

Appendix N
BLM Responses to Comments

BLM RESPONSES TO COMMENTS

Appendix N provides BLM responses to public comments on the Chevron Energy Solutions Lucerne Valley Solar DEIS. Complete comments and context can be viewed in the original letters, e-mails, and the transcript of DEIS Public Comment Meeting (Appendix M), which have been annotated to identify specific comments and assertions. All public comments received are included in Appendix M.

The procedure for locating a specific comment and response in Appendix N is as follows: As comment documents were received, each comment was assigned a three-digit document number. Comments in documents received in the form of a letter were assigned sequential numbers starting with 001; comment in documents received in the form of e-mail messages were assigned sequential numbers starting with 501; oral and written comments provided during the public comment meeting were assigned sequential numbers starting with 901. All comment documents received during the public comment period were cataloged in this manner and are being considered in preparing the Final EIS.

The responses to comments can be tracked in Table N-1 below.

Table N-1. Log of DEIS Comments Received

Unique Comment Numbers	Date Received	Agency, Organization, or Individual
Comment Letters		
001	3/5/2010	Mojave Desert Air Quality Management District
002-006	3/3/2010	CalTrans, District 8
007-014	5/20/2010	Defenders of Wildlife
015-020	5/13/10	San Bernardino County
021-147	5/20/10	Adams Broadwell Joseph & Cardozo, Attorneys at Law
148-178	5/27/10	Lucerne Valley Economic Development Association
179-182	5/18/10	Chevron Energy Solutions
183	5/20/10	Chevron Energy Solutions
184-241	5/20/2010	United States Environmental Protection Agency
242-252	5/13/10	Natural Resources Defense Council, Sierra Club, and The Wilderness Society
Emails		
501-502	2/13/2010	Edward Wood
503	4/11/2010	Douglas Metcalf
Public Meeting (Oral Comments)		
901-906	3/9/2010	Adams Broadwell Joseph & Cardozo, Attorneys at Law
907-913	3/9/2010	Bill Lembright
914-919	3/9/2010	Chuck Bell, Lucerne Valley Economic Development Association
920-925	3/9/2010	Dinah Shumway
Public Meeting (Written Comments)		
926	3/9/2010	Mike Hawkins
927-928	3/9/2010	Millie Rader

Comment responses in Appendix N are presented using the following format:

Comments

The specific comment or assertion requiring a response is included in this field. The complete comment and context can be viewed in Appendix M.

Responses

BLM's response to the specific comment or assertion appears in this field.

Letters

Comment Number 001

Comment

The District (Mojave Desert Air Quality Management District) has reviewed the environmental documentation for the project and concurs that the proposed mitigation measures for Air Quality (MM AQ-1 and MMAQ-2) represent feasible mitigation.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 002

Comment

It is unlikely that Santa Fe Fire Road is a county maintained road and considered as a legal access to SR-247. We recommend that the Applicant consult with the County of San Bernardino Land Development, Land Use Services Department and this Office to warrant a legal access to SR-247 and county maintained road.

Response

The County of San Bernardino Land Development, Land Services Department, and the Department of Public Works were contacted to determine whether Santa Fe Fire Road is a county-maintained road and considered as legal access to SR-247. It is not a county-maintained road. However, as described in Section 1.5, the Applicant could be required to obtain an encroachment permit before construction begins. Santa Fe Fire Road is legally accessed from SR-247.

Comment Number 003

Comment

Design and construction plans to establish Santa Fe Fire Road shall meet county's standards and connection to SR-247 shall meet Caltrans Highway Design Manual. Review and approval of such plans are contingent to Encroachment Permits.

Response

As described on Table 1-2 of the DEIS, Major Permits, Approvals, and Consultations, all action alternatives could require an encroachment permit, and the Applicant would be responsible for obtaining all permits and approvals required to implement any of the authorized activities.

Comment Number 004

Comment

When improving Santa Fe Fire Road, all existing tributary areas, area drainage facilities and runoff volumes having an impact to SR-247 must be identified and analyzed. Hydrology study should be considered.

Response

The Hydrology Study for the Lucerne Solar Project (January 2010), prepared by Westwood Professional Service, Inc., has been submitted to the BLM and is included in Appendix O of the Final EIS. No impacts on SR-247 have been identified.

Comment Number 005

Comment

The construction of said Project will be completed in two phases which would result in short-term increases in traffic volume of a maximum of 90 trips per day (45 morning and 45 evening trips) due to the construction labor force assuming they all drive separately. This volume is less than significant

Response

The text has been revised to say that construction of both phases of the project would result in short-term increases in traffic volume of a maximum of 90 trips per day (45 morning and 45 evening trips) due to the construction labor force (assuming they all drive separately) and approximately 20 trips (10 inbound, 10 outbound) for delivering construction equipment and supplies to the site.

Comment Number 006

Comment

The project should address the number of truck trips per day pertinent to delivering the materials to construct the solar project. The State is the owner and operator of SR-247 and is concern about the impact that the delivery trucks will have onto the facility during the construction phases.

Response

See Response to Comment 005.

Comment Number 007

Comment

Defenders strongly supports the emission reduction goals found in the Global Warming Solutions Act of 2006, AB 32, including the development of renewable energy in California. We also recognize that to succeed in meeting State and Federal mandates for generation and utilization of renewable energy, some priority projects will be located on public lands managed by the Bureau of Land Management (BLM).

We urge that in seeking to meet our renewable energy portfolio standard in California, project proponents locate and design their projects in the most sustainable manner possible. Thus, renewable energy projects should be placed in the least environmentally harmful locations, near existing transmission lines and on or adjacent to already disturbed lands including idle agricultural fields, industrial sites, previous mining sites and lands with little or no long-term potential for sustaining healthy biological resources. Based on our review of the project site and the DEIS, we believe this project meets many of these "sustainability" criteria.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

As noted in Section 2.3 of the DEIS, the Applicant used similar criteria in selecting the proposed action site during the pre-screening process before submitting the right-of-way application to the BLM.

Comment Number 008

Comment

Chevron Energy Solutions applied to the Bureau of Land Management (BLM) for a right-of-way on public lands to construct a solar photovoltaic power plant facility on approximately 516-acres of BLM managed land eight miles east of the community of Lucerne Valley. When completed the facility will generate 45 megawatts of electricity. The project proponent appears to have identified a site with excellent solar resources, close to existing transmission and other infrastructure, and with limited biological conflicts.

Chevron should be commended for their efforts in working closely the BLM staff in identifying this “sustainable” site for their proposed project.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 009

Comment

Based on our field inspection of the proposed project site, an in-depth knowledge of the California Desert Conservation Area Plan, as amended, and review of the DEIS, we considers Alternative 3 (Proposed Action) or Alternative 4 (Modified Site Layout) appropriate. Either of these alternatives would result in an environmentally acceptable and sustainable project that generates electrical power using solar energy, and would contribute to the State and Federal mandates for generation utilization renewable energy.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 010

Comment

The proposed project is located on a relatively small and isolated parcel of public land surrounded on three sides by private land. Paved Highway 247 and an existing SCE transmission line is very near the proposed project area. We noticed that public lands within the project boundary east of the Santa Fe Fire Road have been mechanically altered in several areas, probably associated with former mining claim assessment work.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 011

Comment

With regard to species and habitat, the proposed project site supports a natural plant and animal community comprised largely of common species of plants animals, with a relatively low number of BLM sensitive or special status species. The threatened Desert Tortoise occurs in the area in low densities, and one Desert Tortoise was observed within the extreme southeastern corner of the proposed project area, and a few Desert Tortoises were observed in this same general area but outside the project boundary within the surveyed buffer zone. We do not consider this an insurmountable issue for the project developer. It is essential, however, that the BLM consult with the U.S. Fish and Wildlife Service pursuant to section 7 of the Endangered Species Act, 16 U.S.C. § 1536(a) (2), and if necessary obtain an incidental take permit. Avoidance of Desert Tortoises in this area by a slight modification of the project layout may prove advantageous because it may preclude the need for their relocation or translocation.

Response

On February 8, 2010, the BLM initiated consultation with the US Fish and Wildlife Service, in accordance with Section 7 of the Endangered Species Act, 16 USC, § 1536(a) (2). The Biological Opinion for the Lucerne Valley Chevron Solar Project, San Bernardino, California (3031 [P] CA-680.33) (8-8-10-F-6) has been completed and is included as Appendix K of the Final EIS. All terms and conditions associated with the Biological Opinion, as well as several desert tortoise specific minimization measures offered by the Applicant in consultation with BLM, will be made stipulations of any ROW grant which may be issued by the BLM to insure that potential impacts would be reduced to minimal levels. Given that a maximum of

three tortoises are anticipated to be directly impacted over the life of the project, the BLM concluded that a site redesign was not necessary.

Comment Number 012

Comment

In addition to the slight modification to avoid direct impact to the Desert Tortoise, the modified layout described in Alternative 4 may be advantageous to the project proponent as a means of reducing dust accumulation on PV panels generated from vehicles using the Santa Fe Fire Road, and also in providing a visual screen of natural vegetation around the perimeter of the project. We urge BLM to perform a site specific needs-analysis before determining whether or not a realignment of the Zircon trail is warranted.

Response

Regarding Alternative 4, the realignment of a portion of Zircon Road, the criteria considered when making route designations, in compliance with 43 Code of Federal Regulations (CFR), Part 8342.1, is presented in the rewritten Section 4.11 of the DEIS. Each action alternative's consistency with these criteria is presented in Sections 4.11.2.3, 4.11.2.4, and 4.11.2.5 of the DEIS.

Comment Number 013

Comment

Though we are supportive of this project, we are concerned about the DEIS' purpose and need and alternatives analysis pursuant to the National Environmental Policy Act (NEPA). See 40 C.F.R. § 1502.13; 40 C.F.R. § 1502.14. To ensure reasoned decision-making and expedited project permitting, we ask that the BLM provide a broader purpose and need statement, and determine whether or not the alternatives presented and analyzed in the DEIS constitute a reasonable range of alternatives that satisfies applicable legal requirements.

Instead of the current purpose and need statement focusing on the BLM responding to a right of way application under Title V of the Federal Land Policy and Management Act , we would recommend that the purpose and need statement focus on the need to generate and greater amounts of electrical energy from renewable energy sources so that dependency on carbon-based fuels is reduced, and to contribute to the requirement to generate certain minimum amounts of renewable energy to comply with State and federal standards.

Response

40 CFR, § 1502.13 (Purpose and Need), requires the purpose and need statement to briefly specify the underlying purpose and need *to which the agency is responding* [emphasis added] in proposing the alternatives, including the proposed action.

As noted in Section 1.1.1 of the DEIS, the BLM's Purpose and Need includes responding to Chevron Energy Solution's (CES) application under Title V of the FLPMA, BLM ROW regulations, 43 CFR, Part 2800, and other applicable federal directives, as follows: "The BLM will decide whether to approve, approve with modifications, or deny issuance of the ROW...."

BLM recognizes the benefit to developing renewable and acknowledges that there are numerous locations on which to develop renewable energy as well as many different technologies. However, contributing to the state's renewable standards is not a BLM mandate and therefore is not included in the BLM's purpose and need statement.

BLM would not undertake this EIS if not for CES submitting an application for which BLM must make a decision.

The DEIS complies with requirement 40 CFR, § 1502.14 (alternatives, including the proposed action). This regulation requires presentation of the environmental impacts of the proposal and the alternatives in comparative form and requires agencies to:

- Rigorously explore and objectively evaluate all reasonable alternatives and alternatives that were eliminated from detailed study and to briefly discuss the reasons for their having been eliminated;
- Devote substantial treatment to each alternative considered in detail, including the proposed action, so that reviewers may evaluate their comparative merits;
- Include reasonable alternatives not within the jurisdiction of the lead agency;
- Include a no action alternative;
- Identify the agency's preferred alternative (or alternatives, if more than one) in the draft statement and identify such alternative in the final statement, unless another law prohibits the expression of such a preference; and
- Include appropriate mitigation measures not already included in the proposed action or alternatives.

The DEIS explored and evaluated a reasonable range alternatives (Sections 4.1 through 4.17) and described the reasons that some alternatives were eliminated from detailed study (Section 2.3). Substantial treatment is devoted to each alternative considered in detail, including two no action alternatives (Sections 4.1 through 4.17).

Comment Number 014

Comment

In addition, considering the relatively small size of the proposed project (516 acres) and the relatively large amount of potentially suitable and available private and public lands necessary to support the project, we recommend that the BLM re-examine its decision to categorically determine that private land alternatives are categorically unreasonable for BLM to consider and analyze. Instead, we would recommend that the BLM examine a private lands alternative.

Response

An action that is on private land would not have a NEPA requirement, but would have CEQA requirements. Since this document is an EIS, developed under NEPA, and not an EIR, developed under CEQA, there is no nexus for a private land alternative.

BLM would not have authority for a development on private land, so there would not be a nexus for BLM to develop any environmental documents for that type of a project.

A Private Lands Alternative is identified in Section 2.3.1 of the DEIS, along with the reasons why this alternative was not considered in detail. This section notes, "As part of its initial study, the Applicant used several technical and business criteria to evaluate various potential sites for a solar project. These included whether the sites were located close to existing high voltage transmission lines that would allow access to the market. Because of this project's proposed generating capacity, the cost of building long interconnection lines would make it economically infeasible to construct.

"The Applicant determined that if it pursued the private land option, it would need to enter into several agreements with landowners to assemble a large enough tract to build its facility. This would have required the Applicant to enter into long-term leases without assurance that the necessary permits and approvals would be issued, which it did not believe was economically feasible. Therefore, private lands were eliminated from further consideration."

Comment Number 015

Comment

Regarding mitigation for threatened/endangered species, the County supports project development in a manner that optimizes future economic opportunity by minimizing land set-asides and instead focusing on funding conservation, habitat restoration and species recovery efforts. The DEIS in Section 4.6 is consistent with our approach by first requiring avoidance of impacts via several mitigation measures in BIO-1, BIO-6, and BIO-11, and invasive weed removal in BIO-2. Mitigation measure BIO-12 discusses compensatory mitigation and sensibly requires a 1:1 mitigation ratio for impacts to desert tortoise that may be achieved via either land replacement or an in-lieu fee.

However, rehabilitation of habitat during decommissioning is not clearly addressed in either the biological impact analysis or the Project Description, specifically Section 2.2.3.6 that describes decommissioning.

Response

Section 2.2.3.6 has been modified as follows to provide additional details on the decommission plan:

“Consistent with BLM requirements, the Applicant would prepare a detailed decommissioning plan that includes specific decommissioning procedures that both protects public health and safety and is environmentally acceptable. The BLM would have to approve the decommissioning plan before permanent decommissioning. When the BLM begins to consider decommissioning, it would contact the USFWS to determine whether additional Section 7 consultation would be appropriate. Materials used on-site would be reused at other locations, sold as scrap, or recycled whenever possible.”

