts to burrowing owls, a Species of Special Concern. The measures need to include specificity on who will perform the burrowing owl survey, what type of survey will be performed, and what actions will be taken should burrowing owl presence be confirmed during the survey. It is necessary to address avoidance, minimization, or mitigation measures. Project-related activities have potential to take burrowing owl individuals and their nests and may result in loss of burrowing owl habitat. Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5 and 3513. Take is defined in Fish and Game Code Section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.” Burrowing owls are dependent on burrows at all times of the year for survival and/or reproduction, evicting them from nesting, roosting, and satellite burrows may lead to indirect impacts or take. Loss of access to burrows will likely result in varying levels of increased stress on burrowing owls and could depress reproduction, increase predation, increase

energetic costs, and introduce risks posed by having to find and compete for available burrows.

Eviction of burrowing owls is a potentially significant impact under CEQA. CDFW recommends inclusion a measure for a qualified biologist in the environmental document. Burrowing owl surveys shall be conducted by a qualified biologist at least 14 days prior to any Project activities, at any time of year. Surveys shall be completed following the recommendations and guidelines provided within the Staff Report on Burrowing Owl Mitigation (CDFG, March 2012) or most recent version by a qualified biologist. If an active burrowing owl burrow is detected within any Project disturbance area, or within a 500-foot buffer of the disturbance area, a 300- foot radius buffer zone surrounding the burrow shall be flagged, and no impacts to soils or vegetation or noise levels above 65 dBA shall be permitted while the burrow remains active or occupied. Disturbance-free buffers may be modified based on site-specific conditions in consultation with CDFW. The qualified biologist shall monitor active burrows daily and will increase buffer sizes as needed if owls show signs of disturbance. If active burrowing owl burrows are located within any work area and impact cannot be avoided, a qualified biologist shall submit a burrowing owl exclusion plan to CDFW for review and approval. The burrowing owl exclusion plan shall include permanent compensatory mitigation consistent with the recommendations in the Staff Report on Burrowing Owl Mitigation such that the habitat acreage, number of burrows and burrowing owls impacted are replaced. Passive relocation shall take place outside the nesting season (1 February to 31 August).

LeConte's Thrasher

LeConte's thrasher is a CDFW Species of Special Concern. During the nesting season, January 15 through June 15, prior to the start of construction activities, a Qualified Biologist will conduct surveys within the Whitewater Floodplain Conservation Area, within 500 feet of the impact area, or to the property boundary if less than 500 feet. If nesting Le Conte's thrashers are found, an exclusion buffer will be established around the nest site in any location where work may occur within 500 feet of the active nest. The exclusion buffer will be staked and flagged. No construction will be permitted within the buffer during the breeding season of January 15 through June 15 or until the young have fledged.

Nesting Birds and Migratory Birds

It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Migratory non-game native bird species are protected by international treaty under the federal Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 *et seq.*). In addition, sections 3503, 3503.5, and 3513 of the Fish and Game Code (FGC) also afford protective measures as follows: Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any

bird, except as otherwise provided by FGC or any regulation made pursuant thereto; Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by FGC or any regulation adopted pursuant thereto; and Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the MBTA or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA. CDFW recommends that the analysis includes the results of avian surveys, as well as specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur. Project-specific avoidance and minimization measures may include, but not be limited to: Project phasing and timing, monitoring of Project-related noise (where applicable), sound walls, and buffers, where appropriate. The measures should also include specific avoidance and minimization measures that will be implemented should a nest be located within the Project site. For pre-construction surveys, CDFW recommends that the surveys be required no more than three days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted sooner.

Special Status Plant Species

The Biological Resources Assessment needs to include explanation of methodology and results of the survey of special status plants. CDFW recommends California Natural Diversity Database be used as a starting point in gathering information about the potential presence of species within the general area of the Project Site, and surveys should not be restricted or limited to generated lists. It is unclear if a botanical field survey to identify all plants to the taxonomic level necessary to determine rarity and listing status was performed. Botanical field surveys should be conducted during times of year when plants are evident and identifiable (i.e. flowering or fruiting), which may warrant multiple surveys during the season to capture floristic diversity. Habitats, such as desert plant communities that have annual and short-lived perennial plants as major floristic components may require yearly surveys to accurately document baseline conditions for purposes of impact assessment. Sensitive plant species are listed under the CESA as threatened, or endangered, or proposed or candidates for listing; designated as rare under the Native Plant Protection Act; or plants that otherwise meet the definition of rare, threatened, or endangered species under CEQA. Plants constituting California Rare Plant Ranks 1A, 1B, 2A, and 2B generally meet the criteria of a CESA-listed species and should be considered as an endangered, rare or threatened species for the purposes of CEQA analysis. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085).

