

5.7 Land Use

This section addresses the land use impacts of the Palen Solar Power Project (PSPP or Project). It describes existing and planned land uses within a "Project Study Area" that encompasses lands within one mile of the Project site. The section addresses potentially applicable Federal, state and local land use laws, ordinances, regulations and standards (LORS), the Project's compatibility with existing and planned land uses, other potential land use impacts and identifies measures to mitigate adverse impacts as needed.

This land use evaluation is intended to support compliance both by the California Energy Commission (CEC) with the requirements of the California Environmental Quality Act (CEQA), and by the Bureau of Land Management (BLM) with the requirements of the National Environmental Policy Act (NEPA). The two agencies are conducting a joint review of the Project and a combined CEQA/NEPA document will be prepared.

Summary

Project land use impacts would be less than significant. The Project site is located almost entirely on BLM-managed public lands within the California Desert Conservation Area (CDCA), and is managed under the CDCA Plan (1980) as amended. The site is classified as Multiple Use Class Moderate by BLM, which allows energy and utility development, but a CDCA Plan Amendment will be required because the Project was not identified in the existing Plan. The Project is not within, and would not be expected to significantly affect designated wilderness areas, National Parks, Desert Wildlife Management Areas (DWMAs), Areas of Critical Environmental Concern (ACEC), or recreational areas. The Project lies in the the Northern and Eastern Colorado Desert (NECO) Plan area and a portion of the project is inside a desert tortoise (DT) Wildlife Habitat Management Area. A small portion (less than 200 acres) of the site is within the very fringe of desert tortoise (DT) critical habitat. However, that area was surveyed in 2009 as low-quality DT habitat and does not exhibit some of the characteristics that define critical habitat.

The single 40-acre private parcel within the site is designated as Open Space Rural by Riverside County and solar energy is an allowable use within the applicable zone. When considering this single parcel, because the Project would be an energy facility developed in a currently undeveloped desert area, the Project may not be consistent with current County General Plan policies that require that new land uses be compatible in scale and design with surrounding land uses. However, County personnel have indicated that the County's ongoing General Plan update will take into account the County's extensive solar energy resource. In anticipation of this General Plan update, the Project is expected to be compatible with the updated General Plan.

There are two residences within one mile of the Project site. These nearby land uses may be temporarily inconvenienced by noise, dust, and traffic during Project construction. However, there would be minimal impacts on nearby uses during Project operation.

Cumulatively, the proposed Project and other renewable energy projects will unavoidably alter the land use patterns of portions of eastern Riverside County along the U.S. Interstate 10 (I-10) corridor. However, these changes are compatible with Federal legislation (e.g., Energy Policy Act of 2005), Department of Interior policy (orders issued by the last two Secretaries of the Interior), as well as State law and policy (e.g., Assembly Bill [AB] 1078, that sets Renewable Portfolio Standards and gubernatorial Executive Orders), all of which recognize the need to utilize the solar energy resource of the California desert.

5.7.1 LORS Compliance

This section addresses potentially applicable LORS related to land use. The applicable Federal, State, and local LORS are summarized in Table 5.7-1 and discussed in the text following. Non-applicable Federal and State LORS are also discussed, and explanations provided for why they are not applicable.

Table 5.7-1 Summary of Applicable Land Use LORS

LORS	Applicability	Where Discussed in AFC
Federal:		
Federal Land Policy and Management Act (FLPMA): 43 United States Code (USC) Sections 1761-1771	Establishes the authority of the BLM to manage land within its jurisdiction, and to provide management direction including planning, environmental, and right-of-way (ROW) grant requirements.	Section 5.7.1
CDCA Plan NECO Coordinated Management Plan	Under FLPMA, the BLM is required to develop Resource Management Plans. All activities proposed for public land must be consistent with the approved Resource Management Plan(s). The relevant land use plan for this Project is the CDCA Plan, as amended by the NECO Plan.	Section 5.7.3
California Desert Protection Act (CDPA): Public Law 103-433 (1994)	Established Federal wilderness lands and National Parks in the region of the Project.	Section 5.7.1
Title 43 Code of Federal Regulations (CFR) Part 2920 et seq.	Establishes procedures for the processing of lease proposals for non-Federal use of BLM lands.	Section 5.7.1
Energy Policy Act of 2005: Public Law 109-58 (2005)	Establishes a goal for the Department of Interior to approve 10,000 megawatts (MW) of renewable energy on public lands by 2015.	Section 5.7.3
State:		
Warren-Alquist Act Title 20 California Code of Regulations Section 1701 et seq.	Establishes CEC procedures, documentation, and required environmental and other findings for siting of electrical energy generating facilities.	
Local:		
Riverside County General Plan (2003 and 2008 update)	Provides land use designations, goals, and policies for the development and conservation of non-Federal land within the unincorporated areas of Riverside County.	Section 5.7.3
Riverside County Land Use Ordinance	Assigns zones to land within the unincorporated areas of Riverside County, describes land uses allowed within each zone, and generally includes direction for implementing the Riverside County General Plan.	Section 5.7.3

5.7.1.1 Federal LORS

FLPMA and Federal Regulations Pertaining to ROWs

Construction, operation, and maintenance of electric facilities within BLM jurisdiction require a BLM ROW grant. A ROW grant is an authorization to use a specific piece of public land for a specific project, such as roads, pipelines, transmission lines, power plants, and communication sites. A ROW grant authorizes rights and privileges for a specific use of the land for a certain period of time. Generally, a BLM ROW is granted for a term appropriate for the life of the project.

Applications for commercial solar energy facilities will be processed as ROW authorizations under FLPMA subchapter V and Title 43 CFR Part 2800. The Project's ROW application with the BLM is CACA 48810. Commercial concentrating solar power or photovoltaic electric generating facilities such as the Project must comply with the BLM's planning, environmental and ROW application requirements. In reviewing a ROW application for the Project, BLM will consider all project information, existing land use information, and environmental impacts. BLM will hold a public hearing prior to deciding whether to issue a ROW grant.

Pursuant to Title 43 CFR Section 1610.5-3, any ROW granted by the BLM must be consistent with the relevant Resource Management Plan(s). For the Project, the relevant plans are the CDCA Plan and the NECO Plan (together, CDCA Plan/NECO), which are discussed below.

In processing an application for a ROW, the BLM must comply with NEPA (Title 42 USC Sections 4321-4347) and the implementing regulations (Title 40 CFR Sections 1500-1508). NEPA requires Federal agencies to review the significance of effects of actions, both short and long term, on the environment. Project NEPA compliance will be achieved by completing a combined NEPA/CEQA document prepared jointly by the BLM and the CEC. The Applicants will obtain the ROW grant before construction. The NEPA environmental review process also includes public hearings and other opportunities for public involvement.

Pursuant to FLPMA, Title 43 USC Sections 1761-1771, and its implementing regulations, Title 43 CFR Part 2920, the BLM is responsible for the orderly and timely processing of proposals for non-Federal use of public lands. The procedural and informational requirements of the regulations vary by the nature of the anticipated use. BLM ROW grants include six processing categories and fee levels that are generally based on the amount of Federal work involved, starting at eight hours and ranging to more than 50 hours. BLM's objective is to grant ROWs in a way that protects the natural resources associated with public lands and adjacent lands, whether private or administered by a government entity. BLM endeavors to prevent unnecessary or undue degradation to public lands, and coordinates to the fullest extent possible with state and local governments, interested individuals, and appropriate quasi-public entities for its ROW grants.

CDCA Plan and the NECO Plan

Per Title 43 CFR Section 1610.5-3, BLM must manage the land within its jurisdiction in compliance with a Resource Management Plan. With the exception of one 40-acre, privately owned parcel, the entire Project site (including the transmission line route) will be located on lands under BLM jurisdiction and managed pursuant to the CDCA Plan. The CDCA Plan serves as a guide for the management of all BLM-administered lands in three desert areas: the Mojave, the Sonoran, and a small portion of the Great Basin. The CDCA Plan covers approximately 25 million acres, of which 12 million are public lands. The primary goal of the CDCA Plan is to provide overall maintenance of the land while planning for multiple uses and balancing the needs of people with the protection of the natural environment.

