

Response to Comment Letter O7

Donna Jones Law Firm

- O7-1** This is an introductory comment indicating that the Donna Jones Law Firm is submitting comments on the Draft EIR on behalf of We Are Human Kind LLC. The comment does not raise concerns related to the adequacy of the Draft EIR; therefore, no further response is required.
- O7-2** The commenter states that the comment letter is submitted on behalf of We Are Human Kind, LLC, the new owner of the Jacumba Hot Springs Resort. The comment does not raise concerns related to the adequacy of the Draft EIR; therefore, no further response is required.
- O7-3** The commenter states that the Proposed Project would change the Jacumba Hot Springs Resort, and the Draft EIR does not adequately analyze the environmental impacts to the Jacumba community. In response, this comment is meant to serve as a summary of the discussion within the remainder of the comment letter. While the comment states that the Draft EIR is inadequate, the comment does not offer specific evidence to support that statement; therefore, no further response is required. Responses to each of the comments submitted in the remainder of the letter are provided below.
- O7-4** The commenter states that the Jacumba Hot Springs Resort was founded with the goal of being a destination for relaxation and enjoyment of the desert environment. The comment states that people visit, live, and work in the Jacumba community to see nature and experience the community's rural and tranquil character. The comment further states that the Proposed Project will impact the community, the habitat, and the people and wildlife that call it home. In response, generally, Section 2.1, Aesthetics, of the Draft EIR discusses potential impacts to the existing aesthetic and visual characteristics of the community and surrounding public views that could result from development of the Proposed Project. Further, Section 3.1.4, Land Use and Planning, discusses potential impacts to land use that could result from the development of the Proposed Project. The comment does not raise specific concerns related to the adequacy of the Draft EIR; therefore, no further response is required.
- O7-5** The commenter states that the Jacumba Hot Springs Resort's continued success depends on the rural nature of the area and that the Proposed Project would change that character. The comment further states that the aesthetic impacts of the Proposed Project cannot be fully mitigated, and there are other potential locations for the Project. The

Volume II – Organization Responses to Comments

comment also states that the Proposed Project will place an incompatible land use on the Project site that will impact wildlife, habitat, and wildlife connectivity. In response, generally, Section 2.1, Aesthetics, of the Draft EIR discusses potential aesthetic impacts to the community and surrounding public views that could result from development of the Proposed Project. As summarized in Section 2.1.7, the Proposed Project would result in significant and unavoidable impacts to the existing visual character and/or quality, valued visual character of the community, and panoramic or focal vistas. The Draft EIR found that, despite the implementation of mitigation measures, these impacts cannot be mitigated to a less than significant level. Further, Chapter 4, Alternatives, discusses alternatives to the Proposed Project that would feasibly attain most of the Project objectives, but would avoid or lessen significant environmental impacts. Alternative locations for the Project are considered but rejected in Section 4.2.4 of that Chapter. Section 2.3, Biological Resources, discusses potential impacts to biological resources that could result from development of the Proposed Project. However, the comment does not raise specific concerns related to the adequacy of the Draft EIR; therefore, no further response is required.

- O7-6** The commenter states that the Notice of Preparation indicated the Proposed Project would seek a General Plan Amendment and Rezone, but the Draft EIR does not include those proposed approvals for the Project. The comment states that the Draft EIR is deficient in not fully explaining what has changed since the time of the Notice of Preparation that would allow the Proposed Project to proceed without those approvals. In response, Section 1.5.1 of Chapter 1, Project Description, of the Draft EIR states that the Project applicant withdrew the General Plan Amendment and Rezone applications during the course of the preparation of the Draft EIR. Further, that section, as well as Section 3.1.4, Land Use and Planning, describe the necessary County approvals required for the development of the Proposed Project, as dictated by the County's zoning ordinance. Please refer to Response to Comment I135-17 regarding the permits required for the Proposed Project.
- O7-7** The commenter states that the Draft EIR includes a Project objective to "develop a solar energy project with a rated capacity of up to 90 megawatts of alternative current." The comment states the Draft EIR then uses this minimum need of 90 megawatts to reject every alternative as unable to achieve the Project objectives. The comment further states nowhere does the EIR explain the need for a 90 megawatt utility scale solar farm. In response, as stated in Section 1.1 of the Draft EIR, Objective 1 of the Proposed Project fully states "[d]evelop a solar energy project with a rated capacity of up to 90 megawatts (MW) of alternative current (AC) and an energy storage facility that can supply electricity to indirectly reduce the need to emit greenhouse gases caused by the generation of similar quantities of electricity from either existing or future

Volume II – Organization Responses to Comments

nonrenewable sources to meet existing and future electricity demands, including during on-peak power periods.” Further, please refer to Responses to Comments O7-180 through 186 for a response to the comment that Objective 1 was used by the Draft EIR “to reject every alternative.”

- O7-8** The commenter states that the Draft EIR identifies five other renewable energy developments proposed within approximately 10 miles of the Project site, and that the Draft EIR should explain the current electrical generation demand and supply in the region. In response, the comment does not raise concerns related to the adequacy of the Draft EIR; therefore, no further response is required. However, generally, Section 3.1.3.3.1 of Section 3.1.3, Greenhouse Gas Emissions, discusses the renewable energy content of San Diego Gas & Electric’s (“SDG&E”) energy portfolio.
- O7-9** The commenter states that the Draft EIR lacks information concerning the current renewable energy production levels in the County and what renewable energy production is needed under the Regional Portfolio Standard goals. The comment states that this information is needed to determine whether the Project is required and whether the Project is located in the appropriate place. In response, the comment does not identify how the requested information would affect the analysis in the Draft EIR or render the Draft EIR inadequate in any manner; therefore, no further response is required. However, generally, Section 3.1.3.3.1 of Section 3.1.3, Greenhouse Gas Emissions, discusses the renewable energy content of SDG&E’s energy portfolio.
- O7-10** The commenter states that the Draft EIR lacks information concerning how much renewable energy is being produced by the existing facilities in Jacumba Hot Springs, Borrego, and other parts of the County. The comment states that this information is needed to determine whether the Proposed Project is required and whether the Proposed Project is located in the appropriate place. In response, the comment does not identify how the requested information would affect the analysis in the Draft EIR or render the Draft EIR inadequate in any manner; therefore, no further response is required. However, Table 1-4 of the Draft EIR identifies the stated renewable energy production capabilities of other renewable energy projects in the County. Further, Section 3.1.3.3.1 of Section 3.1.3, Greenhouse Gas Emissions, of the Draft EIR discusses the renewable energy content of SDG&E’s energy portfolio. It also should be noted that the County has the discretion to “identify and pursue a particular project designed to meet a particular set of objectives.” (*San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 14; *California Oak Foundation v. Regents of University of California* (2010) 188 Cal.App.4th 227, 276-77.)
- O7-11** The commenter states the Draft EIR lacks information concerning whether energy produced in the County is used by local residents, or whether local residents are bearing

Volume II – Organization Responses to Comments

the environmental burden to produce electricity for residents of other counties. In response, the comment does not identify how the requested information impacts the analysis in the Draft EIR or renders the Draft EIR inadequate in any manner; therefore, no further response is required. Further, on May 27, 2021, San Diego Community Power, a community choice aggregation program (“CCA”), approved a Long-term Renewable Power Purchase Agreement with the Project applicant for the Project to provide energy to the local communities that are member to the program (“CCA”). These communities include the cities of San Diego, Chula Vista, Encinitas, La Mesa and Imperial Beach.

- O7-12** The commenter restates the legal requirements under the California Environmental Quality Act (CEQA). The comment does not raise concerns related to the adequacy of the Draft EIR; therefore, no further response is required.
- O7-13** The commenter states that “alternatives are dismissed” in the Draft EIR “for failure to meet an unsupported 90 MW energy generation threshold even where they meet most of the basic project objectives and lessen or avoid significant impacts.” Please refer to Responses to Comments O7-180 through O7-186 for responses to the comment that Objective 1 was used to dismiss alternatives that met most of the Project objectives.
- O7-14** The commenter states that feasible mitigation such as attractive fencing, sufficient landscaping, and adequate buffers have not been required to avoid significant impacts. The comment states that as a result of these issues, the Draft EIR must be remedied and recirculated. In response, mitigation measure **M-AE-4** requires a minimum setback of 75-feet from residential property lines along the western Proposed Project boundary and mitigation measure **M-AE-5** requires the installation of a 15 feet wide landscaping row along certain portions of the Proposed Project boundary. Further, mitigation measure **M-AE-6** requires tan colored slats or screening to be installed in specified sections of the Proposed Project’s perimeter fence. These mitigation measures would reduce the Proposed Project’s impacts to aesthetic and visual resources; however, the Draft EIR acknowledges that these impacts would remain significant and unavoidable. There are no feasible mitigation measures that would reduce the aesthetic impacts to less than significant. Further, it is worth noting that fencing with additional features or designs would not blend into the background or the Proposed Project and would not assist in lessening visual impacts as compared to the neutral toned slatting or screening in the perimeter fence required by mitigation measure **M-AE-6**.

Additionally, the Final EIR has incorporated revisions into the Proposed Project’s design to increase setbacks from the Jacumba Community Park and Old Highway 80 in response to concerns raised by commenters. Specifically, the Proposed Project will now include a 300-foot setback from the Project’s fence line to the property line

Volume II – Organization Responses to Comments

adjacent to the Jacumba Community Park. In addition, the following setbacks will be provided along Old Highway 80: (1) 70 feet from the Project property line to the Project's proposed fence line on the north side of Old Highway 80; and (2) 140 feet from the Project property line to the Project's proposed fence line on the south side of Old Highway 80. These setbacks are from the Project's property line, which is located 35 to 40 feet from the edge of the pavement on Old Highway 80. These setbacks will be incorporated along the entire length of the Proposed Project along Old Highway 80. The setbacks were incorporated into the Project design to lessen impacts to views from Old Highway 80 and the Jacumba Community Park. Please refer to the Chapter 1 Project Description and revised Figure 1-2 and Figure 1-3 series of the Final EIR for further discussion of these changes to the Proposed Project's design aimed at reducing impacts to aesthetics and visual resources. Also, these increased setbacks from the Jacumba Community Park and Old Highway 80 have also been incorporated into the Community Buffer Alternative in the Final EIR. Please refer to Section 4.4.3 and Figure 4-1 in Chapter 4 Project Alternatives of the Final EIR.

Finally, the commenter's statement that recirculation is required appears to be an introductory sentence for the remainder of the comment letter. The comment does not identify why recirculation is required; therefore, no further response is required.

- O7-15** This comment contains a restatement of the legal requirements of CEQA. The comment also states that there is significant public concern that the County conduct further analysis of reasonable and feasible alternatives, as well as additional analysis of land use and planning impacts, feasible mitigation measures, and more. The comment states that recirculation of the Draft EIR is required. In response, the comment's statement that recirculation is required appears to be an introductory sentence for the remainder of the comment letter. Please refer to Responses to Comments O7-170 to O7-199 (alternatives), O7-122 to O7-169 (land use policies), and O7-23 to O7-25 (mitigation measures). Please also refer to Global Response GR-6 Alternatives, which discusses the Draft EIR's analysis of alternatives to the Proposed Project.
- O7-16** The commenter states that the “summary of plans” approach to cumulative impacts analysis is not appropriate for the analysis of many of the impact areas. The commenter further states that “list of projects” approach to cumulative impacts analysis should be utilized, for example, in the analysis of the Project's aesthetics impacts. In response, please refer to Section 1.7 of Chapter 1 which states that the Draft EIR utilizes both the list of projects and the summary of plans approach to cumulative impacts analysis. The summary of plans approach was used in Section 2.2, Air Quality, and Section 2.7, Hydrology and Water Quality. However, the analysis of the Draft EIR's analysis of cumulative impacts to aesthetics, as well as many other resources areas, utilized the list of projects approach. (See Section 2.1, Aesthetics.)

Volume II – Organization Responses to Comments

- O7-17** The commenter states that the Draft EIR should include a map showing all of the energy projects that currently exist in the Project area and the surrounding communities. In response, Figure 1-9 Cumulative Projects has been added to the Final EIR, which displays each past, present, and future renewable energy project in the vicinity of the Proposed Project as well as all other cumulative projects analyzed in the Draft EIR. However, please also refer to Figures 3.1.1-5 and 3.1.1-6, in Section 3.1, Agricultural Resources, of the Draft EIR, which display each of the cumulative projects in the Project vicinity, including the renewable energy projects.
- O7-18** The commenter states that the Jacumba Solar and East County Substation projects should be included in the list of cumulative projects provided in Chapter 1, Project Description of the Draft EIR. In response, Table 1-4 in the Final EIR has been revised to include the Jacumba Solar and East County Substation projects. However, it should be noted that these projects were already included in the Project's cumulative impact analyses. (See, e.g., Section 2.1.4 in Section 2.1 Aesthetics; Section 2.3.4 in Section 2.3 Biological Resources; and Figures 3.1.1-5 and 3.1.1-6 in Section 3.1.1 Agricultural Resources.)
- O7-19** The commenter states that there is no evidence supporting the Proposed Project's solar panels needing to be 12-feet in height. The commenter also states that as a result of this height, the Proposed Project's perimeter fence and landscaping will not entirely screen the view of the panels. The commenter further states that the final elevations of the PV panels will be determined during the engineering and permit process, and questions whether this constitutes "a deferral" and whether the panels will be even higher than 12-feet in height. In response, Section 1.2.1 Project Description of Chapter 1 in the Final EIR states that the PV modules, at their highest point, would be up to 12 feet above the graded ground surface within the Project site. The 100-year flood depths within the Project site vary depending on terrain and other factors. In some areas of surface depressions, grade may be raised slightly to maintain a maximum PV module height of 12 feet, or PV modules would not be installed at those locations. The PV module arrays' final elevations from the ground would be determined during the engineering and permit process; however, for the purpose of analysis in this EIR, maximum height above the graded ground surface would be 12 feet. It is common practice to maintain as low of an elevation profile as possible to reduce potential wind loads on the PV module arrays. Accordingly, the EIR explains that the maximum height of the solar panels will depend on the 100-year flood elevations within the Project site and will be determined during the engineering phase of the Proposed Project accordingly. Further, please refer to Section 2.1, Aesthetics, of the Draft EIR which discusses the potential impacts to aesthetic and visual resources caused by the Project's development. Please refer to Global Response GR-6 Alternatives for further discussion

Volume II – Organization Responses to Comments

of this topic. Please also refer to Response to Comment O7-20 and new Appendix U in the Final EIR which discusses why the PV panels would be 12 feet in height.

- O7-20** The commenter states that the PV panels are 12-feet high but if instead they were only 6 to 8 feet off the ground, the Proposed Project's fence and landscaping would have a chance to conceal them. In response, the 12-foot maximum height above graded ground surface is a conservative estimate to allow for flexibility in selecting the equipment to be utilized at the Proposed Project. All Proposed Project PV panels at maximum tilt, inverter/transfer platforms, battery storage containers, and all electrical components must be elevated 1 foot above base flood elevation in order to comply with the County of San Diego Flood Damage Prevention Ordinance, County Hydrology Manual and County Hydraulic Design Manual.

A technical memorandum has been prepared by Kimley Horn and is included as new Appendix U in the Final EIR. As discussed in Appendix U, the maximum height of the PV panels is driven by a combination of factors, including PV panel height dimensions, flood depths, and ground surface undulation. Due to the requirements for 1 foot of freeboard above the 100-year flood elevation, as required by County ordinances, and the panel dimensions, it is not unreasonable for the maximum height of PV panels to be a 12 feet above graded ground surface. This also demonstrates why a 7-foot panel height limit alternative would be infeasible. The Draft EIR uses a maximum height of 12 feet above graded ground surface for the PV panels to ensure the most conservative analysis of the Proposed Project's impacts is contained in the Draft EIR.

Additional hydrologic and hydraulic analyses will be performed pursuant to mitigation measure **M-HYD-1** to demonstrate that the design features for the perimeter fencing avoids the blockage and/or redirection of storm flows resulting from the accumulation of debris and/or detritus at wash crossings. Regardless of the results of the final hydrologic and hydraulic analyses, the maximum height of the panel at the full tilt position will exceed the 7-foot high perimeter fencing.

- O7-21** The commenter states that the Borrego Solar Farm utilized PV panels that would be 6 to 8 feet in height, and questions why the Project does not implement similar heights. The comment states that the Draft EIR must explain this discrepancy. In response, please refer to new Appendix U of the Final EIR for an explanation as to the height of the PV panels at the Borrego Solar Farm. In brief, the Borrego Solar Farm location does not experience flood depths that are as high or surface undulations that are as large, and it is likely that panel technology used almost ten years ago is different than what is commercially available today.

Volume II – Organization Responses to Comments

- O7-22** The commenter states that the Draft EIR should include an alternative that lowers the maximum height of the PV panels to no more than 7 feet. In response, the Draft EIR need only discuss a reasonable range of alternatives that 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. (CEQA Guidelines, § 15126.6(a).) As the Draft EIR contains a reasonable range of alternatives (See Chapter 4, Project Alternatives), the commenter must provide evidence showing the range of alternatives discussed in the Draft EIR is unreasonable. (*South of Market Community Action Network v. City & County of San Francisco* (2019) 33 Cal.App.5th 321, 345.) Further, as explained in Response to Comment O7-20, the height of the panels must be designed to ensure the panels would not be an impediment to flood flows within the Project site. Please refer to Global Response GR-6 Alternatives for further discussion of how limiting the height of the PV panels to 7 feet is infeasible.
- O7-23** The commenter states that the Draft EIR must identify whether the access driveways proposed on Old Highway 80 would include slats to conceal the interior of the site. In response, mitigation measure **M-AE-6** requires tan slats or screening to be installed in the perimeter fencing along the north and south sides of Old Highway 80 for the entire length of the solar facility, among other areas, including the gates. This stretch of perimeter fencing includes the gates at the access driveways on Old Highway 80. Figure 2.1-8B in Section 2.1, Aesthetics, displays the location of the tan slatted or screened fencing around the Proposed Project, and includes the access driveways along Old Highway 80 as segments of the fencing that will include the tan slats or screening. Further, potential impacts from development of the Proposed Project to views from Old Highway 80 are analyzed in Section 2.1, Aesthetics. As specifically discussed in Section 2.1.7, the Draft EIR concludes that the Proposed Project would result in significant and unavoidable impacts to panoramic views along Old Highway 80 despite the implementation of mitigation measures.
- O7-24** The commenter states that the Draft EIR must analyze the impacts of the Proposed Project’s perimeter fence. The commenter also states that tan-colored slats to be installed along specific segments of the Project perimeter fence will not mitigate aesthetic impacts caused by the fence. In response, Section 1.2.1 of the EIR describes the Proposed Project’s security fencing as part of the Proposed Project description. The impacts of the Proposed Project’s perimeter fence are then analyzed throughout the EIR, including Section 2.1, Aesthetics. As summarized in Section 2.1.7, the EIR concludes that development of the Proposed Project, including the Proposed Project’s perimeter fence, would result in significant and unavoidable impacts to the existing visual character and/or quality of the Project site, the valued visual character of the community, panoramic or focal vistas, and cumulative impacts to these same resources.

Volume II – Organization Responses to Comments

Mitigation measure **M-AE-6** will be required to mitigate the impact of both the Project’s security fence and the other Project components. The Draft EIR concludes that despite mitigation measure **M-AE-6**, as well as the other measures implemented to reduce the Project’s aesthetic impacts, the Proposed Project would result in significant and unavoidable impacts to aesthetic and visual resources.

- O7-25** The commenter requests that the perimeter fence facing the Jacumba community and Old Highway 80 be “wooden or wood-looking fencing.” In response, as explained in Section 2.12.3.3 in Section 2.12, Wildfire, the Proposed Project’s security fence is designed to meet the National Electrical Safety Code for protective arrangements in electric supply stations. In addition, the Proposed Project fence line and the 30-foot buffer inside the fence line are designed to provide a fire break and defensible space for the solar facility. Wood fences have been prolific for igniting from vegetation fires and spreading fire toward structures and would include some additional fire risk. Further, there is no substantial evidence that utilizing wood fencing instead of tan-colored slats or other screening material as specified by mitigation measure **M-AE-6** would reduce the aesthetic impact of the fence line on public views.
- O7-26** The commenter states that the landscaping around the perimeter fencing will not mitigate impacts to aesthetic and visual resources. This comment states that mature oak trees or large 36-inch box trees should be required along the entirety of the Project edge with the community. In response, mitigation measure **M-AE-5**, as described in Section 2.1 Aesthetics, requires the installation of landscaping to provide visual screening of the Proposed Project components. As described in the **M-AE-5**, landscaping will be approximately 15 feet wide and will include drought tolerant trees (approximately 18 feet tall 10 years after planting) with native and/or drought tolerant shrubs and ground cover. **M-AE-5** relies on the combined effect of trees, shrubs, and ground cover to create a visual buffer to break up the Proposed Project’s security fence and the Project components, not just trees alone. The Proposed Project’s Conceptual Landscape Plan includes 24- inch box trees, 1, 5, and 15 gallon shrubs, and ground cover, and identifies where landscaping will be located along the Proposed Project boundaries with Jacumba Hot Springs and along Old Highway 80. The planting legend identifies 8 types of suitable trees, including 3 types of oaks. As stated in **M-AE-5**, the final Landscape Documentation Package must be approved by the County. The Draft EIR provides visual simulations that show how **M-AE-5** would reduce visual impacts. (See Figure 2.1-11 and 2.1-13 (Old Highway 80), Figure 2.1-12 (Jacumba Community Park), and 2.1-14 (undeveloped Brawley Avenue Property).)
- O7-27** The commenter states that the landscaping planted as part of the Proposed Project must be permanently irrigated to prevent the plants from drying. The commenter also states that the Draft EIR does not specify what herbicides and pesticides would be utilized to

Volume II – Organization Responses to Comments

maintain the landscaping and growth under the solar panels. The comment states that these items must be addressed prior to the Draft EIR's recirculation. In response, Section 1.2.1.1 of Chapter 1, Project Description, specifies that "the estimated annual operational water demand for irrigation of the landscape screening is approximately 8.4 [acre-feet per year]." The Proposed Project will include irrigation for the landscaping installed as part of the Project. (See also Section 2.7.3.3. in 2.7, Hydrology and Water Quality, ["Landscaping would include native and drought-resistance plants, irrigated by an automated drip irrigation system to limit excess water use."].) Mitigation measure **M-BI-8** regulates the use of herbicides at the Project site. Further, **M-BI-8** in the Final EIR has been revised to confirm that no pesticides will be used by the Proposed Project.

- O7-28** This comment states that the Draft EIR must discuss dust control measures after Project construction, like the application of soil binding agents. In response, Section 1.2.1 of Chapter 1, Project Description, states that all internal access surfaces will "have a permeable nontoxic soil binding agent in order to reduce fugitive dust and erosion in accordance with County Code Section 87.428, Dust Control measures and with San Diego Air Pollution Control District Rule 55." In Section 1.2.1.2 of that same Chapter, the Draft EIR further states that areas disturbed during construction will be reseeded with a native plant hydroseed mix. The Final EIR has been revised to include a Project Design Feature (**PDF-HYD-3**) which further addresses hydroseeding and ensuring vegetation acts as a dust control measure during Project operation.
- O7-29** The commenter states that the Draft EIR must explain the source of water for the Project's water tanks and its operational water demand. In response, Appendix J, Groundwater Resources Investigation Report, of the Draft EIR indicates the sources of water supply, JVR wells #2 and #3, for the Proposed Project and associated water demand for construction and operation. Appendix J provides a detailed estimate of water demand for construction and operation including water for panel washing and irrigation. Appendix J also explains the existing and future water demand for Jacumba Community Services District (JCSD). Historically, JCSD has pumped approximately 80 to 146 acre-feet per year from the alluvial aquifer. Starting in March 2020, all potable water for JCSD is supplied from wells #7 and #8, completed in the fractured rock aquifer. The analysis presented in Appendix J evaluated potential impacts from pumping Project wells on the closest JCSD well, Highland Center Well, and concluded that well interference to this non-potable JCSD wells and other off-site wells was less than significant. Additionally, Appendix J concludes that impacts to groundwater storage as a result of the Proposed Project are also not significant. (See also Section 2.7, Hydrology and Water Quality, of the Draft EIR.)

