

RESOLUTION NO. 2015-14

RESOLUTION OF THE BOARD OF DIRECTORS OF LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, MAKING FINDINGS THAT (1) THE HESPERIA FARMS SOLAR PHOTOVOLTAIC PROJECT CONSTITUTES ELECTRICAL GENERATION FACILITIES AND (2) THERE IS NO FEASIBLE ALTERNATIVE TO THE PROJECT LOCATION, RENDERING CITY OF HESPERIA ZONING ORDINANCES INAPPLICABLE PURSUANT TO GOVERNMENT CODE SECTION 53096; ADOPTING FINAL MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING AND REPORTING PROGRAM UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND APPROVING PROJECT

RECITALS

WHEREAS, California Government Code section 53091, subdivisions (d) and (e), expressly exempt from county and city building and zoning ordinances the construction of facilities for the production, generation or transmission of electrical energy by a local agency, such as the Lake Arrowhead Community Services District (“District”);

WHEREAS, a “facility” subject to the exemption stated in Government Code section 53091 is broadly construed by the courts as including something that is built, constructed, installed, or established to perform some particular function or to serve or facilitate some particular end, such as the production, generation or transmission of electrical energy;

WHEREAS, a solar photovoltaic system operating under the Renewable Energy Self-Generation Bill Credit Transfer Tariff produces and generates electrical energy that is fed into the meter at the site upon which the solar photovoltaic system is located and utilized by the local utility, which generates a credit that is applied to energy use at other facilities owned by the public agency who operates the solar photovoltaic system;

WHEREAS, the Solar Rights Act, specifically, Civil Code section 801.5, subdivision (a), broadly defines a solar energy system as including both the solar photovoltaic panels and the support structures upon which the solar photovoltaic panels are attached;

WHEREAS, the Legislative intent of the Solar Rights Act, when read in conjunction with Government Code section 53091, was to exempt solar facilities, including the mounting structures upon which the solar photovoltaic panels are mounted, from city and county permitting requirements in order to encourage and facilitate the installation of solar energy systems;

WHEREAS, Government Code section 53096 provides the mechanism for a local agency to override city or county building and zoning ordinances for facilities related to storage or transmission of electrical energy;

WHEREAS, the District desires to construct 0.96 megawatt solar electric panels located on five to six acres on part of the District-owned, 350-acre Hesperia Farms property located at 6727 Arrowhead Lake Road, Hesperia, California (“Project”);

WHEREAS, on October 27, 2015, the District’s Board of Directors approved Resolution No. 2015-10 approving the award of the Energy Services Agreement to SunPower Corporation, Systems (“SunPower”), contingent upon compliance with CEQA, and authorized the execution and delivery of other documents and actions required in connection therewith. SunPower will design, construct, and install solar photovoltaic facilities at the Project site. SunPower will also arrange with the local utility for interconnection of the facilities to generate energy that will be used by the local utility and result in credits to offset use by the District at its operating facilities under the RESBCT Tariff;

WHEREAS, the District’s Solar Power Alternatives Ad Hoc Committee working with SunPower, was unable to identify any other sites owned by the District with sufficient space suitable for the purpose of installing the Project. The District does not own any other property that has the acreage and necessary components for a successful solar project due to terrain, trees, and weather conditions. The proposed site for the Project is a prime location for solar development based on capital costs, utility inflation, and photovoltaic degradation considerations;

WHEREAS, at least 10 days prior to the public hearing, the District hand delivered notice of the hearing to the owners of all property within 300 feet of the Project site, and posted notice of the hearing in a conspicuous place at the Project site, as required by Government Code section 53096;

WHEREAS, in light of the above, the District seeks to make formal findings that the proposed Project will be directly utilized by the District for the production / generation of electrical energy and there is no feasible alternative to the location of the Project, and, as such, the facilities are exempted from City of Hesperia and any other county or city zoning and building requirements under sections 53091 and 53096 of the Government Code;

