

Staff Report 85

APPLICANT:

Windhub Solar B, LLC

PROPOSED ACTION:

Issuance of a General Lease – Industrial Use and authorize an Agreement and Consent to Encumbrance of Lease

AREA, LAND TYPE, AND LOCATION:

160 acres, more or less, of State indemnity school land in Section 28, Township 11 North, Range 13 West, SBM, west of Mojave, Kern County.

AUTHORIZED USE:

Construction, use, maintenance, and decommissioning of a 112-acre solar energy facility; and the preservation of a Joshua Tree grove, including the construction, use, maintenance of a fence on 48-acres.

TERM:

40 years, beginning February 28, 2023.

CONSIDERATION:

Base Rent in the amount of \$69,300 per year, with an annual Consumer Price Index adjustment, or a Royalty Fee of 4 percent of the Gross Value of Electrical Power, whichever is greater, as described in Section 2, Paragraph 6 of the Lease and subject to modification by Lessor as specified in Section 2, Paragraph 6 and Section 3 - General Provisions, Paragraph 3(c).

SPECIFIC LEASE PROVISIONS:

- Section 3, Paragraph 11 "Assignment, Encumbrancing or Subletting" is hereby deleted in its entirety and replaced with the following:

- a) The lease interest conferred by this Lease belongs entirely to Lessee. Lessee may not assign its interest without Lessor's approval, which approval shall not be unreasonably withheld, conditioned, or delayed and which approval shall be deemed given if Lessor does not provide its approval or deny its approval for any such assignment within one hundred twenty (120) days in the State of California after Lessor's receipt of written request from Lessee for such approval.
- b) Notwithstanding subparagraph (a), Lessor's Executive Officer shall, within 30 days of receiving a request for assignment, , including a Change of Control of Lessee, approve or deny any requested assignment of this Lease to (i) any wholly owned subsidiary or parent company of Lessee, (ii) Balanced Rock Power, LLC ("Balanced Rock") or any wholly owned subsidiary or parent company of Balanced Rock, (iii) any institutional or commercial lenders or other investors ("Permitted Financing Parties") providing financing or refinancing for the construction or operation of the Project, including for any or all of the Improvements, so long as such party has a net worth of at least Fifty Million Dollars (\$50,000,000) or has a Credit Rating of BBB + or higher by S&P and Baa1 or higher by Moody's (or other equivalent ratings from other equivalent rating agencies if either S&P or Moody's no longer provide rating services); provided further that such Permitted Financing Parties shall first execute an encumbrance agreement in the form of Exhibit F attached hereto, or (iv) any assignee that has (1) a net worth of at least Twenty-four Million Dollars (\$24,000,000) or firm capital commitments in an amount equal to at least Twenty-four Million Dollars (\$24,000,000), or has an Affiliate of an assignee that meets this requirement, (2), at least five (5) years of experience (or have management or an operator on its behalf that has at least five (5) years of experience) in the development and operation of solar power projects, or has an Affiliate of an assignee that meets this requirement, (3), no prior bankruptcy proceedings, and no prior adversely determined legal or regulatory actions with respect to the ownership or operation of an electric power project against assignee in the past 5 years; provided, further, that Lessor's Executive Officer or designee, may approve a subsidiary corporation wholly owned by Lessee to serve as operator of the solar facility. Lessor's Executive Officer's approval shall not be unreasonably withheld, conditioned, or delayed. When Lessee seeks to assign its interest to an assignee with an Affiliate who meets any of the requirements above, Lessor's Executive Officer may require a guarantee from the Affiliate or a common parent entity in the form of Exhibit G attached hereto. "Change of Control" as used in this paragraph means any transaction or series of transactions following which Balanced Rock Power LLC or Lessee's ultimate parent entity

after a Change of Control in accordance with this Lease (i) ceases to own, directly or indirectly through one or more intermediaries, at least fifty percent (50%) of the outstanding equity or voting interests in Lessee and (ii) ceases to otherwise control, directly or indirectly through one or more intermediaries, Lessee. "Affiliate" as used in this paragraph means, with respect to any entity, any other entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first entity. For purposes of the definitions of "Change of Control" and "Affiliate," "control" (and correlative terms) means, with respect to an entity, the power, direct or indirect, to direct or cause the direction of the management and policies of such entity whether through ownership of voting securities or ownership interests, by contract or otherwise.

c) Upon an assignment, Lessee shall be released from all liability under this Lease to the extent the assignee assumes the same in writing. In the event of any assignment under this Paragraph 20 or by any other means authorized by this Lease, the Lease terms shall be for the remaining years of the Lease as of the assignment. An assignment shall not extend the term of this Lease.

- Lessee shall construct a fence around the 48-acre Joshua Tree preservation parcel, conduct annual trash pick-up as necessary, and provide annual monitoring reports of the overall health of the Joshua Tree grove.
- Commercial liability insurance in an amount no less than \$2,000,000 per occurrence and \$5,000,000 aggregate and umbrella liability insurance with minimum limits of \$5,000,000 per occurrence and \$5,000,000 aggregate; Lessee may satisfy all or part of the insurance requirement through maintenance of a staff-approved self-insurance program as specified in the lease.
- Bond or other surety in the amount of \$1,500,000.

BACKGROUND:

Most of the State's school lands are located in the California desert and are what remain of the nearly 5.5 million acres granted to California by Congress in 1853 to benefit public education. In 1984, the California Legislature enacted the School Land Bank Act. Revenue generated from school lands is deposited in the State Treasury for the benefit of the State Teachers' Retirement System.

The Windhub Solar B Project (Project) would develop a photovoltaic (PV) solar facility and associated infrastructure necessary to generate approximately 20 megawatts (MW) of renewable electrical energy and up to 160 megawatt-hours

(MWh) of a Battery Energy Storage System in the southeastern portion of Kern County, on State indemnity school lands, west of Mojave. This area is recognized by the National Renewable Energy Laboratory as having solar and wind resources that are suitable for renewable energy development. In December 2019, the Applicant completed construction of the Windhub Solar A Project, located on approximately 148 acres of privately-owned land near the Windhub Solar B Project. Combined, the projects would produce approximately 40 MW of renewable energy for California's electricity grid.

Kern County (County), as the lead agency under the California Environmental Quality Act (CEQA), prepared and certified an Environmental Impact Report (EIR) (SCH No. 2015111057) for the proposed Project on December 13, 2018. The County conducted tribal outreach and consultation in accordance with regulatory and statutory requirements (see detailed discussion under Tribal Consultation below).

Installed facilities would include up to 70,000 PV modules mounted on fixed tilt or horizontal tracking structures installed in array blocks within the solar field. Interior access ways and perimeter roads would allow for project construction and maintenance of the PV modules. A combination of underground and above-ground electrical and communications cables would tie into the existing gentie line (collector transmission line), to interconnect at the Southern California Edison Windhub substation, located just north of the project site.

Other project related infrastructure may include:

- A battery energy storage system with the capacity to store 160MWh of energy.
- One meteorological station, approximately 13 feet in height and a microwave or other telecommunication tower up to 100 feet in height.
- Diesel, propane, or battery powered backup generators for emergency backup power.
- A 15,000-gallon water storage tank to provide water supply needed for fire protection and operations.
- Portable toilets.
- Up to three metal cargo containers (approximately 40 feet wide by 8 feet high) that would house administrative, operation, and maintenance equipment, installed on concrete pads.

The Project has an anticipated operational life of up to 40 years, after which the Lessee may choose to update site technology and recommission or decommission the site and remove the systems and their components. Any plan to update site technology and recommission the site would require Commission authorization and possibly additional environmental review. All decommissioning and restoration activities on the lease premises would adhere to the requirements of the

appropriate governing authorities and in accordance with all applicable federal, state, and county laws and regulations, including CEQA. A collection and recycling program would be executed to promote recycling of Project components and minimize disposal in landfills. The area would be thoroughly cleaned, and all debris would be removed. At the time of decommissioning, the Applicant is aware that a lease amendment may be necessary if there is any change to the decommissioning plan analyzed in the EIR and incorporated into the lease.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6217.5, 6501.1, 6503, and 8701;
California Code of Regulations, title 2 sections 2000 and 2003.

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

An EIR, State Clearinghouse No. 2015111057, was prepared for this project by the Kern County Planning and Natural Resources Department and certified on December 13, 2018. As part of its project approval, the Kern County Planning and Natural Resources Department made a Statement of Facts and Findings and Statement of Overriding Considerations and adopted a Mitigation Monitoring and Reporting Program. The EIR identified environmental impacts to many issue areas, including, but not limited to, Aesthetics, Air Quality, Biological Resources, Cultural Resources, Hydrology/Water Quality, Noise, Wildfire, etc. Most of these impacts would be mitigated to less than significant levels through implementation of the Mitigation Monitoring and Reporting Program (Exhibit C, Attachment C-1). However, several cumulative impacts under Aesthetics, Air Quality, and Biological Resources were found to be significant and unavoidable even after mitigation. The Findings identified that the Project could cause a potentially significant impact to cumulative Aesthetics due to permanent loss of unobstructed views of regional topographical features and undeveloped lands, despite mitigation measures. The Findings also identified that the Project could cause a potentially significant impact to cumulative Air Quality due to cumulative temporary construction emissions exceeding Eastern Kern Air Pollution Control District's significance thresholds for nitrogen oxides (NOx) and particulate matter 10 micrometers or less in diameter (PM10), despite mitigation measures. And finally, the Findings identified that the Project could cause a potentially significant impact to cumulative Biological Resources due to incremental contribution to a significant cumulative loss of habitat for burrowing owl and other foraging raptors, and incremental contribution to maintaining artificially high common raven populations, which threatens other

desert wildlife, despite mitigation measures. The full analysis is provided in Exhibit D, Statement of Overriding Considerations.

STATE'S BEST INTERESTS:

The School Land Bank Act states that school lands are to be proactively managed and enhanced to provide an economic base in support of public schools and requires the Commission to take all action necessary to fully develop school lands, indemnity interests, and attendant mineral interests into a permanent and productive resource base (Pub. Resources Code, § 8701). As a complement to the provisions of the School Land Bank Act, in 2008, the Commission adopted a Resolution supporting the environmentally responsible development of school lands for renewable energy projects ([Item 59, October 16, 2008](#)).

By providing a new source of renewable energy, the Project would assist the state of California in achieving the Renewable Portfolio Standard (RPS) Program consistent with the timeline established by Senate Bill 100 (De León, also known as the "California Renewables Portfolio Standard Program: emissions of greenhouse gases") as approved by the California legislature and signed by Governor Brown in September 2018, which increases RPS in 2030 from 50 percent to 60 percent and establishes a goal of 100 percent RPS by 2045.

The project is anticipated to have regionwide or statewide environmental benefits, that offset its unavoidable environmental risks. Benefits from the proposed Project would include:

- Helping to meet the increasing demand for clean, safe, renewable electrical power.
- Contributing to the State's greenhouse gas emission reduction targets.
- Producing and transmitting electricity safely and at a competitive cost.
- Supporting the economic development of Kern County and the State of California.

The full list of benefits is provided in Exhibit D, Section B (Balancing of Benefits and Risks Associated with Lease Approval).

A 48-acre portion of the 160-acre school lands parcel was identified in the Commission's Significant Lands Inventory as possessing a unique display of Joshua Trees and desert tortoise habitat. As part of the proposed lease, the 48 -acres will be excluded from development. A fence barrier will be constructed that prevents vehicles and off-road vehicles from accessing the 48-acres, while allowing pedestrian and wildlife (including desert tortoise) access. Annual trash clean-up will be conducted, as necessary. Lastly, annual monitoring of the overall health of the Joshua tree grove will be conducted with annual reporting to Commission staff. The

Joshua Tree Preservation Plan is attached as Exhibit E. These preservation requirements will ensure that the parcel retains its significant environmental values as desert tortoise habitat supporting a unique display of Joshua Trees.

The Applicant is also seeking the Commission's consent to encumber the lease interest. Although no lender has been identified yet, the Applicant anticipates that it will need to encumber the lease for the long-term success of the project. Consequently, staff and the Applicant have negotiated a draft encumbrance agreement, attached as Exhibit F. Once the Applicant finds a qualified lender, the draft encumbrance agreement can serve as a streamlined option to encumber the lease and better ensure the success of the Project. If the Commission authorizes execution of the draft encumbrance agreement, the parties could amend the draft only to reflect minor or nonsubstantive changes. Any major, substantive changes to the draft encumbrance agreement would require approval from the Commission.

The proposed lease requires the Applicant to insure and indemnify the State for any liability incurred as a result of the lessee's activities on the lease premises and to maintain the improvements at its sole expense. The proposed lease also requires the payment of annual rent, generating revenue for the California State Teachers' Retirement System, consistent with Public Resources Code section 6217.5.

CLIMATE CHANGE:

As stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms. The lease area is open lands with moderate to low vegetation fuels, and is vulnerable to the above events, including dust storms and flash flooding from thunderstorms, and to a lesser extent, wildland fires. The leased lands and surrounding land may be vulnerable to these weather events; however, these projected climate change effects are not expected to affect the uses of the leased lands for a solar energy facility.

TRIBAL CONSULTATION

As part of the information-gathering process for the Cultural Resources Assessment in the EIR, the Applicant's environmental consultant requested a Sacred Lands File (SLF) search conducted by the California Native American Heritage Commission (NAHC) on December 28, 2015. The SLF search did not indicate the presence of any Native American cultural resources or sacred sites within the vicinity of the project site.

As part of the County's government-to-government responsibilities pursuant to AB 52, on November 20, 2015, the County sent consultation notification letters to 16 individuals representing 13 California Native American tribes and organizations, inviting them to consult on the project. Contacted tribes included Chumash Council of Bakersfield; Kawaiisu Tribe of the Tejon Reservation; Kern Valley Indian Council; Kitanemuk and Yowlumne Tejon Indians; San Fernando Band of Mission Indians; Santa Rosa Rancheria Tachi Yokut Tribe; San Manuel Band of Mission Indians; Tehachapi Indian Tribe; Tejon Indian Tribe; Tubatulabal, Kawaiisu, Koso, and Yokuts; Tubatulabals of Kern Valley; Tule River Indian Tribe; and Wuksache Indian Tribe/Eshom Valley Band. On November 24, 2015, the San Manuel Band of Mission Indians replied via email, stating the project area may be sensitive for cultural resources and requesting additional information on project-specific cultural resource studies prior to determining whether they will be engaging in consultation. In response, on April 19, 2016, the Lead Agency provided the following materials to the San Manuel Band of Mission Indians in response to the aforementioned email:

- Cultural Resources Testing Report
- Cultural Resources Assessment
- Supplement to the Cultural Resources Assessment

County staff and the San Manuel Band of Mission Indians subsequently organized several meetings for consultation resulting in the clarification of mitigation measures to address resource treatment for both Windhub Solar A and Windhub Solar B sites, including measures to avoid impacts to both archaeological and tribal cultural resources. On February 14, 2018, in a telephone conversation with County staff, as well as via email, the San Manuel Band of Mission Indians confirmed that the proposed mitigation measures, received on January 30, 2018, were found to be acceptable.

MM 4.5-2 requires the services of Native American Tribal Monitors during the implementation of the Project, working under the supervision of the Lead Archaeologist as identified through consultation with appropriate Native American tribes. The Native American Tribal Monitors shall be retained by the Applicant to monitor, on a full-time basis during ground-disturbing activities associated with Project-related construction.

ENVIRONMENTAL JUSTICE:

Staff reviewed environmental justice data for the area that indicated significant existing pollution burdens related to ozone, pesticides, drinking water, and hazardous and solid waste, including a very high cardiovascular disease rate and asthma. As part of an environmental justice outreach effort, staff contacted several environmental justice organizations in Kern County providing notification of the

proposed lease on January 3, 2023. The letter sent to several environmental justice organizations included a brief description of the proposed lease and named a staff person as a point of contact. No comments on the proposed lease were received as a result of the outreach. Based on a review of the environmental analysis and other documentation, staff believes that the proposed lease, including the Mitigation Monitoring Program, for a new solar energy generating facility at this location will not exacerbate these existing conditions.

CONCLUSION:

For the reasons stated above, staff believes issuance of this lease is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of school land, it exercises legislatively delegated authority and responsibility as trustee of the State's school lands as authorized by law. If the Commission denies the application, the Applicant has no right to a lease.
2. This action is consistent with the "Leading Climate Activism" and "Prioritizing Social, Economic, and Environmental Justice" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Encumbrance of the lease interest is not a project as defined by the CEQA because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. An EIR, State Clearinghouse No. 2015111057, was prepared for this project by Kern County Planning and Natural Resources Department and certified on December 13, 2018. As part of its project approval, the Kern County Planning and Natural Resources Department made a Statement of Facts and Findings and Statement of Overriding Considerations and adopted a Mitigation Monitoring and Reporting Program.

Staff has reviewed these documents and prepared an independent Mitigation Monitoring and Reporting Program (MMRP) (attached, Exhibit C) that

incorporates the Kern County Planning and Natural Resources Department document. Staff recommends adoption of Exhibit C by the Commission.

Staff also prepared Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096) contained in the attached Exhibit D.

5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq. See discussion above regarding the Joshua Tree Preservation Plan and Exhibit E. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVAL OBTAINED:

Kern County

APPROVAL REQUIRED:

California Department of Fish and Wildlife

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program
- D. Findings and Statement of Overriding Considerations
- E. Joshua Tree Preservation Plan
- F. Agreement and Consent to Encumbrance of Lease
- G. Form of Parent Guaranty

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an EIR, State Clearinghouse No. 2015111057 was prepared for this project by Kern County Planning and Natural Resources Department and certified on

December 13, 2018, and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in the attached Exhibit C.

Adopt the Findings, made in conformance with California Code of Regulations, title 14, sections 15091 and 15096, subdivision (h), as contained in the attached Exhibit D.

Adopt the Statement of Overriding Considerations made in conformance with California Code of Regulations, title 14, section 15093, as contained in the attached Exhibit D.

STATE'S BEST INTERESTS:

Find that the proposed lease and Agreement and Consent to Encumbrance of Lease are in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the commission for the land pursuant to public resources code section 6370 et seq.

AUTHORIZATION:

1. Authorize issuance of a General Lease – Industrial Use to the Applicant beginning February 28, 2023, for a term of 40 years, for construction, use, maintenance, and decommissioning of a 112-acre solar energy facility consisting of producing up to approximately 20 megawatts and the preservation of a Joshua Tree grove, including the construction, use, maintenance of a fence on 48-acres of on State-owned school land; as described in Exhibit A and shown on Exhibit B, attached and by this reference made a part hereof; Consideration: Base Rent in the amount of \$69,300 per year with an annual Consumer Price Index adjustment; or 4 percent of gross income, whichever is greater with the State reserving the right to modify the rent periodically at each 10-year anniversary, as provided in the lease; liability insurance in an amount no less than \$2,000,000 per occurrence and \$5,000,000 aggregate and umbrella liability insurance with minimum limits of \$5,000,000 per occurrence and \$5,000,000 aggregate; Lessee may satisfy all or part of the insurance requirement through maintenance of a staff approved self-insurance program; and surety bond or other security in an amount of \$1,500,000.
2. Authorize the Executive Officer or designee to approve assignment of the lease as described in Section 2, Special Provisions of the lease, paragraph 20.

3. Authorize the Executive Officer or designee to execute the document entitled "Agreement and Consent to Encumbrance of Lease," as proposed in Exhibit F.
4. Authorize the Executive Officer or designee to execute, acknowledge, accept, and record all related documents as may be reasonably necessary to complete the transaction.

EXHIBIT A

W 26772

LAND DESCRIPTION

Two parcels of indemnity school lands situate in Section 28, Township 11 North, Range 13 West, S.B.M., as shown on Official Government Plat approved September 19, 1856, Kern County, State of California, and more particularly described as follows:

PARCEL 1 – Preservation Area

The easterly 2030 feet of the southerly 1030 feet of the Southwest Quarter of said Section 28.

Containing 48 Acres, more or less.

PARCEL 2 – Project Area

All of the Southwest Quarter of said Section 28;

EXCEPTING THEREFROM the easterly 2030 feet of the southerly 1030 feet.

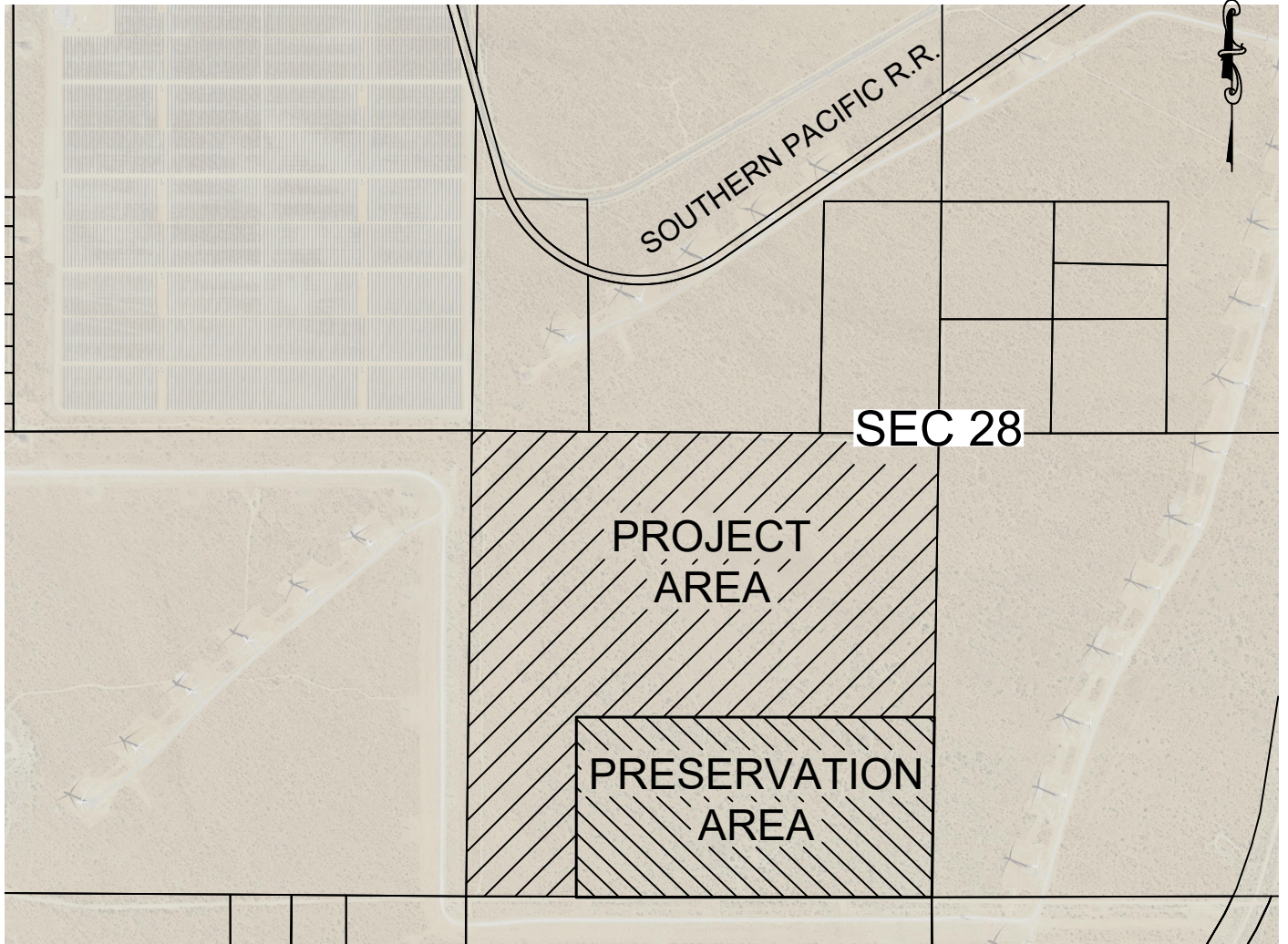
END OF DESCRIPTION

Prepared December 27, 2022 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE

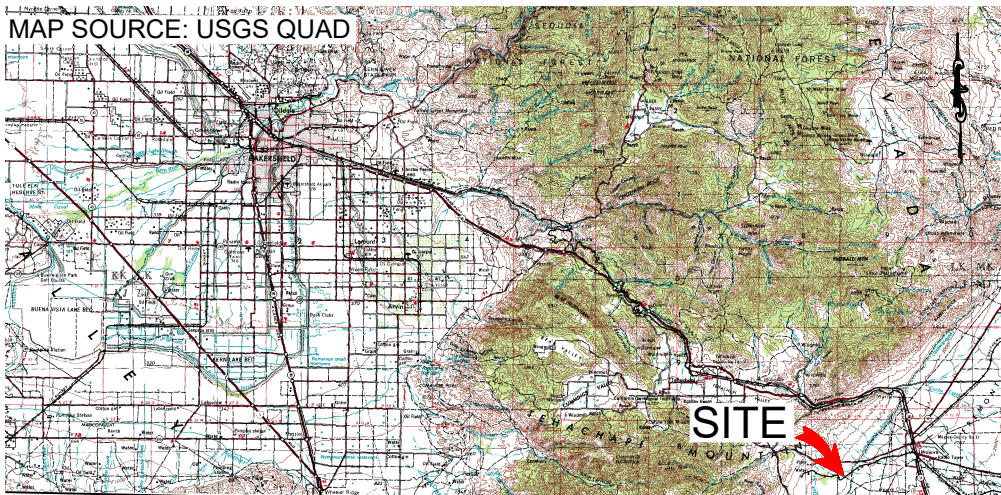


WINDHUB SOLAR B, NEAR MOJAVE

NO SCALE

LOCATION

MAP SOURCE: USGS QUAD



THIS EXHIBIT IS SOLELY FOR PURPOSES OF GENERALLY DEFINING THE LEASE PREMISES, IS BASED ON UNVERIFIED INFORMATION PROVIDED BY THE LESSEE OR OTHER PARTIES AND IS NOT INTENDED TO BE, NOR SHALL IT BE CONSTRUED AS, A WAIVER OR LIMITATION OF ANY STATE INTEREST IN THE SUBJECT OR ANY OTHER PROPERTY.

EXHIBIT B

W26772
WINDHUB SOLAR B
APN 237-055-13
GENERAL LEASE -
INDUSTRIAL USE
KERN COUNTY



DdV 12/27/22

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
WINDHUB SOLAR PROJECT
(W26772, State Clearinghouse No. 2015111057)

The California State Lands Commission (Commission or CSLC) is a responsible agency under the California Environmental Quality Act (CEQA) for the Windhub Solar B portion of the Windhub Solar Project (Project). The CEQA lead agency for the Project is Kern County Planning and Natural Resources Department.

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on State lands. The purpose of a MMP is to impose feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines¹ section 15097, subdivision (a), states in part:

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The lead agency certified an EIR, State Clearinghouse No. 2015111057, adopted a Mitigation Monitoring and Reporting Program (MMRP) for the whole of the Project (see Exhibit C, Attachment C-1), and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table C-1 below. The full text of each mitigation measure, as set forth in the MMRP prepared by the CEQA lead agency and provided in Attachment C-1, is incorporated by reference in this Exhibit C.

¹ The State CEQA Guidelines are found at California Code of Regulations, title 14, section 15000 et seq.

Table C-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM)²
<u>Aesthetics</u>	
Impact 4.1-2	MM 4.1-1 and MM 4.1-2
Impact 4.1-3	MM 4.1-3, MM 4.1-4, and MM 4.1-5
<u>Air Quality</u>	
Impact 4.3-1	MM 4.3-1, MM 4.3-2, MM 4.3-3, and MM 4.3-4
Impact 4.3-2	MM 4.3-1, MM 4.3-2, MM 4.3-3, and MM 4.3-4
Impact 4.3-4	MM 4.3-1, MM 4.3-3, MM 4.3-4, and MM 4.3-5
<u>Biological Resources</u>	
Impact 4.4-1	MM 4.1-1, MM 4.1-3, MM 4.4-1, MM 4.4-2, MM 4.4-3, MM 4.4-4, MM 4.4-5, MM 4.4-6, MM 4.4-7, MM 4.4-8, MM 4.4-9, and MM 4.12-1
Impact 4.4-2	MM 4.4-10
<u>Cultural Resources</u>	
Impact 4.5-1	MM 4.5-1, MM 4.5-2, and MM 4.5-3
Impact 4.5-2	MM 4.5-1, MM 4.5-2, and MM 4.5-3
Impact 4.5-3	MM 4.5-4, MM 4.5-5, and MM 4.5-6
Impact 4.5-4	MM 4.5-7
Impact 4.5-5	MM 4.5-7
<u>Geology and Soils</u>	
Impact 4.6-2	MM 4.6-1 and MM 4.6-2
Impact 4.6-3	MM 4.6-1 and MM 4.6-2
Impact 4.6-5	MM 4.6-1, MM 4.6-3, MM 4.6-4, MM 4.9-1 and MM 4.9-2
Impact 4.6-6	MM 4.6-1 and MM 4.6-2
<u>Hazards and Hazardous Materials</u>	
Impact 4.8-1	MM 4.8-1 and MM 4.8-2
Impact 4.8-2	MM 4.8-1, MM 4.8-2, MM 4.8-3, MM 4.8-4, and MM 4.8-5
Impact 4.8-4	MM 4.8-6

² See Attachment C-1 for the full text of each MM taken from the MMRP prepared by the CEQA lead agency.