The NECO Plan is a landscape-scale, multi-agency planning effort that protects and conserves natural resources while simultaneously balancing human uses of the California portion of the Sonoran Desert ecosystem, e.g. the Colorado Desert. The NECO Plan amended the CDCA Plan. The CDCA Plan/NECO is the comprehensive Federal land use and planning document for BLM and other public

lands in the Project Area. The NECO Plan was approved in 2002, and is currently undergoing evaluation for further amendment. This review may be related to the Solar Energy Programmatic Environmental Impact Statement (PEIS), which currently is in the scoping process.

The CDCA Plan/NECO organizes BLM-managed lands into one of four multiple-use classes: Controlled Use (C), Limited Use (L), Moderate Use (M), and Intensive Use (I) (see Figure 5.7-2, BLM Multiple Use Classes). The Project site (plant site and linear facilities, with the exception of the single privately owned parcel) is designated Moderate Use (Figure 5.7-2). Moderate use prescribes a controlled balance between higher intensity use and protection of public lands, and provides for a wide variety of present and future uses such as mining, livestock grazing, recreation, energy, and utility development. Sites associated with power generation or transmission not identified in the CDCA Plan/NECO must apply for a Plan Amendment in order for those uses to be allowed. The Project and its linear facilities are not identified in the existing CDCA Plan/NECO. A Plan Amendment will be required, in accordance with Chapter 7 of the CDCA and with the planning regulations set forth at Title 43 CFR Section 1600 et seq.. It is not yet clear how this Plan Amendment process will be handled, in part because it is unclear what the relationship will be of the Solar Energy PEIS to the Project-specific Plan Amendment process.

The Project site is within the large NECO Southern Recovery Unit for the DT. The BLM has identified two federally listed species affected by the CDCA Plan in the NECO Planning Area: the DT (*Gopherus agassizii*) and the Coachella milkvetch (*Atragalus lentiginosus var. coachellae*). Issues related to special-status wildlife and plant species are discussed in Section 5.3, Biological Resources. The Project site itself is not subject to any Habitat or Natural Community Conservation Plan or within the boundaries of any wildlife preserve or critical habitat areas. However, the Project would be built within a Multi-species Wildlife Habitat Management Area (WHMA). The Multi-species WHMA is complementary to existing restricted areas within the NECO planning area and DWMA's, which also cover other special-status species and habitats (e.g., DT and bighorn sheep). No restrictions are designated in the WHMA other than closure of some routes of travel. Management emphasis is placed on active management, specific species and habitats mitigation, and restoration from authorized allowable uses. Thus, the Project would not conflict with a habitat conservation plan or natural community conservation plan.

According to NECO maps, the southeast portion of the Project Study Area may contain some important industrial and metallic minerals near the base of the Palen/McCoy Mountain Wilderness area. This area is outside of the Project disturbance area and appears to be within or in close proximity to the Palen Lake ACEC and Palen McCoy Wilderness area. There are no areas identified by BLM for High Mineral Development Potential that would be affected by the Project. A review of the Riverside County land use database did not identify any mineral resource protection or extraction in the Project Study Area, but this use is allowed under the current land use designation. The proposed Project would not restrict the development of these resources.

The CDCA Plan/NECO requires that new gas, electric, and water transmission facilities and cables for interstate communication may be allowed only within appropriately designated corridors. As shown in the CEC map titled "Renewable Energy Transmission Initiative (RETI) Phase 2A Draft Maps", the Project is partially located within a designated BLM Energy Corridor and the proposed Section 368 transmission corridors, as described in Section 5.1 (Figure 5.7-5, BLM Utility Corridors).

CDPA

The U.S. Congress enacted the CDPA in 1994 (Public Law 103-433) to establish desert wilderness areas for protection including the Chuckwalla Mountains Wilderness, the Little Chuckwalla Mountains Wilderness, the Palen/McCoy Wilderness, and the Palo Verde Mountains Wilderness. In addition, this Act established Death Valley National Park, Joshua Tree National Park and the Mojave National Preserve. The Act established administration of wilderness lands and addresses land use compatibility issues such as buffers and utility ROWs.

Title VIII of the CDPA specifically permits military operations and overflights. Since the proposed Project is not within or contiguous to any CDCA wilderness area or National Park, nor does the proposed Project

require or propose use or construction of ROWs within a wilderness area or National Park, the Project would be consistent with the CDCA.

Current Federal/State Interagency Cooperation for Renewable Energy Applications

California Executive Order S-14-08 established a goal for the Renewable Portfolio Standard (RPS) to produce 33 percent of California's electrical needs by 2020. Two interagency memoranda of Understanding (MOUs) have been executed to encourage the development of renewable energy sources that meet the RPS.

On August 8, 2007, the BLM California Desert Conservation District and the CEC executed a MOU to establish a policy for the joint environmental review of solar thermal power plant projects. As indicated elsewhere in this Application for Certification (AFC), a key element of this joint review will be preparation of a joint NEPA/CEQA document by the two agencies. The Project addressed in this AFC will receive a joint CEQA/NEPA review by the CEC and BLM, respectively. The intention of this joint review is to expedite permitting of solar power plants that are needed to meet the State's RPS goals. This AFC is intended to address BLM needs as well as those of the CEC in order to support preparation of the joint NEPA/CEQA document.

In November 2008, the BLM, California Department of Fish and Game, U.S. Fish and Wildlife Service and CEC signed a MOU regarding the establishment of the California Renewable Energy Action Team. The goal of this MOU is to accelerate cooperation among Federal and state agencies to facilitate the State of California's renewable energy goals. The parties agreed to work cooperatively to develop a conservation strategy, referred to as the Desert Conservation Energy Plan, to provide for effective protection and conservation of the natural resources within the Mojave and Colorado Desert Regions while allowing solar and other qualified RPS energy project siting development in a manner that avoids or minimizes environmental impacts. As appropriate, the Applicants are working with these various agencies individually and collectively to support the acceleration of the Project permitting/licensing process.

Federal Power Act

Project transmission interconnections require review from the California Independent System Operator. The CEC is responsible for the review and permitting for project-related transmission up to its first point of interconnection. The Project is expected to connect to the regional grid at Southern California Edison's (SCE's) proposed Red Bluff substation. The location of the Red Bluff substation has not been finalized, and thus the Project transmission route cannot be finalized. Transmission system studies will be completed to identify whether upgrades to the regional transmission system downstream of the Red Bluff substation are needed because of the Project. Such transmission upgrades, if needed, may be required to comply with Federal Energy Regulatory Commission requirements under the Federal Power Act.

Energy Policy Act of 2005

The Federal Energy Policy Act of 2005 (Public Law 109-58) directs Federal agencies to undertake efforts to ensure energy efficiency as well as the production of secure, affordable, and reliable domestic energy. Section 211 of this Act sets a goal for the Department of Interior (of which BLM is a part) to approve 10,000 MW of renewable energy on public lands by 2015.

NEPA

The Department of Energy's Office of Energy Efficiency and Renewable Energy and BLM are currently preparing a Solar Energy Development PEIS to evaluate utility-scale solar energy development, to develop and implement agency-specific programs that would establish environmental policies and mitigation strategies for solar energy projects, and to amend relevant agency land use plans with the consideration of establishing a new BLM solar energy development program. As a practical matter, the PEIS will help the BLM to more efficiently address the significant number of applications it has received that are seeking approval of utility-scale solar power plant projects on BLM lands. The Draft PEIS is in

the scoping process as of August 2009 and its contents could affect the Project in many ways, for example by changing the Resource Management Plans for the BLM lands where the Project is proposed.

As mentioned earlier, NEPA compliance for the Project itself will be achieved through a combined NEPA/CEQA document. This document will be prepared jointly by the BLM and CEC.

5.7.1.2 State LORS

Warren-Alquist State Energy Resources Conservation and Development Act

The California PRC establishes the CEC, through the AFC process, as the decision-making authority over land use decisions and environmental determinations in accordance with the Warren-Alquist State Energy Resources Conservation and Development Act (Warren-Alquist Act) codified in Section 25000 et seq. of the PRC. Although the CEC has exclusive jurisdiction over large (50 MW) thermal power plant siting pursuant to Section 25500 of the Warren-Alquist Act, including CEQA implementation, in almost all cases, the CEC will demonstrate conformity with state, regional, and local laws, including land use laws.