Volume II – Organization Responses to Comments

The population and number of homes within the Jacumba Hot Springs community are stable at the present time with very minimal growth expected in the foreseeable future. Table 1 lists the historical population numbers for Jacumba Hot Springs.

Table 1
Historical Population

Year	Population
2000	582
2010	561
2020	583
Estimated Annual Growth Rate^a	0.01%

Notes:

^a

Annual growth rate = ((Present Value – Past Value)/ Past Value)) x100 = Growth Rate /Years (N) = Annual Growth Rate, N = 10. The 20-year growth rate is 0.01%.

JCSD regularly evaluates water demand and water supply for its customers. The number of water service connections is 234 existing connections. The Maximum Day Demand (MDD) estimated for this system is 210,000 gallons based on the maximum reported water use that occurred in August 2007 (CDPH 2010).¹ Peak Hour Demand (PHD) estimated for this system is 13,125 gallons per hour or 219 gallons per minute. Domestic water storage for the JCSD is provided by a 200,000-gallon bolted steel water storage tank, and a 435,000-gallon bolted steel water storage tank for a total of 635,000 gallons. As the system has less than 1,000 service connections, the system meets Title 22 requirements to have storage capacity equal to or greater than MDD.

- O7-30** The commenter states that the Draft EIR notes the population of Jacumba Hot Springs from 2010 was 561 persons, and states it was included as if to imply there are not a lot of people in the community, so it is acceptable to approve a project such as this one. The commenter also questions whether that information is regularly cited in County environmental impact reports and what is the purpose. In response, this information is

¹ (CDPH) California Department of Public Health. 2010. Jacumba Community Services District, System No. 3710011 2010 Sanitary Survey. October 20, 2010.

Volume II – Organization Responses to Comments

included in the Project Description to describe the environmental setting of the Proposed Project, including a description of the region and site of the Project, in accordance with CEQA Guidelines Section 15125. The environmental setting provides the “public and decision makers the most accurate and understandable picture practically possible of the project’s likely near-term and long-term impacts.” (*Ibid.*)

- O7-31** The commenter states that the “summary of plans” approach to cumulative impacts analysis is not appropriate for the cumulative impact analysis for aesthetic and visual resources. The comment also states that the Draft EIR should include a map showing all of the energy projects that currently exist in the Project area and the surrounding communities. Please refer to Responses to Comments O7-16 and O7-17 regarding the cumulative impact analysis in the Draft EIR and map of cumulative projects.
- O7-32** The commenter states that the Jacumba Solar and East County Substation projects should be included in the list of cumulative projects provided in Chapter 1, Project Description of the Draft EIR. Please refer to Response to Comment O7-18 regarding the Jacumba Solar and East County Substation projects.
- O7-33** The commenter states that the Draft EIR fails to analyze “whether the Project’s individual contribution is cumulatively considerable” to aesthetic and visual resources. The commenter also states that because the analysis of the Project’s individual contribution to cumulative aesthetic impacts is missing, the “required discussion of mitigation measures is missing.” In response, CEQA requires an EIR to evaluate whether a project’s incremental effect is cumulatively considerable, which is further defined as the incremental effects of the project when viewed in connection with the effects of past, present, and future projects. (CEQA Guidelines §§ 15130(a), 15065(a)(3).) The Draft EIR adequately analyzes the Proposed Project’s individual impacts to aesthetic and visual resources in Section 2.1, Aesthetics. Further, as required by the CEQA Guidelines, the Draft EIR analyzes whether the incremental effects of the Proposed Project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. (CEQA Guidelines § 15130.) Section 2.1.4 concludes that the Proposed Project’s incremental effects on the existing visual character, valued visual character of the community, and panoramic and scenic vistas are cumulatively considerable. Section 2.1.7 then finds that despite the implementation of mitigation measures **M-AE-1 through M-AE-3**, these cumulative impacts would be significant and unavoidable.
- O7-34** The commenter states that the Draft EIR’s aesthetics impact section finds a number of significant impacts but rather than much in the way of facts or analysis it gives the reader mostly conclusory statements, and that there is not sufficient detail. The commenter then states that the Draft EIR does not disclose a “functional landscape

Volume II – Organization Responses to Comments

plan” or a “list of anticipated plants to be used.” The commenter also states that there is no information to support the visual simulations of the Project, or to ensure the “simulations will occur.” In response, with respect to information about landscaping required under mitigation measure **M-AE-5**, please refer to Response to Comment O7-26. With respect to visual simulations, Section 2.1 Aesthetics discusses the visual simulations prepared for the Proposed Project. As discussed in Section 2.1.3, these visual simulations were prepared by a County approved consultant for visual resources and used the dimensions of the Proposed Project. Figures 2.1-9 through 2.1-17 in the Final EIR include photographs of existing conditions, a simulation of the Proposed Project as presented in the Draft EIR, and simulations of the revised Proposed Project with increased setbacks. Mitigation measure **M-AE-5** requires the applicant to prepare Landscape Plans, to be submitted and approved by the County prior to implementation, and a Landscape Certificate of Completion must be submitted to the County after landscape installation. In addition, **M-AE-5** requires the applicant to maintain landscaping for the life of the Project.

O7-35 The commenter states that the Draft EIR does not analyze the aesthetic impacts that will occur while the Project’s landscaping matures. In response, a conceptual landscape plan is provided as Figure 2.1-8B in Section 2.1 Aesthetics of the Draft EIR. While three species of oak tree are included the preliminary plant legend, the landscape plan is conceptual and has not been finalized. The species listed in the preliminary plant legend are available options and are intended to achieve sufficient landscaping screening during Project operations. Three species of oak tree are included in the preliminary plant legend; however, **M-AE-5** does not require the installation of oak trees. Rather, the measure requires that the selected trees be “drought tolerant” and have a growth rate with irrigation to achieve a height of “approximately 18 feet tall at 10 years post-installation.” If oak trees are selected and installed, an approximate height of 4 to 6 feet is anticipated at installation. With appropriate irrigation for the local landscape (given evapotranspiration fluctuations in desert environments, a responsive irrigation system is needed to address fluctuations in water demand), a doubling of height every five years could be achieved. Following installation, landscape screening associated with newly installed vegetation would be noticeably less than that depicted in Draft EIR visual simulations as trees and shrubs would be juvenile and display a relatively narrow form. During this timeframe, visibility to the Proposed Project perimeter fence would be increased compared to the visual simulations that depict landscape spread and density at 10-years post-installation of the landscape plan.

O7-36 The commenter states that because the Draft EIR lacks information about the types and sizes of plants to be installed in landscaping, the visuals of the landscape as installed

Volume II – Organization Responses to Comments

versus at maturation, and how long it would take the plants to mature, the Draft EIR is inadequate. Please refer to the Responses to Comments O7-26, O7-34, and O7-35.

- O7-37** The commenter states that the “summary of plans” approach to cumulative impacts analysis is not appropriate for analyze cumulative, the “list of projects” approach should be utilized, and a map of all of the cumulative projects listed must be incorporated into the Draft EIR. The commenter further states that recirculation of the Draft EIR is required given the lack of this information. Please refer to Responses to Comments O7-16, O7-17, and O7-18.
- O7-38** The commenter states that Old Highway 80 and I-8 are designated as County Scenic Highways, and yet the Proposed Project would be allowed to cause significant impacts that would be irreparable and unmitigated. In response, Section 2.1, Aesthetics discusses County Scenic Highways and analyzes the Proposed Project’s potential impacts to views from I-8 and Old Highway 80. The EIR also identifies mitigation measures to reduce the significance of those impacts, and concludes that, despite the mitigation, impacts to views from I-8 and Old Highway 80 would remain significant and unavoidable. The Proposed Project has been revised in the Final EIR to include increased setbacks along Old Highway 80 (refer to Chapter 1 of the Final EIR). Although the increased setback would lessen the impact to views from Old Highway 80, the impact would remain significant and unavoidable. Because the Proposed Project will result in significant and unavoidable impacts, the County must adopt a statement of overriding considerations in order to certify the Final EIR and approve the Proposed Project. (See CEQA Guidelines, § 15093.)
- O7-39** The commenter states that the lack of funding for County studies of scenic corridors along the County Scenic Highway System will result in these resources being “eliminated in the name of alternative energy development.” The comment does not raise concerns related to the adequacy of the Draft EIR; therefore, no further response is required.
- O7-40** The commenter states that the Draft EIR “rationale for allowing significant and unmitigated impacts to aesthetics – that the Project would not prevent the County from designating the area as scenic in the future – is illogical.” The commenter also states that if the aesthetics of the Project site and surrounding community are irreversibly altered by the Proposed Project, the County would then reject any consideration for identifying scenic resources in the area for protection, since the scenic value has already been damaged by this Proposed Project. The commenter further states this does not reflect the County’s significance thresholds. In response, Section 2.1.3.3 of Section 2.1 Aesthetics discusses the Project’s impacts to valued focal and/or panoramic vistas from I-8 and Old Highway 80, both of which are included in the County Scenic

Volume II – Organization Responses to Comments

Highway System. With respect to impacts to I-8, the Draft EIR concludes that, despite the brief and intermittent nature of the views from I-8 and the present disturbance of the viewshed by existing electrical transmission infrastructure, the Proposed Project would substantially detract from the available long view of the Project site from I-8. With respect to Old Highway 80, the Draft EIR concludes that the Proposed Project would substantially detract from existing southward and northward views from Old Highway 80, which extend across the flat grass and scattered shrub-covered terrain to the south and across the mountain terrain, including Round Mountain and Mount Tule to the north. The Proposed Project in the Final EIR has been revised to include increased setbacks along Old Highway 80, which would lessen the impact though the Proposed Project would still substantially detract from existing views.

Table 2.1-1 in the Draft EIR states that the Project does not conflict with the Mountain Empire Subregional Plan’s goal to establish a network of scenic highway corridors within which scenic, historical and recreational resources are protected and enhanced. As stated in Table 2.1-1, the “Project does not inhibit the County from establishing regulations and/or development standards geared toward the protection and enhancement of scenic highways.” Thus, the County will be able to establish regulations protecting scenic highways in the future regardless of the development of the Proposed Project. Please also refer to Response to comment O7-42 regarding the County’s significance thresholds.

- O7-41** This comment restates the County’s significance thresholds for visual resources, as established in the Guidelines for Determining Significance and Report Format and Content Requirements, Visual Resources. The comment does not raise concerns related to the adequacy of the Draft EIR; therefore, no further response is required.
- O7-42** The commenter states that “not being able to designate an area as scenic” is not included within the County’s significance thresholds for aesthetic and visual resources. The commenter further states that if “not being able to designate the Project area as scenic in the future is an impact, then the County should not approve the Project.” In response, the commenter suggests that the significance thresholds should include impacts related to whether a project will impede the designation of an area as scenic in the future. The County has discretion to establish significance thresholds for use in an EIR. (*San Francisco Baykeeper, Inc. v. State Lands Comm'n* (2015) 242 Cal.App.4th 202, 227; *Clover Valley Found v. City of Rocklin* (2011) 197 Cal.App.4th 200, 243; CEQA Guidelines, § 15064.7.) For the Proposed Project, the County has applied the significance thresholds for visual resources defined in the County’s Guidelines for Determining Significance and Report Format and Content Requirements, Visual Resources. The Draft EIR uses these thresholds to analyze the Proposed Project’s potential impacts to aesthetic and visual resources. Substantial evidence supports the

Volume II – Organization Responses to Comments

analysis and conclusions in the Draft EIR, which find the development of the Proposed Project would result in several significant and unavoidable impacts to aesthetic and visual resources.

Further, development of the Proposed Project would not prevent the County from designating areas as scenic in the future. The significance thresholds utilized in the Draft EIR ask whether the Project will “not comply with applicable goals, policies or requirements of an applicable County Community Plan, Subregional Plan, or Historic District’s Zoning.” The Mountain Empire Subregional Plan, which applies to the Project, identifies I-8 and Old Highway 80 as scenic corridors, and includes a goal to “establish a network of scenic highway corridors within which scenic, historical and recreational resources are protected and enhanced.” The Draft EIR concludes that the Proposed Project would not conflict with this goal as the Proposed Project would not prevent the County from establishing and designating scenic highways and regulations and/or development standards geared toward the protection and enhancement of scenic highways. (See Section 2.1, Aesthetics, Table 2.1-1.) The Draft EIR analyzes impacts to views from I-8 and Old Highway 80, which are already identified as scenic corridors and included in the County Scenic Highway System and concludes that the Proposed Project will not prevent the County from establishing regulations in the future to protect these scenic areas. As such, the Draft EIR analyzed whether the Proposed Project would prevent future actions by the County to establish regulations protecting scenic resources in highway corridors. Because the Proposed Project does not prevent any such future regulations, the Draft EIR concludes the Proposed Project is consistent with this goal of the Mountain Empire Subregional Plan. (See Section 2.1, Aesthetics, Table 2.1-1.)

- O7-43** The commenter states that the Proposed Project will “result in a ‘noticeable’ change in the visual character of the community,” and “permanently change the character of the local highways and envelope the entire small town on three sides” on land the General Plan identifies as a “Village.” In response, Section 2.1 Aesthetics analyzes the Proposed Project’s potential impacts to aesthetic and visual resources in the vicinity of the Project site, including views from Old Highway 80 and the Jacumba community, and the visual character of the community. The Draft EIR identifies significant and unavoidable impacts to the “existing visual character and/or quality” and “valued visual character of community.” Mitigation measures are identified in the EIR; however, they would not reduce these visual impacts to less than significant.

In addition, in response to comments on the Draft EIR and to further lessen visual impacts, the Proposed Project has been redesigned to increase the setbacks from Jacumba Community Park, and along the north and south sides of Old Highway 80. Please refer to Response to Comment 7-14 and Chapter 1 of the Final EIR for a description of the increased setbacks. Although the revised Proposed Project would

Volume II – Organization Responses to Comments

further lessen visual impacts, the **Impacts AE-1 through AE-9**, and **Impacts AE-CU-1 and AE-CU-2**, would remain significant and unavoidable. Because the Proposed Project will result in significant and unavoidable impacts, the County must adopt a statement of overriding considerations in order to certify the Final EIR and approve the Proposed Project. (See CEQA Guidelines, § 15093.)

- O7-44** The commenter states that the Proposed Project does not include sufficient mitigation measures to mitigate the Project's impacts to aesthetic and visual resources. The commenter also states that buffers to the community "are too small to be effective, and address only the visibility of the internal development and not the permanent changes in community character." The commenter further states that the Draft EIR "has made no attempt to respect the rural character of the community" through a buffer based on "the Project's visibility from the community" or to require integration of community character traits, like "wooden fencing and large landscape buffers," into the design of the Project. In response, the Draft EIR analyzes the Project's impacts to the established character of the Jacumba community and the valued visual character or image of the Jacumba community in Section 2.1 Aesthetics. The Draft EIR finds that the characteristics of the Proposed Project would conflict and be inconsistent with the undeveloped, desert landscape and small-town character of Jacumba, and impacts would be potentially significant (**Impact AE-1**). The Draft EIR also finds that the Proposed Project would substantially change the quality of views across the site, would conflict with the small-town character and existing unencumbered visual characteristic of the site, and impacts would be potentially significant (**Impact AE-2**). In addition, impacts to focal or panoramic vistas from Old Highway 80 (**Impact AE-4**) and from Jacumba Community Park (**Impact AE-5**) would be potentially significant. Implementation of mitigation measures **M-AE-1 through M-AE-6** would reduce these impacts. These mitigation measures require the Proposed Project to ensure Project components are non-reflective in color, setback 75 feet from residential property lines along the western Project boundary, install landscaping along portions of the Proposed Project bordering the Jacumba community and Old Highway 80, and install tan slats or screening on the Proposed Project's perimeter fence along Old Highway 80 and adjacent to the Jacumba community.

In addition, in response to comments on the Draft EIR and to further lessen visual impacts, the Proposed Project has been redesigned to increase the setbacks from Jacumba Community Park and along the north and south sides of Old Highway 80. Please refer to Response to Comment 7-14 and Chapter 1 of the Final EIR for a description of the increased setbacks. However, even with the increased setbacks, **Impacts AE-1 through AE-5** would remain significant and unavoidable. Because the Proposed Project will result in significant and unavoidable impacts, the County must

Volume II – Organization Responses to Comments

adopt a statement of overriding considerations in order to certify the Final EIR and approve the Proposed Project. (See CEQA Guidelines, § 15093.)

Further, Chapter 4 of the Draft EIR fully analyzes three alternatives to the Proposed Project: No Project Alternative, Community Buffer Alternative, and the Reduced Project Alternative. The Community Buffer Alternative includes a 300-foot buffer adjacent to private properties in Jacumba Hot Springs to the north of Old Highway 80. In addition, increased setbacks from the Jacumba Community Park and Old Highway 80 have also been incorporated into the Community Buffer Alternative in the Final EIR. Please refer to Section 4.4.3 and Figure 4-1 in Chapter 4 Project Alternatives of the Final EIR.

Overall, the Community Buffer Alternative would lessen **Impact AE-1 and AE-2**; however, these impacts would remain significant and unavoidable. Please see Global Response GR-6 Alternatives, which further discusses alternatives to the Proposed Project. With respect to wooden fencing, please see Response to Comment O7-25.

- O7-45** The commenter states that “nothing about the landscaping and fencing reflects the community character that would be destroyed by the Project.” The commenter also states that the Draft EIR must provide for “mitigation or alternatives that require project site layout be redesigned and more mitigation addressing land use compatibility and visual character added before it can conclude that impacts are mitigated to the extent feasible.” In response, as discussed in Response to Comment O7-44, the Draft EIR identifies all feasible mitigation to reduce the Proposed Project’s impacts to aesthetic and visual resources.
- O7-46** This comment includes the commenter’s restatement of the legal requirements of CEQA. The comment does not raise concerns related to the adequacy of the Draft EIR; therefore, no further response is required.
- O7-47** The commenter states that an inconsistency with a General Plan also indicates a significant aesthetic impact may exist, and that the Project is inconsistent with the General Plan as well as a number of General Plan policies. In response, Section 2.1.3.4 and Table 2.1-1 of Section 2.1, Aesthetics analyze the Proposed Project’s consistency with the Mountain Empire Subregional Plan and conclude that the Proposed Project would comply with the relevant aesthetics goals and polices of the plan. Further, Section 3.1.4.3.2 and Table 3.1.4-5 of Section 3.1.4, Land Use and Planning analyze the Proposed Project’s consistency with the General Plan’s applicable policies and goals. The Draft EIR finds the Proposed Project is consistent with the applicable policies and goals of the General Plan.

Volume II – Organization Responses to Comments

- O7-48** The commenter states because the Project “is not consistent with the existing zoning, but rather is relying on a County ordinance that allows solar facilities in any zone with a Major Use Permit to permit the development, the language of is highly relevant and reinforces the findings of significant aesthetic impacts that should be mitigation further.” In response, as discussed in Section 3.1.4.2 of the Draft EIR, the proposed development footprint for the Proposed Project would be located on parcels zoned Specific Plan (S88), General Rural (S92), Open Space (S80) and Rural Residential (RR). The Proposed Project is permitted in these zones with a Major Use Permit. Please refer to Response to Comment I135-17 regarding the permits required for the Proposed Project. Therefore, because the Proposed Project’s use is permitted in the underlying zones by the County Zoning Ordinance with approval of a Major Use Permit, the Proposed Project is consistent with the underlying zoning on the site.
- O7-49** The commenter states that the Project is not consistent with the underlying zoning despite the County Zoning Ordinance permitting such projects. In response, because the proposed use may be permitted in the Zoning Ordinance with a Major Use Permit (see Responses to Comments O7-47 and O7-48) and required findings, it is by definition consistent with the Zoning Ordinance.
- O7-50** The commenter states impact to community character is cognizable under CEQA to the degree it is visually out of character with community and refers to case law. The commenter further states the Project has numerous impacts to community character and those impacts must be analyzed and disclosed. In response, Section 2.1 Aesthetics and Visual Resources Report (Appendix B) of the Draft EIR fully analyze the Proposed Project’s visual impacts to community character. The Draft EIR finds that the characteristics of the Proposed Project are inconsistent with the undeveloped, desert landscape and small-town character of Jacumba (**Impact AE-1**) and that the Proposed Project would substantially change the quality of existing unencumbered views (**Impact AE-2**). Mitigation measures **M-AE-1 through M-AE-6** would reduce these impacts; however, they would remain significant and unavoidable. Please refer to Response to Comment O7-44, and to General Response GR-1 which discusses the relationship between socioeconomic considerations and CEQA.
- O7-51** The commenter states that the Project will conflict with the Jacumba community’s rural character. The commenter further states that approval of the Project will “make clear that the County does not care about the Jacumba Hot Springs community as a residential area, a destination resort or as anything other than a place to put its energy projects.” The comment does not raise a specific issue regarding the adequacy of this analysis or the Draft EIR; no further response is required.

Volume II – Organization Responses to Comments

- O7-52** The comment states Jacumba Hot Springs Resort has no ability to be anywhere other than here and that has not been discussed in the Draft EIR. The comment further states a tranquil environment is essential to the Resort experience and that guests driving to the area would no longer have feelings of traveling into a pristine rural area and instead would be traveling alongside acres of monolithic solar panels. In response, Section 2.1 Aesthetics of the Draft EIR fully analyzes the visual impacts of the Proposed Project, including visual impacts to motorists traveling on Old Highway 80 which are identified as significant and unavoidable. In regard to impacts to the Resort as a business, CEQA does not address economic impacts to individual businesses. Please refer to Global Response GR-1 Socioeconomic Impacts and Environmental Justice, which discusses the relationship between CEQA and socioeconomic considerations.
- O7-53** The commenter states that the visual changes to the Project area may impact wildlife and that the loss of habitat and habitat fragmentation could drive the wildlife from the area. In response, Section 2.3, Biological Resources analyzes the Project's impacts to wildlife and habitat. The Draft EIR includes an assessment of the visual impacts to wildlife as required under County Guidelines F. The Draft EIR concluded that “The placement of fencing and the solar facility within the Project site could disrupt the visual continuity of the Project site as a wildlife movement corridor. This impact is potentially significant (**Impact BI-WLC-2**).” Mitigation measure **M-BI-3** would reduce this impact to less than significant by providing visual continuity for wildlife moving between the areas north, south and west of the Proposed Project. Further, as discussed under Guideline E, certain types of solar panels may create a “pseudo-lake effect,” and birds may collide with solar panels that appear like a body of water due to the sky’s reflection. However, there is little scientific information available regarding the pseudo-lake effect, and a detailed discussion of the impacts would be speculative. Further, the following factors would minimize the risk of collision due to sky reflection: (1) the project is not located near bodies of water that would attract wetland-associated birds; (2) the locale is not considered to be a major contributor to the Pacific Flyway; and (3) the solar units would be uniformly dark in color, coated to be non-reflective, and designed to be highly absorptive of all light that strikes their glass surfaces, and may not appear like water from above, as water displays different properties by both reflecting and absorbing light waves. The non-reflective coating reduces glare and blue light reflection and increases absorption of sunlight (Sreenath, et al. 2019; Shanmugam et al. 2020). Therefore, glare and pseudo-lake effect are deemed to be a low risk due to a number of factors, including the Proposed Project solar facility design and the Project site location.