Fish and Game Code Sections 1900–1913 includes provisions that prohibit the take of endangered and rare plants from the wild and a salvage requirement for landowners. To ensure that Project impacts to biological resources are fully analyzed, CDFW

recommends a thorough floristic-based assessment of special status plants and natural communities. Note that CDFW generally considers biological field assessments for rare plants valid for a period of up to three years. Pre-construction botanical surveys shall be conducted at the appropriate time of year by a qualified biologist following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (CDFW, March 2018) or most recent version. Should special status plants or natural communities be present in the Project area, a qualified biologist shall develop species specific avoidance, minimization, and mitigation measures to ensure there is no net reduction in the size or viability of the local population. CDFW also recommends that the Lead Agency reviews the listing status of Western Joshua Tree prior to finalizing the DEIR and implements appropriate measures. If the Project, including the Project construction or any Project-related activity during the life of the Project, may result in take of CESA-listed species, CDFW recommends that the Project proponent seeks appropriate authorization prior to Project implementation through an ITP. Should any CESA-listed plant species be present at the Project Site, the Project Proponent shall obtain an ITP for those species prior to the start of Project activities.

American Badger and Desert Kit Fox

American badger is a Species of Special Concern. Desert kit fox is a protected species and may not be taken at any time pursuant to Title 14 of the California Code of Regulations Section 460. Project activities may have the potential to take American badger and desert kit fox individuals, and development may result in loss of habitat and/or foraging habitat. CDFW recommends inclusion of pre-construction American Badger and Desert Kit Fox survey and suggests the following measure be included in the environmental document. No more than 30 days prior to the beginning of ground disturbance and/or Project activities, a qualified biologist shall conduct a survey to determine if potential desert kit fox or American badger burrows are present in the Project Area. If potential burrows are located, they shall be monitored by the qualified biologist. If the burrow is determined to be active, the qualified biologist shall verify there are suitable burrows outside of the Project Area prior to undertaking passive relocation actions. If no suitable burrows are located, artificial burrows shall be created at least 14 days prior to passive relocation. The qualified biologist shall block the entrance of the active burrow with soil, sticks, and debris for 3-5 days to discourage the use of the burrow prior to Project activities. The entrance shall be blocked to an incrementally greater degree over the 3-5-day period. After the qualified biologist has determined there are no active burrows the burrows shall be hand-excavated to prevent re-use. No disturbance of active dens shall take place when juvenile desert kit fox and juvenile American badgers may be present and dependent on parental care. A qualified biologist shall determine appropriate buffers and maintain connectivity to adjacent habitat should natal burrows be present.

Wildlife in Pipes and Construction Materials

Biological Monitor(s) shall visually check all sections of pipe/construction materials for the presence of wildlife sheltering within them prior to the pipe sections being placed in the trench and attached together, or shall have the ends capped while stored on Site so as to prevent wildlife from entering. After attachment of the pipe sections to one another, whether in the trench or not, the exposed end(s) of the pipeline shall be capped at the end of each day during construction to prevent wildlife from entering and being trapped within the pipeline.

Escape Ramp in Trench

At the end of each workday, the Biological Monitor(s) shall place an escape ramp at each end of the open trench to allow any animals that may have become entrapped in the trench to climb out overnight. The ramp may be constructed of either dirt fill or wood planking or other suitable material that is placed at an angle no greater than 30 degrees.

Lake and Streambed Alteration Program

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your Project that would eliminate or reduce harmful impacts to fish and wildlife resources. CDFW's issuance of an LSA Agreement is a "Project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if necessary, the DEIR should fully identify the potential impacts to the lakes, streams, dryland channels, riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments.

Environmental Data

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make

Mr. Anthony DeLuca
County of San Bernardino
State Clearinghouse No. 2021070070
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subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB).

Filing Fees

Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CDFW appreciates the opportunity to comment on your Project. Questions regarding this letter should be directed to Dr. Shankar Sharma, Senior Environmental Scientist Specialist and Lead of Renewable Energy at Shankar.Sharma@wildlife.ca.gov or (909) 228-3692.

Sincerely,

DocuSigned by:
Alisa Ellsworth
84FBB8273E4C480...

