

Comment Letter O13



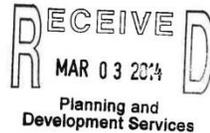
Conservation Biology Institute

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February 25, 2014

Robert Hingtgen  
Planning and Development Services  
Project Processing Counter, MS 0-650  
County of San Diego  
5510 Overland Avenue, Suite 110  
San Diego, CA 92123



RE SOITEC SOLAR DEVELOPMENT PROGRAM ENVIRONMENTAL IMPACT REPORT, LOG NO. PDS2012-3910-120005 (ER); 3800-12-010 (GPA); TIERRA DEL SOL, 3300-12-010 (MUP); 3600-12-005 (REZ); 3921-77-046-01 (AP); RUGGED SOLAR, 3300-12-007 (MUP); SCH NO. 2012121018

Dear Mr. Hingtgen:

The Conservation Biology Institute (CBI) is a 501(c)(3) organization that provides science support for habitat conservation efforts. Our staff has played a major role in the habitat conservation programs in San Diego County, both in conservation planning and in implementation (i.e., habitat management and monitoring). Our staff was involved in the science advisory panel for the East County MSCP, and CBI is a partner in the *Las Californias Binational Conservation Initiative*. I have reviewed the Draft Environmental Impact Report (DEIR) for the subject project and have the following comments.

The DEIR is full of detailed information about the project, yet it does not include a biological analysis sufficient to evaluate the regional impacts of the project and alternatives.

**Regional reserve design**

- The County's preliminary Focused Conservation Areas for the East County MSCP were developed in 2008, and there have been development projects, land conservation, and new biological studies since that time, which have not been integrated into the SOITEC DEIR. The County cannot adequately evaluate the proposed project without an updated conservation planning analysis.

O13-1

O13-2

O13-3

**Response to Comment Letter O13**

**Conservation Biology Institute**

**Jerre Ann Stallcup**

**March 3, 2014**

**O13-1** This comment is introductory in nature and does not raise an environmental issue for which a response is required.

**O13-2** The County of San Diego (County) disagrees that sufficient information was not provided to evaluate the regional impacts of the Proposed Project and alternatives. See Section 2.3.1.2 of the Draft Program Environmental Impact Report (DPEIR). Specific comments related to the adequacy of the DPEIR are addressed below.

**O13-3** The County disagrees that recent development projects, land conservation, and biological studies have not been integrated into the DPEIR. See the response to comment F1-2; the Proposed Project has undergone the interim review process required by the East County Multiple Species Conservation Program (ECMSCP) Planning Agreement (County et al. 2008) and the County has coordinated with wildlife agencies. Additionally, the County has reviewed the list of cumulative projects at various stages during project planning and has revised the analysis to account for changes in land use within the region. A number of