With regard to habitat loss and fragmentation, the Draft EIR assessed both of these issues and determined that these impacts would be potentially significant (**Impact BI-**

Volume II – Organization Responses to Comments

WLC-2 and BI-W-6). The EIR provides several mitigation measures to reduce this impact to less than significant: **M-BI-3** (habitat preservation), **M-BI-4** (RMP), **M-BI-8** (prevention of chemical pollutants), **M-BI-9** (prevention of invasive plant species), **M-BI-10** (O&M signage), and **M-WF-1** (FPP).

- O7-54** The commenter states that the Draft EIR fails to analyze impacts to the Jacumba Hot Springs Resort caused by the Project’s impacts to aesthetic and visual resources. The commenter also states that the rural and agricultural land surrounding the Resort are part of the resort experience, and that additional mitigation is required for the Project’s impacts to aesthetic and visual resources. In response, Section 2.1 Aesthetics of the Draft EIR analyzes the Proposed Project’s visual impacts in accordance with the County Guidelines for Determining Significance – Visual Resources and the State CEQA Guidelines. The Draft EIR identifies potentially significant impacts to the existing undeveloped, desert landscape and the small-town character of Jacumba (**Impact AE-1**), the quality of views across the site (**Impact AE-2**), and views from Old Highway 80 (**Impact AE-4**). Mitigation measures have been identified in the EIR; however, the impacts would remain significant and unavoidable. Thus, the County would need to make a Statement of Overriding Considerations. In regard to impacts to Jacumba Hot Springs Resort, a privately owned business, CEQA does not address economic impacts to individual businesses. Please refer to Global Response GR-1 which discusses the relationship between CEQA and socioeconomic considerations.
- O7-55** The commenter states that the Draft EIR provided no evidence for the conclusion that the site may have been fallow between 1980 and 2002. The comment also includes acreages for Farmland of Local Importance, Prime Farmland, Farmland of Statewide Importance, and Unique Farmland as stated in the Draft EIR. In response, as stated in Section 3.1.1.1 of the Draft EIR, historical aerial photographs included in the Phase I Environmental Site Assessment (Appendix G to the Draft EIR) were reviewed. Based on review of aerial photographs taken in 1980, 1989, 1996, it appeared the land was fallow.
- O7-56** The commenter states that the Draft EIR states that currently portions of the property remain designated as Farmland of Local Importance, Prime Farmland, Farmland of Statewide Importance, and Unique Farmland but does not provide percentages. The commenter further states the Draft EIR only cross references Figure 3.1.1.2, making it difficult to make a comparison between historical and current. This comment further asks which portions and how much of the Project Site is designated as “Other Land.” In response, the percentages of Department of Conservation Farmland Mapping and Monitoring Program (“FMMP”) Important Farmland provided in the Draft EIR are current percentages and based on the most recent data available on the Department of

Volume II – Organization Responses to Comments

Conservation website. As such, these percentages correspond to Figure 3.1.1-2. The Final EIR has been revised to clarify the percentages pertain to current conditions

The Draft EIR, in Figure 3.1.1-2, shows the portions of the Project site designated as “Other Land.” Section 3.1.1.1 of the Draft EIR states that “Other Land” is defined as land that does not meet the criteria of any other FMMP category (California Department of Conservation 2010). Therefore, all portions of the Project site not designated as an FMMP category on Figure 3.1.1.1 are “Other Lands.” Accordingly, because approximately 34% of the Project site is designated as FMMP Important Farmland, then approximately 66% of the Project site is designated as “Other Land.”

- O7-57** The comment states that this was farmland until at least 2012 and the Draft EIR needs to provide more explanation as to why this land was so “important” and “unique” but no longer is, even though no development has occurred. The commenter further states just because the land is not currently farmed does not mean it should lose its value as farmland. In response, the portions of the Project site designated as FMMP Important Farmland are still designated as such. Please refer to Response to Comment O7-56 and Figure 3.1.1-2 in the EIR.
- O7-58** The commenter states that the Draft EIR fails to give adequate information on the small ranch operations scattered throughout the Project region and asks about the size of the Project region being analyzed. In response, as discussed in Draft EIR Section 3.1.1, Agricultural Resources under Existing Conditions, the parcels within 0.25 miles of the Project site do not meet the criteria for any FMMP category; there are no Williamson Act Contract lands within 0.25 miles of the Project site; and no agricultural preserves exist within 0.25 miles of the Project site. Additionally, there are no active irrigated croplands or other crop production within the Proposed Project’s zone of influence. However, the Project site is located within the Jacumba Subregional Group Area of the Mountain Empire Subregional Plan Area. As described in the County’s Mountain Empire Subregional Plan, “small scale agricultural opportunities are scattered throughout the Subregion, which include orchards, chicken ranches, and grazing operations.”
- O7-59** The commenter states the Draft EIR does not adequately value the Project site’s agricultural importance given its location within Sunset Climate Zone 13. The commenter further states the DEIR rejects the State’s California Agricultural Land Evaluation and Site Assessment (“LESA”) Model referenced in the State CEQA Guidelines as the method for assessing the relative value of agriculture and farmland and instead uses a special County Local Agricultural Resources Assessment (“LARA”) Model, which takes into account factors such as climate and soil quality, surrounding land uses and slope. In response, the County analyzes impacts to agricultural resources

Volume II – Organization Responses to Comments

in accordance with the County Guidelines for Determining Significance and the LARA Model. The County finds that these significance thresholds and the use of the LARA model are appropriate for analyzing the Proposed Project’s agricultural resources impacts for all of the reasons stated in the County Guidelines.

Under the LARA model, the Project site’s location within Zone 13 was accounted for as climate is one of the six factors considered under the LARA Model analysis. As described in Section 3.1.1.3.2, although Zone 13 includes extensive agricultural uses in the Borrego Valley, it has extreme temperatures and thus is suitable for subtropicals with high heat requirements. Therefore, according to Table 6 of the County Guidelines, the Zone 13 has a moderate climate rating.

Further, Appendix G of the CEQA Guidelines states that a project may cause a potential impact to agricultural resources if it would convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use. Appendix G does not require use of the LESA model in analyzing this significance threshold; use of the model is optional and within the lead agency’s discretion. Here, use of the LESA model is unnecessary to analyze the Appendix G threshold for the Project as the Project would not “convert” Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use because the Project is being approved as an interim, not permanent, use, and on that basis, would have a less than significant impact on agricultural resources under Appendix G. Further, the Proposed Project description states that the Major Use Permit for the Proposed Project will be 35 years and the Proposed Project would be decommissioned. At that time, the Project site could be put to agricultural use unless another use is proposed and approved by the County, subject to a future analysis of potential agricultural impacts.

- O7-60** The commenter states that the Draft EIR, despite the historic use, the climate, the soil, and the slope, concludes that the Project would not have a significant impact on agriculture. In response, pursuant to the County’s Guidelines for Determining Significance for Agricultural Resources (County of San Diego 2015), a direct impact to on-site agricultural resources is significant only if the on-site agricultural resources are important as determined using the LARA Model. As described in Section 3.1.1.3 and shown in Table 3.1.1-3 of Section 3.1.1 Agricultural Resources of the Draft EIR, because all of the required factors (climate, water, and soil quality) are rated moderate, and the complementary factors (surrounding land uses, land use consistency, and slope) were not all rated high, the Project site falls within Scenario 6 and therefore is not an important agricultural resource. Please also refer to Response to Comment O7-59.

- O7-61** This comment refers to the County’s Guidelines for Determining Significance – Agricultural Resources. The comment also restates acreages of the FMMP categories

Volume II – Organization Responses to Comments

as stated in the Draft EIR. This comment does not raise an issue regarding the adequacy of the analysis in the Draft EIR; therefore, no further response is required.

- O7-62** The commenter states that there are General Plan Policies and goals of the Mountain Empire Subregional Plan that encourage continuance of agricultural uses in the subregion. The comment does not raise an issue regarding the adequacy of the analysis in the Draft EIR; therefore, no further response is required.
- O7-63** The commenter states that the overwhelming evidence supports a finding of a significant impact with respect to agricultural resources. The commenter also states the only countervailing factor is a rezone to Specific Plan for a Specific Plan that never occurred, and thus the DEIR is able to take advantage of a factor in the LARA model that considers the Project site's zoning. The commenter further states the zoning has been on the property for more than 20 years and no development has approved and instead the land has been actively farmed or ranches or has been fallow agricultural land. In response, the LARA model's determining factor is not Surrounding Land Use (which considers the Project zoning) but rather Land Use Consistency (which considers the Project size). The Land Use Consistency factor considers the median parcel size of the Project site compared to the median parcel size within the Proposed Project's Zone of Influence (ZOI), as required by the LARA model instructions within the County's Guidelines for Determining Significance – Agricultural Resources. As discussed in Section 3.1.1.3.2, the median parcel size of the Project site is approximately 22.1 acres (962,676 square feet), and the median parcel size within the Proposed Project's ZOI is 0.2 acres. The smaller median parcel size within the Proposed Project's ZOI is a result of the Project site's proximity to the community of Jacumba to the west where there are smaller parcels for residential and commercial land uses. Therefore, since the Project site's median parcel size is larger than Proposed Project ZOI's median parcel size by 10 acres or more, the Land Use Consistency Rating is "low."
- O7-64** The commenter states that this Project would convert land with soils for Farmland of Statewide Importance, Local Importance and Unique Farmland to non-agricultural uses and would induce growth of energy projects near the Sunrise Powerlink. The commenter further states this would further create a fundamental change to land uses that would change forever the character of the community and its long history of agriculture. In response, the solar facility development footprint would largely remain uncompacted. The areas beneath the PV panels would be uncompacted and hydroseeded. Also, the Proposed Project would be an interim use, meaning, absent further County approval, the Proposed Project would be decommissioned after 35 years. As described in Section 1.2.1.3, the Proposed Project's Decommissioning Plan would require that the use of the land would have to return to a use that is consistent with the County of San Diego Zoning Ordinance at the time of dismantling. If a new

Volume II – Organization Responses to Comments

use is not proposed, the decommissioning would include removal of all components of the Proposed Project and preparing the site with a compatible hydroseed mix. The new owner/occupant of the site could till the soil to alleviate any compaction and cultivate the land. Further, as discussed in Section 3.2 of the Agricultural Resources Report (Appendix O), there is no active agricultural production or operation within the Zone of Influence (ZOI), defined as up to 0.25 miles from the Project site's borders (see Draft EIR, page 3.1.1-4, note 1). The Proposed Project would not introduce sensitive receptors that could object to ongoing agricultural operations. Additionally, the Proposed Project would not obstruct, interrupt, or detract from potential agricultural operations within the ZOI or be detrimental to surrounding properties. Therefore, the Proposed Project would not result in any additional pressure to convert nearby agricultural lands, the closest of which is 25 miles east.

- O7-65** The commenter states that the Draft EIR in the biological resources section notes that the portion of the proposed East County MSCP on which the Project would be located is mapped primarily as “Agriculture or Natural Upland outside Focused Conservation Area.” The commenter further states that MSCP mapping as agricultural should also be taken into account in the Project’s impacts to agricultural resources. In response, the commenter is referring to a Preliminary Planning Map that was prepared for the future East County Multiple Species Conservation Program (MSCP) Plan Area, which is included as Figure 2.3-1 of the Draft EIR. For clarification, the category includes agricultural or natural land. The designation of “Agricultural or Natural Upland” is consistent with the Draft EIR’s historical account of the Project site as containing agricultural uses and fallow agricultural land, and portions of the site that include natural upland. The intent of the Preliminary Planning Map is not to provide guidance on agricultural resources.

- O7-66** The commenter states that the Draft EIR’s conclusion that the Project is consistent with the Regional Air Quality Strategy (RAQ) and the State Implementation Plan (SIP) is flawed because the Project is inconsistent with the underlying zoning, specifically contending that “the Project is not a Specific Plan.”

In response, as discussed in Section 3.1.4.2 of the Draft EIR, the proposed development footprint for the Project would be located on parcels zoned Specific Plan (S88), General Rural (S92), Open Space (S80) and Rural Residential (RR). While a portion of the Project site is zoned Specific Plan, a Specific Plan has not yet been adopted. Other than the switchyard, the Proposed Project is categorized as a major impact service and utility (County Zoning Code §1350) and may be permitted in any of these zones with a Major Use Permit (MUP) pursuant to Section 2888(a) of the County Zoning Ordinance. The MUP may be granted for any use pursuant to a bonded agreement in an amount sufficient to ensure the removal of all facilities within a specified amount of

Volume II – Organization Responses to Comments

time. The switchyard is a minor impact utility and is a permitted use in the area zoned as Specific Planning Area with a Minor Use Permit. (County Zoning Code §§ 1350, 2884(a).) The switchyard is not subject to the same temporal and bonding agreements as the Major Use Permit. (County Zoning Code § 2884(a).) Therefore, because the Project's use is permitted in the underlying zones by the County Zoning Code with approval of a Major Use Permit, there is no inconsistency and the Project does not involve a development greater than anticipated in the zoning.

Furthermore, as discussed in Section 2.2.3.1 of the Draft EIR, the RAQs and SIP rely on growth projections based on population, vehicle trends, and the allowed General Plan densities. To determine consistency with the RAQs and SIP, the County must consider whether a project involves development that is greater than anticipated in the local plan or exceeds growth projections. The Proposed Project is consistent with the underlying zoning with regards to RAQ and SIP compliance because it would result in a less emissions-intensive development compared to the maximum buildup of the Project site's zoning. As discussed in Section 2.2.3.1 of the Draft EIR, such a development would result in a daily trip rate of 18,443 trips and result in 68,255,312 vehicle miles traveled (VMT) annually. In comparison, the Proposed Project would result in a maximum daily trip rate of 12 and result in 315,360 VMT annually. See Response to Comment O7-67 for further details on how the maximum buildup under current zoning was determined.

- O7-67** The commenter states that the Draft EIR's use of the maximum buildup in the underlying zoning is flawed. In response, as discussed in Section 2.2.3.1 of the Draft EIR, the RAQs and SIP rely on growth projections based on the allowed density under local plans because such projections show the envelope of potential emissions. The SIP and RAQS rely on information from CARB and SANDAG, including mobile and area source emissions, as well as information regarding projected growth in the County and the cities in the County, to project future emissions and then determine from that the strategies necessary for the reduction of emissions through regulatory controls. CARB's mobile source emissions projections and SANDAG growth projections are based on population, vehicle trends, and land use plans developed by the County and the cities in the County as part of the development of their general plans. As such, projects that involve development that is consistent with the growth anticipated by local plans would be consistent with the SIP and RAQS. However, if a project involves development that is greater than that anticipated in the local plan and/or SANDAG's growth projections, that project might be in conflict with the SIP and RAQS and may contribute to a potentially significant cumulative impact on air quality. Therefore, the SIP and RAQS incorporate the maximum buildup scenario under the existing land use plan for the Project site which was evaluated within the Draft EIR. Therefore, it is

Volume II – Organization Responses to Comments

appropriate to compare the Proposed Project to that which is allowed under the current zoning.

- O7-68** The commenter states that the Draft EIR is internally inconsistent as it assumes maximum buildout of the underlying zoning but also concludes that the Proposed Project is consistent with the underlying zoning. In response, as discussed in Response to Comment O7-67, the RAQs and SIP rely on growth projections based on the allowed density under local plans. Therefore, the Draft EIR properly compared the Project's emissions with those from a buildout use. Furthermore, both the buildout use, with approval of a Specific Plan, and the Proposed Project, with approval of a Major Use Permit, are consistent with the underlying zoning as further explained in Response to Comment O7-48. As such, the Draft EIR is not inconsistent in its conclusion that both uses are consistent with the zoning, with approvals as noted above.
- O7-69** The commenter states that the Project site is an area of important habitat and a wildlife corridor. The commenter also states the site serves as a steppingstone between east and west. The commenter further states that the Project threatens to “fragment this important core habitat area and sever these wildlife connections.” In response, the Draft EIR identifies the Project site as included within a Core Wildlife Area. Please refer to Responses to Comments A2-72 through A2-78.
- O7-70** The commenter states that the Project site is part of the East County MSCP and the Project should conform to the MSCP East’s “underlying principles.” The commenter also notes that the Project site is mapped as having “regional conservation value.” In response, Section 2.3, Biological Resources of the Draft EIR includes a discussion and analysis of the proposed East County MSCP, which has not been prepared and only has general conservation goals as set forth in the applicable planning agreement, a list of potential covered species, and a proposed planning area, and the Proposed Project. A Consistency Analysis for the North and East County MSCP Principles table has been included as Table 2.3-7 in Section 2.3 Biological Resources in the Final EIR. Please also refer to Response to Comment O7-65. This comment does not raise a specific issue regarding the analysis in the Draft EIR; therefore, no further response is required.
- O7-71** The commenter quotes a report titled “Report of the Independent Science Advisors on the San Diego East County MSCP (NCCP/HCP)/Part I: Recommendations Following the Workshop February 2-3, 2006,” (“East County MSCP Report”), which discusses the biological importance of bats within the County. In response, the referenced article is noted. The comment does not raise an issue with the adequacy of the analysis in the Draft EIR; therefore, no further response is required.

Volume II – Organization Responses to Comments

- O7-72** The commenter states that the East County MSCP Report found that there are bat roosts at the Old Highway 80 bridge in Jacumba Hot Springs, which are within the East County Multiple Species Conservation Plan Area that support bat populations. In response, the referenced article is noted. Section 2.3.1.6 of Section 2.3, Biological Resources, of the Draft EIR states that there are records of pallid bats roosting in a bridge in Jacumba in 2014 and that the species has high potential to occur within the Project site. The Old Highway 80 bridge is located outside of the Project site. The Draft EIR concludes that the pallid bat has high potential to occur within the BSA, as indicated in the comment. Subsequent to public review of the Draft EIR, the consulting biologists (Dudek) conducted a bat roost survey, nighttime emergence survey, and monitoring in February 2021. Please refer to new Appendix B to the Biological Resources Technical Report (Appendix D to the Final EIR). No bat roosts or signs of bat roosts were found within the Biological Study Area. The acoustic monitoring detected two bats – Mexican free-tailed bat (*Tadarida brasiliensis*) and canyon bat (*Parastrellus hesperus*); however, based on the absence of roosts or visual detections of bats during the nighttime emergence survey, these bats were concluded to forage, but not roost, on site. No pallid bats were detected.
- O7-73** The commenter states that the East County MSCP Report found that there is a lack of information about bat species' population status in the East County Multiple Species Conservation Plan Area, but that it appears there has been a “range contraction (and probable associated population decline) in western San Diego County” of the coastal form of the pallid bat. The commenter also states that the study attributes the range contraction to impacts to pallid bat foraging grounds, which “appear to be limited to low-gradient, sparsely vegetated areas.” The commenter then states the Project proposes to change fallow agricultural lands which are compatible with pallid bat foraging needs into a field of solar panels that are not, which constitutes a significant impact that “was not analyzed in the” Draft EIR. In response, the Draft EIR analyzed impacts to pallid bat (see Table 2.3-3, **Impacts BI-W-1, BI-W-2 and BI-W-4**). Section 2.3, Biological Resources, of the Draft EIR notes that the pallid bat is a Species of Special Concern and a County Group 2 species. The Draft EIR determined that the Proposed Project could result in temporary and permanent direct impacts to County Group 2 or special-status species and/or their habitat and foraging ground through construction and Project implementation. In addition, the Draft EIR analyzed potential impacts to maternity roosts for special-status bat species, including pallid bat (See Section 2.3.3.2, Biological Resources). The EIR includes mitigation measures **M-BI-1** (biological monitoring), **M-BI-2** (temporary construction fencing), **M-BI-3** (habitat preservation), **M-BI-4** (resource management plan), and **M-BI-6** (bat surveys with roost avoidance or exclusion if necessary). With implementation of the

Volume II – Organization Responses to Comments

mitigation measures, the EIR concludes that impacts to County Group 2 species, including the pallid bat, and maternity roosts would be reduced to less than significant.

- O7-74** The commenter states that the East County MSCP Report states that pallid bat colonies seem to prefer to roost in “man-made structures.” The commenter also states that the Project proposes to “demolish the 20 existing buildings and structures on the property” and that the locations to be destroyed are described in the study as “being where activities critical to the bats existence take place. The commenter further states that the East County MSCP Report states that “pallid bats do not take well to the standard-design artificial bat houses” and that most past and current bat-roost enhancement or mitigation activities have failed for pallid bats. In response, please refer to Response to Comment O7-75 regarding using artificial bat houses to mitigate impacts to pallid bats. Also, in February 2021, Dudek conducted a bat roost survey, nighttime emergence survey, and monitoring. Please refer to new Appendix B to the Biological Resources Technical Report (Appendix D to the Draft EIR). No bat roosts or signs of bat roosts were found within the BSA. The acoustic monitoring detected two bats – Mexican free-tailed bat (*Tadarida brasiliensis*) and canyon bat (*Parastrellus hesperus*); however, based on the absence of roosts or visual detections of bats during the nighttime emergence survey, these bats were concluded to forage, but not roost, on site. No pallid bats were detected. Please also refer to revised mitigation measure **M-BI-6** (bat surveys with roost avoidance or exclusion if necessary) in the Final EIR.
- O7-75** The commenter states that mitigation measure **M-BI-6** does not sufficiently mitigate impacts to existing pallid bat roosting structures. The commenter also states the mitigation measure only limits the time period the structures would be demolished and requires a replacement such as a bat house. The commenter further states “pallid bats do not take well to artificial bat houses.” The commenter then states the impact would be significant and unavoidable and that the only proven mitigation for impacts to pallid bat roosts is “avoidance – leave the structures in place, and work around them.” The comment concludes that because there is an “unmitigated impact not disclosed in the Draft EIR, the Draft EIR must be recirculated.” In response, in February 2021, Dudek conducted a bat roost survey, nighttime emergence survey, and monitoring. Please refer to new Appendix B to the Biological Resources Technical Report (Appendix D to the Draft EIR). No pallid bats were detected during the February 2021 bat survey, and no bats were found to be roosting within any structures or natural crevices on any portion of the Project site. Only two species of bats were detected on acoustic monitoring detectors deployed on the Project site in low numbers to indicate bats foraging but not roosting. Further, the full text of the East County MSCP Report states: “Also, pallid bats do not take well to the standard-design artificial bat houses, so most past and current bat-roost enhancement or mitigation activities have failed to properly

Volume II – Organization Responses to Comments

accommodate pallid bats. However, a more recently designed artificial bat house has proven effective for accommodating roosting pallid bats, including breeding colonies... Erecting these newer-designed bat houses may prove to be an effective roost enhancement/mitigation measure for accommodating displaced pallid bats.” Mitigation Measure **M-BI-6** ensures the appropriate artificial roost will be selected to mitigate any roosts located in the structures on the Project site. **M-BI-6** has been revised in the Final EIR to require a bat biologist to either construct a bat house to specifically mimic suitable roosting habitat for the species determined to occur on the Project site, or to purchase and install a suitable pre-fabricated bat house from a reputable vendor suitable for species on-site.

