Comment Letter O14

Hingtgen, Robert J

From: Dan Silver <dsilverla@me.com>
Sent: Monday, March 03, 2014 11:04 PM
To: Hingtgen, Robert J
Cc: Fogg, Mindy; Stephenson, Bobbie; Gretler, Darren M; Snyder, Todd
Subject: Soitec Solar Development Draft Program EIR - Part 2
Attachments: EHL-SoitecDPEIR-3.3.14.pdf

March 3, 2014

Robert Hingtgen
Dept of Planning and Development Services
5510 Overland Ave., Ste 110
San Diego, CA 92123

RE: Soitec Solar Development Draft Program EIR (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:

Enclosed please find comments from Endangered Habitats League. Acknowledgement of your receipt would be appreciated. O14-1

Yours truly,
Dan

Dan Silver, Executive Director
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Response to Comment Letter O14

Endangered Habitats League
Dan Silver
March 3, 2014

O14-1 This comment is introductory in nature and does not raise an environmental issue for which a response is required.

ENDANGERED HABITATS LEAGUE

DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE

EHL

BY ELECTRONIC MAIL

March 3, 2014

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Planning and Development Services

Robert Hingtgen
Planning & Development Services
5510 Overland Ave., Suite 310
San Diego, CA 92123

RE: Soitec Solar Development Draft Program EIR (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 Endangered Habitats League (EHL) appreciates the opportunity to comment on the Draft Programmatic and Project EIR for the Soitec Solar Development projects proposed near Boulevard. EHL is a long-term stakeholder in the County's habitat and land use planning efforts and is Southern California's only regional conservation group. O14-2

While renewable energy sources, such as wind and solar, are an essential component of a solution to climate change-inducing fossil fuels and to reducing our reliance on depleting supplies of imported energy, large-scale solar generation projects themselves come with significant impacts. In a fundamental way, it is unacceptable to embark upon large-scale solar projects absent a comprehensive energy strategy and particularly a comprehensive regional environmental analysis like the Desert Renewable Energy Conservation Plan (DRECP). O14-3 Absent these approaches, there is no justification for why the power generated by this project cannot be obtained through distributed energy generation O14-4 or if that is infeasible, through relocation of the project to already disturbed land instead of intact chaparral and grassland habitat. The DEIR does not sufficiently address biological impacts to overcome the deficiencies posed by a piecemeal approach. O14-5

While the need for alternative energy generally is manifest, the DEIR never states why *this* Project is necessary at the proposed size and at the locations selected. O14-6 Nor does the document identify other alternative energy projects from which San Diego utilities may purchase power and whether, given the existence of these other projects, supply via Soitec will be needed. A discussion of the larger energy context is therefore necessary to justify the project. O14-7

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O14-2 This comment is introductory in nature and does not raise an environmental issue for which a response is required.

O14-3 The County disagrees with the commenter's assertion that it is unacceptable to embark upon large-scale solar projects absent a comprehensive energy strategy or a comprehensive regional environmental analysis like the DRECP. First, California does have a comprehensive energy strategy. The California Energy Commission (CEC) prepares an Integrated Energy Policy Report (IEPR) biennially, with an update in interim years. Through the IEPR process, the CEC conducts assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices (California Public Resources Code, Section 25301; see CEC 2014). In addition, the California Public Utilities Commission implements the state's 33% Renewables Portfolio Standard for investor-owned utilities (IOUs), as well as a biennial long-term procurement plan to govern the procurement of energy by the IOUs (CPUC 2014a, 2014b). The state energy and environmental agencies, along with the California Independent System Operator Corporation (CAISO), also coordinate on state energy policy goals through California's Clean Energy Future initiative (see CAISO et al. 2014).

