

Comment Letter F1

Hingtgen, Robert J

From: Hotz, Jaime <jaime_hotz@fws.gov>
Sent: Monday, March 03, 2014 9:58 AM
To: Hingtgen, Robert J
Cc: Eric Porter; Sevrens, Gail@Wildlife; eric.weiss@wildlife.ca.gov
Subject: Draft Program Environmental Impact Report for the Proposed Soitec Solar Development Project, San Diego County, California (SCH No. 2012-121-0 18)
Attachments: 13B0073-14TA0111_SDG_Soitec Solar_DEIR Comments_s20140303_kag.pdf

Jaime Marie Hotz

Executive Secretary
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, CA. 92008
760-431-9440 x250
760-431-9624 (fax)

Response to Comment Letter F-1

United States Fish and Wildlife Service

Karen A. Goebel

March 3, 2014

<div data-bbox="214 406 325 513" data-label="Image"></div> <div data-bbox="371 410 798 443" data-label="Section-Header"> <p>United States Department of the Interior</p> </div> <div data-bbox="453 448 711 542" data-label="Text"> <p>FISH AND WILDLIFE SERVICE Ecological Services Carlsbad Fish and Wildlife Office 2177 Salk Avenue, Suite 250 Carlsbad, California 92008</p> </div> <div data-bbox="850 399 945 509" data-label="Image"></div> <div data-bbox="226 539 422 576" data-label="Text"> <p>In Reply Refer To: FWS-SD-13B0073-14TA0111</p> </div> <div data-bbox="226 609 590 709" data-label="Text"> <p>Mr. Robert Hingtgen County of San Diego Department of Planning and Development Services 5510 Overland Avenue, Suite 110 San Diego, California 92123</p> </div> <div data-bbox="592 561 795 688" data-label="Image"></div> <div data-bbox="833 583 942 609" data-label="Text"> <p>MAR 03 2014</p> </div> <div data-bbox="226 722 930 766" data-label="Text"> <p>Subject: Draft Program Environmental Impact Report for the Proposed Soitec Solar Development Project, San Diego County, California (SCH No. 2012-121-018)</p> </div> <div data-bbox="226 782 378 807" data-label="Text"> <p>Dear Mr. Hingtgen:</p> </div> <div data-bbox="226 821 938 984" data-label="Text"> <p>We have reviewed the draft Program Environmental Impact Report (DEIR) for the proposed Soitec Solar Development Project (SSDP) dated January 2, 2014. The applicant(s) (Tierra del Sol Solar LCC, Rugged Solar LCC, LanWest Solar LCC, LanEast Solar LCC, and Soitec Solar Development LCC) propose to construct and operate four renewable energy solar farms. The DEIR addresses the LanEast and LanWest solar farms at a programmatic level and the other two solar farms at the project level. The four solar farms (i.e., the project) would encompass approximately 1,490 acres located in the Boulevard Subregion of southeastern San Diego County (County). The proposed project occurs within the plan boundary of the draft East County Multiple Species Conservation Program (MSCP).</p> </div> <div data-bbox="226 998 938 1258" data-label="Text"> <p>The primary concern and mandate of the U.S. Fish and Wildlife Service (Service) is the protection of fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and threatened and endangered animals and plants occurring in the United States. As such, we are responsible for administering the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 <i>et seq.</i>); the Bald and Golden Eagle Protection Act, as amended (16 U.S.C. 668) (BGEPA); and the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-712) (MBTA). The County, Service, and the California Department of Fish and Wildlife (Department) entered into a planning agreement in 2008 for the development of MSCP plans to address regional conservation needs and future planned development in north and east County. The planning agreement includes an interim review process to ensure that projects do not compromise conservation objectives prior to the completion of the MSCP plans. Our comments are based on the information provided, our knowledge of sensitive species and declining vegetation communities in the County, and our participation in regional conservation planning efforts.</p> </div> <div data-bbox="963 899 1016 920" data-label="Text"> <p>F1-1</p> </div> <div data-bbox="963 1097 1016 1118" data-label="Text"> <p>F1-2</p> </div>	<div data-bbox="1050 198 1127 230" data-label="Text"> <p>F1-1</p> </div> <div data-bbox="1186 198 1925 360" data-label="Text"> <p>The County of San Diego (County) concurs with this comment; this comment is introductory in nature and does not raise a significant environmental issue for which a response is required.</p> </div> <div data-bbox="1050 397 1127 430" data-label="Text"> <p>F1-2</p> </div> <div data-bbox="1186 397 1925 685" data-label="Text"> <p>The County concurs with this statement regarding the U.S. Fish and Wildlife Service's (USFWS's) mandate and responsibilities; however, the County would like to provide the following clarification regarding the Multiple Species Conservation Program (MSCP) planning process and the Proposed Project's compliance with the interim review process.</p> </div> <div data-bbox="1186 722 1925 1219" data-label="Text"> <p>The Planning Agreement referred to by the commenter expired in November of 2013; however it was extended 180 days until May 18, 2014, and therefore, the interim review process is still required and applies to the Proposed Project. In addition, the Planning Agreement regarding the North and East County MSCP plans, NCCP plans and HCPs was revised and amended May 12, 2014. The County has been following the interim review process and has participated in meetings related to the Project with wildlife agencies on June 27, 2013, September 19, 2013, and March 18, 2014.</p> </div> <div data-bbox="1186 1256 1925 1419" data-label="Text"> <p>From the onset of project processing in 2011, the Proposed Project has integrated landscape-level conservation planning through consideration of the County's 2009 draft MSCP Focused Conservation</p> </div>
---	---

	<p>Area (FCA) map; consideration of other regional projects and their potential interrelationship with the Proposed Project and conservation planning in the Boulevard area; and coordination with regional conservation stakeholders. The project proponents have coordinated project planning with the Nature Conservancy's <i>Las Californias</i> initiative, the South Coast Wildlands Missing Linkages effort, Sempra Global on the <i>Energia Sierra Juarez</i> project, and others, where applicable, like the Desert Renewable Energy Conservation Plan (DRECP). See DPEIR Section 2.3.1.2 for a discussion of regional planning efforts considered in the analysis.</p> <p>In addition, the context of cumulative projects in the region is changing (see response to comment I38-25). A number of cumulative projects which were believed to be reasonably foreseeable during preparation of the DPEIR are no longer reasonably foreseeable projects (i.e. Jewel Valley Wind, Manzanita Wind, Debenham Energy, and Silverado Power solar farm projects). With revisions to the cumulative projects list, the only cumulative projects within the biological resources cumulative study area that are categorized as energy or transmission projects are the Tule Wind Farm, ECO Substation and SDG&E Master Special Use Permit. The Tule Wind Farm, Chapman Ranch Solar, and the Rebuilt Boulevard substation component of the ECO Substation Project are the only three cumulative energy</p>
--	--