Site reclamation is intended to rehabilitate the land and restore the natural function of the site. Restoration of the area to exact pre-project conditions may not be possible. A NEPA document would be written to evaluate the reclamation and rehabilitation plan and to make a decision about the specific reclamation and remediation plan.

Comment Number 016

Comment

With regard to addressing economic impacts to the County including infrastructure cost impacts and ongoing operations and maintenance costs, the County is developing a fiscal impact analysis to determine project-specific cost impacts that we will seek from project proponents. That analysis is ongoing at this time.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process. Should BLM receive this analysis prior to completing the Record of Decision, BLM will provide a summary of it in the Record of Decision.

Comment Number 017

Comment

The County supports the creation of 45 construction jobs while we recognize there will be only 3 permanent jobs created by the Project. The DEIS Section 4.15.3 discusses the economic benefits from the Project: \$20 million in direct spending on wages, materials and equipment, and an additional \$16.1 million in indirect and induced effects related to supplies, services and household spending. Annual direct spending is estimated at \$400,000 for the 30-year life of the Project (DEIS page 4.15-7).

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 018

Comment

In terms of aesthetic impacts, this portion of State Route 247 is designated as a Scenic Route in the County General Plan. The Project utilizes an array configuration that is approximately six (6) feet high, and grading is minimized throughout, by keeping existing vegetation at a brush cut height under the solar arrays. This is lower in height than any habitable structure would be and would not block the views of mountains for drivers along State Route 247. Further, the maintenance, rather than complete elimination, of vegetation reduces the possibility of fugitive dust and softens the view of the Project. With these considerations, the Project is not inconsistent with the Scenic Route designation.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

State Route 247's designation as a scenic route is noted on several pages of the DEIS, including ES-11, ES-12, ES-22, 3.10-5, 3.12-12, 4-10-1, 4.10-2, 4.12-10, and 4.18-3.

Comment Number 019

Comment

With regard to water usage, the County policy is to require a groundwater assessment report if a project anticipates using 10 acre feet per year (AFY) or more of groundwater. The project appears to fall below that threshold for both construction phases and for operations.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 020

Comment

In terms of cumulative impacts, the County has received three (3) applications for solar photovoltaic projects in Lucerne Valley, since the BLM held Project scoping meetings in July 2009. A list of these projects and a map of their locations has been provided informally before and is also attached for your reference. We realize these projects were not included in the DEIS as the existing conditions baseline is generally established at the time of the Notice of Intent and scoping meetings.

Response

The proponents of the three proposed solar photovoltaic projects who have submitted applications to the San Bernardino County are those for Strawberry Peak, which is 13.5 miles from the project, Boulevard Associates Next Era, which is 11 miles from the project site, and Rabbit Springs Solar, which is 7.7 miles from the project site. Cumulative effects are evaluated in terms of the specific resource at the appropriate scale, so the boundaries of the Cumulative Effects Study Areas (CESAs) will vary by resource. For each resource, the BLM determined the extent to which the environmental effect could be reasonably measured and then used the appropriate geographic scale to include the effect on each resource. However, some project-related impacts affect a number of environmental resources across the same area, so in these instances, CESA boundaries were left identical for multiple resources where it seemed reasonable and prudent to do so. The boundaries of these CESAs have been set to ensure that all reasonably expected effects are identified and analyzed. Two of these projects were within the CESA boundaries and have been included in the cumulative effects analysis in Chapter 4 of the FEIS.

Comment Number 021

Comment

As explained more fully below, the DEIS does not comply with the requirements of NEPA, or the California Environmental Quality Act ("CEQA") for required discretionary approvals by California State

agencies. Therefore, the BLM may not approve the CDCA Plan amendment or ROW until an adequate joint DEIS/Environmental Impact Report (“EIR”) is prepared and circulated for public review and comment.

Response

The BLM’s DEIS and FEIS have been developed consistent with NEPA regulations promulgated by the Council on Environmental Quality for implementing the procedural provisions of the National Environmental Policy Act (NEPA, 40 CFR, 1500-1508), the Department of the Interior’s NEPA regulations (43 CFR, Part 46), the BLM NEPA Handbook (H-1790-1), Sections 201, 202, and 206 of the Federal Land Management Policy Act (FLPMA; 43 CFR, 1600), and the BLM Land Use Planning Handbook (H1601-1). For clarity, as Federal Agency, the BLM is required to comply with NEPA, and is not subject to CEQA requirements. This document is not a CEQA document. BLM acknowledges that a CEQA compliant document will be required for decision under state or local jurisdiction. CEQA does not apply to BLM actions.

Comment Number 022

Comment

The members of Local 477 build, maintain, and operate conventional and renewable energy power plants in San Bernardino County. Individual members of Local 477 work in areas affected by environmental degradation and public health and safety risks from industrial development. Members also live in and use areas that will suffer the impacts of projects related to power plant development, including noise and visual intrusion, water and soil pollution, and destruction of archaeological or wildlife areas. Environmental degradation jeopardizes future jobs by causing construction moratoriums, eliminating protected species and habitat, using limited fresh water and putting added stresses on the environmental carrying capacity of the State. This reduces future employment opportunities. In contrast, well designed projects that reduce environmental impacts of electrical generation improve long-term economic prospects. The EIS authors considered the types of impacts referenced in this comment.

Response

Section 4.0 of the DEIS, Environmental Consequences, is dedicated to assessing and analyzing the potential direct, indirect, cumulative, and residual effects on the human, physical, and natural environments that could result from implementing the Proposed Action and its alternatives.

Comment Number 023

Comment

The DEIS for this Project is wholly inadequate, because it fails to consider, among other impacts, the cumulative effects in the region that will cause environmental degradation. At least three of the proposed projects may be located within six miles of the Project, totaling 31,752 acres of land devoted to solar projects in a six-mile radius. The proposed Project will unavoidably tax the State of California’s limited air, water, land, biological and cultural resources and transmission capacity to a potentially significant cumulative extent. The final toll taken by this historic energy boom on California’s environment, public health and natural resource base may not be known for several years or longer, but currently available and substantial evidence shows that the effects will be severe. Based on these concerns, Local 477 and its members have a strong interest in ensuring that this Project complies with all applicable federal, State and local laws and regulations.

Response

Section 3.18 of the document, Cumulative Projects, discusses past, present, and reasonably foreseeable projects within the region of influence that could contribute to cumulative effects of the proposed project.

Table 3.18-1 lists these potential cumulative projects, including their location, size, status, and resources potentially affected. This list includes the three solar energy projects referenced, totaling approximately 31,236 acres.

Each project is identified by a map number, keyed to Figure 3.18-1. This figure shows the proposed action site and indicates the location of the potential projects contributing to the cumulative effects scenario.

A detailed discussion of cumulative effects of the proposed action and alternatives is presented by resource in Section 4.0, Environmental Consequences of the DEIS. The FEIS addresses the resources mentioned in this comment. Applicable plans, policies, and regulations are considered, by resource, in the Affected Environment section (Chapter 3) of the FEIS.

Comment Number 024

Comment

As these comments will demonstrate, the DEIS is fatally deficient and must be substantially revised and recirculated for further public review and comment before it may be finalized. We have prepared these comments with the assistance of Dr. Oliver Seely (water use), Jim Cornett, M.S. (biological resources impacts), T'Shaka Toure, M.S. (hydrology impacts) and Matt Hagemann, P.G. (hazardous soils). Their comments and qualifications are appended hereto as Attachment A ("Seely Comments"), Attachment B ("Cornett Comments"), Attachment C ("Toure Comments") and Attachment D ("Hagemann Comments"). Please note that their comments supplement the issues addressed below and should be addressed and responded to separately.

Response

Responses to Comments in Attachments A through D are provided separately. The BLM's DEIS and FEIS have been developed consistent with NEPA regulations promulgated by the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR 1500-1508); the Department of the Interior's NEPA regulations (43 CFR Part 46); the BLM NEPA Handbook (H-1790-1); Sections 201, 202, and 206 of FLPMA (43 CFR 1600); and the BLM Land Use Planning Handbook H1601-1.

Comment Number 025

Comment

NEPA's Purpose and Goals:

NEPA has two basic requirements, neither of which the DEIS satisfies:

First, NEPA requires that agencies take a "hard look" at the environmental consequences of a proposed action. A hard look is defined as a "reasoned analysis containing quantitative or detailed qualitative information." The level of detail must be sufficient to support reasoned conclusions by comparing the amount and the degree of the impact caused by the proposed action and the alternatives.

Response

The DEIS takes a "hard look" at the environmental consequences of the Proposed Action. Section 4.0, Environmental Consequences, is solely dedicated to assessing and analyzing the potential direct, indirect, cumulative, and residual effects on the human, physical, and natural environments that could result from implementing the Proposed Action and its alternatives. In addition, Table 4.18-1 provides a comparison summary of effects of the proposed action and alternatives.

Comment Number 026

Comment

Second, NEPA review makes information on the environmental consequences of a proposed action available to the public, which may then offer its insight to assist the agency's decision-making

Response

The BLM has complied with the public review requirements, as described below.

- Section 5.0, Consultation and Coordination, of the DEIS describes the public participation process in the development of this DEIS;
- Sections 5.1.1, 5.1.2, and 5.1.3 summarize distribution of the Notice of Intent for the EIS, as well as the public scoping process and responses. Appendix A, Public Scoping Summary Report, of the DEIS includes details of the scoping activities that took place to provide information to the public, along with a summary of the public comments that were received;
- Sections 5.1.4 and 5.1.5 provide details on distribution of the DEIS, which was circulated for a 90-day public review period on February 12, 2010.

A public meeting to receive comments on the DEIS was held on March 9, 2010, in Lucerne Valley. Copies of the DEIS were made available on the BLM Web site, at the BLM Barstow field office, and the California Desert District office. Copies of the DEIS were also available at the Apple Valley and Lucerne Valley public libraries.

Comment Number 027

Comment

Lack of complete, accurate and consistent information in the DEIS precludes an informed comparison of the alternatives and an analysis of the Proposed Action.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 028

Comment

The BLM failed to take a hard look at all of the Project's impacts.

Response

See response to Comment 025.

Comment Number 029

Comment

The BLM impermissibly limited its alternatives analysis by relying on an arbitrarily narrow purpose and need statement.

Response

The CEQ regulations direct that an EIS "...shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action" (40 CFR, 1502.13). In compliance with this regulation, Section 1.1 of the DEIS (pp. 1-1 and 1-2) describe the BLM's purpose and need for the Lucerne Valley Solar Project EIS. Specifically, the BLM's purpose and need is to respond to CES's application under Title V of FLPMA (43 USC, 1761) for a right-of-way grant to construct, operate, and decommission a solar generation facility and associated infrastructure in compliance with FLPMA, BLM ROW regulations, 43 CFR, Part 2800, and other applicable federal laws. This section also notes that the BLM will decide whether to approve, approve with modification, or deny issuance of a ROW grant to CES for the proposed solar project.

Comment Number 030

Comment

The BLM violated NEPA's integration requirement by not conducting joint review under both NEPA and CEQA.

Response

The CEQ regulations (40 CFR 1506.2[b]) encourage federal agencies to be joint leads with state and local agencies when two agencies have approximately equal components of a proposal being considered. Section 1.4 of the DEIS summarized the federal, state, and local policies, plans, and laws that apply to the Proposed Action and alternatives. In addition, Table 1-2 lists the major permits, approvals, and consultations that would be required before any of the action alternatives could proceed. The state and local agencies listed on Table 1-2 have approval authority over “limited portions of the Proposed Action and alternatives,” such as the California Department of Fish and Game’s consideration of the Section 1602 Stream Alteration Agreement or the Regional Water Quality Control Board’s consideration of the Section 401 Water Quality Certification. Therefore, preparation of a joint environmental document is not required. However, as shown in Section 5.2.1 of the DEIS, federal, state, and local agencies were consulted during preparation of the EIS.

The County of San Bernardino declined the CEQA lead role because they determined that the County did not have a decision to be made. California Department of Fish and Game also declined the CEQA lead role. BLM was unable to locate a CEQA lead agency in order to write a joint document.

Comment Number 031

Comment

The DEIS precludes a meaningful analysis of the Project, and the BLM must prepare and recirculate a joint DEIS/EIR before making a decision

Response

See Response to Comments 021 and 030.

Comment Number 032

Comment

The DEIS contains incomplete, inconsistent and inaccurate information that precludes a meaningful comparison of the alternatives and understanding of the Proposed Action. This violates the basic requirements of NEPA. The BLM must revise the DEIS to provide a reasonable, good faith and objective presentation of the affected environment and environmental consequences of the Proposed Action and its alternatives.

Response

The DEIS provides complete, consistent, and accurate information about the Proposed Action and alternatives, the affected environment, as well as the direct, indirect, cumulative, and residual effects of the Proposed Action and alternatives.

Comment Number 033

Comment

The DEIS completely fails to disclose BLM’s required consultation under the Endangered Species Act (“ESA”) with the United States Fish & Wildlife Service (“USFWS”) for the federally and State threatened desert tortoise.

Response

The BLM’s requirement to consult with the USFWS is detailed throughout the DEIS.

Section 1.4 of the DEIS summarizes the federal, state, and local policies, plans, and laws that apply to the EIS and includes the Endangered Species Act.

Table 1-2, Major Permits, Approvals, and Consultations, presents a list of the major permits, approvals, and consultations required, including those required by USFWS and CDFG. It specifically notes the Section 7 consultation and Biological Opinion required under the Endangered Species Act. The mitigation measures in Section 3.6 of the FEIS fully incorporate all terms and conditions of the Biological Opinion which was issued on June 10, 2010. This Biological Opinion is included in the Appendix to the FEIS.

Page 4.6-16 of the document states “The Applicant has completed consultation with the USFWS and a Biological Opinion has been released by USFWS. All terms and conditions associated with these consultations would be implemented.” Consultation under the California Endangered Species Act has not been concluded between the Applicant and California Department of Fish and Game as of the writing of this FEIS. However, as indicated in the Section titled: *Effect BIO-8: Loss of desert tortoise or loss of habitat for desert tortoise* all terms and conditions associated with this consultation shall be implemented.

Section 5.2.1 also notes that the BLM consulted with the USFWS and CDFG during preparation of the EIS. The Biological Assessment is located in Appendix C. The Biological Opinion is located in Appendix K.

Comment Number 034

Comment

The DEIS also completely fails to analyze the USFWS’s potential issuance of a biological opinion and incidental take permit under Section 7 of the ESA.

Response

The need for a Biological Opinion and consultation under Section 7 of the Endangered Species Act is described in Section 1.4.1, Relationship to Federal Policies, Plans, and Programs, of the DEIS and on Table 1-2, Major Permits, Approvals, and Consultations, of the DEIS. In addition, consultation with the USFWS and CDFG is described on page 4.6-16 of the DEIS, which indicates that a Biological Opinion has been released by USFWS and that all terms and conditions associated with these consultations would be implemented.