Alisa Ellsworth
Environmental Program Manager

ec: Dr. Shankar Sharma, CDFW, Shankar.Sharma@wildlife.ca.gov

State Clearinghouse, State.clearinghouse@opr.ca.gov

Habitat Conservation Planning Branch, CEQAcommentletters@wildlife.ca.gov



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August 17, 2021

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RE: SCAG Comments on the Notice of Preparation of a Draft Environmental Impact Report for the Lockhart Solar PV II Project [SCAG NO. IGR10434]

Dear Mr. DeLuca,

Thank you for submitting the Notice of Preparation of a Draft Environmental Impact Report for the Lockhart Solar PV II Project (“proposed project”) to the Southern California Association of Governments (SCAG) for review and comment. SCAG is responsible for providing informational resources to regionally significant plans, projects, and programs per the California Environmental Quality Act (CEQA) to facilitate the consistency of these projects with SCAG’s adopted regional plans, to be determined by the lead agencies.¹

Pursuant to Senate Bill (SB) 375, SCAG is the designated Regional Transportation Planning Agency under state law and is responsible for preparation of the Regional Transportation Plan (RTP) including the Sustainable Communities Strategy (SCS). SCAG’s feedback is intended to assist local jurisdictions and project proponents to implement projects that have the potential to contribute to attainment of Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) goals and align with RTP/SCS policies. Finally, SCAG is also the authorized regional agency for Inter-Governmental Review (IGR) of programs proposed for Federal financial assistance and direct Federal development activities, pursuant to Presidential Executive Order 12372.

SCAG staff has reviewed the Notice of Preparation of a Draft Environmental Impact Report for the Lockhart Solar PV II Project in San Bernardino County. The proposed project includes the development of a solar photovoltaic electricity generation and energy storage facility that would produce up to 150 megawatts of solar energy and includes up to 4 gigawatt hours of energy storage on a 690-acre project site.

When available, please email environmental documentation to IGR@scag.ca.gov providing, at a minimum, the full public comment period for review.

If you have any questions regarding the attached comments, please contact the Intergovernmental Review (IGR) Program, attn.: Anita Au, Senior Regional Planner, at (213) 236-1874 or IGR@scag.ca.gov. Thank you.

Sincerely,

Frank Wen, Ph.D.
Manager, Planning Strategy Department

¹ Lead agencies such as local jurisdictions have the sole discretion in determining a local project’s consistency with the 2020 RTP/SCS (Connect SoCal) for the purpose of determining consistency for CEQA.

**COMMENTS ON THE NOTICE OF PREPARATION OF A
DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE
LOCKHART SOLAR PV II PROJECT [SCAG NO. IGR10434]**

CONSISTENCY WITH CONNECT SOCIAL

SCAG provides informational resources to facilitate the consistency of the proposed project with the adopted 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS or Connect SoCal). For the purpose of determining consistency with CEQA, lead agencies such as local jurisdictions have the sole discretion in determining a local project’s consistency with Connect SoCal.

CONNECT SOCIAL GOALS

The SCAG Regional Council fully adopted [Connect SoCal](#) in September 2020. Connect SoCal, also known as the 2020 – 2045 RTP/SCS, builds upon and expands land use and transportation strategies established over several planning cycles to increase mobility options and achieve a more sustainable growth pattern. The long-range visioning plan balances future mobility and housing needs with goals for the environment, the regional economy, social equity and environmental justice, and public health. The goals included in Connect SoCal may be pertinent to the proposed project. These goals are meant to provide guidance for considering the proposed project. Among the relevant goals of Connect SoCal are the following:

SCAG CONNECT SOCIAL GOALS	
Goal #1:	<i>Encourage regional economic prosperity and global competitiveness</i>
Goal #2:	<i>Improve mobility, accessibility, reliability and travel safety for people and goods</i>
Goal #3:	<i>Enhance the preservation, security, and resilience of the regional transportation system</i>
Goal #4:	<i>Increase person and goods movement and travel choices within the transportation system</i>
Goal #5:	<i>Reduce greenhouse gas emissions and improve air quality</i>
Goal #6:	<i>Support healthy and equitable communities</i>
Goal #7:	<i>Adapt to a changing climate and support an integrated regional development pattern and transportation network</i>
Goal #8:	<i>Leverage new transportation technologies and data-driven solutions that result in more efficient travel</i>
Goal #9:	<i>Encourage development of diverse housing types in areas that are supported by multiple transportation options</i>
Goal #10:	<i>Promote conservation of natural and agricultural lands and restoration of habitats</i>

For ease of review, we encourage the use of a side-by-side comparison of SCAG goals with discussions of the consistency, non-consistency or non-applicability of the goals and supportive analysis in a table format. Suggested format is as follows:

SCAG CONNECT SOCIAL GOALS	
Goal	Analysis
Goal #1: <i>Encourage regional economic prosperity and global competitiveness</i>	<i>Consistent: Statement as to why; Not-Consistent: Statement as to why; Or Not Applicable: Statement as to why; DEIR page number reference</i>
Goal #2: <i>Improve mobility, accessibility, reliability and travel safety for people and goods</i>	<i>Consistent: Statement as to why; Not-Consistent: Statement as to why; Or Not Applicable: Statement as to why; DEIR page number reference</i>
etc.	etc.

