

Section 3.9 Land Use and Planning

This section evaluates the existing land use setting and potential land use and planning impacts that may result from construction and/or operation of the proposed project. The following discussion addresses the existing land use and planning conditions of the affected environment, evaluates the proposed project's consistency with applicable goals and policies, identifies and analyzes environmental impacts, and requires measures to reduce or avoid adverse impacts anticipated from implementation of the project, as applicable.

Information for this section was obtained from San Bernardino County Code (2013) Title 8, Development Code, Chapter 82.01, Land Use Plan, Land Use Zoning Districts, and Overlays; the County of San Bernardino 2007 General Plan (San Bernardino County 2007a); and the Lucerne Valley Community Plan (San Bernardino County 2007b).

ENVIRONMENTAL SETTING

The proposed Ord Mountain Solar and Energy Storage site is located in unincorporated San Bernardino County within the boundaries of the Lucerne Valley community, approximately 8 miles north of Lucerne Valley. The site is located east of State Route 247, north of Haynes Road, and west of Meridian Road. Most of the project site comprises fallow agricultural fields with some early succession saltbush scrub vegetation in isolated patches, which for the most part has been degraded due to the agricultural use and livestock grazing on the site. The proposed Calcite Substation site comprises vacant land located along the east and west sides of State Route 247, with electrical power facilities on portions of the existing transmission corridor.

The area surrounding the proposed project site is characterized by rural desert terrain modified by power lines, roads, fallow agricultural fields, and scattered residences located throughout. The surrounding area is also dominated by the SR 247 transportation corridor running north–south just to the west of the proposed solar and energy storage site and east and west of the proposed Calcite Substation site. In addition to electrical and transportation infrastructure, there are 32 single-family rural residential structures located within 0.5 mile of the proposed project boundary. These residences are scattered throughout the area and many of the parcels are currently used as storage space for vehicles and/or machinery.

Existing land uses and Land Use Zoning Districts on and adjacent to the proposed solar and energy storage site and Calcite Substation site are listed in Table 3.9-1, *Existing Land Use and Land Use Zoning Districts*. The County of San Bernardino is currently in the process of updating its General Plan and associated Community Plans, including the Lucerne Valley Community Plan. The General Plan update is anticipated to be complete in 2018. Therefore, it is unknown at this time what

changes would occur in the Lucerne Valley Community Plan, and the proposed project is being analyzed in the context of the current General Plan at the time of issuance of the NOP (May 2017).

**Table 3.9-1:
Existing Land Use and Land Use Zoning Districts**

Location	Existing Land Use	Land Use Zoning District
Ord Mountain Solar Energy and Storage Project		
Proposed Solar Site	Agriculture (fallow)	LV/AG (Lucerne Valley/Agriculture); LV/AG-40
North	Agriculture (fallow)	LV/AG-20/AG-40
South	Residential, Agriculture (fallow)	LV/AG
East	Residential, Agriculture (fallow)	LV/RL/RC (Rural Living/Resource Conservation)
West	Agriculture (fallow)	LV/AG-20/AG-40; LV/RC
Calcite Substation		
Calcite Substation	Vacant	LV/AG-40
Gen-Tie	Agriculture (fallow)/SCE Transmission	LV/AG; LV/AG-40
North	Agriculture (fallow)	LV/AG-40
South	Agriculture (fallow)	LV/AG-40
East	Residential, Agriculture (fallow)	LV/AG
West	Agriculture (fallow)	LV/AG-40

Source: San Bernardino County Land Use Services Department 2016

REGULATORY FRAMEWORK

FEDERAL

FEDERAL AVIATION ADMINISTRATION REGULATIONS

Federal Aviation Administration (FAA) regulations address potential aircraft obstruction for structures taller than 200 feet or within 20,000 feet of an airport. Specifically, Code of Federal Regulations Title 14, Part 77, establishes standards and notification requirements for objects that have the potential to affect navigable airspace. In 1993, Part 77.13(a)(5)(ii) was revised to include only those airports under construction and excluded proposed airports. Nonetheless, the Part 77 standards are intended to (1) evaluate the effect of the construction or alteration of structures on airport operating procedures; (2) determine if there is a potential hazard to air navigation; and (3) identify measures to enhance safety. Specifically, the FAA requires notification through the filing of FAA Form 7460, Notice of Proposed Construction or Alteration, if a structure is over

200 feet in height or closer than 20,000 feet to an existing airport or airport under construction (Title 14, Part 77.13).