<ul style="list-style-type: none"> <li>The DEIR does not reference <i>Las Californias Binational Conservation Initiative</i> and areas identified as important for conservation in that plan (see attached map and associated conservation values for Categories A, B, C, and D).</li> <li>The DEIR does not address potential impacts to Mexico or whether the development or mitigation would impact or improve connectivity with Mexico.</li> <li>The DEIR does not include a map that shows proximity of the project alternatives to public lands (need to show public lands on Fig. 1-3); the Rugged property is adjacent to public lands, and the potential impacts to publicly conserved lands of an alternative on this site is not addressed.</li> </ul> <p><b>Consolidating development in least sensitive areas</b></p> <ul style="list-style-type: none"> <li>The DEIR does not address which parts of each property are most suitable for development, i.e., which parts of each property would minimize both direct and indirect impacts to biological resources. The project boundaries are larger than the areas where impacts would occur, and the DEIR should evaluate which portions of the sites are least sensitive for siting development.</li> <li>The habitat areas between the solar panels and under transmission lines should be calculated as part of the indirect impacts.</li> <li>While the Rugged property appears to be the most disturbed of the alternative project locations, it is adjacent to conserved lands. The DEIR should address whether the project can be sited in disturbed areas and maintain a buffer between the project and disturbed lands.</li> </ul> <p><b>Critical habitat and recovery areas for peninsular bighorn sheep and Quino checkerspot butterfly; wetlands and headwaters of streams</b></p> <ul style="list-style-type: none"> <li>Critical habitat, recovery areas, and wetlands should be mapped to show proximity to the alternative project areas.</li> <li>The Jacumba Valley is the headwaters of Carrizo Creek that flows north into Carrizo Gorge, a known lambing area for peninsular bighorn sheep.</li> <li>The Lansing sites are between I-8 and Old Highway 80, and thus opportunities for conservation and wildlife movement in this area are limited. The DEIR should evaluate whether the project can avoid impacts to wetlands in this area as well as whether impacts to wetlands are less significant than landscape-scale (indirect) impacts of fragmentation.</li> </ul> <p><b>Impacts to groundwater</b></p> <ul style="list-style-type: none"> <li>Groundwater recharge is limited in the Boulevard area of San Diego County. The DEIR does not adequately address impacts of groundwater consumption on natural resources and ecological processes or impacts on the Boulevard population.</li> </ul>	<p>O13-4</p> <p>O13-5</p> <p>O13-6</p> <p>O13-7</p> <p>O13-8</p> <p>O13-9</p> <p>O13-10</p> <p>O13-11</p>	<p>projects that were originally included in the cumulative analysis are no longer reasonably foreseeable and have been removed from the DPEIR; see the response to comment I38-25.</p> <p><b>O13-4</b> The County disagrees that the DPEIR does not reference the <i>Las Californias Binational Conservation Initiative</i>. As stated within Section 2.3.1.2 of the DPEIR, the project is located within the study areas for larger-scale conservation initiatives, including the <i>Las Californias Binational Conservation Initiative</i>. The DPEIR further discusses this initiative and its conservation objectives and functions.</p> <p><b>O13-5</b> The County disagrees with the commenter’s assertion that the DPEIR does not adequately address potential impacts to Mexico or whether the development of the Proposed Project or proposed mitigation would impact or improve wildlife connectivity with Mexico.</p> <p>The DPEIR discusses habitat connectivity and wildlife corridors, including with Mexico, and potential impacts thereto in various places within Chapter 2.3, Biological Resources. The DPEIR provides that most terrestrial wildlife movement in the Project region is likely to be local movement and regional dispersal (DPEIR, p. 2.3-33). Peninsular bighorn sheep (<i>Ovis canadensis nelsoni</i> DPS) migrate along the Peninsular Mountain Range and south in the mountain ranges of Baja California, Mexico (DPEIR, p. 2.3-33). With</p>
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	<p>Interstate 8 (I-8) as a north–south constraint, bighorn sheep only occasionally migrate south and cross into Mexico and only where gaps in the U.S./Mexico fence in areas of rugged terrain allow for movement across the border (DPEIR, p. 2.3-33). The cumulative impacts section likewise provides that I-8 and the U.S./Mexico border fence act as barriers to wildlife movement (DPEIR, p. 2.3-172). The discussion of impacts to wildlife corridors and linkages between the Tierra del Sol site and Mexico provides that fencing along the border is a substantial visual barrier to wildlife movement, regardless of the Tierra del Sol solar farm (DPEIR, p. 2.3-149). Related to avian species, biological studies for Tierra del Sol found that the core nesting area of a golden eagle (<i>Aquila chrysaetos</i>) pair is located south of the border, with foraging habitat extending into the United States (DPEIR, p. 2.3-41). The DPEIR provided information on where the primary hunting territory of the pair is believed to be and placed this in relation to the Tierra del Sol site (DPEIR, p. 2.3-41). The presence of wetlands located along unvegetated stream channels that feed toward Mexico was also noted (DPEIR, p. 2.3-50).</p> <p>If any potential impacts of the Proposed Project were determined to exist in Mexico, mitigation of those impacts would be outside the scope of the DPEIR and the County’s authority, unless such mitigation would</p>
