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February 24, 2014

VIA HAND DELIVERY

Hon. Jeff Stone, Board Chairman
Hon. Marion Ashley, Board Vice-Chairman
Hon. Kevin Jeffries
Hon. John F. Tavaglione
John J. Benoit
Riverside County Board of Supervisors
4080 Lemon Street
Riverside, CA 92504

Riverside County Planning Department
ATTN: Adam Rush, Larry Ross
Riverside CAC, 12th Floor
4080 Lemon Street
Riverside, CA 92504

RE: Final Environmental Impact Report, Conditional Use Permit, Public Use Permit, and Proposed Development Agreement for the McCoy Solar Energy Project (SCH# 2011101007) – 2/25/14 Board Agenda Item # 16-1

Dear Chairman Stone and County Supervisors,

This letter is submitted on behalf of Blythe, California residents David Vazquez and Ralph Figueroa, and the Laborers International Union of North America, Local Union No. 1184, and its members living in Riverside County (hereinafter “**LiUNA**”) (collectively “**Commenters**”) concerning the California Environmental Quality Act (hereinafter “**CEQA**”) Final Environmental Impact Report (hereinafter “**FEIR**”) and Conditional Use Permit, Public Use Permit, and Proposed Development Agreement with Riverside County for the McCoy Solar Energy Project (SCH# 2011101007).

The proposed McCoy Solar Energy Project is a 750 megawatt photovoltaic solar energy generating facility and related infrastructure in unincorporated Riverside County, California

*Submitted by
Gideon Kracov
02-25-14
16-1*

(hereinafter “**Project**”). The Project is proposed to be constructed on approximately 7,700 acres of federal public land administrated by the Bureau of Land Management (hereinafter “**BLM**”), as well as 477 acres of privately owned land within Riverside County. The Project includes, among other things, a solar plant site, an 11-km transmission line, a 230 kV switchyard, two telecommunications lines, a distribution line, and an access road. The Project is located in a rural area of the Sonoran Desert in unincorporated Riverside County, located approximately 13 miles northwest of the town of Blythe, California, approximately 32 miles east of the town of Desert Center, California and approximately 6 miles north of Interstate-10. It is south of McCoy Wash, east of the McCoy Mountains and north of the Blythe Airport. The Project would be developed in the Mojave Desert Air Basin and over the Palo Verde Mesa Groundwater Basin.

The Project, which is subject to both State and Federal approvals, received its federal approval on March 13, 2013 from BLM. Commenters previously participated in BLM’s public notice and comment process for the Project, submitting letters dated August 23, 2012 and March 4, 2013.

This comment letter incorporates by reference all written and oral comments submitted on the Project by any commenting party or agency, including all written and oral comments submitted on the Project as part of BLM’s March 13, 2013 approval.¹ All of this already is in the record.

Let us begin by respectfully noting the rushed nature of the Project approvals before you. *A continuance is necessary.* Approximately 10 days ago, County staff circulated the FEIR, which totals approximately 5,000 pages. *This office received the FEIR only seven days before the hearing.* The public had insufficient time to review and comment on this extremely lengthy and complex document. Then, last Friday, February 21, 2014, the Staff Report, totaling well over 600 pages was published. Again, insufficient time (four days) was provided to allow public review and comment.

The same is true for the Honorable Board of Supervisors. How could this Board possibly review all these documents in the extremely compressed time period? How can the Board assess the public’s comments on the FEIR, including this comment letter? This violates CEQA’s key requirement to inform decisionmakers and the public about the potential, significant environmental effects of a project. 14 Cal. Code Regs. § 15002(a)(1). A continuance is necessary to enable the public and decisionmakers to fully review the materials that the County relied on its environmental review, pursuant to CEQA. Pub. Res. Code § 21092(b)(1); 14 Cal. Code Regs. § 15072. Commenters respectfully insist that holding this hearing today, and acting on this Project, will violate CEQA’s rules on informed decisionmaking and public participation. Moreover, while there

¹ It is well-established that any party, as Commenters here, who participates in the administrative process can assert all factual and legal issues raised by any commenting party or agency. *Citizens for Open Government v. City of Lodi* (2006) 144 Cal.App.4th 865, 875; *Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1263.

is no express statute that affords the right to have notice and an opportunity to be heard, the doctrine of due process applies to land use administrative hearings of the type at issue here. *Mohlief v. Robert Janovici*, 51 Cal.App.4th 267, 302 (1996) (standards regarding adequacy of due process apply at administrative hearings); *Clark v. City of Hermosa Beach*, 48 Cal.App.4th 1152, 1171-72 (1996) (“A hearing requires that the party be apprised of the evidence against him so that he may have an opportunity to refute, test and explain it.”).

Notwithstanding the expedited time periods provided by the County, Commenters did their best to review the FEIR and Staff Report. Without waiving any claim as to the inadequacy of the notice and opportunity to review the Project approval documents and FEIR, they have prepared these comments on the FEIR with the assistance of expert biologist James W. Cornett, M.S. and expert geologist Heidi Bauer, PG, in letters attached hereto as Exhibits A and B. Cornett is an environmental scientist with more than 30 years of experience researching and studying Riverside County’s desert environment. Cornett previously served as the Director of Natural Sciences at the Palm Springs Desert Museum. Rhymes is a Certified Geologist with over twelve years of academic and professional experience with hydrology, hazardous materials, and pollution investigation.

Commenters strongly support the appropriate development of renewable energy. Renewable energy projects, however, must be carefully sited and designed so as to avoid unnecessary and damaging environmental impacts. They also must receive proper environmental review under CEQA. This is especially true given the recent “gold rush” of solar energy proposals in the southern California region.

Here, Commenters are concerned that the FEIR did not give the extensive DEIR comments on the project the required review, or analyze them as carefully as needed. *Incredibly, given the volume of comments received, the FEIR only recommends minor changes to barely 12 pages of the entire DEIR.* FEIR 3-2. As a result, the FEIR and CEQA compliance for the Project have the following deficiencies:

- I. Lack Of Clarity On AB 900 Compliance;
- II. The Cumulative Impacts Discussion Of The Contiguous Blythe Solar Project Is Inadequate;
- III. The FEIR Does Not Adequately Analyze Or Mitigate For Impacts On Biological Resources;
- IV. The FEIR Does Not Adequately Analyze Or Mitigate For The Project’s Impacts On Hydrology and Water Resources;
- V. The FEIR Does Not Adequately Analyze Or Mitigate For The Project’s Impacts On Surface Water Drainage And Flooding Risks;

- VI. The FEIR Does Not Adequately Analyze Or Mitigate For Hazards and Hazardous Materials;
- VII. The Valley Fever Analysis is Inadequate;
- VIII. The FEIR Does Not Provide Adequate Information On Mitigation Measures For The Project, Deferring Key Mitigation; and
- IX. Recirculation Is Necessary.

It is the County Board's role to make the final CEQA findings, and to make County Code §§ 18.28.f and 18.29.d findings for the requested use permits that the Project "will not be detrimental to the health, safety or general welfare of the community, and that conditions be imposed "to protect the health, safety or general welfare of the community." Commenters respectfully believe, for all the reasons set forth in this letter, that this rushed approval cannot satisfy these standards, and therefore this item should be continued, or denied at this time.

I. STANDING.

Commenters David Vazquez and Ralph Figueroa and members of the Laborers International Union of North America, Local Union No. 1184 live, work, and recreate in the vicinity of the Project site. Commenters will suffer the impacts of a poorly executed or inadequately mitigated project, just as would the members of any nearby homeowners' association, community group or environmental group. Commenters live and work in areas that will be affected by hazardous materials and water pollution generated by the Project. Moreover, Commenters rely upon water and biological resources that may be affected by the Project. Commenters have a direct interest in ensuring that the Project is adequately analyzed and that its environmental and public health impacts are mitigated to the fullest extent possible.

LiUNA advocates for programs and policies that promote good jobs and a healthy natural and working environment in order to protect the health and safety of workers and their families. An important part of the LiUNA's ongoing advocacy involves participating in and, where appropriate, challenging projects that would result in harmful environmental effects, or the violation of environmental laws, to the detriment of the interests of LiUNA's members. Workers often suffer environmental impacts that are more severe than the general population.

Workers and labor organizations have a long history of engaging in the CEQA process to secure safer working conditions, reduce environmental impacts and maximize economic benefits. The courts have held that, "unions have standing to litigate environmental claims." *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1198.

II. LEGAL BACKGROUND

CEQA has two basic purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 Cal. Code Regs. § 15002(a)(1).) “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’ *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564 (citing *Laurel Heights Improvement Ass’n v. Regents of the University of California* (1988) 47 Cal.3d 376, 392. The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal.App.4th 1344, 1354 (“*Berkeley Jets*”); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. 14 Cal. Code Regs. § 15002(a)(2–3); *see also Berkeley Jets*, 91 Cal.App.4th at 1354; *Citizens of Goleta Valley*, 52 Cal.3d at 564; *Laurel Heights*, 47 Cal.3d at 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” (14 Cal. Code of Regs. § 15002(a)(2).) If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.” Pub. Res. Code § 21081; 14 Cal. Code Regs. § 15092(b)(2)(A–B).

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been taken into account. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Communities for a Better Environment v. Richmond (Chevron)* (2010) 184 Cal.App.4th 70, 80 (“*CBE v. Richmond*”) (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449–50).

CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring “environmentally superior” alternatives and all feasible mitigation measures. 14 Cal.

Code Regs. § 15002(a)(2–3); *see also Berkeley Jets*, 91 Cal.App.4th at 1354; *Citizens of Goleta Valley*, 52 Cal.3d at 564–65. The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or significantly reduced.” 14 Cal. Code Regs. § 15002(a)(2). If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.” Pub. Res. Code § 21081; 14 Cal. Code of Regs. § 15092(b)(2)(A–B).

A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.” *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722 (quoting *King County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 712); *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946; *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1117.

III. THE PROJECT DOES NOT COME TO TERMS WITH AB 900 COMPLIANCE, AND THE APPLICANT’S AB900 COMMITMENTS

The Project has made certain commitments under California’s AB900 process. DEIR page 4.8-7. AB900, the “Jobs and Economic Improvement Through Environmental Leadership Act,” required the Governor to establish procedures for applying for streamlined environmental review for certain projects. Included is information establishing that the prevailing and living wage requirements of Pub. Res. Code section 21183(b) will be satisfied. Here, the Project applied to AB900 status, made these commitments on February 16, 2012, and received approval from Governor Brown. Exhibit C hereto. *The County Board should inquire whether the Applicant is following through, is simply ignoring these commitments.*

It is true that the Applicant did not complete the AB900 process in its entirety. http://opr.ca.gov/s_californiajobs.php. The Project received the Governor’s AB900 certification, but not the required “Legislative Concurrence.” Nevertheless, the Project’s AB900 commitments have not been formally withdrawn. Under these circumstances, the Project should not be allowed to evade the AB900 requirements, including but not limited to prevailing wages.

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IV. THE CUMULATIVE IMPACTS DISCUSSION OF THE CONTINGUOUS BLYTHE SOLAR PROJECT IS INADEQUATE

CEQA requires a mandatory finding of significance if a project will have significant cumulative impacts together with other past, present and reasonably foreseeable future projects. (CEQA sect. 21083(b)) The purpose of a cumulative impact analysis is to analyze impacts that “can result from individually minor but collectively significant projects taking place over a period of time.” (*Communities for a Better Environment v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 117; CEQA Guidelines section 15355(b).) As the court stated in *Communities for a Better Environment v. California Resources Agency*, 103 Cal. App. 4th 98, 114 (2002):

Cumulative impact analysis is necessary because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.

Here, the FEIR, and DEIR, do not adequately describe the cumulative impacts of the Blythe Solar Power Project, a 485 MW, 4,183 acre project directly south and contiguous/adjacent to the McCoy Solar Project, and proposed by the same Applicant.

To begin, the FEIR and DEIR here provides very little detail, and virtually no specificity about the cumulative environmental impacts of these two huge projects, adjacent to one another, on the environment including but not limited to air quality, biological and hydrogeologic impacts, particularly during the years of construction and decommissioning of these projects. The DEIR groups the Blythe Solar project together with many other projects, but this project is directly adjacent to the McCoy Solar Project, and it therefore merits far more complete analysis.

Furthermore, the Blythe Solar project has changed significantly since the circulation of the McCoy DEIR. On August 30, 2013, well after the McCoy DEIR was circulated, the BLM published a Notice of Intent to Publish an Environmental Impact Statement for a revised Blythe Solar project, that proposes conversion of the previously approved project from thermal solar to photovoltaic solar technology. The new EIS was circulated on February 7, 2014. Exhibit D hereto.

As a result, neither the DEIR not the FEIR here have any substantive analysis of the new changes to the Blythe Solar project, and how they may cumulatively impact the

environment when the neighboring McCoy Solar Project is also taken into account. FEIR Comment Letter 04.

references the new gen-tie line and the relationship to the Blythe Solar project, but there is no specific, substantive analysis of the Blythe Solar project, as a whole, given its proximity to McCoy Solar. For example, there is nothing in this FEIR and DEIR that describes the cumulative impacts of the revised Blythe Solar project's air quality impacts that will violate the applicable 24-hour and annual PM10 standards, as well as the annual NOx threshold. Exhibit E hereto.

Moreover Response to Comment O2-6 acknowledges the proximity of Blythe Solar, but its conclusions are outdated given the recent changes to Blythe Solar. Response to Comment O3-57 calls such analysis 'speculative,' but that is not the case as the new Blythe Solar EIS has been circulated. Doesn't it merit at least some analysis or review by the County?

A. The FEIR Does Not Address The Cumulative Impacts From The Site And Surrounding Projects On Erosion And Sedimentation

This deficiency regarding cumulative impacts review is particularly true in the area of erosion and sedimentation. As expert geologist Rhymes confirms:

"The project site sits directly in between two large solar projects; The Big Maria Vista Solar Project to the north which has a BLM ROW request for 23,040 acres and facility use of 1,200 acres and the Blythe Solar Power Project which has a BLM ROW request for 9,400 acres and a facility use of 5,595 acres (PSPP, 2009). In addition, the project site lies within a 25-mile radius of about 107,067 total acres of BLM ROW requested land and at least 26,000 acres of facility use for solar power related projects. The cumulative impact of these projects on the erosion, drainage patterns and sheet flow has the potential for causing significant impacts on the hydrology of the area and the ecosystem cumulatively.

Section 6.3.10.2 of the DEIR indicates the following sites were included in the assessment of cumulative impacts with regards to water quality, erosion and sedimentation: enXco, McCoy, BSPP, Blythe Airport Solar I Project, Desert Quartzsite, Gypsum Solar, Palo Verde 2, Rio Mesa. Blythe PV Project) and other projects (e.g., Blythe Energy Project Transmission Line, City of Blythe projects, DPV2, CRS, Desert Southwest Transmission Line, Eagle Mountain, Landfill Project, Palo Verde Mesa Solar Project, RCL00161R1, BGR100258, and CUP03602). However, the DEIR (Section 6.30.10.2) responds to this by stating "However, insufficient details are known about the extent and location of any new pervious surfaces; the volume and location of grading or other earth-moving

activities; and the size of new facilities' footprints to allow for a meaningful and informative cumulative analysis and, for the purposes of this analysis, we decline to speculate as to the significance of potential cumulative effects on erosion and sedimentation.” The DEIR goes on to state in the subsequent paragraph that: “The combined impacts of the Project plus the cumulative projects would not result in a significant cumulative effect with respect to water quality degradation, erosion, and sedimentation. Therefore, the Project would not have a cumulatively considerable contribution to such impacts and significant cumulative impacts would not occur.”

My original comment letter (Bauer, Sept. 2013) indicated that this was not adequate and that the project and the public deserved and full and fair analysis of this impact. FEIR responds to this comment (O3-57) with “However, specifics about the extent and location of any new pervious surfaces; the volume and location of grading or other earth-moving activities; or the size of new facilities' footprints is not available. Under these circumstances, and consistent with the Court's decision in *Laurel Heights Improvement Association v. Regents of University of California* (1993) 6 Cal.4th 1112, 1137, the Draft EIR declines to speculate as to the significance of potential cumulative effects on erosion and sedimentation. . .

The surrounding solar facilities, like the proposed project, have large areas of disturbed soil. The large surface area disturbed by surrounding solar projects is significant in that these facilities can have more of an impact on drainage patterns than smaller footprint construction projects. Assessing the combined impacts and patterns of these large altered areas in close proximity to one another seems to fall under the very purpose of the CEQA environmental review process. Furthermore, construction details of these adjacent facilities are available and should not be considered speculative and therefore the combined impact of the proposed project and the neighboring facilities can be assessed and the FEIR fails to do so.” Exhibit B hereto.

V. **THE DEIR DOES NOT ADEQUATELY ANALYZE OR MITIGATE FOR IMPACTS ON BIOLOGICAL RESOURCES.**

Expert biologist Cornett has reviewed the response to comments in the FEIR concerning biological impacts, and concluded (in the very limited time that the County gave to FEIR reviewers) that the responses regarding deficiencies in the DEIR were unacceptable because they either did not deal specifically with the DEIR comments, or because the issues were ignored all or in part. Exhibit A hereto.

In particular, expert Cornett notes that:

“Response 03-29. The project proponent refuses to provide any information whatsoever on the qualifications of the persons conducting fieldwork.

The project proponent failed to include the qualifications of the individuals conducting fieldwork or authoring the biological technical report in the DEIR or the FEIR. The issue was brought forward in my comment letter on the DEIR dated September 5, 2013, and reiterated by Gideon Kracov, Attorney at Law, in his letter dated September 30, 2013. Nevertheless, the project proponent continues to refuse to provide this information as no statement of qualifications was provided in their Response to Comments. I must therefore conclude the project proponent has elected to not provide the information because field workers were not qualified and this fact would have revealed information that would seriously undermine the credibility of the BRTR and FEIR.

The project proponent also failed to use county-approved biologists, as they are required to do, to conduct field surveys for biological resources. In their Response to Comments (03-29) they argue that biologists conducting field surveys and writing reports were covered because Tetra Tech EC, is an approved firm and, therefore, any other individual or company they subcontract with is “approved” as well. This is not correct. The County clearly states on their Environmental Programs website that “the Environmental Programs Division (EPD) of the

Riverside County Planning Department requires that all biological consultants, both firms and **individuals**, who prepare biological reports for review by the County, have an executed agreement on file with the Department.”² None of the individuals, including Alice Karl, are employees of Tetra Tech and therefore must be approved by the County of Riverside before participating in the development of a report.

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² <http://www.rctlma.org/epd/documents/BioConsultantsList.pdf>

Response 03-30. Project proponent fails to justify the complete absence of standard protocol night surveys.

Many desert animals, including several sensitive species, are active at night to reduce water loss through evaporative cooling and to minimize detection by prey or predators. Night surveys are standard procedure among professional field biologists working in desert environments. However, project biologists elected to deviate from accepted standards and not conduct a single night survey. This omission further undermines the credibility of the report and may have resulted in the failure to detect the presence of several sensitive species including the kit fox and Couch's spadefoot toad.

In an attempt to justify this glaring omission, the project proponent in their responses to comments suggest neither the County, BLM nor federal and state resource agencies required nocturnal surveys. Specifically, they refer to the Draft EIR, Appendix C-5 and the Biological Opinion of the U.S. Fish & Wildlife Service.³ However, this document says nothing about nocturnal surveys and does not indicate that they are not required. As the resource agencies are well qualified to set parameters on biological field surveys, their decision to not visit this issue in their Opinion most likely reflects their assumption that professional and qualified field biologists would conduct such standard surveys.

In responding to this issue, the project proponent continues by stating that "daytime surveys are adequate to identify aquatic breeding habitat for Couch's spadefoot, potential dens for desert kit fox and roosting habitat for special-status bats."⁴ This response makes no effort to explain why this is true. The project site is located in a hyperarid desert and so of course there are no permanent aquatic habitats. But Couch's spadefoot toads in this region rely on ephemeral pools to breed.⁵ Such pools are typically associated with wash environments of which there are many more within the project boundaries than is stated in the FEIS (December, 2012). A very limited assessment of potential temporary pools was

³ Responses to Comments, page 2-182.

⁴ Responses to Comments, page 1-182.

⁵ Stebbins, R. C. 2003. Western Reptiles and Amphibians. Houghton Mifflin, Boston, Massachusetts.

undertaken but no follow up surveys were conducted because it was concluded that it did not rain in the summer of 2011.⁶ Additional surveys were apparently planned for 2012, a year in which summer thundershowers were relatively frequent and widespread, but I found no documents indicating that such surveys for the toad were undertaken. Without an accurate assessment of potential breeding pool locations and not a single nocturnal survey for the species, appropriate mitigation measures cannot be designed. Thus, impacts to Couch's spadefoot toad as a result of the project could be significant. A sincere effort must be made to map potential breeding habitat for the toad, particularly in the northwestern portion of the project site where suitable habitat likely exists but which was completely ignored during the surveys.

The BRTR does not discuss the significance of foraging habitat for the kit fox. Because the entire project site is clearly foraging habitat for kit foxes, nighttime surveys for this small predator should have been conducted as they are most often active at night. Much of the project site is hard-packed alluvial deposits which precludes the creation of fox footprints leaving nighttime surveys as the only practical method by which foraging habitat could have been assessed. Again, the project proponent fails to respond to an important issue and mitigation is designed around kit fox burrow presence rather than areas of foraging habitat. As a result there may be significant impacts to protected kit foxes over a broad region which includes the project site.

Response 03-31. Project proponent fails to explain why wildlife corridor studies were not conducted.

Project proponent fails to explain why routine wildlife corridor studies were not conducted for such a large project which includes habitat for both medium- and large-sized mammals. They simply reiterate what they did but ignore what they did not do. The response states that "The distribution of these species was discussed in the . . ." and "No bighorn sheep were observed in the McCoy Mountains." But such responses and conclusions are not a substitute for the sweeping of washes and roads for animal tracks or the placement of infrared-triggered cameras in washes to record wildlife movements. These standard practices are designed to

⁶ BRTR, page 39.

strengthen the kind of incidental observations made while walking transects. Without the use of formal field detection methods the results are incidental and conclusions are speculative at best. The report leaves the public with no real evidence for or against the presence of wildlife corridors with the possibility that project impacts to sensitive mammals may be significant.

Response 03-32. In this instance the project proponent does respond to my comment regarding the little pocket mouse, but fail to correctly characterize the issue.

One of the purposes of a biological survey is to determine the presence or absence of sensitive species or subspecies. The ranges of the various subspecies of little pocket mouse are only partially known, at best, and both the California Department of Fish & Wildlife and U.S. Fish & Wildlife Service have expressed concern regarding the status and survival of several subspecies.⁷ For this reason, effective live-trapping of little pocket mice should always be conducted in the desert regions of California. It is not the abundance of a particular species in its habitat that is at issue in this case, but the severely restricted range of certain subspecies whose ranges are incompletely known.

As described in the previous response to comment, daytime surveys alone are inadequate to determine the significance of the site to special-status species such as the kit fox.

Response 03-33. Biological consultants should demonstrate independence when decisions of the USFWS deviate from the Service's own rules and result in additional harm to a listed species.

The USFWS elected to not require additional surveys on lands immediately south of the project site in spite of approved protocols that require such surveys. In my opinion, the Service erred in their decision, a decision that may result in an even more significant impact to the officially threatened desert tortoise. Truly independent biological consultants would have at least recommended that surveys be conducted in spite of the position of the USFWS. Without current surveys the true

⁷ USFWS at <http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=A0BY>; CDFW at <http://www.dfg.ca.gov/wildlife/nongame/ssc/docs/mammal/species/33.pdf>.

impact on the desert tortoise is unknown and mitigation may be insufficient.