<p>Mr. Robert Hingtgen (FWS-SD-13B0073-14TA0111) 2</p> <p><u>Migratory Bird Treaty Act¹</u></p> <p>The MBTA makes it illegal for anyone to take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the parts, nests, or eggs of such a bird except under the terms of a valid permit issued pursuant to Federal regulations. The MBTA is a strict liability statute, meaning that proof of intent, knowledge, or negligence is not an element of an MBTA violation. The statute's language is clear that actions resulting in a "taking" or possession (permanent or temporary) of a protected species, in the absence of a Service permit or regulatory authorization, are a violation of the MBTA. The MBTA does not specifically authorize the incidental take of migratory birds. The Bird and Bat Conservation Strategy (BBCS) discussed below is not a surrogate for a take permit under the MBTA; therefore, it does not limit or preclude the Service from exercising its authority under any law, statute, or regulation, nor does it release any individual, company, or agency of its obligations to comply with Federal, State, or local laws, statutes, or regulations. A BBCS often includes mortality monitoring associated with the project. Companies are strongly encouraged to apply for a Special Purpose Utility (SPUT) permit under the MBTA that will facilitate this type of monitoring by allowing projects to collect and possess bird carcasses as part of the monitoring effort.</p> <p><u>Bald and Golden Eagle Protection Act¹</u></p> <p>Golden eagles (<i>Aquila chrysaetos</i>) and bald eagles (<i>Haliaeetus leucocephalus</i>) are protected under the BGEPA, which prohibits the take at any time or in any manner, of any eagles, alive or dead, or any part, nest, or egg thereof. Take is defined as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb." Disturb is defined by the Service as "to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior."</p> <p>In 2009, the Service promulgated a final rule on two new permit regulations that, for the first time, specifically authorize the incidental take of eagles and eagle nests in certain situations under BGEPA (see 50 CFR 22.26 & 22.27). Companies are strongly encouraged to apply for permits under BGEPA where eagle take (including disturbance) is likely. Ultimately it is the responsibility of those involved with the planning, design, construction, operation, maintenance, and decommissioning of projects to conduct relevant wildlife and habitat evaluations and determine which, if any, species may be affected, and to seek and obtain necessary permits to avoid liability.</p> <p><u>Potential Impacts to Avian Species</u></p> <p>We concur with the DEIR that the proposed SSDP would have potentially significant and unavoidable impacts to special status avian species and migratory birds. The project will result in direct, indirect, and cumulative loss of habitat for a diversity of shrub dependent avian species (e.g., resident, winter visitors, and migrants). The DEIR also discloses multiple adverse effects, including</p> <p>¹ Regulatory information on the MBTA and BGEPA is provided herein to give context to our specific comments and recommendations regarding potential compliance issues with these laws.</p>	<p>projects in Boulevard. See Figure 2.3-27 of the FPEIR, which shows the substantial reduction in planned projects since the drafting of the Soitec DPEIR.</p> <p>The project analysis supports the finding that the Proposed Project would not preclude or prevent the preparation of the ECMSCP because the Proposed Project has been designed in accordance with the preliminary conservation objectives outlined in the Planning Agreement.</p> <p>F1-3</p> <p>The County concurs with the USFWS's summary of the Migratory Bird Treaty Act; that the MBTA Statute is clear that an action resulting in take or possession of such a species is a violation; and that the preparation and implementation of a Bird and Bat Monitoring Plan for the Project is not intended to be a surrogate for a take permit. A take permit is not being sought for the Proposed Project, nor is there any expectation of take occurring based upon an assessment of the Proposed Project field data, which has been analyzed in the context of the available regional data, such as California Natural Diversity Database and Wildlife Research Institute golden eagle data. A project condition of approval, which outlines a plan for self-monitoring of the project site for bird and bat strikes over a three year period has been added to the DPEIR. It is not anticipated that monitoring effort will require collection and possession of bird carcasses. Should the</p>
---	---

	<p>need arise, a collecting permit from the CDFW and USFWS will be obtained. The Draft Program Environmental Impact Report (DPEIR) acknowledges impacts to foraging habitat for raptors, including golden eagles, and provides mitigation, including the preservation of large blocks of off-site open space (see DPEIR, Chapter 2.3).</p> <p>F1-4 The County concurs with the USFWS's summary of the Bald and Golden Eagle Protection Act. A permit for golden eagle take is not being sought for the Proposed Project because there is no reasonable expectation of take due to the design and location of the Proposed Project (see DPEIR, Chapter 2.3).</p> <p>F1-5 The County does not agree that impacts would be significant and unavoidable. Potential significant environmental impacts to avian species are discussed in Section 2.3.3.1. Potential impacts are reduced to less than significant through incorporation of mitigation; see Section 2.3.6 of the DPEIR. However, in response to this comment, the applicant has voluntarily agreed to implement a Bird and Bat Monitoring Program as a condition of approval for the Proposed Project that entails self-monitoring and reporting of the project site for bird and bat strikes over a three year period. These changes are presented in the FPEIR in strikeout/<u>underline</u> format; refer to Section 2.3.6. The changes do not raise important new issues about</p>
--	---

<p>Mr. Robert Hingtgen (FWS-SD-13B0073-14TA0111) 3</p> <p>collision risks, habitat fragmentation, increased human presence, and potential attractant qualities of the site, on avian species. To date, limited information exists on impacts to avian species associated with bird collisions at solar energy facilities. However, as incidental reports of collisions and mortalities are becoming available from other solar power facilities (flat panel, solar trough, power tower), we are noting impacts to multiple avian species, including waterbirds, passerines, and diurnal/nocturnal raptors, involving various project features, including solar panels, mirrors, heliostats, evaporation ponds, fencing, distribution lines within the facility, gen-tie lines, and metal posts within the panel arrays before the panels are installed.</p> <p>The proposed project site is located within the Pacific Flyway, a known migratory bird flyway and an area that is also rich in resident bird diversity. The potential for birds to be attracted to the site and the risk of collision and other project-related mortality and/or injury, is not adequately addressed in the DEIR. Some species of birds, such as waterbirds, may perceive the solar field as a water body (commonly referred to as “lake effect”). Many avian species are attracted to permanent and ephemeral water sources, especially in arid environments. Based on information collected at existing solar facilities, solar panels and other project components are likely to present a collision hazard to migratory birds.</p> <p>The mountainous topography surrounding the project sites and throughout San Diego County have supported nesting and non-nesting golden eagles historically, as noted by Dixon (1937). The open habitat at the project sites, proximal to cliff, tree, and open shrub habitats supports eagle prey species and contributes to the survival of adult, juvenile, and eagles by providing roosting, nesting, and foraging opportunities. Based on a review of the project-specific data, local eagle populations, and the life history of the species, the proposed project has the potential to impact golden eagles through the loss of foraging habitat, via direct loss and fragmentation, increased human presence, and overall reduction of prey.</p> <p>The anecdotal nature of the information provided by the golden eagle report (Appendix I of Appendix 2.3-1 of the DEIR) and the lack of robust survey efforts, result in an inadequate assessment of the project’s direct, indirect, and cumulative impacts on golden eagles in the DEIR. Information provided by the applicant lacked detail on variability of seasonal survey efforts, which made interpretation of the results difficult. We disagree that an eagle territory (i.e., Boulevard territory) should be considered ‘extirpated’ after 5 years of apparent eagle inactivity due to information indicating that eagles will reuse nest sites that have not been used for more than 5 years (see Kochert and Stenchof 2013). The information in the report was not detailed regarding when field assessments commenced during each year of survey. The methods relied heavily on helicopter reconnaissance, which often do not provide information on early breeding season territory occupancy. We could find no avian point count information in the information provided to support the analysis of impacts to golden eagles. The report included information from eagles that had been fitted with transmitters. Since these birds were caught as juveniles, and the telemetry information provided is only representative of behavior or juvenile birds. The behavior and habitat use patterns of adult eagles can be markedly different from those of juvenile birds in their first 1-2 years of life, and therefore telemetry information from juvenile birds should be considered indicative of adult eagle activity. Finally, information on prey availability on and near the project site was not provided in the golden eagle report.</p>	<p>significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines.</p> <p>It should also be noted that the Proposed Project would utilize a different solar technology than those currently associated with incidences of avian mortality, such as flat panel, solar trough, and power tower. There are no evaporation ponds, mirrors, heliostats, or dark-colored photovoltaic (PV) panels associated with the Proposed Project. Rather, the Proposed Project includes non-reflective, light-colored concentrator photovoltaic (CPV) trackers that are spaced approximately 25 meters apart east–west and 21 meters apart north–south. The Proposed Project would not create the homogeneous, light-reflecting appearance similar to fixed PV flat panel solar arrays. Above-ground power lines for the Project would be designed to conform to Avian Power Line Interaction Committee standards in accordance with mitigation measure M-BI-PP-13.</p> <p>F1-6 Refer to response to comment F1-5. As described in DPEIR Section 2.3.3.5, the Proposed Project area is located within the Pacific Flyway for migratory avian species; however, the Proposed Project sites are located east of the main coastal migration route and west of the primary route between the Gulf of California and the Salton Sea.</p>
--	---