Moreover, a report prepared by the U.S. Geological Survey and Western Ecological Research Center, entitled Bat Inventory of the Multiple Species Conservation Program Area in San Diego County, California (“Bat Inventory Report”), states: “There are humane ways and appropriate time periods to exclude unwanted bats from man-made structures . . . Exclusions, when done properly and during the appropriate seasons (non-breeding and non-hibernating seasons i.e. September – mid-October, mid-February – mid-April), may spare the lives of the bats but result in the displacement of the colony.” (https://sdmmp.com/upload/SDMMP_Repository/0/MP210_Stokes_2005_SanDiego_County_MSCPBatInventory.pdf.) The Bat Inventory Report further states that exclusions should be conducted in accordance with the guidelines provided at Bat Conservation International’s website. (See generally www.batcon.org.) While the Bat Inventory Report states that only “a few bat species will readily use the standard design bat house and there is evidence to suggest that maternity colonies will not readily relocate into artificial bat houses,” the report also recommends that that “alternative bat roosts of proper design, color, and location depending on the bat species excluded (bat house information is also provided at Bat Conservation’s website)” be used to mitigate impacts to bats roosting on private lands. The report further recommends that public agencies construct artificial bat roosts on public land to ensure adequate roosting habitat for bat species. In another report, entitled “Long-Term Use of Artificial Roosts by Maternity Colonies of Pallid Bat and Mexican free-tailed Bat Including Cautionary Notes,” Wildlife Research Associates found that artificial bat houses have “attracted long-term use by sizeable maternity colonies of pallid bats,” where the houses have been used to “provide replacement roosting habitat following exclusion, and as new habitat where bat populations are desired.” (http://www.wildliferesearchassoc.com/wpcontent/uploads/2017/05/BCI_Pallid_Bat_House_Article.pdf.) Like the report cited by the commenter, Wildlife Research Associates found that the success of artificial bat houses depends on proper design and location. Mitigation measure **M-BI-6**, which requires a bat biologist to survey the buildings on the Project site and, if necessary, install artificial replacement roosts as

Volume II – Organization Responses to Comments

discussed above, will mitigate impacts to the pallid bat caused by development of the Project and “avoidance” is not the only “proven mitigation” as the commenter suggests.

- O7-76** The commenter states the Draft EIR’s conclusion “that the permanent impacts to pallid bat would be less than significant due to the ‘large amount of habitat within the region’ is unsupported.” The commenter also states the Project would convert a habitat that is conducive to the pallid bat’s survival (fallow agriculture) into one that is not. Citing to the East County MSCP Report, the comment further states that the pallid bat is experiencing serious habitat decline and, as such, the Project’s impacts to the pallid bat’s habitat is a significant and unmitigated impact. In response, the Draft EIR found that there are 10,086.6 acres of modeled habitat for the pallid bat within the biological cumulative study area. In Table 2.3-3, the Draft EIR finds that the Project will impact 516.1 acres of pallid bat habitat, and that given the large amount of habitat in the cumulative study area, this impact is less than significant. Further, riparian areas in the western and northern portion of the Project site (approximately 126 acres) that may provide foraging habitat to any pallid bats in the Project area would be placed in a biological open space easement as mitigation. Importantly, the bat surveys conducted in February 2021 did not detect any signs of bat roosting within the structures or other areas surveyed, and no pallid bats were detected during the acoustic monitoring. Please refer to new Appendix B to the Biological Resources Technical Report (Appendix D to the Final EIR). The lack of pallid bats detected, combined with the mitigation measures provided in the EIR (e.g., preservation of suitable foraging habitat in open space), support the EIR’s conclusion that the Proposed Project will have a less than significant impact on pallid bats after mitigation.
- O7-77** The commenter states that the Draft EIR inadequately analyzes the impacts the Project would “cause to the pallid bat, both due to removal of its habitat and removal of its favored roosting spots.” The commenter also states that the Draft EIR acknowledges the pallid bat has been known to occur at a bridge in Jacumba and at the eastern boundary of the Project site. In response, please refer to the Responses to Comments O7-73, O7-75, and O7-76 regarding impacts to pallid bat habitat. Please also refer to the Response to Comment O7-76 regarding impacts to pallid bat roosts. Further, the Proposed Project would not impact either of the pallid bat roosts identified in the Draft EIR—either the roosts at the bridge in Jacumba or the CNDDB occurrence from 2002 on the eastern border of the Project site. Given the lack of pallid bats detected during the acoustic surveys in February 2021, pallid bats may not be roosting at one or both of these sites. As discussed in Section 2.3, the Proposed Project’s impacts to potential roosts involve the demolition of the abandoned building on the Project site (see Section 2.3.3.2.). However, as summarized in Response to Comment O7-74, the buildings

Volume II – Organization Responses to Comments

showed no signs of bats roosting within the abandoned buildings on the Project site and no pallid bats were detected using the Project site for foraging.

- O7-78** The comment includes the commenter's summary of the East County Multiple Species Conservation Plan Planning Agreement from the prior agreement which expired in 2019. In response, since the public review period for the Draft EIR, the County entered into a Restated and Amended Planning Agreement for the North and East County Multiple Species Conservation Plans (MSCP) under the Natural Community Conservation Planning Act (NCCPA) with the CDFW and the USFWS in April 2021. Section 2.3.2.3 in the Final EIR has been revised to reflect this update. In addition, Section 2.3.3.6 in the Final EIR (see Table 2.3-7) describes the Proposed Project's consistency with the interim project review process and MSCP principles, which have been modified from the previous planning agreement.
- O7-79** The commenter states that mitigation measure **M-BI-3** requires onsite biological open space easements to be granted "over up to 435.0 acres of sensitive vegetation communities, special-status plant species, and habitat for special-status species." The commenter asks what is the actual amount of acreage that will be included in the open space easements given this language. The commenter also states that there is no evidence a 50-foot opening in the Project's perimeter fence will "suffice" to mitigate impacts to wildlife movement. The comment further states that the Project is inconsistent with the East County Multiple Species Conservation Planning Agreement because the Project would fragment the existing open space. In response, the mitigation measure **M-BI-3** will require open space easements over sensitive vegetation communities, special-status plant species, and habitat for special-status plant species in accordance with the mitigation ratios provided in Table 5, Habitat Mitigation Ratios, of the County's Guidelines for Determining Significance and Report Format and Content Requirements, Biological Resources. The Draft EIR analyzed the impacts caused by the maximum extent of Proposed Project development and, as such, it is assumed the Project would require 435 acres to be placed in open space easements to mitigate the Project's impacts to biological resources. While the Proposed Project development footprint has been reduced to 626 acres subsequent to public review of the Draft EIR, the applicant has agreed not to reduce the open space easement. The easement requirement will remain at 435 acres as presented in both the Draft and Final EIR based upon the original 643-acre development footprint. Please refer to revised mitigation measure **M-BI-3** has been revised in the Final EIR.

In regard to the opening in the perimeter fence for wildlife movement, mitigation measure **M-BI-3(d)** states: "The project shall provide a 50 to 100-foot opening in the perimeter fence north of the SDG&E easement to allow for wildlife moving within the easement corridor or north of the easement to move in and out of the easement. The

Volume II – Organization Responses to Comments

opening in the fence will allow wildlife traveling along the fence line to find a break in the fencing leading them into the larger wildlife corridor. This opening in the fence shall be provided and maintained for the life of the project.” This Wildlife Corridor Access is displayed in Figure 2.3-4 of Section 2.3, Biological Resources, of the Draft EIR, and, as a result of Project design. The opening will be 100 feet at the northern end to the corridor and 50 feet at the southern end of the corridor as a result of Project design considerations. Additionally, as discussed in Section 2.3.3.5 of the Draft EIR, an undeveloped SDG&E easement that is approximately 700 to 1,100 feet wide and more than 4,000 feet long traverses the Project site. This easement allows for uninterrupted wildlife movement from Boundary Creek to currently undeveloped land to the east. However, wildlife traveling west to east north of the Project site could be funneled toward the I-8 and forced to cross the highway at grade. To avoid funneling wildlife toward I-8, the perimeter fence opening provides wildlife adequate access from the northern portions of the Project site to the wildlife corridor provided by the SDG&E easement. Accordingly, the Draft EIR concludes that with implementation of mitigation measures **M-BI-3(a)** and **(d)**, the Proposed Project’s impacts to habitat connectivity and wildlife corridors would be less than significant. Substantial evidence supports this conclusion, including Appendix D to the Draft EIR—the Biological Resources Technical Report prepared for the Project by professional biological resources consultants approved by the County. The comment provides no evidence to support the statement that a 50-foot wide corridor is inadequate to avoid impact to habitat connectivity and wildlife corridors.

Finally, with respect to the East County Multiple Species Conservation Plan Planning Agreement, the Draft EIR states that the prior Planning Agreement has expired. Please refer to Response to Comment O7-78 for a discussion of the current status of the Planning Agreement.

- O7-80** The commenter states that the Draft EIR fails to analyze north-south wildlife corridors and habitat connectivity. The comment states that the Draft EIR also ignores corridor redundancy, and the comment states that maintaining connectivity across the Project site is important given “[i]ncreasing energy projects” and “completing the Border Fence.” In response, the Draft EIR analyzes the Project’s impacts to habitat connectivity and wildlife corridors on both a north-south axis and an east-west axis. In Section 2.3 Biological Resources (Section 2.3.1.8), the Draft EIR states the border fence limits the ability of the Project site to “function as a linear north-south wildlife corridor for large mammals . . . Based on observations from biological surveys, wildlife are currently able to traverse the Project site and surrounding undeveloped areas in an unencumbered manner until they arrive at the U.S./Mexico border fence along the southern boundary of the Project site.” The section also states that the “mesquite-

Volume II – Organization Responses to Comments

dominated floodplain along the western portion of the Project site may serve as a wildlife movement area between the Project site and the north side of I-8 for a variety of wildlife species . . . All terrestrial species' movement is hindered by I-8 constraining movement between north and south of I-8 . . . These constraints make the Project site a connection between blocks of habitat to the east and west." In Section 2.3.3.5 of the Draft EIR states that the "habitat to the west of the easement corridor not part of the project development expands upon existing conserved lands located west of the Project site and protects the only north/south movement corridor across I-8." Further, the opening in the perimeter fence discussed in Response to Comment O7-79 ensures a north-south corridor from the area north of the Project's development area and south of I-8 into the Project's east west corridor through the SDG&E easement. The Draft EIR concludes that the non-impacted areas of the Project site would "allow movement between larger blocks of habitat to the east, Jacumba Peaks area to the west, and the mountains to the north (via the floodplain)."

Further, with respect to cumulative impacts to wildlife movement, the Draft EIR finds that the Proposed Project would not result in a cumulative impact as the cumulative analysis area is largely undeveloped and wildlife movement through and around the reasonably foreseeable cumulative project areas would still be possible, the Proposed Project would maintain wildlife movement corridors throughout the Project site, and in total, the Project and the cumulative projects would only impact approximately 0.91% of the vegetation communities in the biological cumulative analysis study area. (See Section 2.3.4.3 of the Draft EIR.) Please also refer to new Appendix S in the Final EIR which discusses U.S./Mexico Border Wildlife Corridor and Crossings.

The commenter also states that the Draft EIR ignores corridor redundancy, which is especially important for large predators. The concept of corridor redundancy is that several patches of habitat are more important than one large patch of habitat because they allow increased dispersal opportunities should one of the corridors become obstructed and unavailable. The Proposed Project has been designed to preserve the north/south wildlife corridor along Boundary Creek. The Proposed Project provides additional wildlife access to the SDG&E corridor by including an opening in the Proposed Project perimeter fence (discussed in detail above). Thus, the Proposed Project ensures that wildlife movement is maintained within the Project area and thus contributes to regional wildlife movement.

- O7-81** The commenter states that surveys conducted in 2018 are unreliable because they were conducted in a serious drought year. The commenter also states that surveys should be re-conducted for all protected species and habitat that could occur in and around the Project site. In response, as described in the Biological Resources Technical Report (Appendix D) and Section 2.3 Biological Resources of the Draft EIR, biological

Volume II – Organization Responses to Comments

surveys were conducted in 2018 and 2019, and all surveys were completed according to County requirements. As stated in Section 3.3.1 of Appendix D, reference population checks for target plant species were conducted in April 2018; however, the lower than normal rainfall in winter 2017/2018 was not adequate for annual plant emergence and detection, and therefore the surveys were postponed. Additional reference checks were completed in spring and summer of 2019. These reference checks determined that surveys could commence and that surveys were conducted at the appropriate phenological stage (blooming and fruiting) to detect and identify target species.

- O7-82** This comment summarizes statements made in the East County MSCP Report. The comment does not raise an issue with the adequacy of the analysis in the Draft EIR; thus, no further response is required.
- O7-83** The commenter states that there “are at least four watershed connections between Tecate and the Imperial County line that need to be maintained between the US and Mexico to maintain hydrological functioning and habitat quality . . . Development of border fences and other features might impact these processes.” The comment does not raise an issue with the adequacy of the analysis in the Draft EIR; thus, no further response is required.
- O7-84** The commenter states that the Project would “add to that cumulative impact to wildlife corridors” caused by the construction of the border wall, the Sunrise Power Link transmission line, the Jacumba substation, and other cumulative projects. In response, please refer to Response to Comment O7-80, which discusses the Draft EIR’s analysis of cumulative impacts to wildlife corridors. Please also refer to Response to Comment O6-13 regarding border wall construction, and Response to Comment O7-80 regarding habitat connectivity and wildlife corridors. In addition, please refer to new Appendix S in the Final EIR which discusses U.S./Mexico Border Wildlife Corridor and Crossings.
- O7-85** The commenter states that the habitats and biological communities in the Project area should not be described as “limited” in Section 2.4, Cultural Resources, of the Draft EIR. The commenter further states that Section 2.4 should more “accurately” describe the wildlife that may inhabit or forage in the Project area. In response, Section 2.4 Cultural Resources of the Draft EIR adequately discusses the relevant biological resources around the Project site to set the environmental baseline for the discussion of potential impacts to cultural resources caused by the Project’s development. However, to ensure clarity, the fourth paragraph under the “Natural Setting” subheading of Section 2.4.1 of Section 2.4., Cultural Resources, has been revised in the Final EIR to state that additional information pertaining to the biological resources in the Project area, including vegetation communities and wildlife, can be found in Section 2.3, Biological Resources, of the EIR.

Volume II – Organization Responses to Comments

- O7-86** The commenter states that the Jacumba Hot Springs is a sacred area for the Kwaaymii Laguna Band of Mission Indians. The commenter asks what are the impacts that will occur at those sites in which the Draft EIR states “significant” portions will be avoided and how much of those sites will be impacted by the Project. In response, the Draft EIR evaluates potential significant impacts to cultural resources and tribal cultural resources based on the County’s Guidelines for Determining Significance – Cultural Resources (County of San Diego 2007) and CEQA Guidelines Appendix G. As specified in Sections 2.4.3.1 and 2.11.3 of Section 2.4 Cultural Resources and Section 2.11 Tribal Cultural Resources of the Draft EIR, and the Cultural Resources Report (Appendix E), it was determined that the Project Area of Direct Impact (“ADI”) contains 28 archaeological sites and 20 isolated finds.

No tribal cultural resources (TCRs) were identified during AB-52 consultation, and no information was provided regarding TCRs by the Native American monitors who participated in the cultural survey and testing program. Although the Proposed Project would directly impact 28 archaeological sites (including portions of sites), all of the sites that would be impacted were evaluated and are considered not significant and not eligible for listing in the California Register of Historical Resources or local register, and none of them are considered a significant resource under CEQA or the County’s Resource Protection Ordinance. The Cultural Resources Report did identify that the cultural resources within the Project ADI were determined to have a low potential for significant buried deposits or culturally sensitive materials. Section 2.4.3.1 also specifies that those resources within the Project site but outside of the Project ADI will be avoided and will not be impacted. Furthermore, no significant sites within the Jacumba Valley Archaeological District were identified within the Project ADI (Draft EIR, Section 2.4.3.1.).

Project construction and decommissioning activities may affect undiscovered cultural resources and tribal cultural resources onsite or within 50 feet of the Project ADI. As a result, impacts to archaeological resources and tribal cultural resources are potentially significant. Mitigation measures **M-CR-1 through M-CR-4** and **M-TCR-1 through M-TCR-3** would reduce the potential impacts to cultural resources and tribal cultural resources to less than significant. Please refer to Sections 2.4.7, 2.4.7, 2.11.6, and 2.11.7 of the Draft EIR.

- O7-87** The commenter states that the demolition of the Mountain Meadow Dairy and Creamery complex structures is inconsistent with General Plan Goal COS-8 and Policy COS-8.1. The commenter also questions the amount of “research and effort” that were “put into determining the dairy’s impacts.” In response, the General Plan establishes Goal COS-8 “Protection and Conservation of the Historical Built Environment. Protection, conservation, use, and enjoyment of the County’s important historic

Volume II – Organization Responses to Comments

resources,” and Policy COS-8.1, “Preservation and Adaptive Reuse. Encourage the preservation and/or adaptive reuse of historic sites, structures, and landscapes as a means of protecting important historic resources as part of the discretionary application process and encourage the preservation of historic structures identified during the ministerial application process.” The Draft EIR includes a Historical Resources Technical Report that analyzes the Project’s impacts on potentially historic resources. This technical report is included as Appendix D of the Cultural Resources Report (Appendix E of the Draft EIR). As discussed in Historical Resources Technical Report and in Section 2.4.3.1 of the Draft EIR, the Project site was evaluated for listing in the National Register of Historic Places, listing in the California Register of Historic Places, the County of San Diego designation criteria, and the County’s Resource Protection Ordinance, and was assessed for integrity. The Mountain Meadow Dairy and Creamery complex was found not eligible for listing under any designation criteria due to a lack of significant historical associations and compromised integrity. Additionally, one previous study (F. Mooney and Associates, 1991) reviewed the Mountain Meadow Dairy complex and also determined that the dairy complex did not qualify as significant under CEQA. Accordingly, the Mountain Meadow Dairy and Creamery complex was found to not be historically significant, and thus the demolition of the complex is consistent with Goal COS-8 and Policy COS-8.1.

- O7-88** The commenter states that the Draft EIR is flawed because it analyzes the Project’s potential impacts on Jacumba Airport as if it were a typical “fixed-wing” airport rather than being used predominately for gliders. The commenter also states that the Draft EIR only considered glare on runways used by non-glider airplanes. The commenter also states that the Draft EIR’s use of Federal Aviation Administration (FAA) guidelines was misplaced as the FAA only focuses only on fixed-wing aircrafts and not gliders. In response, the County does not agree that the Draft EIR fails to consider the glider usage at the Jacumba Airport. The Draft EIR considered first whether the Project proposes a development intensity, flight obstruction, or other land use that conflicts with the Jacumba Airport Land Use Compatibility Plan (ALUCP). As discussed in Section 2.6.2 of the Draft EIR, the County adopted the ALUCP specifically for the Jacumba Airport in December 2006 and amended the plan in 2011. Among other things, the ALUCP was adopted to protect the Jacumba airport from encroachment by new incompatible land uses that could restrict their operations. Accordingly, the Draft EIR did not fail to consider usage of the Jacumba Airport by gliders because the Draft EIR relied on analysis in the ALUCP, which is specific to the Jacumba Airport and thus takes into account its glider uses.

The Glare Study for the Proposed Project prepared by POWER Engineers in 2018 (See Appendix A to Appendix B, Visual Resources Report in the Draft EIR) analyzed potential glare impacts for each potential approach to the only runway located at the

Volume II – Organization Responses to Comments

Jacumba Airport in accordance with FAA guidelines. To ensure that analysis adequately encompassed glider operations, the Proposed Project applicant and POWER Engineers discussed glider operations at the Jacumba Airport with Alasdair Mullarney, Director of Operations, Associated Glider Club of Southern California, and prepared an updated technical analysis of the Proposed Project's glare impacts using the information gathered. The updated 2021 Glare Study is included as Appendix A to the Visual Resources Report in the Final EIR. The 2021 Glare Study replaces the 2018 study in full in the Final EIR. As discussed in the updated analysis (Appendix A to the Visual Resources Report) and Global Response GR-5, Airport Impacts, the Proposed Project is not expected to have a glare impact to glider operations at the Jacumba Airport.

- O7-89** This comment states that the Draft EIR failed to consider potential impacts on “known flight patterns” as required by General Plan Policy S-15.3. Section 3.1.4 Land Use and Planning of the EIR evaluated the Project’s consistency with General Plan Policy S-15.3. The Draft EIR found that the Proposed Project is consistent with Policy S-15.3 in part because it filed a preliminary Notice of Proposed Construction with the FAA and received a determination of no hazard that was final until October 3, 2019. (See Table 3.1.4-4.) The Proposed Project would be required to notify the FAA at least 45 days prior to the start of construction. Notification to the FAA is typically provided by Form 7460-1, Notice of Proposed Construction or Alteration. A determination of No Hazard to Air Navigation will be required prior to construction of the Proposed Project.
- O7-90** The commenter states that the Draft EIR is flawed by comparing solar arrays to cell phone towers and wind turbines in Table JAC-2 of the ALUCP to determine whether the Project is compatible with airport use. In response, Table JAC-2 of the Jacumba ALUCP is used to determine a project’s consistency with ALUCP Policy JAC 2.5, Nonresidential Development Criteria, which is intended to measure “risk exposure for people on the ground in the event of an aircraft accident . . .” (Draft EIR, at page 3.1.4-30.) The “fundamental measure of risk exposure . . . is the number of people concentrate[d] in areas most susceptible to aircraft accidents.” (*Ibid.*) The purpose behind Policy JAC 2.5 is to evaluate risk to people on the ground from aircraft accidents, not the risk to aircraft operators due to construction of a project. Solar energy projects are not a land use that is addressed in Table JAC-2. According to the ALUCP, Policy JAC 2.5(b)(1), however, “[p]roposed development for which no land use type is listed in Table JAC-2 shall be evaluated with respect to a similar use included on the list.” In coordination with the San Diego County Regional Airport Authority (Airports), the land use type for wind turbines and cell phone towers was determined to be the most similar land use in Table JAC-2 to solar arrays because wind turbines and cell phone towers are similarly unmanned facilities with limited operations and

Volume II – Organization Responses to Comments

maintenance activity. (See Table 3.1.4-6, Policy JAC 2.5, Nonresidential Development Criteria.) As discussed in Chapter 1 of the Draft EIR, the Proposed Project will be unstaffed. As discussed in Section 3.17 Transportation, and maintenance and operation of the Proposed Project will generate a nominal number of daily trips. (Draft EIR, at 3.1.7-11.) Accordingly, the Draft EIR appropriately found that the Proposed Project is consistent with Policy JAC 2.5. (See Table 3.1.4-6, Policy JAC 2.5, Nonresidential Development Criteria.) Furthermore, the Administrative Draft Jacumba ALUCP prepared in February 2020 now includes solar/photovoltaic arrays in the same category as cell phone towers and wind turbines in Table JAC-2 (see <https://www.san.org/Portals/0/Documents/Airport%20Projects/Planning/Jacumba-Airport-ALUCP-Feb-2020.pdf>). Therefore, the Draft EIR’s comparison between solar arrays and cell phone towers and wind turbines was reasonable. Please refer to Global Response GR-5 Airport Impacts for a further discussion of this topic.

- O7-91** The commenter states that the Draft EIR is flawed in that it uses a County definition of “lot coverage” that is not applied correctly to solar panels as “lot coverage” should include the spaces in between panels. In response, Jacumba ALUCP Policy 2.8, Maximum Lot Coverage, uses the land use type specified for the project from Table JAC-2, which for the Proposed Project is the land use type used for wind turbines and cell phone towers (see Response to Comment O7-90). ALUCP Policy 2.8 requires that “all structures” be counted when determining maximum lot coverage, and Table JAC-2 specifies maximum lot coverage by land use type and safety zone. As described in the Draft EIR, Table 3.1.4-6, portions of the Project are in Safety Zones 2, 4 and 5. If a use is conditional or compatible, it is allowed with a maximum 50% lot coverage in Zone 2 and a maximum 70% lot coverage in Zone 4 and 5. The Proposed Project is a compatible use under Table JAC-2.