The response curiously omits any mention of why tortoise evidence was almost absent north of the project site in similar habitat. Again, this supports the idea that protocols surveys were not conducted in the area as required since no attempt was made to respond to this observation.

Response 03-41. Since no focused bat surveys were conducted no conclusions can be reached regarding impacts and mitigation.

The project proponent responds at length as to why standard practices were not followed and focused bat surveys were not conducted. At the end of the day, without focused surveys no conclusions can be reached as to impacts and the necessity of mitigation. Incidental observations by apparently inexperienced or unqualified field workers can never be a substitute for formal surveys for any species or group of species. Curiously, bat roosts are most likely to be found along the western margin of the project site and beyond, yet no mention of efforts to find roosts in this area were included in the response.

Response 03-42. Surveys for ancient creosote rings must be undertaken before project approval.

The first mention of the existence of ancient creosote rings in any of the documents prepared for the McCoy Solar Energy Project are in the project proponent's response to my comment. "No creosote rings were identified during botanical surveys on the Project site" is their response.⁸ This is not surprising since one must conclude that no one involved in the preparation of the biological studies was aware of their existence, much less conducting surveys for them. Now that the project proponent is aware of ancient creosote rings, they should conduct surveys for them with experienced biologists and reveal their findings to the public. If they are found, appropriate mitigation should be implemented. Without such surveys a significant resource could be forever lost as a result of the Project.

⁸ Responses to Comments, page 2-185.

Response 03-44. The project proponent fails to respond to the impact of ocotillo removal on migrating birds.

As mentioned in my original comment letter, seventeen ocotillo plants (*Fouquieria splendens*) were found within the project boundaries.⁹ The BRTR fails to mention that the project site is one of the most northwestern occurrences of this species and that blooming plants may provide critical energy resources for migrating hummingbirds and other avian species in years of below average precipitation.¹⁰ As the northwestern outpost of *Fouquieria splendens*, the population on the project site should be considered critical to the survival of thousands of hummingbirds and other migrating bird species.¹¹ Nonetheless, the project proponent has elected to ignore this issue and not respond in any manner.

Response 03-46. No entity has shown that compensatory habitat is available.

In spite of much rhetoric and the use of such phrases as “initially demonstrated,” “habitat modeling” and “suggests that the Project will be able to meet compensatory mitigation needs” no actual data has been provided that there is sufficient appropriate land available to accomplish all the compensation necessary to mitigate project impacts to a level of insignificance. I argue that there is insufficient land available. Demonstrate that I am incorrect before accepting the FEIS.” Exhibit A hereto.

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⁹ BRTR, page 30, C-40.

¹⁰ Cornett, J. W. 2013. The Splendid Ocotillo, Educational Bulletin #13-2, Desert Protective Council, San Diego, CA.

¹¹ Buchmann, S. L. and G. P. Nabhan. 1997. *Forgotten Pollinators*. Island Press, Washington D. C.

VI. THE DEIR DOES NOT ADEQUATELY ANALYZE OR MITIGATE FOR IMPACTS ON HYDROGEOLOGY AND WATER RESOURCES.

Expert geologist Rhymes has reviewed the response to comments in the FEIR with regard to hydrogeology and water resource impacts, and concluded that the “project FEIR fails to accurately assess the projects natural relation to the Colorado River and incorrectly determines that there is no connection between the groundwater on-site and that from the Colorado River. In order the legally extract water from beneath the project site the FEIR needs to include means to legally acquire this water and as shown above a mechanism already exists for this and these means should be included in the FEIR and the public review process.” Exhibit B hereto.

A. The FEIR Does Not Adequately Address The Applicant’s Right To Extract Water From The Groundwater Aquifer

In particular, expert Rhymes questions the FEIR conclusion in water supply:

“As indicated in the DEIR and again in the FEIR the applicant has no plans to extend municipal services for water to the project site and will therefore need to install 2-3 wells to extract groundwater from the underlying aquifer. However, as included in the FEIR in Chapter 2.5, the Metropolitan Water District of Southern California (MWD) in a letter dated October 1, 2013 (FEIR, page 2-55) and the Colorado River Board of California (CRB) in a letters dates September 27, 2013 and January 31, 2013 both contend that the water below the site is Colorado River water and requires the acquisition of entitlement rights or other legal mechanisms to extract this water from the underlying aquifer. However, the applicant asserts that the water pumped from the site is not hydraulically connected to Colorado River water . . .

[I]t was determined by the USGS, and that based the USGS 2008 Accounting Surface report (USGS, 2008), that the water beneath the site is hydraulically connected to that of the Colorado River. This is further reiterated in BLM’s DEIS (McCoy DEIS, 2012)¹² for this very project “the PVMGB is tributary to the lower Colorado River, and is part of the Colorado River aquifer.” In addition, as shown on Figure 6 of the USGS report (USGS, 2008) the project site shows and accounting surface between approximately 252-256 feet above mean seal level (amsl) and the DEIR in Section 2.4.9 shows that “the [project] wells would pump groundwater from the PVMGB, where the water table has been measured at or near 254 feet amsl.” Based on this the project is right at the groundwater elevation

¹² FEIR Response to Comment A5-3 argues that BLM’s contrary conclusions on water supply in connection with the FEIS “do not govern” the County’s determinations, but this argument is misleading. As a matter of law under CEQA, “substantial evidence includes . . . expert opinion.” Pub. Res. Code § 21080(e)(1); 14 Cal. Code Regs. § 15064(f)(5).

of the Colorado River aquifer accounting surface and any pumping below this would be subject to entitlement rights. Furthermore, since the elevation is within +/-0.84 feet at the 95-percent confidence level (USGS, 2008) the project is within the area and range of the Colorado River accounting surface and therefore subject to obtaining valid authority from the MWD and the CRB to extract this water from the underlying groundwater aquifer . . .

From the MWD letter dated October 1, 2013 'The entire project site overlies the Colorado River "Accounting Surface" area designated by U.S. Geological Survey (USGS) Scientific Investigation Report 2008-5113. The Accounting Surface is defined to represent the elevation and slope of the static water table in the river aquifer outside the flood plain and the reservoirs of the Colorado River that would exist if the water in the river aquifer were derived only from the river. The accounting surface extends outward from the edges of the flood plain or a reservoir to the subsurface boundary of the river aquifer. The USGS Report indicates that the aquifer underlying the lands is considered to be hydraulically connected to the Colorado River and groundwater withdrawn from wells located on these lands would be replaced by Colorado River water, in part or in total.'

The FEIR's comment response to this in A5-1 (Chapter 2.5) that indicates that the systems that govern the groundwater below the river are very complex is correct. Groundwater below the site may come from the mountains, the washes, direct precipitation and recharge but it may also come from the Colorado River and may also intercept water destined to recharge the Colorado River. Due to this connectivity to the Colorado River pumping from the site is subject to entitlement rights, and just as other nearby solar projects (Palen Solar Power Project, Blythe Solar Power Project, Desert Harvest Solar Project and Genesis Solar Power Project) have been requested to do so, a mechanism is in place to acquire this water legally through an existing Boulder Canyon Project Act (BCPA) Section 5 Contract Holder (BCP, 1928). Also as indicated in the MWD October 1, 2013 letter the Desert Harvest Solar Project which is further away from the Colorado River was required to include mitigation measures that requires the applicant to prepare a Colorado River Water Supply Plan prior to the onset of water-consuming construction activities which would be submitted to the BLM and the Colorado River Basin Regional Water Quality Control Board (RWQCB) for review and approval, as well as to the MWD for review and comment. As the McCoy site is closer to the Colorado River and also under BLM jurisdiction so too should it include these mitigation measures and the FEIR fails to do so.

In addition, as shown from the AECOM report Assessment of Proposed Groundwater Use – Results of Numerical Groundwater Modeling McCoy Solar Energy Project, Palo Verde Mesa, Riverside County, California (Aecom, 2011) Figures 1 and 2 in the DEIR show the basin sediments are the same and that groundwater flow is connected beneath the site and within the river basin thereby indicating that the aquifer beneath the site and the Colorado River basin are both within the Palo Verde Mesa Groundwater Basin and as such groundwater from the numerous sources mentioned above (mountain recharge, washes, precipitation, subsurface inflow and Colorado River water) are comingled within the Palo Verde Mesa Groundwater Basin. Recharge water from the mountains will flow towards the river via underground flow and may or may not be intercepted by the PVID drains and inflow water from the river may be pumped from the Project site . . .

The assertion in the FEIR (Chapter 2.6) that the PVID drains prevent any flow of water in, around, or under them is unfounded and needs to be further developed and presented if this will be the deciding issue as to whether the site’s underlying water is connected to the Colorado River. Even if it were found to be true, these drains are man-made and can be added to, removed, and manipulated and their use in defining natural groundwater basin boundaries is questionable.” Exhibit B hereto.

VII. THE DEIR DOES NOT ADEQUATELY ANALYZE OR MITIGATE FOR IMPACTS ON SURFACE WATER HYDROLOGY, DRAINAGE AND FLOODING.

Expert Rhymes’ review of the FEIR concludes that there are several shortcomings with regard to surface water issues from this massive project.

A. The DEIR Fails To Accurately Assess The Permitting Requirements For Compliance Under The Clean Water Act

Expert Rhymes raises concerns about the FEIR’s characterization of the McCoy Wash, which is part of the Colorado River Aquifer:

“As indicated in the Section 4.10.1.3 of the DEIR for this project “When sufficient flow is present, west to-east trending washes located on site eventually merge with McCoy Wash, which is located north and east of all proposed Project facilities.” Also indicated a Department of Water Resources study (DWR, 2004) west- to-east trending washes are located on site and eventually merge with the McCoy Wash, which is a tributary of the Colorado River and the PVMGB is tributary to the lower Colorado River, and is part of the Colorado River aquifer.

Section 4.10.1.3 of the DEIR states “The major watercourse near the Project site is McCoy Wash (east of the site) which drains approximately 210 square miles of the Palo Verde Mesa, McCoy Mountains, Little Maria.” . . .

However, later revisions to the DEIR stated that “When sufficient flow is present, west to east trending washes located on site eventually merge with McCoy Wash, which is located north and east of all proposed Project facilities, as described above. Low flows from the ephemeral washes that traverse the Project site in a west-to-east orientation transition into alluvial fans and abate into the landscape prior to connecting with the McCoy Wash (AECOM, 2011b).” As indicated in the Aecom report this conclusion was based on visual observations. . .

This reversal based on a visual observation is inadequate proof that waters from the site do not drain into the McCoy Wash. The Palo Verde Irrigation District confirms in their July 26, 2012 (PVID, 2012) comment letter on the FEIS for this project that: “during rain events, any water falling on the mesa that doesn't infiltrate runs into the Valley causing damages and either infiltrates to the valley groundwater, flows into a PVID canal, or flows into a PVID drain.” If surface water from the Mesa can drain into the valley, it has the potential for impacting Waters of the U.S. There is sufficient evidence as indicated above showing that waters from the site, during periods of flooding or intense rainfall event, can drain to the McCoy wash and therefore they should be designated as water of the United States and subject to the Clean Water Act.” Exhibit B hereto

B. The FEIR Does Not Adequately Assess The Risks From The Project On Existing Drainage Patterns, and the New Option 2 Gen-Tie Does Constitute Significant New Information Requiring Recirculation

Expert Rhymes concludes that the Project's impact on surface erosion and increased amount of runoff, including from new Option 2 gen-tie, is not adequately addressed in the FEIR. “When these patterns are altered, even slightly, the impacts to the surrounding ecological system can be great.” Exhibit B hereto.

“My original comment letter dated September 12, 2013 (Bauer, 2013) relayed concerns that the DEIR did not adequately assess the impacts to the environment and local ecosystems from the altered drainage patterns caused by the project. The FEIR's response to this comment is “Measure 4.10-5 would require the Applicant to complete a site specific Comprehensive Drainage, Stormwater, and Sedimentation Plan for County review prior to construction to reduce the potential for the Project to result in altered stormwater flows (including drainage patterns), erosion, or sedimentation rates (such as the formation of rills and gullies) to a less than significant level.” However, this leaves the evaluation and assessment of any impacts in question to a later date after the CEQA process is over. The sheet flow across the site that now exists could significantly be altered by the solar panels

and the associated infrastructure. The comment response acknowledges that altered hydrology, drainage patterns and increases in sedimentation and erosion could occur but the mitigation presented to manage this is again the submittal of a Comprehensive Drainage, Stormwater, and Sedimentation Plan to the County of Riverside for review. The objective of the CEQA review process is to review and make publicly available potential impacts from the project and this appears to defer this important piece of research and data to a later date long after the public is included in the review process.

In addition, my original comment letter (Bauer, Sept. 2013) indicated that the project did not mention or include a proposal to prepare a Conceptual Grading Plan. My original comment letter states “The DEIR makes no mention of a Conceptual Grading Plan which could be used to evaluate impacts from the project and mitigate impacts that are discovered. For instance, the DEIR makes no mention of where or when engineered channels would be located, which washes would be most affected and how they would be protected, but leaves it to a plan (Comprehensive Drainage, Storm Water, and Sedimentation Control Plan) to be worked out at a later date.” The FEIS does not address this omission, which is a critical component to reviewing the impacts of the project on the environment and the community.

Furthermore as indicated in my original comment letter (Bauer, Sept. 2013) “The Applicant did have a Pre/Post-Development Hydrology Report prepared by Aecom for this project (Aecom, Nov. 2011), however this report failed to include the McCoy Wash in the calculations. Storm water from the site is located directly adjacent to the McCoy Wash and it is not shown in the DEIR that storm water from the site does not get conveyed to McCoy Wash. It appears from the maps presented in both of the Aecom’s reports (Jan. and Nov. 2011) that storm water from the mountains would drain through the site and into McCoy Wash, especially during periods of intense rainfall, which is anticipated to get more severe with climate change. If the Aecom’s Nov. 2011 report concludes that McCoy Wash cannot and will not receive any storm water run off from the project site, the scientific basis for such needs to be directly included in the DEIR or an appendix thereof and the DEIR fails to do this.” As stated above it appears that the FEIR does not include the McCoy wash in its calculations and again without this data the FEIS fails to present a fair and full review for the public.

In addition, in the FEIR Chapter 2.6.4 Nextera Energy submits a letter proposing to move the gen-tie line approximately 1,100 feet west (called Option 2) on the Blythe Solar Plant Project site. This option has not been adequately included in the review process. The FEIR erroneously states “Option 2 is not “significant new information” and does not change the EIR in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (CEQA

Guidelines §15088.5(a).” This option moves the gen-tie line 1,200 feet west into an area of more significant ephemeral washes. The effects of a gen-tie line in this area on local drainage patterns have not been thoroughly included in this FEIR. The FEIR responds to this issue on page 2-209 of the FEIS “Hydrology and Water Quality. Option 2 would not substantially change the size or type of facilities to be constructed. It would be slightly longer and result in slightly more overall land disturbance, but would differ from Option 1 only over 1-mile section, and would result in similar potential impacts with respect to existing water quality standards and the potential for increasing erosion and/or flooding during construction, operation and maintenance, and decommissioning. For these reasons, Option 2 would not result in any change to the significance conclusions made for the Project in Draft EIR Section 4.10 or Section 6.3.” This response does not constitute a thorough review. The models and studies completed for the original project should be updated to include this change and a corresponding impact assessment done prior to approving this revision and the current FEIS fails to do this.” Exhibit B hereto.

C. The DEIR Does Not Adequately Address The Risk To The Environment From Flooding On The Project Site

Expert Rhymes concludes that the FEIR’s analysis of flood risk is incomplete:

“My original comment (Bauer, Sept. 2013) expressed concerns that the Project DEIR did not address the risks and present mitigations sufficient enough to manage environmental threats in the event of a flood. As indicated in my referenced comment letter Genesis Solar Power Project, located 8 miles away from the project, failed in the planning and execution of their project resulting the release of hazardous chemicals into the fragile desert environment from significant flooding and lack of preparation (BAR, 2012). The FEIR for the McCoy project should include drawings showing where the areas most prone to flooding exist and include mitigations showing that vehicles, equipment and other hazards will not be placed in these areas. The FEIR responds to this by stating, “Figures depicting the proposed site layout have not been altered to include a delineation of areas of concentrated flow or of frequent flood flow areas; the latter would be delineated during final engineering.”

As indicated, flooding in this area is a significant risk and when facilities are placed in areas of significant flows environmental damage can occur. The FEIR/DEIR fail to show that this will not happen as it defers the design until a later date when the public cannot review the documents to assess the risks. Comment A3-6 to the Riverside County Flood Control and Water Conservation District states that the “Draft EIR Figure 2-3 has not been revised to depict the post-mitigation site layout because like all Project information presented in Chapter 2, it describes the Applicant’s proposal (pre-mitigation). Further, because

final design has not been completed, the final locations and elevations of such facilities are not known. Final site design would be consistent with the EIR's analysis and all mitigation measures and conditions of approval. Additionally, please note that, as described on Draft EIR page 4.10-6 and on Draft EIR Figures 4.10-5 through 4.10-8, areas of maximum concentrated flow, shown outlined in blue on these figures, correspond to areas of flow with water depths greater than 0.3 feet and do not necessarily depict severe and frequent flow areas." Thus, the FEIR still fails to include an adequate review and mitigation to ensure that significant environmental damages do not occur as a result of the project." Exhibit B hereto.

VIII. THE FEIR DOES NOT ADEQUATELY ANALYZE OR MITIGATE FOR HAZARDS AND HAZARDOUS MATERIALS

Expert Rhymes comments on the inadequate review of risks of lead and perchlorate in soil:

"Section 4.9.1.1 of the DEIR it states that: "Scattered trash and debris were observed in the gen-tie line corridor, particularly near I-10, that could include lead debris from shooting target practice." And as noted in the Project Final Environmental Impact Statement (McCoy DEIS, 2012) prepared for the Bureau of Land Management (BLM) for this project lead (Pb) debris was noticed in the gen-tie corridor . . .

As indicated in my original September 2013 comment letter (Bauer, 2013) "Lead overexposure is one of the most common overexposures found in industry and is a leading cause of workplace illness (OSHA, 2013). When lead is deposited in soil from anthropogenic sources, it does not biodegrade or decay and is not rapidly absorbed by plants, and thus it remains in the surface soils at elevated levels for extended periods of time. Lead is estimated to have a half-time of residence in soil of 1,000 years (EPA, 2001). Lead can also be brought home on worker's shoes and a child's exposure to lead is much more severe and significant than that of an adult due to their smaller body size, increase of floor contact and also increase in hand to mouth contact." . . .

The FEIR states in the response comment (Chapter 2.6.3) that the identification in lead in the soil from the shooting range is part of the UXO identification and training program, as well as the identification of perchlorates. Typical UXO identification training will include the visual identification of munitions and unexploded ordnance. An example of an Unexploded Ordnance Identification, Training, and Reporting Plan (UXO ITRP) for a similar solar project which was

developed for SolarReserve, LLC for the Rice Solar Energy Project in September 2011 (SolarReserve, 2011) shows that training is given for the identification and management of hazards associated with UXOs or munitions or explosives of concern (MECs) when they are “visually or physically encountered.” . . .

The hazards associated with degraded lead in soil and perchlorates are not something that typically can be seen with the naked eye. They require the collection of soil samples to confirm. The FEIR’s response is inadequate in that a UXO plan does not include the proper identification of these hazards and therefore the impacts to the environment, the community and the workers from disturbing soils in these areas remain unknown. Therefore, prior to the FEIR being finalized a thorough investigation, which includes soil sampling, to determine the presence of soil contaminants, specifically lead and perchlorates needs to be done in areas where these contaminants may exist. This is the only way to ensure that contaminated soil is adequately handled and that the environment, workers, their families and the public are protected.” Exhibit B hereto.

IX. THE VALLEY FEVER ANALYSIS IS INADEQUATE

Expert geologist Rhymes concludes that additional, feasible measures, can be implemented to protect against Valley Fever:

“The Revised DEIR includes several mitigations set forth to reduce the exposure to Valley Fever. These mitigations listed in the Revised DEIR are somewhat of an improvement over the those detailed in the original DEIR, however my comment letter to these revisions dated December 11, 2013 (Bauer, Dec. 2013) points out that the DEIR does not indicate how the risk of contracting Valley Fever based on environmental conditions (wind, rain, work activity) will be assessed, if at all and this is again omitted in the FEIR. Therefore, the FEIR fails to adequately assess the risk from the disturbance of soil containing *Coccidioides* spores on the public and workers . . .

In addition, the Revised DEIR in Impact 4.3-4A (page 2-48) states “based on the types of occupations required for the Project (see for example, in DEIR Table 4.14-4 (p. 4.14-6)), the Project construction workforce could be drawn from as far away as Brawley and El Centro in Imperial County, California, or Cibola and Phoenix in Arizona (Draft EIR Section 4.17.5, p. 4.17-10). Even at the farthest reasonable commute, these workers already are living and working in areas that have the potential to have soils affected by the valley fever fungus. Accordingly, for a

substantial majority of Project workers, there would be no change in the baseline construction site health risk related to valley fever whether they report to work at the Project site or elsewhere in Riverside, San Bernardino, Imperial, or Los Angeles counties.”

While it may be true that workers will be commuting from areas also endemically high in Valley Fever the baseline should still be set higher for work being conducted on solar projects over other projects employing workers involved in earthwork activities. This is because the large-scale utility solar project will disturb a greater percentage of surface soil, where *Coccidioides* spores reside, than for typical construction projects (parking lots, buildings, roadways). Few other projects require grading of such a large surface area than the large utility-scale solar installations. For this reason the exposure of workers involved in the McCoy Solar Project will be greater than that of another non-solar projects and the FEIR fails to assess these risks.” Exhibit B hereto.

X. THE DEIR DOES NOT PROVIDE ADEQUATE INFORMATION ON MITIGATION MEASURES FOR THE PROJECT, FAILING TO INCLUDE OR DEFERRING KEY MITIGATION.

The DEIR omits or defers formulation of a host of mitigation measures, denying critical information to decisionmakers and the public as to whether the Project will in fact be able to adequately mitigate its environmental impacts. A lead agency is precluded from making the required CEQA findings unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved; an agency may not rely on mitigation measures of uncertain efficacy or feasibility. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727 (finding groundwater purchase agreement inadequate mitigation because there was no evidence that replacement water was available). This approach helps “insure the integrity of the process of decisionmaking by precluding stubborn problems or serious criticism from being swept under the rug.” *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935.

CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring “environmentally superior” alternatives and all feasible mitigation measures. 14 Cal. Code Regs. § 15002(a)(2–3); *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

Also, CEQA disallows deferring the formulation of mitigation measures to post-approval studies. 14 Cal. Code Regs. § 15126.4(a)(1)(B); *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309. An agency may only defer the formulation of mitigation measures when

it possesses “‘meaningful information’ reasonably justifying an expectation of compliance.” *Sundstrom* at 308; see also *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028-29 (mitigation measures may be deferred only “for kinds of impacts for which mitigation is known to be feasible”).

Here, by deferring the development of specific mitigation measures, the Applicant has effectively precluded public input into the development of those measures. CEQA prohibits this approach. As explained by the *Sundstrom* court:

An EIR . . . [is] subject to review by the public and interested agencies. This requirement of “public and agency review” has been called “the strongest assurance of the adequacy of the EIR.” The final EIR must respond with specificity to the “significant environmental points raised in the review and consultation process.” . . . Here, the hydrological studies envisioned by the use permit would be exempt from this process of public and governmental scrutiny. *Sundstrom*, 202 Cal.App.3d at 308.

