

1. INTRODUCTION

1.1. ENVIRONMENTAL REVIEW UNDER CEQA

Purpose of This EIR

This Environmental Impact Report (EIR) assesses the potential environmental effects of the adoption and long-term implementation of the Westlands Solar Park (WSP) Master Plan and WSP Gen-Tie Corridors Plan. This EIR has been prepared by a consultant on behalf of the Westlands Water District (WWD) as Lead Agency in conformance with the California Environmental Quality Act (CEQA) of 1970, as amended, to inform public decision-makers and the public of the significant environmental impacts of the projects and plans that they propose to consider.

The following sections from the CEQA Guidelines define the role and purpose of an EIR:

§15121(a) Informational Document. An EIR is an informational document which will inform public agency decision-makers and the public generally of the significant environmental effect of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The public agency shall consider the information in the EIR along with other information which may be presented to the agency.

§15151 Standards of Adequacy of an EIR. An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among experts. The courts have not looked for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

Type of Environmental Document – Program EIR

This EIR is a “Program EIR” as provided for in Section 15168 of the CEQA Guidelines. Program EIRs are intended to provide plan-level or programmatic environmental review, as distinguished from project-level environmental review conducted for discretionary approvals of projects proposed for construction. According to the Guidelines, a Program EIR may be prepared on a series of actions that can be characterized as one large project, are related geographically, and as logical parts in a chain of contemplated actions. The Program EIR allows for a more exhaustive consideration of effects and alternatives than would be practical an EIR on separate individual actions, and ensures consideration of cumulative impacts that might be missed on a case-by-case basis.

EIR Scoping

Scope and content of this EIR were determined by WWD staff based on preliminary analyses and on comments received from the public and agencies, as described below.

Preliminary Staff Determinations

In the early planning and evaluation stages, it was determined by WWD staff that an Environmental Impact Report was the appropriate form of environmental documentation under CEQA. Section 15126 of the CEQA Guidelines states that an EIR shall identify and focus on the significant environmental effects of a proposed project. The potentially significant impacts that could result from the project were preliminarily identified by WWD staff upon initiation of the environmental review process. Based on staff's preliminary evaluation, it was determined that the following general topic areas were to be addressed in this EIR:

Aesthetics	Hydrology and Water Quality
Agricultural Resources	Land Use and Planning
Air Quality and Climate Change	Noise
Biological Resources	Paleontological Resources
Cultural Resources (& Tribal Cultural Resources)	Public Services
Geology and Soils (& Mineral Resources)	Transportation/Traffic
Hazards and Hazardous Materials	Utilities and Service Systems

Those topics for which no potentially significant impacts are expected are briefly discussed at the end of Chapter 3 in Section 3.15. *Effects Found Not To Be Significant*. These topics include: Forestry Resources, Population and Housing, and Recreation.

Notice of Preparation (NOP)

Upon WWD staff's determination that an EIR was required for this project, a Notice of Preparation was issued on March 13, 2013 to solicit input on issues of concern that should be addressed in the EIR. The NOP was mailed and emailed to public agencies and interested parties, and published in newspapers of general circulation in Kings, Fresno, Merced, and Madera Counties. The NOP included a project description and a brief overview of the topics to be covered in the EIR. (Note: No Initial Study was prepared as provided under CEQA Guidelines Section 15063 which states that no Initial Study is required if the Lead Agency determines that an EIR is clearly required, as it was in this case.) The NOP and comments received on the NOP are contained in Appendix A of this EIR.

It is important to note that the program has been substantially reduced from the program described in the Notice of Preparation. In particular, the program no longer includes the Westlands Solar Park Transmission Corridor, since an interconnection request to the federal Western Area Power Administration has been filed which would involve a similar transmission facility along the west side of the valley, and for which a project-specific EIS/EIR will be prepared. Since the Westlands Solar Park does not require the construction of the Westlands Solar Park Transmission Corridor to generate and deliver power to the State electrical grid, it has "independent utility." Likewise, the Westlands Solar Park Transmission Corridor does not require the completion of the Westlands Solar Park to fulfill its purpose of providing bulk transmission service along the west side of the San Joaquin Valley. However, the project under review in this EIR still includes the planned gen-tie lines connecting the Westlands Solar Park (WSP) to the Gates Substation located approximately 12 miles to the west of the WSP. The modifications to the plans are described in detail in Chapter 2. *Project Description*.