Title 20 California Code of Regulations Section 1701 et seq. establishes CEC procedures, documentation, and required environmental and other findings for siting of electrical energy generating facilities. Included in these regulations are specific instructions for providing public notice, environmental and other information required to be submitted with all applications, and the required public safety, environmental and other findings to be made by the CEC in order to approve an application.

As discussed above, the CEC and BLM will prepare a joint NEPA/CEQA document to streamline the review process for the Project.

Farmland Mapping and Williamson Act

The California Department of Conservation's Farmland Mapping and Monitoring Program produces maps and statistical data used for analyzing impacts on California's agricultural resources. Agricultural land is rated according to soil quality and irrigation status. The Project site has no history of agricultural use. It has not been mapped for agricultural purposes, and no special agricultural land use designations have been assigned pursuant to the Farmland Mapping Act or the Williamson Act. Thus, the Farmland Mapping Act and Williamson Act do not apply to the Project.

The nearest Farmland of Statewide Importance is located approximately 40 miles east of the Project site in the Palo Verde Valley within the City of Blythe and the Town of Ripley. Other significant agricultural land is found approximately 60 to 100 or more miles from the Project site, north and south of the Salton Sea in Riverside and Imperial Counties. Thus, the Project would not directly or indirectly result in a conversion of agricultural land to non-agricultural use. Development of the Project would not lead to additional development on protected agricultural land.

5.7.1.3 Local LORS

Facilities constructed on Federal public lands pursuant to a ROW grant under FLPMA Section 501, 43 USC 1761, are required to comply with state "siting, construction, operation, and maintenance" standards that are more stringent than equivalent Federal standards. See FLPMA Section 505, 43 USC 1761(a)(iv). However, as the U.S. Court of Appeals for the Ninth Circuit has held, such facilities are not required to comply with local zoning ordinances or plans to the extent those ordinances or plans conflict with federal law. See *Citizens for a Better Henderson v. Hodel*, 768 F.2d 1051, 1055 (9th Cir. 1985) ("This court has supported the right of the federal government to exercise [the] authority [to grant ROWs for facilities consistent with FLPMA], whether the authorized party is public or private, free of any regulatory interference by local agencies ... Absent a 'clear congressional mandate' that makes the intended preemption 'clear and unambiguous,' local regulation takes a back seat to applicable federal law."). Thus, a county ordinance that would serve to prohibit the construction of a solar energy facility (and any associated linear facilities) "impermissibly conflicts with and must give way to the statutorily authorized granting of a federal right-of-way to" build those facilities on federal public lands. *Citizens for a*

Better Henderson, 768 F.2d at 1055. Thus, the Riverside County General Plan and zoning ordinances listed above and discussed below do not apply to the Project, except for that part of the Project that will be built on a 40-acre private parcel. We discuss this portion of the Project's compliance with local land use and zoning laws below.

Riverside County General Plan

The Riverside General Plan was adopted October 7, 2003 and is currently being updated. The General Plan consists of a vision statement and the following Elements: Land Use, Circulation, Multi-purpose Open Space, Safety, Noise, Housing, Air Quality and Administration. It sets forth county land use policies and implementation measures. This analysis draws upon the 2008 General Plan update (GPA 960) information which includes all amendments to date and is the most current information for the General Plan. It is expected that the GPA 960 will be adopted in June 2010. The GPA 960 proposes a new element for Healthy Communities, proposes changes to various study areas that are outside of the Project vicinity, and makes several corrections. No changes in land use designations were noted with regard to the Project site.

The existing General Plan does not specifically address the siting of utility-scale solar energy facilities and the County recognizes that policy conflicts may exist. The County is planning to address the siting of solar power plants and will clarify the definition of public utility uses in its General Plan update and in future revisions of the County code. Updates of the Energy, Cultural Resources, and Water Conservation policies and a review of Multi-species Habitat Conservation Plans are also expected.

The Project (both public and private parcels) is located entirely within the Chuckwalla Valley, which is part of the Eastern Riverside County Desert Area and is referred to by Riverside County as a "non-area plan" (the area is not part of any of the County's 19 area plans that have specific policies pertaining to them) in unincorporated Riverside County (Figure 5.7-3). All private land within the Study Area (including the 40-acre parcel on the Project site) are designated Open Space Rural. Open Space Rural requires a 20-acre minimum parcel size for one single-family residence and allows extraction of mineral resources subject to a surface mining permit providing that scenic resources and views be protected.

The following policies apply to the 40-acre private parcel inholding and other Project study area parcels located within the County of Riverside. These properties are designated Open Space-Rural.

- Require that structures be designed to maintain the environmental character in which they are located.
- Require that development be designed to blend with undeveloped natural contours of the site and avoid an unvaried, unnatural, or manufactured appearance.
- Require that adequate and available circulation facilities, water resources, sewer facilities, and/or septic capacity exist to meet the demands of the proposed land use.
- Ensure that development does not adversely impact the open space and rural character of the surrounding area.
- Encourage parcel consolidation.

Policies related to Land Use Compatibility include:

- Require land uses to develop in accordance with the General Plan and area plans to ensure compatibility and minimize impacts.
- Direct public, educational, religious, and utility uses established to serve the surrounding community toward those areas designated for Community Development and Rural Community uses on the applicable area plan land use maps. These uses may be found consistent with any of the Community Development, Rural Community, or Rural foundation designations, including the Rural Village Overlay, as well as the Open Space – Rural and Agriculture designations, under the following conditions:

- The facility is compatible in scale and design with surrounding land uses, and does not generate excessive noise, traffic, light, fumes, or odors that might have a negative impact on adjacent neighborhoods.
- The location of the proposed use will not jeopardize public health, safety, and welfare, or the facility is necessary to ensure the continual public safety and welfare.
- Consider the positive characteristics and unique features of the Project site and surrounding community during the design and development process.
- Retain and enhance the integrity of existing residential, employment, agricultural, and open space areas by protecting them from encroachment of land uses that would result in impacts from noise, noxious fumes, glare, shadowing, and traffic.

Policies related to Economic Development include:

- Accommodate the development of a balance of land uses that maintain and enhance the County's fiscal viability, economic diversity, and environmental integrity.
- Promote and market the development of a variety of stable employment and business uses that provide a diversity of employment opportunities.
- Improve the relationship and ratio between jobs and housing so that residents have an opportunity to live and work within the County.

Policies related to Open Space, Habitat and Natural Resources Preservation include:

- Provide for permanent preservation of open space lands that contain important natural resources, hazards, water features, watercourses, and scenic and recreational values.
- Require that development protect environmental resources by compliance with the Multipurpose Open Space Element of the General Plan and Federal and state regulations such as CEQA, NEPA, the Clean Air Act, and the Clean Water Act.
- Allow development clustering and/or density transfers in order to preserve open space, natural resources, and/or biologically sensitive resources.
- Require that new development contribute their fair share to fund infrastructure and public facilities such as police and fire facilities.
- Require a fiscal impact analysis for specific plans and major development proposals so as not to have a negative fiscal impact on the County.

Policies related to Project Design include:

- Require that public facilities be designed to consider their surroundings and visually enhance, not degrade, the character of the surrounding area.
- Ensure that development and conservation land uses do not infringe upon existing public utility corridors, including fee-owned ROWs and permanent easements, whose true land use is that of Public Facilities. This policy will ensure that the Public facilities designation governs over what otherwise may be inferred by the large-scale General Plan maps.
- Due to the scale of General Plan and area plan maps and the size of the County, utility easements and linear ROWs that are narrow in width are not depicted on General Plan and area plan maps. These features need to be taken into consideration in the review of applications to develop land and proposals to preserve land for conservation.

Scenic Corridors

I-10 has been identified by the County of Riverside in its Circulation Element as eligible for designation as a scenic corridor. The County of Riverside has indicated in its General Plan Land Use Element that I-10 should be designated a scenic highway and has developed General Plan scenic corridor policies. These policies seek to maintain visual resources in corridors along scenic highways.