WHEREAS, District staff determined that the Project is considered a “project” under the requirements of the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000 *et seq.* The District, in conjunction with its environmental consultants, prepared an Initial Study to determine possible environmental impacts under State CEQA Guidelines section 15063;

WHEREAS, on the basis of the Initial Study, which indicated that all potential environmental impacts from the Project would be less than significant with the incorporation of the mitigation measures in the Mitigation Monitoring and Reporting Program (“MMRP”), District staff determined that a Mitigated Negative Declaration (“MND”) should be prepared;

WHEREAS, the Draft Initial Study/MND was prepared in accordance with CEQA, the State CEQA Guidelines (Title 14 of the California Code of Regulations Code, section 15000 *et seq.*); and the District’s Local CEQA Guidelines;

WHEREAS, the Draft Initial Study/MND was circulated for review by the public and interested, responsible, and trustee agencies from April 22 to May 22, 2015. District staff, in conjunction with its environmental consultant, revised certain mitigation measures in response to comments and elected to recirculate the Revised Initial Study/MND for review and comment;

WHEREAS, the District made the Revised Initial Study/MND available to the public and all interested, responsible and trustee agencies for at least 30 days (November 6 to December 6, 2015) by: (1) filing a Notice of Intent to Adopt a Mitigated Negative Declaration (“NOI”) with the State Clearinghouse; (2) filing a NOI with the San Bernardino County Clerk; (3) placing a NOI in the Mountain News, a newspaper of General Circulation; (4) posting a NOI at the Project site, the District’s office, and the Yucaipa branch of the County of San Bernardino library; and (5) mailing a NOI to various interested persons, agencies, and tribes, and to the owners and occupants of property contiguous to the Project;

WHEREAS, the District received, considered and responded to all comments from the public, as well as any responsible, trustee, and interested agencies, on the Revised Initial Study/MND;

WHEREAS, the Final Initial Study/MND consists of the responses to comments and the Revised Initial Study/MND;

WHEREAS, at a Special Meeting on December 15, 2015, the Board held a duly noticed public hearing to consider the Final Initial Study/MND, the MMRP, and the Project;

WHEREAS, the Board has reviewed the Final Initial Study/MND and all other relevant information contained in the administrative record regarding the Project; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the Lake Arrowhead Community Services District as follows:

1. The matters set forth in the recitals to the Resolution are true and correct statements.
2. The Board finds and determines that the Project constitutes facilities for the generation of electrical energy, and therefore meets the criteria for exemption from (1) City of Hesperia building ordinances under Government Code section 53091, subdivision (d), and (2) City of Hesperia zoning ordinances under Government Code section 53091, subdivision (e).
3. The Board finds and determines that for over a year the District’s Solar Power Alternatives Ad Hoc Committee and SunPower met on numerous occasions and, with District staff, thoroughly reviewed and analyzed all potential locations for the Project. The District does not own any other property that has the acreage and necessary components for a successful solar project due to terrain, trees, and weather conditions. Further, in order to comply with the City’s solar ordinance, the District would have to redesign and relocate the Project away from the nearest residentially designated property, which would include the installation of additional AC conductor between the solar array and the Point of Interconnection. This would result in a significant cost increase, measurable power loss, and project delay.
4. Thus, the Board finds it is not feasible to install the solar photovoltaic system at any other locations other than the proposed location identified in Exhibit “A”, attached hereto

and incorporated herein.

5. Based on the above-findings, the Board finds and determines that pursuant to Government Code section 53096, there is no feasible alternative to the location of the Project at the Hesperia Farms site, by four-fifths vote of the Board, City of Hesperia zoning ordinances, including but not limited to, City of Hesperia Ordinance No. 2012-07, are rendered inapplicable to the Project.

6. The Board directs District staff to provide the City of Hesperia with a copy of this Resolution within ten (10) calendar days of the Board's adoption.

7. As the decision-making body for the Project, the Board has reviewed and considered the Final Initial Study/MND and administrative record for the Project, including all oral and written comments received during the comment period. The Board finds that the Final Initial Study/MND and the administrative record have been completed in compliance with CEQA, the State CEQA Guidelines, and the District's Local CEQA Guidelines.

