

# 1 Introduction

This environmental impact report (EIR) has been prepared to meet the requirements of the California Environmental Quality Act (CEQA) for purposes of evaluating the potential environmental impacts, mitigation measures, and alternatives associated with the proposed Brawley Solar Energy Facility Project. This EIR describes the existing environment that would be affected by, and the environmental impacts which could potentially result from the construction and operation of the proposed project as described in detail in Chapter 2.0 of this EIR.

## 1.1 Overview of the Proposed Project

The project site is located on approximately 227 acres of privately-owned land in the unincorporated area of Imperial County, California. The site is approximately one mile north from the City of Brawley's jurisdictional limit. The project site is south of Baughman Road, west of North (N) Best Avenue, and north of Andre Road. The City of Brawley Wastewater Treatment Plant is located along the western edge of the project site.

The proposed project involves the construction and operation of a 40 megawatt (MW) photovoltaic (PV) solar facility with an integrated 40 MW battery storage system (BESS) (not to exceed 80 MW) on approximately 227 acres of privately-owned land. The proposed project would be comprised of bifacial solar PV arrays panels, an on-site substation, BESS system, fiberoptic line or microwave tower, inverters, transformers, underground electrical cables and access roads. The proposed project would connect to the existing North Brawley Geothermal Power Plant substation located southwest of the project site via an approximately 1.8-mile long aboveground 92 kilovolt generation tie line.

### 1.1.1 Agency Roles and Responsibilities

This section identifies and summarizes federal, state, and local laws, policies, and regulations that are applicable to the project.

#### County of Imperial

Implementation of the project would involve the following approvals by the County of Imperial:

1. **General Plan Amendment.** An amendment to the County's General Plan, Renewable Energy and Transmission Element is required to implement the proposed project. CUP applications proposed for specific renewable energy projects not located in the RE Overlay Zone would not be allowed without an amendment to the RE Overlay Zone. The northern portion of the project site (APNs 037-140-020 and 037-140-021) is located within the Geothermal Overlay Zone. However, the entire project site (APNs 037-140-020, 037-140-021, 037-140-022, 037-140-023, and 037-140-006) is located outside of the RE Overlay Zone. Therefore, the applicant is requesting a General Plan Amendment to include/classify all five project parcels into the RE Overlay Zone. No change in the underlying General Plan land use (Agriculture) is proposed.
2. **Zone Change.** The project site is currently zoned General Agricultural with a Geothermal Overlay (A-2-G). The applicant is requesting a Zone Change to include/classify all five project parcels into the Renewable Energy/Geothermal (REG) Overlay Zone (A-2-REG).

3. **Approval of CUP.** Implementation of the project would require the approval of a CUP by the County to allow for the construction and operation of the proposed solar energy facility with an integrated battery storage system. The project site is located on five privately-owned legal parcels zoned General Agricultural with a Geothermal Overlay (A-2-G). With approval of the zone change, the project site would be zoned General Agricultural with a REG Overlay Zone (A-2-REG). Pursuant to Title 9, Division 5, Chapter 8, the following uses are permitted in the A-2 zone subject to approval of a CUP from Imperial County: solar energy electrical generator, battery storage facility, electrical substations, communication towers, and facilities for the transmission of electrical energy.
4. **Certification of the EIR.** After the required public review for the Draft EIR, the County will respond to written comments, edit the document, and produce a Final EIR to be certified by the Planning Commission and Board of Supervisors prior to making a decision on approval or denial of the project.

Subsequent ministerial approvals may include, but are not limited to:

- Grading and clearing permits
- Building permits
- Reclamation plan
- Encroachment permits
- Transportation permit(s)

#### Other Agencies Reviews and/or Consultations

The following agencies may be involved in reviewing and/or consultations with the project proponent as it relates to construction of the project:

##### *Federal*

##### UNITED STATES FISH AND WILDLIFE SERVICE

- The United States Fish and Wildlife Service (USFWS) enforces compliance with regulations related to special-status species or their habitat as required under the Federal Endangered Species Act (ESA).