For example, the FEIR and DEIR fail to include many mitigation measures from the earlier McCoy Solar BLM approvals and Record of Decision, including measures relating to air quality (AIR-1), visual resources (VIS-4) and cultural resources (CUL 4.5-1, 4.5-3). Exhibit F hereto. These BLM mitigation measures are *per se* feasible, and therefore must be incorporated into the County CEQA approvals as well. The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or significantly reduced.” 14 Cal. Code Regs. § 15002(a)(2). If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.” Pub. Res. Code § 21081; 14 Cal. Code Regs. § 15092(b)(2)(A–B).

The FEIR and DEIR also fail to provide sufficient specificity regarding a host of mitigation measures. Too much mitigation deferral is allowed, and sufficient performance standards are not put in place. The DEIR does not come to terms with any of this, but more specificity must be included on measures including:

- Measure 6-1d – which structures will be allowed to remain in the ground, what is standard to be used to determine feasibility or “whenever possible”
- Measure 4.4-1f – performance standards are not yet developed, leaving them ambiguous
- Measure 4.4-2b – performance standards are not yet developed, leaving them ambiguous
- Measure 4.4-3b – performance standards are not yet developed, leaving them ambiguous

- Measure 4.4-4d – what is standard to be used to determine feasibility
- Measure 4.4-7 – performance standards are not yet developed, leaving them ambiguous
- Measure 4.10-1 – BMPs and performance standards are not yet developed, leaving them ambiguous
- Measure 4.10-4 – performance standards are not yet developed, leaving them ambiguous
- Measure 4.10-5 – performance standards are not yet developed, leaving them ambiguous

XI. THE EIR SHOULD BE REVISED AND RECIRCULATED.

In light of all this, recirculation of the Project CEQA documents is warranted. Recirculating an EIR prior to certification is required when “significant new information” comes to light concerning a Project. 14 Cal. Code Regs. § 15088.5(a)(1–2). “Significant new information” requiring recirculation includes, for example, a disclosure showing that: (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented. (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance. (3) A feasible project alternative or mitigation measure considerably different from other previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it. (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.” 14 Cal. Code Regs. § 15088.5; *see also Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1130 (“*Laurel Heights II*”) (citing *Mountain Lion Coalition v. Fish & Game Comm’n* (1989) 214 Cal.App.3d 1043).

VIII. CONCLUSION.

It is the County Board’s role to make the final CEQA findings, and to make County Code §§ 18.28.f and 18.29.d findings for the requested use permits that the Project “will not be detrimental to the health, safety or general welfare of the community, and that conditions be imposed “to protect the health, safety or general welfare of the community.” Commenters respectfully believe, for all the reasons set forth in this letter, that this rushed approval cannot satisfy these standards, and therefore this item should be continued, or denied at this time. Commenters respectfully insist that holding this hearing today, and acting on this Project, will violate CEQA’s rules on informed decisionmaking and public participation.

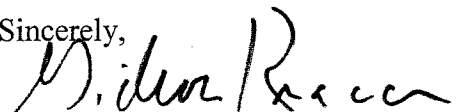
As set forth herein, the FEIR and CEQA compliance for the Project have the following deficiencies:

- I. Lack Of Clarity On AB 900 Compliance;
- II. The Cumulative Impacts Discussion Of The Contiguous Blythe Solar Project Is Inadequate;
- III. The FEIR Does Not Adequately Analyze Or Mitigate For Impacts On Biological Resources;
- IV. The FEIR Does Not Adequately Analyze Or Mitigate For The Project's Impacts On Hydrology and Water Resources;
- V. The FEIR Does Not Adequately Analyze Or Mitigate For The Project's Impacts On Surface Water Drainage And Flooding Risks;
- VI. The FEIR Does Not Adequately Analyze Or Mitigate For Hazards and Hazardous Materials;
- VII. The Valley Fever Analysis is Inadequate;
- VIII. The FEIR Does Not Provide Adequate Information On Mitigation Measures For The Project, Deferring Key Mitigation; and
- IX. Recirculation Is Necessary.

Commenters are very concerned that the FEIR did not give the extensive DEIR comments on the project the required review, or analyze them as carefully as needed. Incredibly, given the volume of comments received, the FEIR only recommends minor changes to barely 12 pages of the entire DEIR.

For the foregoing reasons, the County may not approve the Project as currently proposed. Commenters urge the County to decline to approve the Project and require the staff to go back and perform legally adequate environmental review for the Project and properly mitigate its significant impacts. Please continue to include this Office on the mailing list for all CEQA and local land use notices for the Project. Thank you for your attention to these comments.

Sincerely,



Gideon Kracov

Attorneys for LiUNA Local No. 1184



James W. Cornett — Ecological Consultants

February 24, 2014

Mr. Gideon Kracov
Attorney at Law
801 South Grand Avenue, Eleventh Floor
Los Angeles, California

Subject: **McCoy Solar Energy Project**
Deficiencies in Responses to Comments of the McCoy Solar Energy Project FEIR

Dear Mr. Kracov:

I have recently reviewed the Responses to Comments within the Final Environmental Impact Report (FEIR) prepared for the McCoy Solar Energy Project (MSEP). I found the Project proponent's responses to my and other's comments regarding deficiencies in the Draft EIR (DEIR) to be unacceptable because they either did not deal specifically with issues raised in my original comment letter, or because the issues were ignored all or in part. The body of this letter deals with why the responses were unsatisfactory.

As I stated in my original comment letter on the DEIR, the MSEP is one of the largest solar projects ever proposed for a pristine region of California's Sonoran Desert.¹ For this reason alone, the project proponent is obligated to clearly respond to issues raised by individuals and organizations. This has not been done.

Response 03-29. The project proponent refuses to provide any information whatsoever on the qualifications of the persons conducting fieldwork.

The project proponent failed to include the qualifications of the individuals conducting fieldwork or authoring the biological technical report in the DEIR or the FEIR. The issue was brought forward in my comment letter on the DEIR dated September 5, 2013, and reiterated by Gideon Kracov, Attorney at Law, in his letter dated September 30, 2013. Nevertheless, the project proponent continues to refuse to provide this information as no statement of qualifications was provided in their Response to Comments. I must therefore conclude the project proponent has elected to not provide the information because field workers were not qualified and this fact

¹ DEIR, Figure 6-1

would have revealed information that would seriously undermine the credibility of the BRTR and FEIR.

The project proponent also failed to use county-approved biologists, as they are required to do, to conduct field surveys for biological resources. In their Response to Comments (03-29) they argue that biologists conducting field surveys and writing reports were covered because Tetra Tech EC, is an approved firm and, therefore, any other individual or company they subcontract with is “approved” as well. This is not correct. The County clearly states on their Environmental Programs website that “the Environmental Programs Division (EPD) of the Riverside County Planning Department requires that all biological consultants, both firms and **individuals**, who prepare biological reports for review by the County, have an executed agreement on file with the Department.”² None of the individuals, including Alice Karl, are employees of Tetra Tech and therefore must be approved by the County of Riverside before participating in the development of a report.

Response 03-30. Project proponent fail sto justify the complete absence of standard protocol night surveys.

Many desert animals, including several sensitive species, are active at night to reduce water loss through evaporative cooling and to minimize detection by prey or predators. Night surveys are standard procedure among professional field biologists working in desert environments. However, project biologists elected to deviate from accepted standards and not conduct a single night survey. This omission further undermines the credibility of the report and may have resulted in the failure to detect the presence of several sensitive species including the kit fox and Couch’s spadefoot toad.

In an attempt to justify this glaring omission, the project proponent in their responses to comments suggest neither the County, BLM nor federal and state resource agencies required nocturnal surveys. Specifically, they refer to the Draft EIR, Appendix C-5 and the Biological Opinion of the U.S. Fish & Wildlife Service.³ However, this document says nothing about nocturnal surveys and does not indicate that they are not required. As the resource agencies are well qualified to set parameters on biological field surveys, their decision to not visit this issue in their Opinion most likely reflects their assumption that professional and qualified field biologists would conduct such standard surveys.

In responding to this issue, the project proponent continues by stating that “daytime surveys are adequate to identify aquatic breeding habitat for Couch’s spadefoot, potential dens for desert kit

² <http://www.rctlma.org/epd/documents/BioConsultantsList.pdf>

³ Responses to Comments, page 2-182.

fox and roosting habitat for special-status bats.”⁴ This response makes no effort to explain why this is true. The project site is located in a hyperarid desert and so of course there are no permanent aquatic habitats. But Couch’s spadefoot toads in this region rely on ephemeral pools to breed.⁵ Such pools are typically associated with wash environments of which there are many more within the project boundaries than is stated in the FEIS (December, 2012). A very limited assessment of potential temporary pools was undertaken but no follow up surveys were conducted because it was concluded that it did not rain in the summer of 2011.⁶ Additional surveys were apparently planned for 2012, a year in which summer thundershowers were relatively frequent and widespread, but I found no documents indicating that such surveys for the toad were undertaken. Without an accurate assessment of potential breeding pool locations and not a single nocturnal survey for the species, appropriate mitigation measures cannot be designed. Thus, impacts to Couch’s spadefoot toad as a result of the project could be significant. A sincere effort must be made to map potential breeding habitat for the toad, particularly in the northwestern portion of the project site where suitable habitat likely exists but which was completely ignored during the surveys.

The BRTR does not discuss the significance of foraging habitat for the kit fox. Because the entire project site is clearly foraging habitat for kit foxes, nighttime surveys for this small predator should have been conducted as they are most often active at night. Much of the project site is hard-packed alluvial deposits which precludes the creation of fox footprints leaving nighttime surveys as the only practical method by which foraging habitat could have been assessed. Again, the project proponent fails to respond to an important issue and mitigation is designed around kit fox burrow presence rather than areas of foraging habitat. As a result there may be significant impacts to protected kit foxes over a broad region which includes the project site.

Response 03-31. Project proponent fails to explain why wildlife corridor studies were not conducted.

Project proponent fails to explain why routine wildlife corridor studies were not conducted for such a large project which includes habitat for both medium- and large-sized mammals. They simply reiterate what they did but ignore what they did not do. The response states that “The distribution of these species was discussed in the . . .” and “No bighorn sheep were observed in the McCoy Mountains.” But such responses and conclusions are not a substitute for the sweeping

⁴ Responses to Comments, page 1-182.

⁵ Stebbins, R. C. 2003. Western Reptiles and Amphibians. Houghton Mifflin, Boston, Massachusetts.

⁶ BRTR, page 39.

of washes and roads for animal tracks or the placement of infrared-triggered cameras in washes to record wildlife movements. These standard practices are designed to strengthen the kind of incidental observations made while walking transects. Without the use of formal field detection methods the results are incidental and conclusions are speculative at best. The report leaves the public with no real evidence for or against the presence of wildlife corridors with the possibility that project impacts to sensitive mammals may be significant.

Response 03-32. In this instance the project proponent does respond to my comment regarding the little pocket mouse, but fail to correctly characterize the issue.

One of the purposes of a biological survey is to determine the presence or absence of sensitive species or subspecies. The ranges of the various subspecies of little pocket mouse are only partially known, at best, and both the California Department of Fish & Wildlife and U.S. Fish & Wildlife Service have expressed concern regarding the status and survival of several subspecies.⁷ For this reason, effective live-trapping of little pocket mice should always be conducted in the desert regions of California. It is not the abundance of a particular species in its habitat that is at issue in this case, but the severely restricted range of certain subspecies whose ranges are incompletely known.

As described in the previous response to comment, daytime surveys alone are inadequate to determine the significance of the site to special-status species such as the kit fox.

Response 03-33. Biological consultants should demonstrate independence when decisions of the USFWS deviate from the Service's own rules and result in additional harm to a listed species.

The USFWS elected to not require additional surveys on lands immediately south of the project site in spite of approved protocols that require such surveys. In my opinion, the Service erred in their decision, a decision that may result in an even more significant impact to the officially threatened desert tortoise. Truly independent biological consultants would have at least recommended that surveys be conducted in spite of the position of the USFWS. Without current surveys the true impact on the desert tortoise is unknown and mitigation may be insufficient.

The response curiously omits any mention of why tortoise evidence was almost absent north of the project site in similar habitat. Again, this supports the idea that protocols surveys were not conducted in the area as required since no attempt was made to respond to this observation.

⁷ USFWS at <http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=A0BY>; CDFW at <http://www.dfg.ca.gov/wildlife/nongame/ssc/docs/mammal/species/33.pdf>.

Response 03-41. Since no focused bat surveys were conducted no conclusions can be reached regarding impacts and mitigation.

The project proponent responds at length as to why standard practices were not followed and focused bat surveys were not conducted. At the end of the day, without focused surveys no conclusions can be reached as to impacts and the necessity of mitigation. Incidental observations by apparently inexperienced or unqualified field workers can never be a substitute for formal surveys for any species or group of species. Curiously, bat roosts are most likely to be found along the western margin of the project site and beyond, yet no mention of efforts to find roosts in this area were included in the response.

Response 03-42. Surveys for ancient creosote rings must be undertaken before project approval.

The first mention of the existence of ancient creosote rings in any of the documents prepared for the McCoy Solar Energy Project are in the project proponent's response to my comment. "No creosote rings were identified during botanical surveys on the Project site" is their response.⁸ This is not surprising since one must conclude that no one involved in the preparation of the biological studies was aware of their existence, much less conducting surveys for them. Now that the project proponent is aware of ancient creosote rings, they should conduct surveys for them with experienced biologists and reveal their findings to the public. If they are found, appropriate mitigation should be implemented. Without such surveys a significant resource could be forever lost as a result of the Project.

Response 03-44. The project proponent fails to respond to the impact of ocotillo removal on migrating birds.

As mentioned in my original comment letter, seventeen ocotillo plants (*Fouquieria splendens*) were found within the project boundaries.⁹ The BRTR fails to mention that the project site is one of the most northwestern occurrences of this species and that blooming plants may provide critical energy resources for migrating hummingbirds and other avian species in years of below average precipitation.¹⁰ As the northwestern outpost of *Fouquieria splendens*, the population on the project site should be considered critical to the survival of thousands of hummingbirds and other migrating bird species.¹¹ Nonetheless, the project proponent has elected to ignore this issue and not respond in any manner.

⁸ Responses to Comments, page 2-185.

⁹ BRTR, page 30, C-40.

¹⁰ Cornett, J. W. 2013. The Splendid Ocotillo, Educational Bulletin #13-2, Desert Protective Council, San Diego, CA.

¹¹ Buchmann, S. L. and G. P. Nabhan. 1997. *Forgotten Pollinators*. Island Press, Washington D. C.

Response 03-46. No entity has shown that compensatory habitat is available.

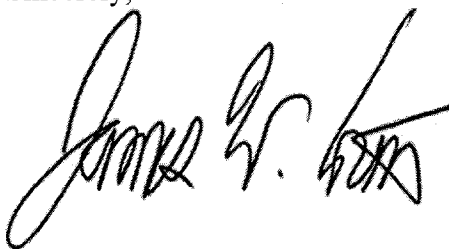
In spite of much rhetoric and the use of such phrases as “initially demonstrated,” “habitat modeling” and “suggests that the Project will be able to meet compensatory mitigation needs” no actual data has been provided that there is sufficient appropriate land available to accomplish all the compensation necessary to mitigate project impacts to a level of insignificance. I argue that there is insufficient land available. Demonstrate that I am incorrect before accepting the FEIS.

Response 03-46. The project proponent must demonstrate how existing or proposed organizational structure will successfully implement the multitude of mitigation measures that are proposed.

The onus of showing how so many complex mitigation measures will be successfully implemented and monitored does not lie with the individual making comments but on the project proponent who is proposing them. In the experiences of myself, and many other biological consultants, most mitigation measures fail to accomplish the long-term protection of the resource they are trying to save.

In conclusion, given the very abbreviated time provided by the County to review the FEIR, my remarks should not be viewed as an exhaustive review of how the Responses to Comments generally fail to adequately resolve significant biological issues. Instead, they should be considered a sampling of the inability of the project proponent to adequately address significant biological impacts as a result of the McCoy Solar Energy Project.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Cornett". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

James W. Cornett

JAMES W. CORNETT - CURRICULUM VITAE - 2013

Personal Data

Name---James W. Cornett

Mailing Address---P.O. Box 846, Palm Springs, California 92263

Telephone Number---760-320-8135; Fax 760-320-6182

Place of Birth---South Gate, California, U.S.A.

Education

B.A., Biology, University of California at Riverside, 1976

M.S., Biology, California State University at San Bernardino, 1980

Positions Held

January, 1973 - Present

Owner-principal, JWC Ecological Consultants, P.O. Box 846, Palm Springs, California 92263

January, 1996 – June, 2004

Director of Natural Sciences, Palm Springs Desert Museum, 101 Museum Drive, Palm Springs, California 92263, 760-325-7186.

January, 1980 – December, 1995

Curator of Natural Sciences, Palm Springs Desert Museum

September, 1976 - December, 1979

Assistant Curator of Natural Science, Palm Springs Desert Museum

September, 1975 - June, 1976

Natural Science Instructor, Palm Springs Desert Museum

January, 1973 - Present

Environmental Columnist (weekly), Desert Sun-Gannett Newspapers, P.O. Box 2734, Palm Springs, California 92263.

JAMES W. CORNETT - CURRICULUM VITAE (continued)

January, 1981 - Present

Biology Instructor, University of California Extension, Riverside, California 92521, 909-787-4105. Courses taught include: Wildlife of The San Jacinto Mountains: The Upper Plateau, Mammals of the Colorado Desert, Endangered Species of the California Deserts, Ecology of the Desert Tortoise, Ecology of Joshua Tree, The Greater Roadrunner, Ecology of The North American Deserts, Ecology of The Colorado Desert and Ecology of the Coachella Valley.

October, 1975 - June, 1983

Biology and Natural Resources Instructor (part-time), College of The Desert, 43500 Monterey Road, Palm Desert, California 92260, 760-346-8041.

January, 1973 - June, 1974

Assistant Naturalist (part-time), The Living Desert, 47900 Portola Avenue, Palm Desert, California 92260, 760-346-5694.

Current and Past Professional Affiliations

American Society of Mammalogists
Bureau of Land Management Colorado Desert Advisory Committee (1986-1988)
California Botanical Society
California Native Plant Society
Ecological Society of America
Herpetologists League
International Palm Society
Joshua Tree National Park Association, Board Member (1993-2006)
Southern California Academy of Sciences
Southern California Botanists
Southwestern Naturalists' Society
Western Field Ornithologists

Past and Present Scientific Permits

California Department of Fish and Wildlife Scientific Collecting Permit #SC-3365
State of Arizona, Game & Fish Commission Scientific Collecting Permit #SP795885
Anza-Borrego Desert State Park Collecting Permit 2013
U. S. Fish & Wildlife Service Native Endangered Species Collecting Permit #TE64509A-0
Death Valley National Park Research Permit A9015 Cornett
Joshua Tree National Park Scientific Research Permit #JOTR-2007-SCI-0022
Carlsbad Caverns National Park Scientific Research Permit #CAVE-2010-SCI-0015

Past and Present Scientific Permits (continued)

Big Bend National Park Scientific Research Permit #BIBE-2008-SCI-0014

Saguaro National Park Scientific Research Permit # SAGU-2007-SCI-0006

Organ Pipe Cactus National Monument Scientific Research Permit # ORPI-2007-SCI-0011

University of California, Boyd Deep Canyon Desert Research Center, Research Permit



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**Subject: McCoy Solar Energy Project FINAL Environmental Impact Report
Hazardous Materials, Geology and Water Resources Comments**

I. INTRODUCTION

The Final Environmental Impact Report (FEIR) dated February 2014 was prepared for the County of Riverside for the McCoy Solar Energy Project (MSEP or Project). This Final EIR consists of the July 2013 Draft EIR (DEIR) and the November 2013 Revised Draft EIR (Revised DEIR) in addition to the responses to comments provided in Chapter 2 and revisions to the Draft EIR provided in Chapter 3. Apparently changes to the final document in response to input received in comments from public agencies or members of the public were not made after the Revised DEIR was published in November 2013.

The MSEP site is located approximately 13 miles northwest of the City of Blythe, California, and approximately 32 miles east of Desert Center in the County of Riverside. McCoy Solar, LLC, submitted a request for a ROW authorization to

construct, operate, maintain, and decommission an up to 750 megawatt (MW) photovoltaic solar energy generation facility located in Riverside County, where 477 acres are under the County's jurisdiction. The Project will utilize 7,700 acres of Bureau of Land Management (BLM) lands, whereas the solar array will require approximately 4,893 acres. The proposed generation tie (gen-tie) line is 16-miles long, with a ROW width of 100 feet, and will utilize about 200 acres of public and private lands. There is also a proposed 20-acre switch yard which will be located adjacent to and connect into Southern California Edison's Colorado River Substation.

The Project is located on the Palo Verde Mesa with the underlying groundwater located in the Palo Verde Mesa Groundwater Basin. Surface water drains from the surrounding mountains toward the Colorado River. The Project is located in an alluvial-filled basin with the Little Maria Mountains located to the north, the McCoy and Mule mountains to the west and the Palo Verde Mountains located to the south. The Palo Verde Valley is located directly to the east of the Palo Verde Mesa. The Colorado River is located to the east of the Project site and the Palo Verde Valley. The McCoy Mountains and the Big Maria mountains are the contributing watersheds to the Palo Verde Mesa. McCoy Wash flows southeast by approximately 2,000 feet, north of the northeastern corner of the Project site and is a contributing watershed to the Colorado River.

In reviewing the FEIR, DEIR, Revised DEIR, appendices, response comments and corresponding documents I found several areas within my expertise that still remain adequately addressed in the FEIR. These areas pertain to risks to the environment, community or workers associated with, but not necessarily inclusive of, hazards and hazardous materials which could impact the soil and groundwater or be impacted by the soil conditions, site geologic conditions, hydrology and water resources, surface water hydrology, drainage, and flooding, and cumulative impacts from the above.

II. HAZARDS AND HAZARDOUS MATERIALS

II.a The FEIR does not thoroughly review and analyze the risks from lead and perchlorates in soil

Section 4.9.1.1 of the DEIR it states that: "Scattered trash and debris were observed in the gen-tie line corridor, particularly near I-10, that could include lead debris from shooting target practice." And as noted in the Project Final Environmental Impact Statement (McCoy DEIS, 2012) prepared for the Bureau of Land Management (BLM) for this project lead (Pb) debris was noticed in the gen-tie corridor.