STATE

CALIFORNIA PLANNING AND ZONING LAW

The legal framework in which California cities and counties exercise local planning and land use functions is set forth in California Planning and Zoning Law, Government Code Sections 65000–66499.58. Under state planning law, each city and county must adopt a comprehensive, long-term general plan. State law gives cities and counties wide latitude in how a jurisdiction may create a general plan, but there are fundamental requirements that must be met. These requirements include the inclusion of seven mandatory elements described in the Government Code, including a section on land use. Each of the elements must contain text and descriptions setting forth objectives, principles, standards, policies, and plan proposals; diagrams and maps that incorporate data and analysis; and mitigation measures.

CALIFORNIA CODES

The California Codes are 29 legal codes enacted by the State Legislature, which together form the general statutory law for the state. Unlike the United States Code or other state legal codes, the California Codes have never been consolidated into a single unified code. The official codes are maintained by the California Legislative Counsel for the Legislature.

California Government Code Section 53091(d) states, “Building ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, wastewater, or electrical energy by a local agency.”

Furthermore, Section 539091(e) states, “Zoning ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, or for the production or generation of electrical energy, facilities that are subject to Section 12808.5 of the Public Utilities Code, or electrical substations in an electrical transmission system that receives electricity at less than 100,000 volts. Zoning ordinances of a county or city shall apply to the location or construction of facilities for the storage or transmission of electrical energy by a local agency, if the zoning ordinances make provision for those facilities.”

CALIFORNIA PUBLIC UTILITIES COMMISSION

The California Public Utilities Commission’s review of transmission line applications takes place under two concurrent and parallel processes: (1) environmental review pursuant to CEQA; and

(2) review of project needs and costs pursuant to Public Utilities Code Section 1001 et seq. and General Order 131-D.

CPUC General Order 131-D, *Rules Relating To The Planning And Construction Of Electric Generation, Transmission/Power/Distribution Line Facilities And Substations Located In California*, states that no electric public utilities will begin construction in the state of any new electric generating plant, or of the modification, alteration, or addition to an existing electric generating plant, or of electric transmission/power/distribution line facilities, or of new, upgraded, or modified substations, exceeding 50 kilovolts, without first complying with the provisions of the General Order. For the purposes of the General Order, a transmission line is a line designated to operate at or above 200 kV. A power line is a line designated to operate between 50 and 200 kV. A distribution line is a line designated to operate under 50 kV. In addition, General Order 131-D also confirms that the CPUC has sole and exclusive jurisdiction over the siting and design of the facilities subject to the General Order. General Order 131-D Section XIV.B. states "...local jurisdictions acting pursuant to local authority are preempted from regulating electric power line projects, distribution lines, substations, or electric facilities constructed by public utilities subject to the Commission's jurisdiction." Therefore, all discussions below regarding Calcite Substation's consistency with local land use regulations are provided for informational purposes only.

REGIONAL

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

The Southern California Association of Governments is the metropolitan planning organization for six counties: Los Angeles, Orange, San Bernardino, Riverside, Ventura, and Imperial. The region encompasses a population exceeding 19 million in an area of more than 38,000 square miles. As the designated metropolitan planning organization, SCAG is mandated by the federal government to research and draw up plans for transportation, growth management, hazardous waste management, and air quality. Additional mandates exist at the state level.

SCAG is responsible for the maintenance of a continuous, comprehensive, and coordinated planning process. The agency is also responsible for the development of demographic projections and the development of integrated land use, housing, employment, transportation programs, measures, and strategies for portions of the Air Quality Management Plan.

SCAG REGIONAL TRANSPORTATION PLAN/SUSTAINABLE COMMUNITIES STRATEGY PLAN

SCAG adopted the 2016–2040 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) in April 2016. The RTP/SCS is intended to provide guidance for increasing mobility for the region's residents and visitors while emphasizing sustainability and integrated planning. The RTP/SCS encompasses three key principles for the region's future: mobility, economy, and

sustainability. The RTP/SCS emphasizes a commitment to reduce emissions from transportation sources in conformance with SB 375, improve public health, and meet the federal Clean Air Act National Ambient Air Quality Standards.

INTERGOVERNMENTAL REVIEW

SCAG's Intergovernmental Review Section is responsible for performing consistency review of regionally significant local plans, projects, and programs with SCAG's adopted regional plans. The criteria for projects of regional significance are outlined in CEQA Guidelines Sections 15125 and 15206 and include projects that directly relate to the policies and strategies contained in the Regional Comprehensive Plan and the RTP. SCAG's Intergovernmental Review Section uses the criteria recommended by CEQA Guidelines Section 15206 to determine whether a project is considered regionally significant.

A proposed plan, project, or program is directed to demonstrate how it is consistent with the 2016–2040 RTP/SCS, which is established through consistency with RTP/SCS goals and adopted growth forecasts. SCAG encourages the use of 2016–2040 RTP/SCS program EIR mitigation measures to aid in demonstrating consistency with regional plans and policies.