Connect SoCal Strategies

To achieve the goals of Connect SoCal, a wide range of land use and transportation strategies are included in the accompanying twenty (20) technical reports. Of particular note are multiple strategies included in Chapter 3 of Connect SoCal intended to support implementation of the regional Sustainable Communities Strategy (SCS) framed within the context of focusing growth near destinations and mobility options; promoting diverse housing choices; leveraging technology innovations; supporting implementation of sustainability policies; and promoting a Green Region. To view Connect SoCal and the accompanying technical reports, please visit the [Connect SoCal webpage](#). Connect SoCal builds upon the progress from previous RTP/SCS cycles and continues to focus on integrated, coordinated, and balanced planning for land use and transportation that helps the SCAG region strive towards a more sustainable region, while meeting statutory requirements pertinent to RTP/SCSs. These strategies within the regional context are provided as guidance for lead agencies such as local jurisdictions when the proposed project is under consideration.

DEMOGRAPHICS AND GROWTH FORECASTS

A key, formative step in projecting future population, households, and employment through 2045 for Connect SoCal was the generation of a forecast of regional and county level growth in collaboration with expert demographers and economists on Southern California. From there, jurisdictional level forecasts were ground-truthed by subregions and local agencies, which helped SCAG identify opportunities and barriers to future development. This forecast helps the region understand, in a very general sense, where we are expected to grow, and allows SCAG to focus attention on areas that are experiencing change and may have increased transportation needs. After a year-long engagement effort with all 197 jurisdictions one-on-one, 82 percent of SCAG’s 197 jurisdictions provided feedback on the forecast of future growth for Connect SoCal. SCAG also sought feedback on potential sustainable growth strategies from a broad range of stakeholder groups – including local jurisdictions, county transportation commissions, other partner agencies, industry groups, community-based organizations, and the general public. Connect SoCal utilizes a bottom-up approach in that total projected growth for each jurisdiction reflects feedback received from jurisdiction staff, including city managers, community development/planning directors, and local staff. Growth at the neighborhood level (i.e., transportation analysis zone (TAZ) reflects entitled projects and adheres to current general and specific plan maximum densities as conveyed by jurisdictions (except in cases where entitled projects and development agreements exceed these capacities as calculated by SCAG). Neighborhood level growth projections also feature strategies that help to reduce greenhouse gas emissions (GHG) from automobiles and light trucks to achieve Southern California’s GHG reduction target, approved by the California Air Resources Board (CARB) in accordance with state planning law. Connect SoCal’s Forecasted Development Pattern is utilized for long range modeling purposes and does not supersede actions taken by elected bodies on future development, including entitlements and development agreements. SCAG does not have the authority to implement the plan -- neither through decisions about what type of development is built where, nor what transportation projects are ultimately built, as Connect

SoCal is adopted at the jurisdictional level. Achieving a sustained regional outcome depends upon informed and intentional local action. To access jurisdictional level growth estimates and forecasts for years 2016 and 2045, please refer to the [Connect SoCal Demographics and Growth Forecast Technical Report](#). The growth forecasts for the region and applicable jurisdictions are below.

	Adopted SCAG Region Wide Forecasts				Adopted County of San Bernardino Forecasts			
	Year 2020	Year 2030	Year 2035	Year 2045	Year 2020	Year 2030	Year 2035	Year 2045
Population	19,517,731	20,821,171	21,443,006	22,503,899	2,249,744	2,473,709	2,594,733	2,814,941
Households	6,333,458	6,902,821	7,170,110	7,633,451	667,637	750,565	792,938	874,796
Employment	8,695,427	9,303,627	9,566,384	10,048,822	833,640	925,934	971,543	1,063,848

MITIGATION MEASURES

SCAG staff recommends that you review the [Final Program Environmental Impact Report](#) (Final PEIR) for Connect SoCal for guidance, as appropriate. SCAG’s Regional Council certified the PEIR and adopted the associated Findings of Fact and a Statement of Overriding Considerations (FOF/SOC) and Mitigation Monitoring and Reporting Program (MMRP) on May 7, 2020 and also adopted a PEIR Addendum and amended the MMRP on September 3, 2020 (please see the [PEIR webpage](#) and scroll to the bottom of the page for the PEIR Addendum). The PEIR includes a list of project-level performance standards-based mitigation measures that may be considered for adoption and implementation by lead, responsible, or trustee agencies in the region, as applicable and feasible. Project-level mitigation measures are within responsibility, authority, and/or jurisdiction of project-implementing agency or other public agency serving as lead agency under CEQA in subsequent project- and site- specific design, CEQA review, and decision-making processes, to meet the performance standards for each of the CEQA resource categories.