##### UNITED STATES ARMY CORPS OF ENGINEERS

- Section 404 Permit (Clean Water Act [CWA]). The CWA establishes a program to regulate the discharge of dredge and fill material into waters of the U.S. including wetlands. Activities regulated under this program include fills for development, water resource projects (e.g., dams and levees), infrastructure development (e.g., highways and airports), and conversion of wetlands to uplands for farming and forestry. Either an individual 404b permit or authorization to use an existing United States Army Corps of Engineers (USACE) Nationwide Permit will need to be obtained if any portion of the construction requires fill into a river, stream, or stream bed that has been determined to be a jurisdictional waterway.

## *State*

### CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (TRUSTEE AGENCY)

- The California Department of Fish and Wildlife (CDFW) is a Trustee Agency and enforces compliance with regulations related to California special-status species or their habitats as required under the California Endangered Species Act (CESA).

### CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

- **National Pollution Discharge Elimination System Construction General Permit Order No. 2009-009-DWQ.** Requires the applicant to file a public Notice of Intent to discharge stormwater and to prepare and implement a stormwater pollution prevention plan (SWPPP).
- **Jurisdictional Waters.** Agencies and/or project proponents must consult with the California Regional Water Quality Control Board (RWQCB) regarding, when applicable, regarding compliance with the CWA Section 401 Water Quality Certification or permitting under California Porter-Cologne Act.

## *Local*

### IMPERIAL COUNTY FIRE DEPARTMENT

- Review as part of the EIR process including the final design of the proposed fire system.

### IMPERIAL COUNTY AIR POLLUTION CONTROL DISTRICT

- Review as part of the EIR process regarding consistency with the Imperial County Air Pollution Control District (ICAPCD) CEQA Air Quality Handbook, the final "Modified" 2009 8-hour Ozone Air Quality Management Plan, the State Implementation Plan for particulate matter less than 10 microns in diameter ( $PM_{10}$ ) in the Imperial Valley, the State Implementation Plan (SIP) for particulate matter less than 2.5 microns in diameter ( $PM_{2.5}$ ), and verification of Rule 801 compliance.

## 1.2 Relationship to Statutes, Regulations, and Other Plans

### 1.2.1 County of Imperial General Plan and Land Use Ordinance

The General Plan provides guidance on future growth in the County of Imperial. Any development in the County of Imperial must be consistent with the General Plan and Land Use Ordinance (Title 9, Division 10).

### 1.2.2 Renewables Portfolio Standard Program

Established in 2002 under Senate Bill (SB) 1078, California's Renewables Portfolio Standard (RPS) was accelerated in 2006 under SB 107 by requiring that 20 percent of electricity retail sales be served by RE resources by 2010. RE sources include wind, geothermal, and solar. Subsequent recommendations in California energy policy reports advocated a goal of 33 percent by 2020. On November 17, 2008, Governor Arnold Schwarzenegger signed Executive Order (EO) S-14-08 requiring that "... all retail sellers of electricity shall serve 33 percent of their load with RE by 2020." The following year, EO S-21-09 directed the California Air Resources Board (CARB), under its

Assembly Bill (AB) 32 authority, to enact regulations to achieve the goal of 33 percent renewables by 2020.

In the ongoing effort to codify the ambitious 33 percent by 2020 goal, SB X12 was signed by Governor Brown, in April 2011. This new RPS preempts the CARB's 33 percent Renewable Electricity Standard and applies to all electricity retailers in the state including publicly owned utilities, investor-owned utilities, electricity service providers, and community choice aggregators. All of these entities had to adopt the new RPS goals of 20 percent of retail sales from renewables by the end of 2013, 25 percent by the end of 2016, and the 33 percent requirement being met by the end of 2020.

Governor Brown signed into legislation SB 350 in October 2015, which requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from eligible RE resources by 2030. In 2018, SB 100 was signed by Governor Brown, codifying a goal of 60 percent renewable procurement by 2030 and 100 percent by 2045 Renewables Portfolio Standard.