	<p>It should also be noted that while avian collisions with transmission towers and structures, such as buildings and communication towers, have been well documented, there are few published papers available that study the possibility that large areas of solar PV panels in the desert environment may mimic water bodies and inadvertently attract migrating or dispersing wetland bird species. Polarized reflections from solar PV arrays have been observed to attract insects (Horvath et al. 2010), which could in turn attract other sensitive wildlife, such as bats, but the magnitude of this effect is unknown, since no comprehensive scientific studies have been conducted for this potential phenomenon.</p> <p>Anecdotal evidence, derived from avian deaths at the Desert Sunlight and Genesis projects, suggests that wetland avian species may either collide with or become stranded in solar fields, resulting in fatalities. Regarding the two recently publicized deaths associated with the Desert Sunlight and Genesis projects, both projects employ different technology than the Proposed Project. The Genesis project depends on heat generated by mirrors reflecting and focusing sunlight on a central focal point to power a generator and the Desert Sunlight project is a traditional PV flat-panel solar array. The Proposed Project would consist of CPV trackers, which are spaced farther apart than typical PV panels, are in</p>
--	--

<p>Mr. Robert Hingtgen (FWS-SD-13B0073-14TA0111) 4</p> <p>In order to adequately assess the potential impacts to golden eagle, we recommend more robust studies be conducted on nest occupancy in the vicinity of the project as well as studies on current use of the project area by breeding adults, juveniles, subadults and adult floaters. We recommend breeding surveys be conducted at the known eagle nests to discern occupancy and reproductive success, as well as thorough searches of suitable nesting habitat out to 10 air miles early in the nesting season for new/known nests and/or reoccupied territory adjacent to the project site using the survey protocols established by Pagel et al. 2010. We also recommend a golden eagle observational study covering all seasons to assess use of the project area by golden eagles of all age classes and breeding status. These data can be used to understand potential disturbance impacts, as defined by BGEPA. Depending on the results of these surveys, it may be appropriate to develop an Eagle Conservation Plan and assess the need to apply for a permit under BGEPA. We recommend coordination with other project proponents and their consultants that may be collecting eagle data to minimize potential survey related impacts to the species.</p> <p><u>Bird and Bat Conservation Strategy</u></p> <p>Migratory birds are an important component of our national heritage and are a trust resource for the Service. Birds are also important economic resources, given that they prey on numerous species that are considered pests (e.g., some insects and rodents) and generate income to communities through bird-watching. We recommend that measures to address the adverse effects of the SSDP on migratory birds and their habitat consistent with State mitigation responsibilities be developed and implemented. The DEIR acknowledges the potential for significant impacts to birds during construction and operation of the SSDP, and although the applicant(s) proposes to minimize impacts to birds during construction using a Nesting Bird Management, Monitoring and Reporting Plan (NBMMRP), the DEIR does not identify measures to address ongoing avian mortality that may occur during project operations and the loss of bird habitat through the construction of the site. Although the DEIR acknowledges the potential for impacts to bat species, measures to limit or offset these impacts are not identified. Therefore, we recommend a project-specific Bird and Bat Conservation Strategy (BBCS) be developed.</p> <p>In addition to addressing proposed minimization measures during project construction, the BBCS should identify mortality risks and adaptive management strategies to reduce threats to avian species and bats. Based on mortality reports from other solar facilities, avian mortalities and other impacts to wildlife may occur long before construction of a project is complete. Therefore, we recommend that the BBCS and any necessary permits be in place prior to construction. We support the development and implementation of a scientifically robust mortality monitoring plan for the project, and quarterly reports being sent directly to the resource agencies and the County. We recommend that the BBCS, including the monitoring plan, be developed in close coordination with the County, Department, and Service. This plan should fully address and monitor construction and operation-related mortalities at all project features (e.g., fencing, utility infrastructure, and impacts with vehicles), photovoltaic presence (i.e., monitoring from first installation of panels).</p> <p>An adaptive management program should be included in the BBCS. Part of the suite of adaptive management measures may include the collection of additional information (i.e., off-site migration behavior and radar studies to determine at what scale birds may be attracted to the project) if warranted based on project monitoring results. We, in concert with the County and Department, will</p>	<p>continual motion throughout the day tracking the sun, and are light colored, thereby reducing the potential to create a pseudo-lake effect.</p> <p>Little is known about the actual percentage of species and individuals that are negatively affected by glare or the pseudo-lake effect of PV arrays. The USFWS recognizes the lack of data on the effects of solar facilities on migratory bird mortality and has provided guidance on monitoring migratory bird mortalities at solar facilities (Nicolai et al. 2011). Regardless, as noted in response to comment F1-5, the applicant has voluntarily agreed to implement a Bird and Bat Monitoring Program as a condition of approval for the Proposed Project. See Section 2.3.6.</p> <p>F1-7 The County disagrees with the commenter's assertions that the golden eagle report and survey methodology led to an inadequate assessment of the Proposed Project's direct, indirect, and cumulative impacts on golden eagles in the DPEIR.</p> <p>The nature of the information provided by the golden eagle report is not anecdotal. It was prepared by Wildlife Research Institute (WRI) specifically for the Proposed Project using recent survey data from other energy projects in the same region as the Proposed Project. In order to protect existing or potential breeding golden eagle pairs from human disturbance, much of the information in the report is confidential</p>
--	---

	<p>and was redacted from the version of the report provided with Appendices 2.3-1 and 2.3-2 of the DPEIR. A copy of the full report has been provided to and received by the USFWS (E. Porter, personal communication, July 3, 2014) but should remain confidential to protect the species.</p> <p>The commenter asserts that information in the report was not detailed regarding when field assessments were conducted, that the surveys rely heavily on helicopter survey methods, and that information on prey availability was not provided. The WRI report summarizes the aerial survey methods stating that Phase 1 and Phase 2 aerial surveys were conducted on February 22, 2012 and April 24, 2012, respectively, consistent with the methods described by USFWS (Pagel et al. 2010), which reference completing two aerial surveys within a single breeding season. Pagel et al. 2010 states that aerial surveys can be the primary survey method, or can be combined with follow-up ground monitoring. Ground surveys accompanied the helicopter surveys, and while the WRI report lacks the specific dates of the ground surveys, the report states that “field surveys were conducted from December through May of each year of study” (see Appendices 2.3-1 and 2.3-2 of the DPEIR). Furthermore, the USFWS now has the raw data supporting the conclusions made in the report available in its migratory bird section headquarters in Sacramento (A.</p>
--	--