Relevant Policies for Scenic Corridors include:

- Preserve and protect outstanding scenic vistas and visual features for the enjoyment of the traveling public.
- Incorporate riding, hiking, and bicycle trails and other compatible public recreational facilities within scenic corridors.
- Ensure that the design and appearance of new landscaping, structures, equipment, signs, or grading within Designated and Eligible State and County Scenic Highway corridors are compatible with the surrounding scenic setting or environment.
- Maintain at least a 50-foot setback from the edge of the ROW for new development adjacent to Designated and Eligible State and County Scenic Highways.
- Require new or relocated electric or communication distribution lines, which would be visible from Designated and Eligible State and County Scenic Highways, to be placed underground.
- Prohibit offsite outdoor advertising displays that are visible from Designated and Eligible State and County Scenic Highways.
- Require that the size, height, and type of on-premise signs visible from Designated and Eligible State and County Scenic Highways be the minimum necessary for identification. The design, materials, color, and location of the signs shall blend with the environment, utilizing natural materials where possible.
- Avoid the blocking of public views by solid walls.

Riverside County Land Use Ordinance

The County of Riverside Land Use Ordinance includes provisions for issuance of building and grading permits, grading plans, and zoning requirements, and standards and procedures for building review on private parcels within the county. The Riverside County Land Use Ordinance describes all zoning and includes guidance for technical amendments, entitlements and policy amendments for foundation component amendments and General Plan amendments.

The Project Study Area (including the Project site) is within the Chuckwalla Area zoning district and outside of any county service area. The only private parcel within the Project site is zoned W-2-10, Controlled Development (with a 10-acre minimum parcel size per residence). This one 40-acre private parcel is located in the center of the Project site and is the only land associated with the Project that is under the jurisdiction of Riverside County. The W-2 zone (County Code Section 15.1(e) (2)) permits public utilities, structures, and appurtenant facilities for power generation and other such infrastructure. Based on conversations with the Riverside County Planning Director, if the Project is determined by the CEC as meeting the category of “public utility”, the County would provide input to the CEC during the AFC process regarding any applicable requirements.

Privately owned parcels are intermingled with large blocks of BLM-managed Federal land in the Project Study Area. Some privately owned parcels within the Project Study Area are zoned W-2-10 and are located north, south, east and west of the Project site within the one-mile buffer (Table 5.7-2, Figure 5.7-4). Two large private parcels within the Project Study Area north of the site and one parcel to the west are zoned Natural Assets (N-A). The N-A zoning is intended to protect natural resource areas. The northern N-A parcels are sensitive areas; one is the Palen Dry Lake and the other includes a watercourse. As noted

above, the County is in the process of a General Plan update and related code changes, and plans to specifically consider allowing solar energy development in the Eastern Riverside County Desert Area.

Table 5.7-2 County of Riverside Zoning

Zone District	Description of Permitted Uses and Development Regulations
W-2 Controlled Development Areas	W-2-10 zoning classification is within the W-2 zone and requires a minimum of 10-acres per dwelling. This zone permits “public utility uses, such as 1) Structures and installations necessary to the conservation and development of water such as dams, pipelines, water conduits, tanks, reservoirs, wells and the necessary pumping and water production facilities; 2) Structures and the pertinent facilities necessary and incidental to the development and transmission of electrical power and gas such as hydroelectric power plants, booster or conversion plants, transmission lines, pipe lines and the like; and 3) Telephone transmission lines, telephone exchanges and offices.”
N-A, Natural Assets	This zone permits, “One-family dwellings, field and tree crops, apiaries, limited grazing of cattle, horses, sheep or goats. With a Plot Plan and parcel of appropriate size: public utility substations, menageries, museums, agricultural mobile homes. Uses with a Conditional Use Permit (CUP): recreational vehicle parks, hotels, extraction and bottling of well water, riding academies, golf courses and appurtenant facilities, fishing lakes, camps, guest ranch.”

5.7.1.4 Involved Agencies

The agencies with jurisdiction to process land use entitlements for the Project are listed in Table 5.7-3.

Table 5.7-3 Agency Contact List

Agency Contact	Phone/E-mail	Permit/issue
Ron Goldman Planning Director County of Riverside Planning Department 4080 Lemon Street, 9th Floor P.O. Box 1409 Riverside, CA 92501	(951) 955-3265 rgoldman@rctlma.org	Compatibility with county land use requirements (zoning, land use plans, and policies) For private parcels with County.
Claude Kirby BLM Palm Springs Field Office 1201 Bird Center Drive Palm Springs, CA 92262	(760) 251-4850 Claude_kirby@ca.blm.gov	BLM ROW Application
Sandra McGuiness/Erin Dreyfuss, BLM, Environmental Planning, Natural Resources, 2800 Cottage Way, W-1928, Sacramento, CA 95825-1886	(916) 978-4400 Sandra_Mcguiness@ca.blm.gov	CDCA Plan Amendment
Mike Lara, Director Building and Safety Department 4080 Lemon Street Riverside, CA 92502	(951) 955-2025 mlara@rctlma.org	Determines compliance with county grading, drainage, and building regulations

5.7.1.5 Required Permits and Permit Schedule

BLM is the lead agency responsible for the Federal land use decisions on the Project site and land use decisions will be consistent with the NECO plan. A ROW grant from BLM will be required for the proposed Project. As shown in Table 5.7-4, BLM would be responsible for review and approval/denial of a ROW grant application based on review of all Project information; existing land use information; environmental impacts and mitigation requirements; and public hearings. Notice of any public hearings or meetings will be published in the Federal Register.

The 40-acre parcel of private land located in the center of the site normally would be subject to the County of Riverside General Plan and zoning ordinance. CEC and County staff have indicated that all county-related land use issues will be addressed as part of the CEC licensing process. Discretionary reviews are actions that require review and approval by an overseeing regulatory agency. Based on a search of the Riverside County land use database and the BLM website, there have been no discretionary reviews by either BLM or Riverside County in the Project Study Area within the past 18 months. Furthermore, the County Planning Department is not aware of any recent discretionary actions in the Project Study Area.

Table 5.7-4 Required Land Use-Related Permits and Schedule

Permits & Approvals	Agency	Schedule
ROW Grant (site, transmission)	BLM	Approximately 60 calendar days following NEPA review or as specified in a Master Agreement
CDCA Amendment		Prior to construction
Grading Permit >50 cubic yards	Riverside County Engineering Department	Prior to construction
Drainage Improvement Plan		Prior to construction
National Pollutant Discharge Elimination System Stormwater Compliance Program		Prior to construction
Building Permit		Prior to construction
County Roadway ROW Encroachment Permit		Prior to construction

5.7.2 Affected Environment

This subsection discusses existing land use conditions in the areas potentially affected by the Project. For the purposes of this evaluation, the Project Study Area or local affected environment is defined as a one-mile radius around the Project plant site and 0.25 miles on both sides of the Project's one offsite linear feature, the transmission line. BLM and Riverside County are the governmental entities with jurisdiction within the Project Study Area. The entire Project site is located within BLM public lands, with the exception of one 40-acre private parcel. The Project linear facilities would be constructed on BLM lands subject to the ROW agreement. The Project would connect to a proposed new SCE substation expected to be to the west of the Project site, but whose location has not been finalized. Thus, no discussion of transmission line land use impacts is provided.

5.7.2.1 Regional Setting

The Project site is located in the Colorado Desert in eastern Riverside County. Riverside County is the fourth largest county in California, with a population of over two million. Most of the population is found in the western portion of the County. The eastern area comprises nearly 40 percent of the County's acreage but less than one percent of its population; it consists of most of the County's desert regions

which include a mixture of public and privately owned lands. The study area includes some land that is currently farmed to the west of the Project site; however, there is no history of agricultural use on the Project site.

Most of the native desert is covered by desert scrub, with chaparral at the western edge and woodlands and forests at higher elevations in the San Jacinto Mountains and desert mountains. Elevations range from 230 feet below mean sea level at the Salton Sea to about 9,800 feet at Mount San Jacinto in the San Bernardino National Forest. As with western Riverside County, the region's various environments accommodate a wide variety of plants and animals, including many rare or endemic to Southern California. At least five sensitive habitat communities and over 170 plant and animal species have been identified for Eastern Riverside County.