According to a study titled: *Lead contamination in shooting range soils from abrasion of lead bullets and subsequent weathering* (Hardison, 2004) "The Lead contamination in the environment is of concern as it is a known toxin, which has deleterious effects on the human neurological system. Lead present in soil and dust has been directly related to the Pb levels in blood (Davies, 1995). In the past, the federal government has not regulated shooting ranges. However, on March 29, 1993 the United States Court of Appeals for the Second Circuit ruled that Pb shot in shooting ranges met the statutory definition of solid waste, and if the Pb were not reclaimed it could be labeled hazardous waste subject to the Resource Conservation and Recovery Act (USEPA, 2001). Many recent studies have quantified the amount of Pb contamination in the soils of shooting ranges. Total Pb concentration levels up to 54,000 mg/kg excluding pellets have been reported in shooting range soils (Manninen and Tanskanen, 1993). Past research on soil Pb contamination has focused on the contamination and geochemical weathering reactions of Pb bullets in the soil of shooting ranges that have operated for many years (Jorgensen and Willems, 1987; Lin, 1996; Lin et al., 1995). Contamination of soils due to the abrasion

of Pb bullets passing through soil would result in a contamination of the soil with smaller metallic Pb particles. It was hypothesized that this material would contribute more to immediate contamination of these soils as well as environmental risk due to its quick buildup as fine particles and rapid transformation to more reactive compounds. Rooney et al. (1999) reported that residual Pb particles (< 2 mm) in soil were completely dissolved by EDTA. Astrup et al. (1999) reported that small Pb bullet fragments in the soil (< 2 mm) may have contributed to the total content of Pb in the soils they examined. This type of contamination has implications regarding the age of a shooting range for which best management practices must be implemented” (Hardison, 2004). As indicated in my original September 2013 comment letter (Bauer, 2013) “Lead overexposure is one of the most common overexposures found in industry and is a leading cause of workplace illness (OSHA, 2013). When lead is deposited in soil from anthropogenic sources, it does not biodegrade or decay and is not rapidly absorbed by plants, and thus it remains in the surface soils at elevated levels for extended periods of time. Lead is estimated to have a half-time of residence in soil of 1,000 years (EPA, 2001). Lead can also be brought home on worker’s shoes and a child’s exposure to lead is much more severe and significant than that of an adult due to their smaller body size, increase of floor contact and also increase in hand to mouth contact.”

The FEIR states in the response comment (Chapter 2.6.3) that the identification in lead in the soil from the shooting range is part of the UXO identification and training program, as well as the identification of perchlorates. Typical UXO identification training will include the visual identification of munitions and unexploded ordnances. An example of an Unexploded Ordnance Identification, Training, and Reporting Plan (UXO ITRP) for a similar solar project which was developed for SolarReserve, LLC for the Rice Solar Energy Project in September 2011 (SolarReserve, 2011) shows that training is given for the identification and management of hazards

associated with UXOs or munitions or explosives of concern (MECs) when they are “visually or physically encountered”. The hazards associated with degraded lead in soil and perchlorates are not something that typically can be seen with the naked eye. They require the collection of soil samples to confirm. The FEIRs response is inadequate in that a UXO plan does not include the proper identification of these hazards and therefore the impacts to the environment, the community and the workers from disturbing soils in these areas remain unknown. Therefore, prior to the FEIR being finalized a thorough investigation, which includes soil sampling, to determine the presence of soil contaminants, specifically lead and perchlorates needs to be done in areas where these contaminants may exist. This is the only way to ensure that contaminated soil is adequately handled and that the environment, workers, their families and the public are protected.

II.b The FEIR fails to address the occupational health risk from the project of contracting Valley Fever (Coccidioidomycosis)

Coccidioidomycosis, or Valley Fever, is primarily a disease of the lungs and is most often contracted in the southwestern U.S. and northwestern Mexico. Valley Fever is caused by the fungus *Coccidioides*, which grows in soils in areas of low rainfall, high summer temperatures, and moderate winter temperatures. When the soil is disturbed by winds, construction, farming, and other activities these fungal spores become airborne (CDPH 2010). In susceptible people, infection occurs when a spore is inhaled. People with compromised immune systems are particularly susceptible to exposure to Coccidioidomycosis. Valley Fever symptoms generally occur within 3 weeks of exposure. Valley Fever is not a contagious disease, and secondary infections are rare (CDPH 2010). People working in certain occupations such as construction are at an increased risk of exposure and disease because these jobs result in the disturbance of soils where fungal spores are found. The Revised DEIR

includes several mitigations set forth to reduce the exposure to Valley Fever. These mitigations listed in the Revised DEIR are somewhat of an improvement over the those detailed in the original DEIR, however my comment letter to these revisions dated December 11, 2013 (Bauer, Dec. 2013) points out that the DEIR does not indicate how the risk of contracting Valley Fever based on environmental conditions (wind, rain, work activity) will be assessed, if at all and this is again omitted in the FEIR. Therefore, the FEIR fails to adequately assess the risk from the disturbance of soil containing *Coccidioides* spores on the public and workers.

In addition, the Revised DEIR in Impact 4.3-4A (page 2-48) states “based on the types of occupations required for the Project (see for example, in DEIR Table 4.14-4 (p. 4.14-6)), the Project construction workforce could be drawn from as far away as Brawley and El Centro in Imperial County, California, or Cibola and Phoenix in Arizona (Draft EIR Section 4.17.5, p. 4.17-10). Even at the farthest reasonable commute, these workers already are living and working in areas that have the potential to have soils affected by the valley fever fungus. Accordingly, for a substantial majority of Project workers, there would be no change in the baseline construction site health risk related to valley fever whether they report to work at the Project site or elsewhere in Riverside, San Bernardino, Imperial, or Los Angeles counties.” While it may be true that workers will be commuting from areas also endemically high in Valley Fever the baseline should still be set higher for work being conducted on solar projects over other projects employing workers involved in earthwork activities. This is because the large-scale utility solar project will disturb a greater percentage of surface soil, where *Coccidioides* spores reside, than for typical construction projects (parking lots, buildings, roadways). Few other projects require grading of such a large surface area than the large utility-scale solar installations. For this reason the exposure of workers involved in the McCoy Solar Project will be

greater than that of another non-solar projects and the FEIR fails to assess these risks.

III. HYDROLOGY AND WATER RESOURCES

According to Section 4.10.1.2 of the DEIR the project is located within the Colorado River Hydrologic Region and is subdivided into 28 groundwater basins. Beneath the project site lays the Palo Verde Mesa Groundwater Basin (PVMGB) which encompasses an area of about 353 square miles or 226,000 acres. Located directly west of the PVMGB is the Palo Verde Valley Groundwater Basin (PVVGB). The groundwater from the PVMGB supplies the city of Blythe and surrounding community with 100% of their potable water supply. This basin is tributary to the lower Colorado River, and is part of the Colorado River aquifer (DWR, 2004). The Colorado River and the Colorado River Aquifer supplies millions of people, including the greater Los Angeles area through the Metropolitan Water District of Southern California. For these reasons, the water quality of the PGMVB is significantly important.

III.a The FEIR does not address the project Applicant's right to extract water from the groundwater aquifer

As indicated in the DEIR and again in the FEIR the applicant has no plans to extend municipal services for water to the project site and will therefore need to install 2-3 wells to extract groundwater from the underlying aquifer. However, as included in the FEIR in Chapter 2.5, the Metropolitan Water District of Southern California (MWD) in a letter dated October 1, 2013 (FEIR, page 2-55) and the Colorado River Board of California (CRB) in a letters dates September 27, 2013 and January 31, 2013

both contend that the water below the site is Colorado River water and requires the acquisition of entitlement rights or other legal mechanisms to extract this water from the underlying aquifer. However, the applicant asserts that the water pumped from the site is not hydraulically connected to Colorado River water. The FEIR's response A5-1 to the MWD comment letter mentioned above states "In 2008, the U.S. Bureau of Reclamation proposed to use the accounting surface method to define a massive area of lands surrounding the Colorado River where groundwater below the accounting surface would be regulated as Colorado River surface water (Proposed Rule, 43 CFR, Part 415, July 2008). That proposed rule was withdrawn and has never been adopted. Therefore, this accounting surface concept is only a withdrawn former proposal that has no regulatory status. As such, it has no bearing on the analysis of impacts of the Project. Under California law, an overlying land owner may pump underlying groundwater for reasonable and beneficial uses. The U.S. Bureau of Reclamation does not exert jurisdiction over groundwater use and does not control any area wells or account for groundwater use in the Palo Verde Valley or PVMGB. The site conceptual model for the PVMGB used to develop the numerical groundwater model (AECOM 2011) indicated that there are multiple sources of recharge to groundwater on the mesa including mountain front recharge, underflow down McCoy Wash, discharge from the CVGB into the Palo Verde Mesa, and groundwater flow from under the floodplain in response to pumping near the toe of the mesa. The concept of the accounting surface, with the assumption that all groundwater below the surface elevation of the river are hydraulically connected and their source of water from the river, is an oversimplification of very complex conditions and ignores fundamental hydrogeologic principals of groundwater flow. Both the available groundwater level and groundwater chemistry data show that the accounting surface principal is flawed and that there are multiple sources of recharge to groundwater in this area of the mesa. Therefore, there is no evidence that the amount of water that would be required for this Project would come from

the Colorado River.” In rebuttal to the Applicant’s response contending that the site is not subject to entitlement requirements The CRBs letter dated January 31, 2013 (FEIR page 2-73) states “Existing federal law prohibits the unauthorized use of water drawn from the Colorado River mainstream by underground pumping in California. Under existing federal law, to lawfully use water from the mainstream of the Lower Colorado River, a person or entity must have a) a decree right as described in the Consolidated Decree of the Supreme Court of the United States in the case of Arizona vs. California. Et al. entered March 27, 2006 (547 U.S. 150,2006), b) a contract with the Secretary or c) a Secretarial Reservation of Colorado River water. “ In order to determine the areas within the Colorado River aquifer and those subject to entitlement requirements, at the direction of the Bureau of Reclamation, the USGS developed a method to determine wells that would pump water from the Colorado River. As indicated in the Update of the Accounting Surface Along the Lower Colorado River by the U.S. Geological Survey (USGS) Scientific Investigation Report 2008-5113 (USGS, 2008) “The Colorado River Compact of 1922 apportions the waters of the Colorado River between the upper basin and the lower basin (U.S. Congress, 1948, p. A17-A22). The requirement for participation of the USGS and Reclamation is stated in Article V: The chief official of each signatory State charged with the administration of water rights, together with the Director of the United States Reclamation Service and the Director of the United States Geological Survey shall cooperate, ex-officio: (a) To promote the systematic determination and coordination of the facts as to flow, appropriation, consumption, and use of water in the Colorado River Basin, and the interchange of available information in such matters. Water in the lower Colorado River is apportioned among the States of California, Arizona, and Nevada by the Boulder Canyon Project Act of December 21, 1928 (U.S. Congress, 1948, p. A213–A225) and confirmed by the Consolidated Decree (U.S. Supreme Court, 2006) in terms of consumptive use. The decree is specific about the responsibility of the Secretary of the Interior to account for

consumptive use of water from the mainstream. Consumptive use is defined to include “water drawn from the mainstream by underground pumping.” Article V of the Consolidated Decree (U.S. Supreme Court, 2006) states in part: The United States shall prepare and maintain, or provide for the preparation and maintenance of, and shall make available, annually and at such shorter intervals as the Secretary of the Interior shall deem necessary or advisable, for inspection by interested persons at all reasonable times and at a reasonable place or places, complete, detailed and accurate records of: * * * (B) Diversions of water from the mainstream, return flow of such water to the stream as is available for consumptive use in the United States or in satisfaction of the Mexican treaty obligation, and consumptive use of such water. These quantities shall be stated separately as to each diverter from the mainstream, each point of diversion, and each of the States of Arizona, California, and Nevada; * * * Article I of the decree defines terminology and states in part: (A) “Consumptive use” means diversions from the stream less such return flow thereto as is available for consumptive use in the United States or in satisfaction of the Mexican treaty obligation; (B) “Mainstream” means the mainstream of the Colorado River downstream from Lee Ferry within the United States, including the reservoirs thereon; (C) Consumptive use from the mainstream within a state shall include all consumptive uses of water of the mainstream, including water drawn from the mainstream by underground pumping, and including but not limited to, consumptive uses made by persons, by agencies of that state, and by the United States for the benefit of Indian reservations and other federal establishments within the state; * * * **Groundwater in the river aquifer beneath the flood plain is considered to be Colorado River water**, and water pumped from wells on the flood plain is presumed to be river water and is accounted for as Colorado River water. Drainage ditches that lie along the edge of the flood plain contain a mixture of river water (recharged on the flood plain from the application of diverted irrigation water) and tributary water.” Therefore, as shown above it was determined by the

USGS, and that based the USGS 2008 Accounting Surface report (USGS, 2008), that the water beneath the site is hydraulically connected to that of the Colorado River. This is further reiterated in BLM's DEIS (McCoy DEIS, 2012) for this very project "the PVMGB is tributary to the lower Colorado River, and is part of the Colorado River aquifer." In addition, as shown on Figure 6 of the USGS report (USGS, 2008) the project site shows an accounting surface between approximately 252-256 feet above mean sea level (amsl) and the DEIR in Section 2.4.9 shows that "the [project] wells would pump groundwater from the PVMGB, where the water table has been measured at or near 254 feet amsl." Based on this the project is right at the groundwater elevation of the Colorado River aquifer accounting surface and any pumping below this would be subject to entitlement rights. Furthermore, since the elevation is within +/-0.84 feet at the 95-percent confidence level (USGS, 2008) the project is within the area and range of the Colorado River accounting surface and therefore subject to obtaining valid authority from the MWD and the CRB to extract this water from the underlying groundwater aquifer.

From the MWD letter dated October 1, 2013 "The entire project site overlies the Colorado River "Accounting Surface" area designated by U.S. Geological Survey (USGS) Scientific Investigation Report 2008-5113. The Accounting Surface is defined to represent the elevation and slope of the static water table in the river aquifer outside the flood plain and the reservoirs of the Colorado River that would exist if the water in the river aquifer were derived only from the river. The accounting surface extends outward from the edges of the flood plain or a reservoir to the subsurface boundary of the river aquifer. The USGS Report indicates that the aquifer underlying the lands is considered to be hydraulically connected to the Colorado River and groundwater withdrawn from wells located on these lands would be replaced by Colorado River water, in part or in total." The FEIR's comment response to this in A5-1 (Chapter 2.5) that indicates that the systems that govern the

groundwater below the river are very complex is correct. Groundwater below the site may come from the mountains, the washes, direct precipitation and recharge but it may also come from the Colorado River and may also intercept water destined to recharge the Colorado River. Due to this connectivity to the Colorado River pumping from the site is subject to entitlement rights, and just as other nearby solar projects (Palen Solar Power Project, Blythe Solar Power Project, Desert Harvest Solar Project and Genesis Solar Power Project) have been requested to do so, a mechanism is in place to acquire this water legally through an existing Boulder Canyon Project Act (BCPA) Section 5 Contract Holder (BCP, 1928). Also as indicated in the MWD October 1, 2013 letter the Desert Harvest Solar Project which is further away from the Colorado River was required to include mitigation measures that requires the applicant to prepare a Colorado River Water Supply Plan prior to the onset of water-consuming construction activities which would be submitted to the BLM and the Colorado River Basin Regional Water Quality Control Board (RWQCB) for review and approval, as well as to the MWD for review and comment. As the McCoy site is closer to the Colorado River and also under BLM jurisdiction so too should it include these mitigation measures and the FEIR fails to do so.

In addition, as shown from the Aecom report *Assessment of Proposed Groundwater Use – Results of Numerical Groundwater Modeling McCoy Solar Energy Project, Palo Verde Mesa, Riverside County, California* (Aecom, 2011) Figures 1 and 2 in the DEIR show the basin sediments are the same and that groundwater flow is connected beneath the site and within the river basin thereby indicating that the aquifer beneath the site and the Colorado River basin are both within the Palo Verde Mesa Groundwater Basin and as such groundwater from the numerous sources mentioned above (mountain recharge, washes, precipitation, subsurface inflow and Colorado River water) are comingled within the Palo Verde Mesa Groundwater Basin. Recharge water from the mountains will flow towards the river via underground

flow and may or may not be intercepted by the PVID drains and inflow water from the river may be pumped from the Project site. The assertion in the FEIR (Chapter 2.6) that the PVID drains prevent any flow of water in, around, or under them is unfounded and needs to be further developed and presented if this will be the deciding issue as to whether the site's underlying water is connected to the Colorado River. Even if it were found to be true, these drains are man-made and can be added to, removed, and manipulated and their use in defining natural groundwater basin boundaries is questionable.

Based on the above details, in addition to those made by the MWD and the CRB, the project FEIR fails to accurately assess the projects natural relation to the Colorado River and incorrectly determines that there is no connection between the groundwater on-site and that from the Colorado River. In order the legally extract water from beneath the project site the FEIR needs to include means to legally acquire this water and as shown above a mechanism already exists for this and these means should be included in the FEIR and the public review process.

IV. SURFACE WATER HYDROLOGY, DRAINAGE, AND FLOODING

The project site is situated on the Palo Verde Mesa which is located adjacent to and higher in elevation than the Palo Verde Valley by about 80-130 feet. The McCoy Mountains and the Big Maria Mountains surround the mesa and contribute to the watersheds traversing the project site. According to Section 4.4 of the DEIR McCoy Wash, a large ephemeral wash that drains to the Colorado River, is the closest major watercourse to the project area. Section 4.10.1 states that the "Big Maria Mountains and the McCoy Mountains are the contributing watersheds to the Palo Verde Mesa. McCoy Wash, a tributary of the Colorado River, flows southeast approximately 2,000

feet north of the northeastern corner of the site. Surface water drains from the surrounding mountains toward the Colorado River. There are no perennial streams on the Palo Verde Mesa. The PVMGB encompasses an area of about 353 square miles or 226,000 acres, is tributary to the lower Colorado River, and is part of the Colorado River aquifer (DWR, 2004).” Measured flows in McCoy Wash have reached as high as 4,000 cubic feet per second (cfs), as measured in 1976 during flooding in the watershed (CH2MHill, 2008 as cited in CEC, 2010).”

The ground surface of the project area slopes gently towards the southeast and are generally less than 1.5%, however according to the DEIR some steeper grades are present. The DEIR indicated that there are no perennial streams on the site and that water runoff occurs only in response to infrequent intense rainstorms. The DEIR also indicates that storm water runoff from the McCoy Mountains flows into moderately defined channels located at the base of these mountains. Storm water then flows across the alluvial fan systems radiating out from the McCoy Mountains and the Palo Verde mesa.

IV.a The DEIR fails to accurately assess the permitting requirements under State Water Resources Control Board Order 2010-0014-DWQ for compliance under the Clean Water Act

As indicated in the Section 4.10.1.3 of the DEIR for this project “When sufficient flow is present, west to-east trending washes located on site eventually merge with McCoy Wash, which is located north and east of all proposed Project facilities.” Also indicated a Department of Water Resources study (DWR, 2004) west- to-east trending washes are located on site and eventually merge with the McCoy Wash, which is a tributary of the Colorado River and the PVMGB is tributary to the lower

Colorado River, and is part of the Colorado River aquifer. Section 4.10.1.3 of the DEIR states “The major watercourse near the Project site is McCoy Wash (east of the site) which drains approximately 210 square miles of the Palo Verde Mesa, McCoy Mountains, Little Maria.” However, later revisions to the DEIR stated that “When sufficient flow is present, west to east trending washes located on site eventually merge with McCoy Wash, which is located north and east of all proposed Project facilities, as described above. Low flows from the ephemeral washes that traverse the Project site in a west-to-east orientation transition into alluvial fans and abate into the landscape prior to connecting with the McCoy Wash (AECOM, 2011b).” As indicated in the Aecom report this conclusion was based on visual observations. This reversal based on a visual observation is inadequate proof that waters from the site do not drain into the McCoy Wash. The Palo Verde Irrigation District confirms in their July 26, 2012 (PVID, 2012) comment letter on the FEIS for this project that: “during rain events, any water falling on the mesa that doesn't infiltrate runs into the Valley causing damages and either infiltrates to the valley groundwater, flows into a PVID canal, or flows into a PVID drain.” If surface water from the Mesa can drain into the valley, it has the potential for impacting Waters of the U.S. There is sufficient evidence as indicated above showing that waters from the site, during periods of flooding or intense rainfall event, can drain to the McCoy wash and therefore they should be designated as water of the United States and subject to the Clean Water Act.

IV.b The FEIR does not adequately assess the risks from the Project on existing drainage patterns

As indicated in Impact 4-10.5 in the DEIR the project could have an impact on surface erosion and increase the amount of runoff leaving the project site from the

installation of impervious structures and grading operations. This can negatively impact ecosystems, natural vegetation, sedimentation of receiving waters and groundwater recharge. Sheet flow and drainage patterns throughout a desert environment are critical to the formation and maintenance of the existing biological and water resources. When these patterns are altered, even slightly, the impacts to the surrounding ecological system can be great. An alteration in drainage patterns and sheet flow can produce areas deprived of water where it once was present and thus support less biomass of perennial and annual plants relative to adjacent areas with uninterrupted water-flow patterns (Lovich and Ennen, 2011).

According to Section 4.10.1.3 of the DEIR "field observations on site identify numerous moderately defined washes that traverse the site which are noticeable on aerial photography. The DEIR indicated that the drainages appear stable and not experiencing significant down cutting or lateral migration. West-to-east trending washes located on site eventually merge with McCoy Wash when flows are sufficient." The McCoy Wash, as mentioned above, is located north and east of the proposed site. My original comment letter dated September 12, 2013 (Bauer, 2013) relayed concerns that the DEIR did not adequately assess the impacts to the environment and local ecosystems from the altered drainage patterns caused by the project. The FEIR's response to this comment is "Measure 4.10-5 would require the Applicant to complete a site specific Comprehensive Drainage, Stormwater, and Sedimentation Plan for County review prior to construction to reduce the potential for the Project to result in altered stormwater flows (including drainage patterns), erosion, or sedimentation rates (such as the formation of rills and gullies) to a less than significant level." However, this leaves the evaluation and assessment of any impacts in question to a later date after the CEQA process is over. The sheet flow across the site that now exists could significantly be altered by the solar panels and the associated infrastructure. The comment response acknowledges that altered

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hydrology, drainage patterns and increases in sedimentation and erosion could occur but the mitigation presented to manage this is again the submittal of a Comprehensive Drainage, Stormwater, and Sedimentation Plan to the County of Riverside for review. The objective of the CEQA review process is to review and make publicly available potential impacts from the project and this appears to defer this important piece of research and data to a later date long after the public is included in the review process.

In addition, my original comment letter (Bauer, Sept. 2013) indicated that the project did not mention or include a proposal to prepare a Conceptual Grading Plan. My original comment letter states "The DEIR makes no mention of a Conceptual Grading Plan which could be used to evaluate impacts from the project and mitigate impacts that are discovered. For instance, the DEIR makes no mention of where or when engineered channels would be located, which washes would be most affected and how they would be protected, but leaves it to a plan (Comprehensive Drainage, Storm Water, and Sedimentation Control Plan) to be worked out at a later date." The FEIS does not address this omission, which is a critical component to reviewing the impacts of the project on the environment and the community.

Furthermore as indicated in my original comment letter (Bauer, Sept. 2013) "The Applicant did have a Pre/Post-Development Hydrology Report prepared by Aecom for this project (Aecom, Nov. 2011), however this report failed to include the McCoy Wash in the calculations. Storm water from the site is located directly adjacent to the McCoy Wash and it is not shown in the DEIR that storm water from the site does not get conveyed to McCoy Wash. It appears from the maps presented in both of the Aecom's reports (Jan. and Nov. 2011) that storm water from the mountains would drain through the site and into McCoy Wash, especially during periods of intense rainfall, which is anticipated to get more severe with climate change. If the

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Aecom's Nov. 2011 report concludes that McCoy Wash cannot and will not receive any storm water run off from the project site, the scientific basis for such needs to be directly included in the DEIR or an appendix thereof and the DEIR fails to do this." As stated above it appears that the FEIR does not include the McCoy wash in its calculations and again without this data the FEIS fails to present a fair and full review for the public.