### 1.2.3 Senate Bill 32

In August 2016, Governor Brown signed SB 32 and AB 197, which serve to extend California's GHG reduction programs beyond 2020. SB 32 amended the Health and Safety Code to include § 38566, which contains language to authorize CARB to achieve a statewide GHG emission reduction of at least 40 percent below 1990 levels by no later than December 31, 2030. SB 32 codified the targets established by EO B-30-15 for 2030, which set the next interim step in the State's continuing efforts to pursue the long-term target expressed in EOs S-3-05 and B-30-15 of 80 percent below 1990 emissions levels by 2050.

### 1.2.4 Title 17 California Code of Regulations, Subchapter 10, Article 2, Sections 95100 et seq.

These CARB regulations implement mandatory GHG emissions reporting as part of the California Global Warming Solutions Act of 2006.

### 1.2.5 Federal Clean Air Act

The legal authority for federal programs regarding air pollution control is based on the 1990 Clean Air Act (CAA) Amendments. These are the latest in a series of amendments made to the CAA. This legislation modified and extended federal legal authority provided by the earlier Clean Air Acts of 1963 1970, and 1977.

The Air Pollution Control Act of 1955 was the first Federal legislation involving air pollution. This Act provided funds for federal research in air pollution. The CAA of 1963 was the first Federal legislation regarding air pollution control. It established a federal program within the U.S. Public Health Service and authorized research into techniques for monitoring and controlling air pollution. In 1967, the Air Quality Act was enacted in order to expand Federal government activities. In accordance with this law, enforcement proceedings were initiated in areas subject to interstate air pollution transport. As part of these proceedings, the Federal government for the first time conducted extensive ambient monitoring studies and stationary source inspections.

The Air Quality Act of 1967 also authorized expanded studies of air pollutant emission inventories, ambient monitoring techniques, and control techniques.

## 1.2.6 Imperial County Air Pollution Control District

The ICAPCD enforces rules and regulations regarding air emissions associated with various activities, including construction and farming, and operational activities associated with various land uses, in order to protect the public health.

## 1.2.7 Federal Clean Water Act (33 United States Code Section 1251-1387)

The Federal Water Pollution Control Act (33 United States Code [USC] §§1251-1387), otherwise known as the CWA, is a comprehensive statute aimed at restoring and maintaining the chemical, physical and biological integrity of the nation's waters. Enacted originally in 1948, the Act was amended numerous times until it was reorganized and expanded in 1972. It continues to be amended almost every year. Primary authority for the implementation and enforcement of the CWA rests with the U.S. Environmental Protection Agency (EPA). In addition to the measures authorized before 1972, the Act authorizes water quality programs, requires federal effluent limitations and state water quality standards, requires permits for the discharge of pollutants into navigable waters, provides enforcement mechanisms, and authorizes funding for wastewater treatment works construction grants and state revolving loan programs, as well as funding to states and tribes for their water quality programs. Provisions have also been added to address water quality problems in specific regions and specific waterways.

Important for wildlife protection purposes are the provisions requiring permits to dispose of dredged and fill materials into navigable waters. Permits are issued by the USACE under guidelines developed by EPA pursuant to Section 404 of the CWA.

## 1.2.8 Federal Clean Water Act and California Porter-Cologne Water Quality Control Act

The project is located within the Colorado River Basin RWQCB, Region 7. The CWA and the California Porter-Cologne Water Quality Control Act require that Water Quality Control Plans (more commonly referred to as Basin Plans) be prepared for the nine state-designated hydrologic basins in California. The Basin Plan serves to guide and coordinate the management of water quality within the region.

## 1.2.9 Federal Endangered Species Act

The ESA (16 USC 1531-1544) provides protection for plants and animals whose populations are dwindling to levels that are no longer sustainable in the wild. The Act sets out a process for listing species, which allows for petition from any party to list a plant or animal. Depending on the species, USFWS or the National Marine Fisheries Service (NMFS) will determine whether listing the species is warranted. If it is warranted, the species will be listed as either threatened or endangered. The difference between the two categories is one of degree, with endangered species receiving more protections under the statute.