Potential Impact	Mitigation Measure (MM) ²
<u>Hydrology and Water Quality</u>	
Impact 4.9-1	MM 4.6-1, MM 4.6-2, MM 4.6-3, MM 4.6-4, MM 4.8-1, and MM 4.9-1
Impact 4.9-3	MM 4.6-1, MM 4.6-2, MM 4.6-3, MM 4.6-4, MM 4.9-1, and MM 4.9-2
Impact 4.9-4	MM 4.9-2
Impact 4.9-5	MM 4.6-1, MM 4.6-2, MM 4.6-3, MM 4.6-4, MM 4.9-1, and MM 4.9-2
Impact 4.9-6	MM 4.6-1, MM 4.6-2, MM 4.6-3, MM 4.6-4, MM 4.8-1, MM 4.9-1, and MM 4.9-2
<u>Land Use and Planning</u>	
Impact Cumulative Land Use	MM 4.10-1
<u>Noise</u>	
Impact 4.12-1	MM 4.12-1, MM 4.12-2, and MM 4.12-3
<u>Public Services</u>	
Impact 4.13-1	MM 4.13-1 and MM 4.13-2
<u>Traffic and Transportation</u>	
Impact 4.14-1	MM 4.14-1 and MM 4.14-2
Impact 4.14-2	MM 4.14-1 and MM 4.14-2
Impact 4.14-3	MM 4.14-1
Impact 4.14-4	MM 4.14-1 and MM 4.14-2
<u>Utilities and Service Systems</u>	
Impact 4.15-6	MM 4.15-1
Impact 4.15-7	MM 4.15-1

ATTACHMENT C-1

MITIGATION MONITORING AND REPORTING PROGRAM ADOPTED BY THE KERN COUNTY PLANNING AND NATURAL RESOURCES DEPARTMENT

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
4.1	Aesthetics		
1.	<p>MM 4.1-1: Prior to any clearing or ground disturbing activities, the project proponent/operator shall submit a Maintenance and Trash Abatement/Pest Management Program to the appropriate agency for review and approval. The program shall include, but not limited to the following:</p> <ol style="list-style-type: none"> 1. The project proponent/operator shall clear debris from the project area at least twice per year once the project is operational. 2. Trash and food items shall be contained in closed containers to be locked at the end of the day and removed at least once per week to reduce the attractiveness to opportunistic predators such as common ravens, coyotes, and feral dogs. 3. The project proponent/operator shall erect signs with contact information for the project proponent/operator's maintenance 	Prior to issuance of building permits and during construction, operation and decommissioning	Kern County Planning and Natural Resources Department; Kern County Waste Management Department; Recycling Coordinator; Kern County Building Inspection Department; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>staff at regular intervals along the site boundary, as required by the Kern County Planning and Natural Resources Department. Maintenance staff shall respond within two weeks to resident requests for additional cleanup of debris.</p> <p>4. Construction trash removal once a month during construction including a recycling program. Receptacles shall include provisions for a locking system to prevent pest/rodent access to food waste receptacles that shall be implemented.</p> <p>5. The project proponent/operator shall implement a regular trash removal and recycling program on an ongoing basis during operation of the project. Barriers to prevent pest/rodent access to food waste receptacles shall be implemented. Locations of all trash receptacles during operation of the project shall be shown on final plans.</p> <p>6. The following stipulation shall be included: "All vegetation, debris or any other natural material collected as part of</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>mowing, clearing or preparing the site for construction shall be removed the same day of such activities. Stockpiling is permitted for a period which shall not exceed ten (10) hours."</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. Recycle construction waste to the extent feasible.</p> <p>C. Provide Kern County Planning and Natural Resources Department and Kern County Waste Management Department with copies of hauling receipts.</p> <p>D. Kern County Public Works Department will verify in the field during the construction period.</p> <p>E. The Commission shall receive a copy of all draft materials, and those materials</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>shall be subject to approval by the Commission.</p> <p>F. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
2.	<p>MM 4.1-2: Prior to the commencement of operations, the project proponent/operator shall submit a Landscape Revegetation and Restoration Plan for the project site to the appropriate agency for review and approval. The plan shall include, but not limited to the following:</p> <ol style="list-style-type: none"> Where feasible, root balls shall be maintained during vegetation clearing to maintain soil stability and ultimately vegetation re-growth following construction. In areas temporarily disturbed during construction (including grading or removal of root balls resulting in loose soil), the ground surface shall be revegetated with a native seed mix or native plants and/or allowed to re-vegetate with the existing native seed bank in the top soil where possible to 	Prior to site plan approvals and issuance of building permits, and during construction and operation	Kern County Building Inspection Department

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>establish revegetation. Areas that contain permanent features such as perimeter roads, maintenance roads or under arrays do not require revegetation.</p> <p>3. The seed mix or native plants shall be determined through consultation with professionals such as landscape architect(s), horticulturist(s), botanist(s), etc. with local knowledge as shown on submitted resume and shall be approved by the Kern County Planning and Natural Resources Department prior to planting. Phased seeding may be used if a phased construction approach is used (i.e., the entire site need not be seeded all at the same time).</p> <p>4. The plan must include the approved California native seed mix or native plants, a timeline for seeding the site, details of which areas are to be revegetated, a list of the consultation efforts completed, and a prohibition of the use of toxic rodenticides.</p> <p>5. The revegetation and restoration of the site shall be monitored annually for a</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>three-year period and an annual evaluation report shall be submitted to the Kern County Planning and Natural Resources Department during the three-year period. Should efforts to re-vegetate with the existing native seed bank in the top soil prove in the second year to not be successful by 75 percent cover rate, re-evaluation of revegetation methods shall be made in consultation with the Kern County Planning and Natural Resources Department and an additional year shall be added to the monitoring program to ensure coverage is achieved. The three-year monitoring program is intended to ensure the site naturally achieve native plant diversity, establishes perennials, and is consistent with conditions prior to implementation of the proposed project, where feasible.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. Project proponent shall submit a landscape re-vegetation and restoration</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>plan to the Kern County Planning and Natural Resources Department for approval prior to issuance of building permits.</p> <p>C. The project proponent shall submit evidence of implementation of compliance to the Kern County Planning and Natural Resources Department with practices as outlined in mitigation.</p> <p>D. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>E. The Commission shall receive a copy of all final (i.e., Approved) materials.</p>		
3.	<p>MM 4.1-3: The proposed project shall continuously comply with the following: project facility lighting shall comply with the applicable provisions of the Dark Skies Ordinance (Chapter 19.81 of the Kern County Zoning Ordinance) and shall be designed to provide the minimum illumination needed to achieve safety and</p>	<p>Prior to site plan approvals and issuance of building permits, and during construction and operation</p>	<p>Kern County Building Inspection Department</p>

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>security objectives. All lighting shall be directed downward and shielded to focus illumination on the desired areas only and avoid light trespass into adjacent areas. Lenses and bulbs shall not extend below the shields.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall ensure all outdoor lighting meet the minimum requirements for safety and security standards as well as provide the minimum illumination needed to achieve safety and security objectives as outlined in the mitigation.</p> <p>C. The Kern County Building Inspection Department shall verify compliance in the field.</p>		
4.	MM 4.1-4: Prior to the issuance of building permits, the project proponent/operator shall	Prior to issuance of building permits	Kern County Planning and Natural Resources

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>demonstrate the solar modules are designed to minimize glare and spectral highlighting. Designs to minimize glare shall use technologies such as diffusion coatings and nanotechnological innovations to effectively reduce the refractive index of the solar cells and protective glass. These technological advancements are intended to make the solar modules more efficient with respect to converting incident sunlight into electrical power, but have the tertiary effect of reducing the amount of light that escapes into the atmosphere in the form of reflected light, a potential source of glare and spectral highlighting. Specifications of such designs shall be submitted to the Kern County Planning and Natural Resources Department.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall ensure that all panels and hardware utilizes advanced technologies utilized to the extent</p>		<p>Department; Kern County Building Inspection Department; California State Lands Commission</p>

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>possible to minimize glare and spectral highlighting as outlined in mitigation.</p> <p>C. The Kern County Building Inspection Department shall verify compliance in the field.</p> <p>D. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>E. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
5.	<p>MM 4.1-5: Prior to the issuance of building permits, the project proponent/operator shall demonstrate compliance with the following:</p> <ol style="list-style-type: none"> Any onsite buildings shall be constructed using nonreflective materials, as approved by the appropriate agency. Submit plans showing onsite buildings are designed with a color treatment to be complementary to the surrounding desert landscape and use nonreflective materials, 	Prior to issuance of building permits	Kern County Planning and Natural Resources Department; Kern County Building Inspection Department; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>such as matte or nonglossy paint, as approved by the appropriate agency.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall submit plans including the proposed color treatment and use nonreflective materials as outlined in mitigation to the Planning and Natural Resources Department for review and approval.</p> <p>C. The Kern County Building Inspection Department shall verify compliance in the field.</p> <p>D. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>E. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.		
4.3	Air Quality		
6.	<p>MM 4.3-1: The project proponent/operator shall ensure construction of the proposed project is conducted in compliance with applicable rules and regulations set forth by the Eastern Kern Air Pollution Control District. Dust control measures outlined below shall be implemented where they are applicable and feasible. The list shall not be considered all-inclusive and any other measures to reduce fugitive dust emissions may be required by appropriate agencies to respond to urgent issues on site:</p> <p>1. Land Preparation, Excavation and/or Demolition. The following dust control measures shall be implemented:</p>	Prior to issuance of grading permits and during operations	Kern County Planning and Natural Resources Department; Kern County Building Inspection Department; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>a. All soil being actively excavated or graded shall be sufficiently watered to prevent excessive dust. Watering shall occur as needed with complete coverage of disturbed soil areas. Watering shall take place a minimum of three times daily where soil is being actively disturbed unless dust is otherwise controlled by rainfall or use of a dust suppressant.</p> <p>b. After active construction activities, soil shall be stabilized with a non-toxic soil stabilizer or soil weighting agent, or alternative soil stabilizing methods.</p> <p>c. All unpaved construction and operation/maintenance site roads, as they are being constructed, shall be stabilized with a non-toxic soil stabilizer, water, or soil weighting agent.</p> <p>d. All clearing, grading, earth moving, and excavation activities shall cease during periods of winds greater than 20 miles per hour (averaged over one hour), or when dust plumes of 20% or greater opacity impact</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>public roads, occupied structures, or neighboring property or as identified in a plan approved by the Eastern Kern Air Pollution Control District.</p> <p>e. All trucks entering or leaving the site will cover all loads of soils, sands, and other loose materials, or be thoroughly wetted with a minimum freeboard height of six inches.</p> <p>f. Areas disturbed by clearing, earth moving, or excavation activities shall be minimized at all times.</p> <p>g. Stockpiles of soil or other fine loose material shall be stabilized by watering or other appropriate method to prevent wind-blown fugitive dust.</p> <p>h. All soil storage piles and disturbed areas that remain inactive for longer than 10 days shall be covered or shall be treated with appropriate dust suppressant compounds.</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>i. Prior to construction, wind breaks (such as chain-link fencing including a wind barrier) shall be installed where appropriate.</p> <p>j. Where acceptable to the Kern County Fire Department, weed control shall be accomplished by mowing instead of disking, thereby, leaving the ground undisturbed and with a mulch covering</p> <p>k. The project proponent/operator shall use GPS or lasers to level posts, generally avoiding grading except when elevation changes exceed design requirements.</p> <p>l. When grading is unavoidable, grading is to be phased and done with the application of a non-toxic soil stabilizer or soil weighting agent, or alternative soil stabilizing methods.</p> <p>m. Where feasible, plant roots shall be left in place to stabilize the soil.</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>n. Reduce and/or phase the amount of the disturbed area (e.g., grading, excavation) where possible.</p> <p>2. Site Construction. After active clearing, grading, and earth moving is completed within any portion of the site, the following dust control practices shall be implemented:</p> <p>a. Dust suppressant should be used on the same day or day immediately following the cessation of activity for a particular area where further activity is not planned.</p> <p>b. Dependent on specific site conditions (season and wind conditions), revegetation shall occur in those areas where planned after installation of the solar panels.</p> <p>c. All unpaved road areas shall be treated with a dust suppressant or graveled to prevent excessive dust.</p> <p>d. The project proponent/operator shall use dust suppression measures during road</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>surface preparation activities, including grading and compaction.</p> <p>e. Final road surfaces must be stabilized to achieve a measurable threshold friction velocity (TFV) equal to or greater than 100 centimeters per second (cm/S).</p> <p>f. Wind barrier fencing or screening shall be installed, when appropriate.</p> <p>3. Vehicular Activities. During all phases of construction, the following vehicular control measures shall be implemented:</p> <p>a. On-site vehicle speed shall be limited to 10 miles per hour on unpaved areas within the project site. Vehicles may travel up to 25 miles per hour on paved roads.</p> <p>b. Visible speed limit signs shall be posted at main ingress point(s) on site.</p> <p>c. All areas with vehicle traffic such as the main entrance roadway to the project site shall be graveled or treated with dust</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>palliatives so as to prevent track-out onto public roadways.</p> <p>d. All vehicles that are used to transport solid bulk material on public roadways and that have potential to cause visible emissions shall be provided with a cover, or the materials shall be sufficiently wetted and loaded onto the trucks in a manner to provide at least six inches of freeboard.</p> <p>e. Streets used by the project during construction shall be kept clean, and project-related accumulated silt shall be removed on at a minimum of once daily, or as necessary to prevent substantial offsite fugitive dust releases. The use of either dry rotary brushes (unless prior wetting) or blower devices is prohibited.</p> <p>f. If site soils cling to the wheels of the vehicles, then a track out control device or other such device shall be used on the road exiting the project site, immediately prior to</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>the pavement, to remove most of the soil material from vehicle tires.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall submit Site Specific Dust Control Plan to the Kern County Public Works Department.</p> <p>C. The Kern County Building Inspection Department shall verify compliance of vehicular control measures in the field during the construction and decommissioning phases of the project.</p> <p>D. The notice shall be mailed to all parcels within 1,000 feet of the project site and one sign shall be posted at the construction site, no sooner than 15 days prior to construction.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>E. Documentation shall be sent to the Kern County Planning and Natural Resources Department.</p> <p>F. The Kern County Building Inspection Department shall verify in the field during the construction phase of the project.</p> <p>G. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>H. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
7.	<p>MM 4.3-2: The project proponent/operator and/or its contractor(s) shall implement the following measures during construction of the proposed project:</p> <p>1. With the exception of the cranes and the bore/drill rigs, off-road equipment engines over 50 horsepower shall be Tier 3 or higher unless Tier 3 construction equipment is not locally available.</p>	During grading and construction	Kern County Building Inspection Department

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>2. All equipment shall be maintained in accordance with the manufacturers' specifications.</p> <p>3. Construction-related equipment, including heavy-duty equipment, motor vehicles, and portable equipment, shall be turned off when not in use for more than 5 minutes.</p> <p>4. Provide notification to trucks and vehicles in loading or unloading queues that their engines shall be turned off when not in use for more than 5 minutes.</p> <p>5. Electric equipment shall be used to the extent feasible in lieu of diesel or gasoline-powered equipment.</p> <p>6. All construction vehicles shall be equipped with proper emissions control equipment and kept in good and proper running order to substantially reduce NOx emissions.</p> <p>7. On-road and off-road diesel equipment shall use diesel particulate filters</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>(or the equivalent) if permitted under manufacturer's guidelines.</p> <p>8. Utilize existing electric power sources to the extent feasible. This measure would minimize the use of higher polluting gas or diesel generators.</p> <p>9. Limit the hours of operation of heavy-duty equipment and/or the quantity of equipment in use to the extent feasible.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall submit evidence of implementation of compliance with practices as outlined in mitigation.</p> <p>C. The Kern County Building Inspection Department shall verify in the field during the construction phase of the project.</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>8. MM 4.3-3: Prior to the issuance of grading or building permits, the project proponent shall provide a comprehensive Phased Grading Plan for review by the Kern County Planning and Natural Resources Department to reduce fugitive dust emissions resulting from wind erosion at the site. The Phased Grading Plan shall:</p> <ol style="list-style-type: none"> 1. Identify a comprehensive grading schedule for the entire project site which demonstrates the following: <ol style="list-style-type: none"> a. Minimal Grading: The extent of grading shall be minimized to the extent feasible to limit the removal of topsoil and creation of loose soils. Only in areas where drainage improvements, structural foundations (e.g., inverter/transformer pads), service roads, and leveling of severe grades need to occur will grading that removes and recompacts the soil surface occur. Dust palliatives and water shall be immediately applied following any grading. Construction (installation of posts, pads, roads, etc.) shall 	Prior to the issuance of grading or building permits, and during grading and construction activities	Kern County Public Works Department/ Building Inspection Division

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>commence on areas that have undergone initial grading within 20 calendar days.</p> <p>b. Dust Suppression: Application of water and/or dust palliatives shall be applied on an as-needed basis throughout project construction to help reduce dust, especially during periods of high winds.</p> <p>2. Identify, in addition to those measures required by the Eastern Kern Air Pollution Control District, all measures being undertaken during construction activities and operational activities to ensure dust being blown off site is minimized. Measures may include, but are not limited to:</p> <p>a. Increased use of water and or use of dust suppressant.</p> <p>b. Pre-seeding and/or use of wood chips as permitted by the Eastern Kern Air Pollution Control District.</p> <p>c. Construction of dust screening around the project site.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall submit a comprehensive Phased Grading Plan for review by the Kern County Planning and Natural Resources Department.</p> <p>C. The project proponent shall submit evidence of implementation of compliance with practices as outlined in mitigation.</p> <p>D. The Kern County Building Inspection Department shall verify in the field during the construction phase of the project.</p> <p>E. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	F. The Commission shall receive a copy of all final (i.e., approved) materials.		
9.	<p>MM 4.3-4: Prior to the issuance of grading or building permits, the project proponent/operator shall submit documentation to demonstrate how the following grading measures will be implemented during construction activities:</p> <ol style="list-style-type: none"> 1. A minimum of 15 days prior to commencement of construction activities, the project proponent/operator shall provide a notice of construction schedule to the public through direct mailing to all parcels within 1,000 feet of the project site. The notices shall include the construction schedule and a telephone number where complaints can be registered. Signs legible at a distance of 50 feet shall also be posted at the construction site through construction activities which includes the same details as the notices. 2. The project proponent/operator shall establish a "Construction Coordinator." The 	Prior to issuance of grading and building permits	Kern County Planning and Natural Resources Department; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>Construction Coordinator shall be responsible for the following:</p> <ul style="list-style-type: none"> a. Responding to any local complaints about construction activities. The Construction Coordinator shall determine the cause of the construction complaint and shall be required to implement reasonable measures such that the complaint is resolved. b. Ensuring all appropriate construction notices have been made available to the public and all appropriate construction signs have been installed. c. Providing to the Kern County Planning and Natural Resources Department a monthly log of all construction related complaints (i.e., blowing dust, inability to access parcels, etc.) during proposed project construction activities and the measures that were undertaken to address those concerns. 		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. Prior to construction, the notice of construction schedule shall be mailed to all parcels within 1,000 feet of the project site and one sign shall be posted at the construction site, a minimum of 15 days prior to construction.</p> <p>C. The project proponent/operator shall designate a "Construction Coordinator."</p> <p>D. Project proponent shall provide to the Kern County Planning and Natural Resources Department a log of all construction related complaints (i.e., blowing dust, inability to access parcels, etc.) during proposed project construction activities and the measures that were undertaken to address those concerns.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>E. The Kern County Building Inspection Department shall verify in the field during the operation phase of the project.</p> <p>F. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>G. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
10.	<p>MM 4.3-5: Prior to ground disturbance activities, the project proponent shall provide a “Valley Fever Training Information Packet” and conduct training sessions for all construction personnel. A copy of the handout and a schedule of education sessions shall be provided to the Kern County Planning and Natural Resources Department. All evidence of the training session(s) and handout(s) shall be submitted to the Kern County Planning and Natural Resources Department on a monthly basis. Multiple training sessions may be conducted if different work crews come to the site for</p>	Prior to and during construction	Kern County Planning and Natural Resources; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>different stages of construction; however, all construction personnel shall be provided training prior to beginning work. The evidence submitted to the Kern County Planning and Natural Resources Department regarding the “Valley Fever Training Handout” and Session(s) shall include the following:</p> <ol style="list-style-type: none"> 1. A sign-in sheet (to include the printed employee names, signature, and date) for all employees who attended the training session. 2. Distribution of an information packet that includes educational information regarding the health effects of exposure to criteria pollutant emissions and Valley Fever; symptoms of exposure; and instruction for reporting cases of flu-like or respiratory illness symptoms to the Site Safety Officer. Those with persistent symptoms lasting more than 3 days shall be recommended to seek immediate medical advice. 		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>3. Training on methods that may help prevent Valley Fever infection.</p> <p>4. A demonstration to employees on how to use personal protective equipment, such as respiratory equipment (masks), to reduce exposure to pollutants and facilitate recognition of symptoms and earlier treatment of Valley Fever. Though use of the equipment is not mandatory during work, the equipment shall be readily available and shall be provided to employees for use during work, if requested by an employee. Proof that the demonstration is included in the training shall be submitted to the county. This proof can be via printed training materials/agenda, DVD, digital media files, or photographs.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. All Valley Fever materials shall be provided to all construction personnel and all</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>training sessions shall be conducted prior to construction activities.</p> <p>C. The project proponent shall submit all evidence of the training session materials, handout(s) and schedule to the Kern County Planning and Natural Resources Department within 72 hours of the first training session.</p> <p>D. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>E. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
	<p>Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.</p>		
4.4	Biological Resources		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
11.	<p>MM 4.4-1: Prior to the issuance of grading or building permits, the project proponent/operator shall retain a qualified biologist(s) who meets the qualifications of an authorized biologist as defined by U.S. Fish and Wildlife Service to oversee compliance with protection measures for all listed and other special-status species.</p> <ol style="list-style-type: none"> 1. The project qualified biologist(s) shall be onsite during all fencing, grading and ground-disturbing activities (which includes vegetation disturbance) throughout the construction, operations and maintenance, and decommissioning phase. 2. The project qualified biologist(s) shall have the right to halt all activities that are in violation of the special-status species protection measures. Work shall proceed only after hazards to special-status species are removed and the species is no longer at risk. 3. The project qualified biologist(s) shall have in her/his possession a copy of all the 	Prior to the issuance of grading or building permits	Kern County Planning and Natural Resources Department and/or California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>biological compliance measures while work is being conducted onsite.</p> <p>4. Prior to issuance of grading or building permits, contact information for the qualified biologist(s) shall be submitted to the appropriate agency.</p> <p>Any individuals who undertake biological monitoring and mitigation tasks shall be supervised by the qualified biologist(s) and shall have the appropriate education and experience to accomplish biological monitoring and mitigation tasks. Biological monitors shall comply with the above measures.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall retain a qualified biologist.</p> <p>C. The project proponent shall submit contact information for the qualified</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>biologist(s) to the Kern County Planning and Natural Resources Department.</p> <p>D. The Kern County Planning and Natural Resources Department will verify prior to issuance of building and grading permits.</p> <p>E. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>F. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
12.	<p>MM 4.4-2: Prior to the issuance of grading or building permits, and for the duration of construction activities, the project proponent shall demonstrate that it has in place a Construction Worker Environmental Awareness Training and Education Program for all new construction workers at the project site, laydown area and/or transmission routes. All construction workers shall attend the Program prior to</p>	Prior to the issuance of grading or building permits	Kern County Planning and Natural Resources Department; California State Lands Commission; Qualified Biologist

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>participating in construction activities and shall attend a refresher Program annually.</p> <p>Any employee responsible for the operations and maintenance or decommissioning of the proposed project facilities shall also attend the Environmental Awareness Training and Education Program prior to starting work on the project and on an annual basis.</p> <p>The Program will be developed and presented by the project qualified Biologist or designee approved by the qualified biologists. The training may be presented in video form. The Program shall include:</p> <ol style="list-style-type: none"> 1. Information on the life history of the American badger, burrowing owl, Swainson's hawk and other raptors, desert tortoise, Mohave ground squirrel, desert kit fox as well as other wildlife and plant species that may be encountered during construction activities, legal protection status of each species (including all nesting birds), the definition of "take" under the Federal Endangered Species Act and the California 		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>Endangered Species Act, measures the project proponent/operator is implementing to protect the species, reporting requirements, specific measures that each worker shall employ to avoid take of wildlife species, and penalties for violation of the Federal Endangered Species Act or California Endangered Species Act. Identification and information regarding sensitive plants such as Joshua tree shall also be provided to construction personnel.</p> <p>2. An acknowledgement form signed by each worker indicating that Environmental Awareness Training and Education Program has been completed will be kept on record.</p> <p>3. A sticker shall be placed on hard hats indicating that the worker has completed the Environmental Awareness Training and Education Program. Construction workers shall not be permitted to operate equipment within the construction area unless they have attended the Environmental Awareness</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>Training and Education Program and are wearing hard hats with the required sticker.</p> <p>4. A copy of the training transcript and/or training video, as well as a list of the names of all personnel who attended the Environmental Awareness Training and Education Program and copies of the signed acknowledgement forms shall be submitted to the appropriate agency.</p> <p>5. A copy of the training transcript, training video or informational binder (including such information as trenching protection for kit fox requirements) for specific procedures shall be kept available for all personnel to review and be familiar with as necessary.</p> <p>6. The construction crews and contractor(s) shall be responsible for preventing unauthorized impacts from construction activities to sensitive biological resources that are outside the areas defined as subject to impacts by project permits.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. All construction workers shall attend the Construction Worker Environmental Awareness Training and Education Program prior to participating in construction activities; any employee responsible for the operation and maintenance (O&M) of the completed facilities shall also receive this training</p> <p>C. An acknowledgement form signed by each worker indicating that environmental training has been completed will be kept on record</p> <p>D. A copy of the training materials, as well as a list of the names of all personnel who attended the training and copies of the signed acknowledgement forms shall be submitted to the Kern County Planning and Natural Resources Department upon the County's request.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>E. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>F. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
13.	<p>MM 4.4-3: During construction, operations and maintenance, and decommissioning, the project proponent/operator and/or contractor shall implement the following general avoidance and protective measures:</p> <p>1. No more than 14 days prior to conducting vegetation clearing or grading activities associated with construction or decommissioning or any significant ground disturbing O&M activities, a qualified biologist or biological monitor that has been approved by the qualified biologist shall survey the area, and immediately prior to conducting these activities to ensure that no special-status animals are present. A qualified biologist or biological monitor shall</p>	Prior to ground disturbance, and during construction and decommissioning the project	Kern County Building Inspection; Department Kern County Planning and Natural Resources Department and/or California State Lands Commission; United States Fish and Wildlife Service; California Department of Fish and Game; Qualified Biologist

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>monitor all initial construction and decommissioning ground-disturbance activities and any ground disturbing O&M activity. A report of those activities shall be submitted to the appropriate agency.</p> <p>2. Based on the results of pre-construction surveys, if any evidence of occupation of the project site by listed or other special-status species is observed, a no-disturbance buffer shall be established by a qualified biologist that results in sufficient avoidance, as described below. If sufficient avoidance cannot be established or if special-status species are found, construction shall cease in the vicinity of the animal, and the U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife, as appropriate depending on the species, shall be contacted for further guidance and consultation on additional measures required.</p> <p>3. All proposed impact areas, including solar fields, generation-tie line, staging areas,</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>and access routes, and disposal or temporary placement of spoils, shall be delineated with stakes and/or flagging prior to construction to avoid natural resources where possible. Construction-related activities, and decommissioning-related activities, outside of the impact zone shall be avoided. All site plans shall delineate proposed impact areas, including solar fields, generation-tie line, staging area and access routes.</p> <p>4. Access roads that are planned for use during construction or decommissioning shall not extend beyond the planned impact area. All vehicle traffic shall be contained within the planned impact area or in previously disturbed areas. Where new access routes are required, the route will be clearly marked (i.e., flagged and/or staked) prior to construction.</p> <p>5. If exclusion fencing is required by any consulting Resource Agency, the project site shall be fenced with a temporary exclusion</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>fence to keep special-status terrestrial wildlife species, including desert tortoise, from entering during construction. This exclusion fencing shall be constructed of silt fence material, metal flashing, plastic sheeting, or other materials that will prohibit wildlife from climbing the fence or burrowing below the fence. The fencing shall be buried approximately 12 inches below the surface and extend a minimum of 30 inches above grade. Fencing shall be installed prior to issuance of grading or building permits and shall be maintained during all phases of construction and decommissioning. The fencing shall be inspected by an authorized biologist weekly and immediately after all major rainfall events through the duration of construction and decommissioning activities. Any needed repairs to the fence shall be performed on the day of their discovery. Exclusion fencing shall be removed once construction or decommissioning activities are complete. Outside temporarily fenced exclusion areas, the project</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>proponent/operator shall limit the areas of disturbance. Parking areas, new roads, staging, storage and excavation locations shall be confined to the smallest areas possible. These areas shall be flagged and disturbance activities, vehicles, and equipment shall be confined to these flagged areas. When consultation with the Resource Agency is required, such Resource Agency may impose additional requirements. Along with construction of tortoise exclusionary fencing, excavation of known or potential burrows cannot be accomplished without authorization from CDFW.</p> <p>6. To prevent inadvertent entrapment of desert kit foxes, badgers, or other animals during construction, all excavated, steep-walled holes or trenches (defined as a 45-degree slope or greater) shall be covered with plywood or similar materials at the close of each working day. A small metal mesh material shall be stapled to the edges of the plywood and then secured to the ground</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>using at least 10-inch long rebar or staples every 12 inches along the outer edge of the metal mesh material at the end of each working day and during the day when not actively being worked on/in. Non-covered holes or trenches shall be thoroughly inspected for trapped animals by a qualified biologist or their biological monitor at the beginning and end of each day, including non-work days. Immediately before such holes or trenches are filled, they shall again be thoroughly inspected by trained staff for trapped animals. If trapped animals are observed, escape ramps or structures shall be installed immediately to allow escape. If a listed species is trapped, the U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife, as appropriate for the species, and California State Lands Commission shall be contacted immediately. A hand-written log shall be prepared of the daily inspections during all activity requiring the trenching protection referenced above, and records from that log</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>shall be furnished to the Kern County Planning and Natural Resources Department upon request.</p> <p>7. Burrowing owls, mammals, and nesting birds can use construction pipes, culverts, or similar structures for refuge or nesting. All construction pipes, culverts, or similar structures with a diameter of 12 inches or less that have not been stored on the Project overnight shall be thoroughly inspected for special-status wildlife or nesting birds before moving, burying, or otherwise using such pipe. All construction pipes, culverts, or similar structures with a diameter of 12 inches or less shall be capped prior to storing such materials at a construction site for one or more overnight periods. All construction pipes, culverts, or similar structures with a diameter of 12 inches or less that are stored at a construction site for one or more overnight periods shall be thoroughly inspected for special-status wildlife or nesting birds before the pipe is subsequently buried, capped, or otherwise used or moved in any</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>way. If an animal is discovered inside a pipe, that section of pipe shall not be moved or disturbed in any way until a qualified biologist has been consulted and the animal has either moved from the structure on its own accord or until the animal has been captured and relocated by a qualified biologist holding the appropriate handling permits from the Resource Agencies. No one shall be allowed to touch a listed species without authorization from the U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife. All necessary authorization permits shall be obtained from the appropriate resources agencies, and copies of all such final authorization permits shall be submitted to the Kern County Planning and Natural Resources Department.</p> <p>8. No vehicle or equipment parked on the project site shall be moved prior to inspecting the undercarriage of the vehicle/equipment and ground beneath the vehicle or equipment for the presence of wildlife. If present, the animal shall be left to</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>move on its own, or relocated by a qualified biologist holding the appropriate handling permits from the Resource Agencies. No one shall be allowed to touch a listed species without authorization from the U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife.</p> <p>9. Vehicular traffic to and from the project site shall use existing routes of travel. Cross country vehicle and equipment use outside designated work areas shall be prohibited.</p> <p>10. A speed limit of 10-miles per hour shall be enforced within the limits of the proposed project.</p> <p>11. Soils shall be stockpiled in disturbed areas that lack native vegetation when possible. Best management practices (BMPs) shall be employed to prevent erosion in accordance with the proposed project's Stormwater Pollution Prevention Plan (SWPPP) or Erosion Control Plan. All detected erosion shall be remedied within 2 days of discovery</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>or as described in the SWPPP or Erosion Control Plan. Soils that have been stockpiled and inactive for greater than 10 days shall be inspected by a qualified biologist for signs of special-status wildlife before moving or disturbing the soils.</p> <p>12. Fueling of equipment shall take place within existing roads. No refueling within or adjacent to drainages or native desert habitats (within 150 feet) shall be permitted. Contractor equipment shall be checked for leaks prior to operation and repaired as necessary.</p> <p>13. The project proponent/operator shall submit a Maintenance and Trash Abatement/Pest Management Program to the appropriate agency for review and approval. The program shall include, but not limited to the following:</p> <p>a. The project proponent/operator shall clear debris from the project area at least</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>twice per year once the project is operational.</p> <p>b. Trash and food items shall be contained in closed containers to be locked at the end of the day and removed at least once per week to reduce the attractiveness to opportunistic predators such as common ravens, coyotes, and feral dogs.</p> <p>c. The project proponent/operator shall erect signs with contact information for the project proponent/operator's maintenance staff at regular intervals along the site boundary, as required by the appropriate agency. Maintenance staff shall respond within 2 weeks to resident requests for additional cleanup of debris.</p> <p>d. Construction trash removal, once a month during construction including a recycling program. Receptacles shall include provisions for a locking system to prevent pest/rodent access to food waste receptacles that shall be implemented.</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>e. The project proponent/operator shall implement a regular trash removal and recycling program on an ongoing basis during operation of the project. Barriers to prevent pest/rodent access to food waste receptacles shall be implemented. Locations of all trash receptacles during operation of the project shall be shown on final plans.</p> <p>f. The following stipulation shall be included: All vegetation, debris or any other natural material collected as part of mowing, clearing or preparing the site for construction shall be removed the same day of such activities. Stockpiling is permitted for a period which shall not exceed ten (10) consecutive hours.</p> <p>g. Prior to any clearing or ground disturbing activities, the project shall obtain written approval of the Maintenance and Trash Abatement/Pest Management Program from the Kern County Planning and Natural Resources Department.</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>14. Workers shall be prohibited from bringing pets and firearms to the project area and from feeding wildlife.</p> <p>15. Intentional killing or collection of any plant or wildlife species shall be prohibited.</p> <p>16. Perimeter fencing during operations shall be made wildlife friendly by raising the bottom up 7 inches from the ground and knuckling back the bottom edge to allow movement of desert kit foxes and desert tortoises.</p> <p>17. Prior to use of pesticides, the project proponent shall consult with CDFW and USFWS regarding the necessary authorization permits from those agencies. All necessary authorization permits shall be obtained from those agencies, and copies of all such final authorization permits shall be submitted to the Kern County Planning and Natural Resources Department.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. A qualified biologist shall monitor all initial ground-disturbance activities as outlined in the mitigation.</p> <p>C. The project proponent shall submit a report of all monitor all initial construction and decommissioning ground-disturbance activities and to the Kern County Planning and Natural Resources Department.</p> <p>D. In consultation with the United States Fish and Wildlife Service and the California Department of Fish and Wildlife, the project proponent shall implement construction and operational monitoring in accordance with the specifications of the mitigation measure.</p> <p>E. The project proponent shall submit a Maintenance and Trash Abatement/Pest Management Program to the Kern County</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>Planning and Natural Resources Department for approval.</p> <p>F. The Kern County Building Inspection Department shall verify in the field during construction.</p> <p>G. The project proponent shall implement wildlife protection measures.</p> <p>H. The project proponent shall limit the areas of disturbance.</p> <p>I. If a listed species is trapped in an excavated trench, the U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife shall be contacted immediately for guidance on how to proceed with rescuing the animal.</p> <p>J. If an animal is discovered inside a pipe, that section of pipe shall not be moved until the qualified biologist has been consulted and the animal has either moved from the structure on its own accord or until</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>the animal has been captured and relocated by the qualified lead biologist.</p> <p>K. The Environmental Awareness Training Program will include information on who to contact regarding injured non-listed wildlife species, and where to bring those injured animals for treatment.</p> <p>L. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>M. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
14.	<p>MM 4.4-4: A qualified biologist (resumes shall be submitted and approved by the appropriate agency) shall monitor all initial ground-disturbance activities as outlined in MM 4.4-3 (1) and remain on-call throughout construction in the event a special-status species wanders into the project site.</p>	During construction and decommissioning of the project	Kern County Planning and Natural Resources Department; U.S. Fish and Wildlife Service; California Department of Fish and Wildlife; California State Lands Commission; Kern County Public Works Department/Building

