

Comment Letter S3

Hingtgen, Robert J

From: Duarte, Dolores@Wildlife <Dolores.Duarte@wildlife.ca.gov>  
Sent: Monday, March 03, 2014 12:46 PM  
To: Hingtgen, Robert J  
Cc: Hollenbeck, Eric@Wildlife; Courtney, Betty@Wildlife; Sevrens, Gail@Wildlife; Doreen\_Stadtlander@fws.gov  
Subject: Copy of comment letter Re: Soitec Solar Devt/San Diego Co/SCH 2012061068  
Attachments: pdf Soitec Solar Devt SD Co.pdf

Mr. Hingtgen,  
Please see attached copy for your records. Original will follow.

If you have any questions, please contact Eric Hollenbeck at (858) 467-4289. Thank you!

*Dolores Duarte  
Regional Manager Secretary  
Department of Fish and Wildlife-South Coast Region 5  
3883 Ruffin Road, San Diego, CA 92123  
Phone #: (858) 467-2702 /Fax #: (858) 467-4239  
Work Schedule: 7:30am-5:00pm*

S3-1

Response to Comment Letter S3

California Department of Fish and Wildlife

Edmund Pert

March 3, 2014

S3-1

The comment does not raise an environmental issue for which a response is required.



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
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EDMUND G. BROWN JR., Governor  
 CHARLTON H. BONHAM, Director



March 3, 2014

Mr. Robert Hingtgen  
 County of San Diego  
 Department of Planning and Development Services  
 5510 Overland Avenue, Suite 110  
 San Diego California 92123  
 Robert.Hingtgen@sdcounty.ca.gov



**Subject: Comments on Draft Programmatic Environmental Impact Report for Soitec Solar Development, San Diego County (SCH# 2012061068).**

Dear Mr. Hingtgen:

The California Department of Fish and Wildlife (Department) has reviewed the Draft Programmatic Environmental Impact Report (DPEIR), dated January 2, 2014, for the Soitec Solar Development Project (Project). The Project would allow for the construction of four solar farms (Tierra del Sol, Rugged Solar, LanEast, and LanWest), located in southeastern San Diego County. The Project would encompass approximately 1,490 acres within the Mountain Empire Subregional Plan, near the community of Boulevard, in unincorporated San Diego County. The Project would utilize concentrated photovoltaic (CPV) technology to produce up to 168.6 megawatts (MW).

**DFG Jurisdiction:**

The following statements and comments included in Attachment A have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the Project (California Environmental Quality Act Guidelines § 15386) and as a Responsible Agency under CEQA Guidelines Section 15381 over those aspects of the Project that come under the purview of the California Endangered Species Act (CESA – Chapter 1.5 of the Fish and Game Code), and/or require a Lake and Streambed Alteration Agreement Fish and Game Code § 2050 *et. seq.*). The County also participates in the Department's Natural Community Conservation Planning program (NCCP: Fish and Game Code § 21000 *et. seq.*) through a signed/permitted South County Multiple Species Conservation Program (MSCP) and the draft East County Plan for which the Mountain Empire Subregional Plan is a part.

1. Given the programmatic nature of the environmental document, the Department acknowledges that the Lead Agency is not obligated to fully analyze subsequent activities for which insufficient data exists. However, Findings of Significance should only be made when those Findings are supported by substantial evidence in the record (CEQA § 15091(b)). For those aspects of the Proposed Project that have not been fully studied, Findings of Significance should be set aside.
2. Both LanEast and LanWest sites are programmatically addressed within the DPEIR. Some information (e.g., a jurisdictional delineation) is provided for LanWest, but is not

*Conserving California's Wildlife Since 1870*

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S3-4

S3-2

The comment is acknowledged and will be included in the Final Program Environmental Impact Report (FPEIR) for review and consideration by the decision makers.

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The County of San Diego (County) agrees that California Environmental Quality Act (CEQA) Guidelines Section 15091(b) requires that CEQA findings made under Section 15091(a) must be supported by substantial evidence (14 CCR 15000 et seq.). Although specific details of LanEast and LanWest solar farms are not yet known, the program level analysis provided in the DPEIR is based on available information. Per CEQA Guidelines Section 15384, substantial evidence may include “reasonable inferences” from relevant information and “reasonable assumptions predicated on facts”. Where substantial evidence was available to make a significance determination, mitigation measures were applied accordingly; see Table 2.3-18, Section 2.3.6 of the DPEIR relative to biological resources. However, where project design and/or project-level data including site-specific surveys were necessary to make a significance determination, the DPEIR refrains from providing a determination.

The DPEIR acknowledges that additional environmental review, including biological surveys for sensitive species and vegetation communities, will be required for future approvals associated with LanEast

and LanWest solar farms since these components are analyzed at a programmatic level. The County believes that there are advantages in analyzing and disclosing effects related to LanEast and LanWest at this time in a programmatic manner. 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.

The County agrees with the commenter that where insufficient data exists to fully analyze a program level portion of the Proposed Project, the DPEIR should note that fact and refrain from making findings of significance. Therefore, in response to this comment and comments S3-13 through S3-16, the DPEIR was revised to refrain from making significance conclusions for the candidate, sensitive, or special-status species and the jurisdictional wetlands and waterways thresholds for LanEast. These revisions to the DPEIR are presented in ~~strikeout~~/underline format; refer to Sections 2.3.3 and 2.3.7. The changes 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.

Mr. Robert Hingtgen  
 County of San Diego  
 March 3, 2014  
 Page 2 of 2

provided for LanEast. Additionally, both LanEast and LanWest warrant additional biological studies specific to each site.

3. The PDEIR does not specifically identify the Los Robles Solar site within the Project Description and is first introduced within the Project Alternatives. Given the absence of information on the Los Robles Solar site in the PDEIR the Department's consideration of any Project Alternatives involving the Los Robles Solar site is constrained. Similarly, the Department is concerned that the PDEIR's analysis used to identify the environmentally superior alternative relies heavily on a Project Site which is poorly described and studied.
4. Considering the incomplete data provided for LanEast, LanWest, and the Los Robles Site, the Department recommends that the Lead Agency withhold Findings of Significance of environmental effects which are not supported by substantial evidence in the PDEIR. A subsequent CEQA document can be prepared to address effects of any activity not included in the scope of the analysis of the programmatic document. At that time, to address broad-scale impacts, the programmatic document may be incorporated by reference while the subsequent CEQA document can address site-specific impacts.

Thank you for this opportunity to comment on the DPEIR. Questions regarding this letter and further coordination regarding these issues should be directed to Eric Weiss, Senior Environmental Scientist (Specialist) at (858) 467-4289 or Eric.Weiss@wildlife.ca.gov.

Sincerely,



Edmund Pert  
 Regional Manager  
 South Coast Region

cc: California Department of Fish and Wildlife  
 Betty J. Courtney, Betty.Courtney@wildlife.ca.gov  
 Gail Sevens, Gail.Sevens@wildlife.ca.gov

US Fish and Wildlife Service  
 Doreen Stadtlander, Doreen\_stadtlander@fws.gov

S3-4  
 Cont.  
 S3-5  
 S3-6  
 S3-7

**S3-4**

The County agrees that a jurisdictional delineation has not yet been conducted for the LanEast site (DPEIR, p. 2.3-73); however, a delineation has been prepared for the LanWest site (DPEIR, p. 2.3-81). The County agrees that further project-level biological studies for the LanEast and LanWest solar farms would be warranted before they could be approved on a project basis. See response to comment S3-3 regarding revisions to the DPEIR significance conclusions for the LanEast and LanWest solar farms.

**S3-5**

The County disagrees that the Los Robles site, included in the environmentally superior alternative, is poorly described or studied. The appropriate level of detail has been provided for the Los Robles site to allow for an informed comparison of the impacts of the Proposed Project with those of the alternatives, considering the programmatic nature of the DPEIR, the analysis of Los Robles as an alternative, and that the County is not considering a project-specific approval involving the Los Robles site at this time. Please refer to responses to comments F1-15 and F1-18.

**S3-6**

The County agrees that a subsequent CEQA document would be required for development of the Los Robles, LanEast, and LanWest sites. With respect to the commenter's reference to incomplete data for the LanEast and LanWest sites, please see response to comment S3-3. The Los Robles site is analyzed as an

**Hingtgen, Robert J**

**From:** Duarte, Dolores@Wildlife <Dolores.Duarte@wildlife.ca.gov>  
**Sent:** Monday, March 03, 2014 1:55 PM  
**To:** Hingtgen, Robert J  
**Cc:** Weiss, Eric@Wildlife; Courtney, Betty@Wildlife; Sevrens, Gail@Wildlife; Doreen\_Stadtlander@fws.gov  
**Subject:** RE: Copy of Attachment- comment letter Re: Soitec Solar Devt/San Diego Co/SCH 2012061068  
**Attachments:** Attachment Soitec Solar Devt.docx

I apologize for not attaching this. I'm sorry.

**From:** Duarte, Dolores@Wildlife  
**Sent:** Monday, March 03, 2014 12:46 PM  
**To:** [Robert.Hingtgen@sdcounty.ca.gov](mailto:Robert.Hingtgen@sdcounty.ca.gov)  
**Cc:** Hollenbeck, Eric@Wildlife; Courtney, Betty@Wildlife; 'Sevrens, Gail@Wildlife ([Gail.Sevrens@wildlife.ca.gov](mailto:Gail.Sevrens@wildlife.ca.gov))'; [Doreen\\_Stadtlander@fws.gov](mailto:Doreen_Stadtlander@fws.gov)  
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**S3-7**

alternate location for some elements of the Proposed Project in the DPEIR.

The comment does not raise an environmental issue for which a response is required.