	Second, while regional planning like the DRECP and the environmental review that will be done for the DRECP under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act are valuable for the protection of biological resources, the DRECP does not govern the geographic area where the Proposed Project will be constructed (Dudek and ICF 2011; see also DPEIR Figures 1-1, 1-2). The DRECP process acknowledges that projects within the DRECP boundaries will continue to be processed through the existing permitting processes of the agency with jurisdiction over the project (REAT 2013, p. 6; CDFG 2011, pp. 1, 2). If a project is situated in a biologically sensitive area identified in the DRECP planning process, the project will undergo an interim process review to evaluate the potential effect of the project on the DRECP (REAT 2013, p. 7). The Proposed Project is within the planning area for the ECMSCP (DPEIR, 2.3-3). The ECMSCP is in the planning stages and has not yet been adopted by the County. Nevertheless, the County has evaluated the Proposed Project under CEQA in relation to the draft ECMSCP (DPEIR, pp. 2.3-152 to 2.3-153, 2.3-162). The County determined that the Proposed Project would not preclude or prevent the implementation of the ECMSCP because the Proposed Project is designed in accordance with the Preliminary Conservation Objectives in the Planning Agreement

		for the ECMSCP (DPEIR, pp. 2.3-152 to 2.3-153, 2.3-162, Table 2.3-15; see also p. 2.3-157). The comment related to the significant impacts of large-scale solar generation projects is acknowledged and will be included in the Final Program Environmental Impact Report (FPEIR) for review and consideration by the decision makers.
	O14-4	The County disagrees with the commenter's assertion that there is no justification for why the solar energy from the Proposed Project cannot be obtained through distributed energy generation. The County analyzed a distributed-generation alternative and eliminated the alternative from detailed consideration because it would not meet most of the Proposed Project objectives and was infeasible. Refer to common response ALT2 and the response to comment O10-102 related to the Draft Program Environmental Impact Report (DPEIR) analysis of the distributed-generation alternative. Also refer to the responses to comments O10-103 to O10-115. The County also disagrees with the commenter's assertion that there is no justification for why the Proposed Project cannot be relocated to already disturbed land instead of intact chaparral and grassland habitat. Refer to common response ALT1 related to the County's analysis of alternative locations for the Proposed Project.

	O14-5	The County disagrees with the commenter's assertion that the DPEIR does not sufficiently address biological impacts, and that the County's consideration of the Proposed Project constitutes a "piecemeal approach." CEQA requires the analysis and mitigation of project and site-specific impacts of the Proposed Project (14 CCR 15126), as well as evaluation of impacts of the Proposed Project in combination with other projects on the local or even regional level (14 CCR 15130(a) and 15130(b)(1)). The cumulative impacts analysis ensures that the Proposed Project is not considered in isolation from the surrounding area and guards against the "piecemeal approach" that the commenter alludes to (14 CCR 15130(a) and 15130(b)(1)). The Proposed Project's potential direct and indirect impacts on biological resources were comprehensively evaluated under the County *Guidelines for Determining Significance and Report Format and Content Requirements: Biological Resources* (County Guidelines; County of San Diego 2010), including 11 different areas of inquiry (DPEIR, pp. 2.3-99 to 2.3-162). Biological impacts of the Proposed Project were considered in the regional context through the cumulative impacts analysis (DPEIR, pp. 2.3-163 to 2.3-173). The DPEIR considered cumulative biological impacts over the Peninsular Ranges of the California Floristic Province, which reflects a single eco-geographic area with common broad patterns of natural

		vegetation, geology, topography, and climate (DPEIR, p. 2.3-162). Evaluating impacts over this distinct biogeographic region ensures that impacts located within a Proposed Project site are not considered in a "piecemeal" fashion, without the broader context of an area of similar climatic and plant community associations (DPEIR, pp. 2.3-162, 2.3-163). The Interim Review Process provided in the Planning Agreement for the ECMSCP ensures that projects initiated in the ECMSCP planning area prior to the adoption of the ECMSCP do not compromise the successful implementation of the ECMSCP (Planning Agreement, Exhibit B, p. 1). Through the Interim Review Process, the California Department of Fish and Wildlife and U.S. Fish and Wildlife Service collaboratively review projects that may have the potential to preclude long-term preservation planning or impact the viability of biological resources. 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.
	O14-6	CEQA does not require the County to make a showing that the Proposed Project is "necessary at the proposed size and at the locations selected," as this comment

The larger context is also necessary to properly analyze the project's cumulative impacts. Although the DEIR does list some pending projects, they are not graphically displayed so that the cumulative impacts of these projects, for example on biological resources, are readily ascertainable. The role this Project plays in regional habitat conservation planning is also not made clear. A revised EIR must establish whether development of any of the proposed sites will prejudice a future Multiple Species Conservation Program for the East County both for core areas and linkages. O14-8