8. Based on the Final Initial Study/MND and the administrative record, including all written and oral evidence presented to the Board, the Board finds that all environmental impacts of the Project are less than significant with mitigation. The Board further finds that there is no substantial evidence in the administrative record supporting a fair argument that the Project may result in significant environmental impacts. The Board finds that the Final Initial Study/MND contains a complete, objective and accurate reporting of the environmental impacts associated with the Project and reflects the independent judgment and analysis of the Board. No new significant environmental effects have been identified in the Final Initial Study/MND and any changes to the Final Initial Study/MND in response to comments or otherwise do not constitute substantial revisions requiring recirculation under State CEQA Guidelines section 15073.5.

9. The Board approves and adopts the MND pursuant to Public Resources Code section 21080, subdivision (c)(2).

10. Pursuant to Public Resources Code section 21081.6, the Board approves and adopts the MMRP prepared for the Project and attached to this Resolution as Exhibit "B".

11. The Board approves the Project as described in the Final Initial Study/MND.

12. The Board directs staff to file a Notice of Determination with the San Bernardino County Clerk and the Office of Planning and Research within five (5) working days of approval of the Project.

13. The documents and materials that constitute the record of proceedings on which these findings have been based are located at Lake Arrowhead Community Services District, 27307 State Highway 189, Blue Jay, California 92317. The custodian of these documents is the General Manager of the Lake Arrowhead Community Services District.

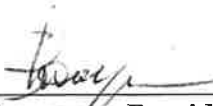
The foregoing Resolution was adopted at a meeting of the Board of Directors of the Lake Arrowhead Community Services District on December 15, 2015, by the following vote:

AYES: Boydston, Keefe, Thompson, and Wurm

NOES: None

ABSENT: Gross

ABSTAIN: None



**Bill Thompson President, Board of Directors
Lake Arrowhead Community Services District**

ATTEST:



Kathleen Field, Clerk of the Board

**EXHIBIT A – MAP OF PROJECT SITE
EXHIBIT B – MITIGATION MONITORING AND REPORTING PROGRAM**

EXHIBIT "A" 1 OF 2

Figure 1a. Project Location-Aerial Base

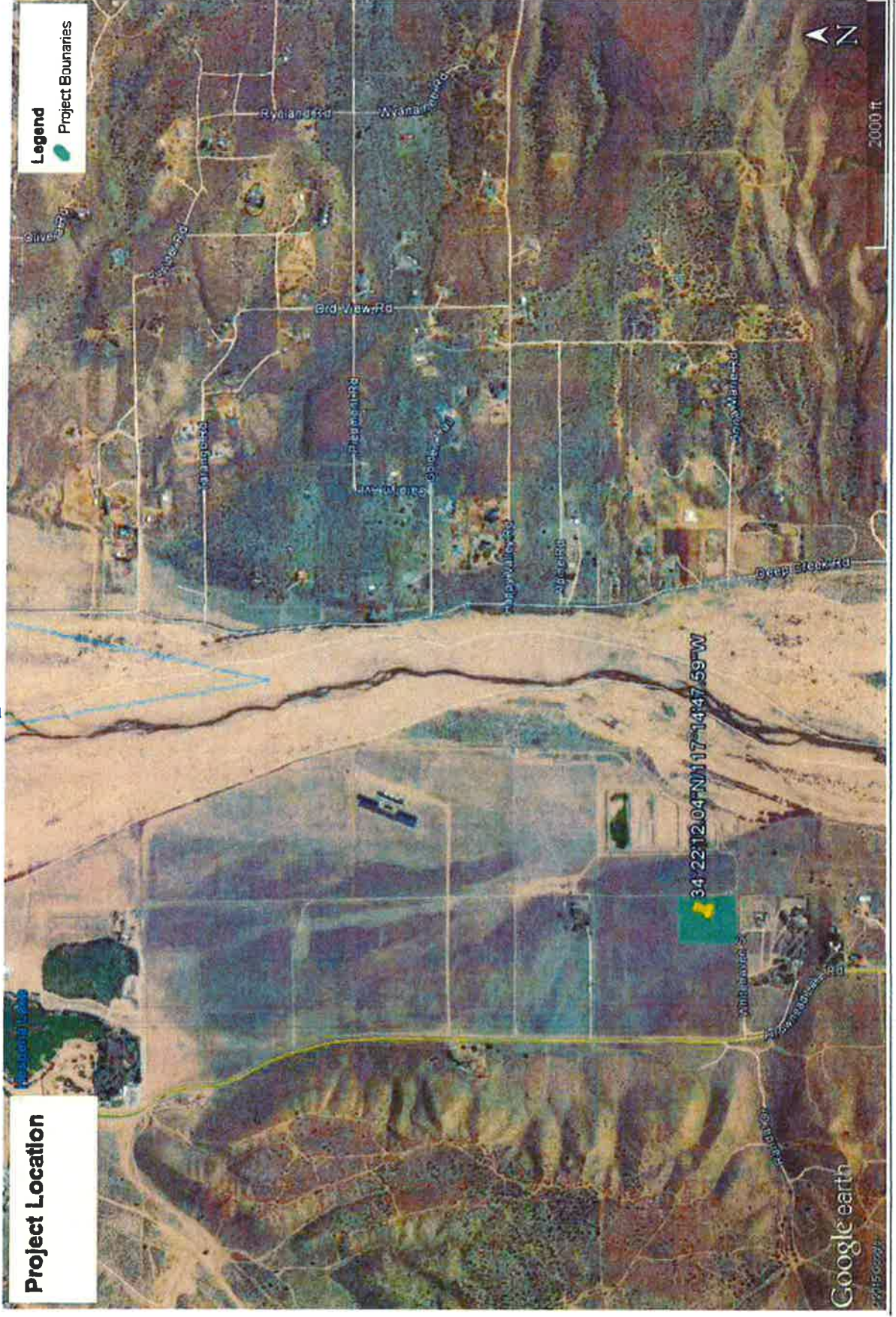


FIGURE 4d
Aerial Photo of the LACSD Solar Facility Site (after development)