The BLM initiated consultation with the US Fish and Wildlife Service, in accordance with Section 7 of the Endangered Species Act, 16 USC, § 1536(a) (2), on February 8, 2010. The Biological Opinion for the Lucerne Valley Chevron Solar Project, San Bernardino, California (3031 [P] CA-680.33) (8-8-10-F-6) has been completed and is included as Appendix K of the Final EIS. All terms and conditions associated with this Biological Opinion have been integrated into the avoidance and minimization measures found in Section 4.6 of the FEIS.

Comment Number 035

Comment

There is no indication in the DEIS or its appendices that the BLM has initiated consultation under Section 7 of the ESA, or that the DEIS reviews the environmental effects of the USFWS’s issuance of a Biological Opinion and incidental take permit. The Biological Opinion concludes with a “no jeopardy” determination for the Proposed Project – the USFWS concludes that the project in the preferred alternative would not jeopardize the continued existence of desert tortoise.

Response

See response to Comment 034.

Comment Number 036

Comment

Because desert tortoises have been found on the site, and the Project will clearly impact the species, the BLM must undertake Section 7 consultation.

Response

See response to Comment 034.

Comment Number 037

Comment

The DEIS states that the Applicant has completed consultation with the USFWS and the California Department of Fish & Game (“CDFG”) and that all terms and conditions associated with these

consultations would be implemented. However, the DEIS and its appendices provide no evidence to support this statement, and no evidence that the BLM has consulted with the USFWS.

Response

See response to Comment 034. CES is in direct consultation with California Department of Fish and Game. Consultation under the California Endangered Species Act has not been concluded between the Applicant and California Department of Fish and Game as of the writing of this FEIS. However, as indicated in the Section titled: *Effect BIO-8: Loss of desert tortoise or loss of habitat for desert tortoise* all terms and conditions associated with this consultation shall be implemented.

Comment Number 038

Comment

The DEIS fails to disclose any of the terms and conditions the USFWS and CDFG require the Applicant to implement.

Response

The Biological Opinion is included in Appendix K of the Final EIS. Mitigation measures BIO-1 through BIO-13 were designed in coordination with the USFWS and CDFG. The Biological Opinion concludes a no jeopardy determination for desert tortoise and reaffirms the mitigation measures presented in the DEIS. All terms and conditions as well as all conservation measures outlined in the Biological Opinion have been fully integrated into the FEIS mitigation measures.

Comment Number 039

Comment

Because the terms and conditions seem to include moving tortoises from the site, the DEIS must include a Translocation Plan with specific information including, but not limited to, the location of the translocation area, how the tortoises will be moved, when they will be moved and who will monitor their relocation.

Response

Measure MM BIO-11 in the DEIS presents desert tortoise protective measures. In addition, Section 2.5.1 of the Biological Assessment for the Chevron Solar Project Site Lucerne Valley, contained in Appendix C of the DEIS, provides additional details on the tortoise clearance surveys and relocation efforts. This section specifically notes that BLM- and USFWS-authorized biologists and desert tortoise monitors will conduct the clearance surveys. If tortoises were detected during the survey, an authorized biologist would relocate the tortoise outside the project ROW fence. Any tortoises that may be directly impacted would be relocated off site in conformance with the Biological Opinion. Since only short distance relocations would be necessary, a Translocation Plan is not required. Translocation Plans are only needed if long distance translocation is proposed. This proposed project does not include long distance translocation.

MM BIO-11 has been modified to reflect this additional detail.

Comment Number 040

Comment

The DEIS must disclose the status of BLM consultation with the USFWS, the terms and conditions imposed by the USFWS and the Translocation Plan. Without this information, it is impossible for the public to meaningfully assess the environmental effects and mitigation for impacts to the desert tortoise. Furthermore, without full public disclosure and opportunity for comment, USFWS will be required to conduct further environmental review under NEPA.

Response

See Response to Comments 034 and 39.

Comment Number 041

Comment

The BLM must accurately describe the amount of water the Proposed Action and alternatives will need during operation. The DEIS does not contain any evidence, discussion, or information to support the determination that the Proposed Action would only require, at most, 45,000 gallons of water per year during operation. The BLM must revise the DEIS to support its findings for both construction and operational water use, or acknowledge that the Project will likely require much more than 45,000 gallons of water per year during operation.

Response

During operation and maintenance, water would be used primarily for panel washing. The Applicant estimates that the panels would require washing once per year, during the summer when power prices and, correspondingly, power production, are highest. Panel washing would require between approximately 10,050 to 20,100 for Phase I and 12,470 to 25,140 gallons for Phase II, or, correspondingly, 22,520 to 45,240 gallons per year once the entire 45-MW field is built (Fotowatio Renewable Ventures 2010). Water for panel washing would be provided through a contract with one of the local large industrial companies or municipal water companies that have high capacity wells and water systems. No new water sources would need to be developed. See section 4.5.2.3 of the FEIS.

The amount of water used could vary from project to project, and is based on the specific conditions at the site and the technology that is used for the project. The estimated water use provided in the FEIS and stated above are for this specific location and utilizing the specific project technology.

Comment Number 042

Comment

Because the Project's solar panels will likely need cleaning at least twice per year, Dr. Oliver Seely estimated that the Proposed Action would require approximately 270,000 gallons per year for maintenance. Dr. Seely's estimated water use is six times more than what the BLM determined the Project would require in the DEIS.

Response

See Response to Comment 041.

Comment Number 043

Comment

Dr. Seely's estimate is further supported by the estimated water use for other PV solar projects in the region. For example, the Mitigated Negative Declaration for the Boulevard Associates Kramer Junction Project states that the 20-MW PV solar facility "shall consume a 'minimal amount' of water for the occasional cleaning of panels as they become dusty throughout the year." This "minimal amount" is approximately 150,000 gallons of water per year.

Response

See Response to Comment 041. It should also be noted that the solar technology proposed at the project site is different than the technology used at the Kramer Junction site. The comparison of water use between the two projects is not accurate.

Comment Number 044

Comment

Stephanie Tavares, an environmental reporter for the Las Vegas Sun, compared the proposed operational water use for various PV solar projects.³⁹ She determined that 16,689 gallons of water per MW was required yearly to clean PV solar plants. Based on this assumption, the proposed Project would need approximately 751,005 gallons of water per year for maintenance.

Response

See Response to Comment 041.

Comment Number 045

Comment

As Dr. Seely's analysis in Attachment A and additional factual data indicate, the BLM likely underestimated the Project's proposed operational water use. Because the BLM underestimated the operational water use, the BLM may have also underestimated the Project's construction water use. The BLM must either support its initial determinations with factual evidence, or recalculate the Proposed Action's water use, as well as the water use necessary for each of the alternatives. Only then will the BLM's analysis of the environmental impacts become meaningful.

Response

See Response to Comment 041.

Comment Number 046

Comment

The DEIS's description of the Project's water source is incomplete. The specific source of construction and maintenance water for the Project is not disclosed in the DEIS. The DEIS states that water may be provided through a contract with one of the local large industrial or municipal water companies, from new or existing onsite wells, or the Mojave Water Agency. The Project's environmental consequences will vary depending on the water source. Thus, the BLM must provide a complete and consistent description of the Project's water source so that the public may meaningfully assess the Project's impacts.

Response

Water for construction and operation would not be supplied from new or existing on-site wells. Section 3.5.2.3 has been corrected in the Final EIS.

Water would not be provided from the Mojave Water District. Instead, Section 3.5.1 of the DEIS states the Applicant may confer with the Mojave Water District to "ensure protection of groundwater resources and compliance with any established groundwater management plans and, if necessary, to secure permits needed for encroachment on water district easements."

As noted in Section 4.5, Water Resources/Hydrology, "The water obtained for both construction and operations would be from a permitted off-site source; therefore, it would not decrease the water supply in the Proposed Action area."

Several different sources of water may be used throughout the 30 year life of the project. Water used for this project would be from an existing permitted source and the water used for this project, combined with other source uses, would not exceed the permitted source's authorized level of use.

Comment Number 047

Comment

At this point, the BLM has completely failed to inform the public about the source of water and the environmental and public health effects from using such water for the Project. Water from an offsite source may require new infrastructure, modifications to existing infrastructure and/or additional federal, State and local approvals. The closest water company to the Project site is the Jubilee Mutual Water Company located approximately five miles away. The Golden State Water Company also provides water to the Lucerne Valley area and is located approximately 20 miles away. If the Jubilee Mutual Water Company and the Golden State Water Company do not have sufficient capacity to serve the Project, water may be provided from another water company in the desert area.

Response

Section 2.2.3.5, Operations and Maintenance, states the following on page 2-22:

"Water for panel washing would be provided through a contract with one of the local large industrial companies or municipal water companies that have high capacity wells and water systems. No new water sources would need to be developed."

Water for panel washing would be trucked to the site, and no additional federal, state, or local approvals would be required. No additional environmental effects that have not been identified in the DEIS would occur. The impacts of trucking water to the site are addressed in Section 4.13.2.3 of the DEIS. No public health effects from panel washing were identified.

See response to Comment 046.

Comment Number 048

Comment

Using water from any of these sources raises a myriad of potentially significant effects and legal issues that have not yet been addressed, including impacts on groundwater from increased extraction, impacts on State water from California's State Water Project, impacts on biological resources, land use, and air quality from construction of pipelines, availability and reliability of water supplies, legal entitlements, need for further right-of-ways, effects from trucking water to the site and others.

Response

See Response to Comment 047.

Comment Number 049

Comment

If the Project will receive water from new or existing onsite wells, the location of the wells, how the water will be pumped from the wells, when the water will be pumped from the wells, the effects of pumping water from the wells and the required federal, State and local approvals must be disclosed to the public.

Response

See Response to Comment 046.

Comment Number 050

Comment

The Project's need for large amounts of construction and operational water would likely exacerbate overdraft conditions and cause an overall decline in water levels in the region.

Response

Refer to Response to Comment 046.

Comment Number 051

Comment

Clearly, the BLM has not even begun to describe the Project's proposed water supply and the Project's affects on water resources. The BLM must provide a complete and consistent description of the Project's water source with an assessment of the Project's impacts on that source and disclose it to the public.

Response

Refer to Response to Comment 041 and 046.

Comment Number 052

Comment

The DEIS's description of the Project's impacts to drainage systems is incomplete and inconsistent The BLM must revise these inconsistencies and provide a complete description of the Proposed Action's impacts to natural drainage systems.

Response

The proposed modifications to on-site drainage systems for all action alternatives are presented in Sections 2.2.3, 2.2.4, and 2.2.5 of the DEIS. Project-related impacts on the drainage system for all project alternatives are described in Sections 4.5.2.3, 4.5.2.4, and 4.5.2.5 of the DEIS. The BLM DEIS found that impacts on the drainage system vary by alternative.

The Hydrology Study for the Lucerne Solar Project (January 2010), prepared by Westwood Professional Service, Inc., has been submitted to BLM and is included in Appendix O of the Final EIS. The study identifies the project-specific modifications and associated impacts on both on- and off-site drainage systems and presents drainage calculations, best management practices, and long-term maintenance recommendations. The findings and recommendations of the study have been added to Section 4.5 of the Final EIS.

A Stormwater Pollution Prevention Plan is included as Appendix I.

Comment Number 053

Comment

Specifically, if drainage systems will be modified, the DEIS must disclose what modification will occur, which drainages will be impacted and to what extent the drainages will be modified.

Response

See Response to Comment 052.

Comment Number 054

Comment

This is fundamental information that is required to provide the public an opportunity to meaningfully compare the Proposed Action with the alternatives. For example, to compare alternatives, the public must know whether the Proposed Action would modify the same drainages as Alternative 4. In addition, there may be an alternate site design that will impact drainages less.

Response

See Response to Comment 052.

Comment Number 055

Comment

The DEIS must also describe what fill material the Applicant will use to modify the drainages. If cement is used for bank stabilization and protection for transition and curve segments, the Project will significantly impact the ability of wildlife to utilize the surrounding area. If the Applicant will use natural substrate (i.e. compacted earthen [sic] material along with rip rap), however, impacts to biological resources may be reduced.

Response

The hydrology study identifies the project-specific modifications and associated impacts on both on- and off-site drainage systems and presents drainage calculations, best management practices, and long-term maintenance recommendations. The findings and recommendations of the study have been added to Section 4.5 of the Final EIS.

A Stormwater Pollution Prevention Plan is included as Appendix I.

Comment Number 056

Comment

The BLM's failure to provide even basic information on impacts to drainages precludes meaningful public input on the Proposed Action's affect on drainages and on alternatives to the Proposed Action. The BLM must provide this information so that it can take a hard look at impacts to the drainages and provide mitigation where feasible.

Response

See Response to Comment 052.

Comment Number 057

Comment

The BLM failed to describe whether storm water will be drained from the site through newly constructed drainages or through natural onsite drainages. This information is necessary for a complete analysis. For example, if the Applicant will construct designated storm drains, additional grading will be necessary. If natural onsite drainages are used, the DEIS should discuss their carrying capacity and the possibility of overflow. The BLM must provide this information so that all of the Project's impacts can be assessed.

Response

See Response to Comment 052.

Comment Number 058

Comment

The BLM must prepare a Hydrology Report and finalize the Storm Water Pollution Prevention Plan. The BLM must provide the public with a complete and final Hydrology Report and Storm Water Pollution Prevention Plan (SWPPP) before approving the Project.

Information normally contained in these reports helps the public understand and assess the water table, the natural flow pattern onsite and offsite and the Applicant's measures to address flooding.

Response

See Response to Comment 052.

The Hydrology Study for the Lucerne Solar Project (January 2010), prepared by Westwood Professional Service Inc., has been submitted to BLM and is included in Appendix O of the Final EIS.

A draft SWPPP is included as Appendix I. The SWPPP will not be final until adopted and certified by the construction contractor(s) responsible for its implementation and the State Water Board has issued the Waste Discharge Identification Number (WDID No.).

Comment Number 059

Comment

The DEIS's description of the Project's Restoration Plan is incomplete. The BLM must provide a complete and consistent description of the Project's Restoration Plan before it issues a decision. The Biological Assessment references "an approved" Restoration Plan. However, the DEIS and its appendices contains no Restoration Plan to enable the public to meaningfully review the Project's effects.

Response

The restoration plan is not complete at this point in time. A general restoration plan will be approved prior to the Record of Decision being issued. A detailed restoration plan, which would be subject to NEPA compliance, would be written many years in the future. It is anticipated that restoration techniques will change greatly over the next thirty years. Writing a detailed plan that would not be implemented for thirty years and would be rewritten prior to implementation is not necessary.

Comment Number 060

Comment

The BLM must disclose the Applicant's Restoration Plan so that decision makers and the public will understand all of the Proposed Action's impacts. For example, if restoration of the site requires revegetation, the Project may impact native vegetative communities. Project sites in California are often revegetated with creosote bushes from Texas. Creosote bushes from Texas, however, are biologically different from California creosote bushes, and may overtake the native species. Information about what plants will be used for revegetation, how drainages will be restored, whether wildlife will be reintroduced and what other restoration activities will be implemented, is necessary for a meaningful impacts analysis.