At the project level as well there is a lack of detailed biological survey data that would permit the fine-tuning of Project configuration necessary to avoid or at least minimize impacts. Instead, most of the land is labeled generally as chaparral and is considered fungible. O14-9 There is a lack of attention to more sensitive types of chaparral and to specific sensitive flora and fauna. Indeed, for at least one site, Los Robles, there is no detailed survey information at all. Thus, if the Los Robles site is selected for at least part of the Project, further environmental review will be necessary. O14-10

The alternatives analysis must address whether there are sites meeting project objectives that have already been disturbed. O14-11 There was no serious effort to identify and avoid locations least sensitive from a reserve design perspective. Rather, uniform setbacks from the project periphery were considered, which has little relevance for biological resources. And when conducting the alternatives analysis, care must be taken to avoid defining project objectives so narrowly with ancillary (and unnecessary) goals so that only the project configuration the applicant prefers will pass muster. Thus, for example, having as a project objective the investment of $100 million in the County precludes consideration of sites in adjacent counties and alternatives that do not require that level of investment. O14-12

Finally, we do not believe there is a legitimate basis for certification of those portions of the document that are deemed programmatic. Having specifically defined areas for consideration (LanWest and LanEast, Los Robles), a programmatic document serves no real purpose. Accordingly, before any of these sites are selected, full-blown project-level review in an EIR will be required. O14-13

Thank you for your consideration of EHL's views and we would look forward to continuing to work with you on these issues. O14-14

Yours truly,

Dan Silver
Executive Director

suggests. Instead, the purpose of an environmental impact report (EIR) is to "identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided" (California Public Resources Code, Section 21002.1(a)). To the extent the commenter is suggesting that the DPEIR does not explain why the Proposed Project meets the Proposed Project objectives set forth in the DPEIR, the County disagrees and refers the commenter to Section 1.2.2 of the DPEIR, which outlines the technical, economic, and environmental characteristics of the Proposed Project (DPEIR, pp. 1.0-30 to 1.0-33).

O14-7 The commenter is referred to the response to comment O14-6.

O14-8 The commenter is referred to the response to comment O14-3, which explains the DPEIR analysis of cumulative impacts related to biological resources and that the County has concluded that the Proposed Project would not prejudice the development of the ECMSCP. The commenter is referred to Figure 1-12 of the DPEIR, which depicts a cumulative projects map, and Figure 2.3-27, which provides a map of the biological resources cumulative study area, including the location of cumulative projects.

	O14-9	The County disagrees that there is a lack of detailed biological survey data, specifically in regard to mapping of chaparral within the Proposed Project area. The commenter states that most of the land is labeled generally as chaparral when in fact there are five types of chaparral mapped within the Proposed Project area as well as three combinations of chaparral and buckwheat scrub (see Section 2.3.1.2, Table 2.3-1, of the DPEIR). Vegetation mapping for the Proposed Project area was completed using Oberbauer et al. (2008), which is the classification system outlined in the County Guidelines. The varying types of chaparral mapped within the Proposed Project areas include those determined to be sensitive, and which require mitigation as outlined in Table 5 of the County Guidelines. Chaparral is the dominant vegetation community within this portion of East County and therefore accounts for the majority of vegetation communities mapped within the Proposed Project area (see Table 2.3-1 of the DPEIR). Extensive field surveys documented the flora and fauna of the Project sites, including sensitive species (DPEIR Section 2.3.1, Appendices 2.3-1 and 2.3-2).
	O14-10	The County agrees that any discretionary approval by the County for the Los Robles solar farm, such as a Major Use Permit, would likely require supplemental environmental review under CEQA, as a project-specific analysis of the development of the site has not been undertaken in the DPEIR.

	O14-11	The County disagrees with the commenter's assertion that the DPEIR alternatives analysis must address alternative site locations that are disturbed land. No such requirement exists in CEQA. Refer to the common response ALT1 related to the County's evaluation of alternative locations. Alternative sites were screened using specific criteria related to objectives of the Proposed Project, including presence of excellent solar attributes (i.e.. high direct normal irradiance,) proximity to existing infrastructure, and availability of large parcels of land. The alternatives analysis covers a reasonable range of feasible alternatives to the Proposed Project that would avoid or substantially lessen any significant effects of the Proposed Project (DPEIR, p. 4.0-1; 14 CCR 15126.6(a)). The County found that the Proposed Project would result in potentially significant and unavoidable adverse impacts, for which feasible mitigation measures would not reduce the impacts to below a level of significance, related to aesthetics, air quality, and land use (DPEIR, p. 4.0-1). Implementation of feasible mitigation measures or project design features reduced potential significant impacts to biological resources to less than significant. Therefore, the County did not focus its alternatives analysis on identifying alternative locations that would further reduce potential impacts to biological resources. Alternatives 1, 2, and 3 incorporated an increase in setbacks of trackers from the property lines

