

Comment Letter S3



Edmund G. Brown Jr.
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Ken Alex
Director

June 4, 2015

Ashley Gungle
City of San Diego
5510 Overland Avenue
San Diego, CA 92123

Subject: Jacumba Solar Major Use Permit
SCH#: 2014091834

Dear Ashley Gungle:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on June 3, 2015, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

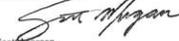
Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,


Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL: (916) 445-0613 FAX: (916) 325-3018 www.opr.ca.gov

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Response to Comment Letter S3

State Clearinghouse
Scott Morgan, Director
June 4, 2015

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Comment noted. This letter acknowledges that the County has complied with the State Clearinghouse review requirements for draft environmental documents pursuant to CEQA. The letter also identifies that agency comments be provided only on those activities that are within the expertise of the agency and be supported by documentation per California Public Resources Code Section 21104 9c).

**Document Details Report
State Clearinghouse Data Base**

SCH# 2014091034
Project Title Jacumba Solar Major Use Permit
Lead Agency San Diego, City of

Type EIR Draft EIR
Description The project is a Major Use Permit for a 20 megawatt (MW) photovoltaic solar facility on approximately 110 acres. The project would include an onsite substation and energy storage facilities and would connect to the ECO substation via a 138kV line. The project site is located south of Old Highway 80 and approximately 1,000 feet west of the ECO Substation in the Jacumba Community Plan Area.

Lead Agency Contact
Name Ashley Gungle
Agency City of San Diego
Phone 858 495-5375 **Fax**
Address 5510 Overland Avenue
City San Diego **State** CA **Zip** 92123

Project Location
County San Diego
City
Region
Lat / Long 32° 37' 21" N / 116° 10' 42" W
Cross Streets South of Old Highway 80, East of Carrizo Gorge Road
Parcel No. 661-080-01, 04, 05, 08, 10, 661-041-02, 03
Township 18S **Range** 3E **Section** 11 **Base** SBB&M

Proximity to:
Highways I-8
Airports Jacumba
Railways
Waterways Carrizo Gorge Creek
Schools
Land Use Vacant/S92 (General Rural)/Rural Lands (RL-80)

Project Issues: Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Water Quality; Vegetation; Wetland/Riparian; Wildlife; Growth Inducing; Landuse; Cumulative Effects; Aesthetic/Visual

Reviewing Agencies: Resources Agency; Department of Fish and Wildlife, Region 5; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 11; Air Resources Board, Major Industrial Projects; Regional Water Quality Control Board, Region 7; California Energy Commission; Native American Heritage Commission; Public Utilities Commission

Date Received 04/20/2015 **Start of Review** 04/20/2015 **End of Review** 06/03/2015

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Cont.

Note: Blanks in data fields result from insufficient information provided by lead agency.

STATE OF CALIFORNIA
 1500 HAROLD WALKER, ROOM 100
 WEST SACRAMENTO, CA 95831
 (916) 373-3710
 Fax (916) 373-5471

Edmund G. Brown, Jr., Governor

NATIVE AMERICAN HERITAGE COMMISSION

April 6, 2015

Donna Beddow
 County of San Diego
 5510 Overland Avenue, Suite 310
 San Diego, CA 92123

Sent by Fax: (858) 694-2555
 Number of Pages: 2

RE: SB 18 Consultation, Jacumba Solar, PDS2014-MUP-14-041, San Diego County.

Dear Ms. Beddow,

Government Code §65352.3 requires local governments to consult with California Native American tribes identified by the Native American Heritage Commission (NAHC) for the purpose of protecting, and/or mitigating impacts to cultural places in creating or amending general plans, including specific plans. Attached is a consultation list of tribes with traditional lands or cultural places located within the boundaries of the above project.

As a part of consultation, the NAHC recommends that local governments conduct record searches through the NAHC and California Historic Resources Information System (CHRIS) to determine if any cultural places are located within the area(s) affected by the proposed action. A *Sacred Lands File* search was completed and a site was found. Please contact the Ewiiapaayp Tribal Office on the attached Tribal Consultation List. Local governments should be aware that records maintained by the NAHC and CHRIS are not exhaustive, and a negative response to these searches does not preclude the existence of a cultural place. A tribe may be the only source of information regarding the existence of a cultural place.