Revised Notice of Preparation

On August 30, 2017, WWD issued a Revised NOP to inform agencies and the public of the modifications to the WSP Master Plan and transmission plan that have been made since the original NOP was issued in 2013. These changes are briefly identified above, and are fully described in Section 2. *Project Description*. The Revised NOP and comments received on the Revised NOP are contained in Appendix A of this EIR. The comments are summarized below following the discussion on the Public Scoping Meeting.

Comment Letters in Response to Original NOP of 2013

Due to the removal of the Westlands Solar Park Transmission Corridor from consideration in this EIR, the comments received on the original NOP on the transmission corridor are no longer relevant to this environmental review. Therefore, comments that were solely focused on the Westlands Transmission Corridor are not summarized here. However, all comments received on the NOP, including those that address the Westlands Transmission Corridor, are contained in Appendix A.

Comment letters on the original NOP were received from several public agencies, local governments, non-governmental organizations (NGOs), advocacy groups, public utilities, and individuals. These included comment letters from Caltrans District 6, California Department of Fish and Wildlife, California State Lands Commission, California Native Heritage Commission, San Joaquin Valley Air Pollution Control District, Central Valley Regional Water Quality Control Board, Kings County Community Development Agency, Kings County Health Department, Fresno County Department of Public Works and Planning, Fresno County Public Library, Stanislaus County Environmental Review Committee, Defenders of Wildlife, The Nature Conservancy, California Consumers Alliance, Sempra Energy, Southern California Gas Company, Lozeau Drury LLP, Solo Mio Farms, and Ron Dickerson. The NOP and comment letters are contained in Appendix B of this EIR. The environmental issues raised in the comment letters are summarized below.

The letters from the state, regional, and local agencies are focused on technical issues within their areas of responsibility and include recommendations with respect to the EIR's content in areas within their purview. These NOP comments are addressed under the environmental topics corresponding to the respective agencies' concerns (i.e., Transportation/Traffic, Biological Resources, Cultural Resources, Air Quality, Hazards and Hazardous Materials, and Land Use and Planning). These comments do not raise potentially controversial issues.

The letters from the Southern California Gas Company and its parent company Sempra Energy request that the company's high pressure natural gas transmission pipeline that runs through the WSP plan area be duly considered in project planning and that safety protocols be followed in the vicinity of the gas pipeline. The EIR addresses the hazard and safety issues related to the pipeline. This is not a potentially controversial issue.

The comment letters from Defenders of Wildlife and The Nature Conservancy included concerns with biological resources and expressed general support for the Westlands Solar Park and Transmission Corridors Plan. The expressed concerns with biological resources are fully addressed in Section 3.4. *Biological Resources*. There are no potentially controversial issues remaining with respect to biological resources.

The California Consumers Alliance comment letter expresses concerns with potential impacts to biological and cultural resources, which are fully addressed in the EIR. The CCA comment letter also suggests consideration of a reduced project size alternative for the Westlands Solar Park; the EIR identifies and evaluates a reduced project size alternative. The CCA letter is supportive of the planned WSP solar and transmission facilities, provided its social and environmental concerns are addressed. The potential areas of controversy raised in this comment letter have been fully addressed in the EIR.

The letter from Lozeau Drury LLP (on behalf of the Laborers International Union of North America, Local Union 294), requests to receive notices of all actions related to the EIR. No potentially controversial issues are raised in this letter.

Public Scoping Meeting

On April 9, 2013, the WWD held a public scoping meeting to which public agencies, organizations, and interested members of the public were invited, and which had been duly noticed in the NOP and through notices in newspapers of general circulation in Kings, Fresno, Merced, and Madera Counties. The scoping meeting was held at the WWD administrative offices in Fresno and was well attended by agency and NGO representatives, and members of the public.