		on highly visible edges of the Proposed Project sites, reducing the Proposed Project in size; these alternatives were proposed in an effort to reduce significant impacts to aesthetics, as well as other significant and unavoidable impacts (DPEIR, pp. S.0-73 to S.0-75, 4.0-8 to 4.0-10, 4.0-14, 4.0-18, 4.0-19, 4.0-22, 4.0-23).
	O14-12	The County disagrees that the Proposed Project objectives were defined too narrowly, and does not agree that Objective 6 (invest a minimum of $100 million of economic development in the County) would preclude consideration of sites in adjacent counties and alternatives that would not require $100 million in investment. CEQA Guidelines Section 15126.6(a) requires that an EIR describe a reasonable range of alternatives that would feasibly obtain "most of the basic objectives of the project." Accordingly, a proposed alternative's failure to meet a single project objective would not preclude consideration of that alternative site or alternative project.
	O14-13	The County acknowledges that consideration for additional environmental review will be necessary for the actions related to the LanEast, LanWest, and Los Robles sites, which are addressed at a programmatic level in the DPEIR, but believes that there are advantages in analyzing and disclosing effects related to those actions at this time in a programmatic manner.

		The LanEast, LanWest, and Los Robles components fit the description of the types of actions for which a programmatic EIR may be prepared, as outlined in Section 15168 of the CEQA Guidelines, in that they are related geographically and are logical parts in a chain of contemplated actions. Addressing these components at a program level offers the advantages of providing a more exhaustive consideration of effects and alternatives than would be available for an EIR on the project-level actions alone. In addition, the program-level analysis provides a more robust consideration of cumulative impacts, and may provide the basis for determining whether the subsequent activities may have significant effects. In addition, omitting a programmatic analysis from the DPEIR of those projects for which the applicant will seek project-level approvals in the future would be impermissible segmentation under CEQA. Therefore, the County disagrees with the commenter's assertion that there is no legitimate basis for certifying the programmatic portions of the DPEIR.
	O14-14	This comment concludes the letter and does not raise a significant environmental issue for which a response is required.

	References 14 CCR 15000–15387 and Appendices A–L. Guidelines for Implementation of the California Environmental Quality Act, as amended. California Public Resources Code, Sections 21000–21177. California Environmental Quality Act (CEQA), as amended. CDFG (California Department of Fish and Game). 2011. "Interim Process for the DRECP." Memo from the CDFG to the Renewable Energy Action Team. February 28, 2011. CEC (California Energy Commission). 2014. "California's Energy Policy." http://www.energy.ca.gov/energypolicy/. Conservation Biology Institute. 2003. La Posta Linkage Portfolio. July 2003. County of San Diego. 2010. *Guidelines for Determining Significance and Report Format and Content Requirements: Biological Resources*. County of San Diego, Land Use and Environment Group, Department of Planning and Land Use, Department of Public Works. September 15, 2010. CPUC (California Public Utilities Commission). 2014a. "California Renewables Portfolio Standard (RPS)." http://www.cpuc.ca.gov/PUC/energy/Renewables/index.htm.

	ECMSCP Planning Agreement. Oberbauer, T., M. Kelly, and J. Buegge. 2008. *Draft Vegetation Communities of San Diego County*. March 2008. http://www.sdcanyonlands.org/canyon-groups/canyon-group-resources/canyon-enhancement-guide/189-canyon-enhancement-planning-guide-materials. Renewable Energy Action Team. 2013. DRECP Frequently Asked Questions for the Description and Comparative Evaluation of Draft DRECP Alternatives. January 9, 2013. Renewable Energy Action Team. 2014. DRECP Regional Map. http://www.drecp.org/maps/DRECP_Boundary_Area_Map.pdf. South Coast Wildland Network. 2009. South Coast Missing Linkages Project. http://www.scwildlands.org/projects/scml.aspx.

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