Response

See Response to Comment 059.

Comment Number 061

Comment

The DEIS inconsistently describes the Project site as both occupied and vacant.

The DEIS inconsistently describes the Project area as both occupied and vacant and fails to clearly identify the location of structures. The DEIS states that “[t]here are several occupied buildings of unknown origin that are likely not permitted and graded dirt access roads, indicating there are residents living on the property illegally.” The DEIS also states, however, that “[t]he site is undeveloped and vacant and has never been officially used for any commercial, agricultural, or industrial purposes.”

If there are occupied buildings on the Project site, the BLM must disclose where the buildings are, what hazardous materials the buildings contain and whether the occupants of the buildings will leave the Project site before construction.

Response

DEIS page 3.9-2 states “The site is almost entirely vacant and undeveloped; however, there are several occupied buildings of unknown origin that likely not permitted, as well as graded dirt access roads, indicating there are residents living on the property illegally.” This statement was removed from the FEIS. At the time the DEIS was written there were residential related structures on BLM managed land. These structures included a mobile home. There were no hazardous materials. The structures were placed on BLM managed land by mistake. The owner of the structures purchased a piece on property nearby and accidentally placed his home on the wrong parcel of land. This was a trespass on federal land. The owner has since moved his structures onto his own property. No remaining material, including hazardous material, is located on the project site due to this trespass.

Comment Number 062

Comment

For example, if there are existing structures south of Zircon Road, development of Alternative 5 would not require the destruction and removal of these structures. However, if the buildings are located north of Zircon Road, destruction of the buildings would be necessary under every action alternative, and workers may be exposed to asbestos, lead paint and other hazardous materials. In addition, if residents of the buildings will remain on the Project site during construction and/or operation, the DEIS should assess visual and noise impacts to onsite sensitive receptors. Depending on the location of the occupied buildings, Alternative 4 may reduce visual impacts to these onsite sensitive receptors.

Response

See Response to Comment 061.

Comment Number 063

Comment

The BLM must provide a consistent description of the Project site, so that a meaningful comparison of the alternatives and an assessment of the Proposed Action’s environmental consequences are possible. The DEIS’s description of the site as both occupied and vacant precludes a meaningful analysis. In addition, the DEIS’s failure to describe the location of buildings precludes a meaningful analysis. The BLM must revise the DEIS to provide a consistent description that adequately compares the alternatives and evaluates the environmental impacts.

Response

See Response to Comment 061.

Comment Number 064

Comment

The DEIS’s description of the Project site as mining land and an area with little or no mining activity is inconsistent. The DEIS states that “[t]he Proposed Action would be located approximately eight miles east

of the junction of Barstow Road and Old Woman Springs Road on partially disturbed mining land.” The DEIS also states, however, that “[t]he Proposed Action is located in an area with little or no mining activity, and no minerals are found on the site.”

Response

The Proposed Action is in a region with active mining operations. DEIS Table 3.17-1 lists 23 energy and mineral resource sites within five miles of the project area; there are no active mining operations or mining claims within the project site itself. The DEIS concludes that due to the lack of known mineral resources at the site, no effect on mineral or energy resources would occur. The actual project site is disturbed from past mining operations. There are shallow pits remaining on the site due to past mining activity.

Comment Number 065

Comment

The inconsistent description of the area as mining land with little or no mining activity is misleading to the public and affects the BLM’s analysis of environmental consequences. The DEIS recognizes that Lucerne Valley has a rich mining history and that it is possible that mining claims occur within the Project area. The BLM’s description of the site as having “little or no mining activity” is clearly inconsistent and misleading.

Response

See Response to Comment 064.

Comment Number 066

Comment

Furthermore, the BLM relies on this misleading statement to support its own conclusion that the Project would not restrict access to mineral resources and result in an irreversible and irretrievable commitment of mineral resources. The misleading statement, therefore, precludes informed decision-making. The description of mineral resources on the site needs to be adequately determined and consistently described so that all of the impacts will be disclosed to the public and decision makers.

Response

There are no active mining operations or mining claims within the Proposed Action site. The DEIS concludes that, due to the lack of known mineral resources at the site, no effect on mineral or energy resources would occur. However, if mining resources were to be located on site, this project would not be an irretrievable or irreversible commitment of resources. Once the project is complete and the land is reclaimed, this land could again be available for mining activities.

Comment Number 067

Comment

The DEIS’s description of impacts to Joshua trees is inaccurate
The DEIS mischaracterizes the Project’s significant impacts to Joshua trees. The DEIS states that no long-term direct impacts to Joshua trees are anticipated because these plants would be flagged for salvage and removed. However, the DEIS provides no support for this statement.

Response

The Applicant would work with San Bernardino County to develop a salvage plan that would address the long-term survival of yucca plant species. Specific plants would be flagged for salvage and removed. In addition, no long-term adverse indirect effects on the remaining yucca plants (e.g., due to noise, vibration, dust) are anticipated because construction and maintenance would be short term. Section 4.6.2.2 of the FEIS discussed affects to Joshua trees. It is acknowledged that some plants would be loss, and some transplanted plants would not survive.

Comment Number 068

Comment

Jim Cornett found that Joshua trees experience high rates of mortality during salvaging. Mortality typically exceeds 50% and sometimes reaches 100%.⁷⁶ As set forth in Attachment B, the BLM must reassess the long-term significant impacts to Joshua trees.

Response

See Response to Comment 067.

Comment Number 069

Comment

The DEIS's description of impacts resulting from cutting and grubbing site vegetation is incomplete and inaccurate

It is unclear from the DEIS what "activity" will affect vegetation long-term, and why the BLM could not conclude that the impact would be significant.

Response

The Applicant has modified the site treatment to eliminate brushing and mowing portions of the site. As a result of detailed engineering, the Applicant has concluded that cutting vegetation at four inches above the ground would not be practical for construction and operation of the solar facility. Vegetation would be removed, and the entire site would be rough graded. This description will be modified in the Final EIS.

Section 4.6.2.2 of the DEIS acknowledges that even brushing and mowing vegetation on the site would "result in the loss of all vegetation on the developed portion of the site." Mitigation measures MM BIO-1 through MM BIO-5 and MM BIO-13 were identified to reduce adverse effects associated with habitat loss.

Comment Number 070

Comment

The DEIS must contain a complete description of what activity will affect vegetation in the long-term. If the effects depend on the scale and intensity of mowing activities, impacts should be easy to assess.

According to the DEIS, mowing will occur on 420 acres and will reduce vegetation to between six and twelve inches in height.⁷⁸ Because the scale and intensity of mowing activities is clearly defined, a biologist should be able to determine the long-term impacts to vegetation easily.

Response

See Response to Comment 069.

Comment Number 071

Comment

Mr. Cornett found that long-term impacts will be significant. Desert perennials concentrate leaves, buds, blossoms, fruits and seeds in their outer branches.⁷⁹ Mowing and grubbing activities destroy those portions of the plants.⁸⁰ Grubbing also has a greater impact than grading because there is a potential for deeper penetration of the soil by the teeth of the plow. The BLM must accurately describe the significant long-term effects to vegetation from mowing and grubbing.

Response

See Response to Comment 069.

Comment Number 072

Comment

In sum, information in the DEIS is incomplete, inconsistent and inaccurate. Courts have held that "[w]here the information in the initial EIS was so incomplete or misleading that the decisionmaker and the public could not make an informed comparison of the alternatives, revision of an EIS [was] necessary to provide a reasonable, good faith, and objective presentation of the subjects required by NEPA." The BLM must revise the DEIS to provide a reasonable, good faith and objective presentation of the affected environment and environmental consequences of the Proposed Action and its alternatives.

Response

The DEIS presents a reasonable, good faith, and objective presentation of the Proposed Action and its alternatives. Revisions have been made throughout the FEIS to clarify and provide information as requested through these comments.

Comment Number 073

Comment

The DEIS does not contain a hard look at the project's impacts.

The discussion of impacts must include both "direct and indirect effects (secondary impacts) of a proposed project." The impacts analysis must include a discussion of the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. An agency need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action. Reasonable foreseeability means that "the impact is sufficiently likely to occur that a person of ordinary prudence would take it into account in reaching a decision."

Response

Direct, indirect, cumulative, and residual effects for all environmental resources are contained in Chapter 4 of the DEIS, Environmental Consequences.

The "Relationship Between Short-Term Uses and Long-Term Productivity of the Environment" is addressed in Section 4.18.2 of the FEIS. Irreversible or irretrievable commitments of resources are discussed in Section 4.18.1 of the FEIS.

Comment Number 074

Comment

The DEIS does not consider all of the Project's significant and foreseeable environmental impacts to biological resources, water resources, transmission and communication systems, mineral resources, noise, hazards and cultural resources. The BLM's failure to take a hard look at the Project's impacts violates the basic requirements of NEPA. The BLM must revise its impacts analysis and issue a supplemental EIS for public review and comment.

Response

The DEIS takes a "hard look" at the environmental consequences of the alternatives. Section 4.0, Environmental Consequences, of the document is dedicated to assessing and analyzing the direct and indirect, cumulative, and residual effects on the human, physical, and natural environments that could result from implementing the Proposed Action and its alternatives. The FEIS is also available for public review.

Comment Number 075

Comment

The BLM did not consider all of the Project's impacts to biological resources. Jim Cornett, a certified wildlife biologist, reviewed the DEIS's analysis of impacts on biological resources and special status species. Mr. Cornett determined that the BLM failed to take a hard look at all of the Project's impacts. Therefore, the BLM must revise its analysis of the Project's impacts to biological resources.

Response

Section 4.6 of the DEIS considers the direct, indirect, cumulative, and residential impacts on biological resources associated with the Applicant's proposal and all project alternatives. Detailed information about potential impacts on biological resources is provided in Appendix C, Biological Assessment, and Appendix D, Comprehensive Biological Resources Assessment.

Comment Number 076

Comment

The BLM must evaluate the Project's cumulative impacts to the Desert Tortoise.

The DEIS recognizes that desert tortoises are present on the Project site and that construction and operation activities may impact the species.⁸⁹ Desert tortoises are listed as a threatened species under both the ESA and the California Endangered Species Act ("CESA"). Despite the protected status of desert tortoises, the BLM failed to take a hard look at the cumulative impacts caused by the Proposed Action and the action alternatives. The BLM must adequately evaluate the Project's cumulative effects on the desert tortoise.

Response

The project's cumulative effects on the desert tortoise is evaluated in Section 4.6.4.3 of the DEIS. This analysis includes potential impacts associated with a number of projects proposed on BLM managed land, in addition to other past, present, and reasonably anticipated future projects within the cumulative effects study area. The DEIS found that:

"For desert tortoise, no critical habitat is present within the CESA, and thus, there would be no cumulative loss of that habitat. Desert tortoise would, however, be permanently excluded from the entire 516 acre site as a result of the installation of the perimeter fence (per MM BIO-10). Therefore, the construction of the solar facility would represent a loss of 516 acres of suitable desert tortoise habitat. It is unlikely that there would be a cumulative effect from avoidance behavior due to distances between projects and varied construction schedules. Animals can move within open spaces surrounding and between these projects. Reduced overall habitat in the general area may cause increased competition. These effects would be adverse and long-term and could alter special status species population abundances, but are not expected to cause an actionable cumulative effect, such as potential extirpation or change in status."

The primary discussion of cumulative effects focuses on the Proposed Action. In addition cumulative effects from the alternatives are identified below the main discussion. A comparative analysis of potential cumulative effects for all alternatives considered in detail, including Alternative 5, is included in Section 4.6.4.3.

Also, see Response to Comment 075.

Comment Number 077

Comment

The DEIS concludes that there would be no cumulative effect, such as extirpation or change in status to desert tortoises, because they could move within the open spaces surrounding the various projects in the region.

However, desert tortoises have site-restricted populations. The inability for desert tortoises to utilize the site where they typically feed, find shelter, or breed may cause stress and territorial battles and is most likely to result in death.

Response

See Response to Comment 076. The Biological Opinion concluded with a "no jeopardy" determination for the proposed project. Also, since this project does not impact designated critical habitat for the desert tortoise, the Biological Opinion concludes that the proposed project would not adversely modify critical habitat.

Comment Number 078

Comment

Three solar project ROWs are proposed within six miles of the Project, totaling 31,752 acres of land devoted to solar projects in a six-mile radius. The BLM must analyze what impact the loss of 31,752 acres of land within a six-mile radius will have on the long-term success of the species.

The BLM must also rigorously compare the Proposed Action's cumulative effects with the reduced cumulative effects of Alternative 5 and the use of alternate sites.

Response

See Response to Comments 076 and 077. The Biological Opinion considers cumulative effects when making a jeopardy and adverse modification determination.

Comment Number 079

Comment

The BLM must evaluate the Project's impacts to the California threatened Mojave ground squirrel. Construction and operation activities could significantly impact Mohave ground squirrels. The BLM must determine whether the Project may impact Mohave ground squirrels in order to mitigate impacts and comply with the CESA fully.

Response

A Mohave ground squirrel assessment was conducted in May 2009 (Chambers Group 2009), but no Mohave ground squirrels were observed on the site. The DEIS found that the Mohave ground squirrel was considered to have a low potential to occur on-site based on a lack of recorded historical occurrences within five miles of the site.

The site is outside the published range of the Mohave ground squirrel, and live trappings performed nearby during other projects did not reveal their presence; therefore, trapping studies were not conducted. The nearest known occurrence of Mohave ground squirrel is over five miles west of the project site, two miles east of the junction of SR 247 and SR 18.

Impacts on Mohave ground squirrel associated with the Proposed Action are addressed in Section 4.6.4.2 of the DEIS, which stated that the Mohave ground squirrel was not observed within the Proposed Action area during field surveys. It also stated that the Proposed Action (and all action alternatives) would remove potential habitat for this species, and that Mohave ground squirrels would be adversely affected. The DEIS also found that with implementation measures MM BIO-2 through MM BIO-7 and consultation with state agencies (MM BIO-9), adverse effects on special status wildlife would be avoided.

CES is engaged in further discussions with the California Department of Fish and Game concerning the Mohave ground squirrel.

Comment Number 080

Comment

The Project may impact Mohave ground squirrels and trigger the "incidental take" provisions of the CESA. CDFG guidelines specify that surveys for Mohave ground squirrels be conducted on proposed project sites that support desert scrub vegetation and are within or adjacent to the Mohave ground squirrel geographic range.¹⁰⁰ The protocol mandates an initial visual survey of a project site.

Response

See Response to Comment 079.

Comment Number 081

Comment

The Project site is within the Mohave ground squirrel's range, and the species has been observed within four miles of the Project site. The Applicant conducted only one visual survey in May 2009, but failed to conduct any trapping studies on the Project site.

Response

See Response to Comment 079.