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	<p>take place within the geographic confines of the County or would otherwise be enforceable by the County, or unless the County could ensure the implementation of cross-border mitigation. Mitigation that is beyond the powers conferred by law on a lead or responsible agency is not considered feasible (see California Public Resources Code, Section 21004; 14 CCR 15040, 15364 (feasible means “capable of being accomplished in a successful manner... taking into account legal (and other) factors”); <i>Tracy First v City of Tracy</i> (2009) 177 Cal. App. 4th 912, 938 (recognizing that a measure requiring mitigation funding for traffic impacts beyond city boundaries would be unenforceable and infeasible)).</p> <p><b>O13-6</b> The County disagrees that the DPEIR does not provide a map showing the proximity of the Proposed Project alternatives to public lands. Figure 2.3-6 of the DPEIR depicts the solar farm sites and spatial relations to the East County Multiple Species Conservation Program (ECMSCP) and to public/semi-public lands. The context of the solar farm sites in relation to public lands was taken into consideration during the ECMSCP interim review process and is considered and addressed in the DPEIR; see Section 2.3.3.5.</p> <p><b>O13-7</b> The County disagrees that the DPEIR does not address which parts of each property are more suitable for development. The County’s <i>Guidelines for</i></p>
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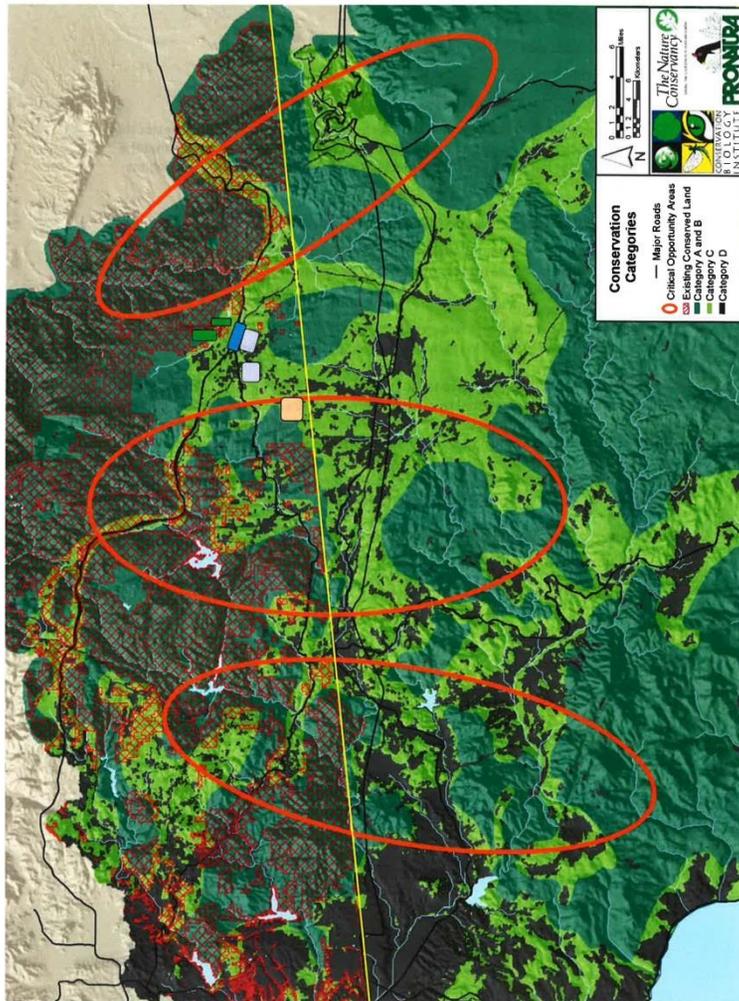
	<p><i>Determining Significance and Report Format and Content Requirements: Biological Resources</i> (County of San Diego 2010) was used to evaluate the direct, indirect, and cumulative impacts of the Project. The guidelines require identifying areas where sensitive biological resources are present and avoiding these areas to the maximum extent feasible. All sensitive resources are documented within the DPEIR and associated biological resource reports. The proposed project has been designed to avoid wetlands, such as Tule Creek, oaks (<i>Quercus</i> sp.), and sensitive habitat lands to the maximum extent practicable, including a 50-foot buffer surrounding those features. The LanEast and LanWest sites are evaluated on a programmatic level, so site specific determinations and analysis would be made when the applicant seeks a project-level approval for these sites and additional environmental review is conducted.</p> <p><b>O13-8</b> The areas between the trackers would be within the limits of disturbance since they would either be cleared or graded and therefore are considered areas of direct impacts (i.e., 100% permanent loss of a biological resource).</p> <p>For the gen-tie alignment, direct impacts include areas of vegetation removal where underground trenching will occur or where transmission poles will be installed (see Section 2.3.3 of the DPEIR). The County</p>
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	<p>disagrees that the habitat areas under the transmission lines should be calculated as part of the indirect impacts. Indirect impacts are described in Section 2.3.3 of the DPEIR and include generation of fugitive dust, habitat fragmentation, chemical pollutants, altered hydrology, non-native invasive species, increased human activity, alteration of the natural fire regime, shading, and noise. The transmission lines will not create or exacerbate any of the above-listed indirect impacts; therefore, the habitat under the lines should not be quantified as indirectly impacted. In response to this comment, the County has made revisions to the DPEIR clarifying that all construction staging and work would occur within existing dirt access roads. Where pole sites are not accessible from existing roads, holes would be dug by hand and poles would be placed using helicopters. These revisions to the DPEIR are presented in <del>strikeout</del>/<u>underline</u> format; refer to page 1.0-27 and 1.0-28 in Section 1.2.1.2.</p> <p>To the extent these changes and additions to the EIR provide new information that may clarify or amplify information already found in the DPEIR, and do not raise important new issues about significant effects on the environment, such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines.</p>
