

Appendix N

Regulatory Framework

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Regulatory Framework

N.1 Aesthetics

Federal Regulatory Setting

Federal Land Policy and Management Act. Section 102(a) of the Federal Land Policy and Management Act of 1976 (BLM, 2001) states that “...the public lands are to be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values.” Section 103(c) identifies “scenic values” as one of the resources for which public land should be managed. Section 201(a) states, “the Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resources and other values (including scenic values).” Section 505(a) requires that “each ROW shall contain terms and conditions which will ...minimize damage to the scenic and esthetic values.”

BLM Visual Resource Management (VRM) System. BLM uses the VRM System to inventory and manage scenic values on lands under its jurisdiction. Guidelines for applying the system are described in the BLM Manual Section 8400 et seq (BLM, 1984). VRM classes are assigned through Resource Management Plans (RMPs). The assignment of VRM classes is based on the management decisions made in the RMPs. As noted above, the 2016 DRECP LUPA assigned a VRM Class IV to the DFA that contains the Proposed Action site.

California Desert Conservation Area (CDCA) Plan and Northern and Eastern Colorado Desert Coordination Management Plan. The Recreation Element of the CDCA Plan specifies that VRM objectives and the contrast rating procedure be used to manage visual resources (BLM, 1999). VRM objectives provide the visual management standards for future projects and for rehabilitation of existing projects. Activities within the landscape are designed or evaluated using contrast ratings (BLM, 1986b).

Local Regulatory Setting

The solar facility would be subject to visual policies from the Riverside County General Plan.

Riverside County General Plan. The Riverside County General Plan is applicable to all unincorporated lands within Riverside County (County). The following are the County-wide policies that seek to preserve visual quality; they are located in the Riverside County General Plan Land Use Element (Riverside County, 2017), Multipurpose Open Space Element (Riverside County, 2015a), Circulation Element (Riverside County, 2015b), and Desert Center Area Plan (Riverside County, 2015c).

Land Use Element (LU).

I-10 is not a State- or County-designated scenic highway; however, it has been identified by the County in its Circulation Element as eligible for designation as a scenic corridor. The County has indicated in its General Plan Land Use Element that I-10 should be designated a scenic highway and has developed General Plan scenic corridor policies. These policies seek to maintain resources in corridors along scenic highways; these policies include:

- **Policy LU 4.1.** Require that new developments be located and designed to visually enhance, not degrade the character of the surrounding area through consideration of the following concepts:

- a. Compliance with the design standards of the appropriate area plan land use category.
 - b. Require that structures be constructed in accordance with the requirements of Riverside County's zoning, building, and other pertinent codes and regulations.
 - c. Require that an appropriate landscape plan be submitted and implemented for development projects subject to discretionary review...
 - f. Incorporate water conservation techniques, such as groundwater recharge basins, use of porous pavement, drought tolerant landscaping, and water recycling, as appropriate...
 - k. Locate site entries and storage bays to minimize conflicts with adjacent residential neighborhoods.
 - l. Mitigate noise, odor, lighting, and other impacts on surrounding properties...
 - o. Preserve natural features, such as unique natural terrain, arroyos, canyons, and other drainage ways, and native vegetation, wherever possible, particularly where they provide continuity with more extensive regional systems.
- **Policy LU 7.4.** Retain and enhance the integrity of existing residential, employment, agricultural, and open space areas by protecting them from encroachment of land uses that would result in impacts from noise, noxious fumes, glare, shadowing, and traffic.
 - **Policy LU 9.1.** Provide for permanent preservation of open space lands that contain important natural resources, cultural resources, hazards, water features, watercourses including arroyos and canyons, and scenic and recreational values.
 - **Policy LU 14.1.** Preserve and protect outstanding scenic vistas and visual features for the enjoyment of the traveling public.
 - **Policy LU 14.2.** Incorporate riding, hiking, and bicycle trails and other compatible public recreational facilities within scenic corridors.
 - **Policy LU 14.3.** Ensure that the design and appearance of new landscaping, structures, equipment, signs or grading within Designated and Eligible State and County Scenic Highways corridors are compatible with the surrounding scenic setting or environment.
 - **Policy LU 14.4.** Maintain at least a 50-foot setback from the edge of the right-of-way for new development adjacent to Designated and Eligible State and County Scenic Highways.
 - **Policy LU 14.5.** Requires "new or relocated electric or communication distribution lines, which would be visible from Designated and Eligible State and County Scenic Highways, to be placed underground."
 - **Policy LU 14.6.** Prohibit off-site outdoor advertising displays that are visible from Designated and Eligible State and County Scenic Highways.
 - **Policy LU 14.7.** Require that the size, height, and type of on-premise signs visible from Designated and Eligible State and County Scenic Highways be the minimum necessary for identification. The design, materials, color, and location of the signs shall blend with the environment, utilizing natural materials where possible.
 - **Policy LU 14.8.** Avoid the blocking of public views by solid walls.
 - **Policy LU 30.8.** Require that industrial development be designed to consider the surroundings and visually enhance, not degrade the character of the surrounding area.
 - **Policy LU-31.5.** Requires that "public facilities be designed to consider their surroundings and visually enhance, not degrade the character of the surrounding area."

Multipurpose Open Space (OS) Element

- **Policy OS-20.2** Prevent unnecessary extension of public facilities, services, and utilities, for urban uses, into Open Space-Conservation designated areas.
- **Policy OS-21.1.** Identify and conserve the skylines, view corridors, and outstanding scenic vistas within Riverside County.

Circulation Element

Policies that seek to protect and maintain resources along scenic highways are incorporated into the Circulation Element; these include the following:

- **Policy C-19.1.** Preserve scenic routes that have exceptional or unique visual features in accordance with Caltrans' (the California Department of Transportation's) Scenic Highways Plan.
- **Policy C-25.2.** Locate new and relocated utilities underground when possible and feasible. All remaining utilities shall be located or screened in a manner that minimizes their visibility by the public

Desert Center Area Plan

- **Policy DCAP 4.1** When outdoor lighting is used, require the use of fixtures that would minimize effects on the nighttime sky and wildlife habitat areas, except as necessary for security reasons.
- **Policy DCAP 8.1** Protect the scenic highways within the Desert Center Area Plan from change that would diminish the aesthetic value of adjacent properties through adherence to the policies found in the Scenic Corridors sections of the General Plan Land Use, Multipurpose Open Space, and Circulation Elements.

N.2 Agricultural and Forestry Resources

Federal Regulatory Setting

Federal Farmland Protection Policy Act. The Farmland Protection Policy Act (7 U.S. Code [USC] Section 4201 et seq.; see also 7 Code of Federal Regulations [CFR] part 658) is overseen by the United States Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS). The Farmland Protection Policy Act is intended to "minimize the extent to which federal programs contribute to the unnecessary conversion of farmland to nonagricultural uses." The Act applies to projects and programs that are sponsored or financed in whole or in part by the federal government.

State Regulatory Setting

Land Conservation Act of 1965 (Williamson Act). The Williamson Act is intended to help preserve farmland. In creating the Act, the legislature noted that "the preservation of the maximum amount of the limited supply of agricultural land is necessary to the conservation of the State's economic resources, and is necessary not only to the maintenance of the agricultural economy of the State, but also for the assurance of adequate, healthful and nutritious food for future residents of this State and nation" (Government Code Section 51220). The Act enables participating local governments to enter into land conservation contracts with private landowners. Williamson Act contracts restrict specific parcels of land to agricultural and open space uses for a minimum term of ten years in return for reduced property tax assessments. The Williamson Act program is locally administered by counties (and some cities) to ensure compliance with the Williamson Act (Government Code Sections 51200–51207), local uniform rules, and individual contracts. The California Department of Conservation provides guidance and oversight to local govern-

ments to ensure consistency with the government code. Starting in 1972, the State provided counties with partial replacement of foregone local property tax revenues (Open Space Subvention Act). These subvention payments were suspended in 2009 due to State-level budget constraints.

Farmland Mapping and Monitoring Program. The California Department of Conservation established the Farmland Mapping and Monitoring Program (FMMP) in 1982 to identify important agricultural lands and track the conversion of agricultural land to other uses. Through the FMMP, the California Department of Conservation (DOC) maintains statewide maps of agricultural lands. The maps cover 98 percent of the State's private lands (DOC, 2014b). The Department of Conservation updates farmland mapping using aerial photos. In order to qualify as Prime Farmland or Farmland of Statewide Importance, land must have been irrigated during the previous four years in addition to having prime soil characteristics.

The list below includes the agricultural categories mapped by the DOC. Collectively, lands classified as Prime Farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance are referred to as "Important Farmland." Other Land is that which is not included in any of the other mapping categories.

Prime Farmland. Farmland that has the best combination of physical and chemical features able to sustain long-term agricultural production. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.

Farmland of Statewide Importance. Farmland similar to Prime Farmland but with minor shortcomings, such as greater slopes or less ability to store soil moisture. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.

Unique Farmland. Farmland of lesser quality soils used for the production of the State's leading agricultural crops. This land is usually irrigated, but may include non-irrigated orchards or vineyards as found in some climatic zones in California. Land must have been cropped at some time during the four years prior to the mapping date.

Farmland of Local Importance. Land of importance to the local agricultural economy as determined by each county's board of supervisors and a local advisory committee.

Grazing Land. Land on which the existing vegetation is suited to the grazing of livestock. This category was developed in cooperation with the California Cattlemen's Association, University of California Cooperative Extension, and other groups interested in the extent of grazing activities. The minimum mapping unit for Grazing Land is 40 acres.

Local Regulatory Setting

Riverside County General Plan. The intent of the Agricultural Resources section of the Land Use Element of the Riverside County General Plan is to identify and preserve areas where agricultural uses are the long term desirable use and to minimize the conflicts between agricultural and urban/suburban uses. The following policies included in the Land Use Element generally relate to the proposed Project with respect to agricultural resources (Riverside County, 2017).

Policy LU 7.1. Require land uses to develop in accordance with the General Plan and area plans to ensure compatibility and minimize impacts.

Policy LU 7.4. Retain and enhance the integrity of existing residential, employment, agricultural, and open space areas by protecting them from encroachment of land uses that would result in impacts from noise, noxious fumes, glare, shadowing, and traffic.

Policy 20.1. Encourage retaining agriculturally designated lands where agricultural activity can be sustained at an operational scale, where it accommodates lifestyle choice, and in locations where impacts to and from potentially incompatible uses, such as residential uses, are minimized, through incentives such as tax credits.

Policy LU 20.2. Protect agricultural uses, including those with industrial characteristics (dairies, poultry, hog farms, etc.) by discouraging inappropriate land division in the immediate proximity and allowing only uses and intensities that are compatible with agricultural uses.

Policy LU 20.4. Encourage conservation of productive agricultural lands. Preserve prime agricultural lands for high-value crop production.

Policy LU 20.5. Continue to participate in the California Land Conservation Act (the Williamson Act) of 1965.

Policy LU 7.5. Require buffering to the extent possible between urban uses and adjacent rural/equestrian oriented land uses.

The intent of the Agriculture section of the Multipurpose Open Space Element of the Riverside County General Plan regarding agricultural use is to protect agricultural lands and landscapes as historical, cultural, and scenic resources. The following policy included in the Multipurpose Open Space Element generally relates to the proposed Project with respect to agricultural resources (Riverside County, 2017).

Policy OS 7.3. Encourage conservation of productive agricultural lands and preservation of prime agricultural lands.

Desert Center Area Plan. The intent of the Land Use section of the Desert Center Area Plan is to enhance and/or preserve the identity, character, and features unique to the Desert Center area. The following policy included in the Desert Center Area Plan generally relates to the proposed Project with respect to agricultural resources (Riverside County, 2015).

Policy DCAP 3.1. Protect farmland and agricultural resources in Desert Center through adherence to the Agricultural Resources section of the General Plan Multipurpose Open Space Element and the Agriculture section of the General Plan Land Use Element, as well as the provisions of the agriculture land use designation.

Riverside County Agricultural Preserve Ordinance – Ordinance No. 509. The Riverside County Agricultural Preserve Ordinance provides for the administration of lands placed in agricultural preserves, including procedures for initiating, filing, and processing requests to establish, enlarge, disestablish, or diminish agricultural preserves, pursuant to the California Land Conservation Act.

Riverside County Ordinance No. 348.4705. Zoning ordinance 348.4705 permits a solar power plant in several districts, including agricultural districts, with a use permit. Ordinance No. 348.4705 was enacted at the same time as and implements General Plan Policy LU-15.15, which states: “Permit and encourage, in an environmentally and fiscally responsible manner, the development of renewable energy resources and related infrastructure, including but not limited to, the development of solar power plants in the County of Riverside.”

Riverside County Ordinance No. 625, the “Right to Farm” Ordinance. Ordinance No. 625 factors into Riverside County’s standard significance thresholds. It was enacted to conserve, protect, and encourage the development, improvement, and continued viability of agricultural land. The intent of the ordinance is to reduce the loss to the County of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to constitute a nuisance. Nothing in the ordinance is to be

construed to limit the right of any owner of real property to request that the county consider a change in the zoning classification.

N.3 Air Quality

Ambient Air Quality Standards. The California Air Resources Board (ARB) and the U.S. Environmental Protection Agency (U.S. EPA) have independent authority to develop and establish health-protective ambient air quality standards, although the different legislative and scientific contexts cause some diversity between State and Federal standards currently in effect in California. The monitored levels of the pollutants are compared to the current National and California Ambient Air Quality Standards (NAAQS and CAAQS) to determine degree of existing air quality degradation. The standards currently in effect in California are shown in Table N-1.