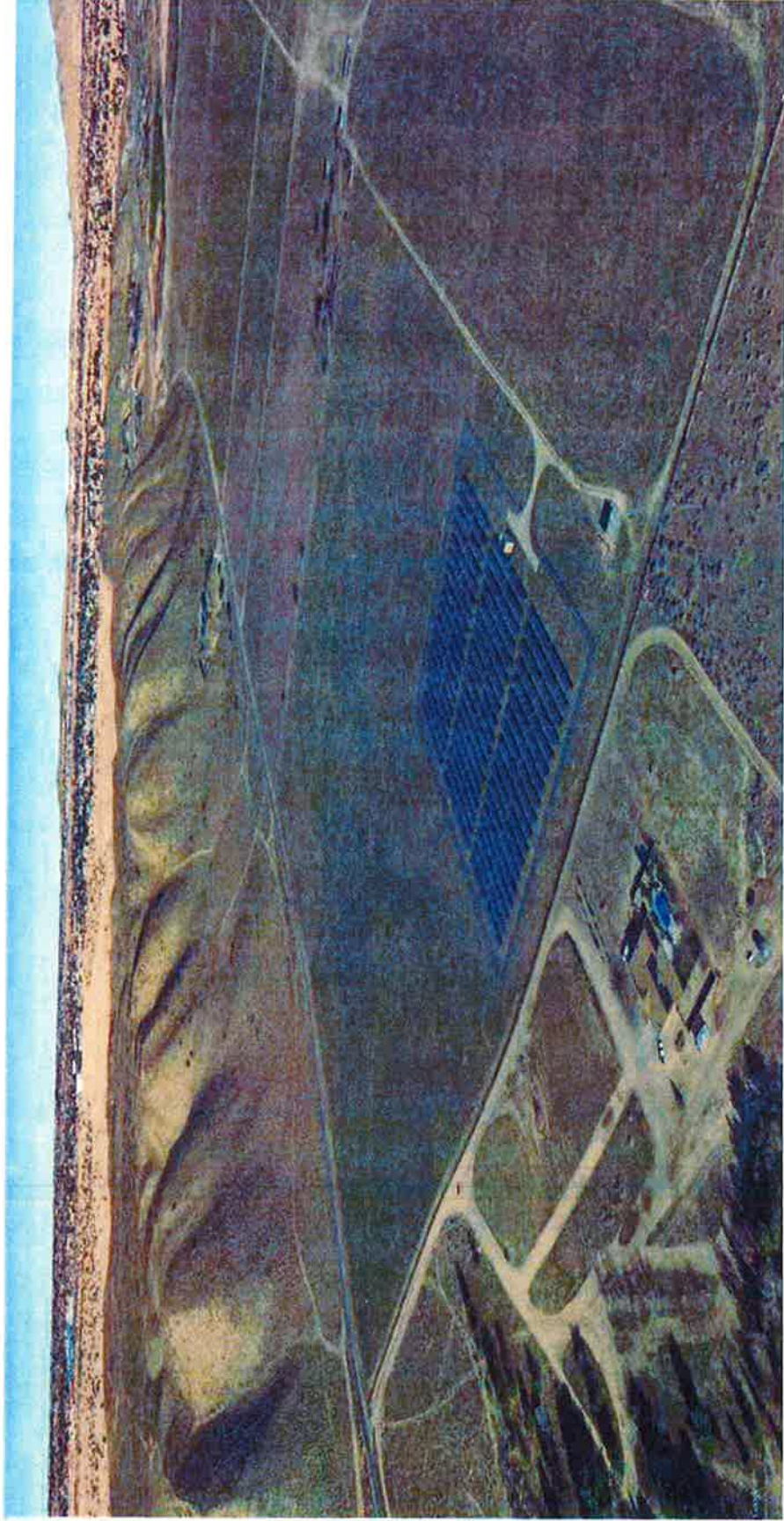


EXHIBIT “B”

APPENDIX 7

Mitigation Monitoring and Reporting Program

The Mitigation Monitoring and Reporting Program (MMRP) for the proposed project has been prepared in accordance with PRC Section 21081.6 and *State CEQA Guidelines* Section 15091(d). The Lake Arrowhead Community Services District (District) will use this MMRP to track compliance with the project mitigation measures. The District’s Board of Directors will consider adoption of the MMRP for the Mitigated Negative Declaration (MND). The MMRP will incorporate all mitigation measures adopted for the proposed project.

This MMRP summarizes potentially significant impacts and mitigation commitments identified in the Hesperia Farms Solar Photovoltaic Project MND. **Table 7-1** provides the MMRP which includes all mitigation measures, monitoring process, monitoring timing, and responsible persons/agency for implementation. Impacts and mitigation measures are presented in the same order as in the project MND. The columns in the table provide the following information:

- **Mitigation Measures:** The action(s) that will be taken to reduce the impact to a less-than-significant level.
- **Monitoring Process:** This column outlines the appropriate steps to implement and verify compliance with the mitigation measures.
- **Monitoring Timing:** This column indicates the general schedule for conducting each monitoring task, either prior to construction, during construction, and/or after construction.
- **Responsible Person(s):** This column lists the agency responsible for ensuring implementation of the mitigation measure. The District will assume responsibility for all monitoring and reporting actions.