In addition, in the FEIR Chapter 2.6.4 Nextera Energy submits a letter proposing to move the gen-tie line approximately 1,100 feet west (called Option 2) on the Blythe Solar Plant Project site. This option has not been adequately included in the review process. The FEIR erroneously states "Option 2 is not "significant new information" and does not change the EIR in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (CEQA Guidelines §15088.5(a))." This option moves the gen-tie line 1,200 feet west into an area of more significant ephemeral washes. The effects of a gen-tie line in this area on local drainage patterns have not been thoroughly included in this FEIR. The FEIR responds to this issue on page 2-209 of the FEIS "Hydrology and Water Quality. Option 2 would not substantially change the size or type of facilities to be constructed. It would be slightly longer and result in slightly more overall land disturbance, but would differ from Option 1 only over 1-mile section, and would result in similar potential impacts with respect to existing water quality standards and the potential for increasing erosion and/or flooding during construction, operation and maintenance, and decommissioning. For these reasons, Option 2 would not result in any change to the significance conclusions made for the Project in Draft EIR Section 4.10 or Section 6.3." This response does not constitute a thorough review. The models and studies completed for the original project should be updated to include

this change and a corresponding impact assessment done prior to approving this revision and the current FEIS fails to do this.

IV.c The DEIR doe not adequately address the risk to the environment from flooding on the Project site

As indicated in comment letter A-3 from the Riverside County Flood Control And Water Conservation District dated August 29, 2013 the entire site lies within a floodplain as described in the County's Floodplain Management Ordinance 458. My original comment (Bauer, Sept. 2013) expressed concerns that the Project DEIR did not address the risks and present mitigations sufficient enough to manage environmental threats in the event of a flood. As indicated in my referenced comment letter Genesis Solar Power Project, located 8 miles away from the project, failed in the planning and execution of their project resulting the release of hazardous chemicals into the fragile desert environment from significant flooding and lack of preparation (BAR, 2012). The FEIR for the McCoy project should include drawings showing where the areas most prone to flooding exist and include mitigations showing that vehicles, equipment and other hazards will not be placed in these areas. The FEIR responds to this by stating, "Figures depicting the proposed site layout have not been altered to include a delineation of areas of concentrated flow or of frequent flood flow areas; the latter would be delineated during final engineering."

As indicated, flooding in this area is a significant risk and when facilities are placed in areas of significant flows environmental damage can occur. The FEIR/DEIR fail to show that this will not happen as it defers the design until a later date when the public cannot review the documents to assess the risks. Comment A3-6 to the Riverside County Flood Control and Water Conservation District states that the

“Draft EIR Figure 2-3 has not been revised to depict the post-mitigation site layout because like all Project information presented in Chapter 2, it describes the Applicant’s proposal (pre-mitigation). Further, because final design has not been completed, the final locations and elevations of such facilities are not known. Final site design would be consistent with the EIR’s analysis and all mitigation measures and conditions of approval. Additionally, please note that, as described on Draft EIR page 4.10-6 and on Draft EIR Figures 4.10-5 through 4.10-8, areas of maximum concentrated flow, shown outlined in blue on these figures, correspond to areas of flow with water depths greater than 0.3 feet and do not necessarily depict severe and frequent flow areas.” Thus, the FEIR still fails to include an adequate review and mitigation to ensure that significant environmental damages do not occur as a result of the project.

IV.d The FEIR does not address the cumulative impacts from the site and surrounding projects on erosion and sedimentation

The project site sits directly in between two large solar projects; The Big Maria Vista Solar Project to the north which has a BLM ROW request for 23,040 acres and facility use of 1,200 acres and the Blythe Solar Power Project which has a BLM ROW request for 9,400 acres and a facility use of 5,595 acres (PSPP, 2009). In addition, the project site lies within a 25-mile radius of about 107,067 total acres of BLM ROW requested land and at least 26,000 acres of facility use for solar power related projects. The cumulative impact of these projects on the erosion, drainage patterns and sheet flow has the potential for causing significant impacts on the hydrology of the area and the ecosystem cumulatively.

Section 6.3.10.2 of the DEIR indicates the following sites were included in the assessment of cumulative impacts with regards to water quality, erosion and sedimentation: enXco, McCoy, BSPP, Blythe Airport Solar I Project, Desert Quartzsite, Gypsum Solar, Palo Verde 2, Rio Mesa. Blythe PV Project) and other projects (e.g., Blythe Energy Project Transmission Line, City of Blythe projects, DPV2, CRS, Desert Southwest Transmission Line, Eagle Mountain, Landfill Project, Palo Verde Mesa Solar Project, RCL00161R1, BGR100258, and CUP03602). However, the DEIR (Section 6.30.10.2) responds to this by stating “However, insufficient details are known about the extent and location of any new pervious surfaces; the volume and location of grading or other earth-moving activities; and the size of new facilities’ footprints to allow for a meaningful and informative cumulative analysis and, for the purposes of this analysis, we decline to speculate as to the significance of potential cumulative effects on erosion and sedimentation.” The DEIR goes on to state in the subsequent paragraph that: “The combined impacts of the Project plus the cumulative projects would not result in a significant cumulative effect with respect to water quality degradation, erosion, and sedimentation. Therefore, the Project would not have a cumulatively considerable contribution to such impacts and significant cumulative impacts would not occur.” My original comment letter (Bauer, Sept. 2013) indicated that this was not adequate and that the project and the public deserved and full and fair analysis of this impact. FEIR responds to this comment (O3-57) with “However, specifics about the extent and location of any new pervious surfaces; the volume and location of grading or other earth-moving activities; or the size of new facilities’ footprints is not available. Under these circumstances, and consistent with the Court’s decision in Laurel Heights Improvement Association v. Regents of University of California (1993) 6 Cal.4th 1112, 1137, the Draft EIR declines to speculate as to the significance of potential cumulative effects on erosion and sedimentation. Such a conclusion is specifically authorized by CEQA Guidelines Section 15145, which states: “If, after thorough investigation, a lead agency finds

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that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact." The surrounding solar facilities, like the proposed project, have large areas of disturbed soil. The large surface area disturbed by surrounding solar projects is significant in that these facilities can have more of an impact on drainage patterns than smaller footprint construction projects. Assessing the combined impacts and patterns of these large altered areas in close proximity to one another seems to fall under the very purpose of the CEQA environmental review process. Furthermore, construction details of these adjacent facilities are available and should not be considered speculative and therefore the combined impact of the proposed project and the neighboring facilities can be assessed and the FEIR fails to do so.

V. CONCLUSION

In conclusion, I found that the FEIR still fails to put forth a fair and full review of environmental impacts in the subject areas detailed above. The FEIR needs to be amended to include the information found to be lacking prior to approval so that the risks to the environment, the community and to workers can be thoroughly understood and evaluated by the public and the decision-makers.

Very Truly Yours,

A handwritten signature in black ink that reads "Heidi M. Bauer". The signature is written in a cursive style with a large, sweeping initial "H".

Heidi Bauer, PG

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PROFILE

Senior Project Manager and Professional Geologist (CA) in the field of environmental investigation, remediation and compliance. Provides sound leadership, consulting and advocacy services to clients for both indoor and outdoor environmental concerns. Manages, assesses and tracks environmental risks for business owners, insurance carriers, municipalities and other clients.

EXPERIENCE

Senior Project Manager

Air & Water Sciences, Petaluma, California

Currently manages environmental projects and third-party peer reviews which includes review, analysis, interpretation and comment/advise on contaminated or potentially contaminated sites and cost recovery. Performs file reviews, property assessments and Phase I and II investigations for property acquisition, transfers and environmental liability. Performs facility surveys for environmental compliance. Reviews environmental insurance claims and prepares damage claim assessments for carriers. Researches and comments on environmental impacts from subsurface contamination. Provides legal review, opinion and comments for projects undergoing the environmental review process (e.g. CEQA/NEPA). Provides advocacy support and liaison skills for negotiation between clients, insurance carriers, regulatory agencies, contractors and consultants. Coordinates and interacts with regulatory agencies on compliance issues for clients. Project management includes report and plan preparation, proposal development, estimating, data collection, analysis interpretation, and reporting. Reviews and provides updates/presentations on regulatory/compliance standards and requirements. Oversees and manages facility hazmat inspections and clean-ups for indoor and outdoor environmental issues including chemicals, asbestos, metals, black/gray-water, bacteria, dioxin, and fire debris. Also performs indoor air quality and industrial hygiene investigations including, mold, VOCs, particulates, asbestos, lead and other chemicals. Serves as project health and safety officer and prepares health and safety related plans and reviews and monitors employee safety and exposures.

2004 - 2010: Contractor

2010 - Present: Employee

Senior Project Geologist

Miller Brooks Environmental, Oakland, California

Managed the implementation and direction of environmental investigations for multi-site clients. Negotiated with regulators and prepared local, state and federally required reports and documents. Managed compliance testing and discharge reporting requirements. Performed peer reviews, property development investigations and damage claim evaluations for insurance companies. Performed Phase I and II investigations and assessments for property acquisition. Served as company health and safety officer and prepared health and safety plans and risk assessment reports for projects.

June 2002 to January 2004

Senior Project Manager

Dominion Environmental, Petaluma, California

Managed Phase I and II environmental investigations. Worked with clients on closure and reimbursement negotiations with local and state oversight agencies. Worked on claim evaluation for large environmental loss (~\$50,000,000) for insurance carrier including file and data review, cost tracking and analysis, comments and expert opinion.

August 2001 to May 2002

Senior Project Geologist

Clearwater Group, Inc., Oakland, California

Supervised 10 – 15 managers, scientists, and technicians and served as operations manager of satellite office. Directed program implementation for multi-site clients with contaminated sites. Collected and analyzed data and prepared and implemented plans and permits (e.g. workplans, proposals, cost estimates, sampling plans, remedial and corrective action plans, feasibility studies, health and safety plans, NPDES and air quality permits). Conducted environmental research, support and reporting for environmental litigation cases, damage claim evaluations and property development. Served as representative for environmental and property development issues at hearings and meetings. Served as corporate health & safety officer and managed safety compliance issues, reporting and conducted appropriate training.

September 1997 to August 2001

Project Geologist

January 1996 – July 1997

Walden Associates Inc., Oyster Bay, New York

Responsible for environmental investigative work to assess the nature and extent of contaminant releases from various impacted sites or hazardous material releases. Conducted and coordinated assessments and remedial projects. Prepared work plans, corrective action plans, reports and permitting documents. Served as corporate health and safety officer and conducted all trainings, reporting and compliance management.

Environmental Coordinator

January 1993 to January 1996

Department of Environmental Health & Safety, State of New York, Stony Brook, NY

Responsible for compliance with all applicable federal, state and local hazardous waste regulations and NPDES discharge reporting. Worked with facilities maintenance on facility inspections, storage, transportation oversight and disposal/dischage of hazardous and regulated waste. Collateral duties included confined space safety, industrial hygiene sampling, indoor air quality investigation, hazard communication program, chemical hygiene program implementation and compliance inspections.

ADDITIONAL PART-TIME EMPLOYMENT**Lieutenant/Chemical Safety Division Officer**

June 1996 to June 2002

US Coast Guard Reserve, Pacific Strike Team, Novato, CA and Fort Wadsworth, NY

Directly supervised 15 response technicians and scientists. Directed hazardous materials response operations in area of responsibility. Worked on environmental investigations for EPA Superfund sites. Performed facility inspections for EPA compliance. Conducted unit training on safety monitoring, and oversaw employee safety and exposure monitoring. Served as Chemical Division Safety Officer.

Environmental Management Assistant

August 1993 to December 1993

Marine Science Research Center, Stony Brook, New York

Conducted groundwater sampling, data collection and interpretation for municipal solid waste landfill sites. Conducted research project on the environmental and public health effects of improper lead waste disposal. Conducted research project on the disposal routes and environmental consequences of medical waste disposal on local beaches.

Environmental Intern

June 1993 to August 1993

Atlantic States Legal Foundation, Syracuse, New York

Conducted research project and report on waste discharges (TRIs) from steel mills to the Great Lakes basin in accordance with the Emergency Planning and Community Right to Know Act (EPCRA).

Environmental Health & Safety Intern

January 1992 to December 1993

Department of Environmental Health & Safety, State of New York, Stony Brook, New York

Worked under Environmental Health and Safety Manager and Industrial Hygiene Manager and performed environmental surveys and inspections. Responded to and remediated chemical spills. Assisted with Hazcom/Community Right-to-Know program.

ACADEMIC BACKGROUND

- *Bachelor of Science* – Major in Geology (Minor in Marine Science), State University of New York at Stony Brook – December 1993
- *Masters in Professional Studies*– Environmental/Waste Management – State University of New York at Stony Brook – May 1997

REGISTRATIONS & CERTIFICATES

Current State of California Professional Geologist (PG) #7050
 Qualified Storm Water Pollution Prevention Practitioner (QSP)
 Asbestos Building Inspector (ABI)
 Asbestos Contractor/Supervisor (AC/S)
 Hazardous Materials Response – Operations level
 Hazardous Materials Response – Technician level
 Hazardous Materials Response – Supervisor level

USCG DOT Pollution Investigation Qualification
 CA DOH Lead Sampling Technician (LST)
 USCG DOT Hazardous Materials Response Qual.
 40-hour Hazwoper
 NIH Indoor Air Quality Investigation course
 Confined Space Entry & Rescue – I and II



California Jobs

Governor Brown signed the "Jobs and Economic Improvement Through Environmental Leadership Act" in September 2011. The Act required the Governor to establish procedures for applying for streamlined environmental review for certain projects. This page includes the approved guidelines, submitted applications and resources.

GOVERNOR'S GUIDELINES FOR STREAMLINING JUDICIAL REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. Applications to the Governor for CEQA streamlining under Public Resources Code Section 21178 et seq., along with a Notice of Completion Form, shall be submitted electronically to the Governor's Office of Planning and Research at the following e-mail address:

California.Jobs@opr.ca.gov

Upon receipt of the application, the Office of Planning and Research will assign a clearinghouse tracking number and will enter the project information from the Notice of Completion Form into a publically accessible database.

2. The electronic application shall include all sufficient information to enable the Governor to determine whether the project satisfies the statutory requirements for CEQA streamlining. This information shall include at least the following:
 1. For projects defined in Public Resources Code section 21180(b)(1), information sufficient to enable the Governor to determine that:
 1. the project is residential, retail, commercial, sports, cultural, entertainment, or recreational in nature;
 2. the project, upon completion, will qualify for LEED silver certification. The application shall specify those design elements that make the project eligible for LEED silver certification, and the applicant shall submit a binding commitment to delay operating the project until it receives LEED silver certification. If, upon completion of construction, LEED silver certification is delayed as a result of the certification process rather than a project deficiency, the applicant may petition the Governor to approve project operation pending completion of the certification process.
 3. the project will achieve at least 10 percent greater transportation efficiency than comparable projects. The applicant shall provide information setting forth its basis for determining and evaluating comparable projects and their transportation efficiency, and how the project will achieve at least 10 percent greater transportation efficiency. For residential projects, the applicant shall also submit information demonstrating that the number of vehicle trips by residents divided by the number of residents is 10 percent more efficient than for comparable projects. For the purposes of this provision, comparable means a project of the same size, capacity and location type.
 4. the project is located on an infill site, as defined at Public Resources Code section 21061.3, and in an urbanized area, as defined at Public Resources Code section 21071.
 5. the information required by Public Resources Code section 21180(b)(1) is available for projects within a metropolitan planning organization for which a sustainable communities strategy or alternative planning strategy is in effect. For the purposes of this provision, "in effect" means that the sustainable communities strategy or the alternative planning strategy has been adopted by the metropolitan planning organization, and that the Air Resources Board has accepted the metropolitan planning organization's determination that the sustainable communities strategy or alternative planning strategy meets the adopted greenhouse gas reduction targets and is not the subject of judicial challenge.
 2. For projects defined in Public Resources Code section 21180(b)(2) or 21180(b)(3), information sufficient to enable the Governor to determine that the project meets the criteria set forth in those sections.
 3. Information establishing that the requirements of Public Resources Code section 21181 have been met. Written acknowledgment from the lead agency of the applicant's intent to apply for certification may be used to satisfy this requirement.
 4. Information establishing that the project entails a minimum investment of \$100 million in California through the time of completion of construction.
 5. Information establishing that the prevailing and living wage requirements of Public Resources Code section 21183(b) will be satisfied.
 6. Information establishing that the project will not result in any net additional greenhouse gas emissions. This information is subject to a determination signed by the Executive Officer of the Air Resources Board that the project does not result in any net additional greenhouse gas emissions, following the procedures set forth in section 6 of these Guidelines.
 7. Information documenting a binding agreement between the project proponent and the lead agency establishing the requirements set forth in Public Resources Code sections 21183(d), (e), and (f).
 8. Any other information requested by the Governor.
3. The public may submit comments on the application electronically to the Governor's Office of Planning and Research (California.Jobs@opr.ca.gov) at any time up to 30 days after the initial application or within 7 days after any supplemental application, whichever is later. The comments must include a reference to the clearinghouse tracking number.
4. The project's Draft Environmental Impact Report must be circulated for public review after the Governor certifies the project for CEQA streamlining. If a project's Draft Environmental Impact Report has been circulated before the Governor has certified the project for CEQA streamlining, the applicant and lead agency must withdraw the Draft Environmental Impact Report and re-circulate a revised Draft Environmental Impact Report reflecting the Governor's certification, as set forth in Public Resources Code section 21187.
5. The Governor may request additional information. Failure to submit necessary information will preclude certification by the Governor.
6. For purposes of California Public Resources Code section 21183 (c) the following process applies:
 1. The applicant shall submit electronically to AB900ARBsubmittals@arb.ca.gov a proposed methodology for quantifying the project's net additional greenhouse gas emissions. The Air Resources Board will review and comment on the methodology, at its discretion, within 30 days of submission.
 2. At the same time, the applicant shall submit to AB900ARBsubmittals@arb.ca.gov documentation that the project does not result in any net additional greenhouse gas emissions. The documentation must at least quantify:
 1. Both direct and indirect greenhouse gas emissions associated with the project's construction and operation, including emissions from the project's projected energy use and transportation related emissions; and
 2. The net emissions of the project after accounting for any mitigation measures that will be monitored and enforced consistent with Public Resources Code section 21183(d).
 3. Within 60 days of receiving the documentation in 6.b. above, the Board will determine whether the condition specified in Public Resources section 21183(c) has been met or, if more time is needed, notify the applicant of the expected completion date.
 4. The Board will determine and report to the Governor in writing that a project does not result in any net additional emissions of greenhouse gases if the project demonstrates through a combination of project design features, compliance with (or exceeding minimum requirements of) existing regulations, and mitigation that it would result in zero additional greenhouse gas emissions.
7. The Governor's Office of Planning and Research will post information submitted by the applicant electronically on its web-site and make available for public review a hardcopy of the material upon request.
8. The Governor will make a decision on the application as expeditiously as possible.

SUBMITTED APPLICATIONS

SCH Tracking Number	Date Submitted	Title of Project	Project Materials	Public Comments	Status
2014011087	01/31/2014	8150 Sunset Boulevard	Notice of Completion Application		Public Review Period Open- 1/31/14 to 3/3/14
2013011007	1/07/2013	Soitec Solar Energy Project	Notice of Completion Application Letter to County Obligations under PRC 21183(d), (e) and (f) Climate Change & GHG Analysis GHG Analysis Technical Report San Diego County Letter Confirmation of Prevailing & Living Wage Requirements Letter		ARB Determination Public Review Period Closed on 02/06/2013 Governor's Certification Exhibits Transmittal letter Concurrence letter
2011082055	4/19/2012	Apple Campus 2	Notice of Completion Application Confirmation of Prevailing & Union Wage Requirements Letter Obligations under PRC 21183(d), (e) and (f) ITE Trip Generation Supplement to Application Updated Supplement to Application Letter from Apple Net Zero Energy 04/22/2013	Yes	ARB Determination ARB Apple Campus 2 Letter 04/29/2013 Supplemental Public Review Period open until 05/16/2013 Governor's Certification Governor's Office Letter 05/08/13 Exhibits Legislative Concurrence Letter July 23, 2012 OPR Letter 05/24/13 Draft EIR available for Review State Agency Review Period 6/6/2013 to 7/22/2013
2012011019	1/12/2012	McCoy Solar Energy Project	Notice of Completion Application Confirmation of Prevailing & Living Wage Requirements Letter Obligations under PRC 21183(d), (e) and (f) Minimum Investment Letter Riverside County Agreement	Yes	ARB Determination Public review period closed on 2/10/2012 Governor's Certification Exhibits

RESOURCES

AB 900
Guidelines (Printable)
Process for Greenhouse Gas Methodologies and Documentation Submittal to the California Air Resources

McCoy Solar, LLC

February 16, 2012

VIA E-MAIL AND FIRST CLASS MAIL

State Clearinghouse
1400 Tenth Street
Sacramento, CA 95814

Re: McCoy Solar Energy Project – Confirmation of Prevailing and Living Wage Requirements
Pursuant to Public Resources Code section 21183(b)

To Whom it may concern:

McCoy Solar Energy Project recently filed an application under the Jobs and Economic Improvement through Environmental Leadership Act of 2011 (Pub. Res. Code, § 21178 et seq.). This letter is submitted to augment the information provided in that application and specifically addresses Public Resources Code section 21183 (b) regarding the job and wage requirements required for a project to qualify for certification.

During construction, the McCoy Project will create high-wage, highly skilled jobs for construction professionals including carpenters, electricians, and heavy equipment operators. We've identified the prevailing wages for job classifications as set forth by California's Employee Development Department (EDD). The total number of construction workers (consisting of laborers, craftsmen, supervisory personnel, support personnel and construction management personnel) is expected to range between 43 and 600 over an approximate 46-month period. The average on-site construction workforce would consist of approximately 341 construction, supervisory, support, and construction management personnel.

Below is a subset of job classifications and median wages* from the EDD database that we expect will comprise a majority of the construction jobs created by the project:

Construction Laborers	\$ 17.28
Carpenters	\$ 23.21
Reinforcing Iron and Rebar Workers	\$ 28.41
Cement Masons and Concrete Finishers	\$ 21.59
Electrician	\$ 23.84
Paving, Surfacing, and Tamping Equipment Operators	\$ 25.90
Heavy Truck Drivers	\$ 19.98

*These represent base wages (no loaders/benefits) for Riverside County, based on 1Q2011

Riverside County has not adopted a living wage. Therefore, for categories of workers not directly found in the state's EDD, we will correlate to one that is the closest match. If there is not a reasonable substitute or related classification, the state minimum wage rate would control

for positions that would not otherwise be subject to payment of a prevailing wage. To the extent that both a prevailing wage and a minimum wage apply to a particular position, the higher wage will be paid.

During operations, we anticipate that the McCoy Project will create approximately 15 permanent full-time positions at the plant site during daytime working hours. This assumes both of the units that comprise the McCoy Project are operational. Temporary personnel would also be employed, as needed, during periods of seasonal maintenance. Below is a subset of job classifications and median wages* from the EDD database that we expect will comprise a majority of the operations jobs created by the project:

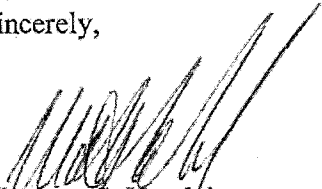
Electro-Mechanical Technicians	\$ 24.23
Production, Planning, and Expediting Clerks	\$ 18.72
Electrical and Electronics Repairers, Commercial and Industrial Equipment	\$ 28.01

*These represent base wages (no loaders/benefits) for Riverside County, based on 1Q2011

Finally, as Vice President for McCoy Solar, LLC., I am authorized to acknowledge and to bind the project to pay the equivalent of prevailing and living wages as outlined above.

If you have any questions regarding this aspect of the application, please contact Kenny Stein at 561.691.2216 or via email at Kenneth.Stein@NextEraEnergy.com.