Table N-1. National and California Ambient Air Quality Standards

Pollutant	Averaging Time	California Standards	National Standards
Ozone	1-hour	0.09 ppm	—
	8-hour	0.070 ppm	0.070 ppm
Respirable Particulate Matter (PM10)	24-hour	50 µg/m ³	150 µg/m ³
	Annual Mean	20 µg/m ³	—
Fine Particulate Matter (PM2.5)	24-hour	—	35 µg/m ³
	Annual Mean	12 µg/m ³	12.0 µg/m ³
Carbon Monoxide (CO)	1-hour	20 ppm	35 ppm
	8-hour	9.0 ppm	9 ppm
Nitrogen Dioxide (NO ₂)	1-hour	0.18 ppm	0.100 ppm
	Annual Mean	0.030 ppm	0.053 ppm
Sulfur Dioxide (SO ₂)	1-hour	0.25 ppm	0.075 ppm
	24-hour	0.04 ppm	0.14 ppm
	Annual Mean	—	0.030 ppm

Notes: ppm=parts per million; µg/m³= micrograms per cubic meter; “—” =no standard.
 Source: ARB (<http://www.arb.ca.gov/research/aaqs/aaqs2.pdf>), May, 2016.

Ambient Air Quality Attainment Status and Air Quality Plans. The U.S. EPA, ARB, and the local air district classify an area as attainment, unclassified, or nonattainment with regard to certain pollutants, and these designations dictate the air quality management planning activities needed to make future air pollutant reductions. The classification depends on whether the monitored ambient air quality data show compliance, insufficient data available, or non-compliance with the ambient air quality standards, respectively. Table N-2 summarizes attainment status for criteria pollutants in comparison with both the state and federal standards, for the Mojave Desert Air Basin portion of Riverside County.

Table N-2. Attainment Status for Mojave Desert Air Basin Portion of Riverside County

Pollutant	California Designation	Federal Designation
Ozone	Nonattainment	Attainment
PM10	Nonattainment	Attainment
PM2.5	Attainment	Attainment
NO ₂	Attainment	Attainment
CO	Attainment	Attainment
SO ₂	Attainment	Attainment

Source: ARB, 2018; U.S.EPA, 2018.

The 2016 Air Quality Management Plan (AQMP) is SCAQMD’s strategy for attaining the ambient air quality standards in the South Coast Air Basin and Coachella Valley, which are regions that influence air quality in

the Mojave Desert (SCAQMD, 2017). By establishing strategies and control measures for air pollutants in the upwind areas, air quality improvements would be achieved in the Mojave Desert Air Basin portion of Riverside County through the implementation of the 2016 AQMP.

Toxic Air Contaminants. Toxic air contaminants (TACs) are air pollutants that may lead to serious illness or increased mortality, even when present in relatively low concentrations. Potential human health effects of TACs include birth defects, neurological damage, cancer, and death. There are hundreds of different types of TACs with varying degrees of toxicity. Individual TACs vary greatly in the health risk they present; at a given level of exposure, one TAC may pose a hazard that is many times greater than another's. TACs do not have ambient air quality standards, but are regulated by the local air districts using a risk-based approach. The solar facility would not be considered a stationary source subject to risk assessment programs. Diesel particulate matter (DPM) is classified as a TAC, and statewide programs focus on managing this pollutant through motor vehicle fuels, engine, and tailpipe standards because many toxic compounds adhere to diesel exhaust particles. The local air districts support these programs by issuing permits and requiring controls for larger stationary sources of DPM, including diesel powered engines rated over 50 horsepower.

Federal Regulatory Setting

Federal Clean Air Act (CAA). The NAAQS for criteria air pollutants were established in 1970 with a mandate for periodic updating. The CAA places responsibility on state and local air agencies to maintain these ambient air quality standards. In the Proposed Action area, the SCAQMD has the responsibility to establish regulations, enforce air pollution control requirements, and develop the necessary air quality management to achieve the NAAQS. The U.S. EPA implements most aspects of the CAA, and reviews local and state air quality management plans and regulations to ensure attainment with the NAAQS. Because there are no federal nonattainment or maintenance designations in the MDAB portion of Riverside County, federal agency actions in the MDAB portion of Riverside County are not subject to CAA general conformity review requirements.

Visibility and Federal Class I Areas. The federal CAA requires U.S. EPA to administer programs so that all areas of the country achieve the federal ambient air quality standards within various specified time frames. For attainment areas that already meet the federal ambient air quality standards, the federal Prevention of Significant Deterioration (PSD) permit program includes a three-tier classification defining the extent to which baseline air quality conditions can be degraded. Class I areas have the smallest allowable air quality deterioration limits. Class II areas allow greater deterioration of air quality but must maintain air quality conditions better than the federal air quality standards. Class III areas allow deterioration of air quality to the level of the federal ambient air quality standards.

The boundary of the Joshua Tree National Park (JTNP) Class I area is 0.9 miles (1.4 km) away, northeast of the edge of the northernmost solar facility parcels, Parcel Group A. Visibility is considered an important air quality value to be protected within JTNP. There are no other Class I areas within 62 miles (100 km) of the Proposed Action. Data from the Federal Land Manager Environmental Database (CIRA, 2016) indicate that visibility in the JTNP Class I area has been improving since 2001. For JTNP and other Class I areas in southern California, the Western Regional Air Partnership shows that the visual range has improved more than 20 percent in the most recent years (2010-2014) when compared to the baseline (2000-2004), and that this improvement is largely due to the local authorities having the ability to control anthropogenic emissions (WRAP, 2016).

State Regulatory Setting

California Clean Air Act. Implemented by the ARB, the California Clean Air Act establishes broad authority for California to regulate emissions from mobile sources and requires regions to develop and enforce strategies to attain CAAQS. In the Proposed Action area, the SCAQMD is responsible for demonstrating how these standards are met.

U.S. EPA/ARB Off-Road Mobile Sources Emission Reduction Program. The California Clean Air Act mandates that ARB achieve the maximum degree of emission reductions from all off-road mobile sources to attain the state ambient air quality standards. Off-road mobile sources include construction equipment. The earliest (Tier 1) standards for large compression-ignition engines used in off-road mobile sources became effective in California in 1996. Since then, the Tier 3 standards for large compression-ignition engines used in off-road mobile sources went into effect in California for most engine classes in 2006, and Tier 4 or Tier 4 Interim (4i) standards apply to all off-road diesel engines model year 2012 or newer. These standards and standards applicable to fleets that are already in-use address emissions of NOx and toxic particulate matter from diesel combustion.

ARB In-Use Off-Road Diesel-Fueled Fleets Regulation. The regulations for in-use off-road diesel equipment are designed to reduce NOx and toxic diesel particulate matter (DPM) from existing fleets of equipment. Depending on the size of the fleet, the owner would need to ensure that the average emissions performance of the fleet meets certain state-wide standards. In lieu of improving the emissions performance of the fleet, electric systems can be installed to replace diesel equipment in the fleet average calculations. Presently, all equipment owners are subject to a five-minute idling restriction in the rule (13 California Code of Regulations, Chapter 10, Section 2449).

ARB Portable Equipment Registration Program (PERP). This program allows owners or operators of portable engines and associated equipment commonly used for construction or farming to register their units under a statewide portable program that allows them to operate their equipment throughout California without having to obtain individual permits from local air districts.

Local Regulatory Setting

SCAQMD Rules and Regulations. The Proposed Action site is under the jurisdiction of the SCAQMD in the Mojave Desert Air Basin; the MDAB includes portions of Kern, Los Angeles, San Bernardino, and Riverside Counties. The SCAQMD has a number of rules presented in Table N-3 relevant to controlling emissions from construction-related activities.

Table N-3. SCAQMD Rules and Regulations

Applicable Rules	Description
Rules 201, 203, and 212 – Permit to Construct; Permit to Operate; and Standards for Approving Permits and Issuing Public Notice	Establishes the requirements to obtain a Permit to Construct and Permit to Operate for stationary sources of emissions. For exemption categories, see Rule 219: Equipment Not Requiring a Written Permit Pursuant to Regulation II.
Rule 401 – Visible Emissions	Limits visible emissions.
Rule 402 – Nuisance	Prohibits the discharge of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to the public or which endanger the comfort, response, health or safety of the public or which cause injury or damage to business or property.

Table N-3. SCAQMD Rules and Regulations

Applicable Rules	Description
Rule 403 – Fugitive Dust	Limits fugitive emissions from certain bulk storage, earthmoving, construction and demolition, and manmade conditions that may cause wind erosion.
Rule 404 – Particulate Matter Concentration	The rule limits particulate matter emissions as a function of the exhaust flow rate from the regulated device.
Rule 463 – Organic Liquids Storage	Sets standards for storage of organic liquids with a true vapor pressure of 0.5 pounds per square inch or greater and standards for above-ground tanks used for gasoline storage with a capacity over 250 gallons.
Rule 1110.2 – Emissions from Gaseous and Liquid-Fueled Internal Combustion Engines	The purpose of this rule is to reduce NOx, VOCs, and CO from engines.
Regulation XIII – New Source Review	Establishes the pre-construction review requirements, including Best Available Control Technology and emission offset requirements for new, modified or relocated facilities to ensure that these facilities do not interfere with progress in attainment of the national ambient air quality standards.

Riverside County General Plan. Riverside County adopted the Air Quality Element of the County General Plan in 2015. The air quality element includes policies supporting regional cooperation with other jurisdictions to improve air quality; requiring compliance with federal, state, and regional air quality regulations; encouraging programs to reduce vehicle miles traveled; encouraging energy conservation in urban land uses; and encouraging development patterns that improve the County’s jobs/housing balance.

The Air Quality Element of the General Plan includes one policy directly relevant to the proposed solar facility, to facilitate development and siting of renewable energy facilities and transmission lines in appropriate locations (*Policy AQ 20.19*).

N.4 Biological Resources

Federal Regulatory Setting

Federal Land Policy and Management Act (FLPMA; 43 U.S.C. Sections 1701-1787). Directs management of public lands managed by the U.S. Forest Service, National Park Service, and BLM; addresses land use planning, rights-of-way, wilderness, and multiple use policies.

Endangered Species Act (ESA; 16 USC Sections 1531-1543). Establishes legal requirements for the conservation of endangered and threatened species and the ecosystems upon which they depend. The ESA is administered by the USFWS for terrestrial species. Under the ESA, the USFWS may designate critical habitat for listed species. Section 7 of the ESA requires federal agencies to consult with the USFWS to ensure that their actions are not likely to jeopardize listed threatened or endangered species, or cause destruction or adverse modification of critical habitat. Section 10 of the ESA provides for similar consultation to authorize incidental take of listed species for non-federal applicants.

Migratory Bird Treaty Act (MBTA; 16 USC Sections 703-711). Prohibits take of any migratory bird, including eggs or active nests, except as permitted by regulation (e.g., licensed hunting of waterfowl or upland game species). Under the MBTA, “migratory bird” is broadly defined as “any species or family of birds that live, reproduce or migrate within or across international borders at some point during their annual life

cycle” and thus applies to most native bird species. The U.S. Department of Interior has recently issued a solicitor’s opinion interpreting the MBTA prohibitions as being inapplicable to “incidental take.”

Bald and Golden Eagle Protection Act (BGEPA; 16 USC Section 668). The Bald and Golden Eagle Protection Act (BGEPA) prohibits the take, possession, and commerce of bald eagles and golden eagles. Under the BGEPA and subsequent rules published by the USFWS, “take” may include actions that injure an eagle, or affect reproductive success (productivity) by substantially interfering with normal behavior or causing nest abandonment. The USFWS can authorize incidental take of bald and golden eagles for otherwise lawful activities.

Noxious Weed Act (7 USC Sections 2801 et seq.). Provides for the “management of undesirable plants on Federal lands.”

Executive Order 13112, Invasive Species. Establishes the National Invasive Species Council and directs federal agencies to prevent the introduction of invasive species, provide for their control, and minimize the economic, ecological, and human health impacts caused by invasive species.

Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds. Directs federal agencies to review the effects of actions and agency plans on migratory birds according to NEPA or other established environmental review processes, with emphasis on species of concern (Section 6 of the order) and identify unintentional take reasonably attributable to agency actions, focusing first on species of concern, priority habitats, and key risk factors and to develop and use principles, standards, and practices to lessen the amount of unintentional take (Section 9).

California Desert Conservation Area Plan, As Amended (CDCA Plan). The CDCA Plan guides the management of approximately 12 million acres of BLM-administered lands in the California Desert District, including the Mojave, Sonoran, and a small portion of the Great Basin Deserts. BLM lands within the Project area are within the CDCA Plan Area. The CDCA Plan directs management policy for multiple resources, including the following biological resources: Wildlife and Vegetation.

Northern and Eastern Colorado Desert Coordinated Management Plan (NECO). Provides more specific management direction for BLM lands in the Colorado Desert, including the BLM lands located within the Project area. Establishes several Desert Wildlife Management Areas (DWMAs), which cover much of the USFWS-designated critical habitat for the desert tortoise.

Desert Renewable Energy Conservation Plan (DRECP), Land Use Plan Amendment to the CDCA. The purpose of the DRECP is to conserve and manage plant and wildlife communities in the desert regions of California while facilitating the timely permitting of compatible renewable energy projects. The DRECP covers over 10 million acres of BLM land. The BLM Record of Decision (ROD) for the DRECP was issued in September 2016.

State Regulatory Setting

California Endangered Species Act (CESA; Fish and Game Code Section 2050 et seq.). Prohibits take of state-listed threatened or endangered species, or candidates for listing, except as authorized by the CDFW. Authorization may be issued as an Incidental Take Permit or, for species listed under both CESA and the federal ESA, through a Consistency Determination with the federal incidental take authorization.

Fully Protected Designations (Fish and Game Code Sections 3511, 4700, 5050, and 5515). The California Fish and Game Code designates 36 fish and wildlife species as “fully protected” from take, including

hunting, harvesting, and other activities. The CDFW may only authorize take of designated fully protected species through a Natural Community Conservation Plan (NCCP) or for necessary scientific research.