**TABLE 7-1
MITIGATION MONITORING AND REPORTING PROGRAM – HESPERIA FARMS SOLAR PHOTOVOLTAIC PROJECT**

Mitigation Measures	Monitoring Process	Monitoring Timing	Responsible Person(s)
I. Aesthetics			
Mitigation Measure I-1: The District shall install a low height vegetation barrier on the southern boundary of the solar facility that will shield nearby residences from visual access to the facility, but not eliminate scenic views north of the project site. This "hedge" or vegetation barrier shall be planted prior to initiating construction of the solar facility and shall be irrigated using District provided well water. It shall be maintained at a maximum height of six feet.	Site Inspection	Prior to Construction, During Construction, Post Construction	District
Mitigation Measure I-2: Night lighting will be located and shielded so as to avoid creating a nuisance to nearby residents. Light from onsite security and safety lighting shall not spill off the solar facility site onto adjacent residences or other light sensitive uses. A maximum change in light at the nearest residence of 0.5 foot candle shall be used as the threshold of significance.	Site Inspection	During Construction	District
III. Air Quality			
Mitigation Measure III-1: Fugitive Dust Mitigation Measures:	Site Monitoring	Prior to Construction, During Construction	District
<ul style="list-style-type: none"> • Apply soil stabilizers such as hay bales or aggregate cover to inactive areas. • Prepare a high wind dust control plan and implement plan elements and terminate soil disturbance when winds exceed 25 miles per hour (mph). • Stabilize previously disturbed areas if subsequent construction is delayed. • Water exposed surfaces and haul roads 3 times/day. • Cover all stock piles with tarps. • Replace ground cover in disturbed areas quickly. • Reduce speeds on unpaved roads to less than 15 mph. • Minimize the time that trenches or other excavations are left exposed. • Identify proper compaction for backfilled soils in construction specifications. 			
Prior to initiating ground disturbance activities, the District shall incorporate the above measures and any other fugitive dust control measures into a dust control plan and submit it to MDAQMD.			
Mitigation Measure III-2: The District shall erect a sign with the following dimensions prior to the commencement of construction: A minimum 48 inch in height by 96 inch width; the sign shall be located within 50 feet of each project site entrance; text shall meet minimum text height (identified below); text shall be black on a white background on one inch A/C laminated plywood board; lower edge of the sign shall be between six and seven feet above grade; text shall include the contact name of the responsible official for the site and a local or toll-free number that is accessible 24 hours per day; and text shall be arranged as follows:	Site Inspection	During Construction	District
<p>"Site Name (four inch text) Project Name/Project Number (four inch text) IF YOU SEE DUST COMING FROM (four inch text) THIS PROJECT CALL: (four inch text) Contact Name, PHONE NUMBER XXXXXXXX (six inch text)</p>			

**TABLE 8-1 (continued)
MITIGATION MONITORING AND REPORTING PROGRAM – WEYMOUTH IMPROVEMENTS PROGRAM**

Mitigation Measures	Monitoring Process	Monitoring Timing	Responsible Person(s)
<p>Contact Name, PHONE NUMBER XXXXXXXX (six inch text) if you do not receive a response, Please call (three inch text) The MDAQMD at 1-800-635-4617 (three inch text)*</p>			
<p>Mitigation Measure III-3: Additional fugitive dust measures:</p>	Site Monitoring	During Construction	District
<ul style="list-style-type: none"> • A water truck shall be used to maintain moist disturbed surfaces and actively spread water during visible fugitive dust emissions. For projects with exposed san or fines deposits (and for projects that expose such soils through earthmoving), chemical stabilization or covering with a stabilizing layer of gravel will be required to eliminate visible dust/sand from sand/fines deposits. • All perimeter fencing shall be wind fencing or the equivalent, to a minimum of four feet of height or the top of all perimeter fencing. The owner/operator shall maintain the wind fencing as needed to keep it intact and remove windblown dropout. This wind fencing requirement may be superseded by local ordinance, rule or project-specific biological mitigation prohibiting wind fencing. • All maintenance and access vehicular roads and parking areas shall be stabilized with chemical, gravel or asphaltic pavement sufficient to eliminate visible fugitive dust from vehicular travel and wind erosion. Actions must be taken to prevent project-related trackout onto paved surfaces, and clean any project-related trackout within 24 hours. All other earthen surfaces within the project area shall be stabilized by natural or irrigated vegetation, compaction, chemical or other means sufficient to prohibit visible fugitive dust from wind erosion. 			
<p>IV. Biological Resources</p>			
<p>Mitigation Measure IV-1: Within 14 days prior to the initiation of any grading or clearing activities, a subsequent Western Burrowing Owl Survey shall be performed to confirm that burrowing owls have not occupied any portion of the site. In the event that a portion of the site has been occupied by the burrowing owl, the survey biologist in consultation with California Department of Fish and Wildlife shall establish no disturbance areas around the burrow and related foraging area to ensure that no impacts to the burrowing owl occur. The subsequent survey will comply with the survey protocols established by the California Department of Fish and Wildlife and U.S. Fish and Wildlife Service.</p>	Site Survey	Prior to Construction, During Construction	District
<p>Mitigation Measure IV-2: Within 30 days prior to the initiation of any grading or clearing activities, preconstruction surveys shall be conducted to determine the absence of special status species (including arroyo toad, Mohave ground squirrel, and desert kit fox) within the project impact areas. If special status species, burrows, dens, nest, or sign are found within project impact areas, these areas shall be avoided with the establishment of a non-disturbance zone or other avoidance measures as determined in coordination with the California Department of Fish and Wildlife and U.S. Fish and Wildlife Service. Where avoidance is infeasible, the District shall coordinate with the California Department of Fish and Wildlife and U.S. Fish and Wildlife Service.</p>	Site Survey	Prior to Construction, During Construction	District

