

**Comment Letter O5**

**San Diego County Archaeological Society, Inc.**  
Environmental Review Committee

10 February 2014

To: Mr. Robert Hingten  
Department of Planning and Development Services  
County of San Diego  
5510 Overland Avenue, Suite 110  
San Diego, California 92123

Subject: Draft Program Environmental Impact Report  
Soitec Solar Project (Tierra del Sol, Rugged Solar, LanWest and LanEast)  
Log No. PDS2012-3910-120005, GPA 3800-12-010, MUP 3300-12-010,  
REZ 3600-12-005, AP 3921-77-046-01, MUP 3300-12-007

Dear Mr. Hingten:

I have reviewed the subject Draft Program EIR on behalf of this committee of the San Diego County Archaeological Society.

Based on the information contained in the DPEIR and its four archaeological reports, we have the following comments:

(1) All of the archaeological reports appear adequate as regards the surveys and impact analysis.

(2) As this EIR is at a programmatic level, we acknowledge that specific mitigation measures for each site potentially impacted directly or indirectly will be identified and recommended at a project level. SDCAS requests being included in the public review of the resulting environmental document(s).

(3) Section 6.2.1 of the archaeological evaluation report for the Rugged Solar project is internally inconsistent. The fourth line of the section calls (as do the other three archaeological reports) for "curation of all collected artifacts". However, later in the same paragraph, it provides an alternative that "artifacts collected during the current testing program...alternatively may be repatriated to a culturally affiliated Tribe." SDCAS fully supports repatriation in accordance with the national standards established by the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA). NAGPRA was created to distinguish between items that were to be made available to Native American groups and those that were to be retained for future scientific studies. In essence, it established the distinction between respect of cultural values of the culturally-associated group and the legitimate scientific interests of all citizens.

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O5-1  
O5-2  
O5-3  
O5-4

### Response to Comment Letter O5

**San Diego County Archaeological Society Inc.**  
**James Royle**  
**February 10, 2014**

- O5-1** This comment is introductory in nature and does not raise a significant environmental issue for which a response is required. Specific comments on the Proposed Project are addressed below.
- O5-2** The County of San Diego (County) concurs with this comment, which states that all of the archaeological reports appear adequate with regard to surveys and impact analysis.
- O5-3** The County acknowledges the request for the San Diego Archeological Society to be included in public review for any future environmental documents associated with the Proposed Project and will accommodate this request. The County would like to clarify, however, that the Tierra del Sol and Rugged solar farms were analyzed at a project level in the DPEIR; therefore, specific mitigation measures are proposed for these solar farms and would be implemented as presented in the Final Program Environmental Impact Report (FPEIR). The LanWest and LanEast solar farms were analyzed at a programmatic level. Some mitigation measures for direct and indirect impacts were identified for these

<p>NAGPRA standards have generally been accepted in the county as setting the criteria for determining what material is to be repatriated, human remains, associated grave goods and items of cultural patrimony. Definitions for those categories appear in NAGPRA. As noted above, they do not extend to repatriation of <i>all</i> prehistoric cultural materials.</p> <p>Furthermore, requiring the project archaeologist to repatriate all prehistoric material is not in accordance with the Standards of Research Performance of the Register of Professional Archaeologists, the organization which the County acknowledges as setting the professional requirements for archaeologists practicing in the county.</p> <p>And repatriation of all prehistoric material without curation also violates the County's own documents, <i>Guidelines for Determining Significance: Cultural Resources: Archaeological and Historic Resources and Report Format and Content Requirements: Cultural Resources: Archaeological and Historic Resources</i>, revisions to both dated December 5, 2007 and posted on the County's website. It is noted that these documents were developed through a public review process and adopted by action of the Board of Supervisors.</p> <p>Section 5.0 of the former document, <i>Guidelines for Determining Significance</i>, on page 22, states that "The primary goal of cultural resource mitigation and design considerations is the avoidance, preservation, data recovery, and curation of significant cultural resources, thereby preserving what would otherwise be destroyed and lost due to construction and development activities." It also cites, under State Regulations and Standards, on page 38, the <i>Guidelines for the Curation of Archaeological Collections, 1993</i>, stating "Archaeological collections and their associated records that are created by compliance with state environmental laws, regulations, and guidelines must be housed at qualified repositories that have the capability to ensure adequate permanent storage, security, and ready access to qualified users." Permanent curation at a facility, Native American or otherwise, which meets the standards of 36CFR79, after repatriation of materials in accordance with the NAGPRA standards would satisfy that requirement.</p> <p>Repatriating non-NAGPRA materials does not.</p> <p>The County's <i>Report Format and Content Requirements</i> document provides standard wording for mitigation measures, all of which include curation.</p> <p>In conclusion, SDCAS agrees with the impact analysis for the four projects covered but believes the paragraph "Evidence that all prehistoric materials...have been received", on pages 7.0-24 and 7.0-29, must be removed to comply with State, County and professional standards.</p> <p>Sincerely,</p> <p> James W. Royle, Jr., Chairperson Environmental Review Committee</p> <p>cc: Dudek Pacific West Archaeology SDCAS President and Board File</p> <p>P.O. Box 81106 • San Diego, CA 92138-1106 • (858) 538-0935</p>	<p style="text-align: center;">↑</p> <p>O5-4 Cont.</p> <p>O5-5</p> <p>solar farms. However, these solar farms will require future discretionary review through the Major Use Permit process. Table S-2 of the DPEIR provides a summary of significant effects associated with the Proposed Project and includes proposed mitigation measures to reduce the significant effects.</p> <p><b>O5-4</b> The County disagrees with this comment. The mitigation measure M-CR-PP-1 in the DPEIR provides for curation of artifacts, which includes curating at the San Diego Archaeological Center or at a culturally affiliated Tribal Curation Facility, or, alternatively, returning prehistoric materials to a culturally affiliated tribe. The mitigation measure, as stated in the technical reports and the DPEIR, use the term "repatriation" to mean "returned." The use of the term "repatriate" in this sense is not the same as that used under the Native American Graves Protection and Repatriation Act.</p> <p>The Register of Professional Archaeologists (RPA) does provide standards which research archaeologists should follow. RPA certification is not a requirement for archaeologists who are on the County's CEQA Consultant List. Listed archaeological consultants are the professionals who prepare technical studies. As such, they provide an evaluation of resources and the study is revised with input from County staff. The County's Guidelines for Determining Significance and</p>
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	<p>Report Format and Content Guidelines – Cultural Resources (Guidelines) do include guidance regarding curation. The Guidelines are a guidance document and are not the absolute authority on how a project should be conditioned. Mitigation outside of those identified in the Guidelines may be applied to projects and are typically based on consultations with the Native American community and comments received during public review.</p> <p><b>O5-5</b> This comment addresses the same issue as comment O5-4, but indicates the issue is also present in the DPEIR. The County's response to comment O5-4 applies to this comment as well.</p>
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## **Response to Comments**

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