Birds (Fish and Game Code Sections 3503 and 3513). The California Fish and Game Code prohibits take, possession, or needless destruction of bird nests or eggs except as otherwise provided by the code. Section 3513 provides for the adoption of the MBTA's provisions (above).

Protected Furbearers (California Code of Regulations Title 14 Section 460). Specifies that several furbearing mammals, including desert kit fox, may not be taken at any time. The CDFW may permit capture or handling of these species for scientific research but does not issue Incidental Take Permits for other purposes.

Native Plant Protection Act (Fish and Game Code Sections 1900 1913). Prior to enactment of CESA and the federal ESA, California adopted the Native Plant Protection Act (NPPA). CESA (above) generally replaces the NPPA for plants originally listed as endangered under the NPPA. However, plants originally listed as rare retain that designation, and take is regulated under provisions of the NPPA. The California Fish and Game Commission adopted revisions to the NPPA allowing CDFW to issue incidental take authorization for listed rare plants, effective January 1, 2015.

Lake and Streambed Alteration (Fish and Game Code Sections 1600 1616). The CDFW regulates project activities that would divert, obstruct or change the natural flow, bed, channel, or bank of any river, stream, or lake.

Porter-Cologne Water Quality Control Act of 1969 (California Water Code Sections 13000 et seq.). Provides Regional Water Quality Control Boards (RWQCBs) regulation of Waters of the State including State coordination with the Clean Water Act where federally jurisdictional waters are present. The Project site is within the Colorado River RWQCB area.

Local Regulatory Setting

Riverside County General Plan (2015). Includes policies addressing biological resources within the Land Use (LU) and Open Space (OS) elements, as follows:

- **Policy LU 9.1:** Provide for permanent preservation of open space lands that contain important natural resources, cultural resources, hazards, water features, watercourses including arroyos and canyons, and scenic and recreational values (AI 10).
- **Policy LU 9.2:** Require that development protect environmental resources by compliance with the Multipurpose Open Space Element of the General Plan and Federal and State regulations such as CEQA, NEPA, the Clean Air Act, and the Clean Water Act.
- **Policy LU 24.1:** Cooperate with the CDFW, USFWS, and any other appropriate agencies in establishing programs for the voluntary protection, and where feasible, voluntary restoration of significant environmental habitats (AI 10).
- **Policy OS 18.1:** Preserve multi-species habitat resources in the County of Riverside through the enforcement of the provisions of applicable MSHCPs and through implementing related Riverside County policies. (The Project site is not within an MSHCP area).

N.5 Cultural Resources

Federal Regulatory Setting

There are numerous federal regulations, executive orders, and policies that direct management of cultural resources on federal lands and by federal agencies. These include the NHPA, the Archaeological Resources Protection Act (ARPA), the Native American Graves Protection and Repatriation Act (NAGPRA), the American Indian Religious Freedom Act (AIRFA), Executive Order (EO) 13007, and the Antiquities Act. For the Bureau of Land Management (BLM) in particular, the Federal Land Policy and Management Act (FLPMA) and several sections of BLM Manuals are relevant as well. The following is a discussion of the most pertinent laws affecting the Athos Renewable Energy Project.

The principal federal law addressing cultural resources is the **NHPA of 1966, as amended (54 United States Code [USC], Section 300101)**, and its implementing regulations (36 Code of Federal Regulations [CFR], Part 800), that primarily address compliance with Section 106 of the act. Section 106 of the act requires that Federal agencies take into account the effect of any undertaking on historic properties, and to afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment. The implementing regulations describe the process for identifying and evaluating historic properties, for assessing the effects of federal actions on historic properties, and for consulting with interested parties, including the State Historic Preservation Office (SHPO), Indian tribes, local governments, and the public to develop measures that would avoid, reduce, or minimize adverse effects to historic properties.

The term historic properties refers to cultural resources that are listed on, or meet specific criteria of eligibility for listing on, the National Register of Historic Places. These criteria evaluate the quality and significance in American history, architecture, archaeology, engineering, and culture present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of persons significant in our past; or
- C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That have yielded, or may be likely to yield, information important in prehistory or history.

Archaeological Resources Protection Act of 1979 (ARPA) (16 USC 470aa et seq.) and its implementing regulations found at Title 43 CFR Part 7 protect archaeological resources from vandalism and unauthorized collecting on public and Indian lands.

Requirements for responding to discoveries of Native American human remains and associated funerary objects on federal land are addressed under the NAGPRA (Public Law 101-601) and its implementing regulations found at Title 43 CFR Part 10. For those portions of the Proposed Action or alternative on public land, the BLM will comply with the law and regulations by determining lineal descendants and culturally affiliated Indian tribes and by carrying out appropriate treatment and disposition of any discovered remains, including transfer of custody.

The American Indian Religious Freedom Act of 1978 (AIRFA) (Title 42, U.S. Code, Section 1996) establishes policy of respect and protection of Native American religious practices. It seeks to correct federal policies and practices that could (a) deny access to sacred sites required in traditional religions, (b) prohibit use and possession of sacred objects necessary for religious ceremonies, and (c) intrude upon or interfere with religious ceremonies. The BLM complies with AIRFA by obtaining and considering the views of traditional religious practitioners as part of the NEPA compliance process.

EO 13007 directs federal agencies to accommodate access to, and ceremonial use of, Indian sacred sites by Indian religious practitioners. It requires federal agencies to avoid adversely affecting the physical integrity of sacred sites to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions. EO 13007 reinforces the purposes expressed in AIRFA. The BLM complies with EO 13007 by consulting with tribal governments and Indian religious practitioners as part of the NEPA compliance process.

The **Antiquities Act of 1906 [16 United States Code (USC) 431–433]** establishes criminal penalties for unauthorized destruction or appropriation of “any historic or prehistoric ruin or monument, or any object of antiquity” on federal land and empowers the President to establish historical monuments and landmarks.

FLPMA establishes policy and goals to be followed in the administration of public lands by the BLM. The intent of FLPMA is to protect and administer public lands within the framework of a program of multiple-use and sustained yield. Particular emphasis is placed on the protection of the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resources and archaeological values.

State Regulatory Setting

There are numerous state regulations and policies that direct management of cultural resources on state lands and by state agencies. The following is a discussion of the most pertinent laws affecting the Project and impact analysis from a state perspective. These laws identify four types of resources: historical resources, unique archaeological resources, human remains and tribal cultural resources.

Historical Resources

Under CEQA, cultural resources listed in, or determined to be eligible for listing in, the CRHR or a local register meet the CEQA definition of “historical resources” and must be given consideration in the CEQA process. For this Draft EIR, effects on historical resources may be considered impacts of the Project. Under the California Code of Regulations, Title 14, Chapter 11.5, properties listed on or formally determined to be eligible for listing in the NRHP are automatically eligible for listing in the CRHR. A resource is generally considered to be historically significant under CEQA if it meets the criteria for listing in the CRHR. These criteria are essentially the same as the eligibility criteria for the NRHP. In addition to being at least 50 years old, a resource must meet at least one (and may meet more than one) of the following four criteria:

- *Criterion 1, is associated with events that have made a significant contribution to the broad patterns of our history;*
- *Criterion 2, is associated with the lives of persons significant in our past;*
- *Criterion 3, embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values; or*
- *Criterion 4, has yielded, or may be likely to yield, information important to history or prehistory.*

In addition, historical resources must also possess integrity of location, design, setting, materials, workmanship, feeling, and association.

Unique Archaeological Resources

Additionally, CEQA states that it is the responsibility of the lead agency to determine whether the project will have a significant effect on “unique” archaeological resources. An archaeological artifact, object, or site can meet CEQA’s definition of a unique archaeological resource even if it does not qualify as a historical resource (PRC 21083.2[g]; 14 CCR 15064.5[c][3]). An archaeological artifact, object, or site is considered a unique archaeological resource if “it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria (PRC 21083.2[g]):

- Contains information needed to answer important scientific research questions and there is a demonstrable public interest in that information.
- Has a special and particular quality such as being the oldest of its type or the best available example of its type.
- Is directly associated with a scientifically recognized important prehistoric or historic event or person.”
- If it can be demonstrated that a project will cause damage to a unique archaeological resource, the lead agency may require that reasonable efforts be taken to preserve these resources in place or provide mitigation measures.

Human Remains

Public Resources Code (PRC), Section 5097.98(b) and (e) requires a landowner on whose property Native American human remains are found to limit further development activity in the vicinity until he/she confers with the Native American Heritage Commission-identified Most Likely Descendants (MLD) to consider treatment options. In the absence of MLDs or of a treatment acceptable to all parties, the landowner is required to re-inter the remains elsewhere on the property in a location not subject to further disturbance. Section 5097.99 establishes as a felony the acquisition, possession, sale, or dissection with malice or wantonness Native American remains or funerary artifacts. Finally, Section 5097.991 establishes as state policy the repatriation of Native American remains and funerary artifacts.

Health and Safety Code (HSC), Section 7050 makes it a misdemeanor to mutilate, disinter, wantonly disturb, or willfully remove human remains found outside a cemetery and further requires a project owner to halt construction if human remains are discovered and to contact the county coroner.

Tribal Cultural Resources

PRC Sections 21073, 21074, 21080.3, 21082.3, 21083.09, 21084.2, and 5097.94 (Assembly Bill AB 52 2014). The Public Resources Code section 21074 defines a TCR as “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.” TCRs also include “non-unique archaeological resources” that may not be scientifically significant, but still hold sacred or cultural value to a consulting tribe.

CEQA requires that impacts to TCRs be identified and, if impacts will be significant, that mitigation measures be implemented to reduce those impacts to the extent feasible (PRC § 21081). In the protection and

management of the cultural environment, both the statute and the CEQA Guidelines (14 California Code of Regulations Section 15000 et seq.) provide definitions and standards for management of TCRs.

A resource shall be considered significant if it 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 PCR § 5020.1(k) (discussed in detail above); 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 of PCR § 5024.1(c). In applying these criteria, the lead agency must consider the significance of the resource to a California Native American tribe.

A project may have substantial adverse change in the significance of a TCR if:

- The adverse change is identified through consultation with any California Native American tribe that requests consultation and is traditionally and culturally affiliated with the geographic area of a proposed project (PCR § 21084.2).
- The resource is listed, or eligible for listing, in the California Register of Historical Resources or in a local register of historical resources, and it is demolished as described in detail above (State CEQA Guidelines section 15064.5 (b)).

The fact that a TCR is not listed in, or determined to be ineligible for listing in, the CRHR, is not included in a local register of historical resources or is not identified in a historical resources survey does not preclude a lead agency from determining that the resource may be a historical resource.

Local Regulatory Setting

Riverside County General Plan

The following policies outlined in the Riverside County General Plan (2015) address cultural resources:

- **Policy OS 19.1** Cultural resources (both prehistoric and historic) are a valued part of the history of the County of Riverside.
- **Policy OS 19.2** The County of Riverside shall establish a Cultural Resources Program in consultation with Tribes and the professional cultural resources consulting community that, at a minimum would address each of the following: application of the Cultural Resources Program to projects subject to environmental review; government-to-government consultation; application processing requirements; information database(s); confidentiality of site locations; content and review of technical studies; professional consultant qualifications and requirements; site monitoring; examples of preservation and mitigation techniques and methods; curation and the descendant community consultation requirements of local, state and federal law. (AI 144)
- **Policy OS 19.3** Review proposed development for the possibility of cultural resources and for compliance with the cultural resources program.
- **Policy OS 19.4** To the extent feasible, designate as open space and allocate resources and/or tax credits to prioritize the protection of cultural resources preserved in place or left in an undisturbed state. (AI 145)
- **Policy OS 19.5** Exercise sensitivity and respect for human remains from both prehistoric and historic time periods and comply with all applicable laws concerning such remains.

N.6 Geology, Soils and Mineral Resources

State Regulatory Setting

California Building Code. The CBC is promulgated under the CCR, Title 24, Parts 1 through 12 (also known as the California Building Standards Code) and is administered by the California Building Standards Commission. The solar facility is subject to the applicable sections of the CBC. The Riverside County Building Department is responsible for implementing the CBC. The solar facility would comply with applicable seismic design and construction criteria of the most recent CBC.

The earthquake design requirements consider the occupancy category of the structure, site class, soil classifications, and various seismic coefficients which are used to determine a Seismic Design Category (SDC) for a project as described in Chapter 16 of the CBC. The SDC is a classification system that combines the occupancy categories with the level of expected ground motions at the site and ranges from SDC A (very small seismic vulnerability) to SDC E (very high seismic vulnerability and near a major fault). For Seismic Design Categories D, E, and F, Chapter 18 requires analysis of slope instability, liquefaction, and surface rupture attributable to faulting or lateral spreading, plus an evaluation of lateral pressures on basement and retaining walls, liquefaction and soil strength loss, and lateral movement or reduction in foundation soil-bearing capacity. It also addresses mitigation measures to be considered in structural design, which may include ground stabilization, selecting appropriate foundation type and depths, selecting appropriate structural systems to accommodate anticipated displacements, or any combination of these measures.

Local Regulatory Setting

Riverside County Code of Ordinances. Title 15 of the Riverside County Code of Ordinances regulates buildings and construction by adopting by reference the CBC, in addition to County-specific amendments which are equal to or more stringent than the provisions of the CBC. The County requires project applicants to obtain a grading permit from the building official prior to conducting grading or clearing of any kind. County Ordinance No. 457.98 requires a grading permit for any exploratory excavations consisting of 1,000 cubic yards or greater in any one location of one acre or more. This applies to all trenching, borings, and any access road clearing/construction that may be necessary.

Riverside County General Plan – Desert Center Area Plan: Seismic. Seismic hazards pose significant threats to life and property in the area. The most significant fault within the plan area runs northerly of and parallel to Interstate 10 through the Desert Center community. Threats from seismic events include ground shaking, fault rupture, and landslides. Liquefaction is a moderate threat within much of the area. The use of special building techniques, the enforcement of setbacks, and practical avoidance measures will help to mitigate these potentially dangerous circumstances.