Comment Number 082

Comment

The Applicant did report that a Round-tailed ground squirrel was observed. However, Round-tailed ground squirrels are impossible to distinguish from Mohave ground squirrels during visual field surveys. Thus, the biologist conducting the visual survey may have actually observed a Mohave ground squirrel.

Response

See Response to Comment 079. Experienced biologists are able to distinguish the difference between squirrel species.

Comment Number 083

Comment

Nevertheless, according to CDFG guidelines, because no Mohave ground squirrels were definitively identified during the visual survey, the Applicant should have conducted a trapping study. However, the Applicant failed to do so. The failure to conduct trapping studies is inconsistent with CDFG guidelines.

Response

See Response to Comment 079.

Comment Number 084

Comment

Because the site provides suitable habitat for State protected Mohave ground squirrels, this species may be present on the site and significantly impacted by construction and operation activities. These activities could result in an unauthorized take under the CESA. The BLM must require the Applicant to conduct trapping surveys on the Project site so that it may adequately assess the Project's impacts and ensure compliance with the CESA.

Response

See Response to Comment 079.

Comment Number 085

Comment

In addition, the USFWS is considering listing the Mohave ground squirrel as an endangered species under the ESA. On April 27, 2010, the USFWS issued a 90 day finding on a petition to list the Mohave ground squirrel as endangered with critical habitat. If the species is listed as endangered, BLM would need to consult with USFWS and request a biological opinion and incidental take permit before conducting any activity that may harm the species. Therefore, the BLM should consult with the USFWS regarding the Project's likely take of the species in order to ensure compliance with the federal ESA.

Response

Section 3.6 of the DEIS will be updated to note the USFWS's issuance of the 90-day finding. However, the finding does not mean that the USFWS has decided to list the Mohave ground squirrel; instead, they will now conduct an in-depth review—called a 12-month finding—of all the biological information available on the species to determine whether the Mohave ground squirrel warrants listing as a threatened or endangered species under the ESA. A formal consultation is not required at this time.

Comment Number 086

Comment

The BLM must evaluate the Project's impacts to the Western Burrowing Owl. Because of BLM's failure to assume the presence of the burrowing owl on the site and the failure of the biologists to conduct a sufficient survey, the DEIS does not contain an adequate assessment of impacts to the Western burrowing owl.

Response

Three protocol-level surveys for burrowing owl were conducted for the Proposed Action, in conjunction with desert tortoise surveys, on March 24 to March 27, March 31 to April 3, and April 7 to April 10, 2009.

However, not all of the burrowing owl surveys were conducted concurrently with the desert tortoise surveys. At the request of the BLM, a protocol-level focused burrowing owl survey was conducted in June 26, 2009, at six locations that exhibited burrowing owl sign from the March/April surveys. No new sign of burrowing owls was identified during this survey.

As noted in Section 4.6.4.2 of the DEIS, although this species was not observed within the project area, all action alternatives would remove potential burrowing owl habitat. Measures MM BIO-2 through MM BIO-7 and consultation with state agencies (MM BIO 9) would avoid potential adverse impacts to burrowing owls. Mitigation measures are proposed which are consistent with those that would be required if the site were occupied by burrowing owls.

Comment Number 087

Comment

The DEIS acknowledges that suitable habitat exists on the site and that the species was observed in the area in the past. During the burrowing owl survey, excrement and regurgitated pellets were observed on and near the site that were estimated to be about two to three years old. However, no Western burrowing owls were actually observed during the surveys. Therefore, the DEIS does not contain any specific mitigation measures to ensure the protection of this species.

Response

See Comment Response 086.

Comment Number 088

Comment

Although no burrowing owls were observed during the surveys, the species may still be present on the site. According to the CDFG, a site should be assumed occupied if at least one burrowing owl has been observed occupying a burrow within the last three years. The DEIS does not state when the species was observed on the Project site in the past. However, excrement and regurgitated pellets are evidence that the species may have occupied the site within the last three years. Thus, the BLM should assume that the site is occupied by the Western burrowing owl.

Response

See Response to Comment 086.

Comment Number 089

Comment

The biologists may have also missed observing a burrowing owl because the surveys were deficient. According to Mr. Cornett, owl surveys are frequently conducted with binoculars and involve looking upward to identify flushed owls and listening for owl calls.¹¹⁴ The burrowing owl surveys conducted for the Project, however, seem to have been conducted in conjunction with desert tortoise surveys. If the surveys were in fact conducted at the same time, it is likely that biologists may have missed observing the burrowing owl because they were looking down. Tortoise surveys do not require the biologist to look upward towards flushing owls, listen for calls or use binoculars.

Response

See Response to Comment 086. It is common for desert tortoise and burrowing owl surveys to be conducted together. Both surveys require detecting borrows and evaluating borrows for occupancy by owls or tortoise. Looking for borrows does not preclude a surveyor from "looking up" or listening for call.

Comment Number 090

Comment

It is important that the BLM specifically determine whether the Western burrowing owl is present on the site in order to mitigate potentially significant impacts. The BLM must assume that the Western burrowing owl is present on the site, or require the Applicant to redo the survey using proper methods.

Response

See Response to Comment 086.

Comment Number 091

Comment

The BLM must evaluate the Project's impacts to the Golden eagle. The Golden eagle is protected by the Migratory Bird Treaty Act and the Bald and Golden Eagle Act. The DEIS recognizes that Golden eagles are common in the Mojave Desert. However, because no Golden eagles were identified during the avian point-count survey, the DEIS does not contain an impact analysis or mitigation measures.

Response

Golden eagle surveys, developed in consultation with USFWS, have been conducted for the Lucerne Valley Solar Project and are included as Appendix M of the Final EIS. The Final EIS has been revised to include the survey findings and impact analysis. Potential effects on Golden Eagle has been analyzed in the section: *Effects BIO-9: Effects on bird species protected by the Migratory Bird Treaty Act, the Bald and Golden Eagle Act, and California Fish and Game.*

Comment Number 092

Comment

The USFWS is currently developing protocol for Golden eagle surveys. Because nesting sites are within ten miles of the Project site and typical prey species occur on the Project site, Mr. Cornett expects that the Project site lies within the hunting territory of the Golden eagle. The BLM should consult with the USFWS and conduct a focused survey for this species.

Response

See Response to Comment 091.

Comment Number 093

Comment

The BLM must evaluate the Project's impacts to rare plants. The DEIS does not provide a full and fair discussion of impacts to rare plants because none of the twelve special-status plants were found during the deficient onsite survey. According to Mr. Cornett, the surveys were conducted only two days apart in a year when precipitation was far below average.¹²⁰ The BLM must require the Applicant to conduct an adequate plant survey so that impacts to rare plants are identified and mitigated.

Response

Impacts on rare plants are addressed in Section 4.6.4.2 of the DEIS. No federal or state-listed as threatened or endangered or otherwise sensitive species were observed on site, so no impacts were identified. After conducting the reconnaissance survey and determining that suitable habitats were present on-site, 12 of the 31 special status species were considered to have a potential to occur there. Protocol-level plant surveys were in accordance with the Botanical Survey Guidelines of the California Native Plant Society. Protocols were developed in consultation with the BLM, and the BLM approved the protocols that were implemented. The survey was completed in May 2009, when these species were in bloom and would be both evident and identifiable at the time of the survey. The protocol level focused plant survey for the 12 species was negative. No federal or state-listed as threatened or endangered or otherwise sensitive species were observed on-site. Many of the special status plant species with a potential to occur on-site require specific soil types that are not characteristic of the project site.

Comment Number 094

Comment

The BLM must evaluate the Project's impacts to mesquite plants. The DEIS does not include any discussion about the Project's impacts to mesquite plants. Using large amounts of well water may cause overdraft conditions, which may impact mesquite plants.¹²¹ Mesquite plants are vitally important to the region as a source of food and shelter to wildlife.¹²² Thus, direct impacts to mesquite plants may indirectly

impact wildlife and sensitive species. The BLM must take a hard look at impacts to mesquite plants in order to adequately assess indirect impacts to biological resources.

Response

Mesquite was included in the rare plant surveys. Overdraft conditions are not a part of this project. See Response to Comment 093.

Comment Number 095

Comment

The Project must evaluate impacts to creosote rings

The DEIS does not include any discussion about the Project's impacts to creosote rings.

The Plant Protection and Management Ordinance in the San Bernardino County Development Code regulates the removal of plants.¹²⁴ The Code states that creosote scrubs may not be removed from a project site if they form a ring ten feet or greater in diameter.¹²⁵ The DEIS states that the Project site is comprised of creosote scrub vegetation that may be impacted by mowing and grubbing activities.¹²⁶ Impacting creosote scrubs that form a ring ten feet or greater in diameter would conflict with the County Development Code.

The BLM must take a hard look at whether the Project will impact creosote rings and, thereby, conflict with the Development Code.

Response

While the San Bernardino County Plant Protection and Management Ordinance (Chapter 88.01 of the San Bernardino County Development Code) requires the protection of creosote rings, Section 88.01.030 (b) specifically notes that the provisions of Chapter 88.01 shall not apply to removal from lands owned by the United States, the State of California, or local governmental entity, excluding special districts (i.e., special districts shall be subject to the provisions). Therefore, the project site is not subject to San Bernardino County's Plan Protection and Management Ordinance.

The federal, state, and local permits and approvals that would be required before construction and operation of any of the action alternatives addressed in the DEIS are presented in Table 1-2 of the DEIS, page 1-13. Creosote rings are not discussed in the FEIS.

Comment Number 096

Comment

The BLM must evaluate the impacts of herbicide use.

The DEIS recognizes that the Project would directly affect native vegetation by allowing the increase of invasive weeds, such as Sahara mustard, to spread in the disturbed areas. The Weed Control Plan submitted by the Applicant and the DEIS both note that herbicides would be used to control the weeds.

Response

Impacts associated with herbicide use on BLM land have already been addressed in a previous EIS. The BLM has prepared a Programmatic Environmental Impact Statement (PEIS) for 17 western states that describes vegetation treatment use and herbicides for weed control. The selected alternative for the PEIS identifies the active herbicidal ingredients approved for use on BLM land. Appendix B of the PEIS, Herbicide Treatment Standard Operating Procedures, specifies management of weeds and application of pesticides on BLM land. Table B-1, Prevention Measures, specifies avoidance measures to limit weed infestation, and Table B-2, Standard Operating Procedures for Applying Herbicides, provides details on herbicide application. The procedures listed in this appendix and tables are incorporated as requirements of the Weed Control Plan for the Lucerne Valley Solar Project. The Weed Management Plan and Weed Management Mitigation Measure also disclose the acceptable herbicides to use on the project site.

Comment Number 097

Comment

The BLM must not approve use of these herbicides until specific studies have been conducted indicating that they are harmless. According to Mr. Cornett, herbicides that may be approved can still cause a cancer outbreak in humans and/or serious mutations in wildlife. The BLM must identify which herbicides will be used and disclose any studies that prove the herbicides are harmless, or take a hard look at the Project's impacts to human health and biological resources.

Response

See Response to Comment 096.

Comment Number 098

Comment

The BLM must evaluate the tortoise-proof fence's impacts to species' foraging patterns. The DEIS recognizes that construction of the exterior fence could increase the presence of natural predators and adversely affect desert tortoise breeding migrations. However, the DEIS fails to recognize the fence's significant impacts to desert tortoise foraging. In a desert environment, where resources are in short supply, forcing desert tortoises to travel farther to locate food may cause significant stress on the species and mortality.

Response

Impacts on desert tortoise associated with loss of habitat from clearing and fencing the site are addressed in the DEIS as Effect BIO-8: Loss of desert tortoise or loss of habitat for desert tortoise.

Comment Number 099

Comment

In conclusion, the BLM clearly did not consider every reasonably foreseeable significant impact of the Project. The BLM's failure to take a hard look at biological resources precludes a meaningful analysis by the public and violates NEPA. A revised supplemental DEIS/EIR must be prepared and recirculated by the BLM prior to Project approval.

Response

See Response to Comment 024.

Comment Number 100

Comment

The BLM did not consider all of the Project's impacts to water resources. T'Shaka Toure, an expert hydrologist, reviewed the DEIS with respect to significant impacts on water resources. Mr. Toure determined that the BLM failed to take a hard look at all of the Project's impacts. The BLM must revise its analysis of the Project's impacts to water resources.

Response

The analysis of impacts to water resources was revised in Section 4.5 of the FEIS.

Comment Number 101

Comment

The BLM did not discuss impacts associated with an increased operational water use.

As discussed above, it is likely that the BLM underestimated the amount of water the Applicant would need to clean the solar panels. The DEIS, therefore, contains no discussion of what impact using at least 270,000 gallons of water per year would have on the environment. The BLM must reassess the impacts associated with increased operational water use.

Response

Section 2.2.3.5, Operations and Maintenance, states the following on page 2-22:

“Water for panel washing would be provided through a contract with one of the local large industrial companies or municipal water companies that have high capacity wells and water systems. No new water sources would need to be developed.”

Water for panel washing would be trucked to the site, and no additional federal, state, or local approvals would be required. No additional environmental effects, other than those identified in the DEIS, would occur. The impacts of trucking water to the site are addressed in Section 4.13.2.3 of the DEIS. No public health effects from panel washing were identified.

Comment Number 102

Comment

The first impact the BLM must reassess is whether the Project will cause an irreversible and irretrievable commitment of water resources. While the DEIS concludes that the Project will not cause an irreversible and irretrievable commitment of water resources to the point where they would not be available for other users, that conclusion was based on an arbitrarily low and unsupported water use estimate. A more reliable estimate is that the Project will use at least six times more water than what was disclosed in the DEIS. Therefore, it is likely that the Project may contribute to a significant overdraft of the aquifer and cause an irreversible and irretrievable commitment of water resources. The BLM must take a hard look at this significant impact.

Response

See Response to Comment 100. Additionally, the water resources would be approximately 45,240 gallons per year.

Comment Number 103

Comment

The second impact that the BLM must reassess is whether the large amount of operational water will cause artificial flood events to occur on the Project site. It is unclear whether this water will permeate into the soil and whether onsite drainages have the capacity to convey large amounts of water offsite. Runoff water may create ephemeral ponding locations and/or flooding events. The BLM did not evaluate measures for containing large amounts of sheet flow and runoff water from this activity in the DEIS.

Response

DEIS Sections 4.5.2.3 through 4.5.2.5 analyze flooding potential, runoff, and drainage. The DEIS concludes that because the primary drainage channels within the site would be left intact and sheet flow would still occur through the remainder of the site, this type of flow pattern alteration would not alter overall flow pattern for the area or cause floods.

Comment Number 104

Comment

To mitigate impacts associated with runoff water, the BLM should require the Applicant to plant native emergent vegetation in locations where the flows will exit the Project site. Native plants around the drainage outlet locations would provide beneficial cover and refugia for wildlife species. The BLM should also require the Applicant to implement bioswales and/or catchment basins. Bioswales and catchment basins could remove silt and pollution from surface runoff water, as well as provide another source of refugia, cover and food for wildlife.

