



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road, Suite 101
Carlsbad, California 92011

In Reply Refer To:
FWS-SD-13B0073-13TA0096

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DEC 19 2012
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Planning and
Development Services

Mr. Robert Hingtgen
County of San Diego
Department of Planning and Land Use
5510 Overland Avenue, Suite 110
San Diego, California 92123

Subject: Notice of Preparation of an Environmental Impact Report for the Soitec Solar Development Program, Unincorporated San Diego County, California

Dear Mr. Hingtgen:

The U.S. Fish and Wildlife Service (Service) has reviewed the above referenced Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR), which we received on December 6, 2012. The Soitec Solar Program consists of four distinct project areas in the Mountain Empire Subregional Plan area and the Boulevard Subregional Plan area of unincorporated San Diego County (County). In total, the proposed solar projects would install approximately 7,290 concentrated photovoltaic trackers on 1,473 acres of land to produce 168.5 megawatts of electricity.

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) and the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c). Our comments are based on the information provided in the NOP, the Service's knowledge of sensitive and declining vegetation communities in the County, and our participation in regional conservation planning efforts.

The Service's primary concern, regarding the proposed project, is the potential for impacts to sensitive wildlife and plant species, specifically the golden eagle (*Aquila chrysaetos*) and the federally endangered Quino checkerspot butterfly (*Euphydryas editha quino*) and peninsular bighorn sheep (*Ovis canadensis*). Therefore, we recommend current habitat assessment and focused surveys be performed as appropriate to fully assess the potential for direct, indirect, and cumulative project-related impacts to these species. Furthermore, the proposed project is within the planning area for the proposed East County Multiple Species Conservation Plan (MSCP). The East County MSCP is a comprehensive habitat conservation planning program that attempts to preserve native habitats for

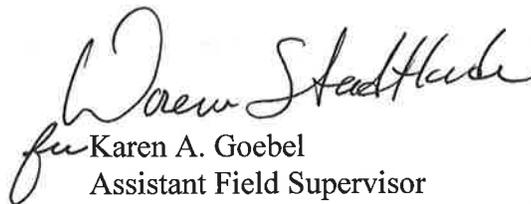
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a multitude of sensitive species for which the County, Service, and California Department of Fish and Game entered into a Planning Agreement in 2008. The DEIR should fully analyze the potential impact of the proposed project on the East County MSCP. To further assist you in evaluating the proposed project, we have provided further (Enclosure).

We appreciate the opportunity to comment on the NOP and request a copy of the DEIR upon its release. If you have any questions or require additional information, please contact Eric Porter at 760-431-9440, extension 285.

Sincerely,



Karen A. Goebel
Assistant Field Supervisor

Enclosure

cc:

Eric Weiss, California Department of Fish and Game, San Diego

ENCLOSURE

To assist our review of the project and to assist the County in compliance with pertinent Federal statutes and laws, we recommend that the DEIR for the Soitec Solar Development Program project contain the following information.

1. A complete discussion of the purpose and need for, and description of, the proposed project, including all ancillary facilities, staging areas, and access routes to the construction and staging areas.
2. A complete analysis of the effect that the project may have on completion and implementation of regional and/or subregional conservation programs including the County of San Diego's draft East County MSCP. We recommend that the County ensure that the development of this and other proposed projects do not preclude long-term preserve planning options.
3. A complete list and assessment of the flora and fauna within and adjacent to the project area, with particular emphasis upon identifying federally listed threatened, endangered, or proposed candidate species, and any locally unique species and sensitive habitats. Specifically, the DEIR should include:
 - a. Discussions regarding the regional setting with special emphasis on resources that are rare or unique to the region that would be affected by the project. This discussion is critical to an assessment of environmental impacts.
 - b. A current inventory of the biological resources associated with each habitat type on site and within the area of impact.
 - c. A thorough assessment of rare plants and rare natural communities.
 - d. A current inventory of rare, threatened, and endangered species on site and within the area of impact.
 - e. Discussions regarding seasonal variations in use by sensitive species of the project site as well as the area of impact on those species, using acceptable species-specific survey procedures as determined through consultation with the Service and the California Department of Fish and Game, collectively the Wildlife Agencies. Focused species-specific surveys, conducted in conformance with established protocols at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required.
4. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources. All facets of the project should be included in this assessment. Specifically, the DEIR should provide:

- a. Specific acreage and descriptions of the types of wetlands, scrub, and other sensitive habitats that will or may be affected by the proposed project or project alternatives. Maps and tables should be used to summarize such information.
 - b. Detailed discussions, including both qualitative and quantitative analyses, of the potentially affected listed and sensitive species (fish, wildlife, plants), and their habitats on the proposed project site, area of impact, and alternative sites, including information pertaining to their local status and distribution. The anticipated or real impacts of the project on these species and habitats should be fully addressed.
 - c. Discussions regarding indirect project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any proposed Natural Community Conservation Planning (NCCP) protected lands.
 - i) Impacts to wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated.
 - ii) Discussions of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage. The latter subject should address: project-related changes on drainage patterns on and downstream of the project site; the volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the project site.
 - iii) If applicable, a discussion of the effects of any project-related dewatering or ground-water extraction activities to the water table and the potential resulting impacts on the wetland/riparian habitat, if any, supported by the surface and groundwater.
 - d. Discussions regarding possible conflicts resulting from wildlife-human interactions at the interface between the development project and natural habitats. The zoning of areas for development projects or other uses that are nearby or adjacent to natural areas may inadvertently contribute to wildlife-human interactions.
5. A thorough discussion of mitigation measures for adverse project-related impacts on sensitive plants, animals, and habitats. Specifically, the DEIR should include/address:
- a. Where avoidance is infeasible, mitigation measures that emphasize minimization of project impacts. For unavoidable impacts, onsite habitat restoration or enhancement should be discussed in detail. If onsite mitigation is not feasible or would not be biologically viable (e.g., it would not adequately mitigate the loss of biological functions and values), offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.

- b. Mitigation measures to alleviate indirect project-related impacts on biological resources, including measures to minimize changes in the hydrologic regimes on site, and means to convey runoff without damaging biological resources, including the morphology of onsite and downstream habitats.
- c. Where proposed grading or clearing is within 100 feet of proposed biological open space, or otherwise preserved sensitive habitats, a requirement for temporary fencing. Fencing should be placed on the impact side and should result in no vegetation loss within open space. All temporary fencing should be removed only after the conclusion of all grading, clearing, and construction activities.
- d. A requirement that a County-approved biological monitor to be present during initial clearing, grading, and construction in sensitive habitat areas and/or in the vicinity of biological open space areas to ensure that conservation measures associated with resource agency permits and construction documents are performed. The biological monitor should have the authority, and responsibility, to halt construction to prevent or avoid take of any listed species and/or to ensure compliance with all avoidance, minimization, and mitigation measures. Any unauthorized impacts or actions not in compliance with the permits and construction documents should be immediately brought to the attention of the County and the Wildlife Agencies.
- e. Plans for restoration and revegetation, to be prepared by persons with expertise in southern California ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria (e.g., percent cover of native and nonnative species; species richness); (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity.
- f. Measures to protect, in perpetuity, the targeted habitat values of proposed preservation and/or restoration areas from direct and indirect negative impacts. The objective should be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Permanent fencing should be installed between the impact area and biological open space and be designed to minimize intrusion into the sensitive habitats from humans and domestic animals. There should be no gates that would allow access between the development and biological open space. Additional issues that should be addressed include proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, etc.
- g. Development and implementation of a management and monitoring plan (MMP), including a funding commitment, for any on and/or offsite biological open space easements, if

applicable. An appropriate natural lands management organization, subject to approval by the County and Wildlife Agencies, should be identified. The MMP should outline biological resources on the site, provide for monitoring of biological resources, address potential impacts to biological resources, and identify actions to be taken to eliminate or minimize those impacts. A Property Analysis Record (PAR) or similar analysis should be completed to determine the amount of funding needed for the perpetual management, maintenance, and monitoring of the biological conservation easement areas by the natural lands management organization. It should be demonstrated that the proposed funding mechanism would ensure that adequate funds would be available on an annual basis to implement the MMP. The natural lands management organization should submit a draft MMP, PAR results, and proposed funding mechanism to the County and Wildlife Agencies for review and approval prior to initiating construction activities; the resulting final plan should be submitted to the County and Wildlife Agencies and the funds for implementing the MMP transferred within 90 days of receiving approval of the draft plan.

- h. To avoid impacts to nesting birds, the DEIR should require that all clearing and grubbing occur outside the avian breeding season. The general breeding season for nesting birds occurs approximately February 15 through September 15; however, raptors may begin breeding as early as January 1. If project construction is necessary during the avian breeding season, a qualified biologist should conduct a survey for nesting birds within 3 days prior to the work in the area to ensure no nesting birds in the project area would be impacted by the project. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. The buffer shall be a minimum width of 300 feet (500 feet for raptors), shall be delineated by temporary fencing, and shall remain in effect as long as construction is occurring or until the nest is no longer active. No project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be affected by the construction.