5.7.2.2 Project Site and Immediate Vicinity

Project Site and Vicinity

The proposed Project site is located in Township 6 South, Range 17 East. A legal description is provided in Table 2-1 in the Project Description. Ownership information for the properties surrounding the site and along the linear facilities routes is provided in Appendix A of the AFC. According to the Riverside County database and the NECO Plan, the Project is not located on Tribal land.

The Applicants seek to lease approximately 5,200 acres of Federal land administered by the BLM, on which the proposed facilities would occupy approximately 2,970 acres. The Project site is vacant undeveloped desert located approximately 0.5 mile north of I-10 and 10 miles east of the small rural community of Desert Center. The Project site is not located in a designated wilderness area; however, it is located near lands that are designated as wilderness lands or ACEC (NECO Maps 2-38 and 2-4). The nearest Federal wilderness areas are located in mountainous land to the northeast and south of the Project site and referred to as the Palen/McCoy and Chuckwalla Mountains, respectively. The Chuckwalla Mountains are also designated by BLM as a DWMA; the Chuckwalla DWMA is located less than one mile south of the site and south of I-10. The Palen Dry Lake and dunes, located to the northeast of the Project site, are designated as an ACEC. Additional information related to these designations is contained in Section 5.3, Biological Resources. It also should be noted that the edge of designated desert tortoise critical habitat extends into approximately 180 acres of the southwestern portion of the PSPP plant site. However, as discussed in Section 5.3 and referenced in agency correspondence in Appendix K, the boundaries of critical habitats in general are mapped at a coarse regional scale; the desert tortoise habitat in question does not meet some of the criteria for designation as critical habitat and is in fact considered low quality tortoise habitat based on 2009 field surveys.

The undeveloped Palen Dry Lake is located northeast of the Project site. South of I-10 is undeveloped public and private desert land. Undeveloped and irrigated desert is located west of the site where several large parcels are actively farmed. Cocopah Nurseries is located approximately 0.5 mile northwest of the Project boundaries. The nearest residence is located approximately 25 feet north of the Project's ROW boundary and approximately 1,000 feet from Unit #2. One other residence is located approximately 3,500 feet north of the Project boundary. No other residences are known to exist within the one-mile radius of the Project site.

The Project site is vegetated with desert scrub throughout and includes some sand dunes in the northeast. Several dirt roads and transmission lines cross the Project site, as well as four desert northeast-southwest trending washes. Based on information in the NECO Plan, the Project site has not been leased for grazing by BLM. The nearest grazing lands are the Ford Dry Lake grazing allotment approximately 10 miles east of the site and north of I-10.

Recreation Land Use

The site is currently undeveloped and few off-highway vehicle tracks were observed. The site does not appear to be frequented as a recreational area. No portion of the Project Study Area is known to be an active recreational area.

Scenic Land Use

The NECO Plan does not identify any scenic resources in the Project Study Area. The County of Riverside has identified the I-10 corridor as eligible for county designation as a scenic corridor. The I-10 corridor between Palm Springs and Blythe is not designated by the State of California as a scenic corridor.

5.7.2.3 Linear Facilities

The only offsite linear facility needed for the Project is the double circuited 230-kilovolt transmission line to connect the Project with the regional grid at a planned SCE substation. However, the point of interconnection for the Project, SCE's Red Bluff substation, was recently identified in the CAISO August 5, 2009 Phase 1 Interconnection Study. As this tentative substation location was only recently made available, the Applicant will proceed with further study of the transmission line after submittal of the AFC. When the route is finalized, additional environmental evaluations will be prepared and provided to the regulatory agencies.

5.7.3 Environmental Impacts

The land use impact evaluation focuses on the following issues: 1) the conformity of the Project with Federal and local land use plans, ordinances and policies; and 2) the potential for the Project to have direct, indirect and/or cumulative land use conflicts with existing and planned uses.

5.7.3.1 Construction Phase Impacts

As shown in the CEC map titled "RETI Phase 2A Draft Maps," the Project is partially located within a designated BLM Energy Corridor and the proposed Section 368 transmission corridors (Figure 5.7-5, BLM Utility Corridors). The Project will require construction of a new transmission line to connect to a planned new substation located west of the site at a location that has not been finalized. When the route is finalized, additional analyses will be performed and provided to the regulatory agencies and other stakeholders.

The construction of a solar thermal power plant project on a private 40-acre parcel designated Open Space Rural and zoned W-2-10 by Riverside County might normally require a CUP for conformance if it were not for the CEC's thermal power plant licensing jurisdiction. The existing W-2-10 zoning allows public utility uses including "structures and the pertinent facilities necessary and incidental to the development and transmission of electrical power and gas lines such as hydroelectric power plants, booster or conversion plants, transmission lines, pipe lines and the like..." As previously indicated, the County is currently undergoing a General Plan updated that may specifically allow solar energy development in the W-2-10 zone. Riverside County staff have indicated that any required land use permitting will be handled through the CEC licensing process.

The residences in the Project study area north and west of the Project site may experience some temporary impacts from construction phase dust emissions, noise and construction traffic, as discussed in AFC Section 5.2, Air Quality, Section 5.8, Noise, and Section 5.13 Traffic and Transportation. Construction activities will be designed to minimize interference with existing land uses in the vicinity of the Project site. Due to the temporary nature of construction (approximately 39 months) and with planned mitigation measures, these impacts would be less than significant.

5.7.3.2 Operation Phase Impacts

The proposed Project site is classified as Multiple Use Class M by the BLM, which allows energy and utility development. The Project will not affect designated wilderness areas, DWMAs, recreational areas, important mineral resource areas, or other designated sensitive land uses. However, as stated earlier, the CDCA Plan states that sites associated with power generation or transmission not identified in the Plan must apply for a CDCA Plan Amendment. Thus, with a CDCA Amendment, the proposed Project would be in conformance with CDCA Plan/NECO.

Two residences exist within the Study Area west of the Project site. Operation phase land use impacts are expected to be less than significant. The Project would have only minor noise, traffic, and dust impacts; Project facilities, however, will be visible from the two nearby residences.

When considering the single 40-acre private parcel within the site would normally be subject to Riverside County land use policies, the Project would not be consistent with current General Plan policies that require that land uses be compatible in scale and design with surrounding land uses. Because the Project area is primarily undeveloped land, no proposed energy facility (or other development) would be able to comply with policies to match the current scale and design, although there are numerous renewable energy projects proposed along the I-10 corridor. No energy facilities currently exist near the PSPP site with the exception of transmission lines. The County has indicated that it will be revisiting General Plan policies that relate to the County's solar energy resource in its ongoing General Plan update.

The proposed Project would be largely self-contained and would not jeopardize the public health, safety or welfare of any people or residences in this area. The Project is intended to comply with State policy to provide 33 percent of electricity from renewable energy by 2020 to "provide multiple and significant benefits to California's environment and economy, including improving local air quality and reducing global warming pollution, diversifying energy supply, improving energy security, enhancing economic development, and creating jobs..."

The Project is well-matched to policies requiring that compatible land uses in the region will not generate excessive noise, traffic, light, fumes, or odors, or have significant adverse impacts of any sort on its neighbors. The Project lighting plan will be designed to have the minimum lighting levels consistent with safety and security. Lighting will be shielded, focused downward, and directed away from adjacent land uses (also see Section 5.15, Visual Resources).

Riverside County General Plan Policies, such as LU 20.1, require that structures be designed to maintain the environmental character in which they are located. Once constructed, the Project would be a noticeable man-made feature in the currently undeveloped desert region of the Palen-Chuckwalla area. While the Project would visually alter the existing rural character of this area from undeveloped desert to a solar energy facility (see Section 5.15, Visual Resources), the value of the solar resource in the County is understood by government agencies and stakeholders. However, the Project site has been selected for a solar facility because of its unique characteristics that support economic solar power generation as well as access to existing electric transmission corridors, road access, and avoidance of environmentally sensitive areas; (for more information on site selection, see Section 4.0, Alternatives.)

Because the Project site is flat and within 0.5 mile of I-10, it would be incompatible with current County policies that require development to blend with undeveloped natural contours of the site and to avoid an unvaried, unnatural, or manufactured appearance once constructed. With respect to visual resources policies, the Project is unlikely to obscure the visible mountains but would replace a presently undeveloped view of the desert in the Palen-McCoy area with a view that includes a developed solar facility in the foreground of the desert wilderness. As noted earlier, however, the County General Plan update is expected to revise policies in recognition of the solar energy resource that is present in the County such as along the I-10 corridor.