Response

The Hydrology Study for the Lucerne Solar Project (January 2010), prepared by Westwood Professional Service, Inc., has been submitted to BLM and is included in Appendix O of the Final EIS. Specific requirements such as those proposed by the commenter would be addressed in a streambed alteration agreement under the jurisdiction of the California Department of Fish and Game.

Comment Number 105

Comment

The BLM must take a hard look at the Project's impacts to water users, the groundwater aquifer and flooding that result from using at least 270,000 gallons of water per year to clean the solar arrays.

Response

See Response to Comments 100 and 102.

Comment Number 106

Comment

The BLM did not consider compliance with Section 1602 of the California Fish & Game Code. The Project requires a streambed alteration agreement from the CDFG under Section 1602 of the Fish & Game Code. However, the BLM has completely ignored this and any other State requirement.

Response

The need to comply with the State of California Lake and Streambed Alteration Program is described in numerous sections throughout the DEIS.

Section 1.4.2 describes the Proposed Action's relationship to the Lake and Streambed Alteration program, along with various other state and local plans, policies, and programs. In addition, Table 1-2, lists the major permits, approvals, and consultations that would be required before any of the action alternatives could proceed, including the stream alteration agreement. The need for a stream alteration agreement is also compared across alternatives in Table 2-8. Lastly, Chapter 3 of DEIS includes a discussion of applicable plans, policies, and regulations for each resource area evaluated. These discussions are divided into federal, state, and local regulations, each with individual headings, to facilitate the reader's understanding that the BLM considered all levels of regulations that apply to the Proposed Action.

Comment Number 107

Comment

The CDFG must issue a streambed alteration agreement before this Project can proceed. The proposed Project site contains several streams under the jurisdiction of the CDFG. Construction of the Project will alter the natural flow patterns of these streams where concrete pads and structures are installed, and within the solar array field. Thus, development of the proposed Project will temporarily and permanently impact these streams. The CDFG must issue a streambed alteration agreement before the Project Applicant impacts these drainage systems.

Response

See Response to Comment 106.

Comment Number 108

Comment

Because a streambed alteration agreement is required from the CDFG before modifications to the drainages can occur, the BLM must ensure that the Applicant complies with Section 1602 of the Fish & Game Code before approving the Project. Failure to receive the necessary permits could jeopardize downstream drainages and wildlife, as well as violate California law. The BLM must revise the EIS to reflect and disclose compliance with the Fish & Game Code.

Response

See Response to Comment 106.

Comment Number 109

Comment

The BLM did not consider compliance with the California Porter Cologne Water Quality Control Act

The Project Applicant must comply with waste discharge requirements (“WDRs”) of the Regional Water Quality Control Board (“RWQCB”), pursuant to the California Porter Cologne Water Quality Control Act. However, the BLM has completely ignored this and any other State requirement.

Response

Section 3.5.1.2 of the DEIS, describes the state-level plans, policies, and regulations that apply to the project, including the Porter Cologne Water Quality Control Act.

Comment Number 110

Comment

The DEIS clearly states that the Project will discharge storm water into State waters. The Project may also discharge at least 270,000 gallons of non-storm water runoff when the solar panels are cleaned. Because the Project will discharge storm water and non-storm water into State waters, either the Colorado River Basin RWQCB or the Lahontan RWQCB must prescribe WDRs.

Response

Table 1-2 in Chapter 1 describes the permits for all action alternatives the Applicant would be required to obtain including RWQCB. Also see Comment Response 109.

Comment Number 111

Comment

The BLM must identify that the Applicant has not applied for WDRs and no WDRs have been certified for the Project. Approval of the Project by the BLM may, therefore, promote a violation of California law by allowing the Applicant to proceed without all of the necessary permits and approvals. The BLM must evaluate the potential conflict with State law.

Response

See Response to Comment 110.

Comment Number 112

Comment

The BLM must ensure compliance with other federal and State laws governing jurisdictional waters.

According to Mr. Toure, the jurisdictional delineation does not contain sufficient information to adequately and specifically determine jurisdiction of the waters on and impacted by the Project site. Specifically, the delineation relies on incomplete soil data. Further soils surveys are required to support the findings in the jurisdictional delineation. As disclosed, the jurisdictional delineation is faulty.

Response

As noted in Section 1.5 of the DEIS, federal, state, and local permits and approvals would be required before construction and operation of any action alternative could proceed. The Applicant would be responsible for obtaining all permits and approvals required to implement any authorized activities.

The 1987 Wetland Manual and the 2006 Arid West supplement provide the legally accepted method for identifying and delineating US Army Corps of Engineers jurisdictional wetlands in Southern California. In accordance with the method set forth in the 1987 Wetland Manual and the 2006 Arid West supplement, the wetland delineation used three criteria to determine the presence of a wetland: the vegetation, soils, and hydrology of an area must exhibit at least minimal hydraulic characteristics. Based on this approved method, no jurisdictional wetlands were found within any of the drainage systems on the project site.

Further, BLM guidance requires that the agency ensure consistency with all applicable federal, state, and local laws, policies, programs, and plans to the extent possible.

Comment Number 113

Comment

The BLM did not consider all of the Project's impacts associated with new transmission and communications systems. The DEIS states that new communications systems between the site switchyard and the Cottonwood Substation would be required. While the DEIS concludes that construction of the "[c]ommunications systems would be expected to require only minimal site disturbance to implement," there is no discussion or evidence to support this conclusion. The BLM must provide more information about where utility poles will be placed, whether an offsite corridor must be established, and what impacts would be associated with installing new communications systems.

Response

The DEIS concludes that communication systems would require only minimal site disturbance to implement. A Verizon T-1 fiber-optic line would be installed on existing poles between the site switchyard and the Cottonwood Substation. The use of existing infrastructure and the addition of a single line would result in minimal environmental effects because no new poles are proposed for this option. No new off-site corridor must be established for the communications system.

Comment Number 114

Comment

The BLM must consider all significant impacts associated with the Project's energy transmission.

As it is currently written, the DEIS provides nothing more than a list of upgrades the Project requires to transmit energy to the Cottonwood Substation, and it is unclear whether those upgrades will even be sufficient. The BLM must revise the DEIS to include an evaluation of the Project's transmission needs as well as all impacts associated with conveying energy from the Project site.

Response

The DEIS describes the transmission requirements and interconnection status of the Proposed Action to the SCE power grid in the Executive Summary, and Sections 1.5 (Table 1-1), 2.2.3.1, 2.2.2.3, and 2.2.3.4. SCE identified that the upgrades identified would be sufficient for the Proposed Action. SCE performed a system impact study and identified that the existing 33-kV line can carry the 20 megawatts of the first phase with no line modifications. SCE would have to perform additional system impact studies to determine how much additional capacity is on the 33-kV line, although a typical figure is approximately 5 to 6 megawatts. The Applicant and SCE are negotiating a Small Generator Interconnection Agreement, and once it is executed, the identified interconnection facilities would be further refined in the final engineering design.

Comment Number 115

Comment

The DEIS states that Phase I of the Proposed Action would interconnect to the existing Southern California Edison ("SCE") 33-kV transmission line without an upgrade to the existing line. During Phase I, a 33-kV transmission line segment would be constructed across Foothill Road.¹⁵⁹ Phase II would require "reconductoring" (i.e. replacing the existing wire with heavier wire and reusing the existing cross arms and insulators) of the existing SCE transmission line back to the Cottonwood Substation.¹⁶⁰ It is unclear, however, whether Phase II would require additional upgrades. The DEIS acknowledges actual transmission line capacity would have to be verified by a Transmission Study.¹⁶¹ The DEIS also states that new "transmission poles" would be installed.

Response

SCE performed a system impact study and identified that the existing 33-kV line can carry the 20 megawatts of the first phase with no line modifications. SCE would have to perform additional system impact studies to determine how much additional capacity is on the 33-kV line, although a typical figure is approximately 5 to 6 MW. This is discussed in Sections 2.2.3.3 and 2.2.3.4. The final engineering for Phase II would not be determined until a formal application and transmission study is completed for

Phase II. At that time, an environmental review would be performed in conjunction with the BLM SF-299 ROW application for SCE upgrades.

Comment Number 116

Comment

The BLM must conduct a Transmission Study and make it available to the public before approving the Project. If the BLM does not identify the transmission line capacity, it cannot know what transmission upgrades the Project will require. Failure to identify and describe all aspects of the Project also impacts the BLM's analysis of environmental consequences. This violates NEPA.

Response

The BLM does not perform transmission studies. SCE performed a system impact study and identified that the existing 33-kV line can carry the 20 megawatts of the first phase with no line modifications. SCE would have to perform additional system impact studies to determine how much additional capacity is on the 33-kV line, although a typical figure is approximately 5 to 6 megawatts. This is discussed in Sections 2.2.3.3 and 2.2.3.4. There are no proposed upgrades to the transmission lines, so there are no direct impacts related to the capacity and transmission. Impacts related to the solar development would be proportional. For example if the full 25 megawatt phase II facility would be built it would use twice the acreage and have twice the impact as a 12.5 megawatt development of Phase II.

Comment Number 117

Comment

In addition, the BLM has not taken a hard look at impacts associated with the transmission upgrades it has already identified as necessary. For example, the DEIS must discuss impacts associated with reconductoring. If machinery is used to replace existing wire with heavier wire, there could be direct and indirect impacts to biological resources, traffic, visual, noise and air quality. The DEIS must also discuss all impacts with installing any new transmission poles offsite.

Response

SCE would have to perform additional system impact studies to determine how much additional capacity is on the 33-kV line, although a typical figure is approximately 5 to 6 megawatts. If additional capacity is required, the 33-kV line would have to be upgraded through reconductoring (i.e., replacing the existing wire with a heavier wire and reusing the existing cross arms and insulators) back to the Cottonwood Substation. This reconditioning is not a part of this EIS and is not considered a part of this project. If additional transmission facilities were required, separate environmental review for those facilities would be conducted. To avoid confusion, all reference to reconductoring has been removed from the FEIS.

Comment Number 118

Comment

Agencies frequently overlook impacts associated with transmitting energy. The BLM must provide more information and discuss all of the impacts associated with connecting to the Cottonwood Substation. The impacts analysis must be supported with a Transmission Study.

Response

The DEIS provides a description of the Gen-Tie Line to Cottonwood Substation and provides a "hard look" environmental analysis of the Proposed Action. Refer to DEIS page 2-15 for a description of the Proposed Action interconnection and transmission component.

Comment Number 119

Comment

The BLM did not consider cumulative significant impacts to transmission

While the DEIS recognizes that complete build out of the Proposed Action would cause a cumulative effect, it concludes that "it is unlikely that the Proposed Action would add sufficient power to electric transmission system to require high voltage transmission lines or new substations." The BLM's logic is faulty, and the agency must reassess its cumulative impact analysis.

Response

This project is a small scale project. The connection is to a 33-kV line. There is no expectation of a transmission line or new substation related to this minimal increase in energy.

Comment Number 120

Comment

First, without a Transmission Study, the BLM cannot conclude that energy from the Proposed Action would not be sufficient enough to require significant transmission upgrades. There is no evidence or basis for that determination.

Response

SCE performed a system impact study and identified that the existing 33-kV line can carry the 20 megawatts of the first phase with no line modifications. SCE would have to perform additional system impact studies to determine how much additional capacity is on the 33-kV line, although a typical figure is approximately 5 to 6 megawatts. Additionally, see Response to Comment 114.

Comment Number 121

Comment

Second, cumulative impacts can result from “individually minor” actions that contribute to a collectively significant impact. Thus, even if the Proposed Action itself would not add sufficient power to require significant transmission upgrades, the Proposed Action’s contribution, along with the other energy projects in the region, may be sufficient.

Response

Each individual utility-scale power generation facility in California must apply for interconnection to the California Independent System Operator-managed grid. At that time, any specific transmission grid modifications would be identified and determined on a case-by-case basis. As stated in previous responses, SCE performed a system impact study and identified that the existing 33-kV line can carry the 20 megawatts of the first phase with no line modifications. SCE would have to perform additional system impact studies to determine how much additional capacity is on the 33-kV line.

The cumulative impacts of this and the other reasonably foreseeable power projects in and around Lucerne Valley may require significant transmission upgrades to deliver the power to the SCE service area. However, this project does not require a transmission line upgrade. This is discussed in Section 4.9.3.

Comment Number 122

Comment

The BLM must take a hard look at the Project’s cumulative impacts to transmission. The BLM must also provide more information about the transmission needs of the other action alternatives so that a meaningful comparison can be made.

Response

See Response to Comment 114. The transmission requirements for all of the alternatives are the same.

Comment Number 123

Comment

The BLM did not consider all direct and indirect noise impacts to sensitive species and sensitive receptors. The DEIS notes that sensitive receptors, such as nearby residences and special management areas, may be impacted by construction and operation noise from the Project. There is no acknowledgement in the DEIS, however, that wildlife may be impacted by construction and operation noise. Sounds that are rare or even minor may have a negative impact on wildlife and sensitive species in the area. The BLM must take a hard look at noise impacts to wildlife and sensitive species.

Response

Noise impacts on sensitive species are addressed in Section 4.6.3.2 of the DEIS, under “Effect BIO-4: Disturb wildlife or result in wildlife mortality. Specifically, the DEIS found that Noise, vibration, and human activity would likely cause most wildlife species to avoid the Proposed Action area until the disturbance conditions have concluded. The presence of humans, construction equipment, and dust would cause wildlife to alter foraging and breeding behavior and could cause wildlife to avoid suitable habitat. To avoid avian disturbance before construction, the Applicant would attempt to clear Proposed Action areas of suitable nesting habitat during the nonbreeding season, from September 1 through January 31. Additionally, there are provisions for mitigation measures which would be utilized if construction is conducted during the breeding season. Once the Proposed Action is constructed, transmission poles could also pose a direct collision hazard to birds. Most species are expected to reoccupy adjacent habitats following construction and recovery of the vegetation.”

No long-term indirect effects on wildlife due to noise, vibration, or dust are anticipated because construction and maintenance would be temporary, although wildlife would be indirectly affected because of the presence of the PV farm.

Noise-related impacts for Alternative 4 were found to be similar to those identified for Alternative 3. Impacts for Alternative 5 were found to be similar to those identified for Alternative 3 but reduced in comparison, based on the reduced area of disturbance.

Comment Number 124

Comment

The BLM did not consider impacts from hazardous materials. Although the DEIS identified prospecting features in the Project area, the BLM failed to take a hard look at potential health risks associated with previous mining activities on the site.

Response

During the cultural resource inventory, evidence of limestone prospecting was found, specifically excavated trenches or test pits. The debris varied from pit to pit, but much of the debris was not associated with mining and was characterized by the cultural resource specialist as refuse and household debris. Much of the debris included cans and bottles, but a few locations had some construction debris, such as wire and some timber. The cultural resource specialist classified the debris as originating from the 1920s to the 1970s and included motor oil cans and three bottles labeled Clorox and Purex. Depending on whether these containers contained material or not, they could be considered hazardous waste. Hazardous wastes are discussed in Sections 3.14 and 4.14. None of the prospecting locations were eligible for listing on the National Register of Historic Places.