Sincerely,


Matthew S. Handel
Vice President

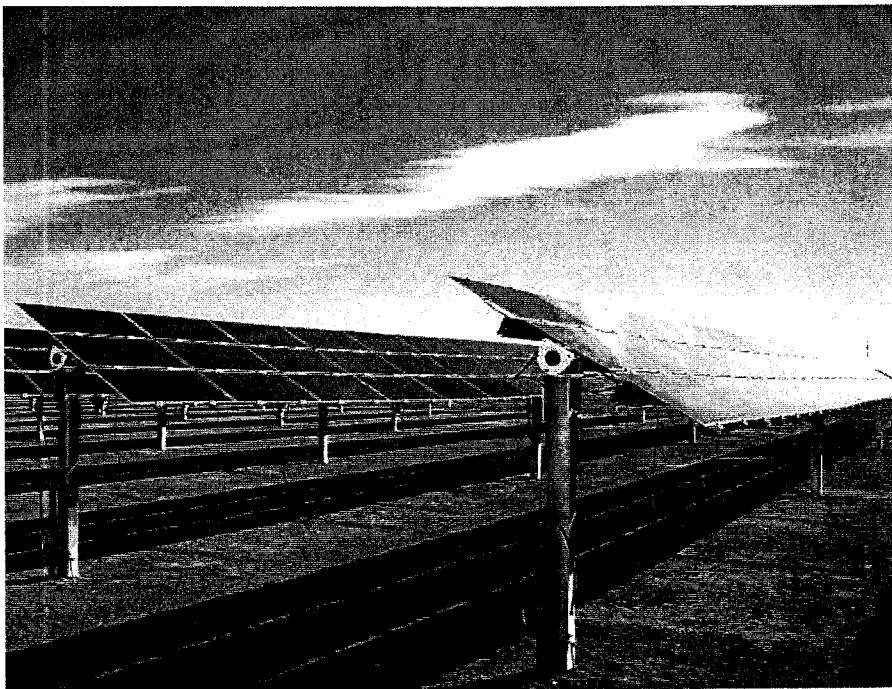
cc: Ken Alex, Office of Planning and Research, California Governor's Office

**United States Department of the Interior
Bureau of Land Management**

**MODIFIED BLYTHE
SOLAR POWER PROJECT**

**Proposed Amendment to
Right-of-Way Grant CACA 048811**

DRAFT ENVIRONMENTAL IMPACT STATEMENT



Volume 1 of 2

**February 2014
CACA 048811**

Publication Index #: BLM/CA/PL-2014/010+1793



EXECUTIVE SUMMARY

ES.1 Introduction

The California Desert District, Palm Springs-South Coast Field Office (PSSCFO), of the Bureau of Land Management (BLM) has prepared this Draft Environmental Impact Statement (Draft EIS) in response to a Level 3 variance request submitted to the BLM related to the previously approved Blythe Solar Power Project (BSPP). On November 4, 2010, the BLM issued a right-of-way (ROW) grant for the BSPP (CACA-048811), which authorized a 1,000-megawatt (MW) solar energy generating plant utilizing thermal parabolic trough technology on 6,831 acres of public land located near the community of Blythe in Riverside County, California (Approved Project). NextEra Blythe Solar Energy Center, LLC (NextEra Blythe Solar or Grant Holder), the current owner and holder of the BSPP ROW grant, is requesting convert the Approved Project to photovoltaic (PV) technology, reduce the size of the solar plant site, and reconfigure the solar plant site to allow transmission and access road corridors through the BSPP site for shared use with other approved and proposed projects (Modified Project). These modifications would require an amendment to the ROW grant.

ES.2 Background

The initial project proponent and applicant for the BSPP, Palo Verde Solar I, LLC, commenced construction following the November 4, 2010 receipt of the ROW grant and formal Notice to Proceed from the BLM. Palo Verde Solar I, LLC installed fencing and drainage infrastructure, and constructed a water well, well-related infrastructure, and an approximately 21,000-foot (4-mile) segment of the main access road to the solar plant site. The 2010 ROW grant authorization is for a 1,000 MW thermal trough project that was described and analyzed in the August 2010 Plan Amendment/Final EIS (2010 PA/FEIS) included as Appendix A of this Draft EIS and authorized in the October 2010 Record of Decision (2010 ROD) included as Appendix B of this Draft EIS. Construction activities ceased on August 23, 2011, following Palo Verde Solar I's indication to the BLM that it planned to amend the existing authorizations for the Approved Project to allow the development of solar PV energy generation technology on the site. Upon this request, the BLM issued a Temporary Suspension Order for all surface disturbing activities.

Beginning in December of 2011, Palo Verde Solar I's parent companies both in the United States and Europe filed for bankruptcy. First, Solar Millennium initiated the equivalent of bankruptcy proceedings in Germany, and in April 2012, Solar Trust of America filed for Chapter 11 bankruptcy protection in Delaware (Stetch, 2012). As part of that bankruptcy proceeding in

Delaware, NextEra Blythe Solar, a subsidiary of NextEra Energy Resources, LLC, purchased the un-built assets of the Approved Project on July 12, 2012. The BLM approved the transfer of the ROW grant/lease in connection with that transaction and NextEra Blythe Solar became the current Grant Holder. The Grant Holder proceeded with plans to convert the previously-approved solar thermal project to a PV project on the approved site and requested on September 5, 2012 that the BLM lift the Temporary Suspension Order. The BLM granted this request on October 16, 2012, and the Grant Holder began to maintain the site in accordance with the existing ROW grant and other approvals. Additionally, the Grant Holder anticipated that a PV project on the site would require a smaller footprint than the approved solar thermal trough project, and relinquished to the BLM approximately 35 percent of the approved ROW grant area on March 7, 2013. The BLM approved this relinquishment on May 9, 2013. The Grant Holder submitted a Plan of Development Supplement (POD Supplement) and Level 3 variance request to the BLM on March 18, 2013, which requested that the BLM modify the Approved Project ROW grant to convert the Approved Project to PV technology, reduce the size of the solar plant site, and reconfigure the solar plant site to allow transmission and access road corridors through the BSPP site for shared use with other approved and proposed projects (i.e., approve the Modified Project).

ES.3 Purpose and Need

Taking into account the BLM's multiple use mandate, the BLM's purpose and need in connection with the Modified Project is to respond to the Grant Holder's request for a Level 3 variance under Title V of the Federal Land Policy and Management Act of 1976 (FLPMA; 43 U.S.C. §1701 et seq.) and modification of the existing ROW grant to include the construction, operation, maintenance and decommissioning of a 485 MW solar PV project in compliance with FLPMA, BLM ROW regulations, and other applicable federal laws.

In conjunction with FLPMA, BLM authorities include:

1. Executive Order 13212, dated May 18, 2001, which mandates that agencies act expediently and in a manner consistent with applicable laws to increase the "production and transmission of energy in a safe and environmentally sound manner;"
2. Secretarial Order 3285A1, dated March 11, 2009, and amended on February 22, 2010, which "establishes the development of renewable energy as a priority for the Department of the Interior;" and
3. The President's Climate Action Plan, released on June 25, 2013, which sets forth a new goal for the Department of the Interior to approve 20,000 MW of renewable energy projects on the public lands by 2020, in order to ensure America's continued leadership in clean energy.

The BLM will decide whether to approve, approve with modifications, or deny the Grant Holder's Level 3 variance request and the issuance of an amendment to the BSPP's existing ROW grant based on the Modified Project.

ES.4 Scope of the Draft EIS

This Draft EIS fully analyzes the Grant Holder's proposal to construct, operate, maintain, and decommission the Modified Project (Alternative 1) as well as the BLM's denial of the variance request which would maintain the current ROW grant approvals on the site within the approximately 4,433-acre area now currently controlled by the Grant Holder (Alternative 2). Further, as part of the Draft EIS, Alternatives 1 and 2 are compared to the Approved Project and the No Project alternatives from the 2010 PA/FEIS included as Appendix A. This Draft EIS does not supersede or replace the BLM's 2010 PA/FEIS or other consideration of the Approved Project, but rather, to the extent applicable, is tiered to the analysis in the 2010 PA/FEIS and 2010 ROD.

ES.5 Public Involvement, Consultation and Coordination

The BLM published the Notice of Intent to prepare an EIS for the Modified Project in the Federal Register (78 Fed. Reg. 53778) on August 30, 2013. On September 17, 2013, the BLM held a publicly noticed scoping meeting in Blythe, California. Written comments were received during the scoping period, which concluded on September 30, 2013. A Scoping Report was prepared, and is included for agency and public review as Appendix D of this Draft EIS.

The BLM conducted government-to-government consultation for the Approved Project with a number of Tribal governments. The BLM invited the Indian tribes who had participated in government-to-government consultation for the Approved Project to consult regarding the Modified Project. The BLM has reinitiated consultation under the Endangered Species Act Section 7 and continues to implement the Programmatic Agreement developed for the Approved Project in compliance with Section 106 of the National Historic Preservation Act. As part of the evaluation process for the Modified Project, the BLM also has undertaken interagency coordination with a number of agencies including the U.S. Environmental Protection Agency, Department of Defense, U.S. Army Corps of Engineers, California Energy Commission, California Department of Fish and Wildlife, State Water Resources Control Board/Regional Water Quality Control Board, State Historic Preservation Office, and Native American Heritage Commission.

ES.6 Summary Description of the BSPP Modified Project and Alternatives

The BSPP site is located in a rural area of the Colorado Desert in unincorporated Riverside County, California. The site is located approximately 8 miles west of the City of Blythe, approximately 32 miles east of the town of Desert Center, California, and approximately 3 miles north of the Interstate 10 freeway (I-10). It is south of McCoy Wash, east of the McCoy Mountains, north of the Blythe Airport, and adjacent to (and immediately south of) the BLM-approved McCoy Solar Energy Project, which is currently in pre-construction and is owned by McCoy Solar, LLC, a subsidiary of NextEra Energy Resources, LLC.

The Draft EIS analyzes approval of the Grant Holder's Level 3 variance request (Alternative 1), which involves the construction, operation, maintenance and decommissioning of PV technology instead of the approved thermal parabolic trough technology authorized under the 2010 ROW grant for the Approved Project. The Modified Project would generate less power within a smaller footprint than the Approved Project, i.e., a nominal capacity of 485 MW on 4,138 acres of the previously approved BLM-administered public land as opposed to the 1,000 MW on 6,831 acres authorized under the existing ROW grant. In addition, the solar plant site for the Modified Project would be reconfigured to allow transmission and access road corridors through the BSPP site for shared use with other approved and proposed projects, including (two projects located to the north: the BLM-approved McCoy Solar Energy Project and the proposed EDF Renewables McCoy Soleil project (shown on Figure 3.1-1). The reduced footprint of the Modified Project would be entirely within the boundary of the Approved Project.

The Draft EIS also analyzes denial of the Level 3 variance request (Alternative 2). This is the No Action Alternative for purposes of this Draft EIS. Under this Alternative, the Level 3 variance request would be denied by the BLM and the Grant Holder would be left with the approximately 4,433-acre ROW grant remaining after the partial relinquishment by the Grant Holder on March 7, 2013, which, as scaled, would be sufficient to develop approximately 650 MW of the approved 1,000 MW of energy using solar thermal parabolic trough technology. The current ROW approval after relinquishment represents approximately 65 percent of the Approved Project analyzed in the 2010 PA/FEIS and 2010 ROD. All other aspects of the project under Alternative after the partial relinquishment would be the same as the Approved Project.

As part of the Draft EIS, the effects of the Modified Project and Denial of the Proposed Modification (Alternative 2) are compared to the previously evaluated effects of the Approved Project and the effects that would occur if, rather than build the BSPP, the Grant Holder elected to relinquish the approved ROW grant and not build a solar project on the approved site (i.e., the effects of not constructing, operating, maintaining, and decommissioning a solar project on the site which were analyzed as the No Project alternative in the 2010 PA/FEIS). It is important to note that neither the original Approved Project (1,000 MW) nor the No Project alternatives analyzed in the 2010 PA/FEIS are among the possible decisions the BLM is considering in this Draft EIS; these comparisons are included for informational purposes only.

A comparison of the key design distinctions between the Modified Project (Alternative 1), Denial of the Proposed Modification (Alternative 2), and alternatives previously evaluated in the 2010 PA/FEIS is included in Table ES-1 below.

ES.7 Issues Addressed

Based on input received during the scoping period for this Draft EIS, issues of importance to agencies, organizations, and individuals include, but are not limited to, potential Modified Project impacts to air, biological, cultural, visual, and water resources, as well as impacts related to hazards and hazardous materials. These and other environmental resources and BLM program areas are analyzed in the Draft EIS as described below. The scoping process and public input received during that process are described and provided in Appendix D, *Scoping Report*.

**TABLE ES-1
COMPARISON OF KEY DESIGN DISTINCTIONS**

	Current BLM Action (Impacts Analyzed in this EIS)		Prior BLM Action (Impacts Analyzed in the 2010 PA/FEIS, Summarized in this EIS for Comparison)	
	Approve Proposed Modification (Alternative 1)	Deny Proposed Modification (Alternative 2) ^a	Approved Project	No Project/ No Action
Solar Technology	Photovoltaic Panels	Solar Thermal Parabolic Trough	Solar Thermal Parabolic Trough	Not Applicable
Output	485 MW	650 MW	1000 MW	0 MW
Solar Plant Site Disturbance Area ^b	4,138 acres	4,433 acres	6,831 acres	0 acres
Cut and Fill	0.9 million cubic yards	5.4 million cubic yards	8.3 million cubic yards	0 cubic yards
Water Use for Construction	1,200 acre-feet	2,665 acre-feet	4,100 acre-feet	0 acre-feet
Water Use for Operation and Maintenance	40 acre-feet / year	390 acre-feet / year	600 acre-feet / year	0 acre-feet / year

NOTES:

^a Values provided for Deny Proposed Modification have been generated by scaling Approved Project values relative to the number of solar plant site acres remaining in the existing ROW after the Grant Holder's relinquishment of 35 percent of the original ROW area.

^b Includes the acreage in the linear (gen-tie and access road) corridor within the solar plant site.

SOURCE: NextEra Blythe Solar, 2013

ES.8 Environmental Consequences

The Draft EIS assesses the environmental consequences or impacts that would result from approval of the Modified Project (Alternative 1) and denial of the Modified Project (Alternative 2) on resources, resource uses, special designations, and other important topics (including public health and safety, social and economic considerations, and environmental justice conditions). The environmental effects of constructing, operating, maintaining, and decommissioning the Modified Project and alternatives are summarized in Table ES-2.

Mitigation measures that were included in the Environmental and Construction Compliance Monitoring Plan (ECCMP) for the Approved Project (Appendix 4 of the 2010 ROD, included as Appendix B) are based on a variety of authorities, including Conditions of Certification imposed by the California Energy Commission as part of its licensing process for the Approved Project pursuant to California state law. Because they are part the existing approvals for the BSPP, these mitigation measures apply to the Modified Project and alternatives. However, based on the analysis in this Draft EIS, proposed modifications to mitigation measures included in the approved ECCMP may be warranted. Proposed modifications to approved ECCMP measures are identified in the relevant resource analyses sections of the Draft EIS.

**TABLE ES-2
COMPARISON OF ENVIRONMENTAL AND OTHER EFFECTS OF THE MODIFIED PROJECT AND ALTERNATIVES**

Resource or BLM Program Area	Current BLM Action (Impacts Analyzed in this EIS)		Prior BLM Action (Impacts Analyzed in the 2010 PA/FEIS, Summarized in this EIS for Comparison)	
	Approve Proposed Modification	Deny Proposed Modification	Approved Project	No Project
Air Resources				
Construction and Decommissioning Emissions	Potential exceedances of state and federal AAQSS for PM10; Emissions would be decreased compared to the Approved Project	Potential exceedances of state and federal AAQSS for PM10; Emissions would be increased compared to the Modified Project but decreased compared to the Approved Project	Potential exceedances of state and federal AAQSS for PM10	None
Operation and Maintenance Emissions	Potential exceedances of state AAQSS for PM10; Emissions would be decreased compared to the Approved Project	Potential exceedances of state and federal AAQSS for PM10; Emissions would be increased compared to the Modified Project but decreased compared to the Approved Project	Potential exceedances of state and federal AAQSS for PM10	None
Biological Resources – Vegetation				
<i>Vegetation Community</i>				
Desert dry wash woodland	26 acres	31 acres	213 acres	0 acres
Unvegetated ephemeral dry washes	3.3 acres	4.1 acres	8.7 acres	0 acres
Vegetated ephemeral streams ^a	265 acres	276 acres	371 acres	0 acres
<i>Subtotal ephemeral drainages</i>	<i>295 acres</i>	<i>312 acres</i>	<i>592 acres</i>	<i>0 acres</i>
Stabilized and partially stabilized dunes	0 acres	0 acres	58 acres	0 acres
Sonoran creosote bush scrub ^b	3,847 acres	4,123 acres	6,365 acres	0 acres
Disturbed habitat	0 acres	0 acres	0 acres	0 acres
Agriculture ^c	0 acres	0 acres	4.4 acres	0 acres
Developed	0 acres	0 acres	4.9 acres	0 acres
TOTAL	4,142 acres	4,435 acres	7,025 acres	0 acres
<i>Special-Status Plants^d</i>				
Harwood's milk-vetch	248 individuals	248 individuals	637 individuals	0 individuals

TABLE ES-2 (Continued)
 COMPARISON OF ENVIRONMENTAL AND OTHER EFFECTS OF THE MODIFIED PROJECT AND ALTERNATIVES

Resource or BLM Program Area	Current BLM Action (Impacts Analyzed in this EIS)		Prior BLM Action (Impacts Analyzed in the 2010 PA/FEIS, Summarized in this EIS for Comparison)	
	Approve Proposed Modification	Deny Proposed Modification	Approved Project	No Project
Biological Resources – Vegetation (cont.)				
Las Animas colubrine	0 individuals	10 individuals	55 individuals	0 individuals
Harwood's eriastrum	0 individuals	0 individuals	13 individuals	0 individuals
Abrams' spurge	2,185 individuals	2,185 individuals	0 individuals	0 individuals
ribbed cryptantha	0 acres/individuals	0 acres/individuals	58 acres (1.5 million individuals)	0 acres/individuals
winged cryptantha	0 individuals	0 individuals	0 individuals	0 individuals
Utah milkvine	62 individuals	87 individuals	621 individuals	0 individuals
desert unicorn plant	1,091 individuals	1,093 individuals	9 individuals	0 individuals
Biological Resources – Wildlife				
<i>Wildlife Species or Species Group (habitat affected)</i>				
Desert tortoise	4,070 acres	4,433 acres	7,027 acres	0 acres
Mojave fringe-toed lizard	0 acres	0 acres	50 acres	0 acres
Couch's spadefoot toad	0.13 acre	0.13 acre	0.13 acre	0 acres
Migratory birds	4,070 acres	4,433 acres	7,027 acres	0 acres
Golden eagle	4,070 acres	4,433 acres	7,027 acres	0 acres
Burrowing owl	4,070 acres	4,433 acres	7,027 acres	0 acres
Desert kit fox	4,070 acres	4,433 acres	7,027 acres	0 acres
American badger	4,070 acres	4,433 acres	7,027 acres	0 acres
Nelson's bighorn sheep	0 acres	0 acres	922 acres	0 acres
Desert tortoise	4,070 acres	4,433 acres	7,027 acres	0 acres
Mojave fringe-toed lizard	0 acres	0 acres	50 acres	0 acres
Couch's spadefoot toad	0.13 acre	0.13 acre	0.13 acre	0 acres
Migratory birds	4,070 acres	4,433 acres	7,027 acres	0 acres
Golden eagle	4,070 acres	4,433 acres	7,027 acres	0 acres
Burrowing owl	4,070 acres	4,433 acres	7,027 acres	0 acres

TABLE ES-2 (Continued)
COMPARISON OF ENVIRONMENTAL AND OTHER EFFECTS OF THE MODIFIED PROJECT AND ALTERNATIVES

Resource or BLM Program Area	Current BLM Action (Impacts Analyzed in this EIS)		Prior BLM Action (Impacts Analyzed in the 2010 PA/FEIS, Summarized in this EIS for Comparison)	
	Approve Proposed Modification	Deny Proposed Modification	Approved Project	No Project
Climate Change				
Construction total CO ₂ e	54,615 metric tons	67,535 metric tons	103,900 metric tons	none
Operation annual CO ₂ e	126 metric tons	9,613 metric tons	14,739 metric tons	none
Annual electricity generated	1,104,636 MWh	1,365,000 MWh	2,100,000 MWh	none
Operational CO ₂ e per MWh	0.0001	0.0070	0.0070	none
Loss of Carbon Uptake (CO ₂ e/year)	3,785 metric tons	4,123 metric tons	8,806 metric tons	none
Net Reduction in CO ₂ e per year	395,924 metric tons	480,341 metric tons	736,524 metric tons	none
Cultural Resources				
Archaeological resources impacted	99 archaeological sites (solar site only)	103 archaeological sites (solar site only)	189 archaeological sites (solar site only)	No cultural resources impacted
Hazards and Hazardous Materials				
Minimum Amount of Hazardous Material Stored On-Site (Gas/Liquid/Solid)	262,670 ft ³ / 264,765 gallons / 4050 lbs.	Less than but similar to Approved Project	366,433 ft ³ / 1,345,510 gallons / n/a	None
Non-Hazardous Solid Waste Generated During Construction	41 cubic yards/week	Less than but similar to Approved Project	70 cubic yards/week	None
Hazardous Materials Specific to Technology	Cadmium telluride (if thin-film panels used)	Heat transfer fluid	Heat transfer fluid	None
Aviation Safety Hazards	Potential glint and glare from PV panels	Potential glint and glare from mirrored troughs	Potential glint and glare from mirrored troughs	None
Geologic Hazards	Minor risk from seismic hazards, subsidence and settlement, and hydrocompaction. Mitigated risk from corrosive soils	Minor risk from seismic hazards, subsidence and settlement, and hydrocompaction. Mitigated risk from corrosive soils	Minor risk from seismic hazards, subsidence and settlement, and hydrocompaction. Mitigated risk from corrosive soils	None
Site Security	Mitigated minor security risks; "low vulnerability" site	Mitigated minor security risks; "low vulnerability" site	Mitigated minor security risks; "low vulnerability" site	No impact

TABLE ES-2 (Continued)
COMPARISON OF ENVIRONMENTAL AND OTHER EFFECTS OF THE MODIFIED PROJECT AND ALTERNATIVES

Resource or BLM Program Area	Current BLM Action (Impacts Analyzed in this EIS)		Prior BLM Action (Impacts Analyzed in the 2010 PA/FEIS, Summarized in this EIS for Comparison)	
	Approve Proposed Modification	Deny Proposed Modification	Approved Project	No Project
Lands and Realty				
Impacts to existing authorized uses	None	None	None	None
Nonconformance with the CDCA Plan	None	None	None	None
Nonconformance with CDCA Plan	None	None	None	None
MUC L guidelines	None	None	None	None
MUC L lands with use opportunities restricted	4,138 acres	4,433 acres	6,831 acres	0 acres
Mineral Resources				
Area unavailable for mineral resource extraction	4,138 acres	4,433 acres	6,831 acres	0 acres
Noise				
Construction and Decommissioning Noise	The worst-case daytime hourly construction L_{eq} could be distinguishable at the nearby residences, but would not be expected to cause an adverse reaction at the closest residence. This impact would be less severe than construction-related impacts that would be associated with the Approved Project.	The worst-case daytime hourly construction L_{eq} could be distinguishable at the nearby residences, but would not be expected to cause an adverse reaction at the closest residence. The impact would be essentially the same as for Modified Project, which would be less severe than construction-related impacts that would be associated with the Approved Project.	Construction noise would elevate the existing ambient noise level at the nearest residential receptor by 16 dBA, a considerable increase.	No impacts would occur.
Operation and Maintenance Noise	The worst-case daytime hourly operation and maintenance L_{eq} would be slightly lower than the Approved Project and Alternative 2, and would not be distinguishable at the nearby residences.	The worst-case daytime hourly operation and maintenance L_{eq} would be slightly higher than the Modified Project, but would not be distinguishable at the nearby residences.	The worst-case daytime hourly operation and maintenance L_{eq} would not likely be distinguishable at the nearby residences.	No impacts would occur.
Paleontological Resources				
Cut and Fill	0.9 million cubic yards	5.4 million cubic yards	8.3 million cubic yards	None