Summary of Environmental Issues Raised in EIR Scoping

The comments presented at the scoping meeting included many of the concerns raised in the NOP comment letters, summarize above, in addition to newly presented concerns. The following is summary of all of the issues of concern raised in the NOP comment letters and in oral comments received at the public scoping meeting:

Aesthetics

- Glint and glare impacts to aircraft especially near NAS Lemoore

Agricultural Resources

- Agricultural impacts of transmission corridors on permanent tree and vine crops
- Williamson Act conversions need to be completed prior to construction of solar park

Air Quality

- Air Quality impacts from construction dust and toxic air contaminants

Biological Resources

- Biological impacts of solar park to protected species and habitats
 - implement wildlife friendly project design and construction practices
 - prohibit use of rodenticides
 - evaluate cumulative impacts to wildlife habitat
 - evaluate potential kit fox migration routes

Cultural Resources

- Cultural resource impacts in areas of archaeological sensitivity

Traffic/Transportation

- Traffic impacts from construction traffic upon state highways
 - encroachment permits

- setbacks of solar panels from state ROW

Utilities and Urban Services

- Utility impacts to existing natural gas pipelines

Comment Letters on the Revised NOP of August 2017

As mentioned, a Revised NOP describing the plan modifications was issued on August 30, 2017. Comment letters on the Revised NOP were received from the California Department of Water Resources (DWR), California Department of Fish and Wildlife (CDFW), San Joaquin Valley Air Pollution Control District (SJVAPCD), SoCalGas, Defenders of Wildlife, and California Consumers Alliance (CCA). The letters from the state and regional agencies are focused on technical issues within their areas of responsibility and include recommendations with respect to the EIR's content in areas within their purview. The matters raised in these NOP comments are addressed under the environmental topics corresponding to the respective agencies' concerns (i.e., Air Quality, Biological Resources, and Land Use and Planning). These comments do not raise potentially controversial issues.

The letter from SoCalGas requests that the company's high pressure natural gas transmission pipeline and branch lines that run through the WSP plan area be duly considered in project planning and that safety protocols be followed in the vicinity of the gas pipelines. The EIR addresses the hazard and safety issues related to the pipelines. This is not a potentially controversial issue.

The comment letter from Defenders of Wildlife addresses biological resources and expressed general support for the Westlands Solar Park. The concerns regarding biological resources are fully addressed in Section 3.4. *Biological Resources*. There are no potentially controversial issues with respect to biological resources.

The California Consumers Alliance comment letter requests clarifications regarding several aspects of the project description, most of which are addressed in this EIR. In response, it is noted that since this is a Program EIR that evaluates plan-level impacts, some of the project-level details requested by CCA have not been defined at this stage, and will be appropriately defined at the project level and addressed in subsequent project-specific environmental review. The CCA letter also suggests consideration of the Distributed Generation Alternative, which is addressed in the alternatives section of this EIR.

Public and Agency Review of the Draft EIR

The EIR review process involves the following steps:

Public Notice/Public Review of Draft EIR

Upon completion of the Draft EIR (DEIR), the WWD filed a Notice of Completion (NOC) with the State Clearinghouse, Office of Planning and Research, to begin the public and agency review period. Concurrent with filing the NOC, the WWD provided public notice of the availability of the Draft EIR (DEIR) for public review, and invited comment from the general public, agencies, organizations, and other interested parties. The length of the public review period is 45 days (from October 17 through November 30, 2017), during which time written comments on the DEIR may be submitted to Kiti Buelna Campbell, Westlands Water District, either by mail addressed to P.O. Box 6056, 3130 N. Fresno Street, Fresno, California 92703-6056 or by email to kcampbell@westlandswater.org.

Responses to Comments/Final EIR

After the close of the public review period, the WWD will prepare formal responses to the written comments received, along with an addendum section indicating any revisions made to the EIR. A Final EIR will be prepared which contains the comment letters, responses to comments, and the revisions to the DEIR. The Draft EIR will remain a separate document, and will be incorporated into the Final EIR by reference only.

Certification of the Final EIR

After release of the Final EIR, the WWD Board of Directors will hold a public hearing to consider the completeness of the EIR under CEQA (see 'Purpose of this EIR' above), and if it finds the EIR to be complete, will adopt a resolution to certify the EIR.