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Methodology for preconstruction surveys shall be appropriate for each potentially occurring special-status species and shall follow U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife preconstruction survey guidelines available. Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 14 days of the portion of the project site being disturbed. If any evidence of occupation of the project site special-status species is observed, a buffer shall be established by a qualified biologist that results in sufficient avoidance, as described below:</p> <p>1. Preconstruction surveys shall be conducted by qualified biologists for the presence of American badger or desert kit fox dens within 14 days prior to commencement of construction and decommissioning activities. The surveys shall be conducted for the entire area being disturbed.</p>		Inspection Division; Qualified Biologist

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>2. If active dens are observed and avoidance of den disturbance is feasible, the following buffers are required during construction activities:</p> <p>a. American badger active den: 30 feet.</p> <p>b. Desert kit fox active den: 100 feet (or 200 feet if during the breeding season, as required below).</p> <p>3. If potential kit fox dens are observed, the following measures are required to avoid potential adverse effects to kit fox:</p> <p>a. If the qualified biologist determines that potential dens may be active during the breeding season (December 1 through June 30), the biologist shall implement a 200-foot avoidance buffer and shall notify the California Department of Fish and Wildlife, California State Lands Commission, and the Kern County Planning and Natural Resources Department. No destruction of active dens is to occur during the breeding season.</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>b. If an active kit fox den is discovered with the potential to be occupied by a desert kit fox during the non-breeding season (July 1 through November 31), the den openings shall be avoided by at least 100 feet.</p> <p>c. If an active kit fox den cannot be avoided during the non-breeding season, entrances to the dens shall be monitored for at least 5 consecutive days using infra-red cameras. The den entrance can be blocked with soil, sticks, and debris during those 5 days to discourage use of these dens prior to proposed project disturbance. The den entrances shall be blocked to an incrementally greater degree over the 5-day period. After the qualified biologist determines that kit fox have stopped using active dens within the proposed project boundary, the dens shall be immediately hand-excavated with a shovel, filled and compacted to prevent re-use during construction.</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>d. A qualified biologist shall be onsite each day that will result in new ground disturbance (initial activity and any lapse in activity for 14 days or more) and during ground disturbing O&M activities to ensure the buffers are maintained and that kit fox are not being impacted. A qualified biologist shall remain on call throughout construction and decommissioning in the event a desert kit fox wanders onto the site.</p> <p>e. Perimeter fencing during operations shall be made wildlife friendly by raising the bottom up 7 inches from the ground with the bottom edge knuckled back to allow movement of desert kit foxes and desert tortoises.</p> <p>f. If the qualified biologist determines that potential dens are inactive, the dens that cannot be avoided shall be excavated by hand under the direct supervision of a qualified biologist with a shovel, filled and compacted to prevent desert kit fox from reusing them during construction. Identified</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>inactive dens will be confirmed inactive by monitoring of the burrow with cameras and track plates for 5 consecutive days to confirm no usage. An alternative method may be used to determine inactivity if it is acceptable to the Resource Agencies.</p> <p>g. Prior to and during to construction no-disturbance buffers shall be implemented as follows: (a) a 500-foot buffer around any den containing pups or juveniles still dependent on the parents for survival, (b) a 100-foot buffer around any den where pups have been born or raised during the breeding season, and (c) a 50-foot buffer around unoccupied natal dens. There shall be no destruction of any desert kit fox den until after consultation with CDFW occurs, written approval by CDFW is obtained, and recommended minimization measures are implemented.</p> <p>4. If potential American badger dens are observed, the following measures are</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>required to avoid potential adverse effects to American badger:</p> <p>a. If the qualified biologist determines that potential dens may be active during the breeding season (February 1 through August 31), the biologist shall notify California Department of Fish and Wildlife and California State Lands Commission on staff and a no-disturbance buffer of 200 feet created; additionally, the qualified biologist shall notify the appropriate agencies should such potential dens be located on the Project site. No destruction of active dens is to occur during the breeding season. During the non-breeding season, if the qualified biologist determines that dens are active and they cannot be avoided, entrances to the dens shall be blocked with soil, sticks, and debris for 3 to 5 days to discourage use of these dens prior to proposed project disturbance. The den entrances shall be blocked to an incrementally greater degree over the 3- to 5-day period. After the qualified biologist determines that American</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>badgers have stopped using active dens within the proposed project boundary as determined through use of infra-red cameras for 3 to 5 consecutive days, the dens shall be hand-excavated with a shovel, filled and compacted to prevent re-use during construction. A qualified biologist shall remain on call throughout construction and decommissioning in the event an American badger wanders onto the site.</p> <p>b. If the qualified biologist determines that potential dens are inactive, the dens that cannot be avoided shall be excavated by hand under the direct supervision of a qualified biologist with a shovel, filled and compacted to prevent American badger from reusing them during construction. Identified inactive dens will be confirmed inactive by monitoring of the burrow with cameras and track plates for 5 consecutive days to confirm no usage. An alternative method may be used to determine inactivity</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>if it is acceptable to the appropriate Resource Agencies.</p> <p>c. If active dens are found onsite, during construction daily monitoring reports shall be prepared by the authorized biologists conducting monitoring. The qualified Biologist shall prepare a summary monitoring report documenting the effectiveness and practicality of the protection measures that are in place and making recommendations for modifying the measures to enhance species protection, as needed. The report shall also provide information on the overall biological-resources-related activities conducted, including the worker awareness training, clearance/pre-activity surveys, monitoring activities, and any observed special-status species, including injuries and fatalities. These monitoring reports shall be submitted to the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife and California State Lands</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>Commission on a monthly basis along with copies of all survey reports.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. A qualified biologist shall be retained by the project proponent and approved by the Kern County Planning and Natural Resources Department and/or the Commission.</p> <p>C. During fencing and grading activities, daily monitoring reports shall be prepared by the monitoring biologist(s).</p> <p>D. Documentation shall be sent to the Kern County Planning and Natural Resources Department.</p> <p>E. Consultation with U.S. Fish and Wildlife Service and California Department of Fish and Wildlife shall be initiated to obtain the necessary incidental take permit</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>authorizations or provide evidence such a permit is not required.</p> <p>F. Kern County Planning Natural Resources Department shall be included in all consultants and be kept apprised of consultations and the subsequent results.</p> <p>G. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>H. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
15.	<p>MM 4.4-5: Prior to construction, the project proponent/operator shall conduct preconstruction surveys for desert tortoise onsite and shall implement the measures described below. For purposes of this Mitigation Measure, the "qualified biologist" is defined as a wildlife biologist who meets the qualifications to handle desert tortoise by</p>	<p>Within 14 days prior to the commencement of any ground-disturbing activities and during construction</p>	<p>Kern County Planning and Natural Resources Department; U.S. Fish and Wildlife Service; and California Department of Fish and Wildlife; California State Lands Commission; Authorized Biologist</p>

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>U.S. Fish and Wildlife Service and California Department of Fish and Wildlife:</p> <ol style="list-style-type: none"> 1. Pre-construction tortoise clearance surveys shall be conducted at 15-foot intervals to locate any desert tortoise prior to grading or ground disturbance. The survey shall be conducted by a qualified biologist, or a qualified surveyor under the supervision of a qualified biologist, no more than 14 days prior to the onset of the surface disturbance and prior to the installation of any required tortoise-proof fencing. Qualified biologists, or qualified surveyors under the supervision of a qualified biologist, shall conduct additional pre-activity clearance surveys for desert tortoise immediately prior to the start of grading or vegetation clearing or mowing activities for the duration of the project. 2. If desert tortoise is found during preconstruction surveys, no one shall be allowed to touch the tortoise without authorization from the U.S. Fish and Wildlife Service and California Department of Fish 		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	and Wildlife. The U.S. Fish and Wildlife Service and California Department of Fish and Wildlife shall be contacted for further consultation on additional measures and to determine whether temporary exclusionary fencing is required. After exclusionary fence installation, if required, qualified biologists shall conduct clearance surveys for desert tortoise within the fenced project site. Two surveys without finding any tortoises or new tortoise sign shall occur prior to declaring the site clear of tortoises. All burrows that could provide shelter for a desert tortoise shall be hand excavated by the qualified biologist or other biologists under the direct supervision of the qualified biologist during the first clearance survey. A qualified biologist shall remain onsite until all vegetation is cleared and, at a minimum, conduct site and fence inspections on a regular basis throughout construction in order to ensure that the fence is intact and that no tortoises can enter the construction area. Along with construction of desert tortoise exclusionary fencing,		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>excavation of known or potential desert tortoise burrows cannot be accomplished without authorization from CDFW prior to starting exclusion fence installation or excavation of burrows.</p> <p>3. Qualified biologists shall be onsite to supervise surveys for desert tortoise immediately prior to vegetation clearance activities in the event a desert tortoise was inadvertently missed during clearance surveys. A qualified biologist shall remain on-call throughout construction, operations and decommissioning in the event a desert tortoise wanders onto the site.</p> <p>4. All construction personnel shall watch for desert tortoise within the construction area whenever driving, transporting, or operating equipment.</p> <p>5. If a desert tortoise is observed in the project area during construction, operation or decommissioning activities, such activity shall cease in the vicinity of the desert tortoise and the desert tortoise shall be</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>allowed to pass through the area on its own accord. No one shall be allowed to touch the desert tortoise without authorization from the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife. Concurrent with this effort, U.S. Fish and Wildlife Service and California Department of Fish and Wildlife shall be consulted regarding any additional avoidance, minimization, or mitigation measures that may be necessary. Once the animal is observed leaving the site, work in the area can resume. A report shall be prepared by the qualified biologist to document the occurrence of the desert tortoise within the site. This report shall be submitted to U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, and other appropriate agencies.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>B. The surveys shall be conducted in accordance with U.S. Fish and Wildlife Service protocol (USFWS, 2010).</p> <p>C. Should desert tortoises be observed during preconstruction surveys, consultation with U.S. Fish and Wildlife Service and California Department of Fish and Wildlife shall commence.</p> <p>D. Reports shall be submitted to U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, and the Kern County Planning and Natural Resources Department.</p> <p>E. The Authorized Biologist shall have the appropriate education and experience to accomplish biological monitoring and mitigation tasks.</p> <p>F. A Raven Management Plan shall be developed for the project site in consultation with the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife.</p> <p>G. Weekly inspection under all nests in the project area for evidence of raven predation</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>on local wildlife (bones, carcasses, etc.), and, if evidence of predation is noted, the project proponent shall submit a report to California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and Kern County Planning and Natural Resources Department within five calendar days.</p> <p>H. Evidence of the U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife determination and payment of any required fees shall be submitted to the Kern County Planning and Natural Resources Department.</p> <p>I. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>J. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
16.	<p>MM 4.4-6: The project proponent shall implement the following measures, based on the recently updated California Department of Fish and Game (now California Department of Fish and Wildlife) 2012 Staff Report on Burrowing Owl Mitigation, to ensure potential impacts to burrowing owl resulting from project implementation will be avoided and minimized to less-than-significant levels:</p> <p>1. A qualified wildlife biologist shall be onsite during all initial grading and construction, preconstruction ground disturbing activities, and decommissioning as authorized by this approval, in potential burrowing owl habitat. A qualified wildlife biologist (i.e., a wildlife biologist with ability to identify the species and possessing previous burrowing owl survey and avoidance and minimization protection experience) shall conduct pre-construction surveys of the permanent and temporary impacts areas, plus an 150-meter (approximately 492-foot) buffer, to locate active breeding or wintering</p>	Prior to issuance of building and grading permits	Kern County Planning and Natural Resources Department; California Department of Fish and Wildlife; California State Lands Commission; Qualified Biologist

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>burrowing owl burrows no less than 14 days prior to start or re-start of construction, or decommissioning activities, as applicable. The survey methodology shall be consistent with the methods outlined in the Staff Report and shall consist of walking parallel transects 7 to 20 meters apart, adjusting for vegetation height and density as needed, and noting and mapping any potential burrows with burrowing owl sign or presence of burrowing owls. As each burrow is investigated, biologists will also look for signs of American badger and kit fox. Copies of the survey results shall be submitted to the California Department of Fish and Wildlife, California State Lands Commission, and other appropriate agencies.</p> <p>2. A qualified biologist shall conduct an additional pre-construction survey of all impact areas plus an approximately 492-foot buffer no more than 24-hours prior to start or restart (as the case may be) of ground disturbing activities associated with construction or decommissioning activities as</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>authorized by this approval to identify any additional burrowing owls or burrows necessitating avoidance, minimization, or mitigation measures.</p> <p>3. If active burrowing owl burrows are detected onsite, they shall be protected in place through the use of visual screens, restricted activity dates and set-back distances, or other measures as described in the 2012 CDFW Staff Report to minimize disturbance impacts unless otherwise authorized by CDFW. Burrowing owls shall not be moved or excluded from burrows during the breeding season. (see additional info after this table)</p> <p>4. If avoidance of active burrows is infeasible, the owls can be passively displaced from their burrows according to recommendations made in the 2012 CDFW Staff Report on Burrowing Owl Mitigation. Burrowing owls shall not be excluded from burrows unless or until:</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>a. Occupied burrows shall not be disturbed during the nesting season generally defined as February 1 through August 31.</p> <p>b. Before excluding owls during the non-nesting season, generally defined as September 1 through January 31, a qualified biologist meeting the Biologist Qualifications set forth in the 2012 CDFW Staff Report, shall verify through noninvasive methods that either: (1) the owls have not begun egg-laying and incubation; or (2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. Burrowing owls shall not be moved or excluded from burrows during the breeding season.</p> <p>c. A Burrowing Owl Exclusion Plan is developed and approved by the applicable local CDFW office and submitted to the Kern County Planning and Natural Resources Department and the California State Lands Commission. The plan shall include, at a minimum:</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<ul style="list-style-type: none"> i. Confirm by site surveillance that the burrow(s) is empty of burrowing owls and other species preceding burrow scoping; ii. Type of scope and appropriate timing of scoping to avoid impacts; iii. Occupancy factors to look for and what will guide determination of vacancy and excavation timing, one-way doors shall be left in place a minimum of 48 hours to ensure burrowing owls have left the burrow before excavation, visited twice daily, and monitored for evidence that owls are inside and can't escape (i.e., look for sign immediately inside the door); iv. How the burrow(s) will be excavated. Excavation using hand tools with refilling to prevent reoccupation is preferable whenever possible (may include using piping to stabilize the burrow to prevent collapsing until the entire burrow has been excavated and it can be determined that owls do not reside in the burrow); 		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>v. Removal of other potential owl burrow surrogates or refugia onsite;</p> <p>vi. Photographing the excavation and closure of the burrow to demonstrate success and sufficiency;</p> <p>vii. Monitoring of the site to evaluate success and, if needed, to implement remedial measures to prevent subsequent owl use to avoid take;</p> <p>viii. How the impacted site will continually be made inhospitable to burrowing owls and fossorial mammals (e.g., by allowing vegetation to grow tall, heavy disking, or immediate and continuous grading) until development is complete.</p> <p>d. Permanent loss of occupied burrow(s) and habitat is mitigated in accordance with the measures described below.</p> <p>e. Temporary exclusion is mitigated in accordance with the measures described below.</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>f. Site monitoring is conducted prior to, during, and after exclusion of burrowing owls from their burrows sufficient to ensure take is avoided. Conduct daily monitoring for 1 week to confirm young of the year have fledged if the exclusion will occur immediately after the end of the breeding season.</p> <p>g. Excluded burrowing owls are documented using artificial or natural burrows on an adjoining mitigation site (if able to confirm by band re-sight).</p> <p>h. In accordance with the Burrowing Owl Exclusion Plan, a qualified wildlife biologist shall excavate burrows using hand tools. Sections of flexible plastic pipe or burlap bag shall be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow. One-way doors shall be installed at the entrance to the active burrow and other potentially active burrows within 160 feet of the active burrow and monitored for at least 48 hours after</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>installation. If burrows will not be directly impacted by the Project, one-way doors shall be installed to prevent use and shall be removed after ground disturbing activities have concluded in the area. Only burrows that will be directly impacted by the Project shall be excavated and filled.</p> <p>i. During construction activities, monthly and final compliance reports shall be provided to the California Department of Fish and Wildlife, Kern County Planning and Natural Resources Department, and other applicable resources agencies documenting the effectiveness of mitigation measures and the level of burrowing owl take associated with the proposed project.</p> <p>j. If passive relocation is required, compensatory mitigation for lost breeding and/or wintering habitat shall be implemented onsite or offsite in accordance with Burrowing Owl Staff Report guidance. The following recommendations shall be implemented:</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>i. Temporarily disturbed habitat shall be restored, to pre-project conditions, including decompacting soil and revegetating. If restoration is not feasible, then the project proponent/operator shall consult with CDFW when determining offsite mitigation acreages but shall be no less than 160 acres.</p> <p>ii. The habitat to be protected shall include:</p> <p>1. Permanent conservation of similar vegetation communities (grassland, scrublands, desert, and agriculture [grazing lands]) to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and with sufficiently large acreage, and presence of fossorial mammals. Conservation shall occur in areas that support burrowing owl habitat and can be enhanced to support more burrowing owls.</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>2. Permanently protect mitigation land through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission. If the project is located within the service area of a California Department of Fish and Wildlife-approved burrowing owl conservation bank, the project proponent/operator may purchase available burrowing owl conservation bank credits.</p> <p>3. Develop and implement a mitigation land management plan in accordance with Burrowing Owl Staff Report guidelines to address long-term ecological sustainability and maintenance of the site for burrowing owls.</p> <p>4. Fund the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.</p> <p>5. Habitat shall not be altered or destroyed, and burrowing owls shall not be excluded from burrows, until mitigation lands</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>have been legally secured, are managed for the benefit of burrowing owls according to California Department of Fish and Wildlife-approved management, monitoring and reporting plans (including construction of artificial burrows if necessary), and the endowment or other long-term funding mechanism is in place or security is provided until these measures are completed.</p> <p>6. Mitigation lands shall be on, adjacent to, or in proximity to the impact site, where feasible, and where habitat is sufficient to support burrowing owls.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. A qualified biologist shall conduct pre-construction surveys of the project site for Burrowing Owls as specified in the mitigation measure.</p> <p>C. A qualified wildlife biologist (i.e., a wildlife biologist with previous burrowing owl</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>survey experience) shall conduct pre-construction surveys on and within 150 meters of all permanent and temporary impact areas and establish appropriate buffers if burrowing owls are detected.</p> <p>D. Copies of the survey results shall be submitted to the California Department of Fish and Wildlife and the Kern County Planning and Natural Resources Department.</p> <p>E. If passive relocation is required, a qualified biologist shall prepare a Burrowing Owl Exclusion and Mitigation Plan and Mitigation Land Management Plan in accordance with the 2012 California Department of Fish and Wildlife Staff Report on Burrowing Owl Mitigation (CDFW, 2012) prior to passive relocation activities.</p> <p>F. If required, compensatory habitat mitigation for passive relocation shall be approved by California Department of Fish and Wildlife.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>G. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>H. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
17.	<p>MM 4.4-7: To mitigate for potential impacts to special-status birds and birds protected under the Migratory Bird Treaty Act and California Fish and Game Code during construction and decommissioning activities, the following measures shall be implemented as part of the approval for a grading or building permit.</p> <p>1. During the avian nesting season (February 1 – August 31), a qualified biologist shall conduct a preconstruction avian nesting survey no more than 7 days prior to initial vegetation clearing. Surveys need not be conducted for the entire project site at one time; they may be phased so that surveys occur within 7 days prior to clearing of specific areas of the site. The surveying</p>	No more than 7 days prior to initial vegetation clearing.	California Department of Fish and Wildlife; Kern County Planning and Natural Resources Department; California State Lands Commission; Qualified Biologist

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>biologist must be qualified to determine the species, status, and nesting stage without causing intrusive disturbance. At no time shall the biologist be allowed to handle the nest or its eggs. The survey shall cover all reasonably potential nesting locations on and within 500 feet of the project site—this including ground nesting where species, such as California horned lark and killdeer might nest, all shrubs that could support nests, and suitable raptor nest sites such as nearby trees and power poles. Access shall be granted on private offsite properties prior to conducting surveys on private land. If access is not obtainable, the biologist shall survey these areas from the nearest vantage point with use of spotting scopes or binoculars.</p> <p>2. If construction is scheduled to occur during the non-nesting season (September 1 through February 1), no preconstruction surveys or additional measures are required for non-listed avian species.</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>3. If construction begins in the non-nesting season and proceeds continuously into the nesting season within any particular construction or decommissioning area, no surveys are required for non-listed avian species so long as all suitable nesting sites have been cleared from active construction/decommissioning areas.</p> <p>4. If active nests are found, a 100-foot no-disturbance buffer shall be created around passerine species' nests unless adjusted by the qualified biologist based on the needs and sensitivities of individual species, and a 300-foot no-disturbance buffer around non-listed raptor species' nests (or a suitable distance otherwise determined in consultation with California Department of Fish and Wildlife). These buffers shall remain in effect until a qualified wildlife biologist has determined that the birds have fledged or the proposed project component(s) have been redesigned to avoid the area. All no-</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>disturbance buffers shall be delineated in the field with visible flagging or fencing material.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. During the avian nesting season (February 1 – August 31), a qualified biologist shall conduct a preconstruction avian nesting survey no more than 7 days prior to initial vegetation clearing.</p> <p>C. The surveying biologist must be qualified to determine the status and stage of nesting by migratory birds and all locally breeding raptor species without causing intrusive disturbance.</p> <p>D. If active nests are found, a suitable buffer shall be established in consultation with the California Department of Fish and Wildlife around active nests and no construction within the buffer allowed until a</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>qualified biologist has determined that the nest is no longer active.</p> <p>E. Copies of the completed surveys shall be submitted to Kern County Planning and Natural Resources Department.</p> <p>F. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>G. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
18.	<p>MM 4.4-8: For transmission line construction, the project proponent/operator shall:</p> <p>1. Construct all power transmission lines to the 2006 Avian Power Line Interaction Committee Guidelines specifications to protect birds from electrocution and collision. Appropriate notes regarding these specifications shall be included on any grading permit, building permit or final map.</p>	During construction and decommissioning the project	Kern County Planning and Natural Resources Department; California State Lands Commission; Kern County Public Works Department; U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife; Qualified Biologist

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>2. After construction, submit written documentation to the Kern County Planning and Natural Resources Department, and the California State Lands Commission verifying, that all power lines are constructed to the 2006 Avian Power Line Interaction Committee Guidelines. The project proponent/operator shall conform to the latest practices (as outlined in the 2006 Avian Power Line Interaction Committee Guidelines document) to protect birds from electrocution and collision.</p> <p>3. Install power collection and transmission facilities utilizing Avian Power Line Interaction Committee standards for collision reducing techniques as outlined in Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 2006 (Avian Power Line Interaction Committee, 2006).</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. After construction, submit written documentation to the Kern County Planning and Natural Resources Department, and the California State Lands Commission, verifying that all power lines are constructed to the 2006 Avian Power Line Interaction Committee Guidelines.</p> <p>C. Kern County Building Inspection Department will verify in the field during construction.</p> <p>D. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>E. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
19.	<p>MM 4.4-9: Prior to the issuance of grading or building permits, a Raven Management Plan shall be developed for the project site in consultation with the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife. This plan shall include but is not limited to:</p> <ol style="list-style-type: none"> 1. Identification of all raven nests within the project area during construction. 2. Weekly inspection under all nests in the project area for evidence of raven predation on local wildlife (bones, carcasses, etc.), and, if evidence of listed-species predation is noted, submit a report to California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, California State Lands Commission, and the Kern County Planning and Natural Resources Department within 5 calendar days. 3. Provisions for the management of trash and water that could attract common 	Prior to issuance of building and grading permits	Kern County Planning and Natural Resources Department; United States Fish and Wildlife Service; and California Department of Fish and Game; Authorized Biologist

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>ravens during the construction and operation phases of the proposed project.</p> <p>4. The project proponent/operator shall be required to participate in the regional comprehensive raven management plan, to address biological resources; the project proponent/operator shall be subject to compensation through the payment of a one-time fee not to exceed \$150 and no less than \$105 per disturbed acre, as established by the Desert Managers Group. Payment shall be made prior to starting construction activities. Evidence of the U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife determination and payment of any required fees shall be submitted to the California State Lands Commission.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>B. The project proponent shall prepare a Raven Management Plan in consultation with the United States Fish and Wildlife Service and the California Department of Fish and Game.</p> <p>C. The project proponent shall submit the Raven Management Plan to the Kern County Planning and Natural Resources Department.</p> <p>D. Evidence of the U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife determination and payment of any required fees shall be submitted to the Kern County Planning and Natural Resources Department.</p> <p>E. Weekly inspection under all nests in the project area for evidence of raven predation on local wildlife (bones, carcasses, etc.), and, if evidence of listed-species predation is noted, the project proponent shall submit a report to California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Kern County Planning and Natural Resources Department within 5 calendar days.</p> <p>F. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>G. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
20.	<p>MM 4.4-10: Prior to any ground disturbing activities, a Joshua Tree Preservation Plan shall be submitted for review and approval by the appropriate agencies. Upon approval of the Plan, and prior to initiating project construction, the project proponent/operator shall have a qualified biologist document the location and acreage of Joshua tree woodland that would be subject to permanent disturbance. The project proponent/operator shall furnish a copy of all draft materials and a copy of all final (i.e., approved) materials in conjunction</p>	Prior to issuance of building and grading permits	Kern County Planning and Natural Resources Department; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>with this Mitigation Measure to the California Department of Fish and Wildlife.</p> <p>The Joshua Tree Preservation Plan shall describe field methods used to delineate acreage of Joshua tree woodland and shall provide a detailed compensatory mitigation strategy, based on one or both of the following options:</p> <ol style="list-style-type: none"> 1. Preservation of Joshua tree woodland habitat shall occur within the project site. The project proponent/operator may mitigate all or part of the project's impacts to Joshua trees, as follows: Delineate and designate land within the project for dedication for permanent conservation management. The mitigation lands shall provide habitat at a 1:1 ratio for impacted lands, comparable to habitat to be impacted by the project (i.e., similar abundance and size of Joshua trees, similar dominant vegetation community, similar levels of disturbance or habitat degradation). Suitable mitigation lands provided for other species may be used for 		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>Joshua tree woodland mitigation, at a 1:1 ratio.</p> <p>2. In lieu monetary funding. For any Joshua tree woodlands not part of relocation efforts, the project proponent/operator shall submit funding for the acquisition and management in perpetuity of Joshua tree woodland habitat or habitats similar to those that contain impacted Joshua trees on site. Funding and management shall be provided through conservation plan approved by the appropriate agencies, either through an existing mitigation bank (e.g., as managed by the City of Lancaster Parks, Recreation and Arts Department) or through a third-party entity such as the Wildlife Conservation Board or a regional Land Trust. The in-lieu fee shall provide sufficient funds to acquire appropriate lands to provide habitats containing Joshua tree woodland at a 1:1 ratio for impacted lands, comparable to habitat to be impacted by the project (i.e., similar abundance and size of Joshua trees, similar dominant vegetation community,</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>similar levels of disturbance or habitat degradation). Suitable mitigation lands provided for other species may be used for Joshua tree woodland mitigation, at a 1:1 ratio.</p> <p>3. The following stipulation shall be included in the Joshua Tree Preservation Plan: "All vegetation, debris or any other natural material collected as part of this Joshua Tree Preservation Plan shall be removed the same day of such activities. Stockpiling of any natural material is prohibited." Stockpiling is permitted for a period which shall not exceed ten (10) hours."</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The proponent shall provide a Joshua Tree Preservation Plan, and any additional written evidence to the Kern County Planning and Community Development</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Department regarding compliance with the mitigation measure.</p> <p>C. The Kern County Planning and Community Development Department shall verify the documentation prior to issuing grading and building permits.</p> <p>D. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>E. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
	<p>Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
4.5	Cultural Resources		
21.	<p>MM 4.5-1: The project proponent/operator shall retain a Lead Archaeologist, defined as an archaeologist meeting the Secretary of the Interior's Standards for professional archaeology (U.S. Department of the Interior, 2011), to carry out all mitigation measures related to archaeological and historical resources.</p> <p>1. Prior to the start of any ground disturbing activities, the Lead Archaeologist in consultation with the Native American monitor(s) shall conduct a Cultural Resources Sensitivity Training for all construction personnel working on the proposed project. A Cultural Resources Training Guide approved by the Lead archaeologist shall be provided to all personnel. A copy of the Cultural Resources Sensitivity Training guide shall be submitted to the appropriate agency. The training guide may be presented in video form.</p>	Prior to the start of any ground disturbing activities	Kern County Planning and Natural Resources Department; California State Lands Commission; Qualified Archeologist and Native American monitor

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>2. The training shall include an overview of potential cultural resources that could be encountered during ground disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the Lead Archaeologist and Native American monitor for further evaluation and action, as appropriate; and penalties for unauthorized artifact collecting or intentional disturbance of archaeological resources.</p> <p>3. The project proponent/operator shall ensure all new employees or onsite workers who have not participated in earlier Cultural Resources Sensitivity Trainings shall meet provisions specified above.</p> <p>4. The Cultural Resources Sensitivity Training guide shall be kept available for all personnel to review and be familiar with as necessary.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The qualified archeologist must meet the Secretary of the Interior's Standards for professional archaeology (U.S. Department of the Interior, 2011).</p> <p>C. The qualified archaeologist shall conduct a Cultural Resources Sensitivity Training for all construction personnel working on the project.</p> <p>D. If necessary, implement recommended procedures in consultation with qualified archaeologist and Native American monitor.</p> <p>E. If cultural materials or artifacts are discovered, halt all work and contact a qualified archaeologist and Native American monitor to assess finds and recommend procedures.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>F. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>G. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
22.	<p>MM 4.5-2: During ground-disturbing activities associated with project-related grading and construction activities, a Native American monitor (including additional monitors as needed) shall be retained by the project proponent/operator to monitor, ground-disturbing activities associated with proposed project-related construction activities, as follows:</p> <p>1. All initial excavation or grading activities shall be monitored. During the course of this initial monitoring, if the Lead Archaeologist can demonstrate that the level of monitoring should be reduced or discontinued, or if the Lead Archaeologist can demonstrate a need for continuing monitoring, the Lead Archaeologist, in</p>	During all ground disturbing activities	Kern County Planning and Natural Resources Department; California State Lands Commission; Qualified Archaeologist and Native American monitor

