

NOTICE OF DETERMINATION

TO:	<input checked="" type="checkbox"/> Clerk of the Board of Supervisors or <input type="checkbox"/> County Clerk County of: San Bernardino Address: 385 N. Arrowhead Avenue, 2 nd Floor San Bernardino, CA 92415	FROM:	Lake Arrowhead Community Services District (Lead Agency) Address: P.O. Box 700, Lake Arrowhead, CA 92352 Contact: Catherine Cerri, General Manager Phone: (909) 336-7100
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TO:	<input checked="" type="checkbox"/> Office of Planning and Research P. O. Box 3044 Sacramento, CA 95812-3044 (overnight or hand delivery) <input type="checkbox"/> 1400 Tenth Street, Rm. 113 Sacramento, CA 95814	Lead Agency (if different from above) Address: Contact: Phone:
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SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (If submitted to SCH): 2015041074		
Project Title: Addendum No. 1 to the Mitigated Negative Declaration for an Alternative Site for the Hesperia Farms Solar Photovoltaic Project		
Project Applicant: Lake Arrowhead Community Services District		
<p>Specific Project Location – Identify street address and cross street or attach a map showing project site (preferably a USGS 15' or 7 ½' topographical map identified by quadrangle name):</p> <p>The proposed solar facility would be located on five to six acres in the southern portion of a District-owned, 350-acre property located in the eastern portion of the City of Hesperia known as Hesperia Farms, in San Bernardino County. The entire site is generally bounded by Whitehaven Street and a private driveway on the south, Arrowhead Lake Road on the west, the Mojave River on the east and Hesperia Lakes Park on the north.</p> <ul style="list-style-type: none">• Original Site: Five to six acres located approximately 90 feet north from the southern property line.• Alternative Site: Five to six acres, beginning approximately 660 feet north of the southern property line. <p>The USGS locations are as follows:</p> <ul style="list-style-type: none">• Original Site: USGS – Lake Arrowhead Quadrangle, 15 Minute Series Topographic. The whole site occupies a portion of the Southeast 1/4 of Section 1, Township 3 North, Range 4 West, San Bernardino Base and Meridian.• Alternative Site: Lake Arrowhead U. S. Geological Survey's (USGS) 7.5-minute topographic map in the southeast portion of Section 1, Township 3 North, Range 4 West, San Bernardino Base and Meridian.		
General Project Location (City and/or County): Hesperia, San Bernardino County		

Project Description: On June 23, 2020, Lake Arrowhead Community Services District adopted Resolution No. 2020-04 determining that there is no feasible alternative to the Hesperia Farms Solar Photovoltaic Proposal ("Proposal"), rendering City of Hesperia zoning ordinances inapplicable pursuant to Government Code section 53096. The Proposal, as that term is used in section 53096, is the same solar project previously approved by the District on August 9, 2017 when the District adopted Addendum No. 1 to the Final Initial Study and Mitigated Negative Declaration ("MND") for an alternative site for the Hesperia Farms Solar Photovoltaic Project ("Project").

The Project would be located on five to six acres in the southern portion of a District-owned, 350-acre property located in the eastern portion of the City of Hesperia known as Hesperia Farms, in San Bernardino County. The parcel is bounded on the west by Arrowhead Lake Road, on the east by vacant land, spreading ponds, on the south by an unnamed street off of Arrowhead Lake Road and on the north by vacant land and one abandoned single-family residence. On December 15, 2015, the District adopted the Final Initial Study and MND and a Mitigation Monitoring and Reporting Program for the Project, found the Project exempt from City zoning and building ordinances under Government Code sections 53091 and 53096, and approved the Project.

The Project, as approved in December 2015, would be located in the southern portion of the Hesperia Farms property, approximately 90 feet north from the southern property line ("Original Site"). In February 2016, the City of Hesperia filed a legal challenge against the District's determination the Project located on the Original Site is exempt from City zoning ordinances under Government Code sections 53091 (Absolute Exemption) and 53096 (Qualified Exemption). In July 2019 the Court of Appeal for the Fourth Appellate District agreed with the District that the Project does not have to be integral to the District's authorized operations (water and sewer services) for the Absolute Exemption to apply. (*City of Hesperia v. Lake Arrowhead Community Services District* (2019) 37 Cal.App.5th 734, 759. But the Court disagreed with the District's determination that the Project does not involve "transmission" of electrical energy within the meaning of the exception to the Absolute Exemption, and thus the Absolute Exemption does not apply. (*Ibid.*) The Court of Appeal also found that there was not substantial evidence in the administrative record demonstrating "there is no feasible alternative" to the Project, as required under the Qualified Exemption. (*Id.* at p. 767.) The Court of Appeal recognized there is no authority applying the definition of "feasible" under Government Code section 53096 and instead found "guidance" in CEQA's identical definition in Public Resources Code section 21061.1 and interpreting case law. (*Id.* at p. 762.)