LOCAL

SAN BERNARDINO COUNTY GENERAL PLAN

The County recently adopted a Renewable Energy and Conservation Element for inclusion in the San Bernardino County General Plan in August 2017. The element includes land use guidance regarding renewable energy projects. One of the element's guiding principles includes keeping utility-oriented projects separate from or sufficiently buffered from existing communities, to avoid adverse impacts on community development and quality of life. However, the element does not specifically identify the prohibition of utility-oriented projects being situated within the boundaries of existing community plan areas. Because the project application was accepted as complete prior to preparation and adoption of the Renewable Energy and Conservation Element, the County has determined the project is "grandfathered" and not subject to conformance with the element's land use policies.

LUCERNE VALLEY COMMUNITY PLAN

The Lucerne Valley Community Plan is the primary land use guidance document for the Lucerne Valley area of San Bernardino County. The plan's Land Use Element and Conservation Element include the following relevant goals and policies.

LAND USE ELEMENT

Goal LV/LU 1 Retain the existing rural desert character of the community.

Policy LV/LU 1.1 Require strict adherence to the land use policy map unless proposed changes are clearly demonstrated to be consistent with the community character.

CONSERVATION ELEMENT

Goal LV/CO 2 Protect agricultural lands from the effects of non-agricultural development.

Policy LV/CO 2.2 The conversion of agricultural land to non-agricultural uses shall be discouraged unless the proposed use can be demonstrated to be preferable in terms of economic development, and resource availability and resource conservation.

IMPACT ANALYSIS AND MITIGATION MEASURES

THRESHOLDS OF SIGNIFICANCE

The following thresholds of significance are based, in part, on CEQA Guidelines Appendix G. For the purposes of this EIR, the proposed project may have a significant adverse impact related to land use if it would do any of the following:

- Physically divide an established community.
- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.
- Conflict with any applicable habitat conservation plan or natural community conservation plan.

PROJECT IMPACTS AND MITIGATION

PHYSICALLY DIVIDE AN ESTABLISHED COMMUNITY

Impact 3.9-1 **The project would not physically divide an established community. Impacts would be less than significant.**

The area surrounding the proposed project site is characterized by rural desert terrain modified by power lines, roads, fallow agricultural fields, and scattered residences located throughout. The surrounding area is also dominated by the SR 247 transportation corridor running north–south just to the west of the proposed solar and energy storage project site and east and west of the proposed

Calcite Substation project site. In addition to electrical and transportation infrastructure, there are 32 single-family rural residential structures located within 0.5 mile of the proposed project boundary. These residences are scattered throughout the area and would not be altered in their distribution by the project. The proposed project would maintain all existing access routes and would not physically divide the community. Therefore, neither the proposed solar and energy storage project nor the Calcite Substation project would physically divide an established community. A less than significant impact would result from the proposed project.

Mitigation Measures: None required.

Level of Significance: Less than significant.

CONFLICT WITH AN APPLICABLE PLAN

Impact 3.9-2	The project would not conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. Impacts would be less than significant.
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GENERAL PLAN/LUCERNE VALLEY COMMUNITY PLAN

The current General Plan Land Use Element designation for the proposed solar and energy storage project site is Agriculture (AG), which allows development of electrical power generation with a Conditional Use Permit (Development Code Section 85.06). While the proposed solar and energy project site is designated for agriculture, the site has been fallow for more than a decade and the landowner has not been able to sustain viable agricultural operations. The connected proposed Calcite Substation project is on vacant land parcels designated as Vacant Undifferentiated and LV/AG; however, the substation and related components are not subject to the County land use designations.

Additionally, the County recently adopted a General Plan Renewable Energy and Conservation Element (adopted August 8, 2017). The element is intended to establish goals and policies to manage renewable energy development and conservation. However, because the project application was accepted as complete for review prior to the element's adoption, the proposed project is not subject to the policies contained in the Renewable Energy and Conservation Element. As such, policies in that element will not be applied to the environmental review or considered during the preparation of the Land Use Services staff recommendation for the project. The policies in effect at the time the application was accepted as complete will be applied to the proposed project.