The County Zoning Ordinance definition of lot coverage is relied upon in the Draft EIR as it is intended to be applicable to all uses addressed in the Zoning Ordinance, including solar facilities. Therefore, this definition can be reasonably applied to solar facilities. Moreover, although the ALUCP does not include a definition of lot coverage, it does specify that “[a]ll structures, including parking structures and support buildings, shall be counted when determining maximum lot coverage.” Based on this specification, the County believes that the maximum lot coverage is intended to be calculated based on structures rather than the entirety of a developed property. Section 2.6.3.4 of the EIR analyzes the Proposed Project’s consistency with the lot coverage requirements of the ALUCP. The Draft EIR concluded that the Proposed Project meets each of the requirements for each of the Safety Zones. However, to provide further detail, the Proposed Project’s engineer prepared a supplemental technical memorandum that analyzes the Proposed Project’s consistency with the ALUCP’s lot

Volume II – Organization Responses to Comments

coverage requirements (see new Appendix T in the Final EIR). As stated therein, the Proposed Project, which includes the panels, battery storage containers, inverters, and fence, would have a lot coverage of 33% in Safety Zone 2, 32% in Safety Zone 4, and 34% in Safety Zone 5. The lot coverage percentages have been revised in Section 2.6.3.4 of the Final EIR to reflect the more detailed calculations. Accordingly, the Proposed Project complies with the Jacumba ALUCP's lot coverage requirements. The calculations are based on the worst-case ground coverage at high noon with a zero-degree tilt angle. Therefore, the Draft EIR properly determined that the spaces between panels should not be included in the calculation of maximum lot coverage, and that the Proposed Project is compatible with ALUCP Policy 2.8. Please refer to Global Response GR-5 Airport Impacts for further information on this topic and calculations of the Proposed Project's lot coverage.

- O7-92** The commenter states that the open land requirement set forth in the ALUCP does not account for gliders as glider pilots have more difficulty fine-tuning their landing. In response, Jacumba ALUCP Policy JAC 2.9, Open Land, requires any project over 10 acres to provide at least one area of open land per 10 acres, which has minimum dimensions of 75 feet by 300 feet (0.5 acres) and is oriented “with the typical direction of aircraft flight over the location involved.” (Draft EIR, at 3.1.4-32.) Roads are acceptable as open land. (Draft EIR, Table 3.1.4-6, at 3.1.4-85.) The Draft EIR notes that the Proposed Project is required to provide at least 6.1 acres of open land to satisfy its impacts and the Proposed Project, as analyzed in the Draft EIR, would provide at least 8.8 acres.

Subsequent to public review of the Draft EIR, the Proposed Project was revised to include increased setbacks along Old Highway 80 and adjacent to Jacumba Community Park. The Proposed Project's engineer prepared a supplemental memorandum that analyzes the open land of the revised Proposed Project (see Appendix T in the Final EIR). The technical memorandum states that the Proposed Project will develop 109.51 acres within Safety Zones 2, 4 and 5, which would require 5.48 acres of open land. The Proposed Project would provide a total of 11.83 acres of open land within the MUP boundary and 12.11 acres of open land outside of the MUP boundary for a total of 23.94 acres of open land in the Proposed Project vicinity within Safety Zones 2, 3 and 4.

As discussed in Appendix T of the Final EIR, this open land is provided through the following: 1) an 80-foot-wide road that bisects the Proposed Project and is aligned with the airport runway provides 4.15 acres of land; 2) Old Highway 80, northwest of the airport, bisects the southern and northern sections of the Proposed Project and falls within Safety Zone 4. According to JAC 2.9.d., roads and automobile parking lots are acceptable as open land areas. Old Highway 80 provides 3.6 acres of land that meets

Volume II – Organization Responses to Comments

the Open Land Criteria as it has 76.5' of space between two lines of power poles on either side of the highway; 3) setbacks from the border fence on the south side of the Proposed Project provides 10.79 acres of land, and 4) a 5.4 acre stretch of land between Old Highway 80 and the Proposed Project's landscape buffer. Each open land area provided exceeds the minimum dimensions of 75 feet by 300 feet and are logically oriented parallel to the runway bearing. Please refer to Global Response GR-5 Airport Impacts for further information on this topic and calculations of the Proposed Project's open land, which exceed the requirements set forth in the ALUCP. In addition, please refer to Response to Comment O7-88 and Appendix T in the Final EIR, which notes that the Jacumba ALUCP was adopted specifically to address impacts to the Jacumba Airport, and thus considers glider usage.

- O7-93** The commenter states that the Draft EIR failed to consider potential impacts on glider usage caused by the solar panels' disruption to wind. In response, the Jacumba ALUCP does not discuss or note any potential effects on the wind caused by structures and solar panels do not pose a unique obstacle to the wind when compared to the uses considered in the ALUCP (e.g., residential units, wind turbines, cell phone towers, power plants, etc.). In addition, the comment provides no substantial evidence that solar panels will “create havoc” with winds in the area that has a significant impact on glider operations.
- O7-94** The commenter states that the Draft EIR should have considered the potential impact of the Project on communication systems interference, as described in the Technical Guidance for Evaluating Selected Solar Technologies on Airports (April 2018) (“FAA Solar Guide”). In response, the FAA Solar Guide considers “communications systems interference” from on-airport solar projects, which it defines as negative impacts to “radar, NAVAIDS, and infrared instruments.” (FAA Solar Guide, at 42.) The FAA Solar Guide states that “solar PV systems typically represent little risk of interfering with radar transmissions,” and clarifies that “[o]ff-airport solar projects are even more unlikely to cause radar interference unless located close to airport property and within the vicinity of a radar equipment and transmission pathways.” The Jacumba Airport is unattended and thus does not have a control tower or radar equipment. As such, the Proposed Project would not introduce communications systems interference.
- O7-95** The commenter states that the FAA Solar Guide points out that parabolic troughs and heliostats may cause potential glare and glint that affects pilots on arrival and departure. In response, the Proposed Project would include PV Modules and would not include parabolic troughs and heliostats (see Section 1.2 Project Description of the Draft EIR).
- O7-96** This comment states that the FAA Solar Guide identifies that electromagnetic interference from parabolic troughs and heliostats may interfere with on- and off-airport radar systems and thermal plumes emitted by the “power tower.” In response,

Volume II – Organization Responses to Comments

the County notes that the Proposed Project would include PV Modules and would not include parabolic troughs and heliostats (see Section 1.2 Project Description of the Draft EIR).

- O7-97** The comment introduces information from the FAA Solar Guide, which is relied upon in comment O7-98. Please refer to Response to Comment O7-98.
- O7-98** The commenter states that the Draft EIR is flawed in postponing the analysis of glare until after Project approval, through FAA noticing not required until 45 days prior to construction. In response, while the Draft EIR properly states that FAA noticing is not required until 45 days prior to construction, the Draft EIR did not defer analysis of glare. A Glare Study (2018) was prepared for the Proposed Project which analyzed potential glare impacts from the solar facility. The 2018 Glare Study was included as Appendix to the Visual Resources Report (Appendix B to the Draft EIR). Section 2.6.3.4 of the Draft EIR concludes that “[t]he low glare of the proposed solar facility combined with the orientation of the PV panels to the south, away from approaching aviation users, would ensure that the Proposed Project would not cause a significant impact to aircraft as a result of glare.” The Glare Study was updated in 2021 and is included as Appendix A to Appendix B in the Final EIR). The results of the 2021 Glare Study also conclude that the Proposed Project would not result in significant glare impact to aircraft. Accordingly, the EIR does not fail to analyze impacts to the airport caused by glare. Please refer to Global Response GR-5 Airport Impacts for a further discussion of this topic.
- O7-99** The commenter states that “silicone” in some PV panels “may” be infused with “trace amounts of chemicals such as boron or phosphorous.” The comment further states the Draft EIR provides no analysis or evidence that “small amounts of these chemicals would not pose a hazard in the unlikely event of a panel failure and release.” The comment asks how many panels would contain silicone, why some and not others, how much is a “trace” and how will the public know if the panels are infused or not. In response, for clarification, the Draft EIR states that “silicon,” not silicone, in the PV panels may contain “trace amounts of chemicals” The PV panel technology utilized by the Project will use monocrystalline solar cells composed of silicon wafers, which will be encapsulated in glass and set in a metal frame. As explained in the Draft EIR, silicon is a stable component and the small amounts of chemicals such as boron or phosphorus would not pose a hazard in the unlikely event of panel failure and release. (Draft EIR, at 2.6-27.) Due to the solid state nature of the silicon that makes up the PV panels, the Draft EIR appropriately concluded that any trace elements encapsulated in the silicon in the PV panels would not pose a hazard in the unlikely event that a PV panel failed. Further, the Proposed Project’s solar tracker equipment will be Underwriters Laboratories (UL) 3703 certified, which ensures the equipment meets the

Volume II – Organization Responses to Comments

safety requirements of the National Electrical Code and validates its conformance to safety, mechanical and electrical standards. The requirements of UL 3703 certification involve rigorous inspection and evaluation of a tracker platform and all of the trackers' mechanical and electrical aspects, including mounting, bonding and grounding, as described in an installation manual.

- O7-100** The commenter asks what chemicals might be released in the event of a PV panel breach. Please refer to Response to Comment O7-99.
- O7-101** The commenter asks what type of events cause PV panel failure, including fire, earthquake, normal wear and tear, or something else. Panel failure as described by the Draft EIR refers to rupture of the glass and/or metal frame encapsulating the PV panel. Typical PV panel rupture would be caused by blunt force (i.e., a collision, a panel being dropped, etc.). Fire is unlikely to cause a rupture because the Project's vegetative cover will be kept at 6 inches or less in height (Draft EIR at 2.12-32), while the bottom of the panels will be 3 to 4 feet from ground surface. Further, as discussed in response to comment O7-99 the Proposed Project's solar tracker equipment will be Underwriters Laboratories (UL) 3703 certified, which ensures the equipment meets the safety requirements of the National Electrical Code and validates its conformance to safety, mechanical and electrical standards. Earthquake is also unlikely to cause a rupture because the panel racks are rooted in the ground on piles or I-beam foundations 6 to 10 inches in diameter driven approximately 10 to 15 feet into the ground. In addition, the Project site is not located within a California Fault Zone area and is unlikely to see strong ground movement. (Draft EIR, at 2.5-3 through 2.5-5.)
- O7-102** The commenter states that the Draft EIR does not adequately address the chemical herbicides that will be used to remove vegetation from around the foundation of the towers and the base of the solar panels. In response, mitigation measure **M-BI-8** applies to the application of any herbicides, and limits herbicide application to just those products that are permitted by the County agricultural commissioner. In addition, herbicide application must be conducted by a licensed Pest Control Adviser with at least two years' experience. With the application of **M-BI-8**, the application of herbicides, which is slated for at least once per year, will be governed by defined standards and applied professionally.
- O7-103** The commenter states that herbicides will be blown in the "direction of the town and its residents during Santa Ana events." Please refer to Response to Comment O7-102. Further, in accordance with **M-BI-8**, any herbicide application must be conducted by a licensed Pest Control Adviser and in accordance with the County agricultural commissioner's applicable rules/regulations.

Volume II – Organization Responses to Comments

- O7-104** The commenter states that the Draft EIR is vague when discussing recycling or reclamation upon decommissioning. In response, Section 2.6.3.2 of the Draft EIR explains that the panels will either be sold as a solar array, or the aluminum from the array will be sold and the glass recycled. Additionally, the Draft EIR states that any remaining materials that cannot be recycled or reclaimed would be disposed offsite consistent with the County of San Diego Construction Demolition and Debris Management Plan.
- O7-105** The commenter states that the Draft EIR does not discuss how any hazardous components of PV Panels will be disposed of. In response, Section 2.6.3.3 of the Draft EIR states that “[a]ny hazardous components of the PV panels would be removed and properly disposed of off site prior to recycling.” (See, e.g., Cal. Code Regs., tit. 22, Ch. 23.) The Draft EIR further states that any handling and disposal of hazardous materials would comply with all federal, state and local regulations.
- O7-106** The commenter states that the Draft EIR’s discussion of Significant Irreversible Environmental Impacts fails to note that “the Project would cut off significant biological corridors.” In response, please refer to Response to Comment O7-80.
- O7-107** The commenter states that the Draft EIR’s discussion of significant irreversible environmental changes should analyze the results of the Project, which the commenter states will “open up the entire rural back country even more than has already been done . . .” and “fundamentally change the nature of this area much more than 35 years—it will be changed forever.” In response, the Draft EIR analyzes potential cumulative impacts that may result from the Proposed Project and past, present, and future projects in the vicinity of the Proposed Project. This analysis is contained within Chapters 2 and 3 of the Draft EIR. Any future projects not identified in the cumulative analyses would be subject to CEQA and permitting compliance by the County. Because the comment does not identify any particular issue with the analysis of cumulative impacts in the Draft EIR, no further response is required.
- O7-108** The commenter states that groundwater is the primary source of water supply for all land uses in the area, with most residences relying on Jacumba Community Services District (“CSD”) groundwater wells for supply. The commenter also states that the Draft EIR omits the Jacumba Hot Springs Resort, which is dependent on the water that serves its resort from Jacumba CSD, in this list of land uses. In response, as discussed in Section 2.7.3.4 of Section 2.7, Hydrology and Water Quality, of the Draft EIR, the source of the Project’s water will be on-site groundwater wells, which produce groundwater from the alluvial aquifer within the Jacumba Valley Groundwater Basin. The Draft EIR evaluated potential well interference with nearby wells, including Jacumba Community Service District (JCSD) wells, and determined that the Proposed

Volume II – Organization Responses to Comments

Project would not cause well interference. (Draft EIR, Section 2.7.3.4.) To the extent that Jacumba Hot Springs relies on water supplies from JCSD, Section 2.7.3.4 and Section 3.1.8 of Section 3.1, Utilities and Service Systems of the Draft EIR, as well as the Groundwater Resources Investigation Report (Appendix J), describe the analysis and finding of a less than significant impact on groundwater and JCSD's water supply. The Groundwater Resources Investigation Report also reviewed Jacumba Hot Springs Resort's non-potable thermal groundwater well, which is constructed into fractured bedrock, and determined that the Project's pumping from the Jacumba Valley alluvial aquifer was unlikely to affect pumping from fractured bedrock. JCSD currently serves potable water to Jacumba Hot Springs Resort. The JCSD has been monitoring groundwater levels, quality and production in the Basin for many years. California Department of Water Resources has designated the Basin as having very low priority in regard to enacting the Sustainable Groundwater Management Act, and the Basin is not required to prepare a Groundwater Sustainability Plan at this time. The Basin is not adjudicated but is managed under the County's Groundwater Ordinance and by the JCSD. One active Major Use Permit (PDS2014-MUP-14-041) includes monitoring for eight wells in the Basin. The Draft EIR also includes a Groundwater Monitoring and Mitigation Plan (Appendix A of Appendix J), which is designed to monitor potential impacts to JCSD and other well owners on a going-forward basis and mitigate any impacts in the event conditions in the Basin change.

- O7-109** The commenter states that no groundwater management agency oversees groundwater management for the Jacumba Valley Groundwater Basin upon which many local entities rely. In response, the Project site overlies the Jacumba Valley Groundwater Basin (DWR Basin No. 7-47 (DWR 2016)), which is designated as a very low priority basin (DWR 2019). As discussed in Section 2.7.2 of Section 2.7, Hydrology and Water Quality, very low priority groundwater basins are not required to be formed and a groundwater sustainability plan is not required pursuant to the Sustainable Groundwater Management Act of 2014 for the Jacumba Valley Groundwater Basin. The comment does not raise issues regarding the adequacy of the analysis contained within the Draft EIR; therefore, no further response is required.
- O7-110** The commenter states that the Draft EIR ignores the County's significance threshold related to groundwater overdraft conditions because the Jacumba Valley Groundwater Basin has not been demonstrated to be in an overdraft condition. The commenter also states that the Draft EIR must analyze and confirm that the Project would not send the basin into overdraft. In response, as discussed in Section 2.7.1 of Section 2.7, Hydrology and Water Quality, of the Draft EIR, the Project overlies the Jacumba Valley Groundwater Basin (DWR Basin No. 7-47 (DWR 2016)), which is designated as a very low priority basin (DWR 2019). The County's Groundwater Resources

Volume II – Organization Responses to Comments

Guidelines do not identify the Proposed Project area as being within a specific groundwater problem area (such as an overdrafted basin or areas with high levels of naturally occurring radioactive elements) (County of San Diego 2007c). (Draft EIR, Section 2.7.1.) County Policy LU-8.2 requires development, in areas without current overdraft groundwater conditions, to evaluate new groundwater dependent development to assure a sustainable long-term supply of groundwater is available that will not adversely impact existing groundwater users. Section 2.7.3.4 Groundwater Resources and the Groundwater Resources Investigation Report (Appendix J) of the Draft EIR describes the evaluation of local groundwater resources and potential impacts from the Project. Groundwater storage within the Jacumba Valley Groundwater Basin has been estimated to be 9,005 acre feet; and the maximum demand for the Project during construction will only utilize approximately 1.6 percent of the basin storage. (Draft EIR, Section 2.7.3.4.) The total demand for the Proposed Project over its 40-year life is estimated at 620.4 AF, which equates to 6.8 percent of the amount of groundwater in storage. (Draft EIR, Section 2.7.3.4.) Based on the analysis, Section 2.7.4.4 of the Draft EIR further concludes that the cumulative impacts to regional groundwater levels would be less than significant. As a result, the Draft EIR considered and addressed that the Proposed Project is not expected to create overdraft conditions. As described in Response to Comment O7-108, potential impacts to Jacumba Hot Springs Resort's non-potable thermal well have been previously evaluated and determined that pumping from the alluvial aquifer is unlikely to impact the fractured rock aquifer. Potable water is supplied to the Resort by JCSD and this water demand is included in the Groundwater Resources Investigation.

- O7-111** The commenter states that groundwater wells in desert basins can produce significant groundwater despite low recharge rates making it easy to over pump groundwater from the basin, which has occurred in the Borrego Valley. In response, the Proposed Project will be limiting itself to pump groundwater at a rate of 87 gpm for a total of 141.4 acre-feet during the first year for construction, and then at a rate of 17 gpm (11 acre-feet per year) for operation and maintenance during the life of the Project. This is substantially less proposed water use compared to recent use at within the Project site from 2002 to 2013 as a lettuce farm where pumping may have been as high as 995 afy. Also, please refer to Responses to Comments O7-108, O7-110, and O7-112. The comment does not raise issues regarding the adequacy of the analysis contained within the Draft EIR; therefore, no further response is required.
- O7-112** The commenter states that the Draft EIR must discuss climate change impacts on rainfall and recharge to the groundwater basin. In response, please see Response to Comment O7-110. The Proposed Project is not anticipated to result in a significant impact to groundwater resources in the Jacumba Valley Groundwater Basin based on

Volume II – Organization Responses to Comments

the significance thresholds regardless of whether recharge estimates decrease over the life of the Project because groundwater use was evaluated relative to existing groundwater in storage in which impacts were considered to be less than significant.

- O7-113** The commenter states that the Draft EIR improperly limits new impervious surfaces associated with the Project to approximately 1.9 acres by failing to account for the 600 acres of solar panels, which results in the Draft EIR underestimating stormwater runoff over existing conditions. In response, a Drainage Study (Appendix I to the Draft EIR) was prepared for the Proposed Project to evaluate potential impacts to hydrology and drainage patterns based on County's Hydrology Guidelines (County of San Diego 2007a) and the CEQA Guidelines, Appendix G (14 CCR 15000 et seq.) (The Drainage Study properly considered the PV panels as pervious surfaces.

In addition, Kimley Horn, the consulting firm which prepared the Drainage Study for the Proposed Project, has prepared a technical memorandum which is included as new Appendix U to the Final EIR. The technical memorandum explains that the Drainage Study followed the general industry and municipal consensus that the addition of PV panels does not increase runoff from solar facilities because they do not cover the actual natural surfacing underneath the PV panels. Rather, the only components of the PV panels that will come into contact with the underlying natural surfacing are driven piles that support the PV panels. Therefore, rainfall is shed off the PV panels and onto the natural ground where it is free to infiltrate and move as surface flow, similar to existing conditions. Please also refer to Response to Comment O7-116.

- O7-114** The commenter states that the Draft EIR is deficient and must be recirculated because it underestimates the amount of impervious surfaces within the Project site. Please refer to Responses to Comments O7-113 and O7-116.

- O7-115** The commenter states that the Draft EIR is deficient and must be recirculated because it underestimates the amount of impervious surfaces and the erosion that may be caused by the rain being diverted by the solar panels. Please refer to Response to Comment O7-116.

- O7-116** The commenter refers to a blog post by the Kennedy Jenks firm, a study by the American Society of Civil Engineers, and the Minnesota Stormwater Manual regarding potential stormwater runoff issues related to solar panels that identify localized erosion and/or scour, increased run-off if the ground cover is gravel or bare ground, and potential changes in the volume, velocity and discharge patterns as possible issues associated with the use of elevated solar panels. In response, the Proposed Project lies east of the Salton Sea divide, within Regional Water Quality Control Board (RWQCB) Region 7, which requires a Standard Project Storm Water Quality Control Plan

Volume II – Organization Responses to Comments

(SWQMP) for all development projects. The recent direction from the RWQCB Region 9 indicating that the panel area should be considered as impervious area in the determination of Priority Development Project status does not apply because the Proposed Project would be a Standard Project regardless because of its location. Standard Project SWQMPs do not require quantification of stormwater runoff for pollutant control or hydromodification management purposes, therefore the amount of impervious surfaces would not affect any of the requirements or impacts in the Proposed Project's Standard Project SWQMP.

The impervious surfaces calculations for the Proposed Project were recalculated, as presented in new Appendix U of the Final EIR. The analysis in Appendix U determined that the Proposed Project would add a total of 6.65 acres of impervious surface, an amount not large enough to significantly affect runoff. The County agrees with the assumptions of impervious areas used in Appendix U to the Final EIR and Appendix I, Drainage Report to analyze the hydrologic and hydraulic impacts of the Proposed Project, including the volume, velocity, and discharge pattern of peak stormwater runoff. It is consistent with analysis provided by other solar projects in the area that have been approved by the County.

Further, the study by Cook and McCuen concludes that the peak discharge rate off solar panels can increase in instances where gravel or pavement is placed under panels. This is indicative of solar farms developed in extremely arid and sterile climates where revegetating the ground below panels is not feasible or not preferred and instead the site is compacted, treated with chemical dust suppressant (albeit often permeable) or soil stabilizers to minimize dust. A technical memorandum has been prepared by Kimley Horn, the Project Engineer, explaining how the Proposed Project is different than the solar facilities discussed in the study by Cook and McCuen. This technical memorandum is included as a new Appendix U in the Final EIR. As discussed in Appendix U, the Proposed Project does not propose gravel, paving, or chemical dust suppressant for post-construction stabilization underneath solar panels. Instead, the Proposed Project would clear vegetation where needed but avoid excessive grubbing and apply permanent seeding to stabilize the soil and restore vegetative cover. An additional Project Design Feature (**PDF-HYD-3**) has been included in the Final EIR which requires vegetation cover during Project operation. Section 2.7.6 of Section 2.7 Hydrology in the Final EIR includes the full text of **PDF-HYD-3**. The Cook and McCuen study concludes that “The addition of solar panels over a grassy field does not have much of an effect on the volume of runoff, the peak discharge, nor the time to peak.” The Proposed Project will much more closely follow this scenario as compared to the scenario of paving or leaving bare soil under the panels. Therefore, the Proposed

Volume II – Organization Responses to Comments

Project's PV panels should not be viewed as impervious and the Proposed Project would not substantially increase runoff.