<p style="text-align: center;"><b>Appendix A</b> <b>Specific Comments on the Draft Programmatic Environmental Impact Report</b> <b>For the Soitec Solar Development, San Diego, County</b></p> <p><b>SCH# 2012061068</b></p> <p>The Department offers the following comments on the Draft Programmatic Environmental Impact Report for the Soitec Development. These comments and recommendations are intended to guide the Lead Agency to specific areas of the PDEIR that are of concern to the Department.</p> <p><i>Project Description:</i> (Page S.0-1; Page S.1.1) The DPEIR states that "Currently, the applicants are seeking project-level approvals for the Tierra del Sol and Rugged solar farms, which are analyzed at a project level of detail in this Program EIR. The LanEast and LanWest solar farms are analyzed at a programmatic level, "because sufficient project-level data has not been developed at this time." A project-specific, focused EIR, or other CEQA document would need to be prepared to augment the PDEIR's analysis to adequately address project-specific impacts in conformance with CEQA (CEQA Guidelines § 15168(a)). Additionally, the Los Robles site is not described in the PDEIR's project description. The Department would expect that: 1) the project description include the full breadth of proposed activities and, 2) conclusions regarding significance of impacts would be reserved from the DPEIR and articulated in subsequent project-specific CEQA environmental analysis for any location which is not specifically or fully identified or evaluated (e.g., LanEas, LanWest, and Los Robles).</p> <p><i>Consistency with the draft East County MSCP:</i> The Department has worked cooperatively with the Service, the San Diego County (County) and other stakeholders to develop a conceptual comprehensive strategy for the draft East County MSCP. The draft East County MSCP facilitates comprehensive planning by identifying focused conservation areas (FCAs) and areas of development outside of FCAs. FCAs are areas identified by the draft East County MSCP where conservation and mitigation are anticipated in order to assemble the East County MSCP preserve (Independent Science Advisor's Documentation Binder/Workshop #1, February 2006 and the January 2007 Workshop). The Project was presented to the Wildlife Agencies on June 27, 2013 as part of the interim review process for East County MSCP. A site visit for Tierra del Sol and Rugged Solar was conducted on October 25, 2013, in coordination with the County.</p> <p>The DPEIR (Page 2.3-173) states: "The Project is not covered by an MSCP. Although the East County MSCP has not yet been adopted, the Project is consistent with the plan's goals and objectives applicable to regional planning efforts and does not preclude or prevent the implementation of the subregional NCCP." While we acknowledge that the East County MSCP has not yet been adopted, Section 6.6 and Attachment B of the North and East County MSCP Planning Agreement does suggest that in reviewing interim projects, the Wildlife Agencies should: 1) consider whether proposed development is consistent with the preliminary conservation objectives; and 2) ensure that development does not compromise the successful completion and implementation of the MSCP.</p> <p>Under the Regional Overview (Section 2.3.1.2, Page 2.3-3) of the DPEIR the following position is stated "... [t]he County and wildlife agencies review projects using the interim processing guidelines in Section 6.6 and Exhibit B of the MSCP East (and North) Planning Agreement and the Focused Conservation Areas map, and those projects that achieve conservation requirements when that review is completed are deemed consistent with the draft MSCP East Plan's Preliminary Conservation Objectives. At that time, per the MSCP Framework Plan EIR/EIS, the projects will have the benefits of having cumulative impacts under CEQA addressed to proposed covered species such as raptors, including the golden eagle." The</p>	<p style="text-align: center;"><b>RECEIVED</b> MAR 03 2014 Planning and Development Services</p> <p>S3-8</p> <p>S3-9</p> <p>S3-10</p> <p><b>S3-8</b> The comment is acknowledged and will be included in the FPEIR for review and consideration by the decision makers.</p> <p><b>S3-9</b> The County agrees that the LanEast and LanWest solar farms would require future CEQA analysis before they could be approved by the County. The County notes that the Los Robles site is not described in the DPEIR's project description because it is an alternate location analyzed as part of the DPEIR's alternatives analysis, and is not part of the Proposed Project. (DPEIR, p. 4.0-27.) Please also refer to the response to comment S3-3.</p> <p><b>S3-10</b> The County generally agrees with the information provided in this comment. In response to the commenter's inquiry, the cumulative analysis conducted for biological resources is based on the list method and considers relevant projects; see Section 2.3.4 of the DPEIR. The cumulative analysis does not assume the Proposed Project is covered under the MSCP framework. However, the project proponents have coordinated with regional planning efforts and 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. The commenter is referred to the</p>
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**Appendix A  
Specific Comments on the Draft Programmatic Environmental Impact Report  
For the Soitec Solar Development, San Diego, County**

**SCH# 2012061068**

Department is unclear of the intent of the statement (page 2.3-35) and whether a conclusion to address cumulative effects of the project will be a project-by-project analysis or assume the project is covered under the MSCP framework.

(Page 1-12) According to the DPEIR, to reduce fugitive dust and erosion, either a permeable nontoxic soil binding agent, use of an aggregate base material or a combination of the two will be utilized. The Department recommends that the DPEIR specify and evaluate the potential biological effects that the soil binders may pose to aquatic and biological resources. The DPEIR's analyses should include an evaluation of the specified product's persistence over time in saturated and unsaturated conditions.

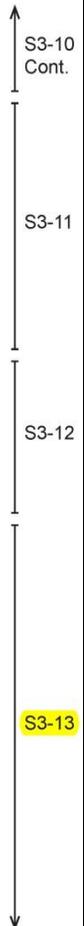
(Page 1-20) The DPEIR anticipates the annual application of soil binders. Use of soil binders would require approximately 3,300 gallons of water per acre, per annum. The Department suggests the Lead Agency consider requiring the alternatively proposed base material application (e.g., decomposed granite) in lieu of soil binding agents. The continual need for water consumption and potentially detrimental effects to biological resources over the operational life of the Project could be considerable.

*Tierra del Sol:*

(Page 1-26) "The remaining portions of the line that is underground would be directly buried with conductor rated for direct burial that meets industry standards. The trench sizes and construction methods would be similar as stated above for the duct bank lines in the ROW. The only exception is that the direct buried lines would be encased in 1 foot of sand material and would not require encasing with a slurry or concrete." The Department recommends that, similar to the underground collection system, all reaches of the underground transmission line is ducted or otherwise installed within a protective conduit.

*LanEast and LanWest:*

(Page 2.3-114) The DPEIR repeatedly states that both LanEast and LanWest are evaluated at a programmatic level warrant additional information prior to conducting an environmental analysis. The Department agrees that both LanEast and LanWest (in addition to the Los Robles site) warrants additional study, to include, but not limited to, raptor specific studies evaluating wintering, migratory, and breeding use of the sites. The DPEIR, under Project Effects Relevant to Guideline E for LanEast and LanWest identifies a "no impact" determination for Golden Eagle and a "potentially significant" impact to raptor species. The "no impact" determination for LanEast and LanWest on golden eagle is not supported (see discussion below) by the information provided. According to the Wildlife Research Institute (WRI) report for Golden Eagle (WRI, April 2013), LanEast and LanWest are located in the western edges of both the Carrizo Gorge and Table Mountain golden eagle territories. The assessment of the Carrizo Gorge and Table Mountain territories has been established through the use of VHR technologies, and has not yet benefited from the additional data points which GPS transmitters may provide. While the Boulevard golden eagle territory has not been active for decades, as identified in the WRI report, neighboring territories may subsume all or portions of the Boulevard territory in an attempt to defray the effects of habitat degradation. The Department remains optimistic that, with proper planning, the Boulevard territory may become active in the future. Very little biological information specific to LanEast or LanWest exists to gauge either site's potential to impact species. The DPEIR does not provide the Department sufficient data to assess whether developing LanEast or LanWest would have a significant impact on biological resources. The



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response to comment F1-2 for further details regarding the interim review associated with the Proposed Project with the MSCP and other regional conservation projects in the area.

The County agrees that the Proposed Project includes the use of soil binders and an aggregate base material, such as decomposed granite (DG), to control fugitive dust and erosion (see project design feature (PDF) PDF-AQ-1 in Chapter 1.0 of the DPEIR). Specifically, the applicants intend to apply DG or a similar base material to all graded roadway surfaces and around the on-site substation and operations and maintenance (O&M) facilities of each site. The soil binder will be applied to the remaining disturbed areas following completion of construction activities.

The soil binder that would be used would be nontoxic and permeable, such as Envirotac II Rhino Snot. However, because the use of a soil binder (or aggregate base material) would preclude the regrowth of native vegetation on the Proposed Project site, the DPEIR considers the loss of suitable habitat on all developed areas of the Proposed Project site. Therefore, mitigation is provided, including the permanent preservation in open space an area equal to or greater than the area being developed by the Proposed Project (see MM-BI-PP-1 in Section 2.3.6 of the DPEIR). The County