If you receive notification of change of addresses and phone numbers from tribes, please notify me. With your assistance we are able to assure that our consultation list contains current information.

If you have any questions, please contact me at my email address:
 Katy.Sanchez@nahc.ca.gov.

Sincerely,
 Katy Sanchez

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S3-2 Comment noted. The County has and will continue to the extent required consult with interested Native American Tribes regarding cultural resources potentially affected by the Jacumba Solar Project.

S3-3 Please refer to Responses to Comment Letter S2.



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3885 Ruffin Road
 San Diego, CA 92123
 (858) 467-4201
 www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
 CHARLTON H. BONHAM, Director



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May 28, 2015

Ms. Ashley Gungle
 County of San Diego Planning and Development Services
 5510 Overland Avenue
 San Diego, CA 92123
 Email: Ashley.Gungle@sdcounty.ca.gov

Subject: Draft Environmental Impact Report, Jacumba Solar Major Use Permit, Mountain Empire Subregional Plan, San Diego County (SCH # 2014091034).

Dear Ms. Gungle:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced Draft Environmental Impact Report (DEIR) and Biological Resources Report (Biological Report) for the Jacumba Solar (Project) Major Use Permit. The County of San Diego (Lead Agency) is the lead agency for the DEIR under the California Environmental Quality Act (CEQA).

The Project is located within the Mountain Empire Subregional Plan area of unincorporated San Diego County and would develop approximately 108 acres of the 304 acres of the Project site. The DEIR will evaluate a 20-megawatt (MW), fix-tilt, photovoltaic (PV) solar energy facility. The Project would construct approximately 81,108 PV panels fitted to 2,253 fix-tilt racks, and underground direct current collection system. The Project would also construct a 110-foot by 215-foot collection substation, a 138 kV overhead transmission line, and a 10 MW capacity battery energy storage system.

The Department previously commented on the Project Notice of Preparation (October 9, 2014); we are providing subsequent comments on the DEIR to assist in refine the DEIR. The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project California Environmental Quality Act, [CEQA] Guidelines § 15388) and pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act ((CESA) Fish and Game Code § 2050 et seq.) and Fish and Game Code section 1800 et seq.

Bird and Bat Mortality Monitoring.

The Department is concerned with the DEIR's proposed mitigation measure M-BI-14 which proposes to implement a Worker Response Reporting System (WRRS)¹. According to the measure, the WRRS would make site personnel responsible for recording and collecting

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¹ Draft for County of San Diego Department of Planning and Development Services, April 2015. *Draft Jacumba Solar Energy Project Environmental Impact Report.*

Conserving California's Wildlife Since 1870

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 County of San Diego Planning and Development Services
 May 28, 2015
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information on incidental bird and bat species found dead or injured within the Project site during construction and operation activities². Avian bird and bat monitoring plans and protocols are typically implemented for a number of reasons including the collection of statistically valid mortality studies, to evaluate and monitor the effects of project development on avian species, inform decision makers and the Department, and to facilitate adaptive management of a project's impacts to bird and bat species. The Department is concerned that untrained site personnel, rather than trained avian or biological monitors, would implement a monitoring program. The Department is supportive of training site personnel to be able to *incidentally* report avian mortalities to an onsite avian biologist. However, non-biological monitors, or untrained site personnel should not be relied upon in lieu of full-time avian biologists. A statistically valid monitoring program is critical to minimizing the Project's effect. For this reason the Department considers M-BI-15 inadequate as written and recommends the following:

- a) requiring a full-time avian biologist during construction activities;
- b) requiring a statistically valid model and sampling design for bird and bat mortality;
- c) requiring trained searchers (e.g. biological/avian monitors) during construction or post-construction monitoring;
- d) requiring searcher efficiency trials and a searcher certification program. Searchers who do not meet minimum efficiencies will not be utilized for monitoring or reporting purposes; and,
- e) and requiring an adaptive management protocol which identifies triggers and actions prior to construction. The adaptive management protocol should be reviewed and approved by the Lead Agency, the Department and the U.S. Fish and Wildlife Service (collectively, Wildlife Agencies).