- **Policy DCAP 11.1** Protect health and safety from seismic-related incidents through adherence to the Seismic Hazards section of the General Plan Safety Element.

Desert Center Area Plan: Slope. The Chuckwalla, Eagle, and Coxcomb Mountains play an integral part in establishing the character and atmosphere of Desert Center. While densities are limited in the Open Space-Rural land use designation, development that does occur must prevent or minimize the potential for erosion and landslides, preserve significant views, and minimize grading and scarring. The following policies are intended to protect life and property while maintaining the natural character of this area.

- **Policy DCAP 12.1** Protect life and property, and maintain the character of Desert Center, through adherence to the Hillside Development and Slope section of the General Plan Land Use Element, the Rural Mountainous and Open Space land use designations within the General Plan Land Use Element, and the Slope and Soil Instability Hazards section of the General Plan Safety Element.

N.7 Greenhouse Gas Emissions

Federal Regulatory Setting

Presidential Executive Order 13783 on Promoting Energy Independence and Economic Growth, dated March 28, 2017, revoked the preceding Executive Order 13653 (Preparing the United States for the Impacts of Climate Change), dated November 1, 2013. The 2017 Order also rescinded the President's Climate Action Plan from June 2013 and the Climate Action Plan Strategy to Reduce Methane Emissions from March 2014. Further, the Order directs the Council on Environmental Quality to rescind its final guidance entitled "Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews," which is referred to in "Notice of Availability," 81 Fed. Reg. 51866 (August 5, 2016). As soon as practicable, each agency is to suspend, revise, or rescind, or publish for notice and comment proposed rules suspending, revising, or rescinding any such actions, consistent with existing law and the policies of Order 13783.

State Regulatory Setting

California Global Warming Solutions Act of 2006 [Assembly Bill 32 (AB 32)]. The California Global Warming Solutions Act of 2006 (AB 32) required that California's GHG emissions be reduced to 1990 levels by 2020. The reduction is being accomplished through an enforceable statewide cap on global warming emissions, which began in 2012. AB 32 directs the ARB to develop regulations and a mandatory reporting system to track and monitor global warming emissions levels (AB 32, Chapter 488, Statutes of 2006). The ARB Climate Change Scoping Plan, initially approved December 2008 and most recently updated by ARB in December 2017, provides the framework for achieving California's goals (ARB, 2017b).

In passing AB 32, the California Legislature found that:

Global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problem."

Other major Executive Orders, legislation, and regulations adopted for the purpose of reducing GHG emissions support the implementation of AB 32 and California's climate goals, as described below.

California Governor's Executive Orders on GHG Emissions. In September 2018, Executive Order B-55-18 established a new statewide goal to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter. The ARB was directed to develop the framework for implementing the goal of carbon neutrality. Executive Order B-30-15 (April 2015) established a California GHG reduction target of 40 percent below 1990 levels by 2030. One purpose of this interim target is to ensure California meets its target of reducing greenhouse gas emissions to 80 percent below 1990 levels by 2050. This executive order also specifically addresses the need for climate adaptation and

directs state agencies to update the California Climate Adaptation Strategy to identify how climate change will affect California infrastructure and industry and what actions the state can take to reduce the risks posed by climate change. Senate Bill 32 (SB 32) of 2016 codified this GHG emissions target to 40 percent below the 1990 level by 2030.

California Renewables Portfolio Standard (RPS) Program. Electric utilities in California must procure a minimum quantity of the sales from eligible renewable energy resources as specified by RPS requirements. The Clean Energy and Pollution Reduction Act of 2015 [Senate Bill 350 (SB 350)] established California's state policy objectives on long-term energy planning and procurement as signed into law on October 7, 2015. The 100 Percent Clean Energy Act of 2018 [Senate Bill 100 (SB 100)] revised the RPS targets to establish the policy that eligible renewable energy resources and zero-carbon resources supply 100 percent of retail sales of electricity to California end-use customers and 100 percent of electricity procured to serve all state agencies by December 31, 2045. With SB 350 and SB 100, California's objectives include:

- *To set the Renewable Portfolio Standard (RPS) for the procurement of California's electricity from renewable sources at 33 percent by 2020, 50 percent by 2026, and 60 percent by 2030;*
- *To plan for 100 percent of total retail sales of electricity in California to come from eligible renewable energy resources and zero-carbon resources by December 31, 2045; and*
- *To double the energy efficiency savings in electricity and natural gas end uses by retail customers by 2030.*

Cap-and-Trade Program (17 CCR 95801 to 96022). The California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation (Cap-and-Trade Program) was initially approved by ARB in 2011. The Cap-and-Trade Program applies to covered entities that fall within certain source categories, including petroleum refiners and suppliers of transportation fuels, and is triggered when facility emissions exceed 25,000 metric tons of CO₂ equivalent (MTCO₂e) in a year. The covered entities must hold compliance instruments sufficient to cover the actual GHG emissions, as evidenced through the ARB Mandatory Reporting of Greenhouse Gas Emissions requirements, also known as the mandatory reporting rule (MRR). This means that transportation fuel suppliers bear the GHG compliance obligation in the Cap-and-Trade Program for the GHG emissions from motor vehicle and off-road equipment fuels used by construction workforces and crews.

Emission Reductions of SF₆ from Gas Insulated Switchgear (17 CCR 95350 to 95359). In 2010, ARB adopted a regulation for reducing or phasing-out SF₆ emissions from electric power system gas insulated switchgear. The regulation requires owners of such switchgear to: (1) annually report their SF₆ emissions; (2) determine the emission rate relative to the SF₆ capacity of the switchgear; (3) provide a complete inventory of all gas insulated switchgear and their SF₆ capacities; (4) produce a SF₆ gas container inventory; and (5) keep all information current for ARB enforcement staff inspection and verification.

Local Regulatory Setting

County of Riverside Climate Action Plan (CAP). The Climate Action Plan, adopted December 8, 2015, establishes goals and policies for the County of Riverside to incorporate environmental responsibility into its daily management of residential, commercial and industrial growth. The CAP includes GHG inventories of community-wide and municipal sources based on the data available for the year 2008. Emissions within the scope of the inventories include transportation, electricity and natural gas use, landscaping, water and wastewater pumping and treatment, and treatment and decomposition of solid waste. The County's 2008 community-wide inventory amounted to 7.013 MMTCO₂e for the unincorporated areas, and 226,753 MTCO₂e from municipal operations (Riverside County, 2015).

The CAP also provides an implementation tool to guide future decisions made by the County, including a guidance document in Appendix F of the CAP titled “Greenhouse Gas Emissions, Screening Tables.” The procedures for evaluating GHG impacts includes a threshold level of 3,000 MTCO₂e per year that allows Riverside County to identify projects that may require a project-specific technical analysis to quantify and mitigate emissions (Riverside County, 2015).

The County General Plan includes one policy directly relevant to the proposed solar facility, to facilitate development and siting of renewable energy facilities and transmission lines in appropriate locations (*Policy AQ 20.19*).

N.8 Hazards and Hazardous Materials

Federal Regulatory Setting

Toxic Substances Control Act. The federal Toxic Substances Control Act (1976) and the Resource Conservation and Recovery Act of 1976 (RCRA) established a program administered by the U.S. Environmental Protection Agency (EPA) for the regulation of the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA was amended in 1984 by the Hazardous and Solid Waste Act (HSWA), which affirmed and extended the “cradle to grave” system of regulating hazardous wastes. The use of certain techniques for the disposal of some hazardous wastes was specifically prohibited by HSWA.

CERCLA, including the Superfund program, was enacted by Congress on December 11, 1980. This law provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA established requirements concerning closed and abandoned hazardous waste sites; provided for liability of persons responsible for releases of hazardous waste at these sites; and established a trust fund to provide for cleanup when no responsible party could be identified. CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, and/or contaminants. The NCP also established the National Priorities List (NPL). CERCLA was amended by the Superfund Amendments and Reauthorization Act (SARA) on October 17, 1986.

State Regulatory Setting

California Environmental Protection Agency. The California Environmental Protection Agency (Cal/EPA) was created in 1991, which unified California’s environmental authority in a single cabinet-level agency and brought the Air Resources Board (ARB), State Water Resources Control Board (SWRCB), Regional Water Quality Control Boards (RWQCBs), Integrated Waste Management Board (IWMB), Department of Toxic Substance Control (DTSC), Office of Environmental Health Hazard Assessment (OEHHA), and Department of Pesticide Regulation (DPR) under one agency. These agencies were placed within the Cal/EPA “umbrella” for the protection of human health and the environment and to ensure the coordinated deployment of State resources. Their mission is to restore, protect and enhance the environment, to ensure public health, environmental quality, and economic vitality.

California Hazardous Waste Control Law. The California Hazardous Waste Control Law (HWCL) is administered by Cal/EPA to regulate hazardous wastes. While the HWCL is generally more stringent than RCRA, until the EPA approves the California program, both the State and federal laws apply in California. The HWCL lists 791 chemicals and about 300 common materials that may be hazardous; establishes criteria for identifying, packaging and labeling hazardous wastes; prescribes management controls; establishes permit

requirements for treatment, storage, disposal and transportation; and identifies some wastes that cannot be disposed of in landfills.

California Department of Toxic Substance Control. DTSC is a department of Cal/EPA and is the primary agency in California that regulates hazardous waste, cleans up existing contamination, and looks for ways to reduce the hazardous waste produced in California. DTSC regulates hazardous waste in California primarily under the authority of RCRA and the California Health and Safety Code. Other laws that affect hazardous waste are specific to handling, storage, transportation, disposal, treatment, reduction, cleanup, and emergency planning.

California Department of Industrial Relations, Division of Occupational Safety and Health Administration. The California Occupational Safety and Health Administration (Cal/OSHA) is the primary agency responsible for worker safety in the handling and use of chemicals in the workplace. Cal/OSHA standards are generally more stringent than federal regulations. The employer is required to monitor worker exposure to listed hazardous substances and notify workers of exposure (8 CCR Sections 337-340). The regulations specify requirements for employee training, availability of safety equipment, accident-prevention programs, and hazardous substance exposure warnings.

Local Regulatory Setting

Riverside County General Plan. The intent of the Safety Element of the Riverside County General Plan is to reduce death, injuries, property damage, and economic and social impact from hazards. The following policies included in the Safety Element generally relate to the proposed with respect to hazards and hazardous materials (Riverside County, 2016).

- **Policy S 5.1.** Develop and enforce construction and design standards that ensure that proposed development incorporates fire prevention features through the following:
 - All proposed development and construction within Fire Hazard Severity Zones shall be reviewed by the Riverside County Fire and Building and Safety departments.
 - All proposed development and construction shall meet minimum standards for fire safety as defined in the Riverside County Building or County Fire Codes, or by County zoning, or as dictated by the Building Official or the Transportation Land Management Agency based on building type, design, occupancy, and use.
 - In addition to the standards and guidelines of the California Building Code and California Fire Code fire safety provisions, continue to implement additional standards for high-risk, high occupancy, dependent, and essential facilities where appropriate under the Riverside County Fire Code (Ordinance No. 787) Protection Ordinance. These shall include assurance that structural and nonstructural architectural elements of the building will not impede emergency egress for fire safety staffing/personnel, equipment, and apparatus; nor hinder evacuation from fire, including potential blockage of stairways or fire doors.
 - Proposed development and construction in Fire Hazard Severity Zones shall provide secondary public access, in accordance with Riverside County Ordinances.
 - Proposed development and construction in Fire Hazard Severity Zones shall use single loaded roads to enhance fuel modification areas, unless otherwise determined by the Riverside County Fire Chief.
 - Proposed development and construction in Fire Hazard Severity Zones shall provide a defensible space or fuel modification zones to be located, designed, and constructed that provide adequate defensibility from wildfires.

- **Policy S 5.4.** Limit or prohibit development or activities in areas lacking water and access roads.
- **Policy S 5.6.** Demonstrate that the proposed development can provide fire services that meet the minimum travel times identified in Riverside County Fire Department Fire Protection and EMS Strategic Master Plan.
- **Policy S 6.1.** Enforce the policies and siting criteria and implement the programs identified in the County of Riverside Hazardous Waste Management plan, which includes the following: (AI 98)
 1. *Comply with federal and state laws pertaining to the management of hazardous wastes and materials.*
 2. *Ensure active public participation in hazardous waste and hazardous materials management decisions in Riverside County.*
 3. *Coordinate hazardous waste facility responsibilities on a regional basis through the Southern California Hazardous Waste Management Authority (SCHWMA).*
 4. *Encourage and promote the programs, practices, and recommendations contained in the County Hazardous Waste Management Plan, giving the highest waste management priority to the reduction of hazardous waste at its source.*
- **Policy S 7.3.** Require commercial businesses, utilities, and industrial facilities that handle hazardous materials to: install automatic fire and hazardous materials detection, reporting and shut-off devices; and install an alternative communication system in the event power is out or telephone service is saturated following an earthquake.

Riverside County Hazardous Waste Management Plan. The Riverside County Hazardous Waste Management Plan (CHWMP) uses a framework of 24 existing and recommended programs. The CHWMP serves as the County's primary planning document for the management of hazardous substances. Although the title refers only to hazardous waste, the CHWMP is a comprehensive document containing all of the County programs for managing both hazardous materials and waste.

