

2.0 RELATED AND APPLICABLE LAWS, ORDINANCES, REGULATIONS, AND STANDARDS

The WMP will be consistent with all applicable Laws, Ordinances, Regulations, and Standards (LORS) described in this section.

2.1 Federal Laws and Regulations

2.1.1 Federal Noxious Weed Act of 1974

The Federal Noxious Weed Act (7 United States Code [U.S.C.] §§ 2801-2814, January 3, 1975, as amended 1988 and 1994) provides for the control and management of non-indigenous weeds that injure, or have the potential to injure, the interests of agriculture and commerce, wildlife resources, or public health. The act gives the Secretary of Agriculture broad powers in regulating transactions in and movement of noxious weeds. It states that no person may import or move any noxious weed identified by regulations of the Secretary of Agriculture into or through the U.S. except in compliance with the regulations, which may require that permits be obtained. The act also requires each federal agency to develop a management program to control undesirable plants on federal lands under the agency's jurisdiction and to establish and adequately fund the program. Some of the provisions of this act were repealed by the Plant Protection Act of 2000 (PPA), including U.S.C. 2802 through 2813. However, Section 1 (findings and policy) and Section 15 (requirements of federal land management agencies to develop management plans) were not repealed (7 U.S.C. 2801 note; 7 U.S.C. 2814).

2.1.2 Plant Protection Act (PPA) of 2000

The PPA, as amended (7 U.S.C. 7701-7786) states that the detection, control, eradication, suppression, prevention, or retardation of the spread of plant pests or noxious weeds is necessary for the protection of the agriculture, environment, and economy of the U.S. This act defines the term "noxious weed" (7 U.S.C. 7702 § 403) to mean any plant or plant product that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the U.S., the public health, or the environment. This act specifies that the Secretary of Agriculture may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any noxious weed if it is determined "that the prohibition or restriction is necessary to prevent the introduction into the [U.S.] or the dissemination of a plant pest or noxious weed within the [U.S.]," and authorizes the issuance of implementing regulations. Subsequent regulations implemented by the Noxious Weed Control and Eradication Act of 2004 amended the PPA.

2.2 State and Local Laws and Regulations

2.2.1 California Food and Agricultural Code

The California Food and Agricultural Code contains some detail on noxious weed management. Specifically, Food and Agricultural Code Section 403 states that the Department of Food and

Agriculture should prevent the introduction and spread of injurious insect or animal pests, plant diseases, and noxious weeds. Under Sections 7270 through 7224, the California Commissioner of Agriculture is granted the authority to investigate and control noxious weeds, and specifically to provide funding, research, and assistance to weed management entities, including eligible weed management areas or county agricultural commissioners, for the control and abatement of noxious weeds according to an approved integrated weed management plan.

California Food and Agriculture Code Section 5101 and 5205 provide for the certification of weed-free forage, such as hay, straw, and mulch. This portion of the code recognizes that many noxious weeds are spread through forage and ground covers. The code allows for in-field inspection and certification of crops to ensure that live roots, rhizomes, stolons, seeds, or other propagative plant parts of noxious weeds are not present in the crop to be harvested. Certified weed-free storage is required on BLM land, and any mulch or hay bale materials used for erosion control at PSEGS will be required to meet this certification.

2.3 Conservation and Management Plans

2.3.1 Bureau of Land Management

To address the use of chemical treatments in noxious weed control, BLM prepared the Programmatic Environmental Impact Statement (PEIS) entitled *Vegetation Treatments Using Herbicides on Bureau of Land Management Lands in 17 Western States* (BLM 2007). This document was the result of extensive public involvement and outlined the specific decisions, standard operating procedures, and mitigation measures for use of herbicides on BLM administered lands. The selected alternative of the PEIS identifies the active herbicidal ingredients approved for use on BLM land, and the herbicidal ingredients that are no longer approved for use. The Record of Decision for the PEIS defers the determination of areas that are to be treated through BLM's integrated pest management program to approved land use plans, and makes no land use or resource allocations in this regard. Appendix B of the PEIS, *Herbicide Treatment Standard Operating Procedures*, specifies management of noxious weeds through prevention and application of pesticides on BLM administered land. The procedures listed are incorporated as requirements of this Plan and are attached for reference (see Appendix A).

2.3.2 Northern and Eastern Colorado Desert Coordinated Management Plan

The Northern and Eastern Colorado Desert Coordinated Management Plan (NECO Plan) (BLM 2002) 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, in which the Project lies. The 25-million-acre California Desert Conservation Area (CDCA) was designated in 1976 by the Federal Land Policy and Management Act to allow BLM to manage the resources of the California deserts. BLM developed a management plan for the CDCA in 1980 (BLM 1980), but the plan has since been amended and subdivided into four bioregion planning areas. The BLM has completed a regional plan amendment for each bioregion, among them the NECO Plan, which encompasses 5.5 million acres in the southeastern California Desert and the entire Project Disturbance Area.