

CHAPTER 1.0

INTRODUCTION

This Final Environmental Impact Report (Final EIR) was prepared in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines Section 15132. The County of Imperial (County) is the lead agency for the environmental review of the Seville 4 Solar Project (Project) and has the principal responsibility for approving the Project. This Final EIR assesses the expected environmental impacts resulting from approval of the Project and responds to comments received on the Draft EIR.

1.1 BACKGROUND AND PURPOSE OF THE FINAL EIR

1.1.1 OVERVIEW OF CEQA REQUIREMENTS FOR PREPARATION OF AN EIR

Imperial County has prepared this Final EIR to provide the public, responsible and trustee agencies with information about the potential environmental effects of the proposed Project. As set forth in the provisions of CEQA and implementing regulations, public agencies are charged with the duty to consider the environmental impacts of proposed development and to minimize these impacts where feasible while carrying out an obligation to balance a variety of public objectives, including economic, environmental, and social factors.

CEQA Guidelines Section 15121(a) states that an EIR is an informational document for decision-makers and the general public that analyzes the significant environmental effects of a project, identifies possible ways to minimize significant effects, and describes reasonable alternatives to the project that could reduce or avoid its adverse environmental impacts. Public agencies with discretionary authority are required to consider the information in the EIR, along with any other relevant information, in making decisions on the project.

CEQA requires the preparation of an environmental impact report prior to approving any project which may have a significant effect on the environment. For the purposes of CEQA, the term “project” refers to the whole of an action which has the potential for resulting in a direct physical change or a reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15378[a]). With respect to the Seville 4 Solar Project, the County has determined that the proposed development is a “project” within the definition of CEQA.

1.1.2 ENVIRONMENTAL REVIEW PROCESS OF THE PROJECT

The following is an overview of the environmental review process for the Project that led to the preparation of this Final EIR:

1.1.2.1 NOTICE OF PREPARATION AND INITIAL STUDY

In accordance with Section 15082 of the CEQA Guidelines, Imperial County prepared a Notice of Preparation (NOP) of an EIR on June 22, 2017. The County was identified as the lead agency for the proposed Project. The purpose of the notice was to solicit comments on the proposed Project; therefore, it was circulated to interested parties as well as to the public, local, state, and federal agencies. The June 2017 NOP, and comments responding to the NOP, are presented in Appendix A of the Draft EIR.

1.1.2.2 DRAFT EIR

The Draft EIR was finalized in July 2018 and circulated for 50-day public and agency review from July 13, 2018 to August 31, 2018. The Draft EIR contains a description of the Project, description of the environmental setting, identification of Project impacts, and mitigation measures for impacts found to be significant, as well as an analysis of Project alternatives. The Draft EIR was provided to interested public agencies and the public and was made available for review at the Imperial County Planning and Development Services Department, the Imperial County Website, and local libraries.

1.0 INTRODUCTION

1.1.2.3 FINAL EIR

This Final EIR presents the environmental information and analyses that have been prepared for the proposed Project, including comments received addressing the adequacy of the Draft EIR, and responses to those comments.

As required by CEQA, this document responds to all written comments received during the 50-day comment period which began on July 13, 2018 and ended on August 31, 2018. Following the close of the CEQA public review period, the County received seven individual comment letters from agencies and interest groups regarding the Draft EIR. This response to comments document, in conjunction with the Draft EIR, constitutes the Final EIR for the proposed Project. Copies of all comment letters submitted in response to the Draft EIR are presented in Chapter 3.0, Comments and Response to Comments of this document. These comments were reviewed, and revisions were incorporated into the Draft EIR where appropriate. Requirements for the preparation and disposition of the Response to Comments are provided for in Public Resources Code (PRC), Division 13, Section 21092.5 and CEQA Guidelines Section 15088.

In addition to the responses to comments, clarifications, corrections, or minor revisions have been made to the Draft EIR and are included as part of the Errata in Chapter 4.0 of this Final EIR. Due to a printing error, the Biological Resources section omitted a discussion of Impacts and Mitigation Measures. After careful review of the CEQA Guidelines Section 15088.5 regarding instances necessitating Recirculation of an EIR Prior to Certification, the County determined that recirculation was not required if certain criteria are met and if substantial evidence is provided in the record to support such a decision. The discussion below addresses these provisions.

CEQA Guidelines Section 15088.5(a) allows for agencies to avoid recirculation of an EIR under specific circumstances as follows:

“...New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement...”

Despite the inadvertent omission of the discussion of Impacts and Mitigation Measures in Section 4.12 Biological Resources of the Draft EIR, the Executive Summary Table (pages ES-33 thru ES-39) of the Draft EIR did include all Impacts and Mitigation Measures from Section 4.12 Biological Resources. Therefore, the Impacts and Mitigation Measures were disclosed for review and comment as part of the Draft EIR. While the inadvertently omitted information does assist the reader in understanding how the conclusions were reached and the basis for the mitigation, this information is not considered “significant” because, based on Guidelines Section 15088.5(a), it did not change the EIR *in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect.*

CEQA Guidelines Section 15088.5(a) also enumerates examples that qualify as “significant new information.” Each example was carefully considered regarding the inadvertent omission of pages of Section 4.12 Biological Resources for applicability and whether the omission warranted recirculation.

(1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

1.0 INTRODUCTION

The information provided as part of the discussion of Impacts and Mitigation Measures in Section 4.12 Biological Resources does not identify a *new significant environmental impact* or a *new mitigation measure* beyond what is disclosed on pages ES-33 thru ES-39 of the Executive Summary Table of the Draft EIR. Therefore, recirculation is not required under CEQA Guidelines Section 15088.5(a)(1)

(2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

The information provided in the discussion of Impacts and Mitigation Measures in Section 4.12 Biological Resources does not identify a *substantial increase in the severity of an environmental impact* beyond what is disclosed on pages ES-33 thru ES-39 of the Executive Summary Table of the Draft EIR. Likewise, adequate mitigation is provided as part of the mitigation measures disclosed therein. Therefore, recirculation is not required under CEQA Guidelines Section 15088.5(a)(2)

(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.