Riverside County Airport Land Use Compatibility Plan. The Riverside County Airport Land Use Compatibility Plan (RCALUCP) sets forth the criteria and policies that the Riverside County Airport Land Use Commission (ALUC) uses in assessing the compatibility between the principal airports in Riverside County and proposed land use development in the areas surrounding them. The RCALUCP primarily deals with review of local general plans, specific plans, zoning ordinances, and other land use documents covering broad geographic areas. Certain individual land use development proposals also may be reviewed by the ALUC as provided in the policies identified in the RCALUCP. The ALUC does not have authority over existing incompatible land uses or the operation of any airport. (RCALUCP, 2004)

The ALUC adopts Airport Land Use Compatibility Plans for the areas surrounding the airports within its jurisdiction. Local development approvals must be found consistent with the RCALUCP unless approved by a 4/5th supermajority vote. The RCALUCP identifies Airport Influence Areas (AIAs) to protect the public from the adverse effects of aircraft noise, ensure that facilities and people are not concentrated in areas susceptible to aircraft accidents, and ensure that no structures or activities adversely affect or encroach upon the use of navigable airspace. The Desert Center Airport became private in 2004. The Desert Center Area Plan Public Review Draft dated February 2015 removes the discussion regarding the Desert Center Airport Influence Area. No Compatibility Plan has been prepared for Desert Center Airport and there are no additional compatibility policies with respect to Desert Center Airport. (RCALUCP, 2004)

N.9 Hydrology and Water Quality

Federal Regulatory Setting

Clean Water Act (CWA) (33 USC Section 1251 et seq.). Formerly the Federal Water Pollution Control Act of 1972, the CWA was enacted with the intent of restoring and maintaining the chemical, physical, and biological integrity of the waters of the United States. The CWA, enforced by the United States Environmental Protection Agency (EPA), requires states to set standards to protect, maintain, and restore water quality through the regulation of point source and certain non-point source discharges to surface water.

Section 402 of the CWA requires that direct and indirect discharges and stormwater discharges into waters of the United States be pursuant to a National Pollutant Discharge Elimination System (NPDES) permit for industrial or construction activities. NPDES permits contain industry-specific, technology-based limits and may include additional water quality-based limits, and pollutant-monitoring requirements. An NPDES permit may include discharge limits based on Federal or State water quality criteria or standards. NPDES permitting authority is delegated to, and administered by, the California State Water Resources Control Board (SWRCB) and its nine regional water quality control boards (RWQCBs) as described below under State regulations.

Section 404 of the CWA authorizes the U.S. Army Corps of Engineers to regulate the discharge of dredged or fill material to the waters of the U.S. and adjacent wetlands. Discharges to waters of the U.S. must be avoided where possible and minimized and mitigated where avoidance is not possible. Permits are issued by the Corps of Engineers. The Corps of Engineers has determined that waters on the proposed site are not jurisdictional under Section 404. Coverage under Section 404 would not be required.

Section 401 of the CWA requires that any activity that may result in a discharge into waters of the U.S. be certified by the RWQCB. This certification ensures that the proposed activity follow State and/or federal water quality standards. The Corps of Engineers has determined that waters on the proposed site are not jurisdictional under Section 404. Coverage under Section 404 would not be required. Therefore, coverage under Section 401 would not be required.

National Flood Insurance Act/Flood Disaster Protection Act. The National Flood Insurance Act of 1968 made flood insurance available for the first time. The Flood Disaster Protection Act of 1973 made the purchase of flood insurance mandatory for the protection of property located in Special Flood Hazard Areas. These laws led to mapping of regulatory floodplains and to local management of floodplain areas according to federal guidelines which include prohibiting or restricting development in flood hazard zones.

Colorado River Accounting Surface. Based on the Colorado River Compact of 1922, and the 1928 apportionment of lower Colorado River water by the U.S. Congress, groundwater in the river aquifer beneath the flood plain is Colorado River water, and water pumped from wells on the flood plain is presumed to be river water and is accounted for as Colorado River water (USGS, 2009). The accounting-surface method was developed in the 1990s by the U.S. Geological Survey, in cooperation with the Bureau of Reclamation, to identify wells outside the flood plain of the lower Colorado River that yield water that will be replaced by water from the river. This method was needed to identify which wells require an entitlement for diversion of water from the Colorado River and need to be included in accounting for consumptive use of Colorado River water as outlined in the Consolidated Decree of the United States Supreme Court in *Arizona v. California*. The method is based on the concept of a river aquifer and an accounting surface within the river aquifer. Wells within the CVGB that draw water from below the accounting surface require an entitlement for the use of that water (USGS, 2009). Within the Proposed action area, the accounting surface is at elevation 238 to 240 feet (USGS, 2009). Extractions of water

below that elevation are prohibited without an entitlement. Entitlements to extract and use the groundwater below the accounting surface are granted by the USBR through their designated representative in California, the Colorado River Board of California.

State Regulatory Setting

California Streambed Alteration Agreement. Sections 1600–1616 of the California Fish and Game Code require that any entity that proposes an activity that will substantially divert or obstruct the natural flow of any river, stream or lake, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit material into any river, stream, or lake, must notify the California Department of Fish and Wildlife (CDFW). If the CDFW determines the proposed alteration will impact a jurisdictional river, stream or lake, a Lake or Streambed Alteration Agreement (LSAA) will be prepared. The LSAA includes conditions necessary to protect those resources. The Agreement applies to any stream including ephemeral streams and desert washes.

California Porter Cologne Water Quality Control Act. The Porter Cologne Water Quality Control Act of 1967, Water Code Section 13000 et seq., requires the SWRCB to adopt water quality criteria to protect State waters. Each RWQCB has developed a Water Quality Control Plan (Basin Plan) specifying water quality objectives, beneficial uses, numerical standards of pollution concentrations, and implementation procedures for Waters of the State. Waters of the State is defined by the Porter Cologne Water Quality Control Act as “any surface water or groundwater, including saline waters, within the boundaries of the State.” General objectives of the Basin Plans state that all waters (of the State) shall be maintained free of toxic substances in concentrations which are toxic to, or which produce detrimental physiological responses in, human, plant, animal, or aquatic life. The water quality control plans are intended to protect designated beneficial uses of waters, avoid altering the sediment discharge rate of surface waters, and avoid introducing toxic pollutants to the water resource. The Porter Cologne Water Quality Control Act requires anyone proposing to discharge waste that could affect the quality of the waters of the State to report the waste discharge to the appropriate RWQCB.

SWRCB Storm Water Program Construction General Permit (General Construction Storm Water Permit). The Construction General Permit, required by the federal Clean Water Act, regulates storm water runoff from construction sites of one acre or more in size. The Construction General Permit is a statewide, standing permit. Qualifying construction activities, which would include the proposed action, must obtain coverage under the permit by filing a Notice of Intent with the Regional Water Quality Control Board, and development of and compliance with a Storm Water Pollution Prevention Plan (SWPPP) describing Best Management Practices the discharger will use to protect storm water runoff. The SWPPP must contain a visual monitoring program, a chemical monitoring program for “non-visible” pollutants to be implemented if there is a failure of BMPs, and a sediment monitoring plan if the site discharges directly to a water body listed on the Section 303(d) list (described below) for sediment.

The General Permit prohibits the discharge of pollutants other than storm water and non-storm water discharges authorized by the General Permit or another NPDES permit and prohibits all discharges which contain a hazardous substance in excess of reportable quantities established in 40 C.F.R. §§ 117.3 and 302.4 (pursuant to Section 311 of the Clean Water Act), unless a separate NPDES Permit has been issued to regulate those discharges. In addition, the General Permit incorporates discharge prohibitions contained in water quality control plans, as implemented by the nine Regional Water Boards. Discharges to Areas of Special Biological Significance are prohibited unless covered by an exception that the State Water Board has approved. Authorized non-storm water discharges must be: infeasible to eliminate; comply with Best Management Practices (BMPs) as described in the SWPPP; filtered or treated using appropriate

technology; meet the established numeric action levels for pH and turbidity; and, not cause or contribute to a violation of water quality standards. Discharges to storm water that cause or threaten to cause pollution, contamination, or nuisance are prohibited. Pollutant controls must utilize best available technology economically achievable (BAT) for toxic pollutants and non-conventional pollutants and best conventional pollutant control technology (BCT) for conventional pollutants.

The CWA provides definitions for the types of controls that can be used to satisfy BAT and BCT requirements. Specific BAT and BCT pollution controls and Best Management Practices may include runoff control, soil stabilization, sediment control, proper stream crossing techniques, waste management, spill prevention and control, and a wide variety of other measures depending on the site and situation.

State Water Resources Control Board Policies. The Anti-Degradation Policy (Resolution No. 68-16). Requires the RWQCB, in regulating the discharge of waste, to: (a) maintain existing high quality Waters of the State until it is demonstrated that any change in quality will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial uses, and will not result in water quality less than that described in State or Regional Water Boards policies; and (b) require that any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that: a) a pollution or nuisance will not occur and b) the highest water quality consistent with maximum benefit to the people of the State will be maintained (BLM, 2018).

Sources of Drinking Water Policy (Resolution No. 88-63). This policy designates all groundwater and surface Waters of the States as potential sources of drinking water, worthy of protection for current or future beneficial uses, except where: (a) the total dissolved solids are greater than 3,000 milligrams per liter, (b) the well yield is less than 200 gallons per day (gpd) from a single well, (c) the water is a geothermal resource, or in a water conveyance facility, or (d) the water cannot reasonably be treated for domestic use using either best management practices or best economically achievable treatment practices (BLM, 2018).

Policies and Procedures for Investigations and Clean-up and Abatement of Discharges Under CWC Section 13304 (Resolution No. 92-49). This policy establishes requirements for investigation and cleanup and abatement of discharges. Under this policy, clean-up and abatement actions are to implement applicable provisions of Title 23 CCR Chapter 15, to the extent feasible. The policy also requires the application of Section 2550.4 of Chapter 15 when approving any alternative cleanup levels less stringent than background. It requires remediation of the groundwater to the lowest concentration levels of constituents technically and economically feasible, which must at least protect the beneficial uses of groundwater, but need not be more stringent than is necessary to achieve background levels of the constituents in groundwater (BLM, 2018).

Local Regulatory Setting

Riverside County Ordinance No. 682 (As Amended Through 682.4) an Ordinance of The County of Riverside Regulating the Construction, Reconstruction, Abandonment and Destruction of Wells and Incorporating by Reference Ordinance No. 725. This ordinance provides minimum standards for construction, reconstruction, abandonment and destruction of all wells to: (a) protect underground water resources; and (b) provide safe water to persons within Riverside County.

Ordinance No. 650 (As Amended Through 650.5) an Ordinance of the County of Riverside Amending Ordinance No. 650 Chapter 8.124 of the Riverside County Code Regulating the Discharge of Sewage in

the Unincorporated Areas of the County of Riverside and Incorporating by Reference Ordinance No. 725 protects water quality and public health by establishing regulations for the installation, replacement, and performance of Onsite Wastewater Treatment Systems.

Ordinance No. 458: An Ordinance of the County of Riverside Regulating Flood Hazard Areas and Implementing the National Insurance Program was developed to comply with Title 44 CFR Part 65 regarding requirements for the identification and mapping of areas identified as FEMA Special Flood Hazard Areas. The ordinance is applicable to development within unincorporated areas of Riverside County and is integrated into the process of application for development permits under other county ordinances. The Project site does not lie within a designated FEMA 100-year or 500-year flood plain. However, as described in Section 3.10.1 large portions of the site, including areas designated by the California Department of Water Resources as flood hazard zones, would be subject to flooding and subject to Ordinance No. 458.

N.10 Land Use and Planning

Federal Regulatory Setting

Federal Land Policy and Management Act, 1976 As Amended. The U.S. Congress passed the FLPMA in 1976. Title V, “Rights-of-Way (ROW),” of the FLPMA establishes public land policy and guidelines for administration, provides for management, protection, development, and enhancement of public lands, and provides the BLM authorization to grant ROWs. Authorization of systems for generation, transmission, and distribution of electric energy is addressed in Section 501(4) of Title V. In addition, Section 503 specifically addresses “Right of Way Corridors” and requires common ROWs “to the extent practical.” FLPMA, Title V, Section 501(a)(6) states, “[t]he Secretary, with respect to the public lands (including public lands, as defined in section 103(e) of this Act, which are reserved from entry pursuant to section 24 of the Federal Power Act (16 USC 818)) [P.L. 102-486, 1992] and, the Secretary of Agriculture, with respect to lands within the National Forest System (except in each case land designated as wilderness), are authorized to grant, issue, or renew rights-of-way over, upon, under, or through such lands for roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways, or other means of transportation except where such facilities are constructed and maintained in connection with commercial recreation facilities on lands in the National Forest System.” The primary directive guiding all of BLM’s decisions under FLPMA is to put public lands to their highest and best use.

The Applicant is requesting a grant of ROW approval from the BLM (Palm Springs-South Coast Field Office) for the portion of the gen-tie line on land under the jurisdiction of the BLM.

California Desert Conservation Area Plan, 1980 As Amended. Section 601 of the FLPMA required preparation of a long-range plan for the CDCA. The CDCA Plan was adopted in 1980 to provide for the use of public lands and resources of the CDCA in a manner that enhances, wherever possible, and does not diminish, on balance, the environmental, cultural, and aesthetic values of the Desert and its productivity. The CDCA Plan is a comprehensive, long-range plan covering 25 million acres. Approximately 12 million acres (about half) of this total are public lands administered by the BLM on behalf of the CDCA.

The CDCA Plan contains goals and specific actions for the management, use, development, and protection of the resources and public lands within the CDCA, and is based on the concepts of multiple use, sustained yield, and maintenance of environmental quality.

The Project’s gen-tie line would be partially located within BLM Designated Utility Corridor K, as identified in the CDCA Plan. The CDCA Plan designated utility Corridor K for “multi-modal use,” allowing for new

electrical gen-tie towers and cables of 161 kV or above. Utility Corridor K is also designated as Section 368 Federal Energy Corridor 30-52 in the Record of Decision for the West-Wide Energy Corridor (WWEC) PEIS. Energy Corridor 30-52 is identified for “multi-modal use,” which allows for electricity transmission and distribution facilities. Section 368 corridors are identified with a numeric designation and are often overlain on locally designated corridors, as is the case with the east-west Section 368 two-mile-wide Corridor 30-52 overlying BLM Designated Utility Corridor K.