	<p>Brickey, personal communication, August 6, 2014). A discussion of prey availability can be found in the Biological Resources Report (see Appendices 2.3-1 and 2.3-2 of the DPEIR). Due to extended drought, both animal and plant population levels have been affected to the point where studies done today on prey populations would not be reflective of likely average prey availability during the lifetime of the Project. The commenter asserts that no avian point count information was provided. Avian point count surveys were not requested by the County or USFWS for this Project as they have been for other projects, such as wind turbine projects; however, point count information from nearby projects was used to provide supplemental information and a better understanding of golden eagle use in the region (see Section 2.3.1 of the DPEIR). In summary, the WRI report is the best available information on golden eagles in the Boulevard Subregion; moreover, the survey results were acceptable to the USFWS when offered in support of the Sunrise Powerlink and Tule Wind projects, and nothing has significantly changed in the period since those projects conducted field studies, other than recent drought conditions, which stress raptors like eagles by reducing prey populations such as jackrabbits.</p> <p>In response to the comment that transmitters were affixed to golden eagles caught as juveniles, the WRI</p>
--	--

	<p>report indicates that transmitters were applied to nestlings, hatch-year, sub-adults, and adults, and that “using satellite and VHF transmitter technology has provided WRI with information on the flight and nesting behavior of golden eagles of all ages” (see Appendices 2.3-1 and 2.3-2 of the DPEIR).</p> <p>In response to the comment that five years of eagle disuse of a nest does not suggest extirpation, while WRI’s protocol is to determine a territory extirpated after 5 years, the Boulevard territory in question has been “considered extirpated since the 1980s”, and “no resident golden eagles have been breeding in this territory for over 40 years” (see Appendices 2.3-1 and 2.3-2 of the DPEIR). Therefore, the conclusion that the Boulevard territory is extirpated was made based on the lack of golden eagle nesting since the 1980s, and not a lack of nesting over a 5 year period. In addition, a U.S. Border Patrol observation station has been established near the nest; frequent use by border patrol of this site would deter any potential future use of the nest.</p> <p>Foraging habitat is assumed to be affected, depending on vegetation types such as pastureland; however, foraging habitat mitigation is proposed to offset loss of foraging area.</p> <p>Breeding surveys for wide-ranging species with large territories like golden eagles are appropriately conducted at a coordinated regional level, spearheaded by a single</p>
--	--

<p>Mr. Robert Hingtgen (FWS-SD-13B0073-14TA0111) 5</p> <p>coordinate with the project applicant(s) to explore the most effective adaptive methods for avoiding and minimizing direct, indirect, and cumulative impacts as more data become available relative to these impacts and measures to offset them. We will work with the applicant to develop scientifically appropriate triggers for notification to respective agencies, as well as adaptive management changes, which may be needed to avoid and minimize impacts to bird species protected under the MBTA and BGEPA.</p> <p><u>Adaptive Mitigation</u></p> <p>We support adaptive mitigations measures that would fund conservation efforts for migratory birds on a regional basis, such as contributing to the Sonoran Joint Venture (http://sonoranjv.org/) or to the Migratory Bird Conservation Fund. The Sonoran Joint Venture is a multi-agency Federal, State, and non-governmental partnership with the mission of conserving the unique birds and habitats of the southwestern United States and northwestern Mexico. The Migratory Bird Conservation Fund, managed by the Department of the Interior, provides financing for the acquisition of migratory bird habitat. In addition, the National Fish and Wildlife Foundation is another venue that would be well suited to direct conservation funding for migratory birds in the region of the project.</p> <p><u>Regional Planning and Wildlife Movement</u></p> <p>We have worked cooperatively with the Department, County, and private entities on the development of MSCP plans to balance development and wildlife conservation within the region. Currently, the draft East County MSCP identifies a framework using Focused Conservation Areas (FCAs) to designate recommended areas for conservation (within FCA) or development (outside FCA). In general, the goals for regional planning within the project vicinity are to expand existing wildlife protection by adding to large expanses of protected lands [e.g., Bureau of Land management (BLM), Department, and California State Parks] and to facilitate wildlife movement, primarily between Mexico and the north through Interstate 8. To this end, FCAs are concentrated immediately west of BLM land north of Interstate 8 through the best remaining wildlife crossing in the area, McCain Valley Road, south to the international border where land is relatively undisturbed in Mexico.</p> <p>The DEIR generally discusses existing wildlife movement possibilities within each proposed solar farm site but does not address potential impacts to wildlife movement or regional conservation from the SSDP. Regional planning and wildlife movement should be an important consideration in developing a full range of alternatives for analysis. Thus, we recommend that the County and the applicant(s) analyze a broader range of project alternatives and include a complete analysis of potential impacts to regional wildlife movement and the draft East County MSCP. This analysis should consider the cumulative impacts of projected development projects in the vicinity (e.g., Tule Wind Energy Project) on regional conservation and wildlife movement.</p> <p>Based on the limited information provided in the DEIR, we have identified the following substantial issues and concerns specific to the proposed individual solar farms that should be addressed by the County and the applicant(s):</p>	<p>entity. While not specified in the WRI report, the golden eagle territories described in the report include known territories within at least a 10-mile buffer of the Project sites. Therefore, the golden eagle survey report follows the survey guidelines provided by the USFWS (Pagel et al. 2010); and the DPEIR analyzes the potential impacts to golden eagles using the County of San Diego's guidelines for determining significance, in accordance to CEQA guidelines.</p> <p>In addition, the San Diego Association of Governments has recently engaged the U.S. Geological Survey (USGS) to do a robust survey such as the USFWS recommends. The study is starting with coastal areas first and will work eastward, coordinating (as the USFWS recommends) with other agencies and local government, primarily the County, to minimize the kinds of problems associated with duplicative studies harassing eagles. To do as the USFWS recommends here would be inconsistent with the ongoing regional effort to study golden and bald eagles.</p> <p>F1-8 See responses to comments O10-54 and F1-5; in response to comments the applicant has voluntarily agreed to implement self-monitoring and reporting of the project site for bird and bat strikes for a period of three years. The applicants will continue to coordinate their efforts with other stakeholders on an ongoing basis to incorporate best</p>
--	---

	<p>management practices and adaptive management measures for the operation of the Proposed Project.</p> <p>F1-9 The County appreciates this information and will take it into consideration. This information, however, would not affect the analysis in the DPEIR.</p> <p>F1-10 The comment is acknowledged and will be included in the Final Program Environmental Impact Report (FPEIR) for review and consideration by the decision makers. The County has taken into consideration wildlife movement and the potential effects of the Proposed Project throughout the planning process, both through the interim review process and consultation with Wildlife Agencies (see response to comment F1-2). The Proposed Project would contribute to expanding existing wildlife protection by providing an acreage of native habitats in permanent open space equivalent to or greater than the acreage of project impacts in accordance with mitigation measure M-BI-PP-1 to mitigate Project impacts to habitat.</p> <p>F1-11 Issues raised in this comment regarding impacts to wildlife movement and the Proposed Project's relationship with the draft ECMSCP are considered and addressed in the DPEIR (see Sections 2.3.3.4, 2.3.3.5, and 2.3.4.4).</p> <p>The County has analyzed a reasonable range of alternatives to the Proposed Project, including</p>
--	--