Monitors should possess the skills necessary to observe changes in bird behavior, recognize threatened, endangered, and sensitive species. Absent the addition of the above mentioned detail in an enforceable mitigation measure, the Department does not believe that the Project can demonstrate compliance with CESA or Fish and Game Code sections 3503, 3503.5 and 3513. Site personnel, lacking biological expertise, cannot be reasonably expected to ensure Project compliance and potentially puts the unwitting site personnel in danger of criminal violation of the California Endangered Species Act ((CESA) Fish and Game Code §2050 *et seq.*).

Avian Nesting Season

Mitigation measure M-BI-6 requires the results of the avian nest surveys to be provided to the Department in an annual mitigation status report³. The Department recommends that the Lead Agency revise the mitigation measure to require avian nest monitoring plan be submitted to the Lead Agency and Wildlife Agencies. At a minimum, monthly updates should be provided to the aforementioned parties for review and comment.

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² *Ibid.*
³ *Ibid.*

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Rare Plant Surveys

Given the persistent drought conditions which have inhibited protocol native plant surveys the DEIR's Biological Resources Report has assessed potential impacts to special-status species based on habitat suitability. In the absence of performing protocol native plant surveys the abundance and distribution of rare plants on the Project site cannot be known. For this reason, the Department continues to recommend that protocol native plant surveys are performed, and at a minimum, topsoil salvage should be included in the DEIR as an enforceable mitigation measure to defray potential impacts to rare plant species. A topsoil salvage plan as a standalone document or component of a restoration plan should be submitted to the Wildlife Agencies for review and comment.

The Department recommends the Lead Agency adopt a mitigation measure for topsoil salvage and restoration consistent with the mitigation measure adopted by the California Public Utilities Commission for the East County Substation:

"All temporary work areas not subject to long-term use or ongoing vegetation maintenance shall be revegetated with native species characteristic of the adjacent native vegetation communities in accordance with a Habitat Restoration Plan. A habitat restoration specialist will be designated and approved by the California Public Utilities Commission and Bureau of Land Management and will determine the most appropriate method of restoration. Restoration techniques may include: hydroseeding, hand-seeding, imprinting, and soil and plant salvage. Any salvage and relocation of species considered desert native plants shall be conducted in compliance with the California Desert Native Plant Act. The Habitat Restoration Plan shall include success criteria and monitoring specifications and shall be approved by the permitting agencies prior to construction of the project. At the completion of project construction, all construction materials shall be completely removed from the site. All temporary construction access roads shall be permanently closed and restored. Topsoil located in areas to be restoration would be conserved and stockpiled during the excavation process for use in the restoration. Wherever possible, vegetation would be left in place to avoid excessive root damage to allow for natural recruitment following construction. Temporary impacts shall be restored sufficient to compensate for the impact to the satisfaction of the CPUC or BLM (depending on the location of the impact). If restoration of temporary impact areas is not possible to the satisfaction of the CPUC or BLM, the temporary impact shall be considered a permanent impact and compensated accordingly"

The DEIR's Biological Resources Report identifies six County List A plant species and five County List B plant species that have a high to moderate potential to occur on site. Absent the protocol native plant surveys, the DEIR has elected to evaluate potential impacts to rare plants based on habitat suitability. Using the habitat suitability approach, all eleven County List A and

⁴ California Public Utilities Commission, 2012. *Mitigation Monitoring, Compliance, and Reporting Program San Diego Gas & Electric-East County Substation Project.*
<http://www.cpuc.ca.gov/environment/info/dadok/ECOSUB/MMCRF.pdf>

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B plants should be assumed to be present. The Department recommends compensatory mitigation be provided within the DEIR consistent with these assumptions.