Western Solar Plan. The Departments of the Interior and Energy identified Solar Study Areas determined to have high potential for development of solar energy facilities. After the release of these maps, the BLM filed an application for withdrawal with the Secretary of the Interior that identified 676,048 acres of land in Arizona, California, Colorado, Nevada, New Mexico, and Utah to be “withdrawn from settlement, sale, location or entry under the general land laws, including the mining laws, on behalf of the BLM to protect and preserve solar energy study areas for future solar energy development.” The BLM issued the Final Programmatic EIS for Solar Energy Development in those six states in July 2012 and signed the associated Record of Decision on October 12, 2012. The Western Solar Plan analyzed was adopted through the Approved Resource Management Plan Amendments/ROD for Solar Energy Development in Six Southwestern States in October 2012. As part of the Western Solar Plan, the BLM identified priority development areas called solar energy zones (SEZs) to preserve these sites for future solar energy development. Included in this amendment was the Riverside East SEZ in Riverside County. The Gen-tie line is in this SEZ. SEZs are “developable” areas for solar power development.

Desert Renewable Energy and Conservation Plan Amendment to the CDCA. The Desert Renewable Energy Conservation Plan is a collaboration between the California Energy Commission, California Department of Fish and Game, Bureau of Land Management, and the U.S. Fish and Wildlife Service. The Record of Decision for the DRECP Land Use Plan Amendment, Phase I of the larger collaboration, was signed in 2016 and is intended to facilitate the development of utility-scale renewable energy and transmission projects in the Mojave and Colorado deserts in California to reach federal and state energy targets while conserving sensitive species and habitats as well as cultural, scenic, and social resources. The LUPA applies to nearly 11,000,000 acres of BLM-managed federal lands. The Project is located within an area designated as a Development Focus Area.

Local Regulatory Setting

Riverside County General Plan. The Riverside County General Plan (RCGP) was adopted on October 7, 2003. Through a series of resolutions, the Board of Supervisors adopted an update on December 8, 2015. The RCGP consists of a vision statement and the following elements: Land Use, Circulation, Multi-purpose Open Space, Safety, Noise, Housing, Air Quality, and Administration. The RCGP sets forth County land use policies and guidance for implementation. The RCGP is augmented by more detailed Area Plans covering the County’s territory. Area Plans provide a clear and more focused opportunity to enhance community identity within the County and stimulate quality of life at the community level.

RCGP land use designations within the Project area include Open Space Rural and some Agriculture. The Open Space-Rural land use designation is applied to remote, privately owned open space areas with limited access and a lack of public services. Single-family residential uses are permitted at a density of one dwelling unit per 20 acres. The extraction of mineral resources subject to an approved surface mining permit may be permissible, provided that the proposed Project can be undertaken in a manner that is consistent with maintenance of scenic resources and views from residential neighborhoods and major roadways and that the Project does not detract from efforts to protect endangered species.

The Agriculture land use designation is established to help conserve productive agricultural lands within the County. These include row crops, nurseries, citrus groves and vineyards, dairies, ranches, poultry and hog farms, and other agriculture-related uses. Areas designated AG generally lack infrastructure that is supportive of urban development. This land use designation allows one single-family residence per 10 acres except as otherwise specified by a policy or an overlay.

Policies at the General Plan and Area Plan levels implement the vision and goals of Riverside County. The County of Riverside Vision details the physical, environmental, and economic qualities that the County aspires to achieve by the year 2020. Using that Vision as the primary foundation, the RCGP establishes policies for development and conservation within the entire unincorporated County territory. The General Plan's policy goals that are potentially relevant to land use for the Project are provided below.

Land Use Element:

- **Policy LU 2.1.c.** The County shall provide a broad range of land uses, including a range of residential, commercial, business, industry, open space, recreation and public facility uses.
- **Policy LU 5.1.** Ensure that development does not exceed the ability to adequately provide supporting infrastructure and services, such as libraries, recreational facilities, educational and day care centers, transportation systems, and fire/police/medical services
- **Policy LU 7.1.** Require land uses to develop in accordance with the Riverside County General Plan (RCGP) and area plans to ensure compatibility and minimize impacts.
- **Policy LU 8.1.** The County shall accommodate the development of a balance of land uses that maintain and enhance the County's fiscal viability, economic diversity and environmental integrity (General Plan LU-26).
- **Policy LU 9.1.** Provide for permanent preservation of open space lands that contain important natural resources, cultural resources, hazards, water features, watercourses including arroyos and canyons, and scenic and recreational values.
- **Policy LU 9.2.** Require that development protect environmental resources by compliance with the Multipurpose Open Space Element of the RCGP and federal and state regulations such as CEQA, NEPA, the Clean Air Act, and the Clean Water Act.
- **Policy LU 10.1.** Require that new development contribute their fair share to fund infrastructure and public facilities such as police and fire facilities.
- **Policy LU 14.1.** The County shall preserve and protect outstanding scenic vistas and visual features for the enjoyment of the traveling public.
- **Policy LU 14.5.** Require new or relocated electric or communication distribution lines, which would be visible from Designated and Eligible State and County Scenic Highways, to be placed underground.
- **Policy LU 17.2** Permit and encourage, in an environmentally and fiscally responsible manner, the development of renewable energy resources and related infrastructure, including but not limited to, the development of solar power plants in the County of Riverside.
- **Policy LU 26.3** Ensure that development does not adversely impact the open space and rural character of the surrounding area. (AI 3)
- **Policy LU 26.4** Encourage parcel consolidation. (AI 29)
- **Policy LU 26.5** Provide programs and incentives that allow Open Space-Rural areas to maintain and enhance their existing and desired character. (AI 9)

Multi-Purpose Open Space Element

- **Policy OS 11.1** Enforce the state Solar Shade Control Act, which promotes all feasible means of energy conservation and all feasible uses of alternative energy supply sources.
- **Policy OS 11.2** Support and encourage voluntary efforts to provide active and passive solar access opportunities in new developments.
- **Policy OS 11.3** Permit and encourage the use of passive solar devices and other state-of-the-art energy resources.
- **Policy OS 11.4** Encourage site-planning and building design that maximizes solar energy use/potential in future development applications.

Desert Center Area Plan. The Project is located within the Desert Center Area Plan. The Desert Center Area Plan provides customized direction specifically for this portion of the County and guides the evolving character of the agricultural and desert area. The Area Plan envisioned little new development for the planning horizon (through 2020), except for infill and/or revitalization of the Eagle Mountain Townsite and contiguous expansion of the Desert Center and Lake Tamarisk communities. It was written in 2010 before widespread development of utility-scale renewable projects and as a result is largely silent on such development.

Riverside County Land Use Ordinance. Ordinance No. 348.4705 amends Ordinance No. 348 to authorize solar power plants on lots ten acres or larger, subject to a conditional use permit in the following zone classifications: General Commercial (C-1/C-P), Commercial Tourist (C-T), Scenic Highway Commercial (C-P-S), Rural Commercial (C-R), Industrial Park (I-P), Manufacturing Servicing Commercial (M-SC), Medium Manufacturing (M-M), Heavy Manufacturing (M-H), Mineral Resources (M-R), Mineral Resource and Related Manufacturing (M-R-A), Light Agriculture (A-1), Light Agriculture with Poultry (AP), Heavy Agriculture (A-2), Agriculture-Dairy (A-D), Controlled Development (W-2), Regulated Development Areas (R-D), Natural Assets (N-A), Waterways and Watercourses (W-1), and Wind Energy Resource Zone (W-E).

N.11 Noise

Regulating environmental noise is generally the responsibility of local governments. The U.S. EPA once published guidelines on recommended maximum noise levels to protect public health and welfare (U.S. EPA, 1974), and the State of California maintains recommendations for local jurisdictions in the General Plan Guidelines published by the Governor's Office of Planning and Research (OPR, 2017). The following summarizes the local requirements.

To protect workers from excessive onsite noise levels, the Occupational Safety and Health Act of 1970 (OSHA) sets onsite occupational noise exposure levels, which are regulated in California via the California Occupational Safety and Health Administration (Cal/OSHA). The maximum time-weighted average noise exposure level of workers is 90 dBA over an eight-hour work shift (29 CFR Section 1910.95).

Riverside County General Plan Noise Element

Land Use Compatibility. The County's General Plan Noise Element (2015) provides the guidelines on Land Use Compatibility for Community Noise Exposure, which are used to evaluate potential noise impacts and to set the criteria for environmental impact findings and conditions for project approval. Land use compatibility defines the acceptability of a land use in a specified noise environment. The land use compatibility criteria adopted by Riverside County as part of the Noise Element of the General Plan appear in Table N-4.

Table N-4. Riverside County Land Use Compatibility Standards

Land Use	CNEL or Ldn Noise Level			
	Normally Acceptable	Conditionally Acceptable	Normally Unacceptable	Clearly Unacceptable
Residential – Low-density (single-family, duplex, mobile homes)	Up to 60 dBA	55–70 dBA	70–75 dBA	Over 75 dBA
Residential – Multiple-family	Up to 65 dBA	60–70 dBA	70–75 dBA	Over 75 dBA
Transient lodging, motels, hotels	Up to 65 dBA	60–70 dBA	70–80 dBA	Over 80 dBA
Schools, libraries, churches, hospitals, nursing homes	Up to 70 dBA	60–70 dBA	70–80 dBA	Over 80 dBA
Auditoriums, concert halls, amphitheaters	Category not used	Up to 70 dBA	Over 65 dBA	Category not used
Sports arenas, outdoor spectator sports	Category not used	Up to 75 dBA	Over 70 dBA	Category not used
Playgrounds, neighborhood parks	Up to 70 dBA	Category not used	67.5–75 dBA	Over 72.5 dBA
Golf courses, riding stables, water recreation, cemeteries	Up to 75 dBA	Category not used	70–80 dBA	Over 80 dBA
Office buildings, business commercial, professional	Up to 70 dBA	67.5–77.5 dBA	Category not used	Over 75 dBA
Industrial, manufacturing, utilities, agriculture	Up to 75 dBA	70 – 80 dBA	Category not used	Over 75 dBA

Source: Noise Element Table N-1 (Riverside County, 2015).

Policies for Noise Compatibility. The following General Plan Noise Element (2015) policies protect noise-sensitive land uses from noise emitted by outside sources, and prevent new projects from generating adverse noise levels on adjacent properties.

- **Policy N 1.1** Protect noise-sensitive land uses from high levels of noise by restricting noise-producing land uses from these areas. If the noise-producing land use cannot be relocated, then noise buffers such as setbacks, landscaping, or block walls shall be used.
- **Policy N 1.2** Guide noise-tolerant land uses into areas irrevocably committed to land uses that are noise-producing, such as transportation corridors or within the projected noise contours of any adjacent airports.
- **Policy N 1.4.** Determine if existing land uses will present noise compatibility issues with proposed projects by undertaking site surveys.
- **Policy N 1.5.** Prevent and mitigate the adverse impacts of excessive noise exposure on the residents, employees, visitors, and noise-sensitive uses of Riverside County.
- **Policy N 1.6.** Minimize noise spillover or encroachment from commercial and industrial land uses into adjoining residential neighborhoods or noise-sensitive uses.
- **Policy N 1.8** Limit the maximum permitted noise levels that cross property lines and impact adjacent land uses, except when dealing with noise emissions from wind turbines.

- **Policy N 3.2.** Require acoustical studies and subsequent approval by the Planning Department and the Office of Industrial Hygiene, to help determine effective noise mitigation strategies in noise-producing areas.
- **Policy N 3.3.** Ensure compatibility between industrial development and adjacent land uses. To achieve compatibility, industrial development projects may be required to include noise mitigation measures to avoid or minimize project impacts on adjacent uses.
- **Policy N 3.5.** Require that a noise analysis be conducted by an acoustical specialist for all proposed projects that are noise producers. Include recommendations for design mitigation if the project is to be located either within proximity of a noise-sensitive land use, or land designated for noise sensitive land uses.
- **Policy N 3.6.** Discourage projects that are incapable of successfully mitigating excessive noise.
- **Policy N 3.7.** Encourage noise-tolerant land uses such as commercial or industrial, to locate in areas already committed to land uses that are noise-producing.

Temporary Construction. The Noise Element of the General Plan includes numerous policies intended to minimize noise-related conflicts between adjacent types of land uses. Policies addressing “temporary construction” activities include:

- **Policy N 13.1.** Minimize the impacts of construction noise on adjacent uses within acceptable practices.
- **Policy N 13.2.** Ensure that construction activities are regulated to establish hours of operation in order to prevent and/or mitigate the generation of excessive or adverse noise impacts on surrounding areas.
- **Policy N 13.4.** Require that all construction equipment utilize noise reduction features (e.g., mufflers and engine shrouds) that are no less effective than those originally installed by the manufacturer.

Stationary Sources of Noise. The Noise Element of the General Plan also identifies preferred noise standards for stationary noise sources that affect residential land uses, as shown in Table N-5.

Table N-5. Stationary Source Land Use Noise Standards

Land Use	Time of Day	Interior Noise Standard	Exterior Noise Standard
Residential	10:00 p.m. to 7:00 a.m.	40 Leq, 10-minute	45 Leq, 10-minute
Residential	7:00 a.m. to 10:00 p.m.	45 Leq, 10-minute	65 Leq, 10-minute

Source: Noise Element Table N-2 (Riverside County, 2015).

Note: The Noise Element of the General Plan indicates that these levels are preferred standards; final decision will be made by the Riverside County Planning Department and Office of Public Health.

Vibration. Ground-borne vibrations can be a source of annoyance to people or a source of structural damage to some types of buildings. Although vibration measurements can be presented in many different forms, PPV is the unit of measure used most often to assess building damage potential. Table N-6 describes human reaction to typical vibration levels.