	<p>appreciates the California Department of Fish and Wildlife’s (CDFW’s) recommendation to consider the use of a base material in place of the soil binder and will include this comment in the FPEIR to be considered by the decision makers. Water requirements for operation of the Proposed Project, including for the use of soil binders on an ongoing basis, have been estimated; refer to DPEIR Section 3.1.5.3.4 and common response WR1. The DPEIR found that the Proposed Project would have a less than significant impact on groundwater supply. In addition, the DPEIR concluded that the Project would have a less than significant impact on groundwater dependent vegetation with the implementation of groundwater monitoring mitigation (DPEIR Sections 2.3.3.2, 2.3.6.2).</p> <p><b>S3-12</b> All underground cables are shielded and rated for direct burial. The County does not concur that a concrete slurry would be necessary.</p> <p><b>S3-13</b> See response to comment S3-3 regarding revisions to the DPEIR significance conclusions for the LanEast and LanWest solar farms.</p>
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<p style="text-align: center;"><b>Appendix A</b> <b>Specific Comments on the Draft Programmatic Environmental Impact Report</b> <b>For the Soitec Solar Development, San Diego, County</b></p> <p><b>SCH# 2012061068</b></p> <p>Department recommends that the Lead Agency remove any determination of significance regarding the development of LanEast or LanWest until additional studies are conducted on which a biological significance determination can be based. This determination could then be incorporated in subsequent CEQA documentation under the Programmatic DPEIR.</p> <p>(Page 2.3-117) The DPEIR concludes neither LanEast nor LanWest would significantly impact the viability of core wildlife areas. The Department is concerned that a significance determination is made on the impacts to wildlife movement absent site-specific biological surveys. Without this information, the full breadth of species which may be represented on either LanEast or LanWest and the level of impacts associated with the development of either site is not well understood. Without a landscape-scale plan or implementing agreement for the East County MSCP, the Department cannot evaluate if wildlife movement (e.g., genetic exchange) would persist following the development of the Project.</p> <p>Page 2.3-72 and 73 (2.3.1.5 LanEast) of the DPEIR indicates that, “[a] jurisdictional delineation has not yet been conducted for this site and will be conducted prior to construction. However, an RPO buffer of an appropriate width would be established around any identified riparian wetland to protect the functions and values of the wetland. Walker Creek crosses the project site and is considered an RPO wetland; this will be confirmed when a formal jurisdictional delineation is completed.” The jurisdictional delineation for LanEast should be conducted as part of the project-specific review for the project and results with any recommend buffers disclosed in the final DPEIR.</p> <p>Page 2.3-81 (LanWest-Hydrologic Context and Connectivity): This section of the DPEIR states that, “[a] 50-foot wetland buffer is proposed around the riparian wetland (vegetated swale) in the southern portion of the project site to protect the functions and values of this existing wetland (Figure 2.3-18) (Appendix 2.3-4).” For all wetland jurisdictional areas, we recommend that a minimum 100-foot buffer be provided to maintain existing functions and values; where these areas serve as local/regional movement areas, larger buffers may be necessary.</p> <p>(Page 2.3-132, 2.3.-195) The DPEIR includes a concluding statement in section 2.3.7 stating that significant impacts to potentially jurisdictional areas of the LanEast and LanWest projects would be reduced to a level of less than significant with the incorporation of mitigation. However, a jurisdictional delineation for LanEast has not been included in the DPEIR. Accordingly, a significance determination should not be made on LanEast until such time that sufficient environmental data has been evaluated and disclosed within an environmental document. Any determination made absence this information is currently not supported in the DPEIR.</p> <p><i>Los Robles:</i> Based on the information provided in the DPEIR, the Los Robles alternative site is not clearly identified in the PDEIR’s project description and is analyzed at the programmatic level similar to LanWest and LanEast. Yet, the environmentally superior alternative (Alternative 7) identified in the DPEIR relocates Tierra Del Sol, Land East, and LanWest to the Los Robles location without Los Robles ever being identified within the project description (Section 1.2) or providing an analysis of the resources unique to the Los Robles site. The Department recommends that findings of significance be deferred for any project alternative utilizing the Los Robles Project until a biological analysis can be completed, specific to Los Robles. Chapter 1.2 of the DPEIR (Project Description) discusses the Rugged Solar site, and Tierra del Sol locations within the project description, noting that both the LanEast and LanWest locations are analyzed within the</p>	<p style="text-align: center;">S3-13 Cont.</p> <p style="text-align: center;">S3-14</p> <p style="text-align: center;">S3-15</p> <p style="text-align: center;">S3-16</p> <p style="text-align: center;">S3-17</p> <p style="text-align: center;">S3-18</p>	<p><b>S3-14</b> See response to comment S3-3 regarding revisions to the DPEIR significance conclusions for the LanEast and LanWest solar farms.</p> <p><b>S3-15</b> See response to comment S3-3 regarding revisions to the DPEIR significance conclusions for the LanEast solar farm. The County acknowledges that consideration for additional environmental review will be necessary for the future actions related to the LanWest and LanEast sites. Any project-specific impacts to jurisdictional resources, and feasible mitigation to avoid or minimize such impacts, would be analyzed in accordance with the County Guidelines for Determining Significance prior to development of the site.</p> <p><b>S3-16</b> The County has reviewed the site and a 50-foot buffer has been deemed appropriate for this area. Under the County Resource Protection Ordinance, the required width of the wetland buffer is determined by several factors, such as the appropriate size to protect the environmental and functional habitat values of the adjacent wetland. [CITE to RPO 86.602(r)]. As discussed in Chapter 2.3, Biological Resources (see 2.3.1.6, LanWest), the vegetated swale on site parallels Old Highway 80, functions as a roadside ditch, and is essentially a terminus of a more developed unvegetated ephemeral wash feature occurring upstream. As such, a 50-foot buffer is</p>
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	<p>appropriate due to the location, next to a road, and low quality of the wetland feature.</p> <p><b>S3-17</b> See response to comment S3-3 regarding revisions to the DPEIR significance conclusions for the LanEast solar farm.</p> <p><b>S3-18</b> The Los Robles site is only analyzed as an alternative location to the Proposed Project, and therefore is not identified in the DPEIR’s project description. At the time that the Proposed Project application was submitted to the County, the applicants did not have an option to obtain site control of the Los Robles site (or any other alternative sites) and the Proposed Project was brought forward with the four proposed sites defined as the Proposed Project in the DPEIR. The applicants explored a number of alternative locations for the Proposed Project during the environmental review process, including the Los Robles site. The County determined that Los Robles was a feasible alternative location, appropriate for analysis, when the applicants had acquired an option to obtain access and control of the site. Accordingly, Los Robles is not part of the Proposed Project in the DPEIR and is analyzed at a level appropriate for an alternative, and not at a programmatic or project level. Please refer to the responses to comments F1-15 and F1-18 related to the requisite degree of analysis necessary for alternatives under CEQA. Biological</p>
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resources specific to the Los Robles site are discussed in the alternatives analysis (e.g., see DPEIR, pp. 4.0-27, 4.0-30), such that at a general level potential impacts to resources at the Los Robles site can be compared with potential impacts at the proposed solar farm sites.

The County anticipates that any project-level approval brought forward for development of the Los Robles site would require additional project-level environmental analysis. Therefore, project-level findings of significance regarding use of the Los Robles site would, as the commenter suggests, be deferred until after a site-specific biological analysis is completed. The County does not agree with the commenter, however, that it would be appropriate to defer any proposal related to the Los Robles site until site-specific biological studies are conducted. It is appropriate, and required under CEQA, for the County to analyze a range of reasonable alternatives to the Proposed Project, including alternative locations (14 CCR 15126.6(a), (f)(2)).

The County acknowledges that the commenter cannot support any conclusions drawn with regard to the Los Robles site and any potential project-related environmental impacts, absent requested biological resource reports.

<b>Appendix A</b> <b>Specific Comments on the Draft Programmatic Environmental Impact Report</b> <b>For the Soitec Solar Development, San Diego, County</b>	
<p><b>SCH# 2012061068</b>                      DPEIR at a programmatic level but fails to mention the Los Robles site for consideration at either a project or programmatic level. A majority of the resource studies presented in the DPEIR focus on Rugged Solar, Tierra del Sol and LanWest; little mention of the resources specific to Los Robles are found within the DPEIR. The Department recommends deferring proposals for the Los Robles site until site-specific biological studies of sufficient breadth and timing to provide opportunity to evaluate the potential impacts or merits of the Los Robles site in the DPEIR. Absent the requested biological resource reports, the Department cannot support any conclusions drawn with regard to the Los Robles site and any potential project-related environmental impacts.</p> <p><i>Gen-tie:</i>                      (Page 1.0-5) "A collection system linking the trackers to the on-site project substation consisting of (1) 1,000-volt (V) DC underground conductors leading to (2) 34.5 kV underground and overhead AC conductors." Transmission lines have the potential to impact avian species. Impacts range from direct line strikes, electrocution from arcing (particularly problematic with small span electrical poles) or nesting activities. The Department recommends that the DPEIR consider undergrounding smaller lines and collection systems in addition to transmission lines to minimize potential avian impacts. It is recommended that all electrical cable are routed through a conduit to limit potential ground faults and or electrocutions associated with fossorial animals.</p> <p>(Page 1-16) "Overhead components at each project site would be regularly inspected for corrosion, equipment misalignment, loose fittings, and other mechanical problems and repaired as required. The underground portion of the cable systems would be inspected and repaired if and when problems occur." The DPEIR should identify the anticipated occurrence intervals for each inspection activity, types of equipment and personnel, and discusses the merits of each strategy. To the extent feasible, the Department recommends coordinating operations and maintenance activities including helicopter line inspections, national security flights, and brush or weed abatement coincident with the Tule Wind, and other utility projects to limit redundancy and minimize ongoing biological impacts (Page 1.0-5).</p> <p><i>Project Alternatives:</i>                      The Department is concerned with the scope and range of alternatives analyzed. The DPEIR takes a broad, two-tiered approach towards minimizing impacts associated with the various project alternatives by either: 1) reducing the physical footprint or number of developed sites (including undergrounding the Tierra del sol gen-tie line) or, 2) relocating various sites (DPEIR Page 4.0-2) to the Los Robles site. The alternative location proposals (Alternatives 5, 6, 7, &amp; 8) utilize the Los Robles site, a site for which the DPEIR does not provide site-specific biological information.</p> <p>Additionally, the Department believes that the reduced project alternatives have not fully evaluated the relocation or abandonment of the Rugged site. All alternatives excepting Alternative 9 (the no build alternative) include the Rugged site. The DPEIR should explore alternatives which would relocate or discontinue the development of the Rugged site.</p> <p>Reduce Project Alternative 1 reduces the overall footprint of each of the project sites, and provides increased visual buffers (DPEIR, Page 4.0-8). However, the footprint reduction appears to be aesthetically driven with increased setbacks along public right of ways. The Department recommends that each reduced project alternative discuss the biological implications of providing larger project buffers in the DPEIR.</p>	<p>S3-18 Cont.</p> <p>S3-19</p> <p>S3-20</p> <p>S3-21</p> <p>S3-22</p> <p>S3-23</p>
	<p><b>S3-19</b> The County appreciates this comment and will include the CDFW’s recommendation to underground smaller lines and collection systems in addition to transmission lines in the FPEIR for review and consideration by the decision makers. The Proposed Project would underground the on-site 34.5 kilovolt collection system; however, the underground branch circuit would connect to an overhead trunk line for delivery to the substation (see Section 1.2.1.1 of the DPEIR). The potential for indirect impacts related to electrocution or collision with overhead transmission lines is considered in Chapter 2.3 of the DPEIR and mitigation is incorporated to reduce potential impacts to less than significant.</p> <p>See the response to comment S3-12; all underground electrical cables are shielded and rated for direct burial.</p> <p><b>S3-20</b> The County acknowledges the commenter’s recommendation to coordinate operations and maintenance activities of the Proposed Project with other utility projects and will take this into consideration. Additional information requested by the commenter related to anticipated occurrence intervals of inspections of overhead components at each solar farm site is not available at this time and would be considered speculative. The County believes the level of information provided is sufficient to permit full assessment of significant environmental impacts per CEQA Guidelines sections 15123, 15124, and 15147.</p>

	<p><b>S3-21</b> The County acknowledges the commenter’s concern with the scope and range of alternatives analyzed. The County acknowledges that it has taken a “two-tiered approach” in seeking to reduce or eliminate significant impacts with alternatives that reduce the size and footprint of the Proposed Project, and considering alternative locations. This approach is in line with the requirements of CEQA Guidelines Section 15126.6. As discussed in the response to comment S3-18, the County does not agree that any further site-specific biological information is necessary for the Los Robles site to be included within the alternatives analysis.</p> <p><b>S3-22</b> The County has analyzed a reasonable range of alternatives, including alternative locations, to the Proposed Project in accordance with CEQA Guidelines Section 15126.6. The County is not further required to explore alternatives that would relocate or discontinue the development of the Rugged site. However, if the commenter would like to review an alternative without the Rugged solar farm it is possible by excluding the environmental analysis and conclusions for the Rugged project since the DPEIR analyzes each of the project components individually as well as collectively.</p> <p><b>S3-23</b> The County disagrees that the DPEIR’s reduced project alternatives do not discuss the biological implications of providing larger project buffers in the</p>
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DPEIR. The commenter is referred to the DPEIR (pp. 4.0-10 - 4.0-11), which describes the biological implications of larger project buffers for the Rugged solar farm and Tierra del Sol solar farm. Furthermore, CEQA requires that an EIR “describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project” (14 CCR 15126.6(a)). The Proposed Project has significant unmitigable impacts to aesthetics, air quality, and land use (DPEIR, p. 4.0-1). Accordingly, the DPEIR is required to consider alternatives that avoid or substantially lessen one or more of those significant effects.