Riverside County General Plan Policy LU 20.5 and CEC regulations encourage parcel consolidation, which would need to occur prior to the start of construction. As noted earlier, the Project site includes both public and private ownership. Additional discussion will be needed among the County, BLM, and the CEC to determine the appropriate means to resolve this issue.

The Project would aid in meeting the County's economic development policy objectives to accommodate the development of a balance of land uses that maintain and enhance the County's fiscal viability, economic diversity, and environmental integrity. The Project would promote stable employment and uses that add to the diversity of long-term employment opportunities within the County.

5.7.3.3 Cumulative Impacts

Current land uses along the I-10 corridor consist largely of undeveloped land or desert wilderness areas. No large scale energy facility (or other development) currently occurs in this area with the exception of transmission lines. Thus, cumulatively, the Project with the other projects identified in Section 5.1.2 will unavoidably alter the land use patterns of portions of eastern Riverside County along the I-10 corridor. The various projects, include potential projects with BLM ROW applications on approximately 100,000 acres of land, although the actual facility footprints of these projects will be smaller. Furthermore, there are several transmission system facilities (additional high-voltage transmission lines and utility substations), that are planned in the I-10 corridor to support energy facilities along the I-10 corridor.

The various proposed energy projects (almost all solar) are located in areas that various ongoing study/planning efforts (e.g., California's RETI) recognize as generally suitable for solar energy. This suitability is based on factors such as the presence of the needed strong solar resource, topography, the presence/proximity of needed infrastructure (transmission lines and highways), and significantly, the avoidance of areas that would conflict with other sensitive uses (wilderness areas, National Parks and other recreational facilities, ACEC, etc.).

The need to utilize the desert for solar energy resources is recognized in applicable land use/resource management and planning documents (e.g., CDCA Plan/NECO), Federal legislation (Energy Policy Act of 2005), and an order issued by Secretary of Interior Salazar in June 2009 vowing to have 13 commercial-scale solar projects on public lands under construction by the end of 2010. As noted above, the County has indicated that it will be revisiting General Plan policies in its General Plan update to allow for renewable energy developments. Thus, while the cumulative effects of these projects will be to effect a substantial change in land uses in the vicinity of the I-10 corridor, these changes are and will be compatible with applicable plans and policies that encourage renewable energy development.

5.7.4 Mitigation Measures

The following measures are proposed to mitigate the Project's land use impacts.

LAND-1 The Applicant will work with Riverside County, BLM, and the CEC to agree on actions (General Plan and ordinance changes) needed to ensure that the Project is compatible with specific County land use plans and policies while ensuring a balance of land uses that maintain and enhance the County's fiscal viability, economic diversity, and environmental integrity (Riverside County Open Space Policy 19).

LAND-2 Prior to construction, the Applicant will obtain and provide to the CEC's Compliance Project Manager a copy of the BLM ROW Grant and an amendment to the CDCA to comply with BLM's CDCA Plan/NECO and Title 43 CFR 2800 and 2880.

5.7.5 References

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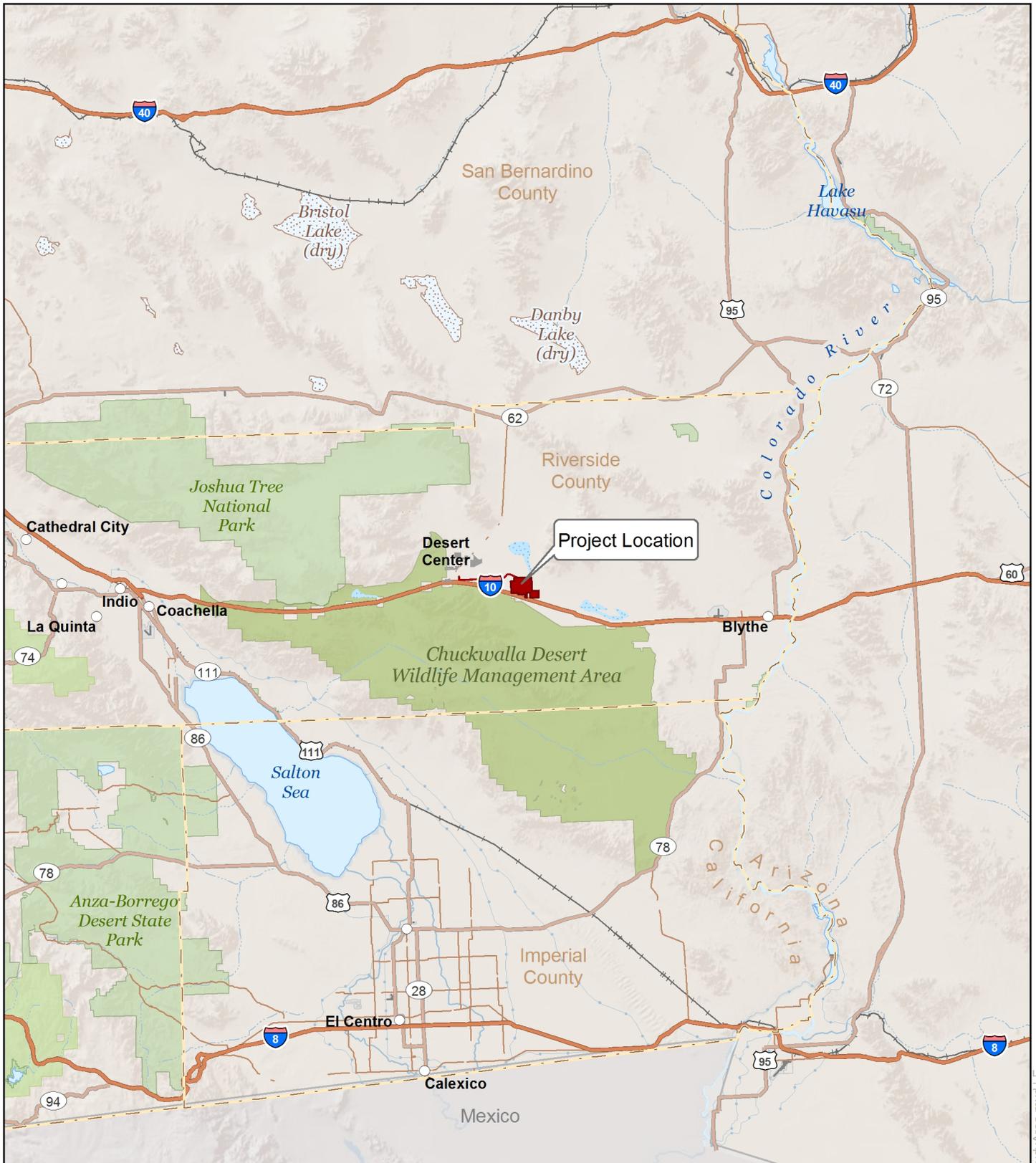
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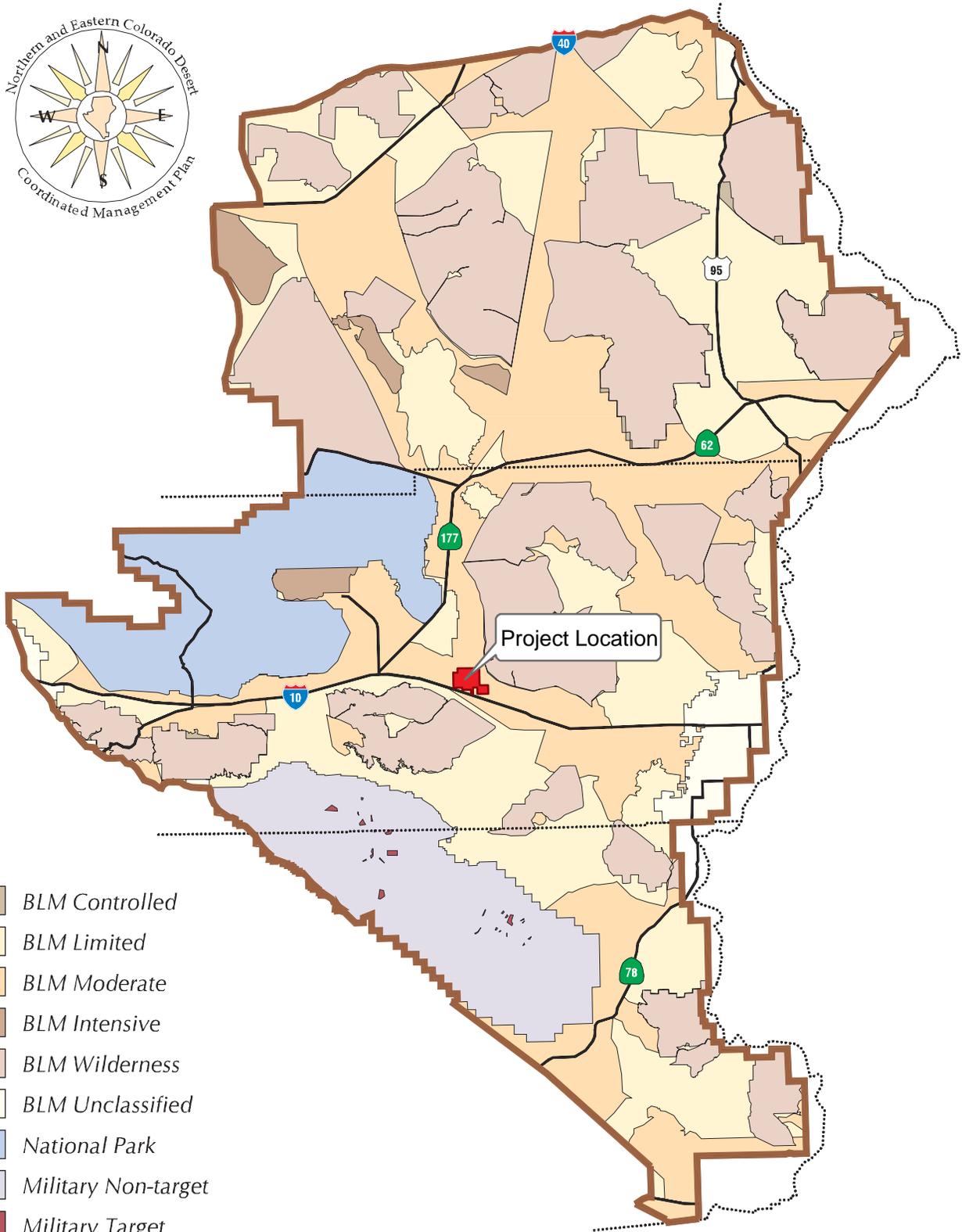