## 1.2.10 National Historic Preservation Act

Federal regulations (36 Code of Federal Regulations [CFR] Part 800.2) define historic properties as "any prehistoric or historic district, site, building, structure, or object included, or eligible for inclusion in, in the National Register of Historic Places (NRHP)." The term "cultural resource" is used to denote

a historic or prehistoric district, site, building, structure, or object, regardless of whether it is eligible for the NRHP.

### 1.2.11 California Endangered Species Act

CESA is enacted through Government Code Section 2050. Section 2080 of the California Fish and Game Code (FGC) prohibits "take" of any species that the commission determines to be an endangered species or a threatened species. Take is defined in Section 86 of the FGC as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."

CESA allows for take incidental to otherwise lawful development projects. CESA emphasizes early consultation to avoid potential impacts to rare, endangered, and threatened species and to develop appropriate mitigation planning to offset project-caused losses of listed species populations and their essential habitats.

### 1.2.12 California Lake and Streambed Program (Fish and Game Code Section 1602)

CDFW is responsible for conserving, protecting, and managing California's fish, wildlife, and native plant resources. To meet this responsibility, the FGC (Section 1602) requires an entity to notify CDFW of any proposed activity that may substantially modify a river, stream, or lake.

## 1.3 Purpose of an EIR

The purpose of an EIR is to analyze the potential environmental impacts associated with a project. CEQA (Section 15002) states that the purpose of CEQA is to: (1) inform the public and governmental decision makers of the potential, significant environmental impacts of a project; (2) identify the ways that environmental damage can be avoided or significantly reduced; (3) prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible; and (4) disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.

## 1.4 EIR Process

### 1.4.1 Availability of Reports

This Draft EIR has been distributed to various federal, state, regional, local agencies and interested parties for a 45-day public review period, from December 27, 2021 through February 10, 2022, in accordance with Section 15087 of the CEQA Guidelines. This Draft EIR and documents incorporated by reference are available for public review at the County of Imperial Planning and Development Services Department, 801 Main Street, El Centro, California 92243. Documents may be reviewed during regular business hours.

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Comments received during the public review period of the Draft EIR will be reviewed and responded to in the Final EIR. The Final EIR will then be reviewed by the Imperial County Planning Commission and Board of Supervisors as a part of the procedure to adopt the EIR. Additional information on this process may be obtained by contacting the County of Imperial Planning and Development Services Department at (442) 265-1736.

## 1.4.2 Public Participation Opportunities/Comments and Coordination

### Notice of Preparation

The County of Imperial issued a notice of preparation (NOP) for the preparation of an EIR for the Brawley Solar Energy Facility Project on July 26, 2021. The NOP was distributed to city, county, state, and federal agencies, other public agencies, and various interested private organizations and individuals in order to define the scope of the EIR. The NOP was also published in the Imperial Valley Press on July 25, 2021. The purpose of the NOP was to identify public agency and public concerns regarding the potential impacts of the project, and the scope and content of environmental issues to be addressed in the EIR. Correspondence in response to the NOP was received from the following entities and persons:

- Native American Heritage Commission
- California Department of Conservation
- Imperial Irrigation District
- Imperial County Air Pollution Control District
- Carolyn Allen and on behalf of Donna Tisdale, Members of BackCountry Against Dumps and Donbee Farms
- Carolyn Allen and on behalf of Donna Tisdale, Larry Cox, and Michael Cox, Donbee Farms and Backcountry Against Dumps
- Donna Tisdale, Michael Cox, Carolyn Allen, Lawrence Cox; C/O Donbee Farms

The comments submitted on the NOP during the public review and comment period are included as Appendix A to this EIR.

### Scoping Meeting and Environmental Evaluation Committee

During the NOP public review period, the Brawley Solar Energy Facility Project was discussed as an informational item at the County's Environmental Evaluation Committee meeting on August 12, 2021.