<p>Mr. Robert Hingtgen (FWS-SD-13B0073-14TA0111)</p> <p><i>Tierra del Sol</i></p> <p>We estimate that 75 percent of the 420-acre Tierra del Sol site is within the FCAs of the current draft East County MSCP. Given the anticipated development to the west, where most of the land is either developed or designated outside of FCAs, and existing development south of the border, development of this site would have only minor impacts relative to regional wildlife conservation planning efforts. Impacts associated with the Tierra del Sol solar farm could be mitigated through protection of land in the vicinity with equal or greater regional conservation value.</p> <p><i>Rugged</i></p> <p>The 765-acre Rugged solar farm site is entirely within FCAs in an area that complements wildlife function to a large, protected block of BLM land to the north and east. Development of this site would fragment existing habitat and impact regional conservation plans as delineated in the draft East County MSCP; specifically, loss of this site would hinder efforts to expand and connect to the large protected BLM and State Park lands to the north and east.</p> <p><i>LanEast and LanWest</i></p> <p>Because plant and wildlife studies were not completed for LanEast (233 acres) and LanWest (55 acres) solar farms, we are unable to assess potential impacts to specific sensitive species or vegetation communities. However, based on the location within the landscape, these properties are of high importance to regional conservation. They are located entirely within FCAs for the draft East County MSCP and provide the most viable north-south connection for wildlife movement across Interstate 8 via the undercrossing at McCain Valley Road. From the perspective of regional-scale conservation and wildlife movement, development of LanEast and LanWest will conflict with the conservation objectives of the East County MSCP planning agreement and may compromise the establishment of a viable preserve. A thorough analysis of the larger scale wildlife value of these properties is necessary to fully evaluate the proposed solar farms at these locations. Because of the juxtaposition on the landscape, we suggest that the County and the applicant consider including conservation of the LanEast and LanWest properties as part of the wildlife mitigation proposal for the SSDP.</p> <p><i>Los Robles</i></p> <p>Although the Los Robles site is identified as a potential alternative solar farm location, the DEIR provides insufficient information regarding the existing biological conditions and potential impacts. Because plant and wildlife studies were not completed for the Los Robles location, we are unable to assess potential impacts to specific sensitive species or vegetation communities; however, based on its configuration within the landscape, this property likely has high wildlife functional value and may be important for long-term regional conservation. This site is entirely within FCAs for the draft East County MSCP. Based on expected wildlife movement trajectories, development of this property, particularly the eastern section, has the potential to limit connectivity between wildlife in Mexico and the large blocks of protected habitat north of Interstate 8. A thorough analysis of the regional wildlife value as well as the specific onsite resources of this property is necessary to fully evaluate this alternative location.</p>	<p>6</p> <p>F1-12 Cont.</p> <p>F1-13</p> <p>F1-14</p> <p>F1-15</p> <p>F1-12</p> <p>alternatives to the location of the Proposed Project in accordance with CEQA Guidelines Section 15126.6. As the DPEIR provides, the applicants explored a number of alternative locations throughout the County and screened those locations based on their ability to meet the majority of the objectives of the Proposed Project (DPEIR, pp. 4.0-7 through 4.0-8). Alternative locations were eliminated based on their failure to meet Proposed Project objectives, together with the applicants' inability to acquire the sites (DPEIR, p. 4.0-8). Under CEQA, an EIR "need not consider every conceivable alternative to the project" (14 CCR 15126.6(a)). The County has briefly described the rationale for selecting the alternatives discussed in the DPEIR and explained the reasons underlying the County's determination that certain alternatives were eliminated from detailed consideration according to the factors provided in CEQA Guidelines Section 15126.6(c). Refer to common response ALT1 and the responses to comments F1-15 and F1-18, below, related to the appropriate range of alternatives and level of detail of analysis of alternatives, including alternative locations, under CEQA.</p> <p>The County agrees that the development of the Tierra del Sol site would have minor impacts relative to regional wildlife conservation and that impacts can be mitigated through protection of land in the vicinity with equal or greater regional conservation value.</p>
---	---

	<p>F1-13 The County disagrees that the Rugged solar farm would fragment existing habitat and impact regional conservation plans as delineated in the draft ECMSCP. As stated in Section 2.3.1.4 of the DPEIR, the entire Rugged solar farm site currently functions as a block of habitat and is not constrained to only function as a wildlife corridor between two larger blocks. The area is not readily identifiable as an existing wildlife corridor or habitat linkage, per se, to adjacent large habitat blocks because wildlife movement is not constrained or funneled through the area by adjacent landscape constraints. Therefore, the designation of the solar farm area as a specific habitat linkage is not appropriate. Rather, the site allows for a variety of wildlife movement opportunities and supports habitats and movement corridors that are similar to other sites within the region. Section 2.3.3.4 of the DPEIR further states that the Rugged solar farm is designed to allow for movement through the majority of Tule Creek, which may serve as a local wildlife movement corridor within the area by maintaining a minimum 675-foot-wide corridor that is suitable for the common types of wildlife using this area (coyote (<i>Canis latrans</i>), mule deer (<i>Odocoileus hemionus</i>), bobcat (<i>Felis rufus</i>), skunk (<i>Mephitis</i> sp.), etc.). As stated in DPEIR Section 2.3.3.4, connections across the Rugged solar farm will not be compromised as wildlife will still be able to maintain east/west and north/south connections. The gaps between the various fenced</p>
--	--

	<p>project components (subareas) are large, with the minimum 675-foot gap occurring between the eastern and southern fenced project subareas for an approximate 500-foot long segment. The remaining gaps are over 1,000 feet wide, thus allowing wildlife movement between fenced subareas. Also, in response to this and similar comments received, the removal of certain CPV trackers from the Rugged solar farm site from the northwest subarea comprise a new alternative, Alternative 2A (see Chapter 4.0, Alternatives, of the FPEIR). Of the trackers removed, 177 were specifically removed from the northwestern subarea of the Rugged solar farm in response to comments received regarding wildlife movement through the Tule Creek corridor.</p> <p>Regarding impacts to regional conservation plans, Section 2.3.3.5 of the DPEIR describes how the Rugged solar farm would not preclude or prevent the preparation of the subregional Natural Community Conservation Plan because the area outside of the adopted ECMSCP is planned in accordance with the draft ECMSCP Subarea Plan. The Rugged solar farm conforms to the goals and requirements in all applicable regional planning efforts.</p> <p>It should also be noted that the entirety of the Rough Acres Ranch property, comprising all of the 765-acre Rugged site, is currently fenced to prevent cattle from</p>
--	--

	<p>escaping, which limits movement across the site. Additionally, the McCain Valley Conservation Camp, immediately to the southeast of the Rugged solar farm site, is state property and is fenced as it is a minimum security prison camp. Once constructed, the Rugged solar farm would remove fencing and would instead fence only specific blocks of trackers and solar farm facilities. Fencing at the Rugged solar farm may include a 6-foot chain-link perimeter fence with three strands of barbed wire along the top with a 4-inch maximum clearance from the ground surface. However, the Conservation Camp would remain fenced with post and rail fencing resulting in no change to wildlife movement in this portion of the project site.</p> <p>F1-14 For project-specific analysis and conclusions regarding the LanEast and LanWest solar farms, please refer to the response to comment S3-3.</p> <p>The County does not agree that LanEast and LanWest will conflict with the conservation objectives of the ECMSCP. As indicated in response F1-2, the Planning Agreement referred to by the commenter expired in November of 2013; however it was extended 180 days until May 18, 2014. Therefore, the County has been following the interim review process under this Planning Agreement and has participated in meetings with wildlife agencies and the County on June 27,</p>
--	--