Limestone prospecting usually involves removal of stone, as opposed to chemical processing of materials.

Comment Number 125

Comment

Matt Hageman, an expert in hazardous materials, reviewed the DEIS with respect to hazards associated on the site from remnants of hand-dug mining pits. In his comments, he concludes that unevaluated significant impacts to construction workers and future site workers from mining debris may occur. Those impacts include dermal contact and ingestion of dust with soils that may contain metals at concentrations that are hazardous to human health.

Response

The available information is that mining debris is not present at the site. The bulk of the remaining debris includes cans, bottles, and some limited construction debris. Although there were three bottles labeled Clorox or Purex, they appear to have been of household size (32 ounce). In addition, there are cans labeled motor oil. If these contained liquids, they could be hazardous wastes and would have to be disposed of properly. Hazardous wastes are discussed in Sections 3.14 and 4.14.

Previous prospecting at the site was for limestone, which does not necessarily involve the use of many hazardous chemicals, as do other types of mining.

Comment Number 126

Comment

Mr. Hagemann recommends that the BLM conduct a Phase I Environmental Site Assessment to evaluate these potential human health risks. If the Phase I Assessment finds the mining debris to represent potential human health risks, a Phase II Environmental Site Assessment should be conducted to include sampling of the debris.¹⁶⁹ To assess the Project's impacts adequately, the BLM must conduct a Phase I Assessment and include the results in a revised DEIS that is circulated for public review.

Response

To reduce potential exposures to contaminated soils, the Applicant would implement MM HAZ-2 and would characterize any hazardous material/waste discarded on-site, as well as any discolored or odorous soil to be excavated. With implementation of the Applicant's Site Safety Plan, MM HAZ-2, Spill Prevention and Response Plan, the SWPPP, and MM HAZ-1, the Proposed Action would not expose workers to contaminated or hazardous materials at levels in excess of those permitted by federal and California Occupational Safety and Health Administration.

Comment Number 127

Comment

The BLM did not consider all impacts to cultural resources

The DEIS acknowledges that five ethnic groups historically used the Proposed Action area: the Mohave, Kawaiisu, Southern Paiute (Las Vegas and Chemehuevi groups), Vanyume/Serrano and Western Shoshone. The BLM neglected to notify all of the tribes, however, about the Proposed Action. The BLM's failure to consult with all of the tribes that have historic ties to the Project area precludes an analysis of all of the Project's foreseeable impacts

Response

Section 5.2.3 of the DEIS lists the Native American tribes that were given notice of preparation of the EIS, as follows:

- Morongo Band of Mission Indians;
- San Fernando Band of Mission Indians;
- San Manuel Band of Mission Indians;
- Serrano Nation of Indians.

The Chemehuevi Tribe and the Twentynine Palms Band of Mission Indians were also given notice of the EIS, and Section 5.2.3 of the Final EIS has been corrected to add both additional tribes to this list.

Comment Number 128

Comment

The BLM did not notify the Chemehuevi tribe about the Proposed Action. The Chemehuevi tribe considers all of San Bernardino County and parts of Riverside, Kern and Inyo Counties its ancestral, historical homeland.

Response

See Response to Comment 127. BLM did consult with the Chemehuevi tribe.

Comment Number 129

Comment

Because Lucerne Valley is only twenty miles from the Chemehuevi's ancient village and major trade route, it is likely that the Chemehuevi used the Project area and have ties to the land. The BLM must consult with the Chemehuevi, and all tribes that have ties to the land, to determine if there are historical

resources that have not been identified. Failure to do so arbitrarily limits the BLM's hard look at the Project's impacts and conflicts with Section 106 of the National Historic Preservation Act.

Response

BLM did consult with this tribe. See Response to Comment 127.

Comment Number 130

Comment

The DEIS contains an arbitrarily narrow purpose and need statement that impermissibly promotes private objectives. The purpose and need statement sets out one simple goal: "to process a ROW application." This narrowly defined statement implies that BLM stands to gain nothing more than a rubber-stamped document at the end of this process. It is nonsensical to think that the BLM would spend taxpayer money and impact the environment for such an inconsequential result.

Response

See Response to Comment 013.

Comment Number 131

Comment

The statement fits the Applicant's goals and objectives better than the BLM's. According to the DEIS, the Applicant has two goals: (1) promote solar technology, and (2) develop 45 MW of energy on public land to maintain a profit margin. While it is unclear what the BLM would gain from the Project, a ROW application rubber stamped "approved" would clearly help the Applicant meet its goals. Thus, the arbitrarily narrow purpose and need statement promotes the Applicant's objectives instead of the BLM's.

Response

See Response to Comment 130.

Comment Number 132

Comment

The BLM must consider alternate sites

The BLM's failure to consider alternate sites was arbitrary and capricious

The federal agency will violate NEPA if it impermissibly determines that alternate sites do not have to be considered.

The BLM's decision not to consider alternate sites is impermissible because it is based on an arbitrarily narrow purpose and need statement. The BLM may not adopt private interests to draft a narrow purpose and need statement that excludes alternatives that fail to meet specific private objectives. Yet, that was the result of the process here. The BLM must consider reasonable alternatives, even if the Applicant does not like the alternative or is incapable of implementing the Project on an alternative site.¹⁹³ Thus, as drafted, the DEIS violates NEPA's basic requirement to consider alternatives.

Response

See Response to Comments 013 and 014.

Comment Number 133

Comment

The Project site is on undisturbed lands that are prone to flooding and may contain valuable mineral resources

The proposed Project site is not ideal for long term energy generation. This particular site lies within mostly undisturbed desert habitat that contains untouched and intact environmental resources. Disturbed areas, such as roads and sediment berms, make up only one percent of the site. The rest of the site is characterized by desert scrub vegetation and desert washes. Special-status species, such as the desert tortoise, were observed on the site. In addition, many prehistoric and historic sites have been recorded between the Proposed Action site and the Victorville area.

Response

As noted in Section 2.3 of the DEIS, during the pre-application screening, the Applicant, in coordination with BLM, considered several factors to identify a project site, including site topography, proximity to transmission lines, avoidance of Areas of Critical Environmental Concern and Desert Wildlife Management Areas, designated off-highway vehicle areas, wilderness study areas, and designated wilderness areas.

The Proposed Action and the action alternatives would not significantly increase the potential for flooding in the watershed or its subbasins as discussed in Section 4.5.2.3 of the FEIS.

Potential impacts on biological resources have been identified, along with mitigation applied. In addition, no cultural resources eligible for inclusion on the NRHP are known to occur in the Proposed Action area, in the proposed locations for temporary access roads, or within a one-mile radius of the site perimeter.

Comment Number 134

Comment

This particular site is also prone to flooding events. According to the National Oceanic and Atmospheric Administration, Lucerne Valley was flooded in 1958, 1960, 1965, 1967, 1969, 1972, 2001, and twice in 2005 just six days apart. It is likely that even more flash flood events occurred, because the study is not comprehensive. In fact, modeling, not included in the DEIS, suggests that flooding of the Project site is possible during episodic rain events. Residents and resource agencies have also noted that this area is subject to intense flooding events, including flash floods.

Response

The DEIS discusses the potential impacts from flooding of the Proposed Action site in Sections 4.3.2.3, 4.5.2.3, and 4.5.3.

Comment Number 135

Comment

Finally, mineral extraction may be a beneficial and valuable use of the site. Gold, copper, silver, lead, sand, gravel, stone and uranium have all been prospected, produced and/or processed within five miles of the Project site. It is likely, given the importance of mining in Lucerne Valley's history and the presence of mineral resources around the Project site, that valuable mineral resources are located on the Project site.

Response

There are no active mining operations or mining claims within the project site. The DEIS concludes that due to the lack of known mineral resources at the site, no effect on mineral or energy resources would occur. See Section 4.17.2.3 of the FEIS.

Comment Number 136

Comment

Because the Project site is on undisturbed land with potentially valuable mineral resources that is also subject to intense and frequent flooding, it is not ideal for long-term energy generation. The BLM must consider other sites that will reduce the Project's impacts and support energy generation.

Response

Refer to Section 2.3.1, which describes alternative site locations considered by CES and the BLM. The technical and business criteria included whether the sites were close to existing high-voltage transmission lines that would allow access to the market and whether the sites were subject to significant environmental concerns, such as critical habitat, or contained sensitive resources.

Comment Number 137

Comment

An alternate site on disturbed land not subject to frequent flooding would reduce the Project's environmental impacts and be more conducive to long-term energy generation

The BLM should consider an alternate site on disturbed land. In the desert to the north of the Project site, as well as in Kings and Fresno Counties, there is an extensive amount of abandoned farmland that would facilitate long-term energy generation while reducing the Project's impacts on environmental resources.²⁰⁴ Both areas have existing infrastructure and are near roads and existing power lines.²⁰⁵ Because both areas have successfully been used for long-term agriculture use, it is also unlikely that the frequency of flash floods would impact long-term energy generation. The BLM must evaluate siting the Proposed Action on these alternate sites, or risk failing to evaluate a viable alternative.

Response

See Response to Comment 014.

Comment Number 138

Comment

The BLM must consider an alternative site design with four sides

The Proposed Action has twelve sides and a very high boundary-to-area ratio. The design of Alternatives 4 and 5 are not specified, but the DEIS implies that the design of the alternatives would be irregular as well. The BLM should consider a project design with four sides to reduce the boundary-to-area ratio and minimize impacts to biological resources and drainage systems.

Response

Although the layout of the proposed boundary is 12 sided, it is an overall L-shaped layout, reducing the impacts of the edge effect to essentially a six-sided boundary. This would have similar impacts as a four-sided layout. Under Alternative 5, the boundary layout and acreage is reduced, creating two separate, smaller parcels, one square and the other rectangular. See Chapter two for a full description of the alternatives.

Additionally, due to the small amount of public land near the project site, the size of the project and the available public land with the desirable slope for solar energy development, it is not possible to configure the project into a four sided parcel. Please see Section 2.4 of the FEIS.

Comment Number 139

Comment

The high boundary-to-area ratio increases the Project's impacts to biological resources. Instead of impacting a discreet parcel of land, the Project's impacts are spread out in different directions and on different parcels. The solar arrays nearly surround one parcel and envelop large areas of three other parcels.

A twelve-sided configuration also impacts species movements more than a project with four sides. Because there are twelve sides, there are twelve obstructions to migratory movement; there is no clear migratory path for species to move around the Project. A project with four sides, however, would have a clearer path for species to move around.

Response

See Response to Comment 138.

Comment Number 140

Comment

The BLM should consider approving this alternative instead of the Proposed Action. The Proposed Action will impact desert tortoises significantly, and may also impact the Western burrowing owl and Mohave ground squirrel. Implementation of this alternative, however, may significantly reduce the Project's impacts to sensitive biological resources.

Response

Your interest in an alternative with reduced boundaries is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 141

Comment

The BLM must consider an alternative design the reduces impacts to drainage systems

The Project will impact the natural drainage systems that run through the Project site, which will in turn impact water quality and biological resources, as well as increase the potential for flooding on the Project site. The BLM should consider a site design that avoids, or significantly minimizes, these impacts.

Response

Impacts on these dry swales would be mitigated through the 1602 streambed alteration agreement. See chapter 4.5 of the FEIS.

Comment Number 142

Comment

Mr. Toure provided diagrams of two alternative site designs. Both site designs completely avoided or significantly reduced impacts to the blue-line drainages that run through the Project site. These alternative site designs would also allow water from Project activities to be captured in bioswales and discharged into dry washes. The BLM should consider this alternative to reduce the significant impacts to water resources caused by the Proposed Action.

Response

See Response to Comment 141.

Comment Number 143

Comment

The Project will require approval of a streambed alteration agreement from the CDFG and WDRs by the RWQCB. Thus, the Applicant will require approval under CEQA before it can proceed with Project construction. The BLM must work with the CDFG and RWQCB to facilitate this process. It is essential for the BLM to encourage preparation of a joint EIS/EIR at the earliest possible stage to avoid duplication of materials and resources and unnecessary delay.

Response

See Response to Comment 030.

Comment Number 144

Comment

The DEIS does not comply with CEQA. First, California courts have repeatedly held that “an accurate, stable and finite project description is the sine qua non of an informative and legally sufficient [CEQA document].”²¹⁶ Compliance with CEQA, therefore, requires that the environmental document provide an accurate, consistent and complete description of the Project. As discussed above, the DEIS fails to do so.

Response

As described in Section 1.2 of the DEIS, the EIS has been prepared following regulations promulgated by the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR, 1500-1508), the Department of the Interior’s NEPA regulations (43 CFR Part 46), the BLM NEPA Handbook (H-1790-1), Sections 201, 202, and 206 of FLPMA (43 CFR 1600), and the BLM Land Use Planning Handbook (H-1601-1).

This EIS is not intended to comply with CEQA.

Comment Number 145

Comment

Second, CEQA imposes an affirmative obligation on agencies to avoid or reduce environmental harm by adopting feasible project alternatives or mitigation measures. The DEIS does not propose sufficient mitigation measures, however, to reduce or avoid the Projects impacts. For example, the DEIS states that tortoise-proof fencing and transmission poles installed for the Project could “cause increased predation of reptiles, small mammals, and small birds around the Proposed Action site because raptors would use the infrastructure for perches.” Predatory ravens are a leading cause of mortality for the desert tortoise. The DEIS does not disclose, however, how perching will be discouraged on the tortoise-proof fence and the transmission poles. Thus, it is unclear whether the Project’s impacts will be sufficiently mitigated.

Response

See Response to Comment 144. Mitigation measures MM BIO-7: Avian Protection and MM BIO-10: Desert Tortoise Proof Exclusion Fence both include features to deter bird perching. Additional details regarding these features have been added to the Final EIS. Additionally, MM BIO-12 addresses requirements related to raven management.

Comment Number 146

Comment

Because the CDFG and the RWQCB must issue permits before the Applicant can begin any development on the Project site, the BLM must abide by the requirements of NEPA and work with the State agencies to develop a joint EIS/EIR. This will avoid duplication of government materials and resources.

Response

The BLM’s consultations with state agencies is described in Section 5.0 of the DEIS. In addition, all state agencies with permitting authorities were provided copies of the Notice of Intent to prepare the EIS. In addition, through the California State Clearinghouse, state agencies were provided copies of the DEIS. Copies of the Final EIS/California Desert Conservation Area Plan Amendment will be sent to the California State Clearinghouse to conduct the Governor’s Consistency Review, as required by 43 CFR 1610.3-2(e).

Table 1-2 of the DEIS identifies the major permits, consultation, and approvals that would be required before construction and operation of any action alternative could proceed. The Applicant is responsible for obtaining all permits and approvals required to implement any authorized activities. State and local agencies were asked to become the CEQA lead, no agency accepted the role.