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<p>The analysis for the reduced Project and underground Tierra del Sol gen-tie (Alternative 3, DPEIR Page 4.0-18) identifies that the undergrounding of an additional 3.5 miles of gen-tie would increase the impacts to biological resources including coast live oak woodlands and jurisdictional wetlands. Consideration should be given to realigning the underground gen-tie line to maximally avoid biologically sensitive receptors. In certain instances underground gen-tie lines may prove to be less biologically impactful than overhead configurations. The Department recommends that the DPEIR further explore potential alignments of the underground gen-tie which may avoid sensitive receptors.</p>	<p>S3-24</p>	<p><b>S3-24</b> The DPEIR explains that because ground disturbance due to excavation would be required to underground the Tierra del Sol gen-tie line, sensitive vegetation, such as coast live oak woodland and jurisdictional wetlands, may not be avoided (DPEIR, p. 4.0-20). The DPEIR further explains that although impacts to biological resources are anticipated to be greater under Alternative 3, mitigation measures would be implemented that are expected to reduce such impacts below a level of significance (DPEIR, p. 4.0-20). Accordingly, if Alternative 3 were to be selected, efforts to avoid biologically sensitive receptors would be employed.</p>
<p>According to the DPEIR Alternative 5 (Page 4.0-27), "Since the Los Robles site is located within the same general area as the Tierra del Sol site, vegetation communities on site are anticipated to be similar, and the site would support similar plant and wildlife species." Similarly, the comparison of alternative 5 with that of the Project surmises that impacts to special-status species, jurisdictional resources, wildlife movement, and conformance with regional plans would be mitigated to a level of less-than-significant. Simply because two project sites may either be located within the same general area or support generally comparable vegetation communities does not necessarily mean that by extension, the two serve the same biological function. Although two sites may be similar, they may host a suite of differing species. The Department again recommends site-specific analysis.</p>	<p>S3-25</p>	
<p>Alternative 6 proposes the relocation of LanEast and LanWest to the Los Robles site (Alternative 6) draws similar significance conclusions as Alternative 5 and lacks the same detail described and requested in the above comment (See comment regarding Alternative 5). Alternative 6 (Page 4.0-36) also states that the "...Los Robles site would incorporate mitigation similar to the Project..." Absent the addition of site-specific biological information, it would be premature for the Department to either agree or disagree that the mitigation for the Project or Alternative 6 (Los Robles) would be similar.</p>	<p>S3-26</p>	<p><b>S3-25</b> The commenter is referred to the response to comment S3-18.</p>
<p>The DPEIR identifies Alternative 7 as the environmentally superior alternative. This alternative would relocate three of the proposed solar sites (LanEast, LanWest, and Tierra del Sol) to the Los Robles site, and maximize the development of concentrated solar photovoltaic (CPV) at the Los Robles site. The Los Robles site is not mentioned in the DPEIR project description, nor is site-specific data or analysis of the site provided. The Department has great concern that an environmentally superior alternative has been selected which includes the significant development of a location sparsely discussed in the DPEIR.</p>	<p>S3-27</p>	<p><b>S3-26</b> The commenter is referred to the response to comment S3-18.</p>
<p>Alternative 7 and Alternative 8 draw similar conclusions as described in Alternatives 5 and 6 asserting that impacts resulting from the relocation of the LanEast, LanWest and Tierra del Sol (an aggregate of 708 acres) would be similar to the Project and that impacts to special-status species, jurisdictional resources, wildlife movement, and conformance with regional plans would be mitigated to a level of less-than-significant. This conclusion is not substantiated with biological studies specific to the Los Robles site and assumes that an increasing footprint within the Los Robles Site (Alternative 5, Alternative 6, Alternative 7, and Alternative 8 respectively) would do nothing to influence the analysis, avoidance or mitigation as it pertains to the biological resources or influence on the draft East County MSCP. The Department recommends that the DPEIR provide a detailed analysis of the potential impacts of each alternative presented in the DPEIR.</p>	<p>S3-28</p>	<p><b>S3-27</b> See the response to comment S3-18. If Alternative 7 were selected, the applicants would be required to submit a project application to develop the Los Robles site and further CEQA review would be required.</p> <p><b>S3-28</b> The County disagrees that the DPEIR does not provide an adequate analysis of each alternative considered. See the responses to comments S3-18 and S3-27.</p>

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<p><b>SCH# 2012061068</b>  <i>Mitigation:</i>                      In a December 4, 2013 joint letter from the Wildlife Agencies to the project proponent (copy provided to the Lead Agency), the Wildlife Agencies expressed concern that without knowing the breadth of the Project, including where the actual impacts and mitigation would occur, the overall value of the proposed mitigation could not be determined. The Department remains unclear as to the extent and location of project impacts, and accordingly whether commensurate mitigation for the Project impacts has been provided. For example, without knowing the configuration of the Los Robles site the Department is unable to adequately evaluate how the Project would affect the ability to assemble the draft East County MSCP preserve. The Department requests the DPEIR include a complete and comprehensive discussion of each of the solar farm's impact areas and mitigation areas. Additionally, the Department requests that the mitigation site is quantified and biologically inventoried. An analysis of how the proposed mitigation site would be impacted by surrounding development, including solar and other renewable energy uses, should be included.</p>	<p>S3-29</p>	<p><b>S3-29</b></p> <p>The commenter is referred to the responses to comments S3-18 and S3-27. The applicants' proposed mitigation site has been biologically inventoried and quantified, and the commenter has visited the proposed site. Furthermore, the County has determined that the Proposed Project would not impede the development of the East County Multiple Species Conservation Program (ECMSCP). The Interim Review Process provided 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 (dated October 29, 2008); see also Revised Planning Agreement, Exhibit B, p. 1 (dated May 12, 2014). The County, U.S. Fish and Wildlife Service, and the commenter would collaboratively review a proposed solar farm on the Los Robles site during the project-specific environmental review to ensure that it does not have the potential to preclude long-term planning of the ECMSCP preserve.</p>
<p>Any mitigation should be located within the draft East County MSCP FCA (or other area acceptable to the Wildlife Agencies) and help to contribute to regional connectivity. Mitigation proposals should include the following: 1) a qualified land manager with financial assurances in place to manage land in perpetuity; 2) a final resource management plan and land manager approved by the County and the Wildlife Agencies; and 3) a biological conservation easement recorded over the mitigation property. 4) Maintain regional connectivity. From a regional connectively perspective, the overall value of the mitigation site diminishes if a connection linking the property to lands to the north and through I-8 cannot be provided.</p>	<p>S3-30</p>	
<p>In the DPEIR, Special Status County List II (2) Wildlife Species, and County list C and D Special-Status Plant Species are assumed to be adequately represented in a habitat-based mitigation paradigm. Absent an adopted and permitted regional conservation plan (i.e., East County MSCP), we are unclear that mitigation assurances have been thoroughly supported in the DPEIR. Therefore, project-related impacts should be evaluated and mitigated on a project-specific basis until which time a plan or preserve assemblage and structure is approved by the County and Wildlife Agencies.</p>	<p>S3-31</p>	
<p><i>Ongoing Monitoring and Adaptive Management:</i>                      While the DPEIR acknowledges the Project's potential to significantly impact birds, the Department remains concerned with the potential impact to both bird and bat species. The effects of utility-scale renewable energy is an emerging issue and of growing concern to the Department. Utility-scale renewable energy presents a variety of potential challenges including, but not limited to, direct and indirect effects of loss of foraging habitat, loss of breeding habitat, direct mortality, increased anthropogenic pressures, and navigational disruptions during migration.</p>	<p>S3-32</p>	
<p>Though not specific to birds or bats, a recent study suggests that flat, reflective surfaces (such as solar panels) can polarize natural light, which may serve as ecological traps and impact multiple animal taxa (Horváth, et al, 2009). The Department acknowledges that assessing the potential Project impacts on avian species is challenging, the Department believes that the Lead Agency has an opportunity to require a scientifically rigorous monitoring and management program as part of the project mitigation. Such a program could provide valuable insight for adaptive management strategies for the Project and better inform the community of the potential impacts of utility-scale renewable energy projects.</p>	<p>S3-30</p>	<p><b>S3-30</b></p> <p>The commenter is referred to mitigation measure M-BI-PP-1 (see Section 2.3.6.1 of the DPEIR) for a description of the mitigation proposal, which includes the elements requested by the commenter. The commenter is also referred to Appendix 2.3-6, which provides an evaluation of the biological function of a potential mitigation site.</p>