Palen Solar Power Project

**Figure 5.7-1
Project Study Area**

Source: ESRI; AECOM 2009

Date: August 2009



-  BLM Controlled
-  BLM Limited
-  BLM Moderate
-  BLM Intensive
-  BLM Wilderness
-  BLM Unclassified
-  National Park
-  Military Non-target
-  Military Target



Source: BLM; AECOM, 2009



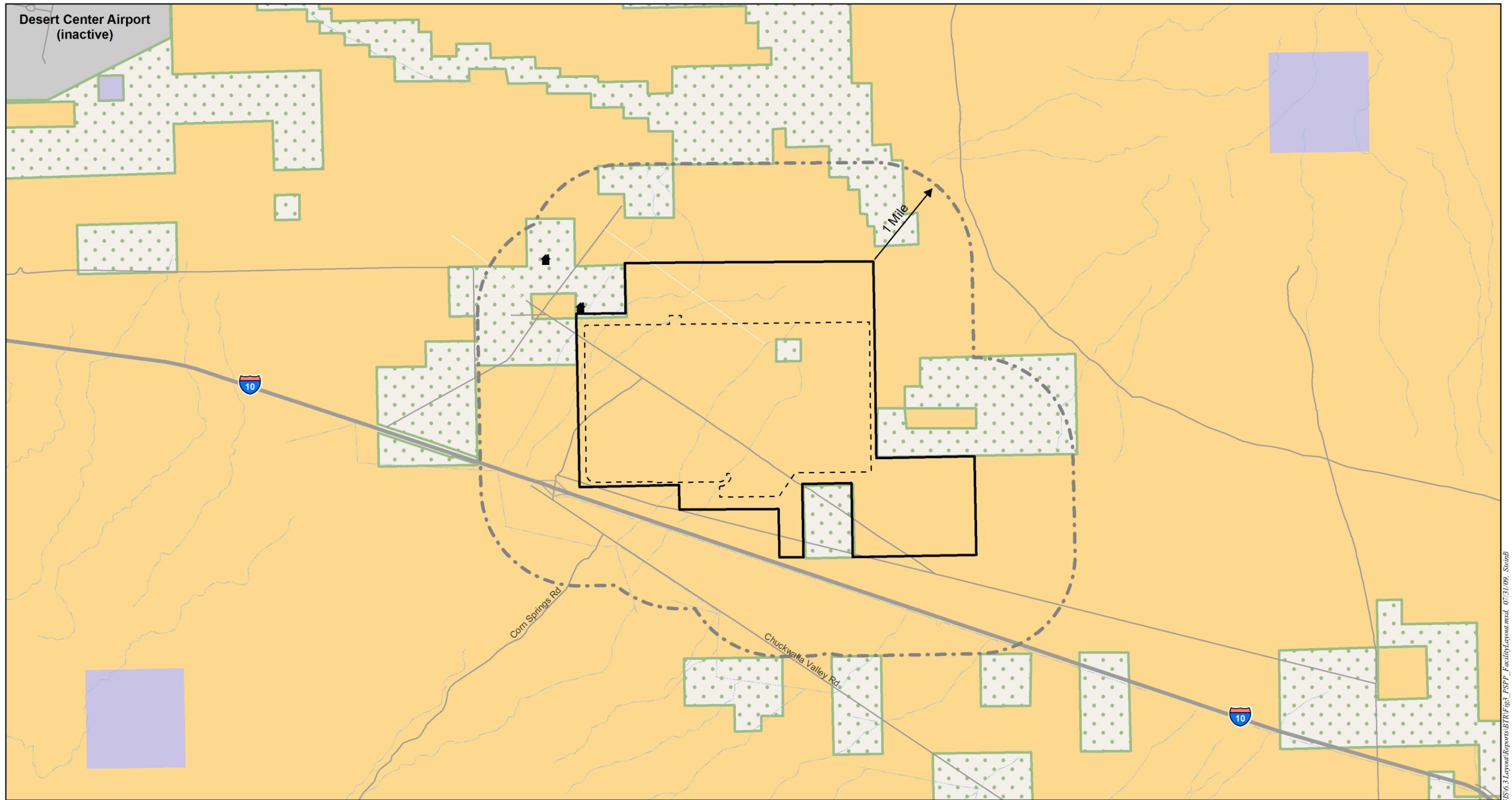
Palen Solar Power Project

Figure 5.7 - 2
Current BLM Multiple Use Classes



Date: August 2009

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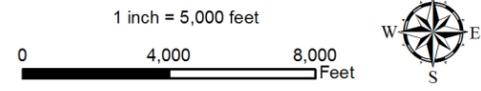


Map Location



- | | | |
|----------------------|------------------|------------------------|
| Study Area Boundary | Land Use | Ownership |
| Project Right of Way | Open Space Rural | BLM |
| Facility Footprint | Desert Center | Private |
| Study Area Boundary | Nearby Residence | State Lands Commission |