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>consultation with the appropriate agency may adjust the level of monitoring to circumstances as warranted.</p> <p>2. The archaeological monitors and Native American monitors shall work under the supervision of the Lead Archaeologist. The Lead Archaeologist, archaeological monitors, and Native American monitors shall be provided all project documentation related to cultural resources within the project area prior to commencement of ground disturbance activities. Should the services of any additional individuals be retained (as the Lead Archaeologist, archaeological monitor, or Native American monitor) subsequent to commencement of ground disturbing activities, such individuals shall be provided all proposed project documentation related to cultural resources within the project area, prior to beginning work. Project documentation shall include but not be limited to previous cultural resources studies, surveys, maps, and drawings. Relevant modifications or updates</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>to project documentation, including construction plans and schedules, shall immediately be provided to the Lead Archaeologist, archaeological monitors, and Native American monitors.</p> <p>3. The archaeological monitors and Native American monitors shall keep daily logs when on site, and the Lead Archaeologist shall submit monthly written updates to the Kern County Planning and Natural Resources Department, and the Commission. After monitoring has been completed, the Lead Archaeologist shall prepare a monitoring report detailing the results, of monitoring, which shall be submitted to the Kern County Planning and Natural Resources Department, and the Commission. Reporting shall be in accordance with the Antiquities Act and State Historic Preservation Office requirements.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The services of a qualified Native American monitor shall be retained by the project proponent to monitor, on a full-time basis, to monitor all ground-disturbing activities associated with project-related construction activities within 50 feet of all known prehistoric archaeological sites.</p> <p>C. The Native American monitor shall keep daily logs and the qualified archaeologist shall submit monthly written updates to the Kern County Planning and Natural Resources Department.</p> <p>D. After monitoring has been completed, the qualified Native American monitor shall prepare a monitoring report that details the results of monitoring, which shall be submitted to the Kern County Planning and Natural Resources Department and to the Southern San Joaquin Valley Information</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Center at California State University, Bakersfield.</p> <p>E. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>F. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
23.	<p>MM 4.5-3: In the event archaeological materials are encountered during the course of grading or construction, the proposed project contractor shall cease any ground disturbing activities within 50 feet of the find and notify the California State Lands Commission. The Lead Archaeologist shall evaluate the significance of the resources and recommend appropriate treatment measures. Per CEQA <i>Guidelines</i> Section 15126.4(b)(3), proposed project redesign and preservation in place shall be the preferred means to avoid impacts to significant historical resources. Consistent with CEQA <i>Guidelines</i> Section</p>	During grading or construction	Kern County Planning and Natural Resources Department; Kern County Building Inspection Department; California State Lands Commission; Qualified Archaeologist and Native American monitor

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>15126.4(b)(3)(C), if it is demonstrated that resources cannot be avoided, the Lead archaeologist shall develop additional treatment measures in consultation with the appropriate agency which may include data recovery or other appropriate measures. The appropriate agency shall consult with appropriate Native American representatives in determining appropriate treatment for unearthed cultural resources if the resources are prehistoric or Native American in nature; this consultation may also be conducted in advance of earth disturbing work through a memorandum of agreement and/or an Unanticipated Discoveries Treatment Plan. Archaeological materials recovered during any investigation shall be presented for curation at an accredited curation facility, although the final disposition of archaeological or historical resources recovered on state lands under the authority of the State Lands Commission must be approved by the State Lands Commission. The Lead archaeologist</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>shall prepare a report documenting evaluation and/or additional treatment of the resource. A copy of the report shall be provided to the California State Lands Commission, Kern County Planning and Natural Resources Department and to the Southern San Joaquin Valley Information Center.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall retain a qualified archaeologist to monitor grading and other earth-disturbing activities and, if activities uncover historical resources, to assess finds and recommended procedures.</p> <p>C. The Kern County Planning and Natural Resources Department shall review and approve all reports, correspondence, and determinations regarding historical resources prepared by the qualified archaeologist.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>D. Kern County Building Inspectors will verify compliance in the field prior to and during the construction period</p> <p>E. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>F. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
24.	<p>MM 4.5-4: The project proponent/operator shall retain a qualified paleontologist to carry out all mitigation measures related to paleontological resources. A qualified paleontologist is defined as an individual with the appropriate education and experience to accomplish tasks in conjunction with the Mitigation Measures relating to paleontological resources.</p> <p>1. Prior to the start of any ground disturbing activities, the qualified paleontologist shall conduct a Paleontological Resources Awareness</p>	Prior to the start of any ground disturbing activities and during construction	Kern County Planning and Natural Resources Department; California State Lands Commission; Qualified Paleontologist

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>Training program for all construction personnel working on the proposed project, and all construction personnel working on the proposed project shall be provided a Cultural Resources Training guide for all personnel that is approved by the qualified paleontologist. A copy of the Paleontological Resources Awareness Training guide shall be submitted to the appropriate agencies. The training guide may be presented in video form. The Paleontological Resources Awareness Training guide shall be kept available for all personnel to review and be familiar with.</p> <p>2. Paleontological Resources Awareness Training may be conducted in conjunction with the required Cultural Resources Sensitivity Training.</p> <p>3. Paleontological Resources Awareness Training shall include an overview of potential paleontological resources that could be encountered during ground disturbing activities to facilitate worker</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>recognition, avoidance, and subsequent immediate notification to the qualified paleontologist for further evaluation and action, as appropriate; and penalties for unauthorized artifact collecting or intentional disturbance of paleontological resources.</p> <p>4. The project proponent/operator shall ensure all new employees or onsite workers who have not participated in earlier Paleontological Resources Awareness Trainings shall:</p> <p>a. Participate in Paleontological Resources Awareness Training as described above, and</p> <p>b. Shall be provided a Paleontological Resources Awareness Training guide for all personnel that is approved by the Lead archaeologist.</p> <p>c. The Paleontological Resources Awareness Training guide shall be kept available for all personnel to review and be familiar with.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The qualified paleontologist shall be retained by the project proponent to conduct training.</p> <p>C. If necessary, the project proponent shall retain a qualified paleontologist to assess finds and recommended procedures.</p> <p>D. If necessary, additional avoidance, testing, and evaluation or data recovery excavations shall occur by a qualified paleontologist.</p> <p>E. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>F. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
25.	<p>MM 4.5-5: Prior to the issuance of grading permits, a qualified paleontologist shall be retained to monitor all ground-disturbing activity that occurs at a depth of 5 feet or deeper below ground surface. The use of post driving or rotary drilling does not require monitoring.</p> <p>1. The duration and timing of monitoring shall be determined by the qualified paleontologist in consultation with the appropriate agency, and shall be based on a review of geologic maps and grading plans. During the course of monitoring, if the paleontologist can demonstrate based on observations of subsurface conditions that the level of monitoring should be reduced, the paleontologist, in consultation with the appropriate agency, may adjust the level of monitoring to circumstances, as warranted.</p> <p>2. Paleontological monitoring shall include inspection of exposed rock units during active excavations within sensitive geologic sediments below 5 feet. The</p>	Prior to issuance of grading permits and during construction	Kern County Planning and Natural Resources Department; Qualified Paleontologist

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>qualified paleontologist shall have authority to temporarily divert excavation operations away from exposed fossils to collect associated data and recover the fossil specimens if deemed necessary.</p> <p>3. Following the completion of monitoring, the paleontologist shall prepare a report documenting the absence or discovery of fossil resources onsite. If fossils are found, the report shall summarize the results of the inspection program, identify those fossils encountered, recovery and curation efforts, and the methods used in these efforts, as well as describe the fossils collected and their significance. A copy of the report shall be provided to the appropriate agencies, and if the report includes discovery of fossil resources, to an appropriate repository such as the Natural History Museum of Los Angeles County.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall retain a qualified paleontologist to assess finds and recommended procedures.</p> <p>C. Following the completion of monitoring, the paleontologist shall prepare a report documenting the absence or discovery of fossil resources onsite.</p> <p>D. If necessary, additional avoidance, testing, and evaluation or data recovery excavations shall occur by a qualified paleontologist.</p> <p>E. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>F. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
26.	<p>MM 4.5-6: If a paleontological resource is found, the project contractor shall cease ground-disturbing activities within 50 feet of the find. The qualified paleontologist shall evaluate the significance of the resources and recommend appropriate treatment measures. At each fossil locality, field data forms shall be used to record pertinent geologic data, stratigraphic sections shall be measured, and appropriate sediment samples shall be collected and submitted for analysis. Any fossils encountered and recovered shall be catalogued and presented for donation to a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County. However, the final disposition of paleontological resources recovered on state lands under the authority of the State Lands Commission must be approved by the State Lands Commission. Accompanying notes, maps, and photographs shall also be filed at the repository.</p>	During construction	Kern County Planning and Natural Resources Department; California State Lands Commission; Qualified Paleontologist

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. If a paleontological resource is found, the qualified paleontologist shall evaluate the significance of the resources and recommend appropriate treatment measures.</p> <p>C. The final disposition of paleontological resources recovered on state lands under the authority of the State Lands Commission must be approved by the State Lands Commission.</p>		
27.	<p>MM 4.5-7: If human remains are uncovered during project construction, the project proponent/ operator shall immediately halt work, contact the Kern County Coroner to evaluate the remains, and follow the procedures and protocols set forth in Section 15064.5 (e)(1) of the CEQA Guidelines. At that time, the project proponent shall contact the Kern County Planning and</p>	During construction and operations	Kern County Planning and Natural Resources Department

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>Natural Resources Department regarding the find. If the County Coroner determines that the remains are Native American, the coroner shall contact the Native American Heritage Commission, in accordance with Health and Safety Code Section 7050.5, subdivision (c), and Public Resources Code 5097.98 (as amended by Assembly Bill 2641). The Native American Heritage Commission shall designate a Most Likely Descendent (MLD) for the remains per Public Resources Code 5097.98. Per Public Resources Code 5097.98, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred with the most likely descendent regarding their recommendations, if applicable, taking into account the possibility of multiple human remains. If the remains are determined to be</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>neither of forensic value to the Coroner, nor of Native American origin, provisions of the California Health and Safety Code (7100 et. seq.) directing identification of the next-of-kin will apply. California State Lands Commission and the Kern County Planning and Natural Resources Department shall also be notified of any discovery of human remains.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. If human remains are discovered, the project proponent shall immediately halt all work and contact the Kern County Coroner to evaluate the remains, and follow the procedures and protocols set forth in Section 15064.5 (e)(1) of the <i>CEQA Guidelines</i>.</p> <p>C. If the remains are determined to be Native American, the County Coroner shall contact the Native American Heritage Commission to assess the find.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	D. The Kern County Planning and Natural Resources Department shall verify compliance with the mitigation.		
	Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.		
4.6	Geology and Soils		
28.	<p>MM 4.6-1: Prior to the issuance of building or grading permits for the proposed project, the project proponent/operator shall conduct a final geotechnical study to confirm the findings of the conceptual geotechnical study regarding soil conditions and geologic hazards on the project site and submit for review and approval by the appropriate agency.</p> <p>1. The final geotechnical study must be signed by a California-registered and</p>	Prior to issuance of grading permits and during construction	Kern County Planning and Natural Resources Department; Kern County Public Works Department; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>licensed professional engineer and must include, but not limited to, the following:</p> <ul style="list-style-type: none"> a. Location of fault traces and potential for surface rupture and groundshaking potential; b. Maximum considered earthquake and associated ground acceleration; c. Potential for seismically induced ground shaking, liquefaction, differential settlement, and mudflows; d. Stability of any existing or proposed cut-and-fill slopes; e. Collapsible or expansive soils; f. Foundation material type; g. Potential for wind erosion, water erosion, sedimentation, and flooding; h. Location and description of unprotected drainage that could be 		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>impacted by the proposed development; and,</p> <ol style="list-style-type: none"> i. Recommendations for placement and design of facilities, foundations, and remediation of unstable ground. 2. The project proponent/operator shall determine the final siting of proposed project facilities based on the results of the final geotechnical study and implement its recommended measures. The project proponent/operator shall not locate proposed project facilities on or immediately adjacent to a fault trace. All structures shall be offset at least 100 feet from any mapped fault trace. Alternatively, a detailed fault trenching investigation may be performed to accurately locate fault trace(s) to avoid siting improvements on, or close to, fault trace(s) and to evaluate the risk of fault rupture. After locating the fault, accurate setback distances can be proposed. 3. The project proponent/operator shall evaluate final facility siting design developed 		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>prior to the issuance of any building or grading permits shall be made to verify that geological constraints have been avoided.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. Submit final geotechnical study on the project site to the Kern County Public Works Department for review and approval.</p> <p>C. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>D. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
29.	<p>MM 4.6-2: Prior to the issuance of grading permits, the project proponent/operator shall retain a California registered and licensed engineer to design the proposed project facilities to withstand probable seismically induced ground shaking at the project site.</p>	Prior to issuance of grading permits and during construction	Kern County Planning and Natural Resources Department; Kern County Building Inspection

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>All grading and construction on site shall adhere to the specifications, procedures, and site conditions contained in the final design plans, which shall be fully compliant with the seismic recommendations of the California-registered and licensed professional engineer.</p> <ol style="list-style-type: none"> 1. The procedures and site conditions shall encompass site preparation, foundation specifications, and protection measures for buried metal structures. 2. The final structural design shall be subject to approval and follow-up inspection by the appropriate agencies. Final design requirements shall be provided to the onsite construction supervisor and the appropriate agencies to ensure compliance. A copy of the approved design shall be submitted to the appropriate agencies. <p>Steps to Compliance:</p> <ol style="list-style-type: none"> A. This mitigation measure shall be incorporated as a condition of approval. 		Department; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>B. The project proponent shall submit written documentation to the Kern County Building Inspection Department that a California registered geotechnical engineer has been established. Documentation shall include the engineer's phone number, email address and mailing address.</p> <p>C. The project proponent shall comply with the full specifications, procedures, and site conditions contained in the final design plans.</p> <p>D. The final structural design shall be subject to approval and follow-up inspection by the Kern County Building Inspection Department.</p> <p>E. The project proponent shall submit written documentation of the geotechnical engineering log to the Planning and Natural Resources within three days of a request.</p> <p>F. The Commission shall receive a copy of all draft materials, and those materials</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>shall be subject to approval by the Commission.</p> <p>G. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
30.	<p>MM 4.6-3: The project proponent/operator shall minimize grading. Prior to the initiation of construction, the project proponent/operator shall retain a California-registered professional engineer to submit final grading earthwork and foundation plans, incorporating best management practices to limit onsite and offsite erosion to the extent feasible, to the appropriate agency for review and approval.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall submit final grading earthwork and foundation plants to the Kern County Public Works Department for review and approval.</p>	Prior to issuance of grading permits and during construction	Kern County Planning and Natural Resources Department; Kern County Public Works Department; California State Lands Commission

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>C. Evidence of compliance shall be submitted to the Kern County Planning and Natural Resources Department.</p> <p>D. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>E. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
31.	<p>MM 4.6-4: Prior to grading, construction and demolition activities, the project proponent/operator shall prepare a Soil Erosion and Sedimentation Control Plan (SESCP) to mitigate potential loss of soil and erosion. The plan shall be prepared by a California-registered and licensed civil engineer or other approved professional and submitted to the appropriate agency for review and approval.</p>	Prior to issuance of grading permits and during construction	Kern County Public Works Department; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>1. The Soil Erosion and Sedimentation Control Plan shall include, but is not limited to, the following:</p> <p>a. Best Management Practices to minimize soil erosion consistent with Kern County grading requirements and the California Regional Water Quality Control Board requirements pertaining to the preparation of a Stormwater Pollution Prevention Plan (Best Management Practices recommended by the appropriate agency shall be reviewed for applicability);</p> <p>b. Provisions to maintain flow in washes, should it occur, throughout construction;</p> <p>c. Provisions for site revegetation using native seed mix or allowing for existing vegetation to grow;</p> <p>d. Sediment collection facilities as may be required by the appropriate agency;</p> <p>e. A timetable for full implementation, estimated costs, and a surety bond or other</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>security as approved by the appropriate agency; and</p> <p>f. Other measures required by the appropriate during permitting, including long-term monitoring (post-construction) of erosion control measures until site stabilization is achieved.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. Submit full SESCO to the Kern County Public Works Department for review and approval.</p> <p>C. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>D. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.		
4.8	Hazards and Hazardous Materials		
32.	<p>MM 4.8-1: During the life of the project, including decommissioning, the project proponent/operator shall prepare and maintain a Hazardous Materials Business Plan (HMBP), as applicable, pursuant to Article 1 and Article 2 of California Health and Safety Code 6.95 and in accordance with Kern County Ordinance Code 8.04.030, by submitting all the required information to the California Environmental Reporting System (CERS) at http://cers.calepa.ca.gov/ for review and approval. The HMBP shall:</p> <ol style="list-style-type: none"> 1. Delineate hazardous material and hazardous waste storage areas 	Prior to issuing grading or building permits and during construction	Kern County Planning and Natural Resources Department; California Environmental Protection Agency; California State Lands Commission; Kern County Public Health Services Department

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>2. Describe proper handling, storage, transport, and disposal techniques</p> <p>3. Describe methods to be used to avoid spills and minimize impacts in the event of a spill</p> <p>4. Describe procedures for handling and disposing of unanticipated hazardous materials encountered during construction</p> <p>5. Establish public and agency notification procedures for spills and other emergencies including fires.</p> <p>The project proponent/operator shall ensure that all contractors working on the project are familiar with the facility's HMBP as well as ensure that one copy is available at the project site at all times. In addition, a copy of the approved HMBP from CERS shall be submitted to the Kern County Planning and Natural Resources Department for inclusion in the projects permanent record.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall submit a HMBP to the California Environmental Protection Agency (which administers CERS) for review and approval.</p> <p>C. The project proponent shall provide the hazardous materials business plan to all contractors working on the project and shall ensure that one copy is available at the project site at all times.</p> <p>D. A copy of the approved HMBP shall be submitted to the Kern County Planning and Natural Resources Department.</p> <p>E. Submit final hazardous material business plan to the Kern County Environmental Health Services Department/Hazardous Materials Section for review and approval.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>F. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>G. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
33.	<p>MM 4.8-2: During construction, operation, and decommissioning, debris and waste generated shall be recycled to the extent feasible. The project proponent/operator shall designate a Recycling Coordinator to facilitate recycling of all waste through coordination with the onsite contractors, local waste haulers, and/or other facilities that recycle construction/demolition wastes. The Recycling Coordinator shall also be responsible for ensuring that wastes requiring special disposal are handled according to State and County regulations that are in effect at the time of disposal. The name and phone number of the coordinator shall be provided to the appropriate agency.</p>	Prior to issuing building permits; during grading, construction, and decommissioning	Kern County Planning and Natural Resources Department; California State Lands Commission; Kern County Public Works Department

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. Prior to issuance of building permits, designate onsite-recycling coordinator, provide name, and phone number to Kern County Planning and Natural Resources Department.</p> <p>C. Recycle construction waste to the extent feasible.</p> <p>D. Kern County Public Works Department will verify compliance in the field during field inspections.</p> <p>E. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>F. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
34.	<p>MM 4.8-3: The project proponent/operator shall continuously comply with the following:</p> <p>In the event any abandoned or unrecorded wells are uncovered or damaged during excavation or grading activities, all work shall cease in the vicinity of the well, and the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources, shall be contacted for requirements and approval; copies of said approvals shall be submitted to the appropriate agencies. The California Department of Conservation, Division of Oil, Gas, and Geothermal Resources, may determine that remedial plugging operations may be required and shall be contacted and brought to the project site to make a proper assessment of the suspect materials.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p>	Uncover or damage of abandoned or unrecorded well.	Kern County Planning and Natural Resources Department; California State Lands Commission

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>B. In the event any abandoned or unrecorded wells are uncovered or damaged during excavation or grading activities, all work shall cease in the vicinity of the well, and the project proponent shall contact the California Department of Conservation Division of Oil, Gas, and Geothermal Resources for requirements and approval.</p> <p>C. The project proponent shall comply with all applicable California Department of Conservation, Division of Oil, Gas, and Geothermal Resources rules and regulations.</p> <p>D. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>E. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
35.	MM 4.8-4: The project proponent/operator shall continuously comply with the following:	During construction activities	Eastern Kern Air Pollution Control District, Kern County

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>1. In the event that suspect asbestos-containing materials are uncovered during project construction, work within the vicinity of the discovery shall immediately halt and a certified asbestos hazardous materials professional shall be contacted and brought to the project site to make a proper assessment of the suspect materials.</p> <p>2. All potentially friable asbestos containing materials shall be removed in accordance with Federal, State, and local laws and the National Emissions Standards for Hazardous Air Pollutants guidelines prior to ground disturbance that may disturb such materials.</p> <p>3. All demolition activities shall be undertaken in accordance with California Occupational Safety and Health Administration standards, as contained in Title 8 of the California Code of Regulations, Section 1529, to protect workers from exposure to asbestos. Materials containing more than one percent asbestos shall also</p>		Public Health Services Department

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>be subject to Eastern Kern Air Pollution Control District's (EKAPCD) regulations. Demolition shall be performed in conformance with Federal, state, and local laws and regulations so that construction workers and/or the public avoid significant exposure to asbestos-containing materials.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. If suspect asbestos-containing materials are uncovered during project construction, work within the vicinity of the discovery shall immediately halt and a certified asbestos hazardous materials professional will be brought to the project site to make a proper assessment of the suspect materials.</p> <p>C. All demolition activities shall be undertaken in accordance with California Occupational Safety and Health Administration standards, as contained in</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	Title 8 of the California Code of Regulations, Section 1529, to protect workers from exposure to asbestos.		
36.	<p>MM 4.8-5: The project proponent/operator shall continuously comply with the following:</p> <ol style="list-style-type: none"> 1. The construction contractor or proposed project personnel shall use herbicides that are approved for use by the Environmental Protection Agency. Workers who apply herbicides shall have all appropriate State and local herbicide applicator licenses and comply with all State and local regulations regarding herbicide use. 2. Herbicides shall be mixed and applied in conformance with the manufacturer's directions. 3. The herbicide applicator shall be equipped with splash protection clothing and gear, chemical resistant gloves, chemical spill/splash wash supplies, and material safety data sheets for all hazardous materials 	During construction and operation	Kern County Planning and Natural Resources Department; California State Lands Commission; Kern County Public Health Services Department/ Environmental Health Services Division

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>to be used. To minimize harm to wildlife, vegetation, and water bodies, herbicides shall not be applied directly to wildlife.</p> <p>4. Products identified as non-toxic to birds and small mammals shall be used if nests or dens are observed, and herbicides shall not be applied if it is raining at the site, rain is imminent, or the target area has puddles or standing water.</p> <p>5. Herbicides shall not be applied when wind velocity exceeds 10 miles per hour. If spray is observed to be drifting to a non-target location, spraying shall be discontinued until conditions causing the drift have abated.</p> <p>6. A written record of all herbicide applications on site, including dates and amounts, shall be furnished to the California State Lands Commission on a monthly basis.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall use herbicides as described in mitigation during construction and operations.</p> <p>C. The Kern County Public Health Services Department/Environmental Health Services Division shall verify compliance and licenses.</p> <p>D. Evidence of compliance shall be submitted to the Kern County Planning and Natural Resources Department.</p> <p>E. A written record of all herbicide applications on site, including dates and amounts, shall be furnished to the California State Lands Commission on a monthly basis.</p>		
37.	<p>MM 4.8-6: Prior to the issuance of grading or building permits, the project proponent/operator shall develop and implement a Fire Safety Plan for use during construction, operation and</p>	<p>Prior to issuance of grading or building permits, and during construction,</p>	<p>Kern County Planning and Natural Resources Department; Kern County Public Works Department; Kern County Fire</p>

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>decommissioning. The project proponent/operator shall submit the plan, along with maps of the project site and access roads, to the Kern County Fire Department for review and approval. The Fire Safety Plan shall contain notification procedures and emergency fire precautions including, but not limited to the following:</p> <ol style="list-style-type: none"> 1. All internal combustion engines, both stationary and mobile, shall be equipped with spark arresters. Spark arresters will be in good working order. 2. Light trucks and cars with factory-installed (type) mufflers will be used only on roads where the roadway is cleared of vegetation. These vehicle types will maintain their factory-installed (type) muffler in good condition. 3. Fire rules will be posted on the project bulletin board at the contractor's field office and areas visible to employees. 	operation and decommissioning	Department; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>4. Equipment parking areas and small stationary engine sites will be cleared of all extraneous flammable materials.</p> <p>5. Personnel shall be trained in the practices of the Fire Safety Plan relevant to their duties. Construction and maintenance personnel shall be trained and equipped to extinguish small fires to prevent them from growing into more serious threats.</p> <p>6. The project proponent/operator shall make an effort to restrict the use of chainsaws, chippers, vegetation masticators, grinders, drill rigs, tractors, torches, and explosives to periods outside of the official fire season. When the above tools are used, water tanks equipped with hoses, fire rakes, and axes shall be easily accessible to personnel.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>B. The project proponent shall develop a Fire Safety Plan according to the specifications of the mitigation measure.</p> <p>C. The project proponent shall submit the Fire Safety Plan, along with maps of the project site and access roads, to the Kern County Fire Department and the California State Lands Commission.</p> <p>D. The Kern County Fire Department and the California State Lands Commission shall review and approve the Fire Safety Plan prior to issuing building and grading permits.</p> <p>E. Verification of approval shall be provided to the Kern County Planning and Natural Resources Department and the Kern County Public Works Department.</p>		
	<p>Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
4.9	Hydrology and Water Quality		
38.	<p>MM 4.9-1: Prior to issuance of a grading permit, the project proponent/operator shall submit a Stormwater Pollution Prevention Plan (SWPPP) for review and approval by the Regional Water Quality Control Board—Lahontan Region. The SWPPP shall be designed to minimize runoff and shall specify best management practices to prevent all construction pollutants from contacting stormwater, with the intent of keeping sediment or any other pollutants from moving offsite and into receiving waters. The requirements of the SWPPP shall be incorporated into design specifications and construction contracts. Recommended best management practices to be incorporated in the SWPPP may include the following:</p> <p>Minimization of vegetation removal;</p> <p>Implementing sediment controls, including silt fences as necessary;</p>	Prior to the issuing building and grading permits	Kern County Public Works Department; California State Lands Commission; Kern County Planning and Natural Resources Department; Lahontan Regional Water Quality Control Board

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>Installation of a stabilized construction entrance/exit and stabilization of disturbed areas;</p> <p>Properly containing and disposing of hazardous materials used for construction onsite;</p> <p>Properly covering stockpiled soils to prevent wind erosion;</p> <p>Proper protections and containment for fueling and maintenance of equipment and vehicles; and</p> <p>Appropriate disposal of demolition debris, concrete and soil, and aggressively controlling litter.</p> <p>Cleanup of silt and mud on adjacent street due to construction activity.</p> <p>Checking all lined and unlined ditches after each rainfall.</p> <p>Restore all erosion control devices to working order to the satisfaction of the Lahontan</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>Regional Water Quality Control Board after each rainfall run-off.</p> <p>Install additional erosion control measures as may be required due to uncompleted grading operations or unforeseen circumstances which may arise.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall submit an approved copy of the Storm Water Pollution Prevention Plan (SWPPP) from the Lahontan Regional Water Quality Control Board to the Kern County Planning and Natural Resources Department.</p> <p>C. The Kern County Public Works Department will verify compliance in the field during construction.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>D. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>E. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
39.	<p>MM 4.9-2: Prior to the issuance of a grading permit, the project proponent/operator shall submit a final hydrologic study and drainage plan for review and approval by the Kern County Public Works Department. The final hydrologic study and drainage plan shall be designed to evaluate and minimize potential increases in runoff from the project site. The final hydrologic study and drainage plan shall include, but not be limited to the following:</p> <p>1. Numerical stormwater model for the project site, and would evaluate existing and proposed (with project) drainage conditions during storm events ranging up to the 100-year event.</p>	Prior to the issuance of a grading permit	Kern County Public Works Department; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>2. The study shall also consider potential for erosion and sedimentation in light of modeled changes in stormwater flow across the project area that would result from project implementation.</p> <p>3. The drainage plan would include engineering recommendations to be incorporated into the project and applied within the site boundary. Engineering recommendations will include measures to offset increases in stormwater runoff that would result from the project, as well as implementation of design measures to minimize or manage flow concentration and changes in flow depth or velocity so as to minimize erosion, sedimentation, and flooding onsite or offsite.</p> <p>4. The final design of the solar arrays shall include 1-foot of freeboard clearance above the calculated maximum flood depths for the solar arrays or the finished floor of any permanent structures. Solar module sites located within a 100-year floodplain</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>shall be graded to direct potential flood waters without increasing the water surface elevations more than 1 foot or as required by Kern County's Floodplain Ordinance.</p> <p>5. The hydrologic study and drainage plan shall be prepared in accordance with the Kern County Grading Code, Kern County Development Standards, Kern County Hydrology Manual and Kern County Floodplain Ordinance, and approved by the Kern County Public Works Department prior to the issuance of grading permits.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall complete a final hydrologic study and drainage plan designed to evaluate and minimize potential increases in runoff from the project site.</p> <p>C. The hydrologic study and drainage plan shall be prepared in accordance with the Kern County Grading Code and Kern</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>County Development Standards and approved by the Kern County Public Works Department prior to the issuance of grading permits.</p> <p>D. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>E. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
	<p>Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
4.10	Land Use		
40.	<p>MM 4.10-1: Prior to issuance of any building permit, the project proponent/operator shall provide a Decommissioning Plan for review and approval. The plan would be carried out by the project proponent/operator or a contracted consulting firm(s) at a cost to be borne by the project proponent/operator.</p> <p>1. The Decommissioning Plan shall include, but not limited to, the following:</p> <p>a. Factor in the cost to remove the solar panels and support structures, replace of any disturbed soil from the removal of support structures (including all underground equipment), and control of fugitive dust on the remaining undeveloped land.</p> <p>b. Salvage value for the solar panels and support structures shall be included in the financial assurance calculations.</p> <p>c. The assumption, when preparing the estimate, is that the project</p>	Prior to the issuance of a building permits	Kern County Planning and Natural Resources Department; California State Lands Commission; Kern County Public Works Department

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>proponent/operator is incapable of performing the work or has abandoned the solar facility, thereby resulting in the County hiring an independent contractor to perform the decommissioning work.</p> <p>2. In addition to submittal of a Decommissioning Plan, the project proponent/operator shall post or establish and maintain with the California State Lands Commission financial assurances related to the deconstruction of the site as identified on the approved Decommissioning Plan should at any point in time the project proponent/operator determine it is not in their best interest to operate the facility. The financial assurance required prior to issuance of any building permit shall be established using one of the following:</p> <ul style="list-style-type: none"> a. An irrevocable letter of credit; b. A surety bond; c. A trust fund in accordance with the approved financial assurances to guarantee 		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>the deconstruction work will be completed in accordance with the approved decommissioning plan; or</p> <p>d. Other financial assurances as reviewed and approved by the respective California State Lands Commission administrative offices.</p> <p>3. The financial assurances documents shall include the following verbiage, including any required verbiage through California State Lands Commission's consultation and review:</p> <p>a. Financial institution or Surety Company shall give the County a minimum of 120 days' notice of intent to terminate the letter of credit or bond.</p> <p>b. Financial assurances shall be reviewed annually by the respective counties or County-contracted consulting firm(s) at a cost to be borne by the project proponent/operator to substantiate those adequate funds exist to ensure</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>deconstruction of all solar panels and support structures identified on the approved Decommissioning Plan.</p> <p>c. Should the project proponent/operator deconstruct the site on their own, the County will not pursue forfeiture of the financial assurance.</p> <p>d. Financial institution or Surety Company shall be licensed to conduct business in the state of California.</p> <p>4. Once deconstruction has occurred, financial assurance for that portion of the site will no longer be required and any financial assurance posted will be adjusted or returned accordingly. Any funds not utilized through decommissioning of the site by the County shall be returned to the project proponent/operator.</p> <p>5. Should any portion of the solar field not be in operational condition for a consecutive period of 24 months that portion of the site shall be deemed abandoned and shall be</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>removed within 60 days from the date a written notice is sent to the property owner and solar field owner, as well as the project proponent/operator, by the California State Lands Commission. Within this 60-day period, the property owner, solar field owner, or project proponent/operator may provide the California State Lands Commission a written request and justification for an extension for an additional 12 months. The California State Lands Commission shall consider any such request.</p> <p>6. In no case shall a solar field which has been deemed abandoned be permitted to remain in place for more than 48 months from the date the solar facility was first deemed abandoned.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall prepare a Decommissioning Plan and submit the</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>appropriate financial assurances to the Kern County Planning and Natural Resources Department.</p> <p>C. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>D. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
	<p>Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.</p>		
4.12	Noise		
41.	<p>MM 4.12-1: To reduce temporary construction related noise impacts, the following shall be implemented by the project proponent/operator:</p>	During construction and decommissioning	Kern County Planning and Natural Resources Department; California State Lands Commission; Kern County Public Works

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>1. In the event a noise sensitive receptor is constructed within 1,000 feet of the project site:</p> <p>Equipment staging shall be located in areas that will create the greatest distance between construction-related noise sources and the noise sensitive receptor to the extent practical.</p> <p>The project contractor shall place all stationary construction equipment so that emitted noise is directed away from the noise sensitive receptors, where feasible.</p> <p>2. The construction contractor shall ensure that all construction equipment is equipped with manufacturer-approved mufflers and baffles.</p> <p>3. The construction contractor shall establish a Noise Disturbance Coordinator for the proposed project during construction. The Noise Disturbance Coordinator shall be responsible for responding to any complaints about construction noise. The Noise</p>		Department; Noise Disturbance Coordinator