	<p>2013, September 19, 2013, and March 18, 2014. The project analysis supports the finding that the Proposed Project, including LanEast and LanWest, would not preclude or prevent the preparation of the ECMSCP because the Proposed Project has been designed in accordance with the preliminary conservation objectives outlined in the Planning Agreement. The County acknowledges the commenter's request to consider the conservation of the LanEast and LanWest properties. This comment will be included in the FPEIR for review and consideration by the decision makers.</p> <p>With regard to wildlife movement within LanEast and LanWest, it should also be noted that based on preliminary review of the sites, as described in Section 2.3.1.5 Existing Conditions and Section 2.3.3.4 under Guideline B, the DPEIR states that neither LanEast or LanWest contain clearly defined wildlife travel routes, corridors, or crossings and that construction of solar farms within these sites would not permanently affect connectivity between blocks of habitat. However, under Guideline C, the DPEIR acknowledges that access to Walker Creek would be removed and wildlife would likely concentrate their east to west movement south of the solar farm sites; therefore, the LanEast and LanWest solar farms may create artificial wildlife corridors (BI-LE-5 and BI-LW-26). These impacts would be mitigated through the establishment</p>
--	--

	<p>of a wildlife movement corridor along Walker Creek (M-BI-LE-1 and M-BI-LW-1). Creation of this wildlife movement corridor would allow for a continued north-south connection for wildlife via the undercrossing at McCain Valley Road and continued movement through the area.</p> <p>F1-15 The County disagrees that the DPEIR provides insufficient information regarding existing biological conditions and potential impacts for the Los Robles site as an alternative location. The County acknowledges the commenter's concern that the commenter is unable to assess potential impacts to specific sensitive species or vegetation communities without plant and wildlife studies having been completed for the Los Robles site—none are required for an alternatives analysis, and a project-level approval for development of the Los Robles site is not under consideration by the County at this time. Similarly, the programmatic analysis undertaken for the LanEast and LanWest sites in the DPEIR did not require detailed plant and wildlife surveys. In the event the decision makers choose the environmentally superior alternative to the Proposed Project, Alternative 7, providing for development of Los Robles in lieu of development of the Tierra del Sol, LanEast, and LanWest solar farms, the County anticipates additional environmental review to be conducted for the Los Robles site prior to any project-specific approval by the County. Any project-specific impacts to either vegetation communities or specific</p>
--	---

	<p>sensitive species on the Los Robles site would be analyzed, and feasible mitigation to avoid or minimize such impacts would be incorporated into the Project, prior to development of the site, in accordance with CEQA and the County Guidelines for Determining Significance.</p> <p>Related to the commenter's specific concerns regarding the Los Robles site's value for regional conservation, development of a solar farm on the Los Robles site would be considered an interim project under the ECMSCP, the most relevant regional conservation effort covering the site (ECMSCP Planning Agreement (October 29, 2008), 6.6, Interim Project Processing, Exhibit B, Interim Review Process). The ECMSCP Planning Agreement acknowledges that the Interim Review Process provided for in the agreement "ensure[s] that processing of interim projects is not unduly delayed during preparation of the Plans," while ensuring that interim development is consistent with the preliminary conservation objectives of the ECMSCP and does not compromise the successful completion and implementation of the ECMSCP. With any development of the Los Robles site, the County would undertake the Interim Review Process in coordination with the USFWS and the Department, which would address issues related to the site's location within focused conservation areas (FCAs) for the draft ECMSCP and other regional conservation planning concerns within the ECMSCP area.</p>
--	---

	<p>Also, relevant to the site's potential value for wildlife movement, when additional environmental review of the site is undertaken in accordance with the County Guidelines for Determining Significance, wildlife connectivity will be specifically addressed pursuant to seven wildlife access and movement criteria. This is expected to be similar to the Proposed Project analysis in DPEIR Section 2.3.3.4. These layers of review would address the site's regional wildlife value as well as specific on-site resources.</p> <p>Los Robles is located northwest of the gap in the border fence. As stated in Section 2.3.1.3 of the DPEIR, larger wildlife in the Boulevard area is currently able to cross to and from Mexico through a gap in the border fence several miles to the east of Tierra del Sol in a mountainous area too rugged for fencing. Figure 2.3-19 of the DPEIR depicts the generalized movement to and from Mexico. The main artery of movement stems from the break in the border fence and extends north to Walker Creek, where there are two culverts underneath Interstate 8 (I-8). Although Los Robles would provide for localized wildlife movement, portions of the site are constricted by rural development and an existing runway. Wildlife is more likely to stay east of Los Robles and continue along the main corridor shown in Figure 2.3-19 of the DPEIR.</p>
--	---

	<p>While additional studies would be necessary to evaluate impacts associated with the development of the Los Robles site at the time of project-level approval, as stated above, the County disagrees that a more thorough analysis of the regional wildlife value and site-specific biological resources is necessary for Los Robles to be evaluated in the DPEIR as an alternative location. Under CEQA, sufficient information regarding alternatives must be provided to allow an informed comparison of the impacts of the Proposed Project with those of the alternatives (see <i>Kings County Farm Bureau v. City of Hanford</i> (1990) 221 Cal. App. 3d 692, 733). CEQA does not, however, require that alternatives be discussed at a level of detail similar to that provided for the Proposed Project (see Remy et al. 2007, p. 573; 14 CCR 15126.6(a) and 15126.6(d)).</p> <p>As Chapter 4.0, Alternatives, provides, the 1,460-acre Los Robles site generally consists of flat to gently rolling terrain primarily covered by chaparral and non-native grassland, more specifically upland scrub and chaparral communities with some stands of open coast live oak woodland (DPEIR Sections 4.4.1.1, and 4.4.1.2). The four solar farm sites that compose the Proposed Project likewise consist of upland scrub and chaparral (1,284 acres of a total of 1,680 acres), with a total of 31 acres of coast live oak woodland. Because of this similarity, the County can make an informed</p>
--	---