**TABLE ES-2 (Continued)
COMPARISON OF ENVIRONMENTAL AND OTHER EFFECTS OF THE MODIFIED PROJECT AND ALTERNATIVES**

Resource or BLM Program Area	Current BLM Action (Impacts Analyzed in this EIS)		Prior BLM Action (Impacts Analyzed in the 2010 PA/FEIS, Summarized in this EIS for Comparison)	
	Approve Proposed Modification	Deny Proposed Modification	Approved Project	No Project
Recreation				
Direct impacts on recreational resources	4,070 acres unavailable, access through the site would be maintained	4,433 acres unavailable, access through the solar plant site would not be allowed	6,831 acres unavailable, access through the solar plant site would not be allowed	None
Construction noise impacts on recreation	Less noise compared to Approved Project	Same as Approved Project	Construction noise would be temporary and not likely to affect recreational users	None
Construction dust impacts on recreation	Less dust would be generated than assessed for the Approved Project	Less dust would be generated than assessed for the Approved Project	Construction dust may temporarily affect the visual quality of the area and thereby degrade recreational experiences in the area	None
Construction traffic impacts on recreation	Less construction traffic would be generated than assessed for the Approved Project	Less construction traffic would be generated than assessed for the Approved Project	Construction traffic may temporarily degrade recreational experiences in the area	None
Visual impacts on recreation	Lower visual profile than Alternative 2 and the Approved Project, and therefore reduced impacts to recreational experiences in the area	Lower visual profile than the Approved Project, but greater visual profile than Alternative 2. Therefore, greater impacts to recreational experiences in the area when compared to Alternative 1 and reduced impacts when compared to the Approved Project	Construction and operation of the solar plant would adversely affect the visual quality of the area and thereby degrade recreational experiences in the area	None
Socioeconomics and Environmental Justice				
Construction Jobs (direct, indirect, and induced)	628	640	1,066	0
Operation and Maintenance Jobs (direct, indirect, and induced)	24	177	295	0
Construction Annual Economic Benefit plus Tax Payments	\$60,458,000	\$120,885,000	\$140,120,000	\$0
Operation Annual Economic Benefit plus Tax Payments	\$2,200,791	\$18,120,000	\$30,200,000	\$0
Environmental Justice effects	No disproportionate effects	No disproportionate effects	No disproportionate effects	No effect

TABLE ES-2 (Continued)
COMPARISON OF ENVIRONMENTAL AND OTHER EFFECTS OF THE MODIFIED PROJECT AND ALTERNATIVES

Resource or BLM Program Area	Current BLM Action (Impacts Analyzed in this EIS)		Prior BLM Action (Impacts Analyzed in the 2010 PA/EIS, Summarized in this EIS for Comparison)	
	Approve Proposed Modification	Deny Proposed Modification	Approved Project	No Project
Soil Resources				
Approximate acres disturbed, by soil unit	Rillito-Gunsight: 440 Vaiva-Quitlosa-Hyder-Cipriano-Cheront: 2,310 Rositas-Orita-Carrizo-Aco: 1,360	Rillito-Gunsight: 800 Vaiva-Quitlosa-Hyder-Cipriano-Cheront: 2,310 Rositas-Orita-Carrizo-Aco: 1,360	Rillito-Gunsight: 2,446 Vaiva-Quitlosa-Hyder-Cipriano-Cheront: 3,058 Rositas-Orita-Carrizo-Aco: 1,490	0
Special Designations				
Impacts to Wilderness Areas and lands with wilderness characteristics	Visual impacts due to dust and the conversion of 4,070 acres of open space to solar field	Visual impacts due to dust and the conversion of 4,433 acres of open space	Visual impacts due to dust and the conversion of 6,831 acres of open space	None
Impacts to ACECs	None	None	None	None
Impacts to Wilderness Areas and lands with wilderness characteristics	Visual impacts due to dust and the conversion of 4,070 acres of open space to solar field	Visual impacts due to dust and the conversion of 4,433 acres of open space	Visual impacts due to dust and the conversion of 6,831 acres of open space	None
Transportation and Travel Management				
Construction traffic impacts on traffic flow	Less construction traffic would be generated than assessed for the Approved Project	Less construction traffic would be generated than assessed for the Approved Project	Construction traffic may temporarily increase delays on area roads and at area intersections	None
Operation and Maintenance traffic impacts on traffic flow	Less construction traffic would be generated than assessed for the Approved Project	Less construction traffic would be generated than assessed for the Approved Project	Construction traffic may temporarily increase delays on area roads and at area intersections	None
Impacts of oversized or overweight trucks	Same as Approved Project	Same as Approved Project	Roadways could be damaged	None
Impacts of parking demand during construction	Same as Approved Project	Same as Approved Project	Parking demand would be accommodated on-site	None
Impacts of parking demand during operation and maintenance	Same as Approved Project	Same as Approved Project	Parking demand would be accommodated on-site	None

**TABLE ES-2 (Continued)
COMPARISON OF ENVIRONMENTAL AND OTHER EFFECTS OF THE MODIFIED PROJECT AND ALTERNATIVES**

Resource or BLM Program Area	Current BLM Action (Impacts Analyzed in this EIS)		Prior BLM Action (Impacts Analyzed in the 2010 PA/FEIS, Summarized in this EIS for Comparison)	
	Approve Proposed Modification	Deny Proposed Modification	Approve Project	No Project
Visual Resources				
Construction airborne dust	Less dust would be generated than assessed for the Approved Project	Less dust would be generated than assessed for the Approved Project	Construction dust may temporarily affect the visual quality of the area	None
Construction equipment and activities	Less equipment would be needed and the construction period would be shorter than assessed for the Approved Project	Less equipment would be needed and the construction period would be shorter than assessed for the Approved Project	Construction operations, including equipment and associated activities would contrast with the existing natural scenery	None
Nighttime construction lighting	Less lighting would be needed than assessed for the Approved Project	Less lighting would be needed than assessed for the Approved Project	Nighttime construction lighting would attract attention and create adverse visual effects by adding a glow effect to the night sky	None
Vegetation clearing creating visual contrast by exposing geometric lines of earth adjacent to the random pattern and texture of existing vegetation	Up to 4,138 acres of vegetation trimmed, vegetation cleared on graded areas	Up to 4,433 acres of vegetation cleared	Up to 6,831 acres of vegetation cleared	None
Nighttime operational lighting	Less lighting would be needed than assessed for the Approved Project	Less lighting would be needed than assessed for the Approved Project	Nighttime construction lighting could attract attention and create adverse visual effects by adding a glow effect to the night sky	None
Glare and glint	Less glare and glint would be experienced than assessed for the Approved Project due to the use of PV technology	Glare and glint from solar thermal parabolic trough technology, though reduced from the amount assessed for Approved Project, would be present	Glint from the solar arrays could be distracting or nuisance-causing, glare produced by the Approved Project would increase the visual contrast of the project in the landscape	None
Visual contrast in form, line, color, and texture	Overall, less visual contrast would be experienced than assessed for the Approved Project due to the reduction in area and structures. The project would create moderate-weak visual contrast with the landscape from the majority of the KOPs assessed for the Modified Project. The degree of contrast in	Less visual contrast would be experienced than assessed for the Approved Project due to the reduction in area, more visual contrast would be experienced than assessed for the Modified Project due to the amount of equipment and structures required for solar thermal parabolic trough technology	The project would create strong-moderate visual contrast with the landscape from the majority of the KOPs assessed for the Approved Project	None

**TABLE ES-2 (Continued)
COMPARISON OF ENVIRONMENTAL AND OTHER EFFECTS OF THE MODIFIED PROJECT AND ALTERNATIVES**

Resource or BLM Program Area	Current BLM Action (Impacts Analyzed in this EIS)		Prior BLM Action (Impacts Analyzed in the 2010 PA/FEIS, Summarized in this EIS for Comparison)		No Project
	Approve Proposed Modification	Deny Proposed Modification	Approved Project		
Visual Resources (cont.)	form would be reduced from Strong/Moderate to Moderate/Weak. The degree of contrast in color would be reduced from Strong/Moderate to Moderate. The degree of contrast in line and texture would remain about equal.				
Visual contrast in form, line, color, and texture (cont.)					
Water Resources					
Erosion and drainage	Disturbance of 4,138 acres within the ROW	Disturbance of 4,433 acres within the ROW	Disturbance of 6,831 acres	No disturbance	
State jurisdictional waters	247 acres	264 acres	592 acres	None	
Effect on groundwater levels and supply from project water usage	1,200 AF during construction	2,665 AF during construction	4,100 AF during construction	None	
	40 AFY during operation and maintenance and decommissioning	390 AFY during operation and maintenance and decommissioning	600 AFY during operation and maintenance	None	
Total groundwater consumption (construction, operation and maintenance, and decommissioning)	2,480 AF	15,145 AF	22,100 AF	None	
Water quality effects of heat transfer fluid (HTF)	No use of HTF	Impact associated with use of HTF	Impact associated with use of HTF	No use of HTF	
Water quality effects of land treatment units (LTUs)	No use of LTUs	Impact associated with LTUs	Impact associated with LTUs	No use of LTUs	
RO Water Evaporation Pond area	Two 6-acre ponds (total of up to 12 acres)	Five to six 4-acre ponds (total of up to 24 acres)	Eight 4-acre ponds (total of up to 32 acres)	None	
Effect from sanitary waste treatment during construction	Peak of 500 workers	Peak of 650 workers	Peak of 1,004 workers	None	
Effect from process wastewater during construction	No concrete batch plant	Impacts from concrete batch plant operations	Impacts from concrete batch plant operations	None	

**TABLE ES-2 (Continued)
COMPARISON OF ENVIRONMENTAL AND OTHER EFFECTS OF THE MODIFIED PROJECT AND ALTERNATIVES**

Resource or BLM Program Area	Current BLM Action (Impacts Analyzed in this EIS)		Prior BLM Action (Impacts Analyzed in the 2010 PA/FEIS, Summarized in this EIS for Comparison)	
	Approve Proposed Modification	Deny Proposed Modification	Approve Project	No Project
Wildland Fire Ecology				
Impacts on fire regime	Less impacts to fire regime than Approved Project due to decreased vehicle traffic/human presence and smaller disturbance footprint	Less impacts to fire regime than Approved Project due to decreased vehicle traffic/human presence and smaller disturbance footprint	Increased vehicle traffic/human presence may directly result in fire. Disturbance of soil will result in increased spread of invasive species	None

NOTES:

- a Vegetated ephemeral streams analyzed are those supporting big galleta grass association.
- b Includes disturbed Sonoran creosote bush scrub habitat.
- c Includes active and fallow agriculture.
- d Numbers of individual plants impacts by the Modified Project and the identified Alternative 2 are approximated where necessary

References

NextEra Blythe Solar Energy Center, LLC (NextEra Blythe Solar), 2013. Plan of Development Supplement, Blythe Solar Power Project, File # CACA – 048811. March 18.

Stetch, Katy, 2012. *Solar-Project Developer Files for Chapter 11*, The Wall Street Journal. April 2. [<http://online.wsj.com/article/SB10001424052702303816504577319911577365668.html>] Accessed September 11, 2013.

CHAPTER 1

Introduction

1.1 Introduction

NextEra Blythe Solar Energy Center, LLC¹ (Grant Holder) is the current owner and holder of a right-of-way (ROW) grant (CACA-048811) that the Bureau of Land Management (BLM) issued for the Blythe Solar Power Project (BSPP) on November 4, 2010 (BLM, 2010). The BLM analyzed² and approved a ROW grant³ for the development of the BSPP as a 1,000-megawatt (MW) solar energy generating plant utilizing thermal parabolic trough solar generating technology on 6,831 acres of public land located near the City of Blythe in Riverside County, California, on October 22, 2010 (Approved Project). On June 21, 2013, the Grant Holder submitted a Level 3 variance request pursuant to the Record of Decision (2010 ROD)⁴ to amend the existing ROW grant to convert the Approved Project to photovoltaic (PV) technology, reduce the size of the overall solar plant site, and reconfigure the solar plant site to allow transmission and access road corridors through the BSPP site for shared use with other approved and proposed projects (the Modified Project). The Modified Project would generate less power within a smaller solar plant footprint than the Approved Project. It would have a nominal generating capacity of 485 MW on a solar plant site of 4,070 acres (4,138 acres including the on-site portion of the linear corridor). The reduced footprint of the Modified Project would be entirely within the boundary of the Approved Project.

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- ¹ NextEra Blythe Solar Energy Center, LLC is a wholly owned subsidiary of NextEra Energy Resources LLC.
 - ² The California Energy Commission (CEC) and BLM cooperatively prepared a Staff Assessment and Draft Resource Management Plan Amendment and Environmental Impact Statement as a joint environmental analysis under state and federal law that was issued on March 19, 2010. The BLM issued a Proposed Plan Amendment/Final Environmental Impact Statement (PA/FEIS) pursuant to the Federal Land Policy and Management Act of 1976 (Pub.L. 94-579) (FLPMA) and the National Environmental Policy Act of 1969 (42 U.S.C. §4321 et seq.) that was noticed in the August 20, 2010, Federal Register (75 Fed. Reg. 51,479). The PA/FEIS is provided as Appendix A.
 - ³ The Secretary of the Department of the Interior signed a Record of Decision (ROD) for the BSPP on October 22, 2010. The ROD is provided as Appendix B.
 - ⁴ As described in Appendix 4, Section 5.3 of the 2010 ROD, Level 3 variance requests generally involve project changes that would affect an area outside the previously approved work area; that are outside the areas previously surveyed for cultural resources, sensitive species, and biological resources; or that would change the function, structure, technology required, or other part of the project previously approved in the POD. The ROD notes that Level 3 variances may need to be implemented through an amendment to the ROW grant; such an amendment would be necessary to grant the Level 3 variance and approve the Modified Project.

1.2 Background

The initial project proponent and applicant for the BSPP, Palo Verde Solar I, LLC,⁵ commenced construction following the November 4, 2010 receipt of the ROW grant and Notice to Proceed from the BLM. Palo Verde Solar I, LLC installed fencing and drainage infrastructure, and constructed a water well, well-related infrastructure, and an approximately 21,000-foot (4-mile) segment of the main access road to the solar plant site. The 2010 ROW grant authorization is for a 1,000 MW thermal trough project that was described and analyzed in the August 2010 Proposed Plan Amendment/Final EIS (2010 PA/FEIS) included as Appendix A of this Draft EIS and authorized in the October 2010 ROD included as Appendix B of this Draft EIS. Construction activities ceased on August 23, 2011, following Palo Verde Solar I's indication to the BLM that it planned to amend the existing authorizations for the Approved Project to allow the development of solar PV energy generation technology on the site. Upon this request, the BLM issued a Temporary Suspension Order for all surface disturbing activities. On September 8, 2011, the BLM authorized measures to stabilize the site and ensure that Palo Verde Solar I would remain in compliance with the terms of the approved ROW grant pending an amendment. The BLM requested that a modified Plan of Development (POD) be submitted within 90 days describing the proposed modifications (BLM, 2011) to the Project. Palo Verde Solar I proceeded to maintain the site in accordance with existing approvals and, in November 2011, completed the acquisition of 858.5 acres of agency-approved off-site mitigation land – 89.5 acres more than the 769 acres required for the first phase of construction as stipulated in the 2010 ROD for the Approved Project.

Beginning in December of 2011, Palo Verde Solar I's parent companies both in the United States and Europe filed for bankruptcy. First, Solar Millennium initiated the equivalent of bankruptcy proceedings in Germany, and in April 2012, Solar Trust of America filed for Chapter 11 bankruptcy protection in Delaware (Stetch, 2012). As part of that bankruptcy proceeding in Delaware, NextEra Blythe Solar, a subsidiary of NextEra Energy Resources, LLC, purchased the un-built assets of the Approved Project on July 12, 2012. BLM approved the transfer of the right-of-way grant/lease in connection with that transaction and NextEra Blythe Solar became the current Grant Holder. The Grant Holder proceeded with plans to convert the previously approved solar thermal project to a PV project on the approved site and requested on September 5, 2012 that the BLM lift the Temporary Suspension Order. The BLM granted such request on October 16, 2012, and the Grant Holder began to maintain the site in accordance with the existing ROW grant and other approvals. Additionally, the Grant Holder anticipated that a PV project on the site would require a smaller footprint than the approved solar thermal trough project, and relinquished to the BLM approximately 35 percent of the approved ROW grant area on March 7, 2013. The BLM approved this relinquishment on May 9, 2013. The Grant Holder submitted a Plan of Development Supplement (POD Supplement) and Level 3 variance request to the BLM on March 18, 2013, which requested that the BLM modify the Approved Project ROW grant to convert the Approved Project to PV technology, reduce the size of the solar plant site, and reconfigure the solar plant site to allow transmission and access road corridors through the BSPP site for shared use with other approved and proposed projects (i.e., approve the Modified Project).

⁵ Palo Verde Solar I, LLC was a wholly owned subsidiary of Solar Millennium, a German company that founded Solar Trust of America in 2009 to develop utility scale solar energy projects in the United States.

This Draft EIS analyzes the impacts of the Modified Project requested through the Level 3 variance request and does not supersede or replace the BLM's 2010 PA/FEIS or other consideration of the Approved Project. Rather, the BLM, pursuant to its obligations under the Federal Land Policy and Management Act of 1976 (FLPMA) and National Environmental Policy Act of 1969 (NEPA), tiers this EIS to the 2010 PA/FEIS for the Approved Project to the extent that the analysis in that document informs or is relevant to the BLM's consideration of the effects of the Grant Holder's proposed conversion of the Approved Project to a different solar technology and associated reduction and reconfiguration of the solar plant site. This EIS also incorporates by reference the 2010 ROD approving the Approved Project to the extent relevant to its analysis of the modified project, and relies on information and analysis provided in the Final Programmatic EIS for Solar Energy Development in Six Southwestern States (Arizona, California, Colorado, Nevada, New Mexico, and Utah) (Solar PEIS) to the extent it informs an understanding of the environmental consequences of the requested action. The BLM has determined that reliance on the prior analysis is the most efficient way to meet the purposes of NEPA, avoiding redundancy in the process. Following receipt of comments on the Draft EIS for the Modified Project, the BLM will prepare a Final EIS before issuing a decision on the variance request.

1.3 Purpose and Need

The BLM's purpose and need in connection with the Modified Project is to respond to the Grant Holder's request for a Level 3 variance under Title V of FLPMA (43 U.S.C. §1701 et seq.) and modification of the existing ROW grant to include the construction, operation, maintenance and decommissioning of a 485 MW solar PV project in compliance with FLPMA, BLM ROW regulations, and other applicable federal laws consistent with its multiple use obligations under FLPMA. The existing ROW grant for the Approved Project authorizes a 1,000 MW thermal trough project that was described and analyzed in the 2010 PA/FEIS included as Appendix A of this Draft EIS and authorized by the 2010 ROD included as Appendix B of this Draft EIS. The BLM will decide whether to approve, approve with modifications, or deny the variance request and the issuance of a modified ROW grant to NextEra Blythe Solar Energy Center, LLC for the Modified Project.

In conjunction with FLPMA, BLM authorities include:

1. Executive Order 13212, dated May 18, 2001, which mandates that agencies act expediently and in a manner consistent with applicable laws to increase the "production and transmission of energy in a safe and environmentally sound manner;"
2. Secretarial Order 3285A1, dated March 11, 2009, and amended on February 22, 2010, which "establishes the development of renewable energy as a priority for the Department of the Interior;" and
3. The President's Climate Action Plan, released on June 25, 2013, which sets forth a new goal for the Department of the Interior to approve 20,000 MW of renewable energy projects on the public lands by 2020, in order to ensure America's continued leadership in clean energy.

The BLM will decide whether to approve, approve with modifications, or deny the Grant Holder's Level 3 variance request and the issuance of an amendment to the BSPP's existing ROW grant based on the Modified Project.

1.4 Relationship of the Modified Project to BLM Laws, Policies, and Programs

The relationship of the Modified Project to the BLM's existing laws, policies, plans, and programs is generally the same as the relationship of the Approved Project to those same authorities as described in the 2010 PA/FEIS (Appendix A, p. 1-6 et seq.). The discussion has been updated as necessary below.

1.4.1 Relationship of the Modified Project to the CDCA Plan

The 2010 ROD for the Approved Project amended the CDCA Plan to identify the project site as available for solar energy development (Appendix B, p. 58) and made several required determinations regarding the amendment's conformance to the CDCA plan (Appendix B, pp. 31 through 38). Therefore, the Modified Project would not require a CDCA Plan amendment.

1.4.2 Relationship of the Modified Project to the Solar PEIS

The BLM issued the Final Programmatic EIS for Solar Energy Development in Six Southwestern States (Arizona, California, Colorado, Nevada, New Mexico, and Utah) (Solar PEIS) in July 2012 and signed the associated ROD on October 12, 2012. The Solar PEIS ROD recognizes all approved solar energy projects on BLM-administered lands and does not affect the status of any of these approved projects (Solar PEIS ROD Section B.1.3). In accordance, a modification to the Approved Project also would not be subject to the decisions made through the Solar PEIS ROD. If the current Approved Project were to be abandoned and the approved ROW relinquished, the lands on which the ROW grant exists would be subject to the land use plan decisions made through the Solar PEIS ROD. This would affect any future application proposed on the site.⁶

1.4.3 Relationship of the Modified Project to the California Desert Renewable Energy Conservation Plan

The Desert Renewable Energy Conservation Plan (DRECP) process is currently underway; however, because the process remains in progress, no decisions have been made regarding the DRECP that govern the BLM's consideration of the Modified Project. The DRECP ROD will not affect applications that have reached a project-level ROD prior to completion of the DRECP.⁷ Because the Approved Project was issued a ROD in October 2010, it is not subject to the DRECP

⁶ For example, future projects would be subject to the Solar PEIS ROD's amendment of the CDCA Plan to designate the Riverside East Solar Energy Zone (including the BSPP site) as a priority area for commercial-scale solar development.

⁷ A list of such applications can be viewed online at: http://drecp.org/documents/docs/alternatives_eval/Appendices/Appendix_I_Pending_Projects.pdf

process. The Modified Project is considered administration of an existing grant, and therefore also will not be subject to the DRECP ROD.

1.5 Relationship to Non-BLM Laws, Policies, and Plans, and Programs

1.5.1 Coordination with the California Energy Commission

The California Energy Commission (CEC) has the exclusive authority to certify and license the construction, modification, and operation of thermal electric power plants in California that generate 50 MW or more. CEC certification is in lieu of any permit required by state, regional, or local agencies. As a thermal electric power project greater than 50 MW, the Approved Project was subject to CEC jurisdiction. BLM and CEC staff collaborated on the review and environmental analysis of the Approved Project. The BLM and CEC issued a joint draft environmental analysis and then separate final documents for compliance with NEPA and the California Environmental Quality Act (CEQA), respectively. The CEC issued its Final Decision for the Approved Project on September 15, 2010.