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>Disturbance Coordinator shall determine the cause of the complaint and shall be required to implement reasonable measures to resolve the complaint. Contact information for the Noise Disturbance Coordinator shall be submitted to the appropriate agency prior to commencement of any ground disturbing activities.</p> <p>4. During all construction or decommissioning phases of the proposed project, the construction contractor shall limit all onsite noise-producing activities to the hours of 6:00 a.m. to 9:00 p.m., Monday through Friday, and to the hours of 8:00 a.m. and 9:00 p.m. on Saturdays and Sunday or as required through the Kern County Noise Ordinance (Kern County Code of Ordinance, Title 8, Chapter 8.36.020).</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>B. The construction contractor shall ensure that all construction equipment is equipped with manufacturer-approved mufflers and baffles.</p> <p>C. The construction contractor shall establish a Noise Disturbance Coordinator for the project during construction,</p> <p>D. Contact information for the Disturbance Coordinator shall be submitted to the Kern County Planning and Natural Resources Department prior to commencement of any ground disturbing activities.</p> <p>E. The project proponent shall comply with the Kern County Noise Ordinance.</p> <p>F. The Kern County Public Works Department will verify compliance in the field during inspection.</p> <p>G. The Commission shall receive a copy of all draft materials, and those materials</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>shall be subject to approval by the Commission.</p> <p>H. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
42.	<p>MM 4.12-2: Prior to commencement of any onsite construction activities (i.e., fence construction, mobilization of construction equipment, initial grading, etc.), the project proponent/operator shall provide written notice to the California State Lands Commission, and to the public, through mailing a notice.</p> <p>1. The mailing notice shall be to all residences within 1,000 feet of the project site, no sooner than 15 days prior to construction activities. The notices shall include: the construction schedule, telephone number and email address where complaints and questions can be registered with the Noise Disturbance Coordinator.</p> <p>2. A minimum of one sign, legible at a distance of 50 feet, shall be posted at the</p>	Prior to the start of construction activities	Kern County Building Inspection Department; Kern County Planning and Natural Resources Department; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>construction site or adjacent to the nearest public access to the main construction entrance throughout construction activities that shall provide the construction schedule (updated as needed) and a telephone number where noise complaints can be registered with the Noise Disturbance Coordinator.</p> <p>3. Documentation that the public notice has been sent and the sign has been posted shall be provided to the California State Lands Commission.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall submit evidence to the Kern County Planning and Natural Resources Department of written notice distribution, prior to issuance of a grading permit.</p> <p>C. The project proponent shall submit evidence to the Kern County Planning and</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Natural Resources Department prior to issuance of a grading permit that a minimum of one sign, legible at a distance of 50 feet, has been posted at the construction site or adjacent to the nearest public access to the main construction entrance throughout construction activities that shall provide the construction schedule (updated as needed) and a telephone number where noise complaints can be registered with the Noise Disturbance Coordinator.</p> <p>D. Documentation that the public notice has been sent and the sign has been posted shall be provided to the Kern County Planning and Natural Resources Department and the California State Lands Commission.</p> <p>E. The Kern County Building Inspection Department shall verify compliance in the field during inspection.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
43.	<p>MM 4.12-3: Adequate noise shielding shall be provided to the proposed project's onsite energy storage systems, transformers and inverters such that the existing ambient noise level at the nearest offsite residential structure would not be exceeded by more than 5 dBA. The project proponent shall submit photographic evidence of this technology and clearly demonstrate on a site plan where adequate noise shielding will be located, if necessary.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall ensure practices are implemented as outlined in mitigation.</p> <p>C. The Kern County Building Inspection Department shall verify compliance.</p> <p>D. The Commission shall receive a copy of all draft materials, and those materials</p>	Prior to the issuance of any occupancy permits	Kern County Planning and Natural Resources Department; Kern County Building Inspection Department; California State Lands Commission

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	shall be subject to approval by the Commission. E. The Commission shall receive a copy of all final (i.e., approved) materials.		
	Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.		
4.13	Public Services		
44.	<p>MM 4.13-1: Prior to the issuance of grading or building permits, the project proponent/operator shall develop and implement a Fire Safety Plan for use during construction and operation.</p> <p>The project proponent/operator shall submit the plan, along with maps of the project site and access roads for review and approval. The Fire Safety Plan shall contain notification procedures and emergency fire precautions, including the following:</p>	Prior to issuance of building and grading permits, and during construction and operation	Kern County Planning and Natural Resources Department; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<ol style="list-style-type: none"> 1. All internal combustion engines, both stationary and mobile, shall be equipped with spark arresters. Spark arresters shall be in good working order; 2. Light trucks and cars with factory-installed (type) mufflers shall be used only on roads where the roadway is cleared of vegetation. These vehicle types shall maintain their factory-installed (type) mufflers in good condition; 3. Fire rules shall be posted on the project bulletin board at the contractor's field office and in areas visible to employees; 4. Equipment parking areas and small stationary engine sites shall be cleared of all extraneous flammable materials; 5. Personnel shall be trained in the practices of the Fire Safety Plan relevant to their duties. Construction and maintenance personnel shall be trained and equipped to extinguish small fires to prevent them from growing into more serious threats; and 		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>6. The project proponent/operator shall make an effort to restrict the use of chainsaws, chippers, vegetation masticators, grinders, drill rigs, tractors, torches, and explosives to periods outside of the official fire season. When the above tools are used, water tanks equipped with hoses, fire rakes, and axes shall be easily accessible to personnel.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall pay fees to countywide public protection, sheriff patrol and investigation, and fire services.</p> <p>C. The project proponent shall provide Kern County Planning and Natural Resources Department written verification of ownership of the project.</p> <p>D. Work with County staff to determine how the receipt of sales and use taxes</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>related to the construction of the project will be maximized.</p> <p>E. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>F. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
45.	<p>MM 4.13-2: The project proponent/operator shall implement the following mitigation steps at the project site:</p> <p>1. For facility operation, the project proponent/operator shall pay for impacts on countywide public protection, sheriff's patrol and investigative services, and fire services at a rate of \$28.84 per 1,000 square feet of panel-covered ground. The total amount shall be divided by the number of years of operation and paid on a yearly basis. If completed in phases, the annual amount shall be based on the square footage of ground covered by April 30 of each year.</p>	Prior to issuance of building and grading permits and during construction and operation	Kern County Planning and Natural Resources Department; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>The amount shall be paid to the Kern County Auditor/Controller by April 30 of each calendar year for each and every year of operation. Copies of payments made shall be submitted to the Kern County Planning and Natural Resources Department.</p> <p>2. Written verification of ownership of the proposed project shall be submitted to the Kern County Planning and Natural Resources Department by April 15 of each calendar year. If the proposed project is sold to a city, county, or utility company with assessed taxes that total less than \$1,000 per megawatt per year, then that entity shall pay the taxes plus the amount necessary to equal \$1,000 per megawatt. The amount shall be paid for all years of operation. The fee shall be paid to the Kern County Auditor/Controller by April 30 of each calendar year.</p> <p>3. The project proponent/operator shall work with the County to determine how the use of sales and use taxes from construction</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>of the proposed project can be maximized. This process shall include the project proponent/operator obtaining a street address within the unincorporated portion of Kern County for acquisition, purchasing, and billing purposes and registering this address with the State Board of Equalization, using this address for acquisition, purchasing and billing purposes associated with the proposed project. As an alternative to the aforementioned process, the project proponent/operator may make arrangements with Kern County for a guaranteed single payment that is equivalent to the amount of sales and use taxes that would have otherwise been received (less any sales and use taxes actually paid); with the amount of the single payment to be determined via a formula approved by Kern County. The project proponent/operator shall allow the County to use this sales tax information publicly for reporting purposes.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. Prior to the issuance of any building permits, the project proponent shall pay for impacts on countywide public protection, sheriff's patrol and investigative services, and fire services project proponent.</p> <p>C. Written verification of ownership of the project shall be submitted to the Kern County Planning and Natural Resources Department.</p> <p>D. Prior to the issuance of any building permits on the property, the project proponent shall submit a letter detailing the hiring efforts prior to commencement of construction</p> <p>E. The Kern County Building Inspection Department shall verify compliance in the field.</p> <p>F. The Commission shall receive a copy of all draft materials, and those materials</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>shall be subject to approval by the Commission.</p> <p>G. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
	<p>Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.</p>		
4.14	Traffic and Transportation		
46.	<p>MM 4.14-1: Prior to the issuance of building permits, the project proponent/operator shall:</p> <p>1. Obtain all necessary encroachment or other permits for the work within the road right-of-way or use of oversized/overweight vehicles that will utilize County-maintained roads, which may require California Highway Patrol or a pilot car escort. Copies of the approved traffic plan and issued permits shall be submitted to the Kern County</p>	<p>Prior to issuance of building permits; during construction, operations and decommissioning</p>	<p>Kern County Planning and Natural Resources Department; Kern County Public Works Department/Building and Development Division; California Department of Transportation; California State Lands Commission</p>

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>Planning and Natural Resources Department and the Kern County Public Works Department/Building and Development Division.</p> <p>2. Prepare and submit a Construction Traffic Control Plan to Kern County Public Works Department/Building and Development Division and the California Department of Transportation offices for District 9, as appropriate, for approval. The Construction Traffic Control Plan must be prepared in accordance with both the California Department of Transportation Manual on Uniform Traffic Control Devices and Work Area Traffic Control Handbook and must include, but not be limited to, the following issues:</p> <p>a. Timing of deliveries of heavy equipment and building materials;</p> <p>b. Directing construction traffic with a flag person, if required;</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>c. Placing temporary signing, lighting, and traffic control devices if required, including, but not limited to, appropriate signage along access routes to indicate the presence of heavy vehicles and construction traffic;</p> <p>d. Ensuring access for emergency vehicles to the project site;</p> <p>e. Temporarily closing travel lanes or delaying traffic during materials delivery, transmission line stringing activities, or any other utility connections;</p> <p>f. Maintaining access to adjacent property; and,</p> <p>g. Specifying both construction-related vehicle travel and oversize load haul routes, minimizing construction traffic during the AM and PM peak hour, distributing construction traffic flow across alternative routes to access the project site, and avoiding residential neighborhoods to the maximum extent feasible.</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>h. Institute construction work hours as necessary, such that the arrival and/or departure times of workers would be staggered as necessary.</p> <p>i. Identifying vehicle safety procedures for entering and exiting site access roads.</p> <p>3. Enter into a secured agreement with Kern County to ensure that any County roads that are demonstrably damaged by proposed project-related activities are promptly repaired and, if necessary, paved, slurry-sealed, or reconstructed as per requirements of the State and/or Kern County.</p> <p>4. Submit documentation that identifies the roads to be used during construction. The project proponent/operator shall be responsible for repairing any damage to non-county maintained roads that may result from construction activities. The project proponent/operator shall submit a preconstruction video log and inspection report regarding roadway conditions for</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>roads used during construction to the Kern County Kern County Public Works Department/Building and Development Division and the Planning and Natural Resources Department.</p> <p>5. Within 30 days of completion of construction, the project operator shall submit a post-construction video log and inspection report to the County for County maintained roads. This information shall be submitted in DVD format. The County, in consultation with the project proponent/operator's engineer, shall determine the extent of remediation required, if any.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall submit a traffic control plan to the Kern County Roads Department for review and approval.</p>		

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>C. The project proponent shall obtain necessary encroachment permits from Kern County Roads Department and California Department of Transportation, if necessary.</p> <p>D. The project proponent shall provide the Planning and Community Development Department with a copy of an approved traffic control plan, encroachment permits and executed secured agreements, which includes identification of roads to be used during construction.</p> <p>E. The project proponent shall submit preconstruction and post-construction videos documenting repairs to roads used during construction, as outlined in mitigation.</p> <p>F. The Planning and Natural Resources Department shall review videos and documentation and verify compliance.</p> <p>G. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	H. The Commission shall receive a copy of all final (i.e., approved) materials.		
47.	<p>MM 4.14-2: The project shall implement a plan to improve the p.m. peak-hour delay at SR-14/Camelot Boulevard to an acceptable LOS C. This would be achieved by staggering construction traffic departure schedules to reduce construction-related trips during the p.m. peak hour. No more than 175 vehicles shall leave the project site between the hours of 4:15 p.m. and 5:15 p.m., and the remaining vehicles shall exit the site in the hours either prior to or after the peak hour of 4:15 p.m. and 5:15 p.m.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. The project proponent shall prepare and submit a plan to improve the PM peak-hour delay at SR 14/Camelot Boulevard to an acceptable LOS C to the Kern County</p>	Prior to issuance of building permits, during construction, operations and decommissioning	Kern County Planning and Natural Resources Department; Kern County Public Works Department/Building and Development Division; California State Lands Commission

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>Public Works Department for review and approval.</p> <p>C. The project proponent shall submit a copy of the approved plan to the Kern County Planning and Natural Resources Department.</p> <p>D. The Commission shall receive a copy of all draft materials, and those materials shall be subject to approval by the Commission.</p> <p>E. The Commission shall receive a copy of all final (i.e., approved) materials.</p>		
	<p>Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant environmental effects identified in the Final EIR to the extent feasible.</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
4.15	Utilities and Service Systems		
48.	<p>MM 4.15-1: During construction, operation, and decommissioning, debris and waste generated shall be recycled to the extent feasible.</p> <ol style="list-style-type: none"> 1. An onsite Recycling Coordinator shall be designated by the project proponent/operator to facilitate the recycling as part of the Maintenance and Trash Abatement/Pest Management Program. 2. The Recycling Coordinator shall facilitate recycling of all construction waste through coordination with contractors, local waste haulers, and/or facilities that recycle construction/demolition wastes. 3. The onsite Recycling Coordinator shall also be responsible for ensuring that wastes that require special disposal are handled according to the State and County 	Prior issuance of building permits, during construction, operations and decommissioning	Kern County Planning and Natural Resources Department; Kern County Public Works Department/Building and Development Division; California State Lands Commission

Mitigation Measure	Time Frame for Implementation:	Responsible Monitoring Agency:
<p>regulations that are in effect at the time of disposal.</p> <p>4. The name and phone number of the Recycling Coordinator shall be provided prior to issuance of the building permits.</p> <p>5. The project proponent/operator shall provide a storage area for recyclable materials within the fenced project area that is clearly identified for recycling. This area shall be maintained on the site during construction, operations and decommissioning. A site plan showing the recycling storage area shall be submitted prior to the issuance of any grading or building permit for the site.</p> <p>Steps to Compliance:</p> <p>A. This mitigation measure shall be incorporated as a condition of approval.</p> <p>B. Prior to issuance of building permits, designate onsite-recycling coordinator, provide name, and phone number to Kern County Waste Management Department</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	<p>and the Kern County Public Works Department.</p> <p>C. Recycle construction waste to the extent feasible.</p> <p>D. Provide Kern County Planning and Natural Resources Department and Kern County Waste Management Department with a site plan showing the recycling storage area prior to the issuance of grading or building permits for the site.</p> <p>E. Kern County Public Works Department will verify in the field during the construction period.</p> <p>F. Provide Kern County Planning and Natural Resources Department and Kern County Waste Management Department with copies of hauling receipts.</p>		
	<p>Justification: Changes or alterations to the project have been required to substantially reduce the potentially significant</p>		

Mitigation Measure		Time Frame for Implementation:	Responsible Monitoring Agency:
	environmental effects identified in the Final EIR to the extent feasible.		

EXHIBIT D – Windhub Solar Project
CALIFORNIA STATE LANDS COMMISSION
STATEMENT OF FINDINGS AND
STATEMENT OF OVERRIDING CONSIDERATIONS

1.0 INTRODUCTION

The California State Lands Commission (Commission or CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these findings and this Statement of Overriding Considerations to comply with CEQA as part of its discretionary approval to authorize issuance of a General Lease – Industrial Use, to Windhub Solar B, LLC, for use of state school land associated with the proposed Windhub Solar Project (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines¹, § 15381.)

In 1853, the United States Congress granted to California nearly 5.5 million acres of land for the specific purpose of supporting public schools. In 1984, the State Legislature passed the School Land Bank Act (Act), which established the School Land Bank Fund (SLBF) and appointed the Commission as its trustee (Pub. Resources Code, § 8700 et seq.). The Act directed the Commission to develop school lands into a permanent and productive resource base for revenue generating purposes. The Commission manages approximately 462,830 +/- acres of school lands still held in fee ownership by the State and the reserved mineral interests on an additional 790,000± acres where the surfaces estates have been sold. Revenue from school lands is deposited in the State Treasury for the benefit of the Teachers' Retirement Fund (Pub. Resources Code, § 6217.5).

The Commission is a responsible agency under CEQA for the Project because the Commission must approve a lease for the Project to go forward and because the Kern County Planning and Natural Resources Department (County), as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The County analyzed the environmental impacts associated with the Project in a Final Environmental Impact Report (EIR) (State Clearinghouse [SCH] No. 2015111057) and, in December 2018, certified the EIR and adopted a Mitigation Monitoring and Reporting Program (MMRP), Findings, and a Statement of Overriding Considerations.

¹ CEQA is codified in Public Resources Code section 21000 et seq. The State CEQA Guidelines are found in California Code of Regulations, title 14, section 15000 et seq.

The Project involves construction of facilities that would include 70,000 photovoltaic (PV) modules mounted on fixed tilt or horizontal tracking structures installed in array blocks within the solar field. Interior access ways and perimeter roads would allow for project construction and maintenance of the PV modules. A combination of underground and above ground electrical and communications cables would tie into the existing gentie line (collector transmission line), to interconnect at the Southern California Edison Windhub substation, located just north of the project site.

Other project related infrastructure may include:

- A battery energy storage system with the capacity to store 160MWh of energy
- Up to 12 meteorological stations, approximately 13 feet in height and a microwave or other telecommunication tower up to 100 feet in height.
- Diesel, propane, or battery powered backup generators for emergency backup power
- A 15,000-gallon water storage tank to provide water supply needed for fire protection and operations
- Portable toilets
- Up to three metal cargo containers that would house administrative, operation, and maintenance equipment, installed on concrete pads (approximately 40 feet wide by 8 feet high)

The Project has an anticipated operational life of up to 40 years, after which the Project proponent may choose to update site technology and recommission or to decommission the site and remove the systems and their components. Any plan to update site technology and recommission the site would require Commission authorization and possibly additional environmental review. All decommissioning and restoration activities on the lease premises would adhere to the requirements of the appropriate governing authorities and in accordance with all applicable federal, state, and county laws and regulations, including CEQA. A collection and recycling program would be executed to promote recycling of Project components and minimize disposal in landfills. The area would be thoroughly cleaned, and all debris would be removed. At the time of decommissioning, the Applicant is aware that a lease amendment may be necessary if there is any change to the decommissioning plan analyzed in the EIR and incorporated into the lease..

The County determined that the Project could have significant environmental effects on the following environmental resources:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology/Soils
- Hazards and Hazardous Materials
- Land Use
- Noise
- Public Services
- Transportation/Traffic
- Utilities and Service Systems

Of the 11 resources areas noted above, Project components within the Commission's jurisdiction could have significant environmental effects on **all** of the resource areas.

In certifying the Final EIR and approving the Project, the County imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be substantially lessened with implementation of these mitigation measures such that the impacts would be less than significant. However, even with the integration of all feasible mitigation, the County concluded in the EIR that some of the identified impacts would remain significant. As a result, the County adopted a Statement of Overriding Considerations to support its approval of the Project despite the significant and unavoidable impacts. The County determined that, after mitigation, the Project may still have significant impacts on Aesthetics, Air Quality, and Biological Resources. Because some of these significant impacts may occur on lands under the jurisdiction of the Commission, the Commission also adopts the Statement of Overriding Considerations set forth in this Exhibit as part of its approval.

As a responsible agency, the Commission complies with CEQA by considering the EIR and reaching its own conclusions on whether, how, and with what conditions to approve a project. In doing so, the Commission may require changes in a project to lessen or avoid the effects, either direct or indirect, of that part of the project which the Commission will be called on to carry out or approve. In order to ensure the identified mitigation measures and/or Project revisions are implemented, the Commission adopts the Mitigation Monitoring Program (MMP) as set forth in Exhibit C as part of its Project approval.

2.0 ADMINISTRATIVE RECORD OF PROCEEDINGS AND CUSTODIAN OF THE RECORD

These Findings are supported by substantial evidence contained in the EIR and other relevant information provided to the Commission or existing in its files, all of which is contained in the administrative record. The administrative record is located at the California State Lands Commission, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825. The custodian for the administrative record is the California State Lands Commission Division of Environmental Planning and Management.

3.0 FINDINGS

The Commission's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each "public agency" that approves a project for which an EIR has been certified that identifies one or more significant impacts on the environment (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a).) Because the EIR certified by the County for the Project identifies potentially significant impacts that fall within the scope of the Commission's approval, the Commission makes the Findings set forth below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Riverwatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186, 1202, 1207.

While the Commission must consider the environmental impacts of the Project as set forth in the EIR, the Commission's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve (Pub. Resources Code, § 21002.1, subd. (d); State CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because the Commission's exercise of discretion involves only issuing a General Lease – Industrial Use for this Project, the Commission is responsible for considering only the environmental impacts related to lands or resources subject to the Commission's jurisdiction. With respect to all other impacts associated with implementation of the Project, the Commission is bound by the legal presumption that the EIR fully complies with CEQA.

The Commission has reviewed and considered the information contained in the Project EIR. All significant adverse impacts of the Project identified in the EIR relating to the Commission's approval of a General Lease – Industrial Use, which would allow construction, use, maintenance, and decommissioning of a solar energy facility, are included herein and organized according to the resource affected.

These Findings, which reflect the independent judgment of the Commission, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. Possible findings on each significant effect are:

- (1) Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.²

A discussion of supporting facts follows each Finding.

- Whenever Finding (1) occurs, the mitigation measures that lessen the significant environmental impact are identified in the facts supporting the Finding.
- Whenever Finding (2) occurs, the agencies with jurisdiction are specified. These agencies, within their respective spheres of influence, have the responsibility to adopt, implement, and enforce the mitigation discussed.
- Wherever Finding (3) is made, the Commission has determined that, even after implementation of all feasible mitigation measures and consideration of feasible alternatives, the identified impact will exceed the significance criteria set forth in the EIR. Furthermore, to the extent that potentially feasible measures have been alleged or proposed, the Findings explain why certain economic, legal, social, technological or other considerations render such possibilities infeasible. The significant and unavoidable impacts requiring Finding (3) are identified in the Final EIR, discussed in the Responses to Comments, and explained below. Having done everything it can to avoid and substantially lessen these effects consistent with its legal authority and CEQA, the Commission finds in these instances that overriding economic, legal, social, and other benefits of the approved Project outweigh the resulting significant and unavoidable

² See Public Resources Code section 21081, subdivision (a) and State CEQA Guidelines section 15091, subdivision (a).

impacts. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the Final EIR.

A. SUMMARY OF FINDINGS

Based on public scoping, the proposed Project will have No Impact on the following environmental issue areas:

- Population and Housing
- Recreation

The EIR subsequently identified the following impacts as Less Than Significant:

- Agriculture and Forest Resources
- Greenhouse Gas Emissions
- Mineral Resources

For the remaining potentially significant effects, the Findings are organized by significant impacts within the EIR issue areas as presented below.

B. POTENTIALLY SIGNIFICANT IMPACTS

The impacts within CSLC jurisdiction identified in Table D-1 were determined in the Final EIR to be potentially significant absent mitigation. After application of mitigation, however, several impacts were determined to be less than significant (LTSM). For the full text of each mitigation measure (MM), please refer to Exhibit C, Attachment C-1.

However, even with the integration of all feasible mitigation, the County concluded in the EIR that the other identified potentially significant impacts will remain significant. Table D-1 identifies those impacts that the County determined would be, after mitigation, significant and unavoidable (SU).

Table D-1 – Significant Impacts by Issue Area

Environmental Issue Area	Impact Nos. (LTSM)	Impact Nos. (SU)
Aesthetics	Impact 4.1-2 and 4.1-3	Cumulative Aesthetics
Air Quality	Impact 4.3-1, 4.3-2, and 4.3-4	Cumulative Air Quality
Biological Resources	Impact 4.4-1 and 4.4-2	Cumulative Biological Resources
Cultural Resources	Impact 4.5-1, 4.5-2, 4.5-3, 4.5-4, and 4.5-5	
Geology/Soils	Impact 4.6-2, 4.5-3, 4.5-5, and 4.5-6	
Hazards and Hazardous Materials	Impact 4.8-1, 4.8-2, and 4.8-4	
Land Use	Impact Cumulative Land Use	
Noise	Impact 4.12-1	
Public Services	Impact 4.13-1	
Transportation/Traffic	Impact 4.14-1, 4.14-2, 4.14-3, 4.5-4, and 4.14-4	
Utilities and Service Systems	Impact 4.15-6 and 4.15-7	

As a result, the Commission adopts the Statement of Overriding Considerations set forth as part of this Exhibit to support its approval of the Project despite the significant and unavoidable impacts.

C. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION

The impacts identified below were determined in the Final EIR to be potentially significant absent mitigation; however, the impacts were determined to be less than significant with mitigation (LTSM).

1. AESTHETICS

CEQA FINDING NO. 1

Impact: **Impact 4.1-2: The proposed project would substantially degrade the existing visual character or quality of the site and its surroundings.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The proposed Project would be sited near existing and planned solar facilities. While the existing wind energy facilities maintain the character of the desert floor and vegetation and do not occupy the landscape as a singular appearing plane as would the solar fields, the character in the Project vicinity is currently disrupted by the SEPV Mojave West Solar Project that is located in between Windhub Solar A and Windhub Solar B. The area's visual quality, currently dominated by wind energy facilities, would be altered by the addition of solar modules, mechanical equipment, power lines, and other facilities; however, due to the scale of the existing wind energy facilities and the location adjacent to an existing solar facility, the addition of the proposed Project would not be overly obtrusive to the existing landscape. MM 4.1-1 and MM 4.1-2 are incorporated to reduce visual impacts that could occur from the collection of debris along the site boundary and to ensure the Project sites are restored to their original visual conditions once the solar facilities are decommissioned and removed.

Implementation of **MM 4.1-1** and **MM 4.1-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 2

Impact: **Impact 4.1-3. The proposed project would create a new source of substantial light or glare that would adversely affect day or nighttime views in the area.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

During Project operation, the proposed Project would include security lighting. Motion-sensitive security lighting would likely be installed at site access points and near the onsite substations. If improperly designed or oriented, such lighting may result in light trespass that falls outside the boundaries of the site. Under particularly adverse conditions, spillover lighting may cause annoyance, discomfort, or loss in visual performance because of its intensity, direction, or source type and visibility. However, motion-sensitive lighting would be calibrated to avoid activation by small animals, and timers would be used to automatically turn off lighting after a set period of time. As required by the Kern County Dark Skies Ordinance, and MM 4.1-3, lighting would be shielded and directed downward. Restrictions on light fixture height are also imposed by the ordinance. Thus, impacts resulting from lighting would be minimized through compliance with all development standards, the Kern County Zoning Ordinance, and the goals, policies, and implementation measures of the Kern County General Plan and Mojave Specific Plan.

The proposed Project would also introduce potential new sources of glare produced by the reflection of sunlight off the glass surfaces of the solar panels. However, the proposed PV panels are designed to absorb as much sunlight as possible and therefore would have minimal reflectivity. Due to their low reflectivity, the modules would not be expected to cause visual impairment for residents and motorists on area roadways. In addition, MM 4.1-4 requires solar PV modules to incorporate technologies that would reduce fugitive glare and spectral highlighting and increase the efficiency of the electrical-generation facility. MM 4.1-5 would require use of non-reflective materials for construction of Project facilities, which would also minimize glare. With the implementation of this mitigation measure, impacts to motorists from glare are further.

Implementation of **MM 4.1-3**, **MM 4.1-4**, and **MM 4.1-5** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

2. AIR QUALITY

CEQA FINDING NO. 3

Impact: **Impact 4.3-1. The proposed project would conflict with or obstruct implementation of the applicable air quality plan.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in both temporary (construction) and long-term (operational) emissions, which could conflict with or obstruct with an applicable Air Quality Management Plan (AQMP). Air quality impacts are controlled through policies and provisions of the Eastern Kern Air Pollution Control District (EKAPCD), the Kern County General Plan, and the Kern County Code of Building Regulations. The proposed Project would not exceed the significance thresholds for emissions established in the EKAPCD guidelines for implementing CEQA and as adopted by the Kern County Board of Supervisors; therefore, the Project would not result in emissions of a magnitude that would obstruct the air quality planning goals set forth by the EKAPCD. While this impact would be less than significant, implementation of MM 4.3-1 through MM 4.3-4 would ensure that all readily available and feasible air quality control measures that are in conformance with applicable air quality plans would be implemented. MM 4.3-1 through MM 4.3-4, which would reduce both construction fugitive dust and equipment emissions, would be implemented in conformance with the applicable EKAPCD plans and regulations and Kern County General Plan Policies 20 and 21.

Implementation of **MM 4.3-1**, **MM 4.3-2**, **MM 4.3-3**, and **MM 4.3-4** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 4

Impact: **Impact 4.3-2. The proposed project could violate an air quality standard as adopted in Kern County Environmental Checklist (c) I or (c) ii, or as established by the U.S. Environmental Protection Agency (USEPA) or air district or contribute substantially to an existing or projected air quality violation.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Construction and decommissioning of the proposed Project would result in pollutants generated from equipment, vehicle exhaust, and fugitive dust. During construction, emissions of fugitive dust would be primarily generated from ground-disturbing activities (e.g., site preparation, limited grading, trenching, etc.) and vehicle travel on unpaved surfaces, while emissions of ozone-precursor pollutants (ROG and NO_x) would be largely associated with off-road equipment use, as well as on-road vehicle operations associated with workers commuting to and from the Project site and haul truck trips. However, temporary unmitigated emissions during construction would not exceed the thresholds adopted by Kern County and, thus, impacts would be less than significant. Implementation of the dust and exhaust emissions control measures under MM 4.3-1 through MM 4.3-4 would further reduce emissions. The Project's daily indirect construction-generated emissions would not exceed EKAPCD's daily significance thresholds of 137 pounds per day for ROG and NO_x. Thus, impacts associated with indirect sources of ROG and NO_x emissions would be less than significant.

Regarding visibility-reducing particulates, the proposed Project is not immediately adjacent to a Wilderness Area (Class 1 area). Class 1 areas are those areas where only a small increase in pollution levels will be permitted, as designated by the federal CAA. Based on total Project emissions, the formation of secondary NO_x particles and visibility-reducing particles would not be reasonably expected to degrade visibility. Furthermore, Edwards Air Force Base and the R-2508 Airspace Complex are both located approximately 20 miles to the east-southeast of the Project site. Due to this distance, the Project would not reasonably be expected to cause a reduction in visibility in these areas. For these reasons, the visibility reduction impact would be less than significant. While this impact is less than significant, implementation of dust control measures (MM 4.3-1, MM 4.3-3, and MM 4.3-4) and would further minimize offsite fugitive dust emissions, and implementation of vehicle emission restrictions (MM 4.3-2) would minimize construction vehicle emissions

Implementation of **MM 4.3-1, MM 4.3-2, MM 4.3-3, and MM 4.3-4** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 5

Impact: **Impact 4.3-4. The proposed project would result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors). Specifically, implementation of the proposed project would exceed any of the adopted thresholds of the East Kern Air Pollution Control District: (i) San Joaquin Valley Air Pollution Control District, or (ii) Eastern Kern Air Pollution Control District.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The proposed Project has the potential to expose sensitive receptors, namely onsite workers and offsite residents to disturbed soils and airborne dust containing *Coccidioides* spores, which when inhaled, can cause Valley Fever. However, implementation of MM 4.3-1, MM 4.3-3, MM 4.3-4, described above, and implementation of MM 4.3-5 would reduce this impact to a less than significant level.

Implementation of **MM 4.3-1, MM 4.3-3, MM 4.3-4, and MM 4.3-5** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

3. BIOLOGICAL RESOURCES

CEQA FINDING NO. 6

Impact: **Impact 4.4-1. The proposed project may have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or United States Fish and Wildlife Service.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The proposed Project has the potential to impact several special-status wildlife species. Desert tortoise, burrowing owl, American badger, and several avian species protected under California Fish and Game Code and/or the Migratory Bird Treaty Act occur onsite, or have the potential to occur onsite, based on the presence of suitable habitat and historical records within the vicinity of the Project.