The General Plan Noise Element (2015) includes consideration of ground-borne vibrations. Residential areas, schools, and sensitive research operations are among the land uses that are vibration sensitive.

Riverside County Noise Ordinance

The County Noise Ordinance allows for different levels of acceptable noise depending upon land use. The Noise Ordinance or Ordinance No. 847 (Regulating Noise) is incorporated in the County Code as Chapter 9.52 (Noise Regulation). The standards in Chapter 9.52.040 (and also Section 4 of Ordinance No. 847) limit noise sources on any property from causing excessive exterior noise on any other nearby occupied property. The maximum decibel level standards depend on the receiving land use, such that sound levels in a low-density “Rural Community” shall not exceed 55 dBA Lmax during the daytime hours (7:00 a.m. to 10:00 p.m.) or 45 dBA during the nighttime hours (10:00 p.m. to 7:00 a.m.). These County standards protect the noise-sensitive receptors within the very low-density rural area surrounding the solar facility site.

Exceptions to the noise standards can be requested for construction-related reasons. Section 2 of Ordinance No. 847 specifies that the following construction activities are exempt from the provisions of the noise ordinance:

- Private construction projects located a quarter mile or more from the nearest inhabited dwelling; and
- Private construction projects located within a quarter mile of an inhabited dwelling provided that construction activities are limited to 6:00 a.m. to 6:00 p.m. during the months of June through September and are limited to 7:00 a.m. to 6:00 p.m. during the months of October through May.

Table N-6. Human Reaction to Typical Vibration Levels

Vibration Level PPV (inches/second)	Human Reaction
0.0059–0.0188	Threshold of perception, possibility of intrusion
0.0787	Vibrations readily perceptible
0.0984	Continuous vibration begins to annoy people
0.1968	Vibrations annoying to people in buildings
0.3937–0.5905	Vibrations considered unpleasant when continuously subjected and unacceptable by some walking on bridges

Source: Caltrans data in Noise Element Table N-3 (Riverside County, 2015).

N.12 Paleontological Resources

Federal Regulatory Setting

Paleontological Resources Preservation Act of 2009. The PRPA was signed into law as part of the Omnibus Public Lands Management Act (OPLMA) of 2009. The OPLMA-PRP requires the Secretary of the Interior to manage and protect paleontological resources on federal land using scientific principles and expertise and requires the BLM to develop appropriate plans for inventorying and monitoring, and the scientific and educational use of, paleontological resources, in accordance with applicable agency laws, regulations, and policies. Where possible, these plans should emphasize interagency coordination and collaborative efforts with non-federal partners, the scientific community, and the general public. The OPLMA-PRP is

the new authority for the Department of the Interior (DOI) and USDA Forest Service for permits to collect paleontological resources, as well as curation of these resources in an approved repository.

Antiquities Act of 1906. The Antiquities Act was the first law enacted to specifically establish that archaeological sites on public lands are important public resources, and it obligated federal agencies that manage public lands to preserve the scientific, commemorative, and cultural values of such sites. This act does not refer to paleontological resources specifically; however, the act does provide for the protection of “objects of antiquity” (understood to include paleontological resources) by various federal agencies not covered by the OPLMA-PRP.

Federal Land Policy and Management Act of 1976 as Amended. The Federal Land Policy and Management Act of 1976 requires the Secretary of the Interior to retain and maintain public lands in a manner that protects the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric water resource, archeological and other values [Section 1701(a)(8)]. FLPMA also requires the BLM to develop regulations and plans for the protection of public land areas of critical environmental concern, “which include important historic, cultural or scenic values,” and to protect life and safety from natural hazards.

Bureau of Land Management Plans and Guidelines

California Desert Conservation Area Plan. With respect to paleontological resources (discussed in the Cultural Resource Element), the CDCA Plan aims to: (1) ensure that paleontological resources are given full consideration in land use planning and management decisions, (2) preserve and protect a representative sample of the full array of the CDCA’s paleontological resources, and (3) ensure proper data recovery of significant paleontological resources where adverse impacts cannot be avoided or otherwise mitigated.

BLM National Instruction Memorandums (IM) 2008-009 and 2009-011. Instructional Memorandum (IM) 2008-009 formalizes the use of a new classification system for identifying fossil potential on public lands. The Potential Fossil Yield Classification (PFYC) system is based on the potential for the occurrence of significant paleontological resources in a geologic unit, and the associated risk for impacts to the resource based on federal management actions. Occurrences of paleontological resources are closely tied to the geologic units (i.e., formations, members, or beds) that contain them.

Using the PFYC system, geologic units are classified (Class 1 – Very Low through Class 5 – Very High) based on the relative abundance of vertebrate fossils or scientifically significant invertebrate or plant fossils and their sensitivity to adverse impacts, with a higher class number indicating a higher potential for adverse impacts. Although significant localities may occasionally occur in a geologic unit, a few widely scattered important fossils or localities do not necessarily indicate a higher class; instead, the relative abundance of significant localities is intended to be the major determinant for the class assignment. The PFYC system is used to set management policies and is not intended to be applied to specific paleontological localities or small areas within units.

As defined in IM 2009-011, Assessment and Mitigation of Potential Impacts to Paleontological Resources, Appendix A, a significant paleontological resource is any resource that is considered to be of scientific interest, including most vertebrate fossil remains and traces, and certain rare or unusual invertebrate and plant fossils. A significant resource is considered to be scientifically important because it is a rare or previously unknown species, it is of high quality and well-preserved, it preserves a previously unknown anatomical or other characteristic, provides new information about the history of life on earth, or has identified educational or recreational value. Paleontological resources that may be considered to not

have paleontological significance include those that lack provenience or context, lack physical integrity because of decay or natural erosion, or that are overly redundant or are otherwise not useful for research.

BLM Manuals and Handbooks. BLM Manual 8270 and BLM Handbook H-8270-1 contain the agency's guidance for managing paleontological resources on public land. The manual has more information on the authorities and regulations related to paleontological resources. The handbook gives procedures for permit issuance, requirements for qualified applicants, information on paleontology and planning, and a classification system for potential fossil-bearing geologic formations on public lands. This classification system was superseded by IM-2008-009.

State Regulatory Setting

California Public Resources Code. Section 5097.5 specifies that any unauthorized removal of paleontological remains is a misdemeanor.

California Penal Code. Section 622.5 sets the penalties for damage or removal of paleontological resources.

Local Regulatory Setting

Riverside County General Plan. The following policies outlined in the General Plan 2015 provide direction for paleontological resources:

- **Policy OS 19.6** – Whenever existing information indicates that a site proposed for development has high paleontological sensitivity as shown on Figure OS-8, a paleontological resource impact mitigation program (PRIMP) shall be filed with the County Geologist prior to site grading. The PRIMP shall specify the steps to be taken to mitigate impacts to paleontological resources.
- **Policy OS 19.7** – Whenever existing information indicates that a site proposed for development has low paleontological sensitivity as shown on Figure OS-8, no direct mitigation is required unless a fossil is encountered during site development. Should a fossil be encountered, the County Geologist shall be notified and a paleontologist shall be retained by the project proponent. The paleontologist shall document the extent and potential significance of the paleontological resources on the site and establish appropriate mitigation measures for further site development.
- **Policy OS 19.8** – Whenever existing information indicates that a site proposed for development has undetermined paleontological sensitivity as shown on Figure OS-8, a report shall be filed with the County Geologist documenting the extent and potential significance of the paleontological resources on site and identifying mitigation measures for the fossil and for impacts to significant paleontological resources prior to approval of that department.
- **Policy OS 19.9** – Whenever paleontological resources are found, the County Geologist shall direct them to a facility within Riverside County for their curation, including the Western Science Center in the City of Hemet.

N.13 Population and Housing

There are no federal, state or local regulations, plans, and standards for population and housing that apply to the proposed Project.

N.14 Public Services and Utilities

There are no federal or local regulations, plans, and standards for public services and utilities that apply to the proposed Project.

State Regulatory Setting

2010 Strategic Fire Plan for California. The 2010 Strategic Fire Plan for California was developed in coordination with the State Board of Forestry and Fire Protection and CAL FIRE to reduce and prevent the impacts of fire in California. Goal 6 of the Plan sets objectives to determine the level of suppression resources (staffing and equipment) needed to protect private and public state resources. Specific objectives include, but are not limited to, maintaining an initial attack policy which prioritizes life, property, and natural resources; determining suppression resources allocation criteria; analyzing appropriate staffing levels and equipment needs in relation to the current and future conditions; increasing the number of CAL FIRE crews for fighting wildfires and other emergency response activities; maintaining cooperative agreements with local, state, and federal partners; and implementing new technologies to improve firefighter safety, where available (State Board of Forestry and Fire Protection). The standards outlined are applicable to the fire protection agency serving unincorporated Riverside County.

California Integrated Waste Management Act of 1989. Assembly Bill 939 codified the California Integrated Waste Management Act of 1989 in the Public Resources Code and established a hierarchy to help the California Integrated Waste Management Board (CIWMB) and local agencies implement three major priorities under the Integrated Waste Management Act: source reductions; recycling and composting; and environmentally safe transformation and land disposal. Waste diversion mandates are included under these priorities. The duties and responsibilities of the CIWMB have since been transferred to the California Department of Resources Recycling and Recovery (CalRecycle) after the abolishment of the CIWMB in 2010, but all other aspects of the Act remain unchanged.

The Act requires all local and county governments to adopt a waste reduction measure designed to manage and reduce the amount of solid waste sent to landfills. This Act established reduction goals of 25 percent by the year 1995 and 50 percent by the year 2000. Senate Bill 1016 (2007) streamlines the process of goal measurement related to Assembly Bill 939 by using a disposal-based indicator: the per capita disposal rate. The per capita disposal rate uses only two factors: the jurisdiction's population (employment can be considered in place of population in certain circumstances) and the jurisdiction's disposal as reported by disposal facilities. CalRecycle encourages reduction measures through the continued implementation of reduction measures, legislation, infrastructure, and support of local requirements for new developments to include areas for waste disposal and recycling on-site.

California Code of Regulations (Title 27). Title 27 (Environmental Protection) of the California Code of Regulations defines regulations and minimum standards for the treatment, storage, processing, and disposal of solid waste at disposal sites. The State Water Resources Control Board maintains and regulates compliance with Title 27 (Environmental Protection) of the California Code of Regulations by establishing waste and site classifications and waste management requirements for solid waste treatment, storage, or disposal in landfills, surface impoundments, waste piles, and land treatment units. The compliance of the proposed Project would be enforced by the Colorado River RWQCB Region 7 and the California Department of Resources Recycling and Recovery (CalRecycle) (formerly the California Integrated Waste Management Board). Compost facilities are regulated under CCR Title 14, Division 7, Chapter 3.1 Section 17850 through 17895, by CalRecycle. Permit requests, Reports of Waste Discharge, and Reports and Disposal Site Information are submitted to the RWQCB and CalRecycle, and are used by the two agencies to review, permit, and monitor these facilities.

N.15 Recreation

Federal Regulatory Setting

Federal Land Policy and Management Act. FLPMA recognizes the value of public lands and requires a multiple use/sustained yield framework for management of public lands and their resource values “so that they are utilized in the combination that will best meet the present and future needs of the American people” (43 U.S.C. § 1702(c).). Title VI of FLPMA, *Designated Management Areas, California Desert Conservation Area*, acknowledges the recreational resources contained within the California desert environment and directs the BLM to develop a multiple use and sustained yield management plan to conserve the desert’s resources, particularly recreational use. The solar facility site is governed by these pieces of legislation, and its various alternatives would impact the recreational opportunities available in the vicinity.

CDCA Plan. The CDCA Plan establishes goals for management of recreation in the California Desert (BLM, 1999). As with the FLPMA, recreational opportunities in the study area are framed by the CDCA Plan. The goals are to provide for the use of the public lands and resources of the CDCA, including recreational uses, in a manner that enhances wherever possible — and that does not diminish — the environmental, cultural, and aesthetic values of the desert. The goals of the Recreation Element of the plan are to:

- *Provide for a wide range of quality recreation opportunities and experiences emphasizing dispersed undeveloped use;*
- *Provide a minimum of recreation facilities. Those facilities should emphasize resource protection and visitor safety;*
- *Manage recreation use to minimize user conflicts, provide a safe recreation environment, and protect desert resources;*
- *Emphasize the use of public information and education techniques to increase public awareness, enjoyment, and sensitivity to desert resources;*
- *Adjust management approach to accommodate changing visitor use patterns and preferences;*
- *Encourage the use and enjoyment of desert recreation opportunities by special populations, and provide facilities to meet the needs of those groups; and*
- *Provide for off-road vehicle recreation use where appropriate in conformance with FLPMA, Section 601, and Executive Orders 11644 and 11989.*

ACECs are also identified as special management areas in the CDCA Plan. These include areas where special management attention is required to protect important historic, cultural, scenic, biological, or other natural resources.

The CDCA Plan also contains a motorized-vehicle access element, which provides a system and a set of rules that governs access to the CDCA by motor vehicles. The rules include providing for constrained motor-vehicle access, while protecting desert resources (BLM, 1999). When the CDCA Plan was first adopted, the BLM designated a network of motorized vehicle routes on public lands within the northern and eastern Mojave Desert. The BLM designated routes for north-central and southern portions of the CDCA. The BLM manages OHV use, so the conditions of special status species and other natural and cultural resources are maintained.

Northern and Eastern Colorado Desert Coordinated Management Plan. The NECO Plan, an amendment to the CDCA Plan, provides for management of recreation within the California Desert area of El Centro, Blythe, Needles, and cities in the Coachella Valley (BLM, 2002). The NECO Plan specifies the types of recreational activities allowed in Multiple-Use Classes on BLM-administered land. Under this plan, all routes outside closed and OHV open areas are designated as open, closed, or limited. The NECO plan includes an off-highway vehicles (OHV) route inventory and designated routes of travel (approximately 95 percent of existing routes remained available for vehicle access under the plan). Open routes through the Athos solar facility area include DC 948, 949, 950, 952, and CM511. However, “open” does not mean unrestricted. Special Recreation Permits (SRPs) are authorizations that allow for recreation uses of the public lands and related waters. They are issued as a means to control visitor use, protect recreational and natural resources, and provide for the health and safety of visitors.