Additionally, a virtual scoping meeting for the general public as well public agencies was held on August 12, 2021 at 6:00 p.m., to further obtain input as to the scope of environmental issues to be examined in the EIR. The NOP, which included the scoping meeting date and location, was published in the Imperial Valley Press on July 26, 2021. A virtual meeting was held by the Imperial County Planning & Development Services Department. At the scoping meeting, members of the public were invited to ask questions regarding the proposed project and the environmental review process, and to comment both verbally and in writing on the scope and content of the EIR. One comment letter was received during the scoping meeting.

### 1.4.3 Environmental Topics Addressed

Based on the analysis presented in the NOP and the information provided in the comments to the NOP, the following environmental topics are analyzed in this EIR:

- Aesthetics
- Agriculture Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- GHG Emissions
- Hazards and Hazardous Materials
- Hydrology/Water Quality
- Land Use/Planning
- Public Services (Fire Protection and Police Protection)
- Transportation
- Tribal Cultural Resources
- Utilities/Service Systems (Water Supply)

#### Eliminated from Further Review in Notice of Preparation

The Initial Study (IS)/NOP completed by the County (Appendix A of this EIR) determined that environmental effects to Forestry Resources, Energy, Mineral Resources, Noise, Population/Housing, Public Services, Recreation, Utilities (Wastewater, Stormwater, and Solid Waste), and Wildfire would not be potentially significant. Therefore, these impacts are not addressed in this EIR; however, the rationale for eliminating these issues is discussed in Chapter 6.0, Effects Found Not Significant.

### 1.4.4 Areas of Controversy and Issues to be Resolved

Section 15123(b)(2) of the CEQA Guidelines requires that an EIR identify areas of controversy known to the Lead Agency, including issues raised by other agencies and the public as well as issues to be resolved. A primary issue associated with this solar farm project, and other solar facility projects that are proposed in the County, is the corresponding land use compatibility and fiscal/economic impacts to the County. Through the environmental review process for this project, other areas of concern and issues to be resolved include potential impacts related to the conversion of farmland to non-agricultural uses, damage to crops, wildlife, water supply, fire hazards associated with the battery energy storage system, health effects from air pollution, noise and hazardous materials, and change of visual character.

## 1.4.5 Document Organization

The structure of the Draft EIR is identified below. The Draft EIR is organized into 10 chapters, including the Executive Summary.

- The **Executive Summary** provides a summary of the proposed project, including a summary of project impacts, mitigation measures, and project alternatives.
- **Chapter 1 Introduction** provides a brief introduction of the proposed project; relationship to statutes, regulations and other plans; the purpose of an EIR; public participation opportunities; availability of reports; and comments received on the NOP.
- **Chapter 2 Project Description** provides a description of the Brawley Solar Energy Facility Project. This chapter also defines the goals and objectives of the proposed project, provides details regarding the individual components that together comprise the project, and identifies the discretionary approvals required for implementation of the project.
- **Chapter 3 Environmental Analysis** provides a description of the existing environmental setting and conditions, an analysis of the environmental impacts of the project for the following environmental issues: aesthetics; air quality; biological resources; cultural resources (includes tribal cultural resources); geology and soils; GHG emissions; hydrology/water quality; land use and planning; transportation/traffic; and utilities/service systems. This chapter also identifies mitigation measures to address potential impacts to the environmental issues identified above.
- **Chapter 4 Analysis of Long-Term Effects** provides an analysis of growth inducing impacts, significant irreversible environmental changes, and unavoidable adverse impacts.
- **Chapter 5 Cumulative Impacts** discusses the impact of the proposed project in conjunction with other planned and future development in the surrounding areas.
- **Chapter 6 Effects Found Not to be Significant** lists all the issues determined to not be significant as a result of the preparation of this EIR.
- **Chapter 7 Alternatives** analyzes the alternatives to the proposed project.
- **Chapter 8 References** lists the data references utilized in preparation of the EIR.
- **Chapter 9 EIR Preparers and Organizations Contacted** lists all the individuals and companies involved in the preparation of the EIR, as well as the individuals and agencies consulted and cited in the EIR.

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