Nighttime Operations, Maintenance and Security Lighting

As identified in the DEIR's Biological Resource Report, the Project site is located within a Core Wildlife Area. Nighttime lighting and maintenance has the potential to impact nocturnal wildlife movement through behavior modification or avoidance of the Project site and immediate areas entirely. The Department recommends that the DEIR apply strict night lighting standards to general lighting and nighttime operations in accordance with County Light Pollution Code section 59.106 (Zone A) based on luminosity or a metric which measures the amount of light generated or light received at a given receptor. The County has adopted a standard of 4550 lumens (the County of San Diego Light Pollution Code Section 59.101 et seq.). Given the rural nature of the Project area and ability to enable wildlife movement, the Department suggests that the Lead Agency adopt Zone A standards contained in the County of San Diego Light Pollution Code Section 59.101 et seq.

Delineation of Work

In accordance with MM-BI-1 "Temporary fencing is required in all locations of the project where proposed grading or clearing is within 300 feet of an open space easement". The Department recommends that a delineation of all approved work limits should be delineated with a temporary fence regardless of the status of the adjacent legal land status.

Mitigation measure M-BI-3 states that "The report shall substantiate the supervision of the grading activities, and state that grading or construction activities did not impact any additional areas or other special-status biological resources"³. The Department recommends that mitigation measure MM-BI-3 be revised to include the County's Condition of Approval, Grading and Improvement Plan Condition Notes, Biological Resources (May 7, 2009):

"BIOLOGICAL MONITORING: [PDS, PCC] [RG, BP] [PDS, FEE].

INTENT: In order to comply with the adopted Mitigation Monitoring and Reporting Program (MMRP) pursuant to, and the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Biological Resources, a Grading Monitoring Program shall be implemented.

DESCRIPTION OF REQUIREMENT: The Project Biologist shall prepare and submit a final letter report substantiating his/her supervision of the grading activities and substantiating that grading did not impact additional areas of or other sensitive biological resources. The report shall conform to the County of San Diego Report Format Guidelines for Biological Resources. It shall also include but not be limited to the following items:

- a. Photos of the temporary fencing that was installed during the trenching, grading, or clearing activities.

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³ Dudek for County of San Diego Department of Planning and Development Services, April 2015. *Draft Jacumba Solar Energy Project Environmental Impact Report.*

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- b. Monitoring logs showing the date and time that the monitor was on site.
- c. Photos of the site after the grading and clearing activities.

DOCUMENTATION: The applicant shall submit the final biological monitoring report to the [PDS, PCC] for review and approval. **TIMING:** Upon completion of all grading activities, and prior to Rough Grading final Inspection (Grading Ordinance SEC 87.421.a.2), the final report shall be completed. **MONITORING:** The [PDS, PCC] shall review the final report for compliance with the project MMRP, and inform [DPW, PDC] that the requirement is completed.*

The Department believes that the above cited condition fosters a stronger reporting role with the biological monitor over the language currently proposed within mitigation measure MM-BI-3.

Decommissioning

The Department previously commented on the Project Notice of Preparation (October 9, 2014) wherein we recommended that a Project Decommissioning Plan be required as an enforceable mitigation measure. Subsequently, the DEIR analysis has indicated that at end of the Project's twenty year Power Purchase Agreement (PPA), the Project would either be retooled or decommissioned. However, no financial surety is required by the DEIR to be provided to the Lead Agency.⁴ The Department recommends that the DEIR require financial surety for the retooling or decommissioning the Project.

We appreciate the opportunity to comment on the referenced NOP. Questions regarding this letter and further coordination on these issues should be directed to Eric Weiss, Senior Environmental Scientist (Specialist) at (858) 467-4289 or eric.weiss@wildlife.ca.gov.

Sincerely,


Betty J. Courtney
Environmental Program Manager 1
South Coast Region

cc: Eric Porter, U.S. Fish and Wildlife Service, Carlsbad
Erinn Wilson, CDFW, Los Alamitos
State Clearinghouse, Sacramento

⁴ Dudek for County of San Diego Department of Planning and Development Services, April 2015. Draft *Jacumba Solar Energy Project Environmental Impact Report*.

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