Desert Renewable Energy Conservation Plan. The BLM published the Land Use Plan Amendment (LUPA) and Final EIS for the DRECP in November 2015. The DRECP amended the CDCA Plan with the signing of the Record of Decision in September of 2016. It designates SRMAs and Extensive Recreation Management Areas within the California Desert, including the study area (BLM, 2015). The DRECP includes additional conservation management actions for recreation that dictate the types of activities allowed near certain recreational features.

Off-Road Vehicles (43 CFR § 8340, et seq.) This regulation establishes criteria for designating public lands as open, limited, or closed to the use of OHVs and for establishing controls governing the use and operation of OHVs in such areas, while protecting resources, promoting safety, and minimizing user conflicts. Recreational use under Title VI “includes the use, where appropriate, of off-road recreational vehicles”.

N.16 Traffic and Transportation

Federal Regulatory Setting

CFR, Title 49, Subtitle B. This regulation includes procedures and regulations pertaining to interstate and intrastate transport (including hazardous materials program procedures) and provides safety measures for motor carriers and motor vehicles that operate on public highways.

CFR Part 77 – Safe, Efficient Use, and Preservation of the Navigable Airspace. Construction of a project could potentially impact aviation activities if a structure or equipment were positioned such that it would be a hazard to navigable airspace. The Federal Aviation Administration (FAA) has established reporting requirements for construction or alterations around airport and heliport facilities that meet certain criteria regarding final height above ground level and penetration of an imaginary conical surface extending out from the air facility.

With regard to aviation safety, Subpart B, Section 77.9 of the regulations indicates that for areas around airports having runways longer than 3,200 feet, if any construction that is more than 200 feet above ground level or results in an object penetrating an imaginary surface extending outward and upward at a ratio of 100 to 1 from a public or military airport runway out to a horizontal distance of 20,000 feet (approximately 3.78 miles), then an applicant is required to submit FAA Form 7460-1, Notice of Proposed Construction or Alteration, to the Manager, Air Traffic Division, FAA Regional Office having jurisdiction over the area for review and approval of the Project (FAA, 2018). For areas around heliports, this same requirement applies to any construction that is more than 200 feet above ground level or would penetrate an imaginary surface extending outward and upward at a ratio 25 to 1 from a public or military heliport out to a horizontal distance of 5,000 feet.

FAA – Technical Guidance for Evaluating Selected Solar Technologies on Airports. With respect to solar glare on aviation safety, currently, no defined thresholds for project size, type, or distance from the airport are available that automatically trigger FAA airspace review (FAA, 2010). However, proximity to the airport and solar technology are two indicators of likely FAA interest in a solar project (FAA, 2010). According to this FAA technical guidance document, it is the responsibility of local governments, solar developers, and other stakeholders in the vicinity of an airport to check with the airport sponsor and the FAA to ensure there are no potential safety or navigational problems with a proposed solar facility, especially if it is a large facility (FAA, 2010). Sponsors should notify the FAA when such activities are proposed, and the FAA needs to participate in public meetings or permitting processes (FAA, 2010).

State Regulatory Setting

California Vehicle Code (CVC). The CVC includes regulations pertaining to licensing, size, weight, and load of vehicles operated on highways; safe operation of vehicles; and the transportation of hazardous materials.

California Government Code. Sections 65352, 65404, 65940, and 65944, amended by Senate Bill 1462, requires local planning agencies to notify the military whenever a proposed development project or general plan amendment is located within 1,000 feet of a military installation, located within special use airspace, or is located beneath a low-level flight path.

Caltrans. Within the Guide for the Preparation of Traffic Impact Studies (TIS), the following criterion are a starting point in determining when a TIS for a project is needed (Caltrans, 2002):

1. *Generates over 100 peak hour trips assigned to a State highway facility.*
2. *Generates 50 to 100 peak hour trips assigned to a State highway facility – and, affected State highway facilities are experiencing noticeable delay; approaching unstable traffic flow conditions (LOS “C” or “D”).*
3. *Generates 1 to 49 peak hour trips assigned to a State highway facility – and, affected State highway facilities are experiencing significant delay; unstable or forced traffic flow conditions (LOS “E” or “F”).*

As discussed later in Sections 3.17.5 through 3.17.8, during construction, the proposed Project would generate over 100 peak hour trips to I-10 and SR-177. As stated in Caltrans’ *Guide for the Preparation of Traffic Impact Studies*, a TIS may be as simple as providing a traffic count to as complex as a microscopic simulation (Caltrans, 2002). The appropriate level of study is determined by the particulars of a project, the prevailing highway conditions, and the forecasted traffic. Appendix I provides a TIS prepared for the proposed Project. The analysis provided in Sections 3.17.5 through 3.17.8 compares the worst-case daily construction and operational trips against the existing volumes and capacities of study area roadways. This level of analysis is considered consistent with the *Guide for the Preparation of Traffic Impact Studies*.

Local Regulatory Setting

County of Riverside Congestion Management Plan. Riverside County’s Congestion Management Plan (CMP) specifies that all CMP roadways operate at a Level of Service (LOS) of “E” or better. All state highways and principal arterials are CMP roadways. I-10 and SR-177 are the only CMP roadways in the Project study area. The CMP was first established in 1990 under Proposition 111.

Proposition 111 established a process for each metropolitan county in California to designate a Congestion Management Agency (CMA) that would be responsible for development and implementation of the CMP within county boundaries. The Riverside County Transportation Commission (RCTC) was designated as the

CMA in 1990 and, therefore, prepares the CMP updates in consultation with the Technical Advisory Committee (TAC), which consists of local agencies, the County of Riverside, transit agencies, and subregional agencies.

The RCTC's adopted minimum LOS threshold is LOS "E." Therefore, when a CMP street or highway segment falls to "F," a deficiency plan must be required. Preparation of a deficiency plan will be the responsibility of the local agency where the deficiency is located. Other agencies identified as contributors to the deficiency will also be required to coordinate with the development of the plan. The plan must contain mitigation measures, including consideration of Transportation Demand Management (TDM) strategies and transit alternatives, and a schedule for mitigating the deficiency.

Regional Comprehensive Plan and Regional Transportation Plan. Southern California Association of Governments' (SCAG) Intergovernmental Review section, part of the Environmental Planning Division of Planning and Policy, is responsible for performing consistency review of regionally significant local plans, projects, and programs. Regionally significant projects are required to be consistent with SCAG's adopted regional plans and policies, such as the Regional Comprehensive Plan and the Regional Transportation Plan. The criteria for projects of regional significance are outlined in CEQA Guidelines Sections 15125 and 15206. According to the SCAG Intergovernmental Review Procedures Handbook, "new or expanded electrical generating facilities and transmission lines" qualify as regionally significant projects.

Riverside County General Plan – Circulation Element. The Riverside County General Plan (adopted December 2015) is applicable to all unincorporated lands within Riverside County. Countywide policies that address traffic and transportation within the County boundaries are located in the Circulation Element and Land Use Element of the County General Plan, and include (Riverside County, 2015):

- **Policy C1.8:** Ensure that all development applications comply with the California Complete Streets Act of 2008 as set forth in California Government Code Sections 65040.2 and 65302.
- **Policy C2.1:** The following minimum target levels of service have been designated for the review of development proposals in the unincorporated areas of Riverside County with respect to transportation impacts on roadways designated in the Riverside County Circulation Plan (Figure C-1), which are currently County maintained, or are intended to be accepted into the County maintained roadway system:
 - LOS C shall apply to all development proposals in any area of the Riverside County not located within the boundaries of an Area Plan, as well those areas located within the following Area Plans: REMAP, Eastern Coachella Valley, Desert Center, Palo Verde Valley, and those non- Community Development areas of the Elsinore, Lake Mathews/Woodcrest, Mead Valley and Temescal Canyon Area Plans.
 - LOS D shall apply to all development proposals located within any of the following Area Plans: Eastvale, Jurupa, Highgrove, Reche Canyon/Badlands, Lakeview/Nuevo, Sun City/Menifee Valley, Harvest Valley/Winchester, Southwest Area, The Pass, San Jacinto Valley, Western Coachella Valley and those Community Development Areas of the Elsinore, Lake Mathews/Woodcrest, Mead Valley and Temescal Canyon Area Plans.
 - LOS E may be allowed by the Board of Supervisors within designated areas where transit oriented development and walkable communities are proposed.

Notwithstanding the forgoing minimum LOS targets, the Board of Supervisors may, on occasion by virtue of their discretionary powers, approve a project that fails to meet these LOS targets in order to balance congestion management considerations in relation to benefits, environmental impacts and costs, provided an Environmental Impact Report, or equivalent, has been completed to fully evaluate

the impacts of such approval. Any such approval must incorporate all feasible mitigation measures, make specific findings to support the decision, and adopt a statement of overriding considerations.

- **Policy C2.2:** Require that new development prepare a traffic impact analysis as warranted by the Riverside County Traffic Impact Analysis Preparation Guidelines or as approved by the Director of Transportation. Apply level of service targets to new development per the Riverside County Traffic Impact Analysis Preparation Guidelines to evaluate traffic impacts and identify appropriate mitigation measures for new development.
- **Policy C2.3:** Traffic studies prepared for development entitlements (tracts, plot plans, public use permits, conditional use permits, etc.) shall identify project related traffic impacts and determine the “significance” of such impacts in compliance with CEQA and the Riverside County Congestion Management Program Requirements.
- **Policy C2.4:** The direct project related traffic impacts of new development proposals shall be mitigated via conditions of approval requiring the construction of any improvements identified as necessary to meet level of service targets.
- **Policy C2.8:** Riverside County shall coordinate with Caltrans, RCTC and adjacent local jurisdictions in conformance with the Riverside County Congestion Management Program to determine the appropriate LOS threshold for determining significance when reviewing development proposals that directly impact nearby State Highway facilities or city streets.
- **Policy C3.6:** Require private developers to be primarily responsible for the improvement of streets and highways that serve as access to developing commercial, industrial, and residential areas. These may include road construction or widening, installation of turning lanes and traffic signals, and the improvement of any drainage facility or other auxiliary facility necessary for the safe and efficient movement of traffic or the protection of road facilities.
- **Policy C3.8:** Restrict heavy duty truck through-traffic in residential and community center areas and plan land uses so that trucks do not need to traverse these areas.
- **Policy C3.9:** Design off-street loading facilities for all new commercial and industrial developments so that they do not face surrounding roadways or residential neighborhoods. Truck backing and maneuvering to access loading areas shall not be permitted on the public road system, except when specifically permitted by the Transportation Department.
- **Policy C3.10:** Require private and public land developments to provide all on-site auxiliary facility improvements necessary to mitigate any development-generated circulation impacts. A review of each proposed land development project shall be undertaken to identify project impacts to the circulation system and its auxiliary facilities. The Transportation Department may require developers and/or subdividers to provide traffic impact studies prepared by qualified professionals to identify the impacts of a development.
- **Policy C6.1:** Provide dedicated and recorded public access to all parcels of land, except as provided for under the statutes of the State of California.
- **Policy C6.2:** Require all-weather access to all new development.
- **Policy C7.1:** Work with incorporated cities to mitigate the cumulative impacts of incorporated and unincorporated development on the countywide transportation system.
- **Policy C7.9:** Review development applications in cooperation with RCTC and as appropriate, to identify the precise location of CETAP corridors and act to preserve such areas from any permanent

encroachments, pending dedication or acquisition. Coordinate with RCTC to evaluate and update the CETAP corridors periodically as conditions warrant.

Riverside County Municipal Code Title 10, Chapter 10.08, Sections 10.08.010 – 10.08.180. These regulations establish requirements and permits for oversize and overweight vehicles.

Riverside County Ordinance No. 460. This ordinance specifies that all new access roads shall conform to the requirements of the Riverside County Transportation Department Subdivision Regulations.

Riverside County Ordinance No. 461. This ordinance specifies that all new access roads shall conform to the requirements of the Riverside County Transportation Department Road Improvement Standards and Specifications.

N.17 Energy

State Regulatory Setting

Energy Action Plan and Loading Order. California has mandated and implemented aggressive energy-use reduction programs for electricity and other resources. In 2003, California’s first Energy Action Plan (EAP) established a high-level, coherent approach to meeting California’s electricity and natural gas needs and set forth the “loading order” to address California’s future energy needs. The “loading order” established that the state, in meeting its energy needs, would invest first in energy efficiency and demand-side resources, followed by renewable resources, and only then in clean conventional electricity supply (CPUC, 2008). Since that time, the CPUC and California Energy Commission (CEC) have overseen the plans, policies, and programs for prioritizing the preferred resources, including energy efficiency and renewable energy.

Senate Bill 100. On September 10, 2018, Senate Bill (SB) 100 was passed, making California the second state in the nation with a deadline to move to 100% zero-carbon electricity. SB 100 will accelerate California’s renewable portfolio standard (RPS) requirements of electricity utility providers to 50% renewable energy sources by 2025, 60% by 2030, and will require that the next 40% comes from zero-carbon sources of electricity by 2045.

State CEQA Guidelines. The California Natural Resources Agency adopted certain amendments to the State CEQA Guidelines effective in 2019, to change how CEQA Lead Agencies consider the environmental impacts of energy use. The State CEQA Guidelines, §15126.2(b) requires analysis of a project’s energy use, in order to assure that energy implications are considered in project decisions. CEQA requires a discussion of the potential environmental effects of energy resources used by projects, with particular emphasis on avoiding or reducing the “wasteful, inefficient, and unnecessary consumption of energy” (see Public Resources Code section 21100(b)(3)).