According to the CEQA Guidelines, "certification" consists of three separate steps. The agency's decision-making body must conclude, first, that the document "has been completed in compliance with CEQA;" second, that the body has reviewed and considered the information within the EIR prior to approving the project; and third, that "the final EIR reflects the lead agency's independent judgment and analysis" (CEQA Guidelines, Section 15090(a); see also PRC Section 21082.1(c)(3)).

Before approving a project for which a certified final EIR has identified significant environmental effects, the lead agency must make one or more specific written findings for each of the identified significant impacts. These findings are as follows:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR (CEQA Guidelines Section 15091(a)).

If there remain significant environmental effects, even with the adoption of all feasible mitigation measures or alternatives, the agency must adopt a "statement of overriding considerations" before it can proceed with the project. The statement of overriding considerations must be supported by substantial evidence in the record (CEQA Guidelines Sections 15091(b)).

These overriding considerations include the economic, legal, social, technological, or other benefits of the project. The lead agency must balance these potential benefits against the project's unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a project outweigh the unavoidable adverse environmental effects, the lead agency may consider the adverse environmental impacts to be "acceptable" (CEQA Guidelines Section 15093(a)). These benefits should be set forth in the statement of overriding considerations, and may be based on the final EIR and/or other information in the record of proceedings (CEQA Guidelines Section 15093(b)).

The WWD Board of Directors must certify the EIR prior to adoption of the Westlands Solar Park Master Plan and WSP Gen-Tie Corridors Plan. After the EIR is certified, the WWD Board may consider the Plans for adoption. Once the EIR is certified and the Plans adopted, these actions will be final.

Within five working days of Plan adoption, CEQA requires that the WWD file Notice of Determination (NOD) with the County Clerk, which certifies that the Plans have been formally adopted. This filing begins the running of a 30-day statute of limitations period during which legal challenges to the EIR may be filed in Superior Court.

Mitigation Monitoring and Reporting Program (MMRP)

Upon certification of the EIR, the WWD will also adopt a program for monitoring and reporting on the measures it has identified to mitigate, avoid, or substantially lessen the significant impacts of the Plans. If discretionary approval of the individual solar and gen-tie projects under the WSP Master Plan and Gen-Tie Corridors Plan are within the jurisdiction of other agencies, it is expected that those agencies “can and should” adopt and apply these mitigations to those individual projects. (Note: In the 2013 *Smart Rail* decision, the California Supreme Court upheld the ability of a lead agency to adopt mitigation measures whose implementation and enforcement is under the jurisdiction of another agency, citing the “can and should” language of Public Resources Code § 21081(a) and CEQA Guidelines § 15091(a) [*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439.]])

1.2. USES OF THIS EIR

This EIR is intended to provide program-level CEQA review for agencies with jurisdiction with respect to the Westlands Solar Park and/or the WSP Gen-Tie Corridors. These agencies and their approval actions are listed below.

Westlands Water District

- Adoption of WSP Master Plan and WSP Gen-Tie Corridors Plan – The certification of this EIR will serve as CEQA compliance for WWD Board of Directors’ adoption of the Westlands Solar Park Master Plan and WSP Gen-Tie Corridors Plan as District planning policy.

County of Kings

Individual solar projects proposed within WSP would be subject to the several discretionary approvals from Kings County, as listed below. Kings County decision-makers may utilize the program-level environmental review of this EIR in preparing second-tier project-specific environmental documents on discretionary approvals for individual solar projects proposed within the Westlands Solar Park Master Plan area, and associated gen-tie projects.

- Conditional Use Permits (CUPs) for individual solar development projects proposed within WSP, and for gen-tie segments located within Kings County.
- Vesting Tentative Parcel Maps (or Lot Line Adjustments) to create land divisions corresponding to the boundaries of the individual solar projects, as necessary.

- Encroachment Permits for work in County road rights-of-way, and for utility crossings over or under County roads.

Western Area Power Administration (Western or WAPA)

It is anticipated that Western will serve as the federal lead agency in sponsoring the separate Westside Transmission Project (Gates to Dos Amigos/Los Banos). Western would be the federal Lead Agency for preparation of the Environmental Impact Statement (EIS) portion of the joint EIS/EIR under the National Environmental Policy Act (NEPA). The information and analysis contained in this EIR with respect to the WSP and associated gen-ties may be relied upon in preparing the joint EIR/EIS on the Westside Transmission Project.