Potential tortoise burrows were recorded on Windhub Solar B, and the species was recorded within 5 miles of the Project area, when it was surveyed in 2006. However, no desert tortoises were observed at or adjacent to the Project site during the 2015, 2016, and 2018 focused protocol surveys. Given the current and historic records for this species in the region and the presence of suitable habitat, there is the potential for significant impacts to desert tortoise should one occupy the site prior to construction. In the unlikely event that a tortoise is onsite prior to construction, impacts would be mitigated to a less than significant level through implementation of mitigation measures requiring biological monitoring, environmental awareness training for construction workers, exclusionary fencing, preconstruction clearance surveys, preconstruction desert tortoise surveys, a Maintenance and Trash Abatement/Pest Management Program to reduce attracting predators, and other minimization measures, as described in MM 4.1-1, and MM 4.4-1 through MM 4.4-5.

Ground disturbing activities, including but not limited to utility pole installations and post driving in conjunction with solar module installations, have the potential to result in burrowing owl mortality or injury in addition to a reduction in available foraging habitat. Construction activities including increased noise, dust, and vibration also have the potential to indirectly impact burrowing owl by means of nest abandonment, which can subsequently lead to nest failure.

Furthermore, Project operations and maintenance and decommissioning could affect burrowing owl reproductive success for any individuals or pairs that colonize habitat within 500 feet of the Project site. This includes both breeding and wintering habitat for the species. Any adverse impacts to the burrowing owls, either direct or indirect, as a result of Project implementation are considered significant under CEQA; however, these impacts would be reduced to a less than significant level through implementation of mitigation measures requiring biological monitoring, environmental awareness training for construction workers, exclusionary fencing, preconstruction clearance surveys, preconstruction burrowing owl surveys, a Maintenance and Trash Abatement/Pest Management Program to reduce attracting predators, and other minimization measures, as described in MM 4.1-1, MM 4.4-1 through MM 4.4-4, and MM 4.4-6 through MM 4.4-9.

The Swainson's hawk mitigation guidelines recommend CEQA significance be determined based on the removal of suitable foraging habitat within 5 miles of an active nest, which is defined as a nest active at any time during the previous 5 years. No nests were found during protocol Swainson's hawk surveys; therefore, impacts to Swainson's hawk foraging habitat would be less than significant. Direct impacts to other raptors and their nests due to Project activities, such as vegetation clearance, post driving, equipment placement, and vehicle use, would be avoided or reduced to less than significant levels through implementation of mitigation measures requiring biological monitoring, environmental awareness training for construction workers, preconstruction clearance surveys, raptor nest surveys, construction of power lines per raptor protection guidelines, a Maintenance and Trash Abatement/Pest Management Program to reduce attracting predators, and other minimization measures, as described in MM 4.1-1, MM 4.4-1 through MM 4.4-4, MM 4.4-7, and MM 4.4-8.

Project-related direct impacts to nesting birds could include mortality of individuals by crushing or vehicle collisions and destruction of nests and eggs through vegetation clearing and grading. However, biological monitoring, environmental awareness training for construction workers, and preconstruction clearance surveys, and other minimization measures as described in MM 4.1-1 and MM 4.4-1 through MM 4.4-4 would help reduce impacts to special-status birds during construction activities.

Impacts to avian species may occur during Project construction, operation, and decommissioning through individual collisions with Project facilities and equipment including transmission wires, the telecommunications tower, fencing, array structures, and heavy equipment. Biological monitoring, construction worker environmental awareness training, biological resource protection and avoidance, pre-construction nest avian nesting surveys, and construction of the transmission lines to protect birds from electrocution and collision as required by

MM 4.1-1, MM 4.4-1, MM 4.4-2, MM 4.4-3, MM 4.4-7, and MM 4.4-8 would reduce impacts to a less than significant level.

Indirect impacts to nesting birds could include interference with reproductive success and nest abandonment brought on by increased noise levels during construction within the breeding season (February 1 through August 31). Artificial lighting could increase predation on individuals and eggs and also disrupt reproductive behaviors. The installation of buildings could provide new perches for predators, such as ravens and raptors, which could contribute to declines in local bird populations. However, implementation of MM 4.12-1 would require reduction of construction- and operation- related noise. MM 4.1-3 would require downward direction of lighting. Implementation of MM 4.4-9 would require implementation of a raven management plan designed to reduce raven attractants to the Project area. Implementation of MM 4.1-1 would require a Maintenance and Trash Abatement/Pest Management Program to reduce attracting predators to the site. With implementation of these mitigation measures, impacts would be less than significant.

American badger digs were observed onsite during the 2015 biological surveys. Construction activities, including site grading and heavy equipment operation, could kill or injure badgers as a result of collisions with construction equipment or entombment in dens. Construction activities could also result in disturbance or harassment of individuals that occupy the Project sites. These impacts would be significant without mitigation; impacts to the American badger would be avoided or minimized through implementation of mitigation measures requiring biological monitoring, environmental awareness training for construction workers, avoidance and protection of biological resources, preconstruction clearance surveys that establish buffers around badger dens, and other minimization measures, as described in MM 4.1-1, and MM 4.4-1 through MM 4.4-4.

Suitable roosting habitat for bats is limited within and in the vicinity of the Project site, and no sign of bats (i.e., guano or bat droppings) was observed at the base of the trees during the biological surveys. Removal of vegetation throughout the site could, however, result in a loss of potential foraging habitat for two sensitive bat species that may be present in the region, Townsend's big-eared bat and Pallid bat. Habitat loss is not considered a significant impact, as foraging opportunities for bats are not unique to the Project site and are available throughout the Antelope Valley and Mojave Desert. Artificial night lighting could disrupt foraging behaviors. As described in Chapter 3, Project Description, and Section 4.1, Aesthetics, nighttime lighting associated with construction and operation of the Project would be minimal and is not expected to adversely impact bats in adjacent habitat outside the Project area. Direct impacts to individuals would be avoided through minimization measures including

biological monitoring, construction worker environmental awareness training, avoidance and protection of biological resources, preconstruction surveys, and other minimization measures, as described in MM 4.4-1 through MM 4.4-4. As a result, impacts to bats would be mitigated to a less than significant level with implementation of these mitigation measures.

Although kit foxes were not observed onsite during surveys, they could be located on the Project site during construction, operation, or decommissioning. MM 4.4-1 through MM 4.4-4 and MM 4.4-6 would involve biological monitoring, environmental awareness training for construction workers, avoidance and protection of biological resources, surveying the Project site for kit fox dens and establishing appropriate buffers around any active dens, ensuring pipes do not entrap kit foxes and food left onsite does not attract kit foxes, and enabling kit fox to pass through the Project site by appropriate perimeter security fence design.

Indirect impacts associated with nighttime lighting during construction and operation is addressed in Section 4.1, Aesthetics, of the EIR. Mitigation measures are provided that would reduce potential impacts on wildlife from nighttime light spillage to a level of less than significant. Indirect impacts to wildlife resulting from lighting would be minimized through: compliance with all development standards; the Kern County Zoning Ordinance; and the goals, policies, and implementation measures of the Kern County General Plan. Compliance with the Kern County Dark Skies Ordinance would be required, as included in MM 4.1-3, described in Section 4.1, Aesthetics, which would reduce the potential for spillover lighting to adversely affect wildlife to a less than significant level.

Implementation of **MM 4.1-1, MM 4.1-3, MM 4.4-1, MM 4.4-2, MM 4.4-3, MM 4.4-4, MM 4.4-5, MM 4.4-6, MM 4.4-7, MM 4.4-8, MM 4.4-9, and MM 4.12-1** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 7

Impact: **Impact 4.4-2. The proposed project would have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or United States Fish and Wildlife Service.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

One sensitive plant community, Joshua tree woodland, was recorded on the Windhub Solar B site (LSA, 2016). No additional sensitive habitats or vegetation communities are present on the Project site and no riparian habitat is present on the Project site. Impacts of Joshua Tree removal would be a potentially significant but mitigable impact through development of a Joshua Tree Preservation Plan as described in MM 4.4-10. The Preservation Plan would require provision of mitigation habitat at a 1:1 ratio for lands impacted by the Windhub Solar B Project. This 1:1 ratio for impacted Joshua tree woodland is considered sufficient to reduce potential effects to a less than significant level because Joshua trees/woodlands are relatively abundant in the vicinity of the Project site and comprise one of the more common communities in the region.

Implementation of **MM 4.4-10** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

4. CULTURAL RESOURCES

CEQA FINDING NO. 8

Impact: **Impact 4.5-1. The proposed project may cause a substantial adverse change in the significance of a historical resource, as defined in CEQA Guidelines Section 15064.5.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

No resources eligible for listing in the California Register of Historical Resources or that qualify as unique historical resources per CEQA Guidelines Section 15064.5 were discovered on the Windhub Solar site. In the event that unknown historical resources that qualify as historical resources are discovered during Project construction, significant impacts could occur. Retaining a Lead Archaeologist, defined as an archaeologist meeting the Secretary of the Interior's Standards for professional archaeology as described in MM 4.5-1, retaining Native American Monitors for all ground disturbing activities as described in MM 4.5-2, and a plan for unanticipated discoveries as described in MM 4.5-3 will reduce these impacts.

Implementation of **MM 4.5-1**, **MM 4.5-2**, and **MM 4.5-3** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 9

Impact: **Impact 4.5-2. The proposed project would cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

No resources qualifying as unique archaeological resources have been identified within the Project site. However, the Project could impact previously unknown, buried archaeological resources. In the event that unknown archaeological resources that qualify as unique archaeological resources are discovered during Project construction, significant impacts could occur.

Implementation of **MM 4.5-1**, **MM 4.5-2**, and **MM 4.5-3** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 10

Impact: **Impact 4.5-3. The proposed project would directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Surficial deposits of the Project site consist of younger Quaternary Alluvium. The younger Quaternary Alluvium is typically not paleontologically sensitive; however, it may be underlain by older Quaternary deposits, which may contain significant vertebrate fossils. Although surface grading and very shallow excavation within the Quaternary Alluvium is unlikely to impact sensitive paleontological resources, it is possible that deeper Project-related excavation (deeper than 5 feet) could extend into the older Quaternary Alluvium and impact significant vertebrate fossil resources. This would result in a potentially significant impact to paleontological resources. Trenching, grading, and excavation for the construction of the substations and installation of support poles via augurs could exceed 5 feet.

Implementation of **MM 4.5-4**, **MM 4.5-5**, and **MM 4.5-6** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 11

Impact: **Impact 4.5-4. The proposed project would disturb human remains, including those interred outside of formal cemeteries.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

There is no indication, either from the archival research results or the archaeological survey, that any particular location within the Project site has been used for human burial purposes in the recent or distant past. However, in the event that human remains are inadvertently discovered during Project

construction activities, the human remains could be inadvertently damaged, which could be a significant impact.

Implementation of **MM 4.5-7** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 12

Impact: **Impact 4.5-5. The project would cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:**

1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

County staff and the San Manuel Band of Mission Indians have been in communication and organized several meetings for consultation resulting in the clarification of mitigation measures to address resource treatment, including measures to avoid impacts to both archaeological and tribal cultural resources. On February 14, 2018, in a telephone conversation with County staff, as well as via email, the San Manuel Band of Mission Indians confirmed that the proposed Mitigation Measures, received on January 30, 2018, were found to be acceptable. Pursuant to Section 21080.3.2(b)(1) of AB 52, the lead agency considers the consultation concluded, as the parties have agreed to measures

to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource.

Implementation of **MM 4.5-7** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

5. GEOLOGY AND SOILS

CEQA FINDING NO. 13

Impact: **Impact 4.6-2. The proposed project would expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The proximity of existing active faults to the Project site presents the potential for strong seismic ground shaking, which could result in damage to structures that are not properly designed to withstand such ground motion. However, adherence to the requirements of the Kern County Building Code (CBC), the CBC and MM 4.6-1 and MM 4.6-2 would ensure that effects from strong seismic ground shaking would be minimized. The facility would be constructed in accordance with all applicable codes, which require property line and public roadway setbacks that would protect the general public from potential hazards associated with the facility that could result from an earthquake. MM 4.6-1 requires a final geotechnical study be performed by a qualified geotechnical engineer to confirm findings of the preliminary geotechnical engineering report, regarding soil conditions and geologic hazards at the Project site. In addition, MM 4.6-2 requires that a California geotechnical engineer be hired by the operator to design the Project facilities to withstand probable seismically induced ground shaking. Therefore, personnel present during the construction and operation phases of the proposed Project would not be exposed to a substantial increase in seismic ground shaking hazards as a result of Project implementation beyond those that generally exist in the entire Project region.

Implementation of **MM 4.6-1** and **MM 4.6-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 14

Impact: **Impact 4.6-3. The proposed project would expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic related ground failure, including liquefaction.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Groundwater in the vicinity of the Project site is found at depths greater than 50 feet below ground surface, and thus liquefaction potential at the Project site is low. As part of MM 4.6-1, a final full geotechnical study would be performed for the Project site to evaluate soil conditions, including the potential for seismically induced liquefaction, in order to avoid such geological constraints in the final Project design. MM 4.6-2 requires that the Project facilities are compliant with the seismic recommendations of a California-registered professional engineer, which would include mitigation for liquefaction, if necessary. In addition, all structures constructed as part of the proposed Project would be required by State law to comply with applicable CBC earthquake construction standards, including those related to soil characteristics.

Implementation of **MM 4.6-1** and **MM 4.6-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 15

Impact: **Impact 4.6-5. The proposed project would result in substantial soil erosion or the loss of topsoil.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Construction of the proposed Project would involve activities that would disturb surface soils including vegetation and debris removal, grading, excavation, and trenching. Due to the Project site's relatively flat topography, only minor cuts and fills are expected to bring the site to design grades), and thus grading disturbances would be minimal. As part of MM 4.6-3, grading would be minimized to the maximum extent feasible as part of Project design; grading plans would be reviewed by the County prior to issuance of a grading permit. Further MM 4.6-4 would require preparation of a Soil Erosion and Sedimentation Control Plan that would include post-construction monitoring to check for and fix any erosion occurring on site access roads. Because Project construction would disturb over an acre of ground, the Project operator would conform to the requirements of Kern County's National Pollutant Discharge Elimination System (NPDES) Program through the preparation of a Stormwater Pollution Prevention Plan (SWPPP) that would include erosion control and sediment control best management practices (BMPs) designed to prevent disturbed soils from moving offsite (MM 4.9-1). The proposed Project would also be required to implement a drainage plan that would minimize the potential for changes in onsite drainage patterns that could increase erosion and sedimentation (MM 4.9-2). A grading permit would be obtained from the County prior to commencement of construction activities. According to Chapter 17.28 of the Kern County Grading Ordinance, this includes submittal of grading plans to the County for review prior to issuance of a grading permit and grading activities on the Project site. County review of grading plans would ensure that appropriate erosion control measures have been implemented on site.

Implementation of **MM 4.6-1, MM 4.6-3, MM 4.6-4, MM 4.9-1, and MM 4.9-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 16

Impact: **Impact 4.6-6. The proposed project would be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The proposed Project has the potential to be located on unstable soil and result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse. A final geotechnical study would be performed for the Project site as part of MM 4.6-1 to confirm the findings of the conceptual geotechnical study regarding soil conditions and their ability to support the proposed improvements over the long term and would include recommendations to address any unstable soils including the potential for lateral spreading, subsidence, liquefaction, or collapse. MM 4.6-2 requires that the Project facilities are compliant with the geotechnical recommendations of a California-registered professional engineer. In addition, all structures constructed as part of the proposed Project would be required by State law to comply with applicable CBC standards, including those related to soil characteristics and soil stability. With implementation of MM 4.6-1 and MM 4.6-2, adherence to all applicable regulations including California and local CBC requirements, and the general characteristics of the Project site, the proposed Project would minimize potential impacts to structures resulting from any unstable soils.

Implementation of **MM 4.6-1** and **MM 4.6-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

6. HAZARDS AND HAZARDOUS MATERIALS

CEQA FINDING NO. 17

Impact: **Impact 4.8-1. The proposed project would create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Construction of the proposed Project would involve the routine transport, use, and disposal of limited amounts of hazardous substances including fuels, lubricants, solvents, paints, oils, grease, and caulking. The specific types and quantities of these hazardous substances used or generated onsite are not known; however, any substances identified in Title 8 or Title 26 of the California Code of Regulations would be considered and treated as a hazardous

substance on the Project site. The Project is required to prepare a SWPPP that includes BMPs designed to prevent chemicals used onsite from coming into contact with any stormwater, thereby preventing chemical transport offsite and into receiving water bodies. In accordance with MM 4.8-1, a hazardous waste management BMP would be included in the SWPPP requiring the training of construction workers to ensure the proper use, storage, and disposal of hazardous materials used during construction. As part of this BMP, material safety data sheets delineating appropriate use, storage, and disposal of all applicable materials present would be posted at the site, and all materials would be used onsite in accordance with the manufacturer's specifications. The disposal of all hazardous materials used onsite during construction would be performed in accordance with the Resource Conservation and Recovery Act and State Hazardous Waste Management Program requirements.

Operation and maintenance activities would require limited use of hazardous materials such as diesel fuel, gasoline, and motor oil for vehicles; mineral oil to be sealed within the transformers; and lead acid-based and/or lithium ion batteries for emergency backup. Long-term maintenance and equipment replacement would be scheduled in accordance with manufacturer recommendations; solar modules are expected to have a life of 30 or more years. In accordance with Title 40 of the Code of Federal Regulations Section 261.3, workers using hazardous materials would be appropriately trained in the use of any hazardous materials onsite. Implementation of MM 4.8-2 would require the Project operator to develop a hazardous materials business plan (HMBP) prepared in accordance with the Business Plan Act for handling, transport, storage, and disposal of hazardous materials used at the Project site during operation. The HMBP would specifically identify hazardous materials used onsite, their storage areas and designated areas of use, and employee clean-up training in the event of an emergency spill. The site would be fenced to prevent public access to hazardous materials and the PV modules.

Dust palliatives could be used during construction to control dust, and herbicides may be used during operations to control vegetation; both of these chemicals could pose a threat to worker health. However, in accordance with the hazardous waste management BMP during construction and the HMBP during operation, these materials would be stored in appropriate containers to prevent their accidental release at the site, and workers would be appropriately trained in dust control and herbicide application. Further, transportation of the minimal amounts of hazardous materials to the site during construction and operation would comply with all applicable requirements, including the use of State Route (SR) 14 due to its County designation as a hazardous waste transportation route.

Implementation of **MM 4.8-1** and **MM 4.8-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 18

Impact: **Impact 4.8-2. The project would create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Potential impacts that may result from construction of the proposed Project include the accidental release of materials, such as cleaning fluids and petroleum products including lubricants, lithium, fuels, and solvents. However, the implementation of a HMBP in accordance with MM 4.8-1 would ensure appropriate storage and handling of hazardous materials onsite during construction and operation, respectively. In addition, the HMBP would provide methods to be used to avoid spills and minimize impacts in the event of a spill by providing procedures for handling and disposing hazardous materials as well as public and agency notification procedures for spills and other emergencies including fires. Implementation of MM 4.8-2 would require the Project operator to develop a HMBP prepared in accordance with the Business Plan Act for handling, transport, storage, and disposal of hazardous materials used at the Project site during operation. MM 4.8-3 would require the California Department of Conservation, Geologic Energy Management Division (formerly Division of Oil, Gas and Geothermal Resources) to be contacted for requirements and approval, in the event any abandoned or unrecorded wells are uncovered or damaged during excavation or grading activities. MM 4.8-4 would require appropriate handling of asbestos to reduce related risks. All hazardous substances would be transported to the site by way of SR 14, a hazardous substances transportation route.

Removal and/or maintenance of vegetation during Project operation may require herbicide and dust palliative use. However, MM 4.8-5 would ensure the appropriate application of herbicides on the Project site, avoiding negative effects on workers and wildlife. All hazardous substances would be transported to the site by way of SR 14, a hazardous substances transportation route. The

hazardous materials would be contained within specifications that follow applicable federal, state, and local requirements. Occupational Safety and Health Administration requirements call for the inclusion of appropriate ventilation, acid resistant materials, and presence of spill protection supplies. Adherence to all applicable regulations during the storage, transportation, and usage of any hazardous materials would minimize or avoid the potential for significant impacts.

Implementation of **MM 4.8-1, MM 4.8-2, MM 4.8-3, MM 4.8-4, and MM 4.8-5** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 19

Impact: **Impact 4.8-4. The project would expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The Project site is not within an area of high or very high fire hazard; however, there is still a potential risk of wildfire. There is sparse vegetation onsite and site preparation would involve the removal of additional vegetation, although natural vegetation may be maintained if it does not interfere with Project construction or the health and safety of onsite personnel. The Project would also include a battery storage component which, while difficult to ignite, can in fact burn or become damaged by fire and generate fumes and gases that are extremely corrosive. Dry chemical, carbon dioxide (CO₂), and foam are the preferred methods for extinguishing a fire involving batteries, as water is not useful in extinguishing battery fires. The Project proponent would implement MM 4.8-6, which would require the preparation and submittal of a Fire Safety Plan to the County for approval. The purpose of the Fire Safety Plan would be to minimize causes of fire, and prevent loss of life and property by fire. The Fire Safety Plan would address fire hazards of the different components of the Project, including the ESS, and would include BMPs to reduce the potential for fire and extinguishment techniques if a fire were to occur.

Implementation of **MM 4.8-6** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

7. HYDROLOGY AND WATER QUALITY

CEQA FINDING NO. 20

Impact: **Impact 4.9-1. The proposed project would violate water quality standards or waste discharge requirements.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Construction activities would require grading and excavation for installation of the proposed PV modules and building foundations onsite which could expose bare soil to wind and water and result in erosion and sedimentation of runoff and consequential degradation of water quality. However, as part of the Project design, existing vegetation removal and grading would be minimized to the extent reasonably possible, thereby minimizing the disturbance of soil. As discussed in Section 4.6 of the EIR, Geology and Soils, the proposed Project would be required to implement MM 4.6-1 through MM 4.6-4, which would limit grading and require development of a Soil Erosion and Sedimentation Control Plan, thereby reducing potential sedimentation of receiving waters. MM 4.6-3 specifically involves adherence to the requirements of the Kern County Grading Ordinance, including submittal of grading plans to the County for review prior to issuance of a grading permit and grading activities on the Project site. The County review of grading plans would ensure that appropriate erosion control measures have been implemented onsite. Construction activities would exceed the one-acre threshold of ground disturbance that requires adherence to the Kern County NPDES Applicability requirements. As required by MM 4.9-1 the proposed Project would implement a SWPPP that would include erosion control and sediment control BMPs designed to prevent soil erosion from occurring and would retain sediment onsite. Good housekeeping, material storage and handling, and waste management BMPs also included in the SWPPP would help prevent the potential mixing of storm water and construction-related pollutants.

Operational activities of the Project would not require concentrated heavy equipment usage, and thus would have substantially less potential than construction activities to result in an accidental spill or release of hazardous

materials that could cause water quality degradation. Nevertheless, operations and maintenance activities would also be subject to the HMBP as required by MM 4.8-1, discussed in EIR Section 4.8, Hazards and Hazardous Materials. The site engineering and design plans for the proposed Project would be required to comply with the Kern County Code of Building Regulations and Kern County Development Standards, which would minimize impacts by setting minimum design and construction standards subject to County oversight and approval. The Project would also be required to file a Report of Waste Discharge (ROWD) with the State since all runoff generated on the Project site would not be contained onsite. As described in MM 4.9-2, prior to the commencement of construction activities, the proposed Project would be required to prepare and submit a drainage plan, pursuant to the Kern County Grading Code, to the Kern County Public Works Department, which would include any necessary stormwater management facilities to control runoff leaving the Project site once the specific facility plans are drafted. MM 4.6-4 would require that, at a minimum, annual inspections occur to check for and remediate any erosion occurring along site access roads. Therefore, potential impacts related to water quality standards and waste discharge requirements would be less than significant after implementation of MM 4.9-1 and MM 4.9-2 and compliance with the requirements of the Kern County Grading Code and Floodplain Management Ordinance.

Implementation of **MM 4.6-1, MM 4.6-2, MM 4.6-3, MM 4.6-4, MM 4.8-1, MM 4.9-1** and **MM 4.9-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 21

Impact: **Impact 4.9-3. The proposed project would substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner than would result in substantial erosion or sedimentation onsite or offsite.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Project construction would include some grading activities that would disturb surface soils. With surface soils exposed, surface erosion and offsite sediment transport could possibly occur, degrading water quality. Although the Project

site is not located in a flood zone and does not have any existing perennial or ephemeral drainages onsite, stormwater events could contribute to flooding onsite should the Project site be designed in such a way that does not properly allow for sufficient drainage. However, as part of Project design, existing vegetation removal and grading would be minimized to the extent reasonably possible, thereby maintaining soil stability and reducing the potential alteration of drainage patterns that could result in erosion or flooding. MM 4.9-1 requires the Project operator to prepare and submit a SWPPP to the appropriate agencies that identifies all areas of potential construction pollutant migration offsite and specifies the design of BMPs to minimize potential erosion and sedimentation impacts. In addition, the proposed Project would be required to implement MM 4.6-1 through MM 4.6-4, which would limit grading and require development of a Soil Erosion and Sedimentation Control Plan. Construction-related erosion and sedimentation as a result of soil disturbance would be reduced to below a level of significance with compliance with the Kern County NPDES program and associated soil control and erosion control SWPPP BMPs (MM 4.9-1), as well as compliance with the Kern County Grading Code.

The Project site is currently undeveloped and the introduction of the proposed Project facilities to the site would alter the drainage patterns onsite. The module and building foundations for the proposed Project facilities, including the ESS, would reduce the amount of pervious surfaces on the site, which could result in altered and/or increased runoff onsite and offsite during a storm event. However, the majority of the Project site would remain pervious and the modules would be spaced in such a way that is not expected to create large contiguous blocks of impervious surfaces, thereby allowing for the flow through of drainage onsite. Hydrologic analyses in the final drainage report found that the proposed Project will likely have negligible effects on flow conditions at the site, and that the maximum post-development flow generally would not present erosion hazards. Despite this finding, MM 4.9-2 would require implementation of a final drainage plan, upon approval of the final Project facility design, which would include any necessary stormwater management facilities to allow sheet flow to move through the Project site mostly uninhibited, thereby preventing erosion and sedimentation as well as flooding potential. The engineering and design plans for the proposed Project would be required to comply with the most recent requirements of the Kern County Code of Building Regulations, as well as with Kern County Development Standards that establish guidelines for flood control, erosion control and onsite drainage flow. Therefore, with adherence to all existing regulations regarding erosion and site drainage, the proposed Project would neither alter the course of a stream or river nor result in substantial erosion on- or offsite.

Implementation of **MM 4.6-1, MM 4.6-2, MM 4.6-3, MM 4.6-4, MM 4.9-1, and MM 4.9-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 22

Impact: **Impact 4.9-4. The proposed project would substantially alter the existing drainage patterns of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Installation of Project facilities would alter existing onsite drainage patterns and flowpaths, and could alter the way that stormwater from upgradient flows onto the site during major events. This could cause localized flooding during major events along the margins of the Project area, or within the Project area, depending upon how stormwater is managed under final Project design. Changes in drainage patterns on site that relate to the installation of new facilities, especially changes that result in flow concentration, could increase the occurrence of localized flooding onsite or downstream. Finally, proposed new impervious surfaces would generate additional stormwater runoff onsite. This could exacerbate potential increases in localized flooding on site or downstream. However, a final drainage study has been completed for the Project site which included calculations, in accordance with Kern County requirements, of estimated water depths and velocities during 100-year storm events. The findings of the study determined that that the proposed Project will likely have negligible effects on flow conditions at the site. With implementation of MM 4.9-2, final design of proposed stormwater management facilities would include engineering recommendations to be incorporated into the Project and applied within the site boundary. Engineering recommendations would include measures to offset any increases in stormwater runoff that would result from the Project, as well as implementation of design measures to minimize or manage flow concentration and changes in flow depth or velocity so as to minimize flooding onsite or offsite. The final design would determine the appropriate sizing and location of the retention basin to ensure that flooding onsite or offsite is reduced to less than significant levels.

Implementation of **MM 4.9-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 23

Impact: **Impact 4.9-5. The proposed project would create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The Project site is currently undeveloped and there are no existing stormwater drainage systems onsite; runoff onsite currently infiltrates into the soil. Following implementation, much of the Project site would remain pervious, allowing infiltration of the majority of runoff from storm events into the soil. According to the hydrologic analyses in the final drainage report, the proposed Project would not substantially affect existing flow patterns onsite. The proposed Project would include all necessary stormwater management facilities, as confirmed by the final drainage report required by MM 4.9-2. The proposed Project would be required to prepare and implement a SWPPP to control erosion and protect water quality of stormwater runoff as part of MM 4.9-1. MM 4.6-1 through MM 4.6-4 would help prevent erosion and sedimentation from occurring onsite and polluting receiving waters. Therefore, no stormwater drainage system capacities would be exceeded by the proposed Project, and the proposed Project would not contribute to additional polluted runoff.

Implementation of **MM 4.6-1, MM 4.6-2, MM 4.6-3, MM 4.6-4, MM 4.9-1, and MM 4.9-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 24

Impact: **Impact 4.9-6. The proposed project would otherwise substantially degrade water quality.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The proposed Project has the potential to degrade water quality during construction and operation. Potential sedimentation of water would be reduced by implementation of MM 4.9-1, which would require erosion control BMPs by way of a SWPPP, along with MM 4.6-1 through MM 4.6-4 that would limit grading and include a Soil Erosion and Sedimentation Control Plan. MM 4.9-2 would also indirectly help reduce sedimentation by requiring County approval of the site drainage plan. Introduction of construction-related chemicals to water would be prevented by implementation of the HMBP as required by MM 4.8-1 and various BMPs in the SWPPP required by MM 4.9-1. Therefore, with implementation of MM 4.6-1 through MM 4.6-4, MM 4.8-1, MM 4.9-1, and MM 4.9-2, the proposed Project would not result in significant impacts to water quality. The Project site would not use septic systems to treat waste produced onsite during operation. Portable toilets would be used by construction and operational workers; portable toilet facilities and waste collection services on the Project site would be contracted from a County-permitted portable toilet business in accordance with all applicable State and local requirements.

Implementation of **MM 4.6-1, MM 4.6-2, MM 4.6-3, MM 4.6-4, MM 4.8-1, MM 4.9-1, and MM 4.9-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

8. LAND USE AND PLANNING

CEQA FINDING NO. 25

Impact: **Impact Cumulative Land Use. The proposed project may have a cumulative environmental impact on land use and planning.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

With regard to cumulative effects of utility-sized solar power generation facilities there is a potential that outside factors—such as the development of newer technology, changes in State or national policy that encourages the construction of such facilities, or other economic factors—result in the abandonment of such facilities. Unlike other facilities that, once constructed, can be retrofitted and utilized for another specific use, solar power generation facilities have little opportunity for other uses should the site not be in operation. The cumulative effects caused by the abandonment of multiple solar facilities in Kern County could result in impacts on surrounding land uses should it be determined that these facilities are no longer viable commercial operations. Therefore, a mitigation measure related to the decommissioning of solar facilities has been included to establish safeguards and maintain the health, safety, and welfare of the citizens of the State. MM 4.10-1 would require the submittal of a Decommissioning Plan to the Commission for review and approval disclosing predicted decommissioning cost; the Project operator shall also ensure financial responsibility for decommissioning cost and agree to site abandonment procedures.