Appendix 7: Mitigation Monitoring and Reporting Program

Mitigation Measures	Monitoring Process	Monitoring Timing	Responsible Person(s)
<p>Mitigation Measure IV-3: The removal of potential nesting vegetation of native bird species shall be conducted outside of the nesting season (February 1 to August 31), if feasible. Regardless of the nesting season, prior to any vegetation removal, a qualified biologist shall conduct a nesting bird survey of potentially suitable nesting vegetation or substrate on the entire solar project site. Surveys shall be conducted no more than three days prior to scheduled vegetation removal. If active nests are identified, the biologist shall establish buffers around the vegetation or ground substrate containing the active nest (500 feet for raptors and 200 feet for non-raptors). The vegetation or ground substrate containing the active nest shall not be removed, and no grading shall occur within the established buffer until a qualified biologist has determined that the nest is no longer active. If clearing is not conducted within three days of a negative survey, the nesting survey must be repeated to confirm the absence of nesting birds.</p>	Site Survey	Prior to Construction, During Construction	District
<p>V. Cultural Resources</p>			
<p>Mitigation Measure V-1: If buried cultural material is discovered during any earth-moving operations associated with the Project, all work in that area should be halted or diverted until a qualified archaeologist can evaluate the nature and significance of the finds. Any resources of significance shall be managed in accordance with pertinent professional standards for such resource. If human remains are discovered the County Coroner shall be contacted to appropriately manage any such remains.</p>	Site Inspection/Survey	During Construction	District
<p>VI. Geology and Soils</p>			
<p>Mitigation Measure VI-1: To manage both seismic and liquefaction hazards at the project site, the District shall implement the recommended seismic design criteria and measures provided in the project geology report, reproduced here as Appendix 5.</p>	Site Inspection	During Construction	District
<p>Mitigation Measure VI-2: Stored backfill material shall be covered with water resistant material during periods of heavy precipitation to reduce the potential for rainfall erosion of the material. If covering is not feasible, then measures such as the use of straw bales or sand bags shall be used to capture and hold eroded material on the project site for future cleanup.</p>	Site Inspection	During Construction	District
<p>Mitigation Measure VI-3: Excavated areas shall be properly backfilled and compacted. Paved areas disturbed by this project will be repaved in such a manner that roadways and other disturbed areas are returned to as near the pre-project condition as is feasible.</p>	Site Inspection	During Construction, Post Construction	District
<p>Mitigation Measure VI-4: All exposed, disturbed soil (trenches, stored backfill, etc.) will be sprayed with water or soil binders twice a day or more frequently if fugitive dust is observed migrating from the site within which the water facilities are being installed.</p>	Site Inspection	During Construction	District
<p>Mitigation Measure VI-5: The length of trench which can be left open at any given time will be limited to that needed to reasonably perform construction activities. This will serve to reduce the amount of backfill stored onsite at any given time.</p>	Site Inspection	During Construction	District