	<p>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 supports both habitat for and populations of special-status plant and wildlife species impacted by the Proposed Project. Splitting the mitigation between areas north and south of I-8 is contradictory to the goal of providing continuous avenues of wildlife movement from Mexico to 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><b>S3-31</b> The County agrees that project-related impacts should be evaluated and mitigated on a project-specific basis; see Chapter 2.3 of the DPEIR for a project-specific analysis of potential impacts and proposed mitigation. The County disagrees that the required measures to mitigate impacts to habitat and special status plant and wildlife species are not supported by the analysis in the DPEIR. Per the County Guidelines for Determining Significance and in accordance with M-BI-PP-1, the applicant must preserve in permanent open space an acreage of native habitat equivalent to or greater than the acreage of Project impacts, according to the County's established mitigation ratios</p>
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<p style="text-align: center;"><b>Appendix A</b>  <b>Specific Comments on the Draft Programmatic Environmental Impact Report</b>  <b>For the Soitec Solar Development, San Diego, County</b></p> <p>SCH# 2012061068</p>	
<p>The Department Recommends that the DPEIR incorporate the following: 1) a nesting bird monitoring component for each solar farm; and 2) a full-term avian bird and bat protection and monitoring plan, as a project mitigation measures. Both plans should include provisions for informing and involving the Lead Agency and Wildlife Agencies as an adaptive management component. The Department recognizes that the dual axis tracking technology affords the ability for the solar panels to be stored vertically during times of low (no) production (night). The vertical stowage of the solar panels is anticipated to assist in mitigating potential impacts to avian species during the night. In addition to this measure, the Department also suggests that the adaptive management component of the Project include the partitioning of the solar panel technology utilizing a non-reflective grid pattern (similar to Horváth, et al, 2009), experimental application of film overlays, and comparison of CPV technologies to that of photovoltaic technologies.</p>	<p>S3-32 Cont.</p> <p><b>S3-32</b> either by purchasing through a mitigation bank or purchasing the land to provide the mitigation. An easement for the conservation area or mitigation bank area must be provided and the area must be evaluated to ensure that it provides similar or greater biological function and value as compared with the identified impacts of the Project to biological resources.</p>
<p><i>Wildlife Movement:</i>  Impacts to wildlife movement in the vicinity of Interstate Highway-8 (I-8), near the LanEast and LanWest proposed project site, should be analyzed further in the DPEIR and include an evaluation of usage patterns for the existing culverts under I-8 that provide a north-south connection. Any development on these sites would need to ensure that existing wildlife movement is maintained and that any regional connections for the East County MSCP would not be precluded. Based on field data collected on December 15, 2013 and January 15, 2014 for the I-8 in the Boulevard area, and LanEast has existing culverts located directly north within Caltrans right-of-way (ROW) that connect areas north of I-8 to areas south of I-8 and provide some wildlife value for connectivity through I-8 in this area of East County. We recommend that any development on LanEast, LanWest or Los Robles contribute to a minimum 1,000 foot buffer for north-south wildlife movement across I-8, unless specific studies are conducted that determine a smaller buffer is adequate. In addition, in order to augment the viability of any proposed wildlife corridor the Department suggests implementing strict project lighting conditions. Project-related illuminance should be limited to the direct project footprint s and monitored to ensure the luminance from the Project-related lighting is negligible as measured at the wildlife corridor. Given the relatively narrow corridor, all lighting conditions should incorporate ongoing monitoring and an adaptive management component. The Wildlife Agencies are available to work with the solar site operator to ensure a fully functioning wildlife corridor.</p>	<p>S3-33</p> <p>S3-34</p> <p>S3-35</p> <p>The commenter notes a number of potential impacts to biological resources from utility-scale renewable energy projects, including loss of foraging or breeding habitat, direct mortality, anthropogenic pressures, and navigational disruptions during migration. The County has assessed each of these potential impacts in the DPEIR and found that these impacts would be less than significant with the implementation of required mitigation measures.</p>
<p>(Page 2.3-149) The DPEIR indicates that the east-to-west visual continuity of the Tule Creek wildlife corridor may be impacted by the presence of the solar panels and fencing. The Department believes that the visual continuity could be greatly disrupted for wildlife, particularly nocturnal wildlife movement patterns. The Department acknowledges that the solar panels will be stowed in a vertical position during the evening. While the vertical stowage of the panels may be an important operational component to diminish the "lake effect" for avian species, it will nonetheless emulate a 30-foot tall fence for wildlife attempting to move through the area. The Department recommends that a focused wildlife movement study evaluate the visual effect the solar panels may have on the wildlife corridor along Tule Creek.</p>	<p>S3-36</p> <p>Please refer to the responses to comments F1-5 and F1-6 regarding potential impacts to avian species specific to solar farms. Please also refer to Section 2.3.3.1 (Project Effects Relevant to Guideline H). The applicant will voluntarily prepare and implement a Bird and Bat Monitoring Plan to reduce potential risks. The Bird and Bat Monitoring Plan is provided as a condition of project approval in the FPEIR.</p>
<p>Section 3.1.1.1 (Existing Conditions) of the DPEIR should include a description of existing culverts on site at the LanEast (3.1.1.1.4) and LanWest (3.1.1.1.5) properties. This discussion should also be included in page 3.1.5-11 (3.1.5.1.4 LanEast), which discusses existing topography, hydrology and drainage patterns on site.</p>	<p>S3-37</p> <p>Mitigation measure M-BI-PP-10 outlines a Nesting Bird Management, Monitoring, and Reporting Plan (NBMMRP) that has been designed to avoid impacts</p>

	<p>to nesting birds during construction. The commenter is referred to the response to comment O10-54 regarding the implementation of a reporting system to document bird and bat mortality. The portion of the comment suggesting that the adaptive management component of the Proposed Project include partitioning of the solar panel technology using a non-reflective grid pattern, experimental application of film overlays, and comparison of concentrator photovoltaic (CPV) technologies to other photovoltaic technologies has been noted and will be included in the FPEIR for review and consideration by the decision makers.</p> <p><b>S3-33</b> As stated in response to comment S3-3, the DPEIR acknowledges that additional environmental review, which includes review of onsite resources such as culverts, will be required for future approvals associated with LanEast and LanWest solar farms since these components are analyzed at a programmatic level. However, as also explained in response to comment S3-3, the DPEIR has been revised to refrain from making significance conclusions pertaining to connectivity for LanEast and LanWest. Additionally, section 2.3.1.5 of the DPEIR, Habitat Connectivity and Wildlife Corridors, describes the culverts under Interstate 8 (I-8), just east of the Proposed Project, through which Walker Creek flows. As stated in this section, the openness ratio of these culverts would not be suitable for mule deer (<i>Odocoileus hemionus</i>) or mountain lion (<i>Puma</i></p>
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	<p><i>concolor</i>), and it is likely that this would be too small for coyote (<i>Canis latrans</i>), though bobcat (<i>Felis rufus</i>) and smaller mesopredators might use it.</p> <p>As stated in the response to comment F1-14, based on preliminary review of the sites, as described in Section 2.3.3.4 under Guideline B, the DPEIR states that neither LanEast nor 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-2 and BI-LW-28). Mitigation Measures (M-BI-LE-1 and M-BI-LW-1) include the establishment of a wildlife corridor along Walker Creek. Creation of this wildlife movement corridor will still allow for connection via the undercrossing at McCain Valley Road and continued movement through the area.</p> <p><b>S3-34</b> As stated in mitigation measures MBI-LE-1 and M-MI-LW-1, a wildlife movement corridor shall be established along Walker Creek to allow for continued movement across the LanEast and LanWest solar farm sites. The corridor shall be established consistent with County standards (minimum 1,000 feet wide with a</p>
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	<p>400-foot-wide pinch point for no more than 500 feet in length), and shall include an appropriate Resource Protection Ordinance wetland buffer. However, as explained in response to comment S3-3, the DPEIR has been revised to refrain from making ultimate significance conclusions pertaining to this issue for LanEast and LanWest.</p> <p><b>S3-35</b> Issues raised in this comment regarding lighting at the LanEast and LanWest sites were considered and addressed in the DPEIR (see Chapter 2.3, Biological Resources (2.3.3.4)). In addition, characteristics of operational nighttime lighting are described in DPEIR Chapter 1. Such lighting would be shielded and directed downward to minimize any effects off-site and would be turned off when not needed. Operation of the LanEast and LanWest solar farms is not expected to increase noise or artificial light, especially due to noise and light associated with the proximity of I-8.</p> <p><b>S3-36</b> As indicated in the DPEIR Section 1.2.1.2, trackers would be installed in parallel rows oriented north-south, with an estimated spacing of 21 meters north-south and 25 meters east-west. Furthermore, as indicated in the DPEIR Chapter 1, Project Description (see section 1.2.1.1), the lower edge of trackers would not be less than 1 foot above ground level. The trackers would be in stow mode, positioned vertically and facing west, at night. Nocturnal species traveling</p>
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	<p>along the Tule Creek corridor (generally in a north–south direction) would visually observe the spacing between the tracker rows and block; therefore, the trackers would not appear as a continuous wall or fence. As stated in the DPEIR Chapter 2.3 (see section 2.3.3.4), connections across the project area will not be compromised as wildlife will still be able to maintain east/west and north/south connections. The gaps between the various fenced 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.</p> <p>Since the Proposed Project has been designed to allow for wildlife movement throughout Tule Creek, and the trackers will be stored in a manner that does not “emulate a 30-foot tall fence for wildlife attempting to move through the area,” the County does not agree that the Proposed Project warrants a wildlife movement study.</p> <p><b>S3-37</b> The commenter’s request to add a description of existing culverts to Chapter 3.1, Agricultural Resources Sections 3.1.1.1, 3.1.1.4, and 3.1.1.5, in the section titled “Agriculture and Forestry Resources,” has been noted but the changes have not</p>
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<p><i>Project Lighting:</i> (Page 1-10) According to the PDEIR "All lighting for the solar farms would have bulbs that do not exceed 100 watts, and all lights would be shielded, directed downward, and would comply with the County of San Diego Light Pollution Code Section 59.101 et seq." The Department recommends that the DPEIR condition lighting based on luminosity or a metric which measures the amount of light generated or light received at a given receptor. The County has adopted a standard of 4550 lumens (the County of San Diego Light Pollution Code Section 59.101 et seq.). Given the rural nature of the Project area and ability to enable wildlife movement, the Department suggests that the Lead Agency adopt Zone A standards contained in the County of San Diego Light Pollution Code Section 59.101 et seq.</p>	<p>S3-38</p> <p><b>S3-38</b></p>
<p><i>Mitigation Measures:</i> (Page 2.3-177) M-BI-PP-2: In accordance with mitigation measure M-BI-PP-2, the biological monitor will "Flush special-status species (i.e., avian or other mobile species) from occupied habitat areas immediately prior to brush-clearing and earthmoving activities..." The Department is concerned that this mitigation measure may be misinterpreted to allow for the take of CESA or Endangered Species Act, or to allow or cause the abandonment of active avian nests in violation of the federal Migratory Bird Treaty Act or Fish and Game Code sections 3503, 3503.5 or 3513. The Department advises that the proposed mitigation measure is revised to reflect that no take (Fish and Game Code § 86) is authorized. The mitigation measure should require an avian specific biological monitor to ensure compliance with the relevant Fish and Game Code.</p>	<p>S3-39</p> <p><b>S3-39</b></p>
<p>(Page S.0-25) BI-TDS-12/M-BI-PP-6: "Prior to installation of any landscaping, plant palettes shall be reviewed by the Project Biologist to minimize the effects that proposed landscape plants could have on biological resources outside of the project footprint due to potential naturalization of landscape plants in the undeveloped lands. Landscape plants will not include invasive plant species on the most recent version of the Cal-IPC California Invasive Plant Inventory for the project region. Landscape plans will include a plant palette composed of native species that do not require high irrigation rates." The Department recommends that the Lead Agency retain purview over planting palettes to ensure conformance with the DPEIR's analysis.</p>	<p>S3-40</p> <p><b>S3-39</b></p>
<p>(Page 2.3-181) BI-TDS-4/M-BI-PP-10: Mitigation measure M-BI-PP-10 states that "Standard buffer widths deemed adequate to avoid or minimize significant project-related edge effects (disturbance) on nesting birds and their nests, eggs, and chicks". The Department is concerned that the DPEIR is providing a standard nesting buffer surrogate to the Department's historically recommended spatial and temporal buffers.</p>	<p>S3-41</p>
<p>In our review of measure M-BI-PP-10 which specifies that nesting buffer requirements will be based on: individual nesting chronologies, geographic location, existing ambient conditions, visibility of disturbance, duration of disturbance, timing of disturbance, influence of other environmental factors, an individual's level of habituation to disturbance, and a comparison of the project-related disturbance with existing baseline conditions. The Department has historically recommended that 300-foot buffers for passerine species and 500-foot buffers for raptors have been sufficiently protective of most species, a majority of the time. Absent adopting a similarly or more protective buffer the Department does not believe adequate protection is afforded when relying on a lesser default buffer. The Department is unclear how the newly established "standard buffer" widths will assist the Project Applicant in complying with Fish and Game Code sections 3503, 3503.5 or 3513. The Department recommends either adopting</p>	<p>S3-42 Cont.</p>
	<p>been made. These sections specifically discuss potential impacts to agricultural resources resulting from the implementation of the Proposed Project. Adding a discussion of culverts to these sections would not serve to augment the analysis in the DPEIR. The commenter is referred to comment S3-33 relating to existing culverts on LanEast.</p> <p>In response to this comment, the DPEIR has been revised. The Proposed Project applicants have agreed to comply with the Zone A lighting standards established by the County of San Diego Light Pollution Code at the Tierra del Sol, Rugged, LanEast, and LanWest solar farms. See response to comment O1-2.</p> <p>In response to this comment, the County has made revisions and clarifications to the DPEIR. These revisions to the DPEIR are presented in <del>strikeout</del>/<u>underline</u> format; refer to Section 2.3.6.1 of the DPEIR. Mitigation measure M-BI-PP-2 (1)(g) was revised to include the following statement: If brush-clearing and earth-moving activities take place within the bird breeding season, flushing shall not occur in an area identified as having an active nest and thus resulting in a potential take of a species (see M-BI-PP-10). The changes 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>