Source: Riverside County 2008; ESRI; CA Legacy Project; AECOM 2009

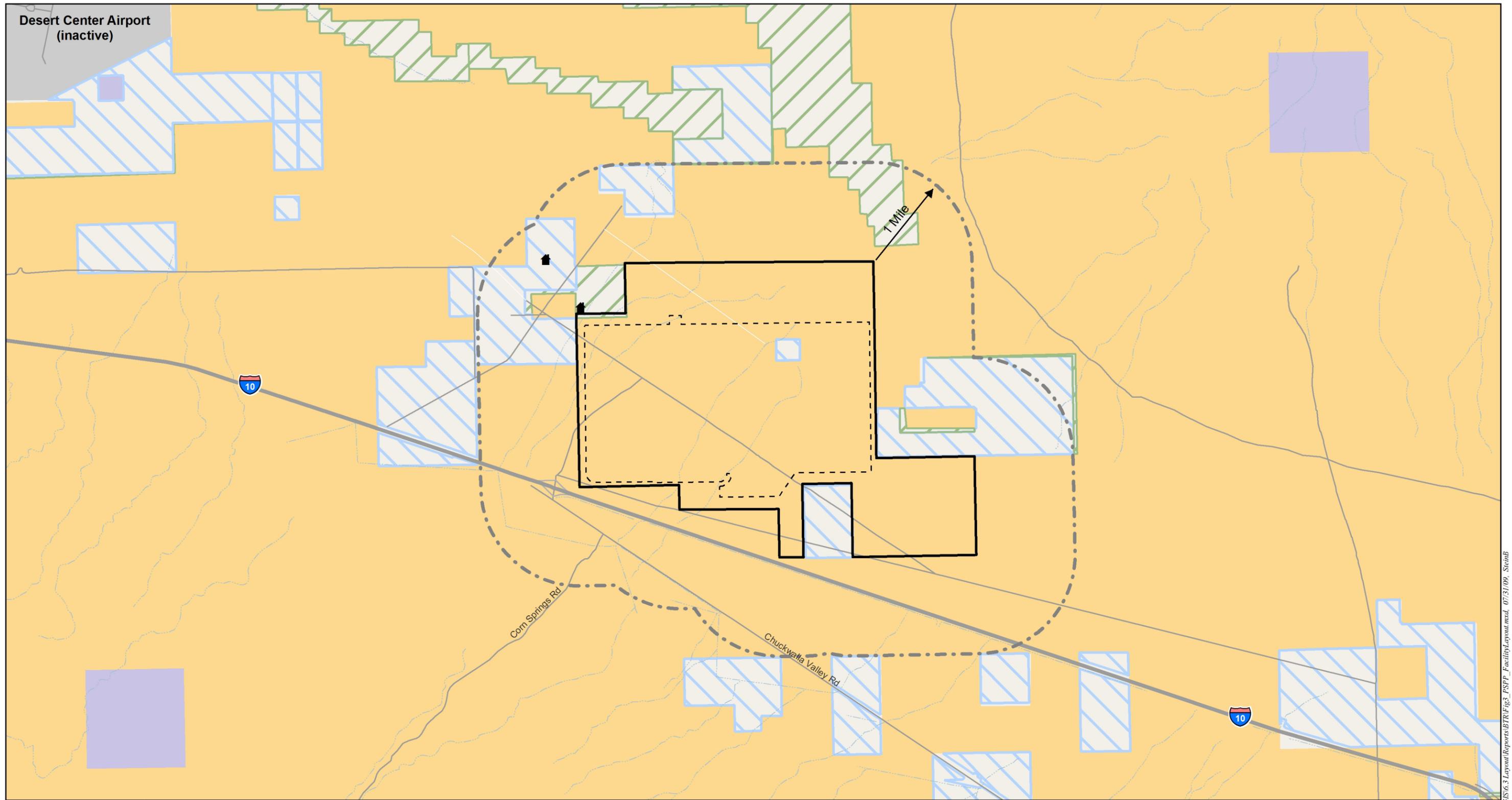


Palen Solar Power Project

Figure 5.7 - 3
Riverside County
General Plan Land Use



Date: August 2009



Map Location

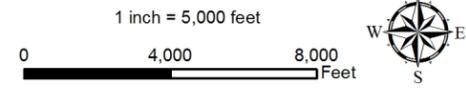


- Project Right of Way
- Study Area Boundary
- Facility Footprint

- Zoning**
- W-2-10 - Controlled Development Areas
 - N-A - Natural Assets
 - Nearby Residence

- Ownership**
- BLM
 - Private
 - State Lands Commission

Source: Riverside County 2008; ESRI; CA Legacy Project; AECOM 2009



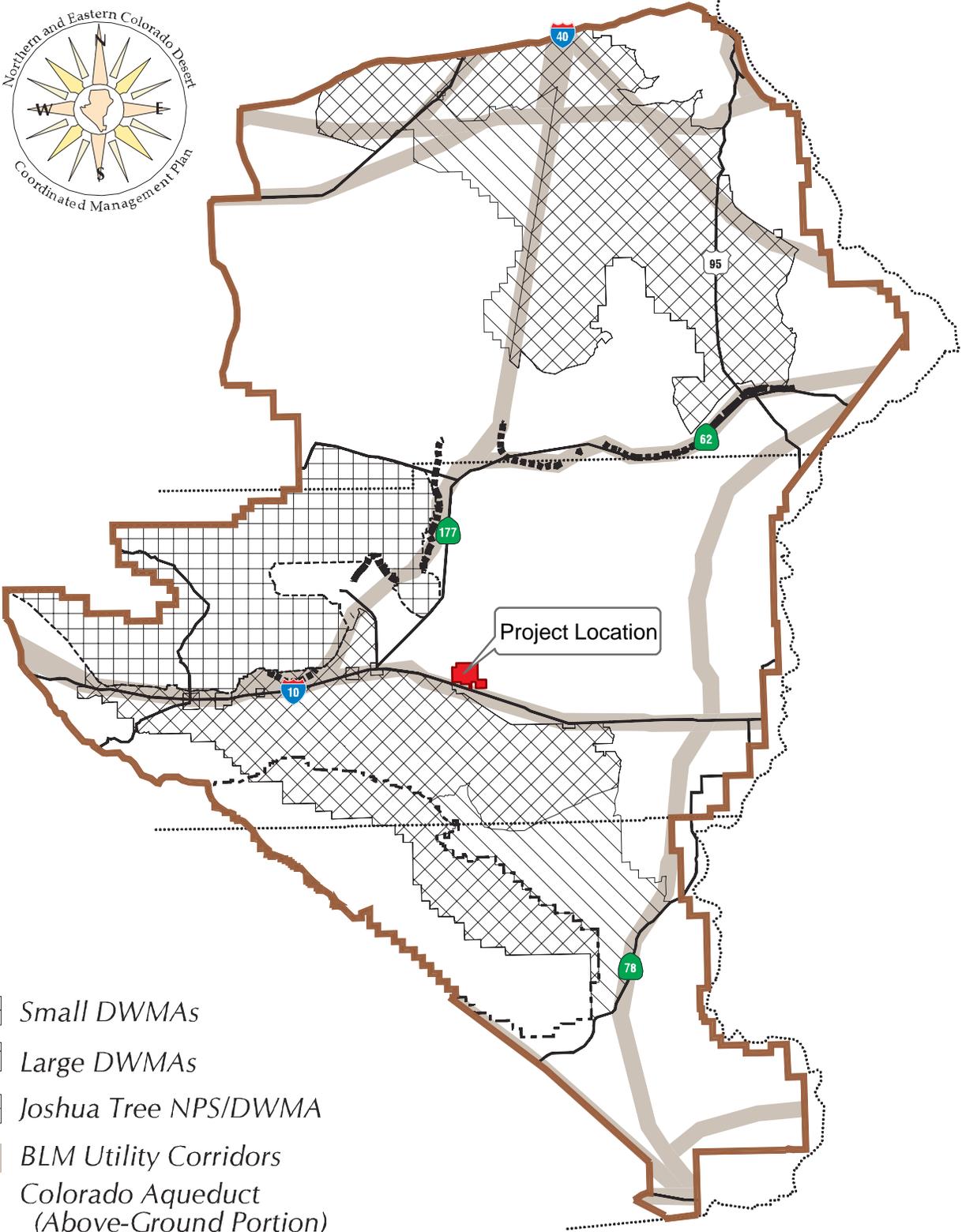
Palen Solar Power Project

Figure 5.7 - 4
Riverside County Zoning



Date: August 2009

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-  Small DWMA
-  Large DWMA
-  Joshua Tree NPS/DWMA
-  BLM Utility Corridor
-  Colorado Aqueduct (Above-Ground Portion)



Source: BLM; AECOM, 2009



Palen Solar Power Project

Figure 5.7 - 5 Utility Corridors



Date: August 2009