<p>Mr. Robert Hingtgen (FWS-SD-13B0073-14TA0111) 7</p> <p><u>Mitigation Site</u></p> <p>Although the DEIR does not definitively describe where impacts would be mitigated, it does describe a specific mitigation site and include a preliminary analysis of the biological resources of the site. The proposed mitigation site is entirely within FCAs for the draft East County MSCP, and protection of the site would help mitigate impacts to sensitive vegetation and wildlife resources as well as maintain wildlife movement between undeveloped land in Mexico and protected land to the north. However, protection of the proposed mitigation site does not fully mitigate for the unique functions found at each of the proposed solar farm sites. In addition, the proposed development of solar farms north of the mitigation site has the potential to compromise the functional value of the mitigation site to offset impacts to wildlife movement. For example, development of the Rugged site would impact regional conservation by disrupting wildlife movement north of Interstate 8. Conservation of the proposed mitigation site would not address these functional losses. Given that a primary ecological function of the mitigation site is to maintain wildlife movement from Mexico north through Interstate 8, impacts of development within Los Robles, LanEast and LanWest on wildlife movement should be considered when evaluating the value of the mitigation site for this function. We recommend the County consider multiple mitigation sites in order to address the unique landscape functions that would be impacted at the different development sites.</p> <p><u>Quino Checkerspot Butterfly</u></p> <p>Protocol surveys were conducted for the federally endangered Quino checkerspot butterfly (<i>Euphydryas editha quino</i>; Quino) on the Tierra del Sol (2012), Rugged (2011), LanEast (2011) and LanWest (2011) properties. No Quino were observed during these surveys; however, we do not consider these results definitive. Quino have been observed within approximately 2 miles of the Tierra del Sol, LanEast, and LanWest properties and within 1,000 feet of the Los Robles property. Occupied Quino habitat may also exist south of the border near the Tierra del Sol and the proposed mitigation site, but surveys have not been conducted in this area. Because suitable habitat was found on the Tierra del Sol, Rugged, LanEast and LanWest properties, and surveys were limited to one year, Quino may still occupy these sites. Based on the known distribution of Quino within the project vicinity and the variable detectability of this species, we recommend focused surveys continue until project construction is initiated in order to verify the conclusion in the DEIR that Quino will not be impacted by the project. We also recommend protocol Quino surveys for the Los Robles site to provide biological information for the alternatives analysis.</p> <p><u>Alternatives Analysis</u></p> <p>The alternatives analysis fails to adequately address impacts to natural vegetation communities and wildlife. An alternative designed to reduce impacts to biological resources must consider regional conservation planning, including landscape connectivity. The DEIS relies heavily on the development within the Los Robles property as a project alternative; however, there is no information provided to assess the resources that would be impacted on this property. The alternative analysis also needs to consider impacts of alternative development strategies on regional conservation goals. For example, development of Los Robles as well as LanEast and LanWest would affect the wildlife connectivity value that the proposed mitigation site would otherwise maintain.</p>	<p>comparison and conclude that development of 708 acres of the 1,460-acre Los Robles site under Alternative 7 (the environmentally superior alternative) would have similar biological impacts to those incurred with development of the Tierra del Sol, LanEast, and LanWest solar farms, with the shorter gen-tie line for the Los Robles site having fewer impacts than that for Tierra del Sol (DPEIR Section 4.4.3.2.). Because of the larger site area at Los Robles, development could be designed to avoid any sensitive biological resources found during site-specific surveys, and indeed avoidance would be required for wetlands and oak root zone buffers under the County Resource Protection Ordinance (DPEIR Section 4.4.3.2). The County anticipates that mitigation similar to that required of the Proposed Project would be applied to mitigate any potentially significant impacts at the Los Robles site. Therefore, while project-specific impacts for a solar farm on Los Robles have not been analyzed in the DPEIR, the County can reasonably conclude that impacts to biological resources with development of Alternative 7 would be similar to impacts associated with the Proposed Project.</p> <p>F1-16 The purpose of the potential mitigation site presented in the DPEIR is to conserve a large block of habitat with diverse biological features. Conservation of a large block of habitat would prevent land within East County from becoming fragmented. In addition, the mitigation site</p>
---	---

	<p>supports both habitat for and populations of special-status plant and wildlife species impacted by the Proposed Project. Although the mitigation site does not support adequate habitat to mitigate each specific vegetation communities separately, taken as a whole, the overall suite of habitats that exist within the mitigation lands provide adequate mitigation to compensate for the losses associated with the proposed project. The proposed project does not include the development of the Los Robles site. In the event the decision makers choose the environmentally superior alternative to the Proposed Project, Alternative 7, Los Robles will be developed in lieu of the Tierra del Sol, LanEast, and LanWest solar farms. Approximately 708 of the 1,460-acre Los Robles site would be developed thus allowing wildlife corridors and avoidance of sensitive resources possible. Refer to response to comment F1-15 for more detailed information regarding Los Robles. As previously stated, wildlife corridors would be established along Walker Creek which would allow for a continued north-south connection for wildlife via the undercrossing at McCain Valley Road and continued movement through the area. (see response to comment F1-14). The mitigation site chosen for the proposed project would preserve block of habitat important to maintaining the connection for wildlife from Mexico to north of I-8. Future mitigation/reserve needs can be designed to expand upon the potential mitigation site, or another mitigation site of equal value with similar attributes, connecting to habitat areas south and north of I-8.</p>
--	--

	<p>F1-17 In response to this comment, and to meet USFWS requests, additional surveys will be conducted on Rugged, Tierra del Sol, LanEast, and LanWest in 2015 to verify presence or absence of Quino checkerspot butterfly (<i>Euphydryas editha quino</i>; see Sections 2.3.1.3 through 2.3.1.6 of the DPEIR). These surveys would be in addition to survey and analysis necessary to satisfy CEQA. As stated in the response to comment F1-15, plant and wildlife studies are not required for an alternatives analysis, and a project-level approval for development of the Los Robles site is not under consideration by the County at this time. Therefore, focused surveys for Quino checkerspot butterfly will not be conducted for the Los Robles site at this time.</p> <p>F1-18 The County disagrees that the alternatives analysis fails to adequately address impacts to natural vegetation communities and wildlife. Please refer to the response to comment F1-15 regarding the appropriate level of detail for analysis of alternatives. The degree of specificity necessary in analyzing an alternative will correspond to the degree of specificity involved in the underlying activity described in the DPEIR (see <i>Al Larson Boat Shop, Inc. v. Board of Harbor Commissioners</i> (1993) 18 Cal. App. 4th 729, 746). A programmatic or first-tier environmental impact report (EIR) need not be as precise in its analysis of alternatives as a project-specific EIR (see <i>Al Larson Boat Shop, Inc. v. Board of Harbor</i></p>
--	---

	<p><i>Commissioners</i>). Given the programmatic nature of the DPEIR, the County has provided sufficient information on the Los Robles site to allow for its comparison with the Tierra del Sol, LanEast, and LanWest solar farm sites, including a comparison of the potential biological impacts of developing the Los Robles site. Thus, the commenter's assertion that additional information is necessary to assess the resources that would be impacted with development of the Los Robles site at this stage of review exceeds the required scope of CEQA review.</p> <p>Likewise, additional information is not necessary to consider the impacts of alternative development strategies on regional conservation goals. Landscape connectivity within the general area can be assessed at an appropriate level with the substantial information currently available. As the cumulative biological impacts analysis provides, the Peninsular Ranges of the California Floristic Province are largely undeveloped and wildlife movement through and around the Proposed Project area would still be possible even with the development of the Proposed Project and a number of other sites (DPEIR Section 2.3.4.4). Despite development of any of the proposed solar farm sites or the alternative Los Robles site within this area of eastern San Diego County, it would remain predominantly rural with significant open space and wildlife movement opportunity (DPEIR</p>
--	---

	<p>Section 2.3.4.4). Also, as noted in the response to comment F1-15, under the environmentally superior alternative, only 708 acres of the 1,460-acre Los Robles site would potentially be developed, allowing for the most valuable areas of the site to remain as habitat. This level of analysis is appropriate for a programmatic EIR.</p> <p>It is also important to note that the alternatives providing for relocation of the Proposed Project are not primarily designed, as the commenter states, to reduce impacts to biological resources. The Proposed Project would result in potentially significant direct and indirect impacts to sensitive plant and wildlife species, sensitive vegetation communities, jurisdictional resources, and wildlife movements, and conflict with the Migratory Bird Treaty Act (DPEIR Section 4.4.3.2.) However, with the incorporation of mitigation measures, any potentially significant impact of the Proposed Project to these biological resources would be reduced to less than significant (DPEIR Sections 2.3.7 4.4.3.2). The alternatives are expressly analyzed to determine whether they would avoid or lessen any significant environmental impacts of the Project, while feasibly attaining most of the Project objectives, as required by CEQA (DPEIR Section 4.1; California Public Resources Code, Section 21002; 14 CCR 15126.6(a)). Alternatives need not be designed to lessen impacts that have already been deemed less</p>
--	---