	<p><b>S3-40</b> The comment is acknowledged and will be included in the FPEIR for review and consideration by the decision makers.</p> <p><b>S3-41</b> The County disagrees with the CDFW’s comment that the DPEIR is providing a standard buffer surrogate to the CDFW’s historically recommended spatial and temporal buffers. The NBMMRP described in Section 2.3.6.1 of the DPEIR, M-BI-PP-10, states that standard buffer widths recommended for the Proposed Project (300 feet for passerine birds, 500 feet for raptors) will be implemented. This is consistent with the CDFW’s historically recommended buffers. The mitigation measure further states buffers may be reduced on a case-by-case basis and the determination of the reduced buffer must adhere to eight factors listed in the mitigation measure. As stated in mitigation measure M-BI-PP-10, all information regarding nests on site will be recorded in the Nest Monitoring Log (NML), which will be submitted to the U.S. Fish and Wildlife Service (USFWS) and CDFW. The NML will include information necessary to allow comparison between nests protected by standard buffer widths recommended for the Proposed Project (i.e., CDFW’s historically recommended buffers of 300 feet for passerine birds, 500 feet for raptors) and nests whose standard buffer width was reduced by the encroachment of project-related activities.</p>
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<p style="text-align: center;"><b>Appendix A</b> <b>Specific Comments on the Draft Programmatic Environmental Impact Report</b> <b>For the Soitec Solar Development, San Diego, County</b></p> <p><b>SCH# 2012061068</b></p> <p>buffers sufficiently protective to be generally applied or alternatively to require an individual analysis for each nesting event addressing: nest chronologies, geographic location, existing ambient conditions, visibility of disturbance, duration of disturbance, timing of disturbance, influence of other environmental factors, and an individual's (as opposed to the conspecific level of habituation detailed in the DPEIR) level of habituation to disturbance, and a comparison of the project-related disturbance with existing disturbances.</p> <p>(Page S.0-21) BI-TDS-4/M-BI-PP-10: In accordance with mitigation measure M-BI-PP-10 the avian biologist shall "Conduct preconstruction nesting bird surveys within 72 hours of construction-related activities and implement appropriate avoidance measures for identified nesting birds." During the breeding season, it would not be uncommon for a nest (or multiple nests) to become active within a 72-hour timeframe. The Department recommends the 72 hour surveys be followed up by a preconstruction sweep immediately prior to ground disturbing activities.</p> <p>(Page S.0-22) BI-TDS-4: Mitigation measure M-BI-PP-10 also specifies that "The NMLs will allow for tracking the success and failure of the buffers and will provide data on the adequacy of the buffers for certain species." The Department recommends that the Lead Agency identifies thresholds identifying levels of impacts to nests which would prompt the Lead Agency to initiate remedial actions. Remedial actions should include increasing temporal or spatial buffers and increasing monitoring efforts. The Department should be notified should the project exceed said thresholds, and consultation with the Wildlife Agencies should follow.</p> <p>(Page S.0-20) BI-TDS-3/M-BI-PP-11: Mitigation Measure M-BI-PP-11 requires the applicant to "Cover and/or provide escape routes for wildlife from excavated areas and monitor these areas daily." Monitoring should occur at least twice daily to minimize undue predation, exposure or stress to trapped animals.</p> <p>(Page S.0-27) M-BI-PP-12: The Department recommends that the minimization and direction of night lighting (both during construction activities and during operations and maintenance) should be detailed in M-BI-PP-12 as a quantifiable standard. The Department recommends that the measure currently in the DPEIR be revised to identify that sensitive receptors (e.g., wildlife corridors, and riparian areas) will be monitored for impacts from illuminance, and that artificial lighting will be both measured and limited at the receptor site.</p> <p>(Page S.0-27) BI-TDS-15/M-BI-TDS-1: "Provide evidence to the Director of PDS that all transmission towers and lines are designed to conform to Avian Power Line Interaction Committee (APLIC) standards." This mitigation measure does not appear to specify review and approval of the on-site distribution lines at the Tierra Del Sol or other development locations. The Department suggests that the 35.4 kV collection system lines be installed in an underground configuration to minimize potential avian strikes and electrocutions. The Department suggests the Lead Agency include these lines under their purview as well.</p> <p>BI-TDS-20/M-BI-PP-14: "If water levels in Wells RM-1, RM-3 and RSD-1 do not drop more than 3 feet below baseline during the first year construction period, monitoring will cease at that time because impacts would be expected to be less than significant." The Department recommends that the monitoring is performed for the entire five-year period to capture varying levels of water consumption (e.g., extended construction, or increased panel washing), and varying climatic conditions (e.g. rainfall, drought, fire, increased dust). Alternatively, mitigation measure M-BI-</p>	<p><b>S3-42</b></p> <p>S3-42 Cont.</p> <p>S3-43</p> <p>S3-44</p> <p>S3-45</p> <p>S3-46</p> <p>S3-47</p> <p>S3-48</p>	<p>Refer to the response to comment S3-41. The Proposed Project will implement the CDFW's historically recommended buffers of 300 feet for passerine birds, 500 feet for raptors. Mitigation measure M-BI-PP-10 states that determination of the standard buffer widths should be site- and species/guild-specific and data-driven and not based on generalized assumptions regarding all nesting birds. Individual analysis for each nesting event will address nesting chronologies, geographic location, existing ambient conditions, type and extent of disturbance, visibility of disturbance, duration and timing of disturbance, influence of other environmental factors, and species' site-specific level of habituation to the disturbance.</p> <p><b>S3-43</b></p> <p>In response to this comment, the County has made revisions and clarifications to the DPEIR. These revisions to the DPEIR are presented in <del>strikeout</del>/<u>underline</u> format; refer to Section 2.3.6.1 of the DPEIR. Mitigation measure M-BI-PP-10 has been revised to include a preconstruction nesting bird sweep.</p> <p>These changes and additions to the DPEIR clarify and amplify information already found in the DPEIR, and do not raise important new issues about significant effects on the environment; as such, these changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines.</p>
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	<p><b>S3-44</b> As stated in mitigation measure M-BI-PP-10, the Proposed Project applicants will prepare an NBMMRP that will be reviewed and approved by the CDFW and USFWS. This plan will include an NML. The NML will outline specific thresholds for identifying levels of impacts to nests that would prompt the County to initiate remedial actions. As stated in the mitigation measure, the NML should include information necessary to allow comparison between nests protected by standard buffer widths recommended for the Proposed Project (300 feet for passerine birds, 500 feet for raptors) and nests whose standard buffer width was reduced by the encroachment of project-related activities. The NMLs should provide a summary of each nest identified, including the species, status of the nest, buffer information, and fledge or failure data. The NMLs will allow tracking of the success and failure of the buffers and will provide data on the adequacy of the buffers for certain species. Since the NML will be submitted to the CDFW weekly, changes in nesting behavior related to nest buffers will be tracked and remedial actions, such as increasing the nest buffer, can be implemented.</p> <p><b>S3-45</b> In response to this comment, the County has made revisions and clarifications to the DPEIR. These revisions to the DPEIR are presented in <del>strikeout</del>/<u>underline</u> format; refer to Section 2.3.6.1 of the DPEIR. Mitigation Measure M-BI-PP-11 has been</p>
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	<p>revised to include twice-daily monitoring, once during the morning and a second time prior to sealing the exposed area.</p> <p>These changes and additions to the DPEIR clarify and amplify information already found in the DPEIR, and do not raise important new issues about significant effects on the environment; as such, these changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines.</p> <p><b>S3-46</b> Issues raised in this comment are not inconsistent with the existing content of the DPEIR. See Section 2.1.3.3 for specifics regarding the minimization and direction of night lighting. Also, in response to comments, the County has made revisions and clarifications to the DPEIR. These revisions to the DPEIR are presented in <del>strikeout</del>/<u>underline</u> format; refer to Section 2.1.3.3 of the DPEIR. Project Design Feature PDF-AE-5 has been added and includes lighting standards and lighting controls to be employed at the solar farm sites.</p> <p><b>S3-47</b> The County appreciates this information and will take it into consideration. It should be noted that the APLIC standards have been applied to all project components. The information in this comment will be in the FPEIR for review and consideration by the decision makers. The commenter is referred to S3-19 regarding undergrounding of the lines.</p>
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<p style="text-align: center;"><b>Appendix A</b> <b>Specific Comments on the Draft Programmatic Environmental Impact Report</b> <b>For the Soitec Solar Development, San Diego, County</b></p> <p><b>SCH# 2012061068</b></p> <p>PP-14 could be modified to specify that the monitoring may cease if the water levels in RM-1, RM-3, and RSD-1 do not drop more than 3 feet below baseline following one year of Operations of Maintenance with usage intervals (e.g., panel washing and irrigation) at the maximum projected/allowable usage. Absent this measurable standard, extended construction, deferred panel washing, or years requiring low levels of water consumptive uses may skew the data collected. Additionally, given the current drought conditions within California, continuing local groundwater use during extended periods of drought may cause an unsustainable drop in water levels that would otherwise go undetected should monitoring be discontinued at the end of the first year.</p> <p>The DPEIR details that in the event that "... evidence of deterioration persists after the 5-year period, mitigation will consist of off-site wetland/oak woodland credits at a 3:1 ratio" detailed in M-BI-PP-14. The Department recommends mitigating potentially permanent impacts to oak woodland at a minimum of 5:1 ratio. In part, a higher standard should be considered given the resource's lengthy establishment period and slow growth rates. Additionally, if the localized oak woodland is sufficiently stressed to the point that mature specimens are either stressed or die, a low probability for recruitment and volunteer oaks maintaining or establishing themselves exists which could result in generational loss.</p> <p><i>Golden Eagle:</i> (Page 1-35) The DPEIR states "...the California Supreme Court recently noted that "an existing conditions analysis may take account of environmental conditions that will exist when the project begins operations; the agency is not strictly limited to those prevailing during the period of EIR preparation. An agency may, where appropriate, adjust its existing conditions baseline to account for a major change in environmental conditions that is expected to occur before project implementation. In so adjusting its existing conditions baseline, an agency exercises its discretion on how best to define such a baseline under the circumstance of rapidly changing environmental conditions." (Neighbors for Smart Rail v. Exposition Metro Line Construction Authority (2013) 57 Cal.4th 439, 452.)" In light of this, the Department recommends that the Lead Agency consider the currently permitted and likely permitted wind and other renewable energy sources in the context of the cumulative loss and future baseline supporting San Diego golden eagle populations. The physical encroachment of wind generating facilities may have a compounding effect on migrating, floating or resident eagles with the added loss of available foraging habitat within the immediate vicinity. We would still recommend that this project be analyzed (based on current conditions) both individually and cumulatively for impacts to golden eagle.</p> <p>The DPEIR relies on the County's Guidelines for Determining Significance and Report Format and Content Requirements: Biological Resources (County of San Diego 2010) in establishing a 4,000-foot buffer around an active golden eagle nests. The 4,000 foot buffer is a guideline from the County's existing South County MSCP, and may not be appropriate in other areas of the County that do not have federal/state permits. Given what is known of the size of territories (Katzner et al, 2012) and influence quality foraging habitat can play for golden eagle, the Department believes that a 4,000-foot golden eagle buffer is not sufficiently protective of golden eagle and their habitat requirements, particularly within open or arid environments. The Department recommends that the Lead Agency coordinate with the Wildlife Agencies in developing protective measures suitable for the East County environment.</p>	<p style="text-align: center;">↑</p> <p style="text-align: center;">S3-48 Cont.</p> <p style="text-align: center;">↑</p> <p style="text-align: center;">S3-49</p> <p style="text-align: center;">↑</p> <p style="text-align: center;">S3-50</p> <p style="text-align: center;">↑</p> <p style="text-align: center;">S3-51</p> <p style="text-align: center;">↓</p>	<p><b>S3-48</b> The commenter is referred to the responses to comments O7-9 and O7-11.</p> <p><b>S3-49</b> The County disagrees that the mitigation ratio for potential impacts to oaks from groundwater pumping should be revised from 3:1 to 5:1. The 3:1 mitigation ratio is consistent with Table 5, Habitat Mitigation Ratios, found in the County's <i>Guidelines for Determining Significance and Report Format and Content Requirements: Biological Resources</i>.</p> <p><b>S3-50</b> Potential cumulative impacts to special-status bird or bat species, including golden eagle, related to electrocutions or collisions were considered and addressed in DPEIR Section 2.3.4.1. The cumulative analysis considers reasonably foreseeable energy projects, in particular wind and transmission projects, which could result in a significant increase of the risk of electrocution by transmission lines and/or collision with operating turbines. In addition, the potential for cumulative loss of foraging habitat is also considered in Section 2.3.4.1 of the DPEIR. Individual impacts of the Proposed Project were considered and addressed in Section 2.3.3.1 of the DPEIR.</p> <p><b>S3-51</b> See the response to comment F1-2 regarding consultation with wildlife agencies and the interim review process conducted for the Proposed Project. See also common response BIO1 regarding the adequacy of the golden eagle report and survey</p>
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<p>Appendix A                      Specific Comments on the Draft Programmatic Environmental Impact Report                      For the Soitec Solar Development, San Diego, County</p>		
<p><b>SCH# 2012061068</b>                      (Page 2.3 – 114) While no nest locations are known within the project sites, many inactive and active nest and pairs are known within the area and are expected to utilize the project areas for forage and during migratory movements. A recent paper documented the average home range of golden eagle within southern California arid environments. According to Katzner et al (December, 2012), the mean home range of golden eagles in the Mojave Desert ranged from 24 miles to 1741 square miles (Katzner et al). While these findings are specific to the Mojave Desert, it is apparent that golden eagle home range sizes vary considerable based upon a variety of factors including habitat quality. Similar home ranges have been suggested by David Bittner (San Diego Management and Monitoring Program meeting, January, 2014) who suggested that golden eagle territories within San Diego County average between 25 miles to 125 miles, further corroborating the larger home range requirements of golden eagles in arid environments. The added spatial fluctuations are needed to cope with fluctuations in prey sources. Golden Eagle productivity can be, in part, tied to general forage quality. Should insufficient resources be available, they are less likely to breed. Added habitat stressors, whether anthropogenic or otherwise (e.g., drought) are expected to increase the home range size needed to support golden eagle pairs. The analysis for LanEast and LanWest asserts that there would be "no impact" associated with golden eagle (Page 2.3-114). The Department disagrees with making a no impact determination. As mentioned above, the importance of quality of foraging habitat should be stressed and reflected as a mitigation measure. The DPEIR states that the immediately surrounding nest is inactive. The Department is not presuming the permanent loss of a breeding pair at that location, and anticipates, with adequate avoidance and conservation, to have a nesting pair reestablish the territory. The objective of a nesting pair reestablishing this territory is one important consideration of the potential effect of the project on the golden eagle.</p> <p>(Page 2.3- 124) The DPEIR indicates that nesting success of golden eagle will not be impacted at the Tierra del Sol site "...therefore, the Tierra del Sol solar farm would not impact the nesting success of those species." due to impacts associated with construction. According to Katzner et al, 2012 and corroborated by Bittner, the quality of suitable foraging habitat greatly influences the success of a particular breeding territory. This suggests that, impacts associated with construction may have an effect on golden eagle nesting success. The Department recommends that the DPEIR include an analysis of this potential effect.</p> <p><i>Swainson's Hawk:</i>                      (Page 2.3-100-103) While the Department acknowledges that the state-listed Threatened Swainson's hawk (<i>Buteo swainsoni</i>) has not nested within San Diego County within recent history, concern for the species is nevertheless warranted. Southern California has a dwindling breeding population which may utilize the Peninsular Mountain Range as a migratory route. Swainson's hawks are among the widest ranging species of hawk and structured or opportunistic stopovers are important to the species. The Department believes that the potential for Rugged Solar, LanEast and LanWest to serve as an important stopover (if even only rarely) should be analyzed in the DPEIR. In accordance with Section 2.3.3.1 Guidelines for the Determination of Significance (PAGE 2-3-98, DPEIR), the document has identified thresholds in order for an impact to reach a level of significance. Among these thresholds are included: 1) "The project would impact one or more individuals of a species listed as federally or state endangered or threatened," and, 2) "The project would result in the loss of functional foraging habitat for raptors. Impacts to raptor foraging habitat are considered significant; however, impacts of less than 5% of the raptor foraging habitat on a project site may be considered less than significant if a biologically based determination can be made that the project would not</p>	<p style="text-align: center;">S3-52</p> <p style="text-align: center;">S3-53</p> <p style="text-align: center;">S3-54</p> <p style="text-align: center;">S3-55</p>	<p><b>S3-52</b> This comment is acknowledged and will be included in the FPEIR for review and consideration by the decision makers. As this comment provides only general information related to golden eagle home ranges and foraging behavior, and is not related to the Proposed Project or the adequacy of the environmental analysis in the DPEIR, no additional response is provided or required.</p> <p><b>S3-53</b> The CDFW's comment that the analysis for LanEast and LanWest asserts that there would be no impact associated with golden eagles is partially incorrect. Section 2.3.3.1, page 2.3-114, of the DPEIR states that there are no nests within 4,000 feet of the sites and therefore no impacts would result to nesting birds. However, Section 2.3.3.1 also acknowledges that impacts to raptor (including golden eagle) foraging habitat would be potentially significant (BI-LE-9 and BI-LW-9). This is also reiterated in Section 2.3.3.5, page 2.3-163. This impact would be mitigated through mitigation measure M-BI-PP-1, habitat preservation. Future use of the currently inactive nest is speculative at this junction. The County has a responsibility under</p>