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	<p><b>O13-9</b> The commenter is referred to the response to comment O13-7.</p> <p><b>O13-10</b> Critical habitat for peninsular bighorn sheep and Quino checkerspot butterfly (<i>Euphydryas editha quino</i>) are depicted on Figures 2.3-8, 2.3-12, and 2.3-20 of the DPEIR. Wetlands are depicted on Figures 2.3-14, 2.3-18, and 2.3-25b through 2.3-25d of the DPEIR. The alternative project location, Los Robles, is depicted on Figure 4-3 of the DPEIR.</p> <p>The County does not agree that the information requested should be shown on Figure 4-3 of the DPEIR; see common response ALT3 regarding the level of detail required for analysis of alternative project locations.</p> <p>The commenter states that Jacumba Valley is the headwaters of Carrizo Creek, which flows north into Carrizo Gorge, a known lambing area for peninsular bighorn sheep. Refer to responses to comments I41-1 and I41-2. This comment does not raise a specific issue related to the potential impacts of the Project on these areas such that an additional response can be provided.</p> <p>Issues raised in this comment regarding LanEast and LanWest (i.e., the Lansing sites) are considered and addressed in the DPEIR (see Sections 2.3.3.2, 2.3.3.3, and 2.3.3.4). The commenter is also referred to the response to comment S3-4 regarding the determination</p>
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	<p>of the significance of impacts related to wetlands for LanEast. Also refer to the response to comment O13-7 related to the programmatic nature of the analysis of the LanEast and LanWest sites.</p> <p><b>O13-11</b> The County disagrees that the DPEIR does not adequately address impacts to groundwater consumption, on natural resources and ecological processes, or on the population of Boulevard. Potential impacts to groundwater-dependent habitat are considered and addressed in Section 2.3.3.2 of the DPEIR under Guideline D. Implementation of a groundwater management and monitoring program, as described in Mitigation Measures M-BI-PP-15, would reduce potential impacts to less than significant (see Section 2.3.6.2 of the FPEIR). The DPEIR has also been revised to disclose that implementation of the Groundwater Mitigation and Monitoring Plan (M-BI-15) will be a condition of the Major Use Permit. These revisions to the EIR are presented in <del>strikeout</del>-underline format; refer to page 3.1.5-63 in Section 3.1.5.</p> <p>To the extent these changes and additions to the EIR provide new information that may clarify or amplify information already found in the DPEIR, and do not raise important new issues about significant effects on the environment, such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines.</p>
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<p>CBI comments on SOITEC DEIR</p> <p><b>Wildlife movement and undercrossings</b></p> <ul style="list-style-type: none"> <li>Types and functionality of undercrossings (e.g., bridge, culvert) and the species they support should be evaluated relative to the project alternatives to ensure that the project does not block wildlife corridors or preclude the ability to protect habitat linkages.</li> </ul> <p><b>Secondary impacts of fragmentation (not addressed in DEIR)</b></p> <ul style="list-style-type: none"> <li>Increase in invasive species in graded areas and in areas between panels.</li> <li>Increased need for fire management due to increased access roads (most fires start at the edge of roads).</li> <li>Decrease in species movement.</li> <li>Impacts to environmental resources in Mexico.</li> <li>Relationship of project alternatives to surrounding areas of disturbed or intact habitat.</li> </ul> <p>Without further evaluation relative to these criteria, the full level of impacts to biological resources cannot be compared for the project alternatives. Based on the current content of the DEIR, the Rugged location appears to have the least significant impacts if it can be sited so as to avoid indirect impacts to adjacent publicly conserved lands. Siting of mitigation land should consider conservation benefits to the region. Thus, unless the County and wildlife agencies proceed with a conservation analysis for this part of the County, it is difficult to completely evaluate impacts of the project and appropriate mitigation.</p> <p>Thank you for the opportunity to comment.</p>  <p>Jerre Ann Stallcup Senior Conservation Ecologist</p> <p>Attachments</p>	<p>The commenter is also referred to the response to comment O10-23.</p> <p><b>O13-12</b> The DPEIR considers and addresses existing wildlife corridors and habitat linkages in Section 2.3.1 of the DPEIR; see also Figures 2.3-10, 2.3-15, and 2.3-19.</p> <p>Potential impacts to wildlife movement are further discussed in Sections 2.3.3.4, cumulative impacts in Section 2.3.4.4, and proposed mitigation measures in Section 2.3.6.4. See also the response to comment S3-33.</p> <p>Wildlife movement is considered and addressed in the context of the proposed alternatives in Chapter 4.0 of the DPEIR. Please also see common response ALT3 regarding the level of analysis for the alternative project location.</p> <p><b>O13-13</b> The County disagrees that the DPEIR failed to adequately evaluate secondary impacts of the Proposed Project on invasive species. In particular, Section 2.3.3 of the DPEIR specifically identifies invasive species as a potential indirect impact of the Proposed Project. Furthermore, cumulative indirect impacts of invasive species are considered and addressed in Section 2.3.1.4 of the DPEIR.</p> <p><b>O13-14</b> The County disagrees that the DPEIR failed to adequately address the increased need for fire</p>
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management due to increased access roads. M-BI-PP-8 requires the implementation of a Fire Protection Plan for the Proposed Project (see Section 2.3.6 of the DPEIR).