While the appeal related to the Original Site was pending, as part of a settlement effort the District submitted an application for a general plan amendment and a conditional use permit under the City's zoning ordinance for an alternative location to the Original Site that is 660 feet to the north of the Hesperia Farms southern property line ("Alternative Site"). The District determined that none of the circumstances described in Public Resources Code section 21166 or State CEQA Guidelines section 15162 have occurred, and thus no supplemental or subsequent environmental review is required. The change in Project location would not result in any new significant environment effects triggering the need for further environmental review. An Addendum Supplemental Environmental Checklist Form ("Addendum No. 1"), dated July 2017, was adopted to address any changes or additions to the Project to account for the Alternative Site under State CEQA Guidelines section 15164.

In January and March 2018, the City denied the District's application for the Alternative Site on the same site of the Hesperia Farms Property as the Proposal. In the appeal related to the Original Site, the Court declined to consider evidence outside the administrative record (for the District's approval of the Original Site) showing the City had denied the District's application for the Alternative Site, which was consistent with the City's zoning ordinance.

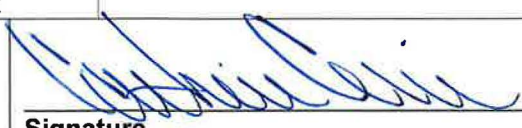
Given the City's continued opposition to the District's use of the Hesperia Farm Property for a solar project, the City's history of opposing solar projects, and the appellate decision, the District embarked on further investigation and documentation of its options to offset its energy costs. The District documented its additional investigation of alternatives to the Proposal in the *Lake Arrowhead Community Services District – Alternatives to Proposed Solar Photovoltaic System on Hesperia Farms Property* report dated May 2020, which includes two technical appendices in support (*Technical Memorandum for Feasibility Evaluation of Potential Photovoltaic System Sites* prepared by Tidewater Incorporated dated May 2020 and *RES-BCT Project Review* prepared by Sage Energy Consulting, Inc. dated April 2020). Based on this evidence and other documents and materials constituting the record of proceedings, on June 23, 2020, the District adopted Resolution No. 2020-04 determining that there is no feasible alternative to the Proposal, rendering City zoning ordinances inapplicable pursuant to Government Code section 53096. The Proposal would be located on the same site as

the Alternative Site for the Project approved by the District in August 2017 and was fully analyzed in the prior MND and Addendum.

Identify the person or entity undertaking the project, including any private applicant, any other person undertaking an activity that receives financial assistance from the Public Agency as part of the project, and any person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part of the project.

Lake Arrowhead Community Services District

This is to advise that the (☒ Lead Agency or ☐ Responsible Agency) took the above described action regarding the Project on June 23, 2020 and has made the following determinations regarding the above described Project:

1.	<input type="checkbox"/>	The project will have a significant effect on the environment.
	<input checked="" type="checkbox"/>	The project will NOT have a significant effect on the environment
2.	<input type="checkbox"/>	An Environmental Impact Report was prepared and certified for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.
	<input type="checkbox"/>	A Negative Declaration was prepared for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.
	<input checked="" type="checkbox"/>	A Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.
	<input checked="" type="checkbox"/>	An Addendum to a previously adopted Mitigated Negative Declaration was prepared for the Alternative Site for the Project and reflects the independent judgment of the Lead Agency.
	<input checked="" type="checkbox"/>	Previously imposed mitigation measures were made a condition of the approval of the Alternative Site for the Project.
	<input type="checkbox"/>	Mitigation measures were NOT made a condition of the approval of the project.
3.	<input checked="" type="checkbox"/>	A Mitigation Monitoring or Reporting Plan beyond that adopted in connection with the previously adopted Mitigated Negative Declaration was NOT adopted for the Alternative Site for the Project.
	<input type="checkbox"/>	A Mitigation Monitoring or Reporting Plan was NOT adopted for this project.
4.	<input type="checkbox"/>	A Statement of Overriding Considerations was adopted for this project.
	<input checked="" type="checkbox"/>	A Statement of Overriding Considerations was NOT adopted for this project
5.	<input type="checkbox"/>	Findings were made pursuant to the provisions of CEQA.
	<input checked="" type="checkbox"/>	Findings were NOT made pursuant to the provisions of CEQA.
This is to certify that Addendum No. 1 to the Final Initial Study and Mitigated Negative Declaration with comments and responses and record of project approval is available to General Public at:		
Custodian: General Manager Lake Arrowhead Community Services District		Location: 27307 State Highway 189, Blue Jay, CA 92317
Date:	<u>7/1/2020</u>	
	 Signature	

Date Received for Filing: Jul 01 2020

STATE CLEARINGHOUSE

Title _____

Authority cited: Sections 21083, Public Resources Code.
Reference Section 21000-21174, Public Resources Code.