<p style="text-align: center;"><b>Appendix A</b> <b>Specific Comments on the Draft Programmatic Environmental Impact Report</b> <b>For the Soitec Solar Development, San Diego, County</b></p> <p><b>SCH# 2012061068</b> have a substantial adverse effect on the local long-term survival of any raptor species." The Department's position is that the loss of a potential important migratory stopover would directly impact that species, in this case, the state-listed Threatened Swainson's hawk. While San Diego may not currently host nesting pairs of Swainson's hawk, absent conservation measures, San Diego County may not contribute to the specie's life history in the future. Without additional information specific to the use of the Project Site by Swainson's hawk, the Department is unable to determine the level of project-related impact on the species. Additionally, the Department is concerned regarding the potential loss of foraging habitat for migrating Swainson's hawk. The loss of a stopover may adversely impact the vigor and success of the species. Additional surveys for Swainson's hawk should be incorporated into the DPEIR.</p> <p><i>Avian Species:</i> (Page 2.3-21) The DPEIR details Weekly bird utilization counts during October 2010 and May 2012, and avian surveys between March 2005 and March 2006, and between September 2007 and September 2008 for developments other than the Project. The Department encourages the Lead Agency to exercise caution in relying on data which is not specific to the Project and possibly outdated. The Department recommends that the Lead Agency base its analysis on recent surveys specific to the Project and each location addressed in the Programmatic DPEIR.</p> <p><i>Bat species:</i> The DPEIR acknowledges potentially significant impacts to bat species due to habitat loss but does not analyze the potential for impacts as an ecological trap (Horvath, et al, 2012). Panels may present such a trap by modifying the bats' prey species' behaviors or via their own innate recognition of highly reflective surfaces as a body of water (Grief and Siemers, 2010). The Department recommends the DPEIR include additional study of bat usage of the Project area, potential impacts, and include mitigation for any identified significant impacts.</p> <p>In addition, the Fish and Game Commission has been recently petitioned to list the Townsend's big-eared bat (<i>Corynorhinus townsendii</i>) for formal listing (Office of Administrative Law's Notice ID #Z2012-1120-01). Fish and Game Code section 2085 extends protections afforded formally listed species to candidate species whereby notice has been given pursuant Fish and Game Code section 2074.4. Please update the DPEIR accordingly for this species.</p> <p>REFERENCES:  BLM, 1978. 1978 McCain Valley Wildlife Habitat Management Plan (WHMP) prepared by the Bureau of Land Management.  California Department of Fish and Game, California Wildlife Habitat Relationships website: (<a href="http://www.dfg.ca.gov/biogeodata">http://www.dfg.ca.gov/biogeodata</a>)  California Natural Diversity Database, website: <a href="http://www.dfg.ca.gov/biogeodata">http://www.dfg.ca.gov/biogeodata</a>  County of San Diego, 2007. East County MSCP preserve (Independent Science Advisor's Documentation Binder/Workshop #1, February 2006 and the January 2007 Workshop)  County of San Diego, 2008. Planning Agreement by and Among the County of San Diego, the California Department of Fish and Game, and the United States Fish and Wildlife Service regarding the North and East County Multiple Species Conservation Program Plans: Natural</p>	<p style="text-align: center;"><b>S3-54</b></p> <p>S3-55 Cont.</p> <p>S3-56</p> <p>S3-57</p> <p>CEQA to analyze potential impacts to the existing baseline environment. A discussion regarding the validity of categorizing the Boulevard territory as inactive is provided in common response BIO1.</p> <p>Issues raised in this comment involving loss of suitable foraging habitat for golden eagles on the Tierra del Sol solar farm were considered and addressed in the DPEIR (BI-TDS-9). See Section 2.3.3.1, page 2.3-116. The connection between impacts to foraging area and nesting success is not well studied or known. If predatory animals cannot find prey, then they will not be able to provide for their young. However, the tipping point for how much land is enough is not known.</p> <p>The foraging habitat impacted by the Proposed Project is not of the highest quality due to the amount of brush and also would only amount to a small percentage of the potential foraging habitat within a typical east county San Diego golden eagle territory. As indicated in the WRI report, territories of GOEA within the San Diego MSCP are 20 to 30 square miles. Therefore, the project is not expected to have any resulting impacts to breeding pairs in the vicinity.</p> <p style="text-align: center;"><b>S3-55</b></p> <p>The County does not agree that the Rugged, LanEast, and LanWest solar farm area serves as an important stopover for Swainson's hawk (<i>Buteo swainsonii</i>), nor does it agree with the CDFW's request for additional Swainson's hawk surveys. As stated in the DPEIR,</p>
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**Appendix A**  
**Specific Comments on the Draft Programmatic Environmental Impact Report**  
**For the Soitec Solar Development, San Diego, County**