**O13-15** As discussed in the response to comment O13-12, the DPEIR evaluates the direct, indirect, and cumulative impacts to wildlife movement. The DPEIR addresses wildlife corridors and habitat linkages in Sections 2.3.1, 2.3.3.4, 2.3.4, and 2.3.6.4. Specifically, the DPEIR identifies the following mitigation measures to reduce potentially significant impacts to wildlife movement from the Proposed Project: M-BI-PP-1 (habitat preservation), M-BI-PP-2 (biological monitoring), M-BI-PP-3 (preparation and implementation of a stormwater pollution prevention plan), and M-BI-PP-4 (preparation of a biological monitoring report). In addition, specific mitigation measures for potential direct impacts to wildlife movement on the LanEast and LanWest solar farms would include M-BI-LE-1 and M-BI-LW-1.

**O13-16** The commenter is referred to the response to comment O13-5.

**O13-17** Proposed Project alternatives related to reduced or alternative configurations of the Proposed Project) would be located within the same sites as those discussed in the DPEIR; therefore, the context for these alternatives in relation to surrounding areas of disturbed or intact habitat is the same as for the Proposed Project. The location and

Las Californias gradients

Character	Category A	Category B	Category C	Category D
Reserve function	Core/ecosystem processes	Buffer	Linkage/wildlife corridor	Matrix
Conservation goal	Biodiversity protection			Sustainability
Management strategy	Protected area	Habitat management	Working landscape	Urban green space
Integrity	High	High	Low	
Feasibility	High			
Land use	Wildland		Agriculture, low density residential	Urban
Cost	Low			High?
Feasibility	High			Low?

**O13-18** The commenter is referred to the responses to comments O13-3 through O13-17. See also common response ALT3; the Los Robles alternative is considered in the DPEIR as an alternative location and not as part of the Proposed Project. Should the applicant wish to seek entitlements for the Los Robles site, additional information and environmental analysis would be required. The County acknowledges the commenter’s preference for the Rugged solar farm site.

The County agrees siting of the conservation land should consider conservation benefits to the region. However, preparation of a regional conservation analysis for the eastern San Diego County region is outside the purview of the Proposed Project. The Proposed Project has undergone the interim review process under the ECMSCP Planning Agreement and based on the project analysis it has been determined that the Proposed Project has been designed in accordance with the preliminary conservation objectives outlined in the Planning Agreement (see Section 2.3.3.5 of the DPEIR and the response to comment F1-2).

**O13-19** This comment concludes the letter and does not raise an environmental issue for which a response is required.

	<p><b>References</b></p> <p>14 CCR 15000–15387 and Appendices A–L. Guidelines for Implementation of the California Environmental Quality Act, as amended.</p> <p>California Public Resources Code, Sections 21000–21177. California Environmental Quality Act (CEQA), as amended.</p> <p>County of San Diego. 2010. <i>Guidelines for Determining Significance and Report Format and Content Requirements: Biological Resources</i>. County of San Diego, Land Use and Environment Group, Department of Planning and Land Use, Department of Public Works. September 15, 2010.</p> <p>County of San Diego, California Department of Fish and Wildlife, and United States Fish and Wildlife Service. 2008. Planning Agreement by and among the County of San Diego, the California Department of Fish and Wildlife, and the United States Fish and Wildlife Service regarding the North and East County Multiple Species Conservation Program Plans: Natural Community Conservation Program Plans and Habitat Conservation Plans (Planning Agreement). October 29, 2008.</p>
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