Implementation of **MM 4.10-1** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

9. NOISE

CEQA FINDING NO. 26

Impact: **Impact 4.12-1. The proposed project would expose persons to, or generate, noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Construction activities associated with the proposed Project would occur over the entire area of the Project site, and would be intermittent and sporadic. No sensitive receptors are located near the Project site, with the closest residences located approximately 3.5 miles to the east. Construction within 1,000 feet of an occupied residential dwelling are prohibited between the hours of 9:00 p.m. to 6:00 a.m. on weekdays, and 9:00 p.m. to 8:00 a.m. on weekends, subject to two exceptions, pursuant to the Kern County Noise Ordinance (Chapter 8.36 of the Kern County Code of Ordinances). The construction activities for the Project are generally anticipated to occur between these allowable construction hours and thus would not violate the regulations in the Kern County Noise Ordinance. However, additional work hours and days may be necessary at times to make up for unanticipated schedule delays or to complete critical construction activities. Some of these activities may continue for up to 24 hours per day, seven days per week. Nonetheless, because no residential units are located within 1,000 feet of the Project site, the proposed Project's construction activities would not violate this regulation of the County's Noise Ordinance even on the rare occasions where construction work needs to be conducted during non-daylight work hours, or on Saturdays and holidays in order to make up schedule deficiencies or to complete critical construction activities safely (e.g., during hot weather, it may be necessary to work during non-daylight hours). Furthermore, MM 4.12-1 and MM 4.12-2 would minimize noise effects generated by the Project by limiting and/or reducing potential construction noise that may temporarily exceed County thresholds during construction, such as ensuring that all construction equipment is equipped with manufacturers approved mufflers and baffles, as well as providing notice to nearby residents of construction activities and a contact number for noise complaints.

While operation of the Project's onsite equipment would generate noise levels, these noise levels would be minimal and would not be perceptible at the nearest noise-sensitive receptors. Given the distances, the operational noise

levels associated with the Project would likely be sufficiently attenuated such that these nearest offsite sensitive receptors would not be exposed to perceptible levels of noise. However, MM 4.12-3 requires adequate noise shielding of the proposed Project's onsite energy storage systems, transformers and inverters such that the existing ambient noise level at the nearest offsite residential structure would not be exceeded by more than 5 dBA. Therefore, the operation of the Project would not generate noise levels in excess of the County's noise standards or create a substantial increase in ambient noise levels at the nearest offsite sensitive receptors.

Implementation of **MM 4.12-1**, **MM 4.12-2**, and **MM 4.12-3** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

10. PUBLIC SERVICES

CEQA FINDING NO. 27

Impact: **Impact 4.13-1. The proposed project would result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts in order to maintain acceptable service ratios, response times, or to other performance objectives for any public services.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The Project site is not within an area of high or very high fire hazard, as determined by CAL FIRE's Fire Hazard Severity Zones map. Regardless, the proposed Project would comply with all applicable wildland fire management plans and policies established by CAL FIRE and the Kern County Fire Department, as well as employ a Comprehensive Health and Safety Plan that includes fire prevention and protection measures as required by MM 4.13-1. This would reduce impacts to a less than significant level for fire protection services during construction and operation and through decommissioning of the proposed Project. In addition, the Project operator would be required to pay a fee assigned pursuant to the adopted Capitol Improvement Program over the

life of the proposed Project in order to mitigate any potential impacts to fire or police protection services resulting from the proposed Project. With payment of this required fee as required by MM 4.13-2, any additional fire or police protection services, facilities, or personnel required as a result of the proposed Project would be appropriately funded.

Implementation of **MM 4.13-1** and **MM 4.13-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

11. TRAFFIC AND TRANSPORTATION

CEQA FINDING NO. 28

Impact: **Impact 4.14-1. The proposed project would conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Assessment of the short-term effect that Project construction traffic could have on local and regional roads includes review of existing and existing-plus-Project traffic volumes, and changes, if any, to the levels of service (LOS) at the affected intersections. With the addition of Project construction-generated trips, SR 14 / Mono Street would continue to operate at an acceptable LOS, while SR 14 / Camelot Boulevard would operate at unsatisfactory LOS during the PM peak hour.

Implementation of MM 4.14-1, which would require the Project proponent/operator to obtain all the necessary encroachment or other permits for the work within the road right-of-way and preparation and approval of a Traffic Control Plan, and MM 4.14-2, which would require the staggering of construction traffic departure schedules to reduce construction-related trips during the PM peak hour and result in an acceptable LOS at SR 14 / Camelot Boulevard, would ensure that construction impacts would be reduced to less than significant. The above-described significant impact is the result of a

conservative assumption that all 350 worker vehicles would leave the site during the busiest PM peak hour (4:15 p.m. to 5:15 p.m.).

Implementation of **MM 4.14-1** and **MM 4.14-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 29

Impact: **Impact 4.14-2. The proposed project would conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards developed by the county congestion management agency for designated roads or highways for Kern County General Plan LOS “D.”**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Three of the four intersections and SR 14 road segment in the vicinity of the Project site would maintain an acceptable LOS throughout construction and operation of the Project. The SR 14 / Camelot Boulevard intersection would operate at unsatisfactory LOS D during the PM peak hour; this is considered a temporary significant impact. However, this is the result of a conservative assumption that all 350 worker vehicles would leave the site during the busiest PM peak hour (4:15 p.m. to 5:15 p.m.). MM 4.14-2 requires a staggering of departure times of construction workers so that no more than 175 worker vehicles would leave the site during the PM peak hour; the staggering of construction traffic departure schedule would reduce construction-related trips during the PM peak hour and result in an acceptable LOS C or better at the SR 14 / Camelot Boulevard. Thus, Project construction and operation traffic would not exceed Kern County LOS thresholds, and the Project would be in compliance with established Kern County General Plan LOS Standards.

Implementation of **MM 4.14-1** and **MM 4.14-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 30

Impact: **Impact 4.14-3. The project would substantially increase hazards due to a design feature (such as sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The use of oversize vehicles during construction can create a hazard to the public by limiting motorist views on roadways and by the obstruction of space, which is considered a potentially significant impact. Due to the rural nature of the Project area roads, construction vehicles and ancillary infrastructure are not anticipated to incur hazards traveling to and from the Project site. The proposed Project would not include a design feature that would create a hazard on the roadways surrounding the Project site. The need for and number of escort vehicles, including California Highway Patrol escort vehicles, as well as the timing of transport, would be at the discretion of Caltrans and Kern County, and would be detailed in respective oversize load permits. To ensure that construction-related oversize vehicle loads are in compliance with applicable California Vehicle Code sections and California Street and Highway Codes applicable to licensing, size, weight, load, and roadway encroachment of construction vehicles, MM 4.14-1 would require, in part, that all oversize vehicles used on public roadways during construction obtain required permits and obtain approval of a Construction Traffic Control Plan, as well as identify anticipated construction delivery times and vehicle travel routes in advance to minimize construction traffic during AM and PM peak hours.

Implementation of **MM 4.14-1** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 31

Impact: **Impact 4.14-4. The project would result in inadequate emergency access.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Increased Project-related traffic would temporarily worsen the existing PM peak-hour service level at the SR 14 / Camelot Boulevard intersection; other intersections on area roads would not be adversely affected. With MM 4.14-2, which requires a staggering of departure times of construction workers so that no more than 175 worker vehicles would leave the site during the PM peak hour, the temporary intersection impact would be mitigated to a less than significant level. Therefore, with mitigation, Project-related traffic would not indirectly affect emergency access to the Project site or any other surrounding location. The proposed Project would not require closures of public roads, which could inhibit access by emergency vehicles. MM 4.14-1 would provide further assurances for emergency access. MM 4.14-1 requires the preparation of a Construction Traffic Control Plan which considers access for emergency vehicles to the Project site. During Project operation, MM 4.14 1 requires the Project operator obtain Kern County approval of all proposed access road designs prior to construction, further ensuring onsite emergency access is adequate.

Implementation of **MM 4.14-1** and **MM 4.14-2** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

12. UTILITIES AND SERVICE SYSTEMS

CEQA FINDING NO. 32

Impact: **Impact 4.15-6. The proposed project would be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The Project is expected to generate minimal amounts of solid waste during construction, operation, and decommissioning. The Project site is currently undeveloped; thus, no demolition or removal of large debris would be required, and few residual materials requiring disposal are expected onsite following construction. As required by the CALGreen Building Code, the Project would submit a Construction Waste Management Plan to the Kern County Building Inspection Department for approval, prior to construction of the proposed

Project that would disclose how 50 percent of construction waste and 100 percent of tree stumps, rocks, and associated vegetation and soils resulting from land clearing would be recycled or reused. Implementation of MM 4.15-1 requires the presence of a Recycling Coordinator onsite to monitor the separation and disposal of recyclable materials and solid waste during all Project stages to ensure the Construction Waste Management Plan is fully implemented.

The Project site would also produce relatively small amounts of waste associated with operation and maintenance activities. Wastes associated with Project operation could include broken and rusted metal, defective or malfunctioning modules, electrical materials, and small amounts of typical household refuse that would be generated by the eight full time personnel. Decommissioning of the proposed Project would generate the largest amount of potential waste, as it would involve the removal of all Project structures from the site. Most of these materials would be collected and delivered back to the manufacturer for recycling. Implementation of MM 4.15-1 would ensure materials are reused or recycled onsite to the extent feasible. Materials that cannot be reused or recycled would be non-hazardous and disposed of at the Mojave-Rosamond Sanitary Landfill, located approximately 8 miles away from the Project site. Hazardous waste will be disposed of at approved facilities, in accordance with all applicable local, State and federal regulations. Waste generated from the Project during all stages is expected to be well below the landfill's daily maximum capacity of 3,000 tons per day. Further, this landfill is expected to be operational until 2123, well beyond the Project's expected length of operation. Solid waste generated by the proposed Project would be served by a landfill with sufficient permitted capacity.

Implementation of **MM 4.15-1** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

CEQA FINDING NO. 33

Impact: **Impact 4.15-7. The proposed project would comply with federal, state, and local statutes and regulations related to solid waste.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The proposed Project would generate solid waste during construction, operation, and decommissioning, thus requiring the consideration of waste reduction and recycling measures. MM 4.15-1 would ensure the Project complies with both AB 939 and AB 391, which require attainment of waste diversion goals through encouragement of reuse and recycling, and the CALGreen Building Code. The Project would also prepare a Construction Waste Management Plan, pursuant to County guidelines. Furthermore, the Mojave-Rosamond Sanitary Landfill is expected to have sufficient capacity to accommodate the incremental amount of solid waste generated by the Project. The Project would be required to comply with all applicable federal, state, and local statutes and regulations related to the handling and disposal of solid waste.

Implementation of **MM 4.15-1** has been incorporated into the Project to reduce this impact to a less than significant level.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

D. SIGNIFICANT AND UNAVOIDABLE IMPACTS

The following impacts were determined in the Final EIR to be significant and unavoidable. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines, §§ 15092 and 15093.)

E. FINDINGS ON ALTERNATIVES

As explained in *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1000:

When it comes time to decide on project approval, the public agency's decisionmaking body evaluates whether the alternatives [analyzed in the EIR] are actually feasible.... At this final stage of project approval, the agency considers whether '[s]pecific economic, legal, social, technological, or other considerations...make infeasible the mitigation measures or alternatives identified in the environmental impact report.' Broader considerations of policy thus come into play when the decisionmaking body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives [citations omitted].

The four alternatives analyzed in the EIR represent a reasonable range of potentially feasible alternatives that could reduce one or more significant impacts of the Project. These alternatives include:

- 1) Alternative A, the No-Project Alternative
- 2) Alternative B, the General Plan Build-Out Alternative (only Windhub Solar A site would be developed)
- 3) Alternative C, the Reduced Project Alternative (only Windhub Solar A site would be developed)
- 4) Alternative D, the No Ground-Mounted Utility-Solar Development Alternative.

As presented in the EIR, the alternatives were described and compared with each other and with the proposed Project.

Under State CEQA Guidelines section 15126.6, subdivision (e)(2), if the No Project Alternative is identified as the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives.

The Environmentally Superior Alternative is considered to be Alternative D, or the No Ground-Mounted Utility-Solar Development Alternative. This alternative would avoid all significant and unavoidable impacts that would occur under the proposed Project except noise impacts, which would have the potential of affecting a greater number of sensitive receptors, and would remain individually and cumulatively significant. Reductions in GHG emissions would not be as great, due to the lower efficiency of the distributed systems which would not include solar tracking technology and the greater distance of travel that would be required for construction and operation activities for a distributed system. Impacts to hydrology and water quality would also be slightly increased due to the potential for a higher volume of runoff in an area where pervious surfaces are less common. However, no substantially adverse and long-term impacts would occur to the environment. This alternative would also result in fewer impacts to aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology and soils, public services, and traffic and transportation. This alternative would have similar impacts to the proposed Project for hazards and hazardous materials. However, it is also considered to be impracticable and infeasible to construct within the same timeframe and/or with the same efficiency because the Project operator lacks control and access to the sites required to develop 40 MW of distributed solar generated electricity. In addition, Alternative D would not achieve the Project objective of assisting California load-serving entities in meeting their obligations under California's Renewables Portfolio Standard (RPS) Program.

The County independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the County's independent judgment as to alternatives. The County found that the proposed Project provides the best balance between the Project goals and objectives and the Project's benefits. The four CEQA alternatives proposed and evaluated in the EIR were rejected as being infeasible for the following reasons provided in the County's Findings Regarding Alternatives (incorporated herein by reference)].

1) Alternative A, the No-Project Alternative

Alternative A would avoid the significant and unavoidable impacts associated with the proposed Project. However, Alternative A would result in greater GHG emission impacts than the proposed Project because the potential offset or displacement of GHGs from solar powered energy generation, compared with traditional gas- or coal-fired power plants, would not be realized. This alternative would not achieve any of the Project objectives, such as offsetting energy generated from fossil fuels or helping to achieve California's renewable energy goals. Although the alternative would result in fewer environmental impacts, the goals and objectives that shape the Project would not be realized under this alternative.

2) Alternative B, the General Plan Build-Out Alternative

Under Alternative B, the General Plan Build-Out Alternative, the Windhub Solar A site would be developed for multiple uses but the Windhub Solar B would not be developed for solar use. Although the alternative would result in fewer environmental impacts, the goals and objectives that shape the proposed Project would not be realized under this alternative.

3) Alternative C, the Reduced Project Alternative

Under Alternative C, the Reduced Project Alternative, only the Windhub Solar A site would be developed; Windhub Solar B would not be developed for solar use. Although the alternative would result in fewer environmental impacts, the goals and objectives that shape the proposed Project would not be realized under this alternative.

4) Alternative D, the No Ground-Mounted Utility-Solar Development Alternative

Alternative D, the No Ground-Mounted Utility-Solar Development Alternative, would involve the development of a number of geographically distributed small to medium solar PV systems (100 kilowatts to 1 MW) within existing developed areas, typically on the rooftops of commercial and industrial facilities situated throughout Kern County. Under this alternative, no new land would be developed or altered.

However, depending on the type of solar modules installed and the type of tracking equipment used (if any), a similar or greater amount of acreage (i.e., greater than 307.5 acres of total rooftop area) may be required to attain the proposed Project's capacity of 40 MW of solar PV generating capacity. Because of space or capital cost constraints, many rooftop solar PV systems would be fixed-axis systems or would not include the same type of sun-tracking equipment that would be installed in a freestanding utility-scale solar PV project and, therefore, would not attain the same level of efficiency with respect to solar PV generation. This alternative would generate 40 MW of electricity, but it would be for onsite use only. This alternative assumes that rooftop development would occur primarily on commercial and industrial structures due to the greater availability of large, relatively flat roof areas necessary for efficient solar installations.

Similar to the proposed Project, this alternative would be designed to operate year-round using PV modules to convert solar energy directly to electrical power. Power generated by such distributed solar PV systems would typically be consumed on site by the commercial or industrial facility without requiring the construction of new electrical substation or transmission facilities.

Alternative D would reduce the significant and unavoidable impacts of the proposed Project related to aesthetics, air quality, and biology to a less than significant level. This alternative would also result in fewer impacts to agricultural resources, cultural resources, geology and soils, public services, and traffic and transportation, and similar impacts for GHG emissions, land use and planning, mineral resources, and utilities and service systems. There is a potential for an increase in noise and hydrology and water quality impacts associated with this alternative. Hazards and hazardous materials related impacts would remain similar. Therefore, for most environmental issue areas, this alternative would result in fewer environmental impacts, both short-term and long-term, when compared to the proposed Project. In addition, this alternative would involve hundreds, if not thousands of installation locations across Kern County, many of which would require discretionary action, such as design review, Conditional Use Permits, or zone variances, depending on local jurisdictional requirements.

This alternative would achieve several of the Project objectives, such as developing previously disturbed sites, using PV technology fossil fuels, and assisting California's in meeting GHG emissions reduction goals; however, there are a number of drawbacks to this alternative that include, but are not limited to:

- The system would not likely be built out within a timeframe that would be similar to that of the proposed Project.
- Given the distributed nature of such a network of facilities, construction, management, and maintenance would not be as efficient, and total capital costs would likely be higher.
- The Project operator does not have immediate control or access to potential urban sites that could accommodate facilities to generate 40 MW of solar power.
- A distributed system of the scale of the Project would be cost-prohibitive.

In addition, while this alternative would enable the generation of approximately 40 MW of electricity, it would be used on the sites generating the power and would not achieve the Project objective of assisting California load-serving entities in meeting their obligations under California's RPS Program. Given the size of the proposed Project, the Project objectives, and the need to arrange a suitable assemblage of participating commercial and industrial properties, it is impractical and infeasible to propose a distributed generation project of this type and still proceed within a reasonably similar timeframe.

Based upon the objectives identified in the Final EIR and the detailed mitigation measures imposed upon the Project, the Commission has determined that the Project should be approved, subject to such mitigation measures (Exhibit C, Mitigation Monitoring Program), and that any remaining unmitigated environmental impacts attributable to the Project are outweighed by the following specific economic, fiscal, social, environmental, land use, and other overriding considerations.

4.0 STATEMENT OF OVERRIDING CONSIDERATIONS

A. INTRODUCTION

This section addresses the Commission's obligations under Public Resources Code section 21081, subdivisions (a)(3) and (b). (See also State CEQA Guidelines, §§ 15091, subd. (a)(3), 15093.) Under these provisions, CEQA requires the Commission to balance, as applicable, the economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the Lease approval related to the Windhub Solar Project against the backdrop of the Project's unavoidable significant environmental impacts. For purposes of CEQA, if the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable significant environmental effects, those effects may be considered acceptable and the decision-making agency may approve the underlying

project. (State CEQA Guidelines § 15092, subd. (b)(2)(B).) CEQA, in this respect, does not prohibit the Commission from approving the Lease even if the Project activities as authorized under the Lease may cause significant and unavoidable environmental effects.

This Statement of Overriding Considerations presents a list of (1) the specific significant effects on the environment attributable to the approved Project that cannot feasibly be mitigated to below a level of significance, (2) benefits derived from the approved Project, and (3) specific reasons for approving the Project.

Although the County and Commission have imposed mitigation measures to reduce impacts, impacts remain that are considered significant after application of all feasible mitigation. Significant impacts of the approved Project fall under three resource areas: Cumulative Aesthetics, Cumulative Air Quality, and Cumulative Biological Resources (see Table D-2). These impacts are specifically identified and discussed in more detail in the Commission's CEQA Findings and in County's Final EIR. While the Commission has required all feasible mitigation measures, these impacts remain significant for purposes of adopting this Statement of Overriding Considerations.

Table D-2 – Significant and Unavoidable Impacts Identified for the Approved Project

Impact	Impact Description
Cumulative Aesthetics	
Cumulative Aesthetics – Impact of converting rural areas to solar and wind energy production	The Project in combination with the cumulative projects in the area would have significant and unavoidable impacts related to aesthetics. The “scarcity” rating criterion is particularly likely to be significantly impacted by widespread development in the area, as unobstructed views of regional topographical features and undeveloped lands would be less available as acreage is developed with PV panels and new transmission lines are constructed. Although implementation of mitigation measures would reduce impacts, the conversion of thousands of acres in a presently rural area to solar and wind energy production uses cannot be mitigated to a degree that impacts are no longer significant. Therefore, the cumulative aesthetic impacts of the proposed Project would remain significant.

Impact	Impact Description
Cumulative Air Quality	
Cumulative Air Quality – Impact of temporary cumulative net increase of pollutants during construction	The proposed Project together with all other identified cumulative solar projects within the Kern County portion of the Mojave Desert Air Basin and the basin as a whole would result in significant cumulative impacts during construction activities. Cumulative construction emissions would exceed Eastern Kern Air Pollution Control District's significance thresholds for NOx and PM10 and would therefore be cumulatively significant, even with implementation of mitigation measures. Therefore, the cumulative air quality impacts of the proposed Project would remain significant.
Cumulative Biological Resources	
Cumulative Biological Resources – Impacts to habitat and special status species	As urbanization pressures increase within Kern County, impacts to biological resources within the region are increasing on a cumulative level. When considered with other past, present, and probable future projects, the Project would have a considerable incremental contribution to a significant cumulative loss of habitat for burrowing owl and other foraging raptors, even with the implementation of mitigation measures. In addition, the Project's installation of new facilities (e.g., transmission towers, PV modules, fences, and buildings) would provide new roosting, nesting, and perching sites for the common raven, which are predators of desert tortoise, Mohave ground squirrel, and compete with, as well as prey on, many special-status raptors and birds. When considered within the cumulative context, the Project's incremental contribution to maintaining artificially high common raven populations, which threatens other desert wildlife, including federal and State-listed species, is cumulatively significant even with implementation of mitigation measures. Therefore, the cumulative biological resources impacts of the proposed Project would remain significant.

B. BALANCING OF BENEFITS AND RISKS ASSOCIATED WITH LEASE APPROVAL

State CEQA Guidelines section 15093, subdivision (a) requires the decision-making agency to balance, as applicable, the economic, legal, social,

technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project.

Overriding considerations that support Project approval are as follows:

1. The proposed Project would help to meet California's increasing demand for clean, renewable electrical energy by developing solar energy facilities that take advantage of the climate of Kern County, specifically ample sunshine and little rainfall.
2. The proposed Project would establish a solar PV power-generating facility that is of a sufficient size and configuration to produce approximately 20 MW (AC) of electricity on the Windhub Solar B site.
3. The proposed Project would assist the State of California in meeting GHG emissions reduction goals by 2020 and 2030 as required by the California Global Warming Solutions Act (AB 32), as amended by Senate Bill 32 in 2016.
4. The proposed Project would assist the State of California in meeting its targets under California's RPS under Senate Bill 350 (2015), which requires that 50 percent of all electricity sold in the state be generated from renewable energy sources by December 31, 2030.
5. The proposed Project would produce and transmit electricity at a competitive cost use using technology that is available, proven, efficient, easily maintained, recyclable, and environmentally sound to develop solar energy facilities that are economically feasible and commercially financeable.
6. The proposed Project would minimize environmental effects by:
 - a. Using existing electrical distribution facilities, rights-of-way, roads, and other existing infrastructure where practicable;
 - b. Minimizing impacts to threatened species and endangered species;
 - c. Minimizing water use; and
 - d. Reducing greenhouse gas emissions.
7. The Proposed project would generate up to 700 construction jobs and up to 8 full time equivalent jobs on site, as well as provide increased business for local contractors and vendors.

8. Lease revenue from the proposed project would benefit the California State Teachers' Retirement System.

C. COMMISSION ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS

As noted above, under Public Resources Code section 21081, subdivisions (a)(3) and (b) and State CEQA Guidelines section 15093, subdivision (a), the decision-making agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or state-wide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve a project.

For purposes of CEQA, if these benefits outweigh the unavoidable significant environmental effects of a proposed project, the decision-making agency may approve the underlying project. CEQA, in this respect, does not prohibit the Commission from approving the Project, even if the activities authorized by that approval may cause significant and unavoidable environmental effects. This balancing is particularly difficult given the significant and unavoidable impacts on the resources discussed in the EIR and these Findings. Nevertheless, the Commission finds, as set forth below, that the benefits anticipated by implementing the Project outweigh and override the expected significant effects.

The Commission has balanced the benefits of the Project against the significant unavoidable impacts that will remain after approval of the lease associated with the Approved Project and with implementation of all feasible mitigation in the EIR that is adopted as enforceable conditions of the Commission's approval of the Project. Based on all available information, the Commission finds that the benefits of the approved Project outweigh the significant and unavoidable adverse environmental effects, and considers such effects acceptable. The Commission adopts and makes this Statement of Overriding Considerations with respect to the impacts identified in the EIR and these Findings that cannot be reduced to a less than significant level. Each benefit set forth above or described below constitutes an overriding consideration warranting approval of the project, independent of the other benefits, despite each and every significant unavoidable impact.

D. CONCLUSION

The Commission has considered the Final EIR and all of the environmental impacts described therein including those that cannot be mitigated to a less than significant level and those that may affect State school land. Based on the foregoing and pursuant to Public Resources Code section 21081 and State CEQA Guidelines sections 15096 subdivision (h) and 15093, the Commission has considered the fiscal, economic, legal, social, environmental, and public health

and safety benefits of the Project and has balanced them against the Project's significant and unavoidable and unmitigated adverse environmental impacts and, based upon substantial evidence in the record, has determined that the benefits of the Project outweigh the adverse environmental effects. The Commission finds that the remaining significant unavoidable impacts of the Project are acceptable in light of these benefits. Such benefits outweigh such significant and unavoidable impacts of the Project and provide the substantive and legal basis for this Statement of Overriding Considerations.

The Commission finds that to the extent that any impacts identified in the Final EIR remain unmitigated, mitigation measures have been required to the extent feasible, although the impacts could not be reduced to a less than significant level.

Based on the above discussion, the Commission finds that the benefits of the Project outweigh the significant unavoidable impacts that could remain after mitigation is applied and considers such impacts acceptable

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Exhibit E

Windhub Solar B Project

Joshua Tree Preservation Plan

November 2022



Prepared For:
Balanced Rock Power

Prepared By:
Heritage Environmental Consultants



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INTRODUCTION

On behalf of Windhub Solar B (Applicant), LSA Associates Inc. (LSA) prepared a Joshua Tree and Desert Tortoise Preservation and Enhancement Plan (Plan) for the Windhub Solar B Site (Site)(LSA 2020). The purpose of this Plan was to establish and describe guidelines for the preservation of approximately 48 acres of contiguous Joshua tree (*Yucca brevifolia*) woodland on the Site. Heritage Environmental Consultants (Heritage) was requested to update the LSA Plan to reflect new comments and recommendations from the California State Lands Commission (CSLC)(Simpkin 2022). **Figures 1, 2 and 3** from the LSA Plan are included in **Appendix A** of this updated Plan.

The Site is classified by the California State Lands Commission (CSLC) as “Inventory of Unconveyed State School Lands and Tide and Submerged Lands Possessing Significant Environmental Values” Due to the identification of a unique display of Joshua tree woodland on the site. This Plan was developed to avoid impacts to this display of Joshua tree woodland while still accommodating solar photovoltaic (PV) development on the Site.

PROJECT AND SURVEY BACKGROUND

On May 3, 2018, LSA conducted a Joshua tree inventory survey of the entire approximately 160-acre Site. Using high-resolution drone imagery of the Site, LSA mapped 96 acres of Joshua tree woodland (**Appendix A - Figure 2**). As part of the assessment, LSA identified the most suitable 48 acres of contiguous Joshua tree woodland within the Site that would provide the best preservation opportunities while accommodating the PV development (LSA 2020).

This Plan will preserve the environmental values of the on-site Joshua trees while accommodating the solar PV development through preserving a contiguous block of land with the largest density of existing Joshua tree woodland.

Joshua Tree Recruitment Literature Review

LSA presented the following literature review in their Plan (LSA 2020).

Recruitment of Joshua trees requires a convergence of several factors, including fertilization by a unique pollinator (yucca moth [*Tegeticula yuccasella*]) seed dispersal and caching by rodents, and seedling emergence from a transient seed bank triggered by isolated, late-summer rainfall. Joshua tree seedlings typically emerge when rainfall events coincide with warm temperatures in September and April; however, seedling survival is generally low. Nevertheless, based on the numerous Joshua tree sapling observations LSA biologists made in 2018, it would appear that such a convergence of events has occurred within the last two or three years.

Documented research suggests that Joshua tree seedlings are more likely to emerge under cover of shrubs that act as “nurse plants.” These nurse plants play an important role in successful Joshua tree germination and initial growth where Joshua tree recruitment is largely

dependent upon the existence of microclimates that occur under the canopies of perennial shrubs. The advantages of germination within the canopy of another plant include higher soil moisture, reduced insolation, reduced surface temperatures, reduced evapotranspirational demand, increased nutrients, reduced herbivory, and reduced wind desiccation. Disadvantages of germination under another plant may include competition for water if the adult plant has a near-surface root system, reduced photosynthetically active radiation inhibiting carbon gain, and allelopathy.

The scarcity of successful Joshua tree seedlings or saplings in portions of the species' southern range in recent decades could indicate that recruitment success may be limited by successive years of high temperatures and/or low precipitation, thus causing excessive evapotranspirative stress at the plants' early life stage. Decreases in precipitation and increased periods of drought may decrease Joshua tree recruitment and survival because climatic events have a strong influence on the early life stages of this species, whether directly through drought stress or indirectly by increased herbivory during drought conditions.

Mature Joshua trees appear to be more resilient than seedlings or juveniles. Research indicates that seedling success may be limited by successive years of high temperatures and/or low precipitation resulting in an excess of evapotranspirative stress at this life stage. Less habitat may be suitable for recruitment than is suitable for mature trees with early stages of climate change possibly already having an impact on Joshua tree recruitment.

Because Joshua trees are long-lived, the current distribution of reproductive adults may mask the effects of recent changes in climate on recruitment and survival of seedlings and juveniles, which are more sensitive to the vagaries of desert conditions. Joshua trees are entirely dependent on the yucca moth for pollination, making them more vulnerable to impacts on this synergistic relationship. Any impact on the moths will cascade to the Joshua trees, and vice versa.

Therefore, preserving Joshua trees on site may naturally enhance the successful recruitment of Joshua trees and benefit the Joshua tree woodland in the preservation area.

PRESERVATION MEASURES

The following preservation measures will protect the 48-acre area of Joshua tree woodland from impacts from the activities and improvements on the developed portion of the site.

Preservation Goals

The goal of this Plan is to preserve a contiguous 48-acre block of on-site Joshua tree woodland while accommodating the PV development on other portions of the property. The Plan outlines a compensatory mitigation approach consisting of preserving a contiguous block of Joshua trees on site consistent with the CSLC requirements.

Preservation Activities

The following activities are recommended by the CSLC to preserve the 48-acre Joshua tree grove:

- The 48-acre area containing the majority of the Joshua tree grove shall be excluded from development.
- A fence will be constructed that prevents vehicles or off-road vehicles from accessing the 48 acres while allowing pedestrian and wildlife access. This should limit access both from the roads adjacent to the site and from the solar facilities. The fence would be either 3- or 4- strand barbed or smooth wire with small breaks to allow for pedestrian access.
- Ongoing trash clean-up shall be conducted within the 48-acre Joshua tree grove, as necessary. Trash clean-up would occur after installation of the fence, and once per year during the operation of the Project.
- Annual monitoring of the overall health of the Joshua tree grove shall be conducted with annual reporting to the CSLC staff. The monitoring should include a walkthrough of the parcel, written narrative of current conditions, and photos. Annual monitoring would occur at the same time as the trash clean-up.

These preservation activities would be conducted for the duration of the Project.

DOCUMENTATION

As prescribed by the CSLC, yearly reports will be prepared which will include (1) summary of the site inspection and trash removal efforts, (2) an evaluation and description of the current site conditions, and (3) photo documentation of site conditions.

REFERENCES

California State Lands Commission. 1975. *Inventory of Unconveyed State School Lands and Tide and Submerged Lands Possessing Significant Environmental Values*. Sacramento: State Lands Commission. December 1.

LSA Associates, Inc. 2015. General Biological Resources Report, Windhub Solar A and Windhub Solar B Project, Kern County, California.

LSA Associates, Inc. 2020. Windhub Solar B Joshua Tree Preservation and Enhancement Plan. Kern County, California. 30 pages.

Simpkin, D. 2022. Personal communication [Nov 9 letter to Melanie Falls, Balanced Rock Power. *RE: Windhub Solar B Project Joshua tree preservation*]. Public Land Management Specialist, California State Lands Commission.