The commenter also cites the State of Minnesota Stormwater Manual (MNSWM) in quoting a potential 15-50% increase in runoff volume may be caused by installing PV panels. Based on the fact that runoff from panels infiltrates into the soil below all panels, this reaffirms the assertion of panels as pervious area for the purposes of calculating stormwater runoff leaving the site.

The commenter also raises concerns about potential localized erosion and/or scour due to runoff from the leading edge of panels, again citing the MNSWM. The MNSWM Fact Sheet on Stormwater Guidance for Solar Farm Projects cites this as “one of the most notable impacts of solar sites on water quality” and that “the Minnesota Pollution Control Agency (MPCA) recommends the lowest vertical clearance of any solar array be no greater than 10 feet in order to prevent/control erosion and scour along the dripline” and that “If elevation is greater than 10 feet, BMPs would be necessary to prevent/control erosion and scour along the drip line.” The commenter also notes that “a solar PV development site stripped of vegetation may result in erosive stormwater flows.” In response, the Proposed Project's PV panels will range from approximately 4.6 to 9 feet above grade in the flat position depending on the flood depths. The top of the panels would be 7.5 to 12 feet at full tilt, depending on the location. Furthermore, the Proposed Project's Single Axis Tracker (SAT) racking system would gradually tilt panels throughout the day, so rainfall that hits them would be shed across a 1.5 foot wide swath of ground on each side of the tracker depending on time of day. Comparatively, Fixed-Tilt racking systems are larger and concentrate more runoff to a fixed point on the ground for their entire service life. It is inappropriate to attribute worst-case erosion assumptions to SAT racking systems for this reason. As discussed above, and required by **PDF-HYD-3**, during operation of the Proposed Project vegetative cover will be maintained under the PV panels. This will provide erosion control and the PDF makes provisions for remediation if excessive erosion is observed during the life of the Proposed Project. Therefore, drip line erosion concerns will be adequately addressed by the Proposed Project.

- O7-117** The commenter states that a solar development site stripped of vegetation may result in erosive stormwater flows. Please refer to Response to Comment O7-116.
- O7-118** This commenter states that the issues identified in comments O7-116 and O7-117 must be analyzed and the impacts determined and mitigated in the Draft EIR. Please refer to Response to Comment O7-116.

Volume II – Organization Responses to Comments

- O7-119** The commenter states that no flood hazard analysis has been conducted by the Federal Emergency Management Agency (“FEMA”) for the Project site, so no federally established flood risk has been determined. In response, FEMA produces Flood Hazard Maps to denote the risk of a property flooding for insurance purposes. (FEMA, Unmapped Areas on Flood Hazard Maps Understanding Zone D (Aug. 2011) https://www.fema.gov/media-library-data/20130726-1806-25045-7880/zone_d_fact_sheet.pdf (accessed on Dec. 24, 2020).) The FEMA Zone D designation is used for areas where there are possible, but undetermined flood hazards have been conducted. (*Ibid.*) In Zone D areas, flood insurance is recommended but not federally required by lenders for loans on properties in these zones. (*Ibid.*) Section 2.7.1 of the Draft EIR states that the Project site and surrounding area are identified by FEMA as being within Zone D, which indicates that flood risk is undetermined because FEMA has not conducted a flood hazard analysis. There are many reasons a region may be designated as Zone D that are unrelated to flood risk, such as sparse population or where the community incorporates other areas where a flood map has not been prepared.

The Draft EIR evaluates flooding based on the County’s Hydrology Guidelines (County of San Diego 2007a) and question (c) in the CEQA Guidelines, Appendix G (14 CCR 15000 §§ et seq.). Section 2.7 Hydrology and Water Quality and the Drainage Study prepared for the JVR Energy Park (Appendix I) of the Draft EIR describe the analysis of the flooding risk associated with the Proposed Project. Thus, a flood hazard analysis for the Proposed Project was prepared based on County guidelines. This analysis is included in the Drainage Report (Appendix I of the Draft EIR). The comment does not raise an issue regarding the adequacy of the analysis contained within the Draft EIR; therefore, no further response is required.

- O7-120** The commenter states that perimeter fencing was determined to be the only project element that may alter drainage patterns or block or redirected flows, but the location of opening in the fencing for the wildlife crossing, is not identified and addressed. The commenter then asks will the opening be in a location that could impact the way the fencing potentially blocks or diverts flows, and that this should be disclosed and discussed in the Draft EIR. In response, Section 2.3.6 of Chapter 2.3, Biological Resources, of the Draft EIR describes mitigation measure **M-BI-3(d)** which includes the 50 to 100-foot opening in the perimeter fence north of the San Diego Gas & Electric Easement to allow for wildlife access. The location of the fence opening is depicted on Figure 2.3-4 in the Draft EIR. Also, the location of fencing is subject to mitigation measure **M-HYD-1** (i.e., fencing that must avoid blockage and/or redirection of storm flows).

Volume II – Organization Responses to Comments

- O7-121** The commenter states that the Draft EIR defers actual mitigation measures to the development of a Storm Water Pollution Prevention Plan (“SWPPP”), which will be developed as part of the grading permit for the Project. The commenter also states that the Draft EIR should find that potential impacts from increased stormwater flows as a significant impact and disclose the mitigation measures so that the Project conditions will be enforceable; otherwise, it is not possible to determine the adequacy of the mitigation measures to control pollutants leaving the site during construction, operation and decommissioning. In response, as described in Section 2.7.3.1 of the Draft EIR, per the Construction General Permit, a SWPPP must be prepared and implemented during the construction phase of the Project. The SWPPP includes site run-off sampling locations, discussion of potential site pollutants, best management practices (BMPs), a construction site monitoring plan water pollution control drawings. In addition, permanent water quality BMPs, to be installed and maintained on the Project site, per the County’s BMP Design Manual, are identified in the Project Standard Water Quality Management Plan (SWQMP) included as Appendix K of the Draft EIR. With implementation of the SWPPP and the SWQMP, as required by the County, adverse impacts associated with hydrology and drainage patterns would be less than significant. The Draft EIR concludes that implementation of the required Standard Storm Water Quality Management Plans, construction and operational SWPPPs, and the requirements to obtain permits from the Army Corps of Engineers and the Regional Water Quality Control Board pursuant to the Clean Water Act are sufficient to reduce potential adverse impacts related to stormwater flows and surface water quality to less than significant. (See Draft EIR, Section 2.7.5.) Compliance with applicable laws and regulatory standards can provide a basis that a project will not have a significant environmental impact. (*Tracy First v. City of Tracy* (2009) 177 Cal.App.4th 912, 932-936; see also *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906; CEQA Guidelines § 15126.4(a)(1)(B) [compliance with specific laws and regulations may serve as adequate mitigation].) Substantial evidence supports the analysis and conclusions in the Draft EIR, which find the development of the Project will not result in a significant environmental impact associated with hydrology and water quality.
- O7-122** This is an introductory comment stating the commenter’s general conclusion that the Project is inconsistent with County General Plan and Subregional Plan goals and policies. Please refer to Responses to Comments O7-123 through O7-169.
- O7-123** This comment includes the text of the County General Plan Policy LU-1.9 Achievement of Planned Densities. The commenter then states that the Proposed Project is inconsistent with Policy LU-1.9 because the Project would not allow any development of any of the residential density allowed for the site. The commenter

Volume II – Organization Responses to Comments

further states that this must be discussed in the Draft EIR and the EIR must be recirculated. In response, Table 3.1.4-4 has been revised in the Final EIR to analyze the Proposed Project’s consistency with Policy LU-1.9. As stated therein, aside from the Switchyard Facilities and the realigned water main, the Proposed Project would be an interim use that would be decommissioned at the end of the permitted use. Accordingly, the Proposed Project is consistent with Policy LU-1.9 because residential densities planned for the Project site can be achieved at that future time.

- O7-124** This comment includes the text of General Plan Policy LU-2.6 Development Near Neighboring Jurisdictions. This comment does not raise an issue regarding the adequacy of the analysis in the Draft EIR; therefore, no further response is required.
- O7-125** The commenter states that the Project is inconsistent with General Plan Policy LU-2.6 because inadequate buffers have been proposed for the Project. The commenter also states a 75-foot buffer is wholly inadequate. The commenter further states the 300-foot buffer in the Community Buffer Alternative does not substantially reduce significant impacts and that an alternative that substantially reduces or eliminates significant impacts to aesthetics is required. In response, as used throughout the Land Use Element of the General Plan, the term “jurisdictions” refers to areas where the County lacks land use jurisdiction, such as incorporated cities. (See, e.g., Land Use Element at 3-6 [providing examples of areas within the unincorporated County “outside the land use jurisdiction of the County”], Figure LU-1 [showing areas where the County has “No Jurisdiction”], and Policy LU-1.5 [referring to the County’s land use designations in areas close to “nearby or adjacent jurisdictions”].) Accordingly, Policy LU-2.6 applies to County development proximate to other jurisdictions, such as cities, but does not apply to the community of Jacumba Hot Springs, which is within the County’s land use jurisdiction. In addition, the 75-foot buffer imposed by mitigation measure **M-AE-4** is intended to reduce impacts to existing visual character and/or quality, valued visual character of the community, and views of the Project site from the community. The Draft EIR found that despite this mitigation, as well as mitigation measures **M-AE-1** through **M-AE-3**, **M-AE-5**, and **M-AE-6**, impacts to these resources would remain significant and unavoidable. Chapter 4 Project Alternatives of the Draft EIR analyzes alternatives to the Proposed Project and concludes that despite increased setbacks in the Community Buffer Alternative and the Reduced Project Alternative, impacts to aesthetics and visual resources would remain significant and unavoidable. Chapter 4 of the Draft EIR concludes that the only alternative that would avoid significant and unavoidable aesthetics and visual resources impacts would be the No Project No Development Alternative. Please refer to Response to Comment O7-187 for further discussion regarding the Community Buffer Alternative.

Volume II – Organization Responses to Comments

- O7-126** The commenter states that in order to comply with Policy LU-2.6 a much greater buffer must be integrated into the Proposed Project design that is based on science and not arbitrary distances. The commenter also states that the Proposed Project should include a buffer that avoids all areas identified as “visible as modelled” in Figure 2.1-7. In response, please refer to Response to Comment O7-125. Further, the Draft EIR analyzes project alternatives and reasonably found that there are no feasible project alternatives that would reduce the Proposed Project’s aesthetic impacts to less than significant. Please refer to Global Response GR-6 Alternatives.
- O7-127** The commenter states that the Project’s edge design must reflect and reinforce the rural character of the community that is being destroyed by this Project. The commenter also states that suggestions on fencing and landscape design are provided above and must be made conditions. In response, to the extent that this comment is suggesting that such mitigation is required to be consistent with LU-2.6, please refer to Response to Comment O7-125. Please further refer to Responses to Comments O7-34 through O7-36 regarding landscaping Responses to Comments O7-44 and O7-45 regarding fencing.
- O7-128** This comment includes the text of General Plan Policy LU-2.8 Mitigation of Development Impacts. The commenter then states that the Project is inconsistent with Policy LU-2.8 and that mitigation in the Draft EIR that addresses dust, aesthetics, and health and human safety do not reduce the Project’s impacts to less than significant. The commenter further states the mitigation only addresses the visibility of internal structures and not the loss of rural character. The commenter concludes that more must be required by the County to redesign and mitigate the impacts of this industrial scale energy development. In response, Policy LU-2.8 “[r]equire[s] measures that minimize significant impacts to surrounding areas from uses or operation that cause excessive noise, vibrations, dust, odor, aesthetic impairment and/or are detrimental to human health and safety.” As discussed in Table 3.1.4-4 of Chapter 3.1.4, Land Use, of the Draft EIR, implementation of the Project’s mitigation measures would reduce Project-generated impacts to the extent feasible. The Proposed Project would comply with County rules and the Draft EIR includes mitigation measures **M-AQ-1** and **M-AQ-2** to mitigate air quality impacts below a level of significance, **M-AE-1 through M-AE-6** to mitigate aesthetic impacts to the extent feasible, and **M-NOI-1 through M-NOI-3** to mitigate noise impacts below a level of significance, the Proposed Project would comply with state and federal hazardous waste laws for the management of any hazardous materials. Therefore, the Draft EIR requires measures that minimize significant impacts to the extent feasible and, thus, the Proposed Project is consistent with LU-2.8.

Volume II – Organization Responses to Comments

- O7-129** This comment includes the text of General Plan Policy LU-4.6 Planning for Adequate Energy Facilities. This comment does not raise an issue regarding the adequacy of the analysis in the Draft EIR; therefore, no further response is required.
- O7-130** The commenter states that the Proposed Project is inconsistent with General Plan Policy LU-4.6 because “[n]othing about th[e] Project minimizes adverse impacts to the Jacumba Hot Springs community.” The commenter also states that there are no buffers and no consideration of the rural character. In response, Policy LU-4.6 falls under General Plan Goal LU-4, which addresses the County’s intent to engage in “Inter-jurisdictional Coordination.” Goal LU-4 states, “Coordination with the plans and activities of other agencies and tribal governments that relate to issues such as land use, community character, transportation, energy, other infrastructure, public safety, and resource conservation and management in the unincorporated County and the region.” With this context, Policy LU-4.6 is properly understood to concern the County’s intent to engage with “applicable utility providers,” such as San Diego Gas & Electric (SDG&E), to ensure that its plans are consistent with the General Plan and Community Plans, and to “minimize adverse impacts to the unincorporated County.” As described in Table 3.1.4-4 in Section 3.1.4, Land Use, of the Draft EIR, the Project’s objectives include developing a utility-scale solar energy project that improves local electrical reliability by providing a source of local electricity generation and locating as near to existing SDG&E transmission infrastructure as possible. The Project site is bisected by a transmission corridor, which includes the Sunrise Powerlink, Southwest Powerlink, and a 138kV line. The Proposed Project would connect to the existing 138kV transmission line. Accordingly, the Project is consistent with Policy LU-4.6.
- O7-131** The commenter states that the Draft EIR “is using the fact that the area is already degraded by energy development . . . to justify the various impacts of this Project.” In response, please see Response to Comment O7-130. Further, when determining whether a project’s impacts are significant, an EIR must compare the impacts with existing environmental conditions (see *Neighbors for Smart Rail v. Exposition Metro Line Constr. Auth.* (2013) 57 Cal.4th 439, 447). As a general rule, physical environmental conditions should be described as they exist at the time the Notice of Preparation (NOP) is published (CEQA Guidelines § 15125(a)(1); County EIR Format and General Content Requirements, § 1.4). The Draft EIR analyzed the Proposed Project’s impacts based on the physical condition that exists at the time the Notice of Preparation (NOP) for the EIR was published, which occurred on March 7, 2019. The Project site is described as bisected by a transmission corridor, which includes the Sunrise Powerlink, Southwest Powerlink, and a 138kV line, as those are the existing conditions. Therefore, the Draft EIR properly analyzed the impacts of the Proposed Project based on the existing environmental setting.

Volume II – Organization Responses to Comments

Furthermore, the Draft EIR analyzed and disclosed the Proposed Project’s significant and unavoidable impacts to aesthetic and visual resources and the significant and unavoidable impacts to mineral resources caused by the Proposed Project’s biological open space easements. As a result of these significant and unavoidable impacts, the County must adopt a statement of overriding considerations in order to certify the Final EIR and approve the Proposed Project. (See CEQA Guidelines, § 15093.)

- O7-132** The commenter states that “planning for energy development is one thing but not to the detriment of County residents and resources.” Please refer to Response to Comment O7-130 and O7-131. This comment does not raise an issue regarding the adequacy of the analysis in the Draft EIR; therefore, no further response is required.
- O7-133** This comment includes the text of General Plan Policy LU-5.3 Rural Land Preservation. This comment does not raise an issue regarding the adequacy of the analysis in the Draft EIR; therefore, no further response is required.
- O7-134** This comment includes the text of General Plan Policy LU-10.2 Development – Environmental Resource Relationship. The commenter then states that the Project is inconsistent with General Plan Land Use Policies LU-5.3 and LU-10.2 because a portion of the Project site is designated for “General Rural Use” but is not preserved as open space and does not conserve the natural features or character of the area. In response, Table 3.1.4-4 in Section 3.1.4, Land Use, of the Draft EIR, analyzes the consistency of the Proposed Project with both Policy LU-5.3 and Policy LU-10.2, and finds the Project consistent with both policies. In addition, the Proposed Project has been designed in accordance with the Resource Protection Ordinance and would conserve unique natural features and rural character to the extent feasible (Draft EIR, Table 3.1.4-4).
- O7-135** This comment includes the text of General Plan Policy COS-10.1 Siting of Development. The commenter then states that the Project is inconsistent with Policy COS-10.1 because development of the Project would result in a permanent loss of over \$12,500,000 of mineral resources value. The commenter further states the design of the Project does nothing to offset or mitigate this impact. In response, as discussed in Table 3.1.4-4 in the Land Use and Planning section, the majority of the Proposed Project is an interim use and would not result in the permanent loss of mineral resources. However, the portion of the on-site biological open space easements (188 acres) required as mitigation for impacts to biological resources would result in a permanent loss of the availability of mineral resources within the Project site. Extracting the resources underlying the open space would negate the primary purpose of the biological open space easements – to protect sensitive vegetation communities and wildlife

Volume II – Organization Responses to Comments

habitat. The impact to mineral resources would remain significant and unavoidable. The Proposed Project is consistent with Policy COS-10.1.

- O7-136** The comment includes the text of General Plan Policy COS-11.1 Protection of Scenic Resources. The commenter then states that the Project is inconsistent with COS-11.1. The commenter also states as noted in the DEIR, the Project will cause irreparable loss and damage to scenic resources visible from County-designated scenic corridors along I-8 and Old Highway 80. The commenter further states the DEIR should recognize this as a significant impact and look for mitigation to lessen or avoid that impact. In response, Policy COS-11.1 requires protection of “scenic highways, corridors, regionally significant scenic vistas, and natural features, including prominent ridgelines, dominant landforms, reservoirs, and scenic landscapes.” As discussed in Table 3.1.4-4, in Section 3.1.4, Land Use and Planning, of the Draft EIR, the Project would substantially alter the existing quality of views available to highway motorists and passengers because racks of solar panels would be visible from I-8 for brief periods and would be aligned along Old Highway 80. The solar panel’s wide distribution across relatively flat and open desert terrain would reduce existing visual quality. However, neither the Project site nor the surrounding area has been designated by local, state or federal agencies or organizations as containing or being of “significant” scenic value. Furthermore, the Proposed Project has been designed to minimize impacts to the scenic value of the area to the extent practicable. With implementation of **M-AE-5** (landscaping) and **M-AE-6** (slatted or screened fencing), solar panels and other equipment would be screened from public view of motorists on Old Highway 80, users of Jacumba Community Park, and residents in Jacumba Hot Springs to the extent practicable.

Additionally, the Proposed Project in the Final EIR has been revised to increase setbacks from Jacumba Community Park and Old Highway 80 to lessen impacts to views from these areas. Please refer to Response to Comment O7-14 and Chapter 1 Project Description of the Final EIR. In addition, the Community Buffer Alternative has been modified in the Final EIR to include these increased setbacks. Please refer to Section 4.4.3 and Figure 4-1 in Chapter 4 Alternatives of the Final EIR. Moreover, the existing energy infrastructure on the Project site that is visible from I-8 and Old Highway 80, and the brief duration of views to the Project site from I-8 moderate the impact of the Project. Based on the foregoing reasons, the County finds that the Proposed Project is consistent with COS-11.1.

- O7-137** This comment includes the text of General Plan Policy COS-11.3 Development Siting and Design. This comment does not raise an issue regarding the adequacy of the analysis in the Draft EIR; therefore, no further response is required.

Volume II – Organization Responses to Comments

- O7-138** The commenter states that the Proposed Project is inconsistent with General Plan Policy COS-11.3. The commenter then states there has been no attempt to conform with any of the siting and design elements that are outlined in this policy. The comment further states scientifically designed buffers, alternative design features, and operational changes must be made in order to conform with this policy and not result in impacts to the environment. In response, as discussed in Table 3.1.4-4 in Section 3.1.4, Land Use and Planning, of the Draft EIR, while the Proposed Project would introduce new visual features into the existing visual environment, the Proposed Project has been designed to minimize impacts to the scenic value of the area to the extent practicable. Please refer to Response to Comment O7-136.
- O7-139** The commenter states that the Draft EIR attempts to justify its finding of consistency even though the Proposed Project would substantially alter existing quality of views and would reduce existing visual quality, there is no inconsistency because the Project site and its surroundings have not been designated officially as having “significant” scenic value. The commenter then states that Policy COS-11.1 does not state that it is intended to apply only if a scenic vista or highway or corridor has been officially designated as having “significant” scenic value and that the policy also address impacts to “scenic landscapes” such as the existing Project site. In response, please refer to Response to Comment O7-136. The Draft EIR determined the Proposed Project is consistent with Policy COS-11.1 because there is existing energy infrastructure in the I-8 and Old Highway 80 viewsheds, including on the Project site, views of the Project site from I-8 are brief in duration, the Proposed Project will be designed to screen views of the solar panels from Old Highway 80 motorists, and because the Proposed Project does not inhibit the County from establishing regulations and/or development standards geared towards the protection and enhancement of scenic highways.
- O7-140** The commenter states that the minimal and unattractive fencing and minimal landscaping would “do little to hide the unattractiveness of the Project.” The commenter further states the solar panels as currently envisioned and as proposed to be mitigated would not be screened from view. In response, the comment is made in reference to General Plan Policy COS-11.1. Please refer to Response to Comment O7-139 regarding the Proposed Project’s consistency with General Plan Policy COS-11.1.
- O7-141** This comment includes the text of General Plan Policy COS-18.1 Alternate Energy Systems Design. The commenter then states that the Proposed Project is inconsistent with Policy COS-18.1 and that the Proposed Project has put no effort into maintaining the character of the Jacumba Hot Springs community. In response, Policy COS-18.1 is listed under Goal COS-18 Sustainable Energy in the County General Plan. General Plan Goal COS-18 states, “Energy systems that reduce consumption of non-renewable resources and reduce GHG and other air pollutant emissions while minimizing impacts

Volume II – Organization Responses to Comments

to natural resources and communities.” This Goal recognizes development of renewable energy systems will likely result in impacts to natural resources and communities but seeks to minimize those impacts. Table 3.1.4-4 of Section 3.1.4, Land Use and Planning, of the Draft EIR, finds the Proposed Project consistent with Policy COS-18.1 because it will generate an estimated 211,159 megawatt hours of renewable energy per year (which will offset GHG emissions and air quality pollutants as described further in Section 3.1.3, Greenhouse Gas Emissions, of the Draft EIR), while implementing design features and mitigation measures **M-AE-1 through M-AE-6** to reduce aesthetic impacts to community character and other impacts to visual resources to the extent feasible. Please refer to Response to Comment O7-14, which discusses modifications to the Proposed Project to reduce impacts to aesthetics and visual resources.