California Public Utilities Commission (CPUC)

It is anticipated that the WSP gen-tie projects will be privately constructed and operated, and thus will not be subject to the approval jurisdiction of the CPUC. However, it is possible that some or all of the WSP gen-tie projects substations, and substation upgrades (and possible switching stations) may be constructed by or for PG&E, which is subject to the regulatory authority of the CPUC. The CPUC would issue Permits to Construct (PTCs), or Certificates of Public Convenience and Necessity (CPCNs) (the latter are required for any transmission projects requesting ratepayer funding). The CPUC may utilize the information in this EIR to inform their decisions and approvals.

It is noted that the California Energy Commission (CEC) has no jurisdiction over the WSP solar PV projects. The CEC has no jurisdiction over solar PV projects, and only has jurisdiction over concentrating solar (thermal solar) projects over 50 MW. The CEC also does not have jurisdiction over permitting of transmission projects. The CEC has authority to designate Transmission Corridor Zones under California law, which is a voluntary program for prospective transmission corridor proponents. A Transmission Corridor Zone designation from CEC is not required for the construction of a transmission line.

Other Agencies

In addition, the information in this EIR may be used by the following responsible and trustee State, regional, and local agencies for their separate permit and review processes in conjunction with subsequent approvals of individual solar generating facilities proposed within the WSP, and associated gen-tie projects.

County of Fresno: 1) Approval of unclassified conditional use permits for gen-tie segments located in Fresno County; 2) Encroachment permits for work in County road rights-of-way; 3) Building permits and other ministerial permits (does not apply to upgrades within existing substation fence lines). (Note: Public utility projects that are subject to approval by CPUC are exempt from local discretionary approval under CPUC General Order 131-D, although coordination with local jurisdictions regarding consistency with plans and policies is required. Thus, if one or both of the gen-tie segments located within Fresno County are subject to CPUC jurisdiction, the County would review of WSP gen-tie projects for consistency with County plans and policies. However, it is anticipated that the WSP gen-tie projects will be privately constructed and operated, and thus will not be subject to the approval jurisdiction of the CPUC, but will instead be subject to local land use approval authority.)

San Joaquin Valley Air Pollution Control District (SJVAPCD): 1) Indirect Source Review (ISR) under Air District Rule 9510; 2) Approval of construction Dust Control Plans under Air District Regulation VIII; 3) Compliance with other Air District rules and regulations (e.g., Rule 4601 for asphalt paving; Rule 2010

permit to operate for equipment greater than 50 horsepower resulting in emissions; Rule 2280 registration for portable equipment resulting in emissions).

Regional Water Quality Control Board – Central Valley Region (CVRWQCB): 1) Administration of General Permit for Storm Water Discharges Related to Construction Activities under the National Pollutant Discharge Elimination System (NPDES), including review and approval of Storm Water Pollution Prevention Plans (SWPPPs); 2) Water quality certification (or waiver) for any planned work in ‘Waters of the State’ under the State Porter-Cologne Water Quality Control Act and/or ‘Waters of the U.S.’ under Section 401 of the federal Clean Water Act.

California Department of Transportation (Caltrans): 1) Encroachment permits for utility crossings over state highways; 2) Oversize/overweight permit and Traffic Control Plan.

California Department of Fish and Wildlife (CDFW): 1) Streambed Alteration Agreement under Sections 1601-1602 of the California Fish and Game Code for any work in or alteration of a creek or other water body; 2) Coordination and permitting under the California Endangered Species Act for any potential impacts to State-protected species.

California Department of Water Resources (DWR): 1) Encroachment permits for gen-tie crossings over the California Aqueduct.

US Army Corps of Engineers (USACE): 1) Authorization for any work in or alteration of a federally-designated wetland or ‘Water of the U.S.’ under Section 404 of the federal Clean Water Act.

US Fish and Wildlife Service (USFWS): 1) Coordination and permitting under the federal Endangered Species Act for any potential impacts to federally-protected species; 2) Coordination with the U.S. Army Corps of Engineers in connection with any potential Section 404 permits under the federal Clean Water Act.

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