<p>Mr. Robert Hingtgen (FWS-SD-13B0073-14TA0111)</p> <p>8</p> <p><u>Cumulative Impacts</u></p> <p>The DEIR uses the Peninsular Range within the California Floristic Province as the study area to assess cumulative impacts to biological resources. Within this area, the DEIR chooses a subset (Table 2.3-16) of the potential projects (Table 1-12) to include in the cumulative impacts analysis. By establishing a large (466,564-acre) study area and choosing only a small subset within this study area, the DEIR provides a misleading analysis of the cumulative impacts within the vicinity of the SSDP. By definition, impacts of these projects to the defined study area will be minor. A more appropriate scale for the cumulative impacts analysis would be the renewable energy corridor generally defined by the community of Jacumba to the east, the Mexican border to the south, the community of Camp to the east, and the northern border of the Peninsular Range Eco-Subregion as defined in the DEIR. At this scale, a more appropriate analysis can be conducted for the cumulative impacts of foreseeable projects on vegetation communities, Quino, golden eagles, migratory birds, and wildlife habitat and movement.</p> <p>In summary, the potential impacts to migratory birds, bats, golden eagles, and regional conservation planning have not been adequately addressed in the DEIR. A complete analysis will require site-specific information on all the potential development sites, including Los Robles, as well as the mitigation site(s). The County in concert with the applicant(s) needs to explore other alternatives that will avoid and minimize potential impacts to biological resources and regional conservation planning efforts. Thus, we recommend that the issues outlined in this letter be addressed prior to certification of a final EIR.</p> <p>We appreciate the opportunity to comment on the DEIR. If you have any questions regarding these comments or our recommendations, please contact Thomas Dietsch in our Division of Migratory Birds (thomas_dietsch@fws.gov; 760-431-9440, extension 214) or Eric Porter in our Ecological Services Division (eric_porter@fws.gov; 760-431-9440, extension 282).</p> <p>Sincerely,</p> <p></p> <p>Karen A. Goebel Assistant Field Supervisor</p> <p>cc: Ed Pert, California Department of Fish and Wildlife, San Diego, CA</p>	<p>than significant, though the DPEIR takes stock of whether any less-than-significant impacts, such as those to biological resources, would be significant under any given alternative (e.g., DPEIR Sections 4.4.1.2, 4.4.2.2, and 4.4.3.2).</p> <p>Where development of any alternative location to the Proposed Project sites would affect the wildlife connectivity value of the habitat mitigation site proposed by the applicant, a project-level analysis of the alternative site would determine whether feasible mitigation would reduce project-level impacts to less than significant. Specific on-site or off-site mitigation would be required for a solar farm at Los Robles at the time of a project-specific approval for development of that site.</p> <p>F1-19 The County disagrees that the Peninsular Range of the California Floristic Province is not the appropriate study area to assess cumulative impacts to biological resources. The cumulative study area reflects broad patterns of natural vegetation, specific plant assemblages, geology, topography, and climate, rather than arbitrary and unnatural geopolitical boundaries such as county boundaries. Projects within this study area have the potential to affect vegetation communities similar to those that would be affected by the Proposed Project and could therefore cumulatively contribute to impacts to natural vegetation communities or species associated with these habitat types; see Section 2.3.4 of</p>
---	---

	<p>the DPEIR for further detail. A further delimitation of the cumulative study area that did not reflect the geographic extent of natural landscapes and biota would be inaccurate in assessing cumulative biological impacts. Please refer to response to comment O10-63 related to the standard under which the geographic extent of a cumulative study area is properly defined under CEQA. Reasonably foreseeable projects outside of the smaller renewable energy corridor delineated by the commenter could have a similar impact on biological resources, such that without the inclusion of those projects, the DPEIR's cumulative impact analysis could inappropriately underestimate the severity of the impacts of the Proposed Project (see <i>Bakersfield Citizens for Local Control v. City of Bakersfield</i> (2004) 124 Cal. App. 4th 1184, 1216; <i>Kings County Farm Bureau v. City of Hanford</i> (1990) 221 Cal. App. 3d 692, 724). Thus, the County disagrees that a more appropriate analysis of cumulative impacts would be conducted with delineation of a smaller "scale" cumulative study area.</p> <p>The DPEIR does not improperly consider a subset of the potential cumulative projects provided in Table 1-12. Those projects included in Table 1-12 but not provided in Table 2.3-16 are either outside of the biogeographic cumulative study area defined in the DPEIR (Energia Sierra Juarez Wind Projects, Ocotillo Express LLC, Renewergy LLC, Energia Sierra Juarez U.S.</p>
--	--

	<p>Transmission line, Imperial Valley Solar, and Jacumba Solar Farm projects) or are currently on hold and therefore are not considered reasonably foreseeable (meteorological testing phase at EGP Jewel Valley, Manzanita Wind Energy Project, Debenham Energy, Silverado Power solar farm, Campo Landfill Project, and Heald projects). Other projects not included in Table 2.3-16 are of such limited scope in the current phase of known development that they would not contribute to cumulative impacts (National Quarries, wind measurement towers in the Descanso Ranger District of Cleveland National Forest, and A. Brucci LLC projects) or information related to potential impacts of the project are not available to the public (Boulevard Border Patrol Station and Border Patrol Fence Project). Therefore, the DPEIR does not provide a misleading analysis of cumulative impacts by improperly excluding any project in the cumulative study area.</p> <p>F1-20 The County disagrees that potential impacts to biological resources have been inadequately addressed in the EIR. All of the issues outlined by the USFWS in this comment have been addressed through the responses above. See specifically response to comments F1-11 and F1-18 regarding the adequacy of the alternatives analysis and response to comments F1-14 and F1-15 regarding the level of analysis completed for LanEast, LanWest, and Los Robles and the programmatic nature of the DPEIR.</p>
--	---

	<p>F1-21 This comment concludes the letter and does not raise an environmental issue for which a response is required.</p> <p>References</p> <p>14 CCR 15000–15387 and Appendices A–L. Guidelines for Implementation of the California Environmental Quality Act, as amended.</p> <p>Brinkley, Amedee. 2014. Personal communication (email correspondence) between A. Brinkley (Deputy Chief, Migratory Birds, USFWS Pacific Southwest Region) and B. Ortega (Dudek). August 6, 2014.</p> <p>Emlen, S.T. 1975. “The Stellar-Orientation System of a Migratory Bird.” <i>Scientific American</i> 233(2): 102–111.</p> <p>Horváth, G., M. Blahó, A. Egri, G. Kriska, I. Seres, and B. Robertson. 2010. “Reducing the Maladaptive Attractiveness of Solar Panels to Polarotactic Insects.” <i>Conservation Biology</i> 24(6): 1644–1653.</p> <p>Lowery, G.H. 1951. <i>A Quantitative Study of the Nocturnal Migration of Birds</i>.</p> <p>Nicolai, C., S. Abele, H. Beeler, R. Doster, E. Kershner, and T. McCabe. 2011. <i>Monitoring Migratory Bird Take at Solar Power Facilities: An Experimental Approach</i>. U.S. Fish and Wildlife Service, Pacific Southwest Region. May 2, 2011.</p>
--	--

	<p>Remy, M.H., T.A. Thomas, J.G. Moose, and W.F. Manley. 2007. Guide to CEQA (California Environmental Quality Act), 11th ed. Solano Press. February 2007.</p> <p>Pagel, J., D.M. Whittington, and G.T. Allen. 2010. <i>Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations</i>. USFWS. February 2010.</p> <p>Porter, Eric. 2014. Personal communication (email correspondence) between E. Porter (USFWS) and B. Ortega (Dudek). July 3, 2014.</p> <p>USGS (U.S. Geological Survey). 2013. "Migration of Birds." Northern Prairie Wildlife Research Center. http://www.npwrc.usgs.gov/resource/birds/migratio/routes.htm.</p>
--	---