- O7-142** This comment includes the text of General Plan Policy COS-18.3 Alternate Energy Systems Impacts. This comment does not raise an issue regarding the adequacy of the analysis in the Draft EIR; therefore, no further response is required.
- O7-143** The commenter states that the Proposed Project is inconsistent with Policy COS-18.3 Alternate Energy Impacts, that the Draft EIR “identifies 11 separate impacts to aesthetics . . . all of which are left unmitigated,” and that the mitigation does not address changes to rural character. The commenter further states that the Draft EIR should incorporate a new design that takes impacts to Jacumba Hot Springs and users of I-8 and Old Highway 80 into account. In response, as described in Response to Comment O7-141, Policy COS-18.3 falls under General Plan Goal COS-18, which recognizes the trade-off between renewable energy development on potential impact to the natural environment and communities. In this context, Policy COS-18.3 directs the County to minimize impacts to the environment through project design. The Proposed Project has been designed to avoid environmentally sensitive areas where jurisdictional waters, endangered species, and other natural features were identified during biological surveys. As described in Table 3.1.4-4 of Section 3.1.4, Land Use and Planning, of the Draft EIR, all significant environmental impacts except aesthetics and mineral resources have been mitigated to a less than significant level. The significant and unavoidable impact to mineral resources is caused by the portion of the on-site habitat preservation (biological open space easement) which is located within an area of a potential mineral resource. As discussed in the Draft EIR, the Proposed Project would include six mitigation measures to lessen the Project’s impacts to aesthetics (**M-AE-1 through M-AE-6**). Please refer to Section 2.1, Aesthetics, of the Draft EIR for an analysis of the Proposed Project’s impacts to aesthetic and visual resources and mitigation imposed on the Project to reduce those impacts. Further, as discussed in Response to Comment O7-14, revisions have been incorporated into the Proposed

Volume II – Organization Responses to Comments

Project and the Community Buffer Alternative to reduce impacts to views from the Jacumba Community Park and Old Highway 80. Because the comment does not identify any additional feasible mitigation to reduce aesthetic impacts, no further response is required.

- O7-144** The commenter states that the Project is inconsistent with the Scenic Highway goal of the Mountain Empire Subregional Plan, which protects the scenic resources of the community. The commenter further states that the Draft EIR must be revised to incorporate “buffers, fencing and landscape treatments needed to demonstrate compliance with this County policy.” In response, the Mountain Empire Scenic Highways Goal states, “Establish a network of scenic highway corridors within which scenic, historical and recreational resources are protected and enhanced.” As described in Table 3.1.4-5 of Section 3.1.4, Land Use and Planning, of the Draft EIR, existing energy infrastructure in the I-8 and Old Highway 80 viewsheds, the brief duration of views to the Project site from I-8, screening of solar panels from view of Old Highway 80 motorists, and because the Proposed Project does not inhibit the County from establishing regulations and/or development standards geared towards the protection and enhancement of scenic highways, the Proposed Project would not be inconsistent with the Scenic Highways Goal of the Mountain Empire Subregional Plan.
- O7-145** The commenter states that contrary to conclusions in the Draft EIR, there are significant and unavoidable impacts to land use policy based on the inconsistencies and conflicts raised above. In response, this comment provides concluding statements regarding comments O7-11 through O7-145. Please refer to Responses to Comments O7-122 through O7-145.
- O7-146** The commenter states that the Proposed Project is inconsistent with General Plan Guiding Principle 1, which states, “Support a reasonable share of projected regional population growth.” In response, Chapter 2 of the County General Plan identifies 10 Guiding Principles. (See General Plan, Chapter 2 at 2-6.) The General Plan explains that the “General Plan maps, goals and policies, and implementation programs are based” on these 10 Guiding Principles. (*Ibid.*) While the Guiding Principles were used to derive the Goals and Policies found in the General Plan, they are not themselves General Plan Goals or Policies to which the Project must be compared in order to evaluate consistency with the General Plan. The Draft EIR explains that although the various General Plan elements (Land Use, Mobility, Conservation & Open Space, etc.) are “based on a set of guiding principles,” it is the General Plan elements’ “goals and policies that must be adhered to by all discretionary development projects.” (Draft EIR, at 3.1.4-7.) Accordingly, the Draft EIR need not demonstrate the Project’s consistency with any of the Guiding Principles from the General Plan. (*Covina Residents for Responsible Development v. City of Covina* (2018) 21 Cal.App.5th 712, 732 [“State

Volume II – Organization Responses to Comments

law does not require perfect conformity with each and every policy set forth in the applicable plan . . . It is enough that the proposed project will be compatible with the objectives, policies, general land uses and programs specified in the applicable plan.”] [internal citations and quotations omitted]; see also *Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1566 [“While there is no requirement that an EIR itself be consistent with the relevant general plan, it must identify and discuss any *inconsistencies* between a proposed project and the governing general plan. Because EIRs are required only to evaluate any *inconsistencies* with plans, no analysis should be required if the project is *consistent* with the relevant plans.”] [italics in original; internal citations and quotations omitted].) Please refer to Response to Comment O7-147 through O7-155 for further responses.

- O7-147** The commenter expands on Comment O7-146 by stating that the Proposed Project would be inconsistent with Guiding Principle 1 by taking away housing planned for the area. In response, with respect to whether the Draft EIR must evaluate consistency with Guiding Principle 1, please refer to Response to Comment O7-146. Because the Project site is currently not developed with housing and there are no proposals to develop housing, the comment does not provide evidence that the approval of the Project would take away housing planned for the area. Nonetheless, although previous projects’ proposals to develop the site with housing have not materialized (see Section 3.1.4.1.5, Specific Plan Area, of the Draft EIR, describing previous Specific Plans, submitted in 1991 and 2006, which were denied and withdrawn, respectively), a potential predictable action if the Proposed Project is denied may be a future proposal to develop. Finally, because the Proposed Project will be an interim use, it will not foreclose the potential for housing development on the Project site in the future. Please refer to Response to Comment O7-48.
- O7-148** The commenter asks what does the Project do to the County’s ability to meet its Regional Housing Needs Assessment (“RHNA”). In response, following the determination of a local government’s RHNA allocation, a local government is required to update its Housing Element to accommodate its RHNA allocation and prepare an inventory of sites for residential development (See Gov. Code §§ 65580-65589.11.) The current County Housing Element, which is based on the 5th RHNA cycle, covers the planning period from January 1, 2013 through December 31, 2020 and does not assign any units to the Project site. The County Housing Element “reduced housing capacity in rural or “backcountry” communities that lack water, sewer, roads, and fire or emergency medical services,” including the Jacumba area. (San Diego County, General Plan, Chapter 6: Housing Element, <https://www.sandiegocounty.gov/content/dam/sdc/pds/gpupdate/docs/GP/HousingElement.pdf> (accessed on Feb. 18, 2021).) The San Diego Association of

Volume II – Organization Responses to Comments

Governments (“SANDAG”) completed the 6th Cycle Regional Housing Needs Assessment Plan in July 10, 2020 (“RHNA Plan”) (SANDAG, 6th Cycle Regional Housing Needs Assessment Plan (July 10, 2020) https://www.sandag.org/uploads/projectid/projectid_189_27782.pdf (accessed on Feb. 18, 2021).) The RHNA Plan allocates 6,700 units to the unincorporated County. The County is currently updating its Housing Element for the 2021-2029 planning period (6th RHNA cycle), which will be approved in 2021. (San Diego County, Planning & Development Services, 2019-2020 Housing Element Update, <https://www.sandiegocounty.gov/content/sdc/pds/GPUupdate2021/HousingElement.html> (accessed on Dec. 29, 2020).) Because the County is currently preparing its Housing Element update in response to its RHNA allocation, the County can plan for the Proposed Project in its 2021-2029 Housing Element update without impacting the County’s ability to meet its RHNA allocation. The draft 2021-2029 Housing Element does not assign any units to the Project site.

O7-149 The commenter states that the County’s Housing Element designates the Project site as Village and the site is currently zoned to provide housing opportunities. However, the Project would preclude housing from being built. This comment further states that the Draft EIR fails to account for the impact to the County’s ability to provide housing and the Proposed Project’s inconsistency with the County General Plan Housing Element and the assumptions therein. In response, the Proposed Project is an interim use that would be decommissioned. Please refer to Response to Comment O7-147 regarding the temporary nature of the Project. Further, the Housing Element treats Regional Categories as a broad framework for the form and organization of development with the County General Plan’s Land Use Designations providing a property-specific designation for the type and intensity of allowable land uses. (General Plan Housing Element, at 3-9.) Section 3.1.4.1.3, Land Use Regional Category and Designations, of the Draft EIR, describes the Land Use Designations for the Project site. Table 3.1.4-4 of the Draft EIR describes the Project’s consistency with the General Plan Land Use Designations. Therefore, the Draft EIR analyzes the Project for consistency with the General Plan and is consistent with the Housing Element. Please refer to Response to Comment O7-148 regarding the 2021-2029 Housing Element update. Additionally, the zoning for the Project site permits various uses by right and with a use permit, not all of which are residential. (County Zoning Ordinance §§ 2882-2888.)

O7-150 The commenter states that the County must provide adequate housing in its RHNA update and has presumably been relying on the Project site to help provide that housing. With approval of this Project, that would no longer be available. In response, the Project site is not designated as part of the County inventory of residential sites that can accommodate RHNA units. (See San Diego County, General Plan, Chapter 6:

Volume II – Organization Responses to Comments

- Housing Element, <https://www.sandiegocounty.gov/content/dam/sdc/pds/gpupdate/docs/GP/HousingElement.pdf> (accessed on Feb. 18, 2021.) Please refer to the Responses to Comments O7-148 and O7-149 regarding RHNA and the Housing Element update.
- O7-151** The commenter states that the General Plan distributes housing throughout the County and approval of the Proposed Project would result in an imbalance that would require the County to reallocate the housing to other areas not currently designated or zoned for housing. The commenter further states that the Draft EIR must discuss how it will rebalance housing with the approval of this Project which removes planned housing from this area for a minimum of 38 years and likely permanently. Please refer to Responses to Comments O7-147, O7-148, and O7-149.
- O7-152** The commenter states that even if there is no adopted specific plan for the area, the Draft EIR does not analyze and disclose the land use impacts of the Proposed Project. In response, as discussed in Section 3.1.4.3, Analysis of Projects Effects and Determination as to Significance, in Chapter 3.1.4, Land Use, of the Draft EIR, land use impacts have been evaluated based on the specific thresholds identified in CEQA Guidelines, Appendix G. Please refer to Tables 3.1.4-2 and Table 3.1.4-3 of the Draft EIR.
- O7-153** The commenter states the Regional Category for the majority of the Project site is Village and provides an overview of the Village Regional Category in the County General Plan. The comment does not raise an issue regarding the adequacy of the analysis contained within the Draft EIR; therefore, no further response is required.
- O7-154** The commenter asks if with nothing more than a MUP a solar farm can replace more than 1,000 homes planned for a Village, where are those houses planned for this area being reallocated and does that cause an inconsistency with the Housing Element. Please refer to the Responses to Comments O7-147, O7-148, and O7-149.
- O7-155** This comment cites language in the General Plan Land Use Element (page 3-5). The commenter also states that the Land Use Element assumes Village on the site with a Specific Plan for more than 1,000 homes. The commenter further states this is not what the Project proposes and that the Draft EIR ignores General Plan Policy LU-1.1. In response, with respect to that portion of the comment concerning the County's RHNA obligation, please refer to Responses to Comments O7-148, O7-149, and O7-152. General Plan Policy LU-1.1 states, "Assign land use designations on the Land Use Map in accordance with the Community Development Model and boundaries established by the Regional Categories Map." The "Community Development Model" refers to the County's methodology of locating the densest areas of development in a community in

Volume II – Organization Responses to Comments

- a “Village” area, which would then be surrounded by lower density and intensity “semi-rural” and “rural lands.” (See General Plan, at 2-8.) The Proposed Project is allowed in the portion of the site zoned Specific Plan with approval of a Major Use Permit, as described in Response to Comment O7-49. Accordingly, the Proposed Project is also consistent with Policy LU-1.1.
- O7-156** The commenter states it is far from clear whether the Project can even qualify to be sited here under the off-site solar ordinance. The commenter then cites language from the County Zoning Ordinance Section 1350 pertaining to major impact services and utilities. Please refer to Response to Comment O7-157.
- O7-157** The commenter states that it is not the case that the Project meets the requirements of County Zoning Code Section 1350. The commenter also states that while it is true that renewable energy is generally encouraged, the Project site is not a necessary location for a 638-acre solar farm. The commenter further states there are numerous locations in which a solar farm could be located. In response, this comment addresses the findings required for approval of a Major Use Permit for the Proposed Project, which is for the County decisionmakers to determine, rather than a CEQA issue. Draft findings in support of the Major Use Permit will be made available to the public prior to the public hearings on the Proposed Project. The comment does not raise an issue regarding the adequacy of the analysis contained within the Draft EIR; therefore, no further response is required
- O7-158** This comment provides further statements that the Project cannot satisfy the requirements set forth in the Zoning Ordinance Section 1350. Please refer to Response to Comment O7-157.
- O7-159** The commenter states the Draft EIR must analyze the impacts resulting from the inability to make the appropriate findings. The commenter also states that the Project is inconsistent with the General Plan’s Village designation for the site. Please refer to Responses to Comments O7-157 and O7-49.
- O7-160** The commenter states that the Proposed Project is inconsistent with the General Plan’s Guiding Principle 8: Preserve Agriculture as an Integral Component of the Region’s Economy, Character and Open Space Network, because the Proposed Project site is currently open space and fallow agricultural land. In response, in the EIR a proposed project need only demonstrate that it does not conflict with the objectives and policies of the General Plan, as explained in Response to Comment O7-146. The EIR determined that the impacts to agricultural resources would be less than significant. Furthermore, the Project proposes an interim use (with the exception of the Switchyard Facilities) and would not substantially impair the ongoing viability of the site for

Volume II – Organization Responses to Comments

agricultural use or housing development, should economic conditions favor one use over the other. Absent further County approval, the Proposed Project would be decommissioned after 35 years and all components of the Proposed Project, except the Switchyard Facilities and the realigned water main, would be removed from the Project site. As described in Section 1.2.1.3 of the Draft EIR, the Project’s Decommissioning Plan would require that the use of the land would have to return to a use that is consistent with the County of San Diego Zoning Ordinance at the time of dismantling. If a new use is not proposed, the decommissioning would include preparing the site with a compatible hydroseed mix. The new owner/occupant of the site could till the soil to alleviate any compaction and cultivate the land.

- O7-161** The commenter states that the Draft EIR overlooks the goals and policies of the Jacumba Subregional Group Area, which in the background section identifies the Jacumba Hot Springs as a resort destination and that County planning documents have incorporated plans for the revitalization and growth of the Jacumba area. In response, Section 3.1.4.2, Regulatory Setting, of the Draft EIR, describes that the Jacumba Subregional Group Area Plan presents a vision statement and background information on the area, but does not contain specific goals and policies. Further, the Draft EIR analyzes the Proposed Project’s consistency with the Vision Statement for Jacumba in Table 3.1.5-5 and finds that the Proposed Project is consistent with the Vision Statement. Accordingly, the Draft EIR has not overlooked any goals or policies because there are no specific goals and policies in the Jacumba Subregional Group Area Plan.
- O7-162** The commenter states that the Draft EIR ignores County plans for the area that envision future development at the Ketchum Ranch, and the Draft EIR must discuss that the Proposed Project is inconsistent with the vision contained in these plans. In response, Table 3.1.4-5 of the Draft EIR analyzes the Proposed Project’s consistency with the Mountain Empire Subregional Plan, of which the Jacumba Subregional Group Area Plan is a part. The analysis in Table 3.1.4-5 finds that the Proposed Project is consistent with the applicable policies and goals in the Mountain Empire Subregional Plan and the Vision Statement for Jacumba.
- O7-163** The commenter states that the conclusion in the Draft EIR that the Project is consistent with the policies in the Mountain Empire Subregional Plan is unsupported and unsupportable. The commenter also states that the Jacumba Hot Springs is “not going to become the jewel of the backcountry when its front door is an industrial solar farm. With respect to the Project’s consistency with the Mountain Empire Subregional Plan, please see Response to Comment O7-162.

Volume II – Organization Responses to Comments

- O7-164** The commenter states that the Proposed Project is not consistent with the Jacumba ALUCP because it creates glare and glint that will create dangerous situations for glider pilots. Please refer to Responses to Comments O7-88 through O7-98.
- O7-165** The commenter states that the Draft EIR’s discussion of the California-Baja California Border Master Plan is inadequate because it fails to discuss the ways the Project, which is located in the Focused Study Area, could affect the ability to complete the long-term Border Master Plan. In response, as discussed in Section 3.1.4.2, Regulatory Setting, of the Draft EIR, the Border Master Plan describes the Jacumba- Jacumé Port of Entry as being in the early stages of development. The Proposed Project is not anticipated to impact the ability of the relevant agencies to complete the Border Master Plan because it would not impact cooperation and funding associated with any future Port of Entry. The Draft EIR cannot evaluate the Proposed Project against the speculative criteria in the Border Master Plan.
- O7-166** The commenter states that the Draft EIR has a conclusory statement in that the Proposed Project does not conflict with the Border Master Plan because the plan “is in early conceptual planning stages and lacks funding.” In response, Section 3.1.4.2, Regulatory Setting, of the Draft EIR, describes that the Border Master Plan was last updated in 2014. As described in Section 3.1.4.2, the Border Master Plan contains a listed prioritization of border crossing projects, including the Jacumba-Jacumé Point of Entry project, and identifies that the Border Master Plan explained that there was insufficient data to prioritize the Jacumba-Jacumé Point of Entry project. The Border Master Plan identifies that Jacumba-Jacumé Point of Entry project as a future project in the conceptual planning phase with the potential to open to traffic in 2040. (SANDAG Service Bureau, 2014 California-Baja California Border Master Plan Update, Table 4.54 (July 2014) available https://www.sandag.org/uploads/projectid/projectid_584_26286.pdf (accessed on Dec. 29, 2020).) There have not been any subsequent updates to the Border Master Plan since 2014 that provide criteria that the County could utilize to analyze the Project for consistency with the Border Master Plan.
- O7-167** The commenter states that the Border Master Plan has been in the works for years and cannot be summarily dismissed because it is not yet complete or funded. In response, although the Border Master Plan was originally prepared in 2008 and updated in 2014, the Border Master Plan is a “binational comprehensive approach to coordinate planning and delivery of land ports of entry (POEs) and transportation infrastructure projects serving those POEs.” The Plan does not establish land use planning criteria nor purport to dictate land use decisions. The Border Master Plan sets recommendations for future collaboration related to Point of Entry Projects. (SANDAG Service Bureau, 2014 California-Baja California Border Master Plan Update, Table ES.2 (July 2014)

Volume II – Organization Responses to Comments

available https://www.sandag.org/uploads/projectid/projectid_584_26286.pdf (accessed on Dec. 29, 2020).) Therefore, the Border Master Plan lacks sufficient detail for the Draft EIR to analyze the Proposed Project for consistency.

- O7-168** This comment describes that the Border Master Plan as a binational effort among Caltrans, the Secretariat of Infrastructure and Urban Development of Baja California and the U.S./Mexico Joint Working Group, which will serve as a pilot project for border coordination and craft an international plan that sets forth the goals, long-term objectives, funding sources and other details along the border. The comment does not raise an issue regarding the adequacy of the analysis contained within the Draft EIR; therefore, no further response is required.
- O7-169** The commenter states that the Draft EIR must discuss the impacts of the Project on the Border Master Plan. Please refer to the Responses to Comments O7-165 through O7-168.
- O7-170** The commenter states the Draft EIR fails to include a reasonable range of alternatives or to have an adequate basis for rejecting certain alternatives. The commenter then states CEQA's requirements regarding alternatives to the project. In response, this comment provides an introduction to comments that follow. Please refer to Responses to Comments O7-171 through O7-198.
- O7-171** The commenter states that the Draft EIR should be revised to consider additional alternatives that reduce or avoid significant impacts and particularly fit better into the community character and aesthetic, while also doing its part to meet County's housing needs. Please refer to Global Response GR-6 Alternatives.
- O7-172** The commenter states that the Draft EIR evaluated only three alternatives, one of which was the No Project alternative. The commenter further states that the impacts would be the same under both the Community Buffer Alternative and the Reduced Project Alternatives, so they should not "count" as two separate alternatives. In response, Chapter 4 of the Draft EIR sets forth the Project objectives that inform the alternatives evaluated, describes the alternatives that were considered but not carried forward for detailed analysis, describes the alternatives analyzed in detail, and summarizes the differences between the Project and the alternatives evaluated in detail. Chapter 4 analyzes two different scenarios of the "No Project" alternative—a "No Development No Project" scenario that assumes that the conditions at the Project site would remain in their baseline state, and a "Buildout No Project" scenario that assumes that instead of the Project, the site would be developed as a multi-use community with up to 1,110 residential units, commercial development, recreational and open space uses, and infrastructure development. (See Draft EIR, Section 4.3.2.) Chapter 4 also analyzes a

Volume II – Organization Responses to Comments

“Community Buffer” Alternative, which would set the Project back from the Jacumba Hot Springs community, and a “Reduced Project” Alternative, which would eliminate Project elements north of the SDG&E utility easement area. Accordingly, the Draft EIR analyzes three alternatives in detail—a No Project alternative (with two scenarios), the Community Buffer alternative, and the Reduced Project alternative. The Community Buffer Alternative was analyzed in detail in Section 4.4.3 of Chapter 4 Alternatives of the Draft EIR and includes setting the Proposed Project back 300 feet from the residences in the Jacumba community north of Old Highway 80. In the Final EIR, the Community Buffer Alternative has been modified to include increased setbacks from the Jacumba Community Park and along both sides of Old Highway 80. The intent of the Community Buffer Alternative is to substantially lessen the Proposed Project’s significant and unavoidable impacts to aesthetic and visual resources from the community and along Old Highway 80. Please refer to Response to Comment O7-187 for further discussion of this topic. Conversely, the Reduced Project Alternative was also analyzed in detail in Section 4.4.4 and eliminates the portion of the Proposed Project north of the SDG&E utility easement area. The intent of the Reduced Project Alternative is to avoid or substantially lessen the Proposed Project’s significant and unavoidable impacts to aesthetic and visual resources from I-8 and surrounding public lands.

- O7-173** The commenter states that the Draft EIR must be revised to include a reasonable range of alternatives and that the additional alternatives must be addressed in detail. In response, Chapter 4 Project Alternatives of the Draft EIR analyzed a reasonable range of alternatives to the Proposed Project in accordance with CEQA. (See CEQA Guidelines, § 15126.6.) The Draft EIR describes the rationale for selecting the alternatives analyzed in the Draft EIR and explained the reasons why certain alternatives were eliminated from detailed consideration. Because the comment does not suggest a specific alternative to be included in the analysis, no further specific response is possible.
- O7-174** The commenter states that three alternatives is not a reasonable range of alternatives “especially when two of them result in identical impacts.” The comment also refers to the Newland Sierra EIR, which included eleven alternatives. Please refer to Response to Comment O7-172, which explains that the Draft EIR analyzed three alternatives. The County selected a range of alternatives analyzed in the Draft EIR permit a reasoned choice. (CEQA Guidelines, § 15126.6(f).) The Draft EIR need not consider in detail every “conceivable variation of the alternatives stated.” (*Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1029.) The comment does not provide any reason or evidence why the Draft EIR’s range of alternatives is manifestly unreasonable. For that reason, no further response is required. However,

Volume II – Organization Responses to Comments

please refer to Response to Comment O7-172 for a discussion of the differences between the Community Buffer Alternative and the Reduced Project Alternative.