Appendix A FIGURES

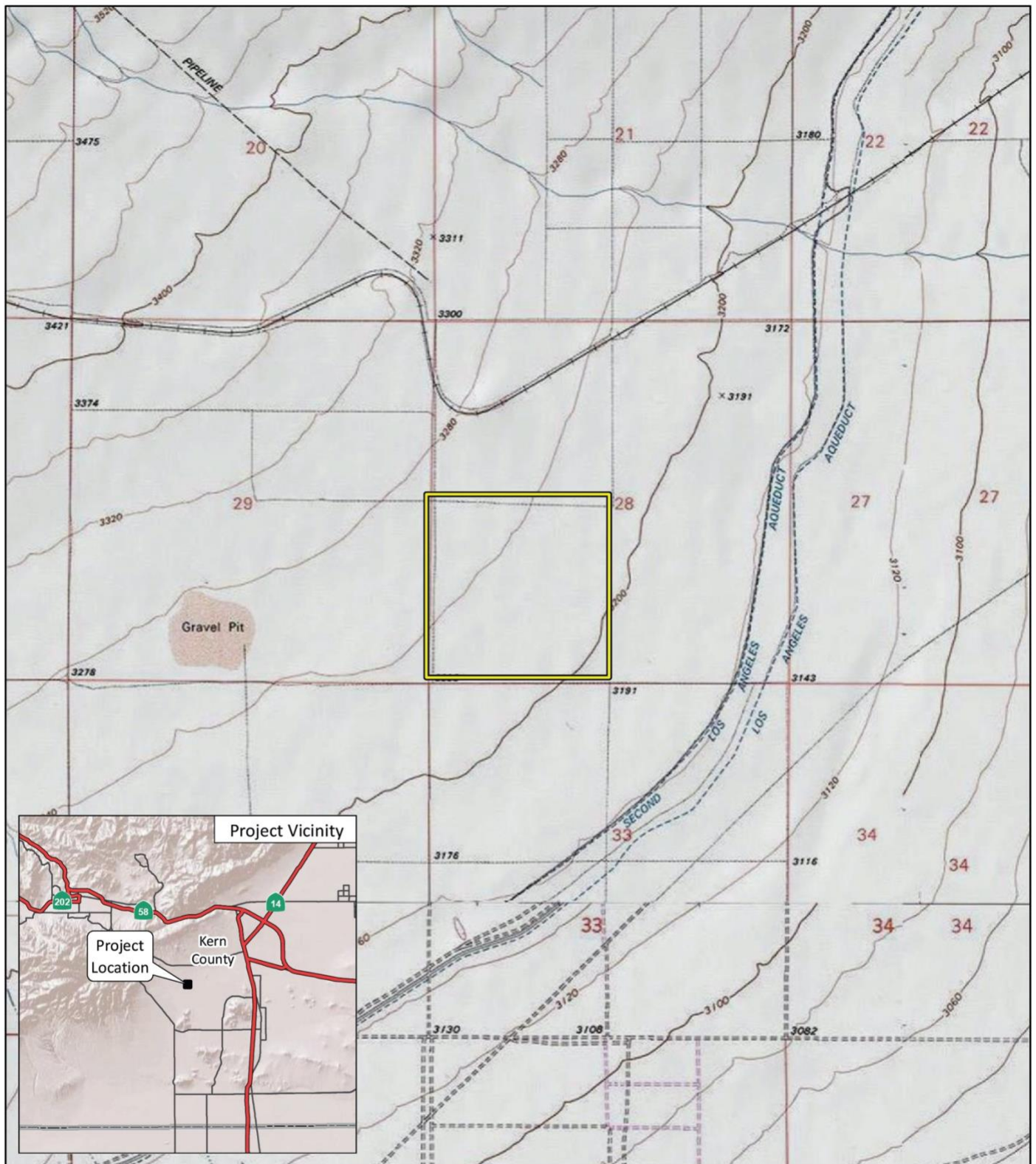


FIGURE 1

LSA

LEGEND

 Project Location



0 1000 2000
FEET

SOURCE: USGS 7.5' Quad - Monolith (1995)

I:\FTS1503\GIS\MXD\DETO_Connectivity\WindhubB_ProjLoc.mxd (9/14/2020)

First Solar - Windhub B
Joshua Tree and Desert Tortoise Preservation and Enhancement Plan
Project Location



LSA



0 162.5 325
FEET

SOURCE: LSA (2018)

I:\FTS1503\GIS\MXD\DETO_Connectivity\Windhub8_ProjFeat.mxd (9/14/2020)

LEGEND

- Proposed Preservation / Enhancement Area (48 Ac)
- Project Location (160 Ac)
- Joshua Tree Woodland (LSA 2015)

FIGURE 2

First Solar - Windhub B
Joshua Tree and Desert Tortoise Preservation and Enhancement Plan
Joshua Tree Woodlands

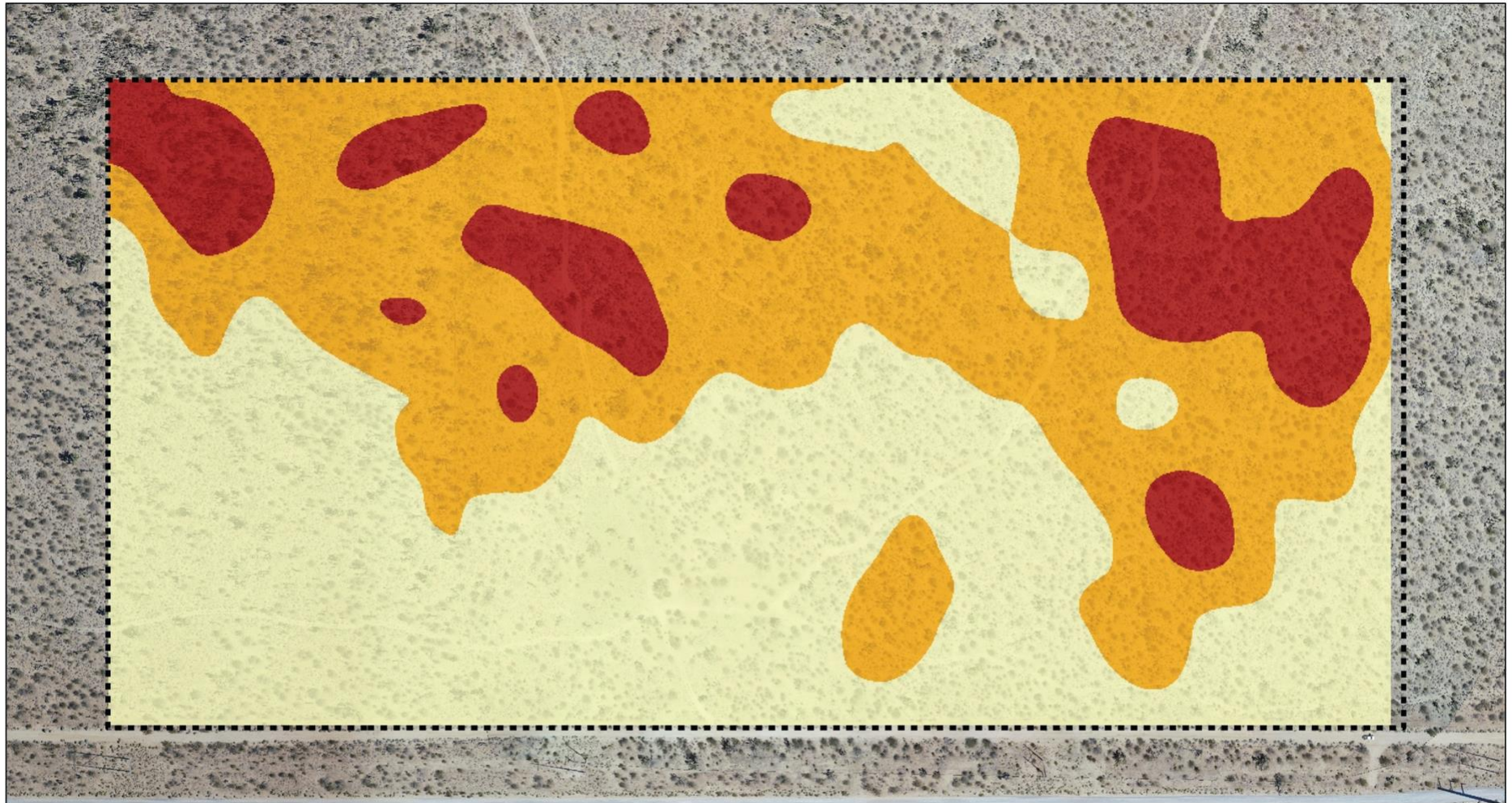
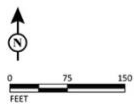


FIGURE 3

LSA



SOURCE: LSA - Imagery (05/18)

I:\FTS1503\GIS\MXD\DETO_Connectivity\JoshuaTreeDensity_PreservationArea.mxd (9/14/2020)

LEGEND





-  Proposed Preservation / Enhancement Area (48.0 Ac)
-  Low Density
-  Medium Density
-  High Density

Exhibit F

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:
STATE OF CALIFORNIA
State Lands Commission
Attn: _____
100 Howe Avenue, Suite 100- South
Sacramento, CA 95825-8202

**STATE OF CALIFORNIA
OFFICIAL BUSINESS**

Document entitled to free recordation
Pursuant to Government Code Section 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

LEASE _____

AGREEMENT AND CONSENT TO ENCUMBRANCE OF LEASE

The Parties to this Agreement and Consent to Encumbrance of Lease _____
(the Agreement) are:

1. The State of California, acting by and through the State Lands Commission, hereinafter referred to as LESSOR;
2. _____, hereinafter referred to as LESSEE;
3. _____ hereinafter referred to as SECURED PARTY-LENDER unless otherwise indicated;

RECITALS:

The State of California acting by and through the State Lands Commission as LESSOR did on _____, 20__, lease to _____ under Lease _____ (hereafter the Lease) certain lands within the [bed of] _____, _____ County for a _____. A copy of the Lease is attached as Exhibit A hereto and is incorporated into this

Agreement.

LESSEE requires and has obtained indebtedness in the amount of _____ pursuant to the terms and conditions of Loan Agreements, dated _____, between LESSEE and SECURED PARTY-LENDER for the permanent financing or refinancing of existing debt and improvements to be constructed, maintained, repaired or reconstructed by the LESSEE on the Lease Premises.

The indebtedness and financing are necessary to achieve the purposes and objectives of the Lease and are in the best interest of all parties.

SECURED PARTY-LENDER requires the execution of a security instrument in the form of a Deed of Trust, mortgage, or other security device encumbering the Lease to secure the financing required by LESSEE.

SECURED PARTY-LENDER has been designated as the lender and party to this Agreement by LESSEE and is acceptable to LESSOR.

AGREEMENT

A. NOW, THEREFORE, the State of California, acting by and through the State Lands Commission, as LESSOR, DOES HEREBY APPROVE AND CONSENT TO:

1. The SECURED PARTY-LENDER being designated as the lender and as a party to this Agreement; and
2. The mortgaging or encumbering of the Lease by a Deed of Trust and/or other security instrument being executed by LESSEE (TRUSTOR) for the benefit of SECURED PARTY-LENDER (BENEFICIARY) to secure indebtedness incurred for the purposes stated above, pursuant to the terms and conditions of the Loan Agreement, the Promissory Note, or other loan documents or debt instrument. The terms "security interest" or

"security interests" shall be hereinafter used interchangeably with the terms "mortgage," "encumbrance," "Deed of Trust" or other security instrument used to encumber the Lease. The security interest may, at the option of SECURED PARTY-LENDER, be recorded in the Office of the County Recorder of _____ County, California. No additional or subsequent security interest concerning the Lease shall be executed and recorded against the Leased Premises by the LESSEE, SECURED PARTY-LENDER or other party without the prior written approval and consent of LESSOR; and

3. Any increases in, or modifications, extensions, or renewals of the financing or indebtedness by the SECURED PARTY-LENDER, provided, however, that any such increases, modifications or renewals shall not be deemed in any way to increase, modify, extend, renew or otherwise amend the Lease, and provided that LESSEE shall give LESSOR written notice of any of them having been made within 10 days of their execution; and

4. SECURED PARTY-LENDER or a corporation or limited liability company wholly owned and controlled by SECURED PARTY-LENDER acquiring the Lease by any of the means set forth in this Agreement; and

5. The assignment to SECURED PARTY-LENDER of rents paid to LESSEE by sublessees of the Lease Premises, provided, however, that all subleasing shall have been approved by LESSOR as provided in the Lease.

B. The parties do further agree as follows:

1. **Estoppel Certificate.**

As of the date of LESSOR's execution of this Agreement, the Lease is in full force and effect and no default, breach or other ground for termination

exists.

2. **Lease Improvements.**

The proceeds of any loan procured in whole or in part for the purpose of permanent financing or refinancing of existing debt, constructing, maintaining, repairing or reconstructing improvements on the Lease Premises (for which a security interest in the Lease is required) shall be used for such purposes according to the objectives of the Lease provided, however, that SECURED PARTY-LENDER shall have no obligation to take any action, other than disbursing loan proceeds pursuant to invoicing provided by LESSEE, to see or ensure that the loan proceeds or any part thereof are or were used to construct or improve the Lease Premises.

3. **Lease Termination.**

a. Except as stated below in Section B.4, LESSOR shall not terminate the Lease because of a Default by LESSEE if, within sixty (60) days after service of written notice (the "Termination Notice") on the SECURED PARTY-LENDER of LESSOR'S intention to terminate the Lease for such default or breach, SECURED PARTY-LENDER shall:

(1) Cure any Default dealing with rental, a surety bond, liability insurance and any other Default that can be cured by the payment or expenditure of money; **and**

(2) Keep the Lease free from any Defaults of the kind described in the immediately preceding clause (1) occurring from and after the date that SECURED PARTY-LENDER receives the Termination Notice until the date all of the defaults and breaches described in the Termination Notice are cured; **and**

(3) Give notice to LESSOR and immediately commence and diligently pursue actions necessary for and leading expeditiously to:

(a) A transfer of the Lease to SECURED PARTY-LENDER or another party acceptable to LESSOR by any of the means mentioned in this Agreement; **and**

(b) The cure of any Default for which possession of the Lease Premises is necessary.

b. SECURED PARTY-LENDER shall not be required to continue to pursue actions necessary to effect a transfer of the Lease if all defaults or breaches of the Lease have been cured by LESSEE or SECURED PARTY-LENDER and LESSEE has demonstrated to the satisfaction of LESSOR that it is willing and able to resume satisfactory performance of all of its duties and obligations under the Lease. If SECURED PARTY-LENDER cannot effect a transfer of the Lease other than through foreclosure and is prohibited from commencing or continuing foreclosure as a result of a court order or provision of law, LESSOR shall not terminate the Lease, provided that SECURED PARTY-LENDER notifies LESSOR of its intent to foreclose when permitted to do so and shall keep and perform all other conditions of the Lease and this Agreement until such time that the Lease shall be sold upon foreclosure pursuant to the Deed of Trust, or shall be transferred upon judicial or nonjudicial foreclosure, by assignment in lieu of foreclosure or otherwise.

c. Except as stated below in Section B.4.c, LESSEE and LESSOR shall not seek to amend, modify, replace, terminate or surrender the Lease through mutual assent or otherwise without first having

obtained the written consent of SECURED PARTY-LENDER, unless, with respect to a termination by LESSOR, the foregoing provisions of Section B.3 of this Agreement would otherwise allow for such termination.

d. The leasehold under the Lease shall not merge with the fee interest in all or any portion of the Lease Premises notwithstanding the ownership of the leasehold and of the fee by the same person(s) or entity(ies).

e. Except as stated below in Section B.4.c, LESSOR shall, upon serving LESSEE with any demand, consent or other notice under the Lease, concurrently serve a copy of such demand, consent or other notice upon SECURED PARTY-LENDER. LESSOR shall not be obligated to serve such notice on a SECURED PARTY-LENDER other than to the original SECURED PARTY-LENDER unless LESSOR has received notice that the security interest has transferred to a new SECURED PARTY-LENDER.

4. **Lease or Security Interest Transfer.**

a. **Lease Transfer.**

(1) Any transfer of the Lease, with the exception of a transfer to SECURED PARTY-LENDER, or a corporation or limited liability company wholly owned and controlled by SECURED PARTY-LENDER {be it pursuant to judicial foreclosure, by way of a private sale under a Deed of Trust, an assignment from LESSEE in lieu of foreclosure to a party selected by the SECURED PARTY-LENDER, or an assignment by LESSEE pursuant to Paragraph 24 of Section 2 of the General Provisions of the

Lease or otherwise}, shall be subject to the prior written approval and consent of LESSOR as required in the Lease, which consent shall not be unreasonably withheld, conditioned, or delayed. If SECURED PARTY-LENDER shall proceed with a foreclosure sale, it shall provide LESSOR with a minimum of thirty (30) calendar days' notice of the date and time of such sale. SECURED PARTY-LENDER shall inform prospective Lease purchasers in its notice of sale of the requirement that any prospective lessee of State lands under the jurisdiction of LESSOR must be approved by LESSOR prior to assumption of the Lease, unless such prospective lessee already meets the assignment requirements set forth in the Lease. If prospective purchasers wish to obtain notice of approval or disapproval before the foreclosure sale, their identity and intent to bid must be given to SECURED PARTY-LENDER at least twenty-five (25) State business days prior to the date of sale. SECURED PARTY-LENDER shall in turn give to LESSOR prompt notice of the identity of such prospective lease purchaser(s). LESSOR shall have fifteen (15) State business days after receipt of written notice from SECURED PARTY-LENDER in which to approve or disapprove any prospective purchasers. LESSOR's approval or disapproval of a prospective purchaser may be given by the Executive Officer of the State Lands Commission. If the Executive Officer disapproves of the prospective purchaser, SECURED PARTY-LENDER may appeal that disapproval to the State Lands Commission at the Commission's next available noticed public meeting. LESSOR shall advise SECURED PARTY-LENDER of its approval or disapproval of prospective purchasers prior

to the scheduled time of sale and the Lease shall be awarded to the highest bidder who has been approved by LESSOR, provided, however, that, if the highest bidder has not yet been vetted and approved or disapproved by LESSOR, LESSOR shall retain its right to disapprove the highest bidder and terminate the Lease. SECURED PARTY-LENDER shall indemnify, hold harmless and, at the option of LESSOR, defend LESSOR, its officers, agents, and employees against and for any and all liability arising out of, or alleged to arise out of, a failure to inform prospective Lease purchasers that they must be approved by LESSOR, unless such prospective Lease purchasers already meet the assignment requirements set forth in the Lease.

(2) Except SECURED PARTY-LENDER or a corporation or limited liability company wholly owned and controlled by SECURED PARTY-LENDER, all transferees, who succeed to the Lease whether by way of judicial foreclosure, private sale under a Deed of Trust or an assignment from LESSEE in lieu of foreclosure, or otherwise, must submit the following information in order to be considered for approval by LESSOR:

(a) The name and identification of the business organization and operational structure of the proposed transferee including certificate of good standing from the office of the California Secretary of State; identification of all affiliated entities, including subsidiaries and parent corporations; and a copy of the entity's formation documents (i.e. articles of

incorporation, articles of organization, partnership agreement, joint venture agreement, etc.); and

(b) A copy of the terms and conditions of the proposed transfer. (This requirement is inapplicable in the case where a transfer will be effected by judicial foreclosure, or private trustee sale.); and

(c) Audited or unaudited profit and loss statements for the two most recently completed fiscal years of the proposed transferee demonstrating its solvency and sufficient capital to operate the Lease and meet its terms and conditions; and

(d) Evidence of ability to meet the insurance and bonding requirements required by the Lease; and

(e) Current credit report; and

(f) Demonstration of experience within the past ten (10) years in the type of business being conducted on the Lease Premises. (This requirement is inapplicable in the case where a transfer will be effected by judicial foreclosure, or private trustee sale.)

(3) Any grantee, assignee, purchaser or other transferee of the Lease or any interest therein, be it SECURED PARTY-LENDER or another party acceptable to LESSOR, shall succeed to all of the rights, title and interest of LESSEE and shall be bound by all terms, covenants and conditions of the Lease and by all of the provisions of this Agreement from and after the effective date of the written agreement with LESSOR evidencing the

assignment or transfer of the Lease. Any such transferee shall, by the way of a written agreement with LESSOR, expressly assume and agree to perform all terms, covenants and conditions of the Lease and of this Agreement. SECURED PARTY-LENDER shall give written notice of the requirement of such assumption and agreement to any such transferee.

(4) If SECURED PARTY-LENDER or a corporation or limited liability company wholly owned and controlled by SECURED PARTY-LENDER becomes the lessee under the Lease and subsequently desires to sell, assign or otherwise transfer the Lease, it shall first seek the prior written consent of LESSOR as required by the Lease.

b. **New Lease Following Termination of Lease in Bankruptcy.**

Except as stated below in Section B.4.c, in the event of the termination of the Lease as a result of LESSEE's rejection of the Lease in bankruptcy, LESSOR shall provide written notice to SECURED PARTY-LENDER of such termination ("Notice of Rejection of Lease in Bankruptcy") together with a statement of all sums which would be due at that time under the Lease but for such termination, and of all other defaults, if any, then known, to LESSOR. Subject to LESSOR'S prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed, LESSOR agrees to enter into a new lease ("New Lease") of the Lease Premises with SECURED PARTY-LENDER for the remainder of the term of the Lease, effective as of the date of termination, at the rent, and upon the terms and conditions (including all options to renew but excluding requirements which are not applicable or have

already been fulfilled) of the Lease provided that the following conditions are met:

(1) SECURED PARTY-LENDER makes written request upon LESSOR for such new lease within sixty (60) days after the date SECURED PARTY-LENDER receives the Notice of Rejection of Lease in Bankruptcy;

(2) SECURED PARTY-LENDER pays or causes to be paid to LESSOR at the time of the execution and delivery of the New Lease, any and all sums which would be due at the time of execution and delivery thereof pursuant to the Lease but for such termination and which have not otherwise been received by LESSOR from LESSEE or other party in interest.

(3) SECURED PARTY-LENDER agrees to remedy, within 45 days of issuance of the New Lease, any of LESSEE'S defaults of which SECURED PARTY-LENDER was notified by the Notice of Rejection of Lease in Bankruptcy and which are reasonably susceptible of being cured by SECURED PARTY-LENDER.

(4) Any New Lease made pursuant hereto shall have the same priority with respect to any other lien, charge or encumbrance on the fee of the Lease Premises, and the lessee under the New Lease shall have the same right, title, and interest in and to the Lease Premises as LESSEE had under the Lease.

(5) The lessee under the New Lease shall have the same right to assign or transfer the Lease as provided in this Agreement had it become the lessee under the initial Lease.

(6) The liability of any lessee under the New Lease, including the limitations on liability of SECURED PARTY-LENDER as stated in Section B.5.b if it becomes the lessee under the New Lease, shall be the same as provided in this Agreement had it become the lessee under the initial Lease.

c. **Security Interest Transfer.**

Except as provided herein, any subsequent assignment or other transfer by the SECURED PARTY-LENDER of the security interest approved in paragraph A.2. shall be subject to the prior written approval and consent of LESSOR to the extent required in the Lease. Such approval and consent shall not be unreasonably withheld, conditioned, or delayed. Failure of SECURED PARTY-LENDER to obtain such approval and consent shall be a breach of this Agreement and failure to cure such breach after reasonable written notice to the SECURED PARTY-LENDER shall relieve LESSOR of any and all obligations to give notice to and/or obtain SECURED PARTY-LENDER's approval and consent to termination, amendment, modification, replacement, surrender or assignment or other transfer of the Lease.

d. **Security Interest Termination.**

Upon full payment of the indebtedness giving rise to the security interest herein, LESSEE shall provide LESSOR, within 30 days of its receipt, a copy of any reconveyance or other instrument from SECURED PARTY-LENDER showing that the indebtedness has been fully satisfied. LESSEE shall further actively work to obtain from SECURED PARTY-LENDER such

reconveyance or other instrument, beginning no later than 30 days after LESSEE's final payment.

5. **Lessee and Secured Party-Lender Liability.**

a. Subject to the terms of Section B.5.b below, any encumbering, assignment, grant, purchase or other transfer of the Lease shall not release or relieve the current LESSEE, or a subsequent lessee from any obligations to LESSOR under the Lease and LESSOR may hold the current LESSEE or a subsequent lessee liable for the faithful performance of any and all terms, covenants and conditions of the Lease.

b. SECURED PARTY-LENDER shall have no obligations or liability under the Lease unless it shall become the lessee (and such obligations and liability shall only be for those obligations and liability arising during the period of time that SECURED PARTY-LENDER remains the actual lessee under the Lease), and provided further that, if SECURED PARTY-LENDER should become the lessee by any of the means mentioned in this Agreement, it shall have no further obligations or liabilities under the Lease after it has assigned or otherwise transferred the Lease to a party approved by Lessor. Unless SECURED PARTY-LENDER becomes the lessee under the Lease, termination of this Agreement shall be LESSOR'S sole remedy against SECURED PARTY-LENDER for its failure or refusal to comply with any or all of the provisions of this Agreement.

c. Notwithstanding any other provision of this Agreement, if SECURED PARTY-LENDER becomes a lessee by any of the means set forth in this Agreement, then, during the time of its occupancy of the Lease Premises, it shall be bound by all of the terms and

conditions of the Lease.

6. **Lessor Approval.**

a. Except as otherwise expressly provided for in section B.4.a.(1), whenever the approval and consent of LESSOR as required under this Agreement is requested by SECURED PARTY-LENDER or LESSEE, LESSOR shall have ten (10) State business days after receipt of written notice of such request to approve or disapprove it, unless an alternative specific time period is expressly set forth herein. LESSOR's approval, consent or disapproval may be given by the Executive Officer of the State Lands Commission. If the Executive Officer does not provide the requested approval or consent, SECURED PARTY-LENDER may appeal that disapproval or failure to consent to the State Lands Commission at the Commission's next available noticed public meeting.

b. The approval and consent of LESSOR whenever it is required by this Agreement shall not be unreasonably withheld, conditioned, or delayed and in the event of disapproval LESSOR shall inform LESSEE and SECURED PARTY-LENDER in writing of the basis for such disapproval.

c. Any transaction for which the approval and consent of LESSOR is specifically required by the terms of this Agreement shall be void in the absence of such approval and consent.

7. **Notices, Consents and Demands.**

a. Any notices, consents, or demands (hereafter collectively referred to as "notices") required under the Lease or this Agreement shall be in writing and shall be delivered personally, sent by

telecopier, or email with the original notice sent by first class U.S. mail, registered or certified, return receipt requested, postage prepaid, and properly addressed as set forth in this Section provided that any party hereto may at any time change its address for such notices by giving to the other parties hereto a notice of such change. All notices to any and all of the parties shall be deemed effective when delivered at the party's address. The addresses of the parties at the time of this Agreement's execution for the purposes of such notice are:

LESSOR: STATE LANDS COMMISSION
Attn: Chief, Land Management Division
100 Howe Ave., Suite 100 South
Sacramento, CA 95825

LESSEE: _____

SECURED PARTY-LENDER:

- b. LESSEE and SECURED PARTY-LENDER agree to inform LESSOR of any change in address for purposes of receiving any notices, as defined above, required by the Lease or this Agreement. Failure to do so shall relieve: LESSOR of any and all obligations to give any notices other than to the last address of record prior to proceeding with amendment, modification, default, termination, surrender, replacement or assignment or other transfer of the Lease or other action under the Lease or this

Agreement; and/or obtain SECURED PARTY-LENDER's approval and consent to any of them.

8. **Failure to Comply with Agreement and Consent to Encumbrance of Lease.**

LESSOR, LESSEE and SECURED PARTY-LENDER agree that LESSOR may treat a violation of the terms of this Agreement and Consent to Encumbrance of Lease as a breach of this Agreement and that, after notice to LESSEE and SECURED PARTY-LENDER, and expiration of the applicable cure periods set forth herein, LESSOR may exercise all remedies available to it under this Agreement. All defaults of this Agreement must be cured within 45 days of service of written notice of default on SECURED PARTY-LENDER. Failure of SECURED PARTY-LENDER to cure any default within the 45-day period shall immediately terminate this Agreement without further action of any of the Parties.

9. **Conflicts in Provisions.**

In the event of any conflict between the provisions of this Agreement and those of the Lease, the provisions of this Agreement shall take precedence and be controlling. Except as provided by this Agreement, the Lease shall remain in full force and effect as written.

10. **Non-Waiver of Lessee Default.**

Nothing contained herein nor any failure by the undersigned LESSOR to insist upon the strict performance of any provisions contained herein shall be construed as a waiver of any default of LESSEE under the Lease, or the waiver, modification or limitation of

any remedy available to the undersigned LESSOR under the Lease or at law or equity.

11. **Counterparts.**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original. Such counterparts, when taken together, shall constitute but one and the same agreement. A photocopy or facsimile copy of a signature shall be deemed as an original with the parties waiving any objection requiring such original signature under California Evidence Code §1520, et seq.

12. **Successors and Assigns.**

This Agreement shall be binding upon and inure to the benefit of LESSOR, LESSEE and SECURED PARTY-LENDER and their respective successors and assigns.

13. **Modification of Agreement and Consent to Encumbrance of Lease.**

No modification of this Agreement shall be effective without the prior written consent of all parties to this Agreement.

14. **Acknowledgement, Release and Indemnity by Lessee.**

LESSEE hereby acknowledges that LESSOR is executing this Agreement and Consent to Encumbrance of Lease in reliance on the terms of this Agreement, and LESSEE hereby releases, and agrees to indemnify, defend and hold LESSOR harmless from any and all claims, losses, costs, liabilities, damages and expenses, including without limitation, attorneys fees and costs, incurred in connection with or arising from the exercise of SECURED PARTY-LENDER'S rights and obligations under this Agreement. This Section

shall survive the expiration or earlier termination of the Lease.

15. **Severability.**

In the event of any conflict between any provision (or portion thereof) of this Agreement and any law, the latter shall prevail, but the provision (or portion thereof) of this Agreement which is affected shall be limited and curtailed only and to the least extent necessary to bring it within the requirements of the law, and no other provision (or portion thereof) of this Agreement shall otherwise be affected.

16. **Integration.**

This Agreement and the exhibits hereto contain and constitute the final and entire agreement of the parties relating to the subject matter of this Agreement and supersede all prior understandings, proposals, negotiations, or representations concerning the subject matter of this Agreement.

17. **Governing Law and Jurisdiction.**

This Agreement shall be governed by, and construed in accordance with, California law, without regard of the choice-of-law principles thereof. Any action seeking legal or equitable relief arising out or related to this Agreement or a breach thereof shall be brought in the courts of the State of California, County of

_____.

18. **Effective Date.**

This Agreement will become effective and binding on all parties when executed by all parties and it shall remain effective until the

expiration or termination of the Lease, or until the expiration of the original or extended term of the indebtedness, or upon reconveyance from SECURED PARTY-LENDER, whichever comes first.

The parties hereto hereby execute this Agreement and Consent to Encumbrance of Lease as of the date hereafter affixed.

LESSEE:

By _____

Dated _____

SECURED PARTY-LENDER:

By _____

Title _____

Dated _____

LESSOR:

STATE OF CALIFORNIA
STATE LANDS COMMISSION

By _____

Title _____

Dated _____

ALL SIGNATURES MUST BE NOTARIZED

Exhibit G

GUARANTY

For valuable consideration, the receipt of which is hereby acknowledged, (Parent company's name), unconditionally guarantees to the State of California, acting by and through the State Lands Commission ("State"), the full performance by (Lessee's name), of all of (Lessee's name) obligations under Lease No. _____ (the "Lease").

The rights afforded the State under this Guaranty are personal and not transferable by State.

This Guaranty shall be construed under and governed by the laws of the State of California.

(Parent company's name) represents and warrants that this Guaranty is a legal, valid and binding obligation of (Parent company's name), enforceable against (Parent company's name) in accordance with its terms except as limited by bankruptcy or other laws of general application.

(Parent company's name) agrees that any amendments, modifications, alterations or changes made in the Lease covered by this guarantee or the giving by the State of any extension of time for the performance of any of the Lease terms, or the giving of any other forbearance on the part of the State or (Lessee's name), to the other, shall not in any way release (Parent company's name), its successors or assigns, from any liability arising hereunder and notice to (Parent company's name) of any such amendments, modifications, alterations or changes is hereby waived.

This Guaranty shall automatically terminate when 1) the Lease terminates and (lessee's name) has been released from its obligations under the Lease by the terms of the Lease; 2) when, in accordance with Paragraph 20 of Section 2 of the Lease, the Lease has been assigned from (Lessee's name) to a party approved by the State and, as part of the assignment, (lessee's name) has been released from its obligations under the Lease by the terms of the Lease; or 3) in accordance with Paragraph 20 of Section 2 of the Lease, (Parent company's name) sells, assigns or conveys a majority of its interest in (Lessee's name) to an unaffiliated third party approved by the State.

IN WITNESS WHEREOF, _____ has executed this Guaranty as of this ____ day of _____.

(Parent Company)

Lease

By: _____

Name: _____

Title: _____

NOTARIZATION OF SIGNATURE TO BE ATTACHED