COUNTY ORDINANCES

In 2013, the County of San Bernardino passed an ordinance amending Chapter 84.29, Renewable Energy Generation Facilities, and Chapter 810.01, Definitions, of the San Bernardino County Development Code, relating to the regulation of commercial solar energy generation facilities. The ordinance requires that the County make findings for solar renewable energy projects prior to approving such projects. The findings require that before approval of a commercial solar facility, it must be determined that the location of the proposed commercial facility is appropriate in relation to the desirability and future development of communities, neighborhoods, and rural residential uses (San Bernardino County 2013). Additionally, the ordinance would require that the Planning Commission consider (1) the characteristics of the commercial solar energy facility development site and its physical and environmental setting, as well as the physical layout and design of the proposed development in relation to nearby communities, neighborhoods, and rural residential uses; and (2) the location of other commercial solar energy generation facilities that have been constructed, approved, or applied for in the vicinity, whether in a city or unincorporated territory, or on state or federal land (San Bernardino County 2013). The proposed solar and energy storage project would be subject to these and additional findings requirements as a part of the 2013 ordinance during the review and CUP application process.

AGRICULTURE/FARMLANDS

The proposed project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the California Department of Conservation's (2016a) San Bernardino County Important Farmland 2014 map, to nonagricultural use, since the project site is not designated as such. In addition, the project site is not subject to a Williamson Act contract (California Department of Conservation 2016b). Therefore, neither the proposed solar and energy storage project nor the Calcite Substation project would result in impacts related to conflicts with agricultural land uses.

AIRPORT LAND USE PLANS

The proposed project area is not located within an airport land use plan, nor is it located within 20,000 feet to an existing airport or airport under construction (San Bernardino County Airport Land Use Commission 2018). The nearest airport is the privately-owned Holiday Ranch Airport, approximately 7.5 miles to the west of the proposed project site. Therefore, neither the proposed solar and energy storage site nor the Calcite Substation site would be located within an airport land use plan or within 20,000 feet of an existing airport or airport under construction and would not result in airport land use plan conflicts in the project area.

SUMMARY

As discussed previously, the County's land use regulations are not applicable to the Calcite Substation project because it is proposed by the local utility, in this case, Southern California Edison. Neither the proposed solar and energy storage project nor the Calcite Substation project would conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. Impacts would be less than significant.

Mitigation Measures: None required.

Level of Significance: Less than significant.

HABITAT CONSERVATION PLAN

Impact 3.9-3 The project would not conflict with any applicable habitat conservation plan or natural community conservation plan. No impact would occur.

The project site is not within 2 miles of Joshua Tree National Park, Mojave National Preserve, Death Valley National Park, or any wilderness area designated by a county, state, or federal agency. Similarly, as discussed in Section 3.3, *Biological Resources*, discussion for Impact 3.3-6, the proposed project does not conflict with any applicable habitat conservation plans or natural community conservation plans. While the Santa Ana Watershed Planning Authority has identified several Essential Resource Conservation Areas in San Bernardino County (San Bernardino County 2007a), the proposed project site is not located within these watershed conservation areas.

Additional areas under varying levels of conservation management include the 11 Desert Region areas designated by the Bureau of Land Management as Areas of Critical Environmental Concern and Special Areas, as well as the Big Morongo Canyon Preserve recognized by The Nature Conservancy. Although these conservation and preservation planning areas are co-located in the Desert Region of San Bernardino County with the project site, the proposed project would not impact these areas.

Of these conservation planning areas, Johnson Valley and Soggy Dry Lake are located closest to the proposed project site, 22.5 miles and 16.5 miles away, respectively. The proposed project would not impact these or any of the other conservation and preservation planning areas throughout the Desert Region of San Bernardino County. Currently, there is not a regional multiple species habitat conservation program in place in San Bernardino County. The proposed project site is not located on or near any conservation areas. Therefore, neither the proposed solar and energy storage

project nor the Calcite Substation project would conflict with any applicable habitat conservation plan or natural community conservation plan. No impact would result from the proposed project.

Mitigation Measures: None required.

Level of Significance: No impact.

CUMULATIVE IMPACTS

Impact 3.9-4 The project would not result in cumulative impacts related to land use and planning. Impacts would be less than significant.

Cumulative projects that would have the potential to be considered in a cumulative context with the projects' incremental contribution, and that are included in the analysis of cumulative impacts relative to land use and planning, are identified in Table 3.0-1 and Exhibit 3-1 in Section 3.0 of this EIR.

As discussed above, the proposed project would not physically divide an established community; would not conflict with the goals and objectives of the County General Plan; and would not conflict with any applicable habitat conservation plan or natural community conservation plan. Similarly, it is not anticipated that any of the cumulative projects identified on Table 3.0-1 and Exhibit 3-1 in Section 3.0 would result in land use conflicts. If incompatibilities or land use conflicts are identified for any of the cumulative projects, like the proposed project, the County would require mitigation to avoid or minimize this type of land use impact. Therefore, no cumulatively considerable land use and planning impacts would occur.

Mitigation Measures: None required.

Level of Significance: Less than significant.