**TABLE 8-1 (continued)
MITIGATION MONITORING AND REPORTING PROGRAM – WEYMOUTH IMPROVEMENTS PROGRAM**

Mitigation Measures	Monitoring Process	Monitoring Timing	Responsible Person(s)
<p>Mitigation Measure VI-6: The District shall identify any additional best management practices (BMPs) to ensure that the discharge of surface water does not cause erosion downstream of the discharge point. This shall be accomplished by reducing the energy of any site discharge through an artificial energy dissipator or equivalent device. If any substantial erosion or sedimentation occurs, any erosion or sedimentation damage shall be restored to pre-discharge conditions immediately following an erosive event. Restoration shall consist of repairing the onsite erosion by recontouring the eroded area and providing additional protection to prevent a similar event in the future.</p>	Site Inspection	During Construction	District
<p>VIII. Hazards and Hazardous Materials</p>			
<p>Mitigation Measure VIII-1: All spills or leakage of petroleum products during construction activities will be remediated in compliance with applicable state and local regulations regarding cleanup and disposal of the contaminant released. The contaminated waste will be collected and disposed of at an appropriately licensed disposal or treatment facility. This measure will be incorporated into the Stormwater Pollution Prevention Plan (SWPPP) prepared for the project development</p>	Site Monitoring	During Construction	District
<p>IX. Hydrology and Water Quality</p>			
<p>Mitigation Measure IX-1: The District shall prepare and implement a construction SWPPP. The plan shall identify the BMPs that will be used for the project site to minimize the potential for accidental releases of any chemicals or materials on the site that could degrade water quality, including solid waste and require that any spills be cleaned-up, contaminated material properly disposed of and the site returned to pre-discharge condition, or in full compliance with regulatory limits for the discharged material. The portion of the SWPPP that addresses erosion and related sediment discharge shall specify the percentage of pollutant removal from discharges that is proposed to be achieved. At a minimum, BMPs shall be designed to achieve 60 percent removal of sediment other pollutants from runoff generated by disturbed sites during construction.</p>	Site Monitoring	Prior to Construction, During Construction	District
<p>XII. Noise</p>			
<p>Mitigation Measure XII-1: Construction activities shall be limited to the hours at 7 a.m. to 7 p.m. on Monday through Friday, and between 9 a.m. to 6 p.m. on Saturday, and shall be prohibited on Sundays and federal holidays except during documented emergencies.</p>	Site Monitoring	During Construction	District
<p>Mitigation Measure XII-2: All construction vehicles and fixed or mobile equipment shall be equipped with properly operating and maintained sound attenuating devices such as mufflers.</p>	Site Inspection, Equipment Inspection	During Construction	District
<p>Mitigation Measure XII-3: All employees that will be exposed to noise levels greater than 75 dB over an 8-hour period shall be provided with adequate hearing protection devices to ensure no hearing damage will result from construction activities.</p>	Site Inspection, Equipment Inspection	During Construction	District
<p>Mitigation Measure XII-4: If equipment is being used that can cause hearing damage at adjacent noise receptor locations (distance attenuation shall be taken into account), portable noise barriers shall be installed that are demonstrated to be adequate to reduce noise levels at receptor locations below hearing damage thresholds.</p>	Site Monitoring, Equipment Inspection	During Construction	District

Appendix 7: Mitigation Monitoring and Reporting Program

Mitigation Measures	Monitoring Process	Monitoring Timing	Responsible Person(s)
<p>Mitigation Measure XII-5: Schedule the construction such that the minimum number of pieces of equipment will be operating at the same time.</p>	Site Inspection	Prior to Construction, During Construction	District
<p>Mitigation Measure XII-6: The construction contractor shall establish a noise complaint program and post a number at the job site where such complaints can be registered. The contractor shall take efforts to control noise (portable sound barriers, short-term relocation, etc.) and document these efforts with the District.</p>	Site Inspection	Prior to Construction, During Construction	District