Section 25500.1 of the California Public Resources Code authorizes the CEC to review amendments to convert proposed solar thermal power plants, approved by the CEC and sited on federal land, to the use of PV technology. Section 25500.1(d) requires the CEC to use its amendment process under Section 1769 of Title 20 of the California Code of Regulations. The Grant Holder submitted a Revised Petition for Amendment to the CEC, which evaluated the environmental impacts of the proposed modifications, assessing their consistency with the Approved Project and determining whether the Modified Project would remain in compliance with applicable laws, ordinances, regulations, and standards. For the Modified Project to be constructed, an amended certification is required from the CEC in addition to a revised ROW grant from the BLM. The CEC issued a Commission Decision on January 21, 2014 granting the Petition to Amend and a certificate to construct and operate the Modified Project (CEC, 2014). The BLM and CEC staff will continue to work cooperatively to review the Modified Project and administer mitigation measures and conditions of certification as outlined in the adopted ECCMP for the Approved Project and as modified by the CEC's Commission Decision and BLM's ROD for the Modified Project.

1.5.2 Relationship with Other Non-BLM authorities

The relationship of the Modified Project to other non-BLM policies, plans, and programs remains substantially as described in Section 1.5 of the 2010 PA/FEIS (Appendix A, p. 1-8) and is not repeated here.

1.6 Federal Permits, Licenses, and Other Entitlements

To implement the Modified Project, the Grant Holder may need to modify existing federal permits, licenses, agreement or other entitlements, as well as to meet other requirements set forth

by law, regulation, ordinance, or policy. The environmental effects of compliance with applicable requirements are analyzed as part of the Modified Project throughout this EIS. Potential permit requirements and other federal entitlements identified to date that may need to be modified include:

1. The BLM ROW Grant (CACA-048811); and
2. Amendment to the Programmatic Agreement for compliance with Section 106 of the NHPA.

References

Bureau of Land Management (BLM), 2011. Response to Temporary Suspension Application Received/Serialized. September 8.

BLM, 2010. Right-of Way Lease/Grant, Serial Number CACA-048811. November 4, 2010. [http://www.blm.gov/pgdata/etc/medialib/blm/ca/pdf/palmsprings/blythe_feis0.Par.24015.File.dat/BSPP%20Fully%20Executed%20ROW.pdf]

California Energy Commission (CEC), 2014. Blythe Solar Power Project Amendment Commission Decision. [http://docketpublic.energy.ca.gov/PublicDocuments/09-AFC-06C/TN201580_20140121T101128_Blythe_Solar_Power_Project_Amendment_Commission_Decision.pdf]

Stetch, Katy, 2012. *Solar-Project Developer Files for Chapter 11*, The Wall Street Journal. April 2. [<http://online.wsj.com/article/SB10001424052702303816504577319911577365668.html>] Accessed September 11, 2013.

CHAPTER 2

Proposed Modification and Alternatives

2.1 Introduction

As described in the Environmental and Construction Compliance Monitoring Plan (ECCMP) for the Approved Project (Appendix 4 of the 2010 Record of Decision (ROD) included as Appendix B to this Draft EIS), Level 3 variance requests generally involve project changes that would affect an area outside the previously approved work area, or that would change the function, structure, technology required, or other part of the project previously approved in a ROD. Level 3 variances may need to be implemented through an amendment to the right-of-way (ROW) grant. NextEra Blythe Solar Energy Center, LLC's (NextEra Blythe Solar or Grant Holder) Level 3 variance request in this case is to modify the Approved Project (see Appendix B) to use photovoltaic (PV) technology instead of parabolic trough technology. The Modified Project would generate less power within a smaller footprint than the Approved Project, i.e., a nominal capacity of 485 megawatts (MW) on 4,138 acres of the previously approved BLM-administered public land instead of 1,000 MW on 6,831 acres as reflected in the 2010 ROD. As explained below, based on the March 7, 2013 partial relinquishment by the Grant Holder of a portion of the approved ROW grant, the total capacity of the approved solar thermal project is approximately 650 MW on 4,433 acres. The BLM has determined that, if approved, the Level 3 variance for the BSPP will be implemented through an amendment to the existing ROW.

The project site is located in a rural area of the Colorado Desert in unincorporated Riverside County, California (Figure 2-1). The site is located approximately 8 miles west of the City of Blythe, approximately 32 miles east of the town of Desert Center, California, and approximately 3 miles north of the Interstate 10 freeway (I-10). It is south of McCoy Wash, east of the McCoy Mountains, north of the Blythe Airport, and adjacent to (and immediately south of) the BLM-approved McCoy Solar Energy Project (MSEP) (Figure 2-2). Additional description of the site, including its location, the surrounding area, and the approved means of access, is provided in the Proposed Plan Amendment and Final EIS (2010 PA/FEIS) for the Approved Project, included here as Appendix A (Section 2.2.1, p. 2-2 et seq.; see also, p. A-3, Figure 1 and p. A-4, Figure 2a).

This chapter describes the BLM's potential decisions and alternatives regarding the Level 3 variance request. As explained in Chapter 1, the BLM will decide whether to approve, approve with modifications, or deny issuance of a modified ROW grant to the Grant Holder in response to its variance request. This Draft EIS fully analyzes the Grant Holder's Modified Project (Alternative 1) pursuant to the Level 3 variance request, which is described in Section 2.2. The Draft EIS also fully analyzes the BLM's denial of the variance request (Alternative 2; No Action), which would maintain the existing ROW grant approval as modified by the March 7,

2013 voluntary relinquishment (shown on Figure 2-3).¹ As explained below, denial of the Modified Project (the “No Action Alternative” for NEPA purposes), is described in Section 2.3. As part of the Draft EIS, the effects of the Modified Project (Alternative 1) and the Denial of the Modified Project (Alternative 2) are compared to the previously evaluated effects of the Approved Project (see 2010 ROD provided in Appendix B of this Draft EIS) and the effects that would occur if, rather than build the Approved Project, the Grant Holder elected to relinquish the approved ROW grant and not build a solar project on the site at all (i.e., the effects of not constructing, operating, maintaining, and decommissioning a solar project on the site which were analyzed as the No Project alternative in the 2010 PA/FEIS). The Approved Project and No Project alternative analyzed in the 2010 PA/FEIS are summarized in Section 2.4.

None of the land use plan decisions analyzed in the 2010 PA/FEIS and approved in the 2010 ROD for the Approved Project need to be revisited for purposes of the Level 3 variance now under consideration. A comparison of the key design distinctions of the various alternatives is summarized in Table 2-1. This chapter also describes the alternatives that were considered but eliminated from detailed analysis, including the screening process relied upon (Section 2.6). For the reasons described in Section 2.5, the BLM tentatively has identified the Modified Project (Alternative 1) as the Agency Preferred Alternative.

**TABLE 2-1
COMPARISON OF KEY DESIGN DISTINCTIONS**

	Current BLM Action (Impacts Analyzed in this EIS)		Prior BLM Action (Impacts Analyzed in the 2010 PA/FEIS, Summarized in this EIS for Comparison)	
	Approve Proposed Modification (Alternative 1)	Deny Proposed Modification ^a (Alternative 2)	Approved Project	No Project/ No Action
Solar Technology	Photovoltaic Panels	Solar Thermal Parabolic Trough	Solar Thermal Parabolic Trough	Not Applicable
Output	485 MW	650 MW	1000 MW	0 MW
Solar Plant Site Disturbance Area ^b	4,138 acres	4,433 acres	6,831 acres	0 acres
Cut and Fill	0.9 million cubic yards	5.4 million cubic yards	8.3 million cubic yards	0 cubic yards
Water Use for Construction	1,200 acre feet	2,665 acre feet	4,100 acre feet	0 acre feet
Water Use for Operation and Maintenance	40 acre feet / year	390 acre feet / year	600 acre feet / year	0 acre feet / year

NOTES:

^a Values provided for Deny Proposed Modification have been generated by scaling Approved Project values relative to the number of solar plant site acres remaining in the existing ROW after the Grant Holder's relinquishment of 35 percent of the original ROW area.

^b Includes the acreage in the linear (gen-tie and access road) corridor within the solar plant site.

SOURCE: NextEra Blythe Solar, 2013a

¹ Anticipating that a PV project on the site would require a smaller footprint than the approved solar thermal trough project, the Grant Holder relinquished approximately 35 percent of the approved ROW grant on March 7, 2013.

2.2 Modified Project

2.2.1 Overview

The Grant Holder provided information about the Modified Project in April 2013, when it submitted a Plan of Development (POD) Supplement to the BLM and a Revised Petition for Amendment (PTA) to the California Energy Commission (CEC) (NextEra Blythe Solar, 2013a, b). The Modified Project as proposed in the POD Supplement is shown in Figure 2-4. A comparison of components of the Approved Project and Modified Project is provided in Table 2-2. This comparison identifies the components of the Approved Project that would not be changed by the Modified Project and highlights the components that would be changed. Only the components that would be changed by the Modified Project are analyzed in this EIS. Components that would not change are not described in detail or re-analyzed in this EIS because they were analyzed in the 2010 PA/FEIS and approved in the 2010 ROD. The components that would not change include linear facilities outside the solar plant site including the generation tie line and the access road.

The Modified Project would not affect or necessitate any changes to the BLM's prior decisions to amend the California Desert Conservation Area (CDCA) Plan and the Northern & Eastern Colorado Desert Coordinated Management Plan (NECO) Amendment to the CDCA Plan (NECO Plan). As described in more detail in Appendix B, the 2010 ROD amended the CDCA Plan to identify the BSPP site as suitable for the proposed type of solar energy development. It also amended the NECO Plan to close three open routes (Routes 661085, 66113, and 66115) comprising approximately 4.5 miles of public access. Because these prior decisions would not be affected by the Modified Project, this EIS does not describe or reanalyze them.

2.2.1.1 Proposed Modifications to Approved Solar Plant Site Structures and Facilities

As modified, the solar plant would be composed of four individual plants or phases identified as Units 1 through 4. Units 1 through 3 each would have an approximate nominal generation capacity of 125 MW, while the capacity of Unit 4 would be 110 MW.² Unit 1 would be located in the northern central portion of the site. Construction of Unit 1 would include a shared operation and maintenance building, parking area, and water treatment system facilities to serve all four units, which would be located in the center of the site, adjacent to the gen-tie corridor and west of Units 1 and 2. It would enclose approximately 1,065 acres within its fence, inclusive of these shared facilities. Unit 2 would be located in the southern central portion of the site and would include approximately 1,054 acres. Unit 3 would be located on the eastern portion of the site, adjacent to Units 1 and 2, and would include approximately 1,065 acres. Unit 4 would be located in the northwest portion of the site, west of the gen-tie corridor, and would include approximately 886 acres. The total area enclosed within fences would be 4,070 acres. The on-site portion of the linear corridor would not be fenced and would cover approximately 68 acres, for a total of 4,138 acres within the Alternative 1 site.

² Nominal plant capacity refers to generation and delivery of power under ideal conditions. The instantaneous capacity of any solar energy facility is dependent on many factors and changes over a course of a day, a season, or year regardless of the technology, geographic location, or design. The nominal capacity is understood to mean the peak power-generating capacity of the facility expressed in watts minus all auxiliary, internal (parasitic) loads.

TABLE 2-2
COMPARISON OF COMPONENTS OF THE APPROVED PROJECT AND MODIFIED PROJECT

Approved Project	Modified Project
<p>Solar Plant Site</p> <p>Approximately 6,831 acres</p>	<p>Reduced to approximately 4,138 (4,070 acres not including on-site linear facilities)</p>
<p>Facilities and Infrastructure within the Solar Plant Site</p> <p>Four adjacent power block units, each to generate approximately 250 MW using solar thermal parabolic trough technology to generate and collect energy, including via heat transfer fluid (HTF) piping. Each unit to include a steam turbine, evaporation pond, auxiliary boiler, 120-foot-tall air-cooled condenser, and related equipment and structures. See 2010 PA/FEIS Section 2.2.2 (Appendix A, p. 2-3 et seq.) Solar plant site lighting would provide illumination for nighttime construction activities as well as for normal and emergency operation and maintenance activities (Appendix A, pp. 2-17, 4.18-6).</p>	<p>Four adjacent power block units composed of PV panel arrays configured for either horizontal tracking or fixed-tilt operations capable of generating approximately 485 MW in total (3 units at 125 MW each and 1 unit at 110 MW).</p> <p>All thermal trough technology components and systems would be eliminated. See Section 2.3.1.2, <i>Solar Plant Site Structures and Facilities</i>.</p> <p>No change to approved solar plant site lighting.</p>
<p>Land treatment unit to bioremediate HTF-contaminated soil (360,000 square feet, or 8.26 acres). See 2010 PA/FEIS Section 2.2.2 (Appendix A, pp. 2-4, 2-5).</p>	<p>Would be eliminated.</p>
<p>One weather station per power block unit to provide real-time measurements of weather conditions that affect the solar field operation. See 2010 PA/FEIS Section 2.2.2 (Appendix A, p. 2-3).</p>	<p>Each power conversion station (PCS) would include inverter hardware that would convert the direct current (DC) electric input into grid-quality alternating current (AC) electric output. Integrated components would include up to four previously approved weather stations to record weather conditions, including ambient temperature measured in degrees Celsius (°C), incoming solar radiation measured in watts per square meter, and wind speed measured in meters per second.</p>
<p>On-site transmission facilities, including a switchyard (250,000 square feet, or 5.74 acres) located centrally within the solar plant site. See 2010 PA/FEIS Section 2.2.2 (Appendix A, pp. 2-4, 2-5).</p>	<p>The approved switchyard would be modified within the scope of the previously approved on-site transmission and switchyard facilities to accommodate elimination of the power blocks and replacement of the solar thermal trough generation technology with PV.</p>
<p>Administration Building (approximately 10,000 square feet, or 0.23 acre). See 2010 PA/FEIS Section 2.2.2 (Appendix A, p. 2-5).</p>	<p>Would be reduced to approximately 3,000 square feet.</p>
<p>Office and parking area (approximately 40,600 square feet, or 0.93 acre). See 2010 PA/FEIS Section 2.2.2 (Appendix A, pp. 2-4, 2-5).</p>	<p>Would be reduced to approximately 10,000 square feet.</p>
<p>Assembly hall/warehouse/maintenance building (approximately 2.52 acres) within lay-down area (total of 47.5 acres). See 2010 PA/FEIS Section 2.2.2 (Appendix A, p. 2-5).</p>	<p>Would be eliminated.</p>
<p>Concrete batch plant. See Appendix A (pp. 2-7, 5-28).</p>	<p>Would be eliminated.</p>
<p>Fuel depot (75 feet x 150 feet) to refuel, maintain, and wash construction vehicles. It would have two 2000-gallon on-road vehicle diesel tanks, two 8,000-gallon off-road vehicle diesel tanks, one 500-gallon gasoline tank, and one wash water holding tank. The fuel farm would include secondary spill containment, a covered maintenance area also with secondary containment, and a concrete pad for washing vehicles. See Appendix A (pp. 2-8, 5-32, 5-33).</p>	<p>No change.</p>

**TABLE 2-2 (Continued)
COMPARISON OF COMPONENTS OF THE APPROVED PROJECT AND MODIFIED PROJECT**

Approved Project	Modified Project
<p>Facilities and Infrastructure within the Solar Plant Site (cont.)</p>	
<p>Unpaved maintenance roads (52.6 miles x 24 feet, or approximately 153 acres). See 2010 PA/FEIS Section 2.2.2 (Appendix A, p. 2-5).</p>	<p>Would be reconfigured to accommodate the change in solar technology and to allow transmission and maintenance access for projects to the north of the site; cut and fill for unpaved maintenance roads approximately 198 acres.</p>
<p>Perimeter fencing and maintenance road, controlled (gated) access, and ancillary security facilities. See 2010 PA/FEIS Section 2.2.2 (Appendix A, p. 2-5) and Section 2.4.1 (Appendix A, p. 2-17).</p>	<p>No change. Site security systems would be monitored regularly by on-site personnel and an off-site 24-hour Remote Operations Center.</p>
<p>Solar Plant Site Surface Water Management:</p>	
<p>a. Three drainage structures that, collectively, would surround solar plant site to reroute surface water through and around the solar plant site. See 2010 PA/FEIS Section 2.2.2 (Appendix A, p. 2-4); Section 2.2.3 (Appendix A, p. 2-6).</p> <p>b. Grading of approximately 7,000 acres to provide a flat, uniform, vegetation-free topography as would be required for construction and operation of the Approved Project. See 2010 PA/FEIS Section 4.19.2 (Appendix A, p. 4.19-8).</p>	<p>a. The major drainage structures would be eliminated, although smaller drainage features (e.g., small culverts or Arizona crossings) would be required to maintain existing, pre-BSPP natural drainage patterns through the solar plant site.</p> <p>b. The Modified Project's PV technology would not require an entirely flat surface, and so would require less grading than the Approved Project.</p>
<p>Linear and Other Structures and Facilities</p>	
<p>Site Access: From Exit #232, Airport/Mesa Drive on I-10 via Mesa Drive Road (Appendix A, p. 2-2). A new, paved public road (Dracker Drive) (approximately 11,000 feet x 24 feet wide, or 6.06 acres) to be constructed, operated, and maintained that would head north from a portion of Black Rock Road to be upgraded as part of the Approved Project to the on-site office (Appendix A, pp. 2-4, 2-6, 2-16, 5-30).</p>	<p>No change.</p>
<p>Generation tie (gen-tie) line (Appendix A, p. 5-28, 5-29): Double circuit 230 kV.</p> <p>Within solar plant site: 120 feet x 15,500 feet (approximately 3 miles, or 43 acres).</p> <p>Outside the fence: 225 feet x 35,500 feet (approximately 6.5 miles, or 183 acres including a 100 foot x 100 foot site for each transmission tower).</p> <p>Approved pole heights range from 90 (along the north-south span) to 145 feet. Pole heights and corresponding span lengths meet Federal Aviation Administration (FAA) requirements for the nearby Blythe Airport. (Appendix A, p. 2-5).</p>	<p>No change.</p>
<p>Interconnection at Southern California Edison's Colorado River Substation (Appendix A, pp. 1-2, 2-2)</p>	<p>No change.</p>
<p>Telemetry and telecommunications infrastructure (fiber optic cable lines). The 2010 PA/FEIS describes solar plant site communications (voice and data) and telecommunication lines, including fiber optic cable. See Appendix A, pp. 2-6, 2-13, 5-32).</p>	<p>No change.</p>
<p>Distribution line (12.47 kV) to be constructed to provide power during site construction as described in the 2010 PA/FEIS (see, e.g., Appendix A, pp. ES-5, 2-8, 2-13, 5-31).</p>	<p>No change.</p>

**TABLE 2-2 (Continued)
COMPARISON OF COMPONENTS OF THE APPROVED PROJECT AND MODIFIED PROJECT**

Approved Project	Modified Project
Linear and Other Structures and Facilities (cont.)	
<p>Natural gas pipeline</p> <p>Construction: 4 inches in diameter by 9.8 miles long (of which approximately 8 miles would be constructed on site) to connect the Approved Project to an existing Southern California Gas (SCG) pipeline situated south of I-10 as described in the 2010 PA/FEIS (Appendix A, pp. ES-5, 2-5, 2-13).</p> <p>Removal: Removal of the segment of existing natural gas line that has been abandoned in place on a portion of the site (Appendix A, pp. 2-13, 5-29).</p>	<p>Would be eliminated.</p> <p>No change.</p>
Other Requirements	
<p>Construction period and workforce (2010 PA/FEIS Section 2.2.3; Appendix A, p. 2-6):</p> <p>Approximately 69 months</p> <p>Average of 604 employees, with peak at approximately 1,004 workers in Month 16</p>	<p>Approximately 48 months (22 days/month)</p> <p>Average of 340 employees per month, with peak at approximately 500 employees in months 19 through 22.</p>
<p>Operation and maintenance period and workforce:</p> <p>30 years (2010 PA/FEIS Section 2.2.5; Appendix A, p. 2-11)</p> <p>221 workers (2010 PA/FEIS Section 2.2.4; Appendix A, p. 2-9)</p>	<p>No change to the approved duration of the operation and maintenance period.</p> <p>The Modified Project would employ up to 20 permanent, fulltime personnel during daytime working hours (including at least 14 Production Technicians and 1 High-voltage Technician) plus temporary personnel as needed, during seasonal periods when panel washing is required.</p>
<p>Decommissioning activities (including site security and hazardous materials treatment considerations in the event of a temporary facility closure and, for permanent closure the implementation of a decommissioning plan and site reclamation plan) are described in 2010 PA/FEIS Section 2.2.5 (Appendix A, p. 2-11 et seq.)</p>	<p>No change.</p>
Water Requirements:	
<p>Construction Appendix A (pp. 2-7, 5-27, 5-28):</p> <p>Anticipated steady state condition of water use.</p> <p>Average water use per calendar day: approximately 645,000 gallons.</p> <p>Total construction water use: approximately 4,100 acre-feet (AF).</p> <p>Sources: Potable water to be trucked in and held in tanks. (Appendix A, p. 3, 20-23). Construction process water to be sourced from on-site wells. A total of 10 new water supply wells (two per power block plus two additional wells adjacent to the central warehouse) would serve the Approved Project. Water for mirror washing would be demineralized on-site at one of the water treatment facilities. (Appendix A, p. 2-18)</p> <p>Operation and Maintenance</p> <p>approximately 600 acre-feet per year (AFY)</p>	<p>Total (maximum) construction water use would be reduced to 1,200 AF.</p> <p>Construction-related potable water needs would be reduced in proportion to reduced construction workforce.</p> <p>A total of three water supply wells would be used, one of which already exists.</p> <p>Operation and maintenance-related water use would be reduced to a maximum of 40 AFY.</p>

**TABLE 2-2 (Continued)
COMPARISON OF COMPONENTS OF THE APPROVED PROJECT AND MODIFIED PROJECT**

Approved Project	Modified Project
<p>Other Requirements (cont.)</p> <p>Wastewater Treatment:</p> <p>Construction (2010 PA/EIS Section 2.2.3; Appendix A, p. 2-8): Sanitary: chemical toilets; waste to be transported for off-site disposal by a commercial service.</p> <p>Industrial process: Any other hazardous wastewater produced during construction (e.g., equipment rinse water) would be collected by the construction contractor in portable water tanks and transported off site for disposal in a manner consistent with applicable regulatory requirements</p> <p>Operation and Maintenance (2010 PA/EIS Section 2.2.2; Appendix A, p. 2-5): Sanitary: septic system/leach field: approximately 22,000 square feet (0.51 acre); Industrial process: eight 4-acre evaporation ponds</p> <p>Nighttime Lighting:</p> <p>Restricted to areas required for safety, security, and operation. Exterior lights would be hooded/shielded, and lights would be directed on site and/or toward the work area so that off-site light or glare would be minimized.</p> <p>Closure of Open Routes (Routes 661085, 661113, and 661115) comprising approximately 4.5 miles of public access</p>	<p>No change to water treatment during construction.</p> <p>No change to operation and maintenance related treatment of sanitary wastewater. Industrial process water treatment ponds would be reduced to two 6-acre ponds.</p> <p>No change to construction or operation nighttime lighting.</p> <p>Affected portions of Routes 661085, 661113 and 661115 would remain closed; however, public access would be provided through the site to the north.</p>

SOURCES: Appendix A; NextEra Blythe Solar, 2013a; CEC Staff, 2013.