The information provided in the discussion of Impacts and Mitigation Measures Section 4.12 Biological Resources does not identify a feasible project alternative nor a mitigation measure considerably different from others disclosed on pages ES-33 thru ES-39 of the Executive Summary Table of the Draft EIR. Therefore, recirculation is not required under CEQA Guidelines Section 15088.5(a)(3).

(4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (Mountain Lion Coalition v. Fish & Game Com. (1989) 214 Cal.App.3d 1043).

None of the seven comment letters received questioned the adequacy of the environmental analysis on any point, including Biological Resources. Therefore, recirculation is not required under CEQA Guidelines Section 15088.5(a)(4).

The County also considered CEQA Guidelines Section 15088.5(b) which provides another circumstance under which recirculation of the Draft EIR is not required. CEQA Guidelines Section 15088.5(b) states:

"Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR."

This guideline is particularly applicable to the inadvertently omitted information of Section 4.12 Biological Resources given that all of the Impacts and Mitigation Measures from the Biological Resources section were included on pages ES-33 thru ES-39 of the Executive Summary Table of the Draft EIR. Thus, all Impacts and Mitigation Measures were disclosed regarding the Project's environmental effects. Of the seven comment letters received on the Draft EIR, only the letter from the California Department of Parks and Recreation, Ocotillo Wells District made one comment with regard to biological resources (specifically Flat-tailed Horned Lizard). This comment was not substantive and did not question the adequacy of the EIR. Moreover, none of the seven commenters noted that the Biological Resources section was incomplete as part of their review comments.

For all of the above reasons, the County has decided not to recirculate the Draft EIR in whole or in part (i.e. only Section 4.12 Biological Resources). The rationale outlined above provides substantial evidence to support this decision in keeping with the provisions of CEQA Guidelines Section 15088.5(e) which states: *A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.*

1.0 INTRODUCTION

The Final EIR in combination with the Draft EIR and the Mitigation Monitoring and Reporting Program (MMRP) (which is included as Chapter 5.0 of this Final EIR), will be used by the Planning Commission and Board of Supervisors in the decision-making process for the proposed Project.

1.2.2.4 CERTIFICATION OF THE FINAL EIR/PROJECT CONSIDERATION

The County will review and consider the Final EIR. If the County finds that the Final EIR is “adequate and complete,” the County may certify the Final EIR at a public hearing. The rule of adequacy generally holds that the EIR can be certified if it: (1) shows a good faith effort at full disclosure of environmental information; and, (2) provides sufficient analysis to allow decisions to be made regarding the project in contemplation of its environmental consequences.

Upon review and consideration of the Final EIR, the County may take action to approve, revise, or reject the Project. A decision to approve the Project would be accompanied by written findings in accordance with CEQA Guidelines Section 15091 and Section 15093. Public Resources Code Section Section 21081.6 also requires lead agencies to adopt a mitigation monitoring and reporting program to describe measures that have been adopted or made a condition of Project approval in order to mitigate or avoid significant effects on the environment.

The CEQA Guidelines identify several types of EIRs, each applicable to different project circumstances. The EIR for the Seville 4 Solar Project has been prepared as a Project EIR pursuant to CEQA Guidelines Section 15161. The analysis associated with a Project EIR focuses primarily on the changes in the environment that would occur as a result of Project implementation.

Ultimately, the EIR is used by the County as a tool in evaluating the proposed Project’s environmental impacts and can be further used to modify, approve, or deny approval of, the proposed Project.

1.2.3 INTENDED USES OF THE EIR

The EIR is intended to evaluate the environmental impacts of the Project to the greatest extent possible. This EIR, in accordance with CEQA Guidelines Section 15126, should be used as the primary environmental document to evaluate all planning and permitting actions associated with the Project. These actions include, but are not limited to, the following:

- Approval of Project Site Plan
- Approval of a General Plan Amendment
- Approval of a Zone Change
- Approval of a Conditional Use Permit
- Approval of Public Benefit Agreement
- Grading Permits
- Construction Traffic Control Plan
- Building Permits
- Occupancy Permits

1.2.4 ORGANIZATION AND SCOPE OF THE FINAL EIR

This document is organized in the following manner:

CHAPTER 1.0 - INTRODUCTION

Chapter 1.0 provides an overview of the EIR process to date and the required contents of the Final EIR.

CHAPTER 2.0 - EXECUTIVE SUMMARY

Chapter 2.0 summarizes the characteristics of the proposed Project and provides a concise summary matrix of the Project’s environmental impacts and associated mitigation measures.

CHAPTER 3.0 - COMMENTS AND RESPONSES TO COMMENTS ON THE DRAFT EIR

Chapter 3.0 provides a list of commenters, copies of written comments (coded for reference), and the responses to those written comments made on the Draft EIR.

CHAPTER 4.0 - ERRATA

Chapter 4.0 consists of revisions to the Draft EIR that are a result of responses to comments, as well as minor staff edits that do not change the intent or content of the analysis; the conclusions regarding level of significance of impacts; or alter mitigation measures in their effectiveness to reduce impacts.

CHAPTER 5.0 - MITIGATION MONITORING AND REPORTING PROGRAM

Chapter 5.0 contains a matrix identifying each mitigation measure, the timing of the mitigation, the responsible agency and a place to check off when the mitigation has been completed.

1.0 INTRODUCTION

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