- O7-175** The commenter states that the Draft EIR fails to “adhere to CEQA’s requirement to design an alternative intended to reduce or avoid a significant impact; instead, the alternatives seemed designed only to fail.” In response, CEQA requires an analysis of alternatives that “would feasibly attain most of the basic objectives but would avoid or substantially lessen any of the significant effects of the project.” (CEQA Guidelines, § 15126.6(a).) The Draft EIR satisfies this standard. As discussed in Chapter 4, the Community Buffer Alternative would substantially reduce some of the Proposed Project’s impacts related to aesthetics, air quality, biological resources, mineral resources, and noise, while generally meeting the Project objectives, but to a lesser degree as compared to the Project. The Reduced Project Alternative would reduce numerous impacts related to aesthetics, air quality, biological resources, cultural resources, geology, mineral resources, paleontological resources, and tribal cultural resources, while generally meeting the Project objectives, but to a significantly lesser degree as compared to the Project. Both the Community Buffer Alternative and the Reduced Project Alternative target reducing the Project’s significant and unavoidable impacts to aesthetics. While neither alternative would reduce significant and unavoidable impacts to aesthetics to less than significant, the Community Buffer Alternative substantially lessens impacts to visual character and/or quality of the community, valued visual character or image of the community, and cumulative aesthetic impacts. The Reduced Project Alternative lessens impacts to views from I-8 and surrounding state and federal lands, visual character and/or quality of the community valued visual character or image of the community, and cumulative aesthetic impacts. Further, please refer to Global Response GR-6 Alternatives. Chapter 4 also analyzes two scenarios under the No Project Alternative: No Development No Project, and Buildout No Project. Finally, in accordance with the CEQA Guidelines, the Project was designed to incorporate “environmental considerations into project conceptualization, design, and planning.” (CEQA Guidelines, § 15004(b)(1).) The Proposed Project, in other words, was designed to avoid endangered species, significant cultural resources, and jurisdictional waters on the Project site. These Project design considerations are reflected in the Draft EIR’s analysis of the Community Buffer with Southwest Corner Expansion Alternative, which shows how the Project avoids sensitive biological and cultural resources adjacent to the Jacumba Hot Springs community. (See Chapter 4, Alternatives, Section 4.2.6.)
- O7-176** The commenter states that the Draft EIR does not analyze reasonable alternatives, like “an alternative with shorter solar PV modules similar to those at the Borrego Solar Farm” with a maximum height of seven feet. The commenter also states that the Draft

Volume II – Organization Responses to Comments

EIR is inadequate because it lacks the analysis of this alternative. In response, as discussed in Response to Comment O7-175, the Draft EIR analyzes a reasonable range of alternatives. With respect to an alternative limiting the height of the Project’s solar panels to seven feet, CEQA does not require consideration of an alternative that is infeasible. (CEQA Guidelines, § 15126.6(a); *Bay Area Citizens v. Association of Bay Area Governments* (2016) 248 Cal.App.4th 966, 1018-19.) This comment’s suggested alternative limiting the height of the solar panels to seven feet is infeasible. Please refer to Response to Comment O7-20 and Global Response GR-6 Alternatives. In addition, even assuming that a 7-foot height limit were feasible, it would not reduce aesthetics impacts to less than significant because panels would still be visible from many of the panoramic vistas (I-8, Round Mountain, Table Mountain, Airport Mesa), which are elevated and would look down on the Proposed Project. Further, public views from Old Highway 80 would still be impacted by the Project fence line, which would still be visible.

- O7-177** The commenter states that the Draft EIR’s alternatives analysis is flawed because it fails to recognize the Project’s impacts to land use and planning. Please refer to Responses to Comments O7-122 through O7-169.
- O7-178** This comment states legal requirements of CEQA regarding analysis of the no project alternative. The comment does not raise an issue regarding the adequacy of the analysis contained within the Draft EIR; therefore, no further response is required.
- O7-179** The commenter states that the Draft EIR’s analysis of the Buildout No Project Alternative does not “provide an accurate portrayal of the development that would or could be developed under the existing general plan designation” for the Project site. The commenter also states that the Buildout No Project Alternative was designed to maximize impacts, unreasonably disregarding “strategies and regulatory structures” that would need to be applied were that actually to be proposed, and which would lower the impacts of such development. In response, the Buildout No Project Alternative is based on the potential buildout of the Project site under the current General Plan land use designations using the Ketchum Ranch Specific Plan for the Project site. As discussed in Section 4.3.1 of Chapter 4, Project Alternatives, the Ketchum Ranch Specific Plan was “a multi-use concept; a residential community with recreational and visitor oriented commercial uses on approximately 1,250 acres. The conceptual land use plan included 1,110 dwelling units, active/passive open space for recreational uses such as an 18-hole golf course, a wastewater reclamation facility, and other supporting uses.” In 2006, an application was submitted for a more intensive use on the site, which was subsequently revised to more closely mirror the original Ketchum Ranch Specific Plan. As such, the County’s assumption of 1,110 units in “Buildout” scenario for the No Project Alternative is supported by substantial evidence. See also Response to

Volume II – Organization Responses to Comments

Comment O7-154 [comment assuming that “more than 1,000 homes [were] planned for a Village . . .”].)

- O7-180** The commenter states that the rejection of the Energy Efficiency Ordinance Alternative on grounds it would take too long to offset 90 megawatts (MWs) of energy is a strawman argument. The commenter also states that the project objective is not a minimum of 90 MWs. The commenter then states “this up to 90 MWs” has been misused as a basis for rejecting many of the alternatives, with a focus on the length of time that particular objective would reach 90 MWs. Further, the commenter states that the alternatives do not need to achieve that specific number of 90 megawatts, just have the ability to “achieve the basic objective of . . . energy savings.” In response, the Draft EIR defines Project Objective 1 to develop “a solar energy project with a rated capacity of up to 90 megawatts (MW) of alternative current (AC) and an energy storage facility that can supply electricity to indirectly reduce the need to emit greenhouse gases caused by the generation of similar quantities of electricity from either existing or future nonrenewable sources to meet existing and future electricity demands, including during on-peak power periods.” The intent of Project Objective 1 is to develop a solar project to generate and store renewable energy. An alternative that achieves “energy savings” does not satisfy this objective. (See Chapter 4, Alternatives, Section 4.2.1.) Further, the Draft EIR does not reject the Energy Efficiency Ordinance Alternative only as a result of the Alternative’s inability to meet Project Objective 1, or because it “would require too long for demand to offset 90 megawatts (MW) of energy.” Rather, the Draft EIR rejects the Alternative because it would not meet any of the Project Objectives, there is no funding for the County to implement the Alternative, and the Alternative could not be implemented in a reasonable period of time. (See Chapter 4, Alternatives, Section 4.2.1.) CEQA does not require an analysis of alternatives that are infeasible or do not meet most of the Project objectives. (See CEQA Guidelines, § 15126.6.)
- O7-181** The commenter states that the Draft EIR’s reliance on an idea that all project alternatives must meet the magical 90 MW number in rejecting any and all alternative locations is unsupportable. The commenter also states that an “alternative does not have to accomplish 90 MWs of solar energy generation and storage.” In response, please refer to Response to Comment O7-180. Further, the Draft EIR does not reject any of the alternatives analyzed in Chapter 4 only because they cannot generate or store 90 megawatts of energy. The Draft EIR rejected the Distributed Generation and Storage Policy Alternative because it is infeasible and would not meet most of the Project objectives. The Draft EIR rejected the Wind Energy Alternative because it would not reduce environmental impacts and would not meet most of the Project objectives. The Draft EIR rejected the Alternative Locations Alternative because there “are no other known readily available parcels of undeveloped land of similar size in the eastern

Volume II – Organization Responses to Comments

portion of the County that could accommodate development of the Proposed Project that have not already been considered and rejected for development of a similar solar project, provide adequate site accessibility, and/or could be acquired by the Applicant within a reasonable period of time.” Further, the Draft EIR rejected the ECO Substation Connection Alternative and Community Buffer with Southwest Corner Expansion Alternative because they would not reduce environmental impacts and the Eco Substation Connection Alternative is infeasible.

- O7-182** The commenter states that the Proposed Project does not have “to be in locations ‘in close proximity to existing transmission lines with capacity to convey the energy generated.’” The commenter also states that renewable energy projects may build a transmission line to connect to the existing transmission lines. In response, Project Objective 4 states to develop “a utility-scale solar energy project that improves electrical reliability for the San Diego region by providing a source of local generation as near as possible to existing San Diego Gas and Electric (SDG&E) transmission infrastructure.” The goal of this objective is to ensure the Proposed Project reduces the size of its footprint and its environmental impacts by utilizing existing electrical infrastructure, instead of requiring the construction of new facilities to connect to the power grid. The County has discretion to “identify and pursue a particular project designed to meet a particular set of objectives.” (*San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 14; *California Oak Foundation v. Regents of University of California* (2010) 188 Cal.App.4th 227, 276-77.)
- O7-183** This commenter states that there are “costs to the community” in building renewable energy projects “wholly inconsistent with the landscape and the community’s goals and policies and reason for being.” The commenter states that these “costs” should be placed on the developer. In response, the comment does not raise an issue with the adequacy of the Draft EIR; therefore, no further response is required.
- O7-184** The commenter states that the Energy Efficiency Ordinance Alternative would meet that goal, it just would take longer to accomplish. The commenter also states that an EIR “for a master planned community with objective of developing up to 5,000 homes would not properly be rejected as infeasible because it looked at an alternative for 3,000 homes, for example.” In response, with respect to the Energy Efficiency Ordinance Alternative, the Draft EIR rejected the alternative because it would not meet most of the Proposed Project objectives and it could not feasibly be implemented. Please refer to Response to Comment O7-180. With respect to the comment regarding reduced project alternatives, the Draft EIR analyzes two reduced project alternatives—the Community Buffer Alternative and the Reduced Project Alternative—in Chapter 4 Project Alternatives.

Volume II – Organization Responses to Comments

- O7-185** The commenter states that the Project’s objectives have been “carefully crafted to enable rejection of any alternative that does not entail building a monster industrial solar farm.” The commenter also states that the “essence” of the objectives “is to help achieve energy and greenhouse reduction targets in the County.” The commenter then states that the Energy Efficiency Ordinance Alternative would accomplish that objective while reducing the Project’s impacts. The commenter further states a lead agency may not give a project a purposely narrow definition and cites a court case. In response, the County has discretion to “identify and pursue a particular project designed to meet a particular set of objectives.” (*San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 14; *California Oak Foundation v. Regents of University of California* (2010) 188 Cal.App.4th 227, 276-77 (2010).) The Draft EIR identified seven objectives for the Proposed Project, including to develop a solar energy project with a rated capacity of up to 90 megawatts and an energy storage facility, to assist in achieving the state’s Renewables Portfolio Standard, to develop a utility-scale solar energy project that improves electrical reliability for the San Diego region, and to provide a new source of energy storage that assist the state in achieving or exceeding its energy storage targets. Generally, these objectives establish the goal, among others, of developing a renewable energy generation and storage project to assist the state in achieving renewable energy goals, not simply to “achieve energy and greenhouse reduction targets” as the commenter suggests. The Energy Efficiency Ordinance Alternative was rejected in the Draft EIR because it will not meet any of the Project’s objectives. (See Chapter 4, Project Alternatives, Section 4.2.1.) Please also refer to Response to Comment O7-186 regarding the comment and case law citation that the “lead agency may not give a project’s purpose an artificially narrow definition.”
- O7-186** This comment paraphrases and quotes the decision in *North Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.App.4th 647, for the proposition that a lead agency may not “give a project’s purpose an artificially narrow definition” in order to reject an alternative. The commenter also states that the Draft EIR “views the objective as an artificially narrow need to achieve 90 MWs of energy, and then reject[s] every alternative that cannot me[e]t that narrow standard.” In response, per CEQA Guidelines Section 15124(b), the project description in the Draft EIR includes a statement of the objectives sought by the Proposed Project, including the underlying purpose of the project and the project benefits. Please refer to Response to Comment O7-185. While a lead agency may not give a project’s purpose an artificially narrow definition, the agency “may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal. For example, if the purpose of the project is to build an oceanfront resort hotel or a waterfront aquarium, a lead agency need not consider inland locations.” (*In re Bay-Delta etc.* (2008) 43 Cal.4th 1143, 1166 [finding the failure to examine in detail a

Volume II – Organization Responses to Comments

program alternative requiring reduced water exports from the Bay-Dela was not an abuse of description because that alternative would not achieve the program objective of water supply reliability] [internal citations omitted].) As stated in Response to Comment O7-185, the underlying purpose of the Proposed Project, as defined by the Project Objectives, is to, among other things, develop a renewable energy generation and storage project to assist the state in achieving renewable energy goals. Despite the commenter’s suggestion, the Draft EIR does not reject alternatives on the sole basis that the alternative does not generate 90 MW of capacity. Rather, the Draft EIR rejected the Energy Efficiency Ordinance Alternative because it is infeasible and does not meet any of the Project objectives. The Draft EIR rejected the Distributed Generation and Storage Policy Alternative because it is infeasible and would not meet most of the Project objectives. The Draft EIR rejected the Wind Energy Alternative because it would not reduce environmental impacts and would not meet most of the Project objectives. The Draft EIR rejected the Alternative Locations Alternative because there “are no other known readily available parcels of undeveloped land of similar size in the eastern portion of the County that could accommodate development of the Proposed Project that have not already been considered and rejected for development of a similar solar project, provide adequate site accessibility, and/or could be acquired by the Applicant within a reasonable period of time.” And the Draft EIR rejected the ECO Substation Connection Alternative and Community Buffer with Southwest Corner Expansion Alternative because they would not reduce environmental impacts and the Eco Substation Connection Alternative is infeasible.

The Draft EIR is unlike the EIR in the *North Coast Rivers Alliance* decision cited by the commenter. In *North Coast Rivers Alliance*, the Department of Food and Agriculture prepared and certified a Programmatic EIR for a seven-year project with the objective of eradicating a pest to protect the state’s native plants, species, and agriculture. (243 Cal.App. at 656.) However, “at the last minute,” the Department changed and approved a project to a “seven-year program to control” the pest based on “information that eradication was no longer attainable.” (243 Cal.App.4th at 653.) Petitioners challenged this last minute change in approval, arguing the change was not analyzed in the Programmatic EIR. Among other arguments, petitioners asserted that the Programmatic EIR did not study a reasonable range of alternatives because the EIR did not analyze a project to control the pest. The Court agreed with petitioners and found that the EIR unnecessarily narrowed the definition of the Project’s objective to eradication, as opposed to protecting native plants and crops as was stated in the EIR. (*Id.* at 668-69.)

The Draft EIR does not suffer the same flaw. The Draft EIR does not limit the objectives of the Project to generating 90 megawatts of energy, nor does it reject any

Volume II – Organization Responses to Comments

alternatives because they cannot meet that threshold. Please refer to Response to Comment O7-185.

- O7-187** The commenter states the Community Buffer Alternative is another strawman as presented in the Draft EIR. The commenter also states that there is no specific scientific or rationale for using a distance of 300 feet. The commenter further states that the Draft EIR must provide this information. In response, Section 4.4.1 of Chapter 4 Project Alternatives states that the Community Buffer Alternative was developed to “specifically provide a visual buffer between the proposed solar facility and the private properties, as well as a noise buffer from residential uses during construction and operations.” The Community Buffer Alternative in the Final EIR has been revised to include increased setbacks from Jacumba Community Park and along both sides of Highway 80, as described in Section 4.4.3. The Final EIR also includes further explanation of the Community Buffer Alternative. It states that the alternative is intended to substantially lessen impacts to visual character and quality of the community, as well as cumulative aesthetic impacts. The Community Buffer Alternative is included in the EIR to provide informed decision making about the ramifications of providing a larger setback from the private properties north of Old Highway 80 in order to reduce impacts to aesthetics and visual resources. This satisfies the requirements of CEQA to analyze a reasonable range of alternatives that 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.” (CEQA Guidelines, § 15126.6(a).) Please also refer to Global Response GR-6 Alternatives in the Final EIR.
- O7-188** The commenter states that aesthetics is the primary topic that should “inform the definition” of the Community Buffer Alternative, not some arbitrary buffer that is not linked to significant and unavoidable physical impacts of the Proposed Project on visual character and scenic viewsheds. In response, please refer to Response to Comment O7-187.
- O7-189** The commenter states that none of the Proposed Project’s impacts would be “substantially reduced” by the Community Buffer Alternative. The commenter also states that the Proposed Project must be “redesigned to minimize its impacts on aesthetics, land use policy and mineral resources” and “an updated analysis of a real community buffer alternative must be integrated into the DEIR.” In response, please refer to Responses to Comments O7-34 to O7-54, and O7-122 to O7-169 regarding comments on aesthetics, land use and planning, and mineral resources. Further, please refer to Response to Comment O7-187 for a discussion as to how the Community Buffer Alternative substantially lessens the Proposed Project’s impacts. Finally, because the comment does not define a “real community buffer alternative,” no further response is required.

Volume II – Organization Responses to Comments

- O7-190** The commenter states that generating 7.7 MW less in energy than the Proposed Project is not a compelling argument or reason for rejecting an alternative, “unless the DEIR provides more background on how much existing energy production relies on alternative sources, how much is projected to be operational based on current projects underway, and how much is needed in the County to achieve the RPS goals outlined by the State.” The commenter also states that “just because the applicant realizes less profit from energy production is not an adequate basis for rejection of an alternative as infeasible.” In response, the Draft EIR does not “reject” the Community Buffer Alternative. This alternative is analyzed in Section 4.4 of Chapter 4, Project Alternatives, of the Draft EIR.
- O7-191** The commenter states that an alternative with a buffer to avoid visibility from the community and the entrances to and from the community could lessen the Proposed Project’s impacts, but the buffer alternative as presented in the Draft EIR “is not it.” The commenter also states that there is no need for a “Southwest Corner Expansion.” The comment further states that an alternative to avoid significant aesthetic impacts and land use and planning impacts “may be able to achieve most of the basic project objectives.” The commenter then states that the Draft EIR’s “insistent focus on 90 MWs is simply an alternative set up to fail.” In response, please refer to Response to Comment O7-187 for a discussion as to how the Community Buffer Alternative substantially lessens the Proposed Project’s impacts. Please also refer to Response to Comments O7-185 and O7-186 regarding the project objectives and the rejection of certain alternatives in the Draft EIR. Please also refer to Global Response GR-6 Alternatives in the Final EIR.
- O7-192** The commenter states that the Reduced Project Alternative is flawed because it “places more importance on views from I-8 than on impacts to County residents in Jacumba Hot Springs.” The commenter also states none of the Project’s impacts would be substantially reduced by this alternative. In response, CEQA requires the Draft EIR to analyze a reasonable range of alternatives that avoid or substantially lessen the significant environmental effects of the Project and feasibly attain most of the Project objectives. (CEQA Guidelines, § 15126.6.) The Reduced Project Alternative satisfies this standard—it feasibly attains most of the Project objectives, while substantially reducing impacts to views from I-8, State Park lands, Round Mountain, Airport Mesa, and Table Mountain, as well as impacts to visual character of the Project area and cumulative aesthetic impacts. However, these impacts would remain significant and unavoidable, as discussed in Section 4.5 of Chapter 4, Project Alternatives. Further, the Reduced Project Alternative would reduce impacts to air quality, biological resources, cultural resources, geology, mineral resources, paleontological resources, tribal cultural resources, and wildfire.

Volume II – Organization Responses to Comments

- O7-193** The commenter states that an updated analysis of the Reduced Project Alternative must be provided after the Proposed Project is redesigned to minimize its impacts on aesthetics, land use and planning, and mineral resources. In response, please refer to Response to Comment O7-192 for a discussion as to how the Reduced Project Alternative reduces the Proposed Project's significant impacts. Finally, because the comment does not define a "real Reduced Project Alternative," no further response can be provided.
- O7-194** The commenter states that generating 22 MW less in energy than the Project is not a compelling argument or reason for rejecting an alternative, "unless the DEIR provides more background on how much existing energy production relies on alternative sources, how much is projected to be operational based on current projects underway, and how much is needed in the County to achieve the RPS goals outlined by the State." In response, the Draft EIR does not "reject" the Reduced Project Alternative. This alternative is analyzed in Section 4.5 of Chapter 4, Project Alternatives, of the Draft EIR.
- O7-195** The commenter states that a "new Reduced Project Alternative" is required that "avoids all energy development south of the SDG&E easement." The commenter also states that the suggested alternative would "lessen the Project's impacts on the character of the Jacumba Hot Springs community." In response, CEQA only requires the Draft EIR to analyze a reasonable range of alternatives. (CEQA Guidelines, § 15126.6(c).) As provided in Chapter 4, the County finds that the Draft EIR has analyzed a reasonable range of alternatives through the No Project Alternative (No Development and Buildout Scenarios), Community Buffer Alternative, and Reduced Project Alternative.
- Further, the Draft EIR need not consider an alternative that does not offer significant environmental advantages in comparison with the Project or with alternatives that are presented in the Draft EIR. (*Ibid.*; *Sequoyah Hills Homeowners Association v. City of Oakland* (1993) 23 Cal.App.4th 704, 713.) The commenter's proposed modifications to the Proposed Project do not offer significant environmental advantages to the Community Buffer Alternative or the Reduced Project Alternative, as impacts to aesthetic and visual resources would remain significant and unavoidable given the contrast between the development of a utility-scale solar facility on site and the rural nature of the surrounding area. However, please refer to Global Response GR-6 Alternatives in the Final EIR for further discussion of this topic and the commenter's suggested alternative.
- O7-196** The commenter states that the Draft EIR should provide more information as to the alternative locations considered and rejected by the County as alternative sites. The commenter also states that alternative locations are not required to meet every Project

Volume II – Organization Responses to Comments

objective. The comment further states that it is “hard to understand how there is not alternative property upon which a solar farm could feasibly be built that would not have the impacts this location presents.” In response, the Draft EIR states, “There are no other known readily available parcels of undeveloped land of similar size in the eastern portion of the County that could accommodate development of the Proposed Project that have not already been considered and rejected for development of a similar solar project, provide adequate site accessibility, and/or could be acquired by the Applicant within a reasonable period of time.” The Draft EIR did not reject an alternative site location because it did not meet the Project objectives. Rather, it rejected the alternative because the Proposed Project cannot be feasibly constructed on any other sites within the eastern portion of the County. Please refer to Global Response GR-6 Alternatives in the Final EIR for further discussion of this topic.

- O7-197** The commenter states that under the Draft EIR’s No Development No Project Alternative, it “is hard to get an accurate picture of what the No Development No Project alternative would truly achieve.” The commenter further states it should be separated as a standalone. In response, Section 4.3.1 of Chapter 4, Project Alternatives, clearly states that “If the Project did not proceed and no development was proposed, then the Project site would remain in its existing condition and all impacts identified in Chapter 2 of this EIR would be avoided.” Section 4.3.2 of Chapter 4 then analyzes how the No Development No Project Alternative compares to the Proposed Project with respect to aesthetics, air quality, biological resources, cultural resources, hazards and hazardous materials, hydrology and water quality, mineral resources, noise, paleontological resources, tribal cultural resources, wildfire, greenhouse gas emissions, land use and planning, parks and recreation, population and housing, public services, transportation, and utilities and service systems. Finally, the No Development No Project Alternative is compared to the Proposed Project and all other alternatives in Table 4-1 of Chapter 4, on an impact-by-impact basis.
- O7-198** The commenter states that the Buildout No Project Alternative is unrealistic and must take into account “how current rules and regulations would constrain such development and prevent many of the impacts assumed to occur in this alternative.” The commenter also states that there is no substantial evidence supporting the Buildout No Project Alternative because two similar projects have been pursued development at the Project site but failed. Please refer to Response to Comment O7-179.
- O7-199** The commenter states the Draft EIR is inadequate under CEQA and must be revised and recirculated. In response, this comment provides a concluding statement. Please refer to Responses to Comments O7-1 through O7-198.

Volume II – Organization Responses to Comments