**SCH# 2012061068**

Community Conservation Program Plans and Habitat Conservation Plans. NCCP Planning Agreement No. 2810-2007-00205, October 29, 2008.

County of San Diego, 2013. North and East County MSCPP Planning Agreement and related amendment. PA# 2810-2007-00205. Amendment to 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 Plans and Habitat Conservation Plans. November 15, 2013.

Dudek, (January 2014). *Soitec Solar Development Project Draft Program Environmental Impact Report Environmental Review Project Number 3910-120005*.

Grief, Stefan and Siemers, Björn M. "Innate recognition of water bodies in echolocating bats." *Nature Communications* November 2010.

Horváth, Gábor; Kriska, György; Malik, Péter; and Robertson, Bruce, 2009. "Polarized light pollution: a new kind of ecological photopollution." *Front Ecol Environ* 2009; 7(6): 317-325, doi: 10.1890/080129.

Katzner, Todd; Turk, Philip; Duerr, Adam; Brandes, David; Miller, Tricia; and Lanzone, Michael. "Golden eagle home range use, habitat use, demography and renewable energy development in the California desert- an interim report submitted to the: Bureau of Land Management, California State Office (CASO)." *West Virginia University*.

San Diego Management and Monitoring Program, Coordination Meeting presentation. "Status of Golden Eagles in San Diego County, David Bittner. January, 22, 2014.

San Diego Management and Monitoring Program Meetings, 2014.

[http://sdmmp.com/calendar/DetailView/13-07-17/Mgmt\\_Monit\\_Coord\\_Mtg\\_Jan\\_2014.aspx?ReturnURL=%2fcalendar%2fCalendar\\_MainPage.aspx](http://sdmmp.com/calendar/DetailView/13-07-17/Mgmt_Monit_Coord_Mtg_Jan_2014.aspx?ReturnURL=%2fcalendar%2fCalendar_MainPage.aspx)

while Swainson's hawk was detected in the Proposed Project area, this species no longer nests in Southern California, including San Diego County. The species could use the Proposed Project area during annual migration; however, based on a comparison of data from Borrego Springs to sites in the vicinity, far fewer migrate over the area compared to other locations, and the site does not appear to be an important migration area. Therefore, the potential for the Proposed Project area to be an important stopover has been fully analyzed in the DPEIR. Loss of foraging habitat for Swainson's hawk is mitigated through habitat preservation (M-BI-PP-1).

**S3-56**

The surveys referred to in the DPEIR were only reviewed to provide information regarding the use of the site and surrounding areas, for a specific species: Swainson's hawks. Both wildlife agencies have a long-standing history of using a body of species evidence in evaluating sites, projects, and impacts. Specifically where current focused species surveys do not identify occupation by species, but previous surveys have identified them, the Department and USFWS have deferred back to the previous study. In effect they use a cumulative database. Therefore, both agencies do accept and use older data as well as newer data.

Comment noted that the County should use caution when evaluating the older data, however the County has reviewed the entire body of evidence to come to its

	<p>determination. There is a large body of study (2 full years between 2005 to 2007, and supplementary visits in 2010 and 2012) and 2012 would be considered to be recent. This level of study is not typically available for analysis of impacts to wintering Swainson’s hawk populations. Additional site-specific sightings are discussed within the Biological Resources Reports for the Rugged and LanWest solar farms, each of which states that a Swainson’s hawk was observed flying over the Proposed Project area (see Appendices 2.3-2 and 2.3-4).</p> <p><b>S3-57</b> 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. However, in response to this comment, the County has included an additional condition of project approval (see Chapter 2.3 of the FPEIR) that requires the development of a Bird and Bat Monitoring Plan. These changes are presented in <del>strikeout</del>/<u>underline</u> format; refer to Section 2.3.6. The changes 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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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.

The likelihood that bats would mistake the solar trackers for a body of water at night is slim, based on the data and conclusions of the Grief and Siemers study cited by the commenter. In this study, several species of bats demonstrated similar behavior in attempting to drink from various horizontal acoustical mirror surfaces, i.e. smooth plates made of metal, plastic, and wood, under either weak or no light conditions. At night, the Project’s solar trackers will be positioned vertically to minimize dust collection (DPEIR Section 1.2.1.1). Assuming that bats in the wild would treat the smooth glass surface of the solar trackers similarly to the metal, plastic or wood plates in the Grief and Siemers study, the study does not provide any data that bats would take *vertical*

	<p>acoustical mirrors for water bodies, and attempt to drink from them. In fact, given that water bodies are always horizontal and the solar trackers will be automatically positioned vertically at night, it seems highly unlikely that bats could experience the same water confusion at the solar farms, as seen in the study. In addition, in the study, bats attempted to drink from the smooth plates between approximately 50 to 100 times within two five-minute periods, but were apparently uninjured from these drinking attempts. While such water body confusion in the wild could negatively impact the drinking habits of bats and thus potentially their health, this study does not demonstrate that such confusion would cause physical harm or mortality. Any negative impacts to health would also be speculative based on the study's simulated conditions in a four meter by eight meter by 2.4 meter flight room. It is unknown whether such repeated drinking attempts would be made outside of a confined space, in the wild.</p> <p>The designation for Townsend's big-eared bat has been revised and is now a State Candidate species. The DPEIR has been revised to reflect the status change and Dudek has prepared a memorandum (see Appendix 9.0-5) that discusses the potential for project activities to impact Townsend's big-eared bat .The status change of this species does not affect the impacts already addressed within the PEIR, however it</p>
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did require revisions to Section 2.3.3.1, Guideline A, which discusses impacts to federally- or state-listed species. Additional text has been added to Section 2.3.3.1 to further clarify that since Townsend's big-eared bat forages in the air space, there would be no loss of suitable foraging habitat within Rugged and LanWest, the two project components that have the potential to support foraging for this species.

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.

**References**

14 CCR 15000–15387 and Appendices A–L. Guidelines for Implementation of the California Environmental Quality Act, as amended.