Comment Number 147

Comment

The foregoing comments, together with those of the experts, establish that the DEIS simply cannot pass muster under NEPA. The only option is for the BLM to prepare a revised EIS/EIR that is recirculated for public review and comment. We respectfully urge the BLM to do so prior to taking any action on the Applicant’s pending federal permit applications to ensure that the basic requirements of NEPA are met.

Response

The BLM, as lead agency, has determined that the DEIS and the revisions made in the Final EIS do not require recirculation of the environmental document.

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 148

Comment

LVEDA provides an “open forum” dealing with major projects and issues affecting/benefiting Lucerne Valley – therefore is not taking a direct “pro or con” position on this project. However we are in general opposition to utility-scale solar projects – especially on public land – preferring the use of

predisturbed/fallowed private land – but as a first priority – solar panels on rooftops/parking lots/etc. throughout s. Calif. (which the DEIS failed to analyze as a viable alternative to the further commitment of public land resources to subsidize urban areas).

Response

Section 2.4 of the DEIS discusses a Residential Rooftop Solar Panels alternative; however, this alternative was eliminated from further consideration as explained in Section 2.3.1 of the FEIS. The BLM's purpose and need is to process a ROW application and does not have a need to locate alternative methods of energy development. The BLM recognizes that rooftop solar panels could produce renewable energy and supports that type of energy development, but for this EIS, the BLM's purpose and need is to process a specific application. Should the BLM decide to deny the ROW, the Applicant can pursue any other energy development methods, technology, and locations that the Applicant desires, including using rooftop solar panels for energy development.

Alternative sites, on non-BLM lands were considered in the DEIS but were eliminated from further consideration for the reasons detailed in Section 2.3.1 of the DEIS. They were beyond the scope of this FEIS.

Comment Number 149

Comment

We question the intent of a large corporation or its affiliates going through all the time, expense, permitting, paperwork, mitigation, etc. for a (relatively minor) 45 MW project. If it is a “feel good – we’re doing something ‘green’ endeavor” – we prefer that the applicant partner with SCE and spread out its “good will” on rooftops and parking lots – a bigger public relations benefit.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 150

Comment

For whatever reason – to the best of our knowledge - Chevron Energy Solutions reps. have not participated in community meetings – unlike the reps. of every other local solar/wind project currently in the permitting process. Its absence has been noticed.

Response

CES has participated in the NEPA process, which has included participation in some meetings located within the community. CES met with LVEDA in August 2010.

Comment Number 151

Comment

Before the final decision is made, this project should be assessed via BLM's Programmatic process which will identify the limited areas available and suitable for solar plants – along with an understanding of all the land-uses that Lucerne Valley already provide s. Calif. - to fully understand current conflicts and why we need an "Energy Element" in our current BLM and County Plans.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process. However, BLM must process applications in a timely manner as they are submitted. Programmatic EIS are being completed for some types of renewable energy development projects in some areas. However, this application will be fully processed prior to a programmatic solar EIS being completed in California.

Comment Number 152

Comment

The DEIS is well written and understandable, however it devotes a lot of pages to extraneous litigation-avoidance stuff – leaving some real, critical issues unresolved.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 153

Comment

Alt 4 – Modified Site Layout – a viable option - would allow a buffer and on-site location and maintenance of transplanted yuccas/Joshua trees – more reliable than “availability off-site to the public” – which would likely result in 50% mortality at best.

Response

The Applicant is working with San Bernardino County to develop a salvage plan that would ensure the long-term survival of yucca plants, which would be flagged for salvage and removed. In addition, no long-term adverse indirect effects on the remaining yucca plants (e.g., due to noise, vibration, dust) are anticipated because construction and maintenance would be short term.

Comment Number 154

Comment

The “private land” alternative was basically ignored with inadequate rationale. First Solar and Next-Era found large, fallowed parcels in Lucerne Valley – with a lot more existing all the way to Palmdale.

Response

This alternative is outside the scope of this EIS.

Section 2.3.1, Alternative Sites Considered by CES, states that “As part of its initial study, the Applicant used several technical and business criteria to evaluate various potential sites for a solar project. These included whether the sites were located close to existing high voltage transmission lines that would allow access to the market. Because of this project’s proposed generating capacity, the cost of building long interconnection lines would make it economically infeasible to construct.

“The Applicant determined that if it pursued the private land option, it would need to enter into several agreements with landowners to assemble a large enough tract to build its facility. This would have required the Applicant to enter into long-term leases without assurance that the necessary permits and approvals would be issued, which it did not believe was economically feasible. Therefore, private lands were eliminated from further consideration.”

Comment Number 155

Comment

Rated generating capacity vs. actual production is a major issue with desert solar projects. The net benefit is likely marginal. Energy/CO2 emissions/etc. required for making panels, structures, construction, etc. – plus the consumption of 516 acres of public land (@11 ½ acres/MW) – plus the additional loss of “multiple use” on the mitigation/compensation land ----compared to other energy sources – need to be assessed from a more global perspective.

Response

The rated generating capacity and the actual production are noted as distinct amounts. The purpose of the NEPA process is to weight the varying benefits and losses for proposed projects. Please see Chapter 4 of the FEIS for more information.

Comment Number 156

Comment

De-brushing/grading will create a long-term dust source, adversely affecting the facility and down-wind receptors. Minimal grading, vegetation mowing and placement of decomposed granite or small gravel will help to stabilize the site and reduce weed infestations – as well as enhancing native re-vegetation if and when facilities are removed. The proposed “mowing” is certainly worth pursuing. However, the perennially-shaded ground will become devoid of vegetation and root structure – and the partially shaded area will likely generate more weeds than natives – thus a hindrance to operations and the need for regular weed abatement. (Note: Mojave rattlesnakes will love the shade on the project’s periphery). The “Weed Control Plan” seems to have realistic and effective measures. (The Mojave Desert Resource Conservation District and its affiliated Mohave Weed Management Area group can offer advice if requested).

Response

See Response to Comment 069.

Comment Number 157

Comment

Construction water might be obtainable from the Mojave Water Agency’s “Morongo Pipeline” – generally following Foothill Rd. immediately north of the project site – the use of untreated state water vs. good quality groundwater. Contact: MWA (760 946 7000) for info. and location of connections.

Response

CES is aware of this source of water and may consider it as a resource.

Comment Number 158

Comment

The long-term effectiveness of tortoise relocations to adjacent areas did not seem adequately addressed.

Response

The BLM anticipates that only a few individuals would be relocated to areas immediately outside the construction ROW. All removal and handling would be in accordance with Guidelines for Handling Desert Tortoises During Construction Projects (Desert Tortoise Council 1999). In addition, in accordance with mitigation measure MM BIO 3, biological monitors (authorized biologists, approved by the BLM, USFWS, and CDFG) would be on-site during all ground-disturbing activities. This is fully discussed in the Biological Opinion.

Comment Number 159

Comment

3.11-3: The statement: “Hunting is not an allowable use on the Proposed Action site” is very likely incorrect. It certainly won’t be when construction starts – but currently – the only regulation we know of is “shotgun only”.

Response

Based on the CDCA Plan, the project site is entirely on land in the Multiple Use Class (MUC) M (Moderate Use) Category, which is defined as follows:

“These lands are managed in a controlled balance between higher-intensity use and protection. A wide variety of uses, such as mining, livestock grazing, recreation, energy, and utility development are allowed.”

Although hunting and recreational shooting are allowed on land classified as MUC M, the project site is within a zone that has been established where shotgun use only (with shot no larger than half the bore diameter) is allowed. The general area is just south of State Route 58 and Interstate 40, north of the San Bernardino National Forest, west of the Twentynine Palms Marine Corps Air/Ground Combat Center, and

east of the Los Angeles County line. It is designated as shotgun only by San Bernardino County Ordinance due to the presence of scattered residences and recreationists in the area. The Final EIS will be revised to reflect this.

Comment Number 160

Comment

To fully assess the consequence of the project's effect on biological resources – the DEIS needs a description of the most likely location for the 1:1 ratio mitigation/compensation – the location and ultimate loss of “multiple uses” on said parcel that might be purchased – or to what resource any “in-lieu” fee might be directed. Off-site mitigation/compensation requirements ARE a direct result of this project and need to be fully explained.

Response

The USFWS released a Biological Opinion, the results of which have been incorporated into the EIS. It notes that the Applicant will compensate for loss of desert tortoise habitat in accordance with the new renewable energy mitigation policy adopted by the USFWS, the BLM, and CDFG but does not have specific information regarding future enhancement projects or acquisition. MM BIO-13 outlines the types of habitat enhancements being proposed and defines the general location of acquisition land. A separate NEPA document will be developed to address the potential restoration activities. Mitigation replacement land would be a requirement of California Department of Fish and Game.

Comment Number 161

Comment

Assuming the applicant fully intends to develop both phases, approval of Phase 1 alone is premature w/o knowing the transmission requirements of both phases together (upgrading existing line or a new one). Needs discussion!

Response

As noted in Section 2.2.31. of the DEIS, SEC has not identified specific improvements to the distribution (transmission) lines and none are authorized under this document.

Comment Number 162

Comment

New transmission lines or upgrades should include “raven proof” devices to the extent feasible – ravens being the biggest threat to juvenile tortoises.

Response

MM BIO-23, Raven Management Plan, has been added to address the issue of ravens. Additionally, the Applicant will provide funding to a regional Raven Management program that will address raven impacts on a regional basis.

Comment Number 163

Comment

The “heat sink” and albedo “change” effects need to be assessed, especially for the larger projects and those close to residential uses.

Response

The project is not close to a residential area.

Comment Number 164

Comment

Project decommissioning and recycling of facilities were described – however specific measures for reclamation were sketchy. Bonding or some other means to assure ultimate clean-up and reclamation in case of project abandonment need to be included in the permit.

Response

A project decommissioning plan is being prepared. Bonding is required and will be completed prior to the issuance of the Notice to Proceed, if a development project is selected.

Comment Number 165

Comment

The “level of service” (LOS) assessments for regional highways/roads don’t adequately quantify the actual “on the road” impacts – especially on Hwy 18 through Lucerne Valley’s commercial area and 4 way stop. CHP escorting will likely be necessary. The proposed “off-peak” construction travel may not fully suffice in and by itself.

Response

Construction of both phases of the project would result in short-term increases in traffic volume of a maximum of 90 trips per day (45 morning and 45 evening trips) due to the construction labor force (assuming they all drive separately) and approximately 20 trips (10 inbound, 10 outbound) for delivering construction equipment and supplies to the site. DEIS Implementing mitigation measure MM TRAN-1: Implement Traffic BMPs During Construction, which includes scheduling truck traffic for off-peak hours to reduce effects during periods of peak traffic, would reduce the temporary impacts on Highway 247. Installing a right-turn lane on SR 247 was not identified. However, CES, in conjunction with CAL TRANS, may consider developing a temporary right turn lane for use during construction. This analysis meets industry standards.

Comment Number 166

Comment

Unless we missed it – there was no mention of a right-turn lane onto Santa Fe Fire Rd. Quote from our scoping letter: “A right-turn lane on Hwy 247 would provide safer egress in this area of high-speed traffic – especially for the construction phase”.

Response

Construction of both phases of the project would result in short-term increases in traffic volume of a maximum of 90 trips per day (45 morning and 45 evening trips) due to the construction labor force (assuming they all drive separately) and approximately 20 trips (10 inbound, 10 outbound) for delivering construction equipment and supplies to the site. DEIS Implementing mitigation measure MM TRAN-1: Implement Traffic BMPs During Construction, which includes scheduling truck traffic for off-peak hours to reduce effects during periods of peak traffic, would reduce the temporary impacts to Highway 247. Installing a right-turn lane on SR 247 was not identified. Industry standards did not require a turn lane, however, CES, in conjunction with CAL TRANS, may consider developing a temporary right turn lane for use during construction.

Comment Number 167

Comment

The analysis re: the project’s future effect on BLM’s CDCA Plan’s “Contingent Corridor S” is probably correct – but this “corridor” needs to be removed from the Plan in order to preclude another “Green Path North” attempt.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 168

Comment

4.6-5: Question: The project description seems to indicate that the panels would be “fixed” in place – thus w/o tracking ability. If so – is this statement correct?: “During precipitation events, solar panels would be placed in the flat horizontal position”.

Response

The description of solar panels will be revised in the Final EIS to note that both fixed tilt and single axis tracker systems are possible, but a final decision has not been made.

Comment Number 169

Comment

Table 1-1: The statement: “The site chosen is within a ‘development corridor’.....” is NOT consistent with the LV Community Plan’s locations for “industrial” development and thus misleading. The entire table includes very weak rationale.

Response

Table 1-1 incorrectly noted that the project site is in a “development corridor.” It has been corrected to “site is chosen within a designated BLM Utility Corridor.”

Comment Number 170

Comment

The Big Bear hospital is cited as close and available in case of injury, emergency, etc. It might be, but the responding County Fire paramedics – and likely the back-up ambulance service from Victor Valley – normally transport patients to Apple Valley or Victorville hospitals – not Big Bear.

Response

This has been corrected in the Final EIS.

Comment Number 171

Comment

Figure 3.18-1: The Cumulative Projects Map shows a “Cumulative Effects Study Area” (CESA) boundary within a 6 mile “buffer” radius from the project site. However it shows other proposed project locations outside said “buffer”. A complete and adequate cumulative impact analysis needs to show and assess all the proposed projects within the larger Lucerne Valley area that is affected. Some of the renewable projects listed may no longer be considered. The ones not shown – all with applications currently being processed by the County and/or BLM – are 2 “First Solar” PV’s west on Hwy 18 and another adjacent to Barstow Rd. – Granite Wind west of Barstow Rd. (with DEIR/EIS issued) – Next-Era’s PV in n. Lucerne Valley – plus the proposed 29 Palms Marine Base expansion into a major portion of Lucerne/Johnson Valleys northeast of the Chevron site. All these projects will have significant cumulative effects on our community.

Response

See Response to Comments 020 and 023.

Comment Number 172

Comment

3.15-6: The statement re: LVEDA is correct and appreciated.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 173

Comment

4.15-3: The statement: With the project, “the social well-being of LVEDA (and its reps.) would be enhanced because compatible sustainable infrastructure development would be implemented within the Lucerne Valley” is a bit esoteric and certainly not fully consistent with our mission. Some of the residents close to the project site remain opposed and thus seem to be “adversely affected” by the project.

Response

The analysis is based on the economic development and financial stimulus to the area from the project area rather than a consensus of the project's desirability to all members.

Comment Number 174

Comment

Need more emphasis on "local hiring". Talent and equipment are locally available for a substantial portion of the construction and maintenance work required. It certainly will not look good to import a lot of outside workers – union or not – when a local workforce is available. Would be just another imposition on our community. Cement/concrete/aggregate are locally available and we certainly expect that they be utilized if the project is built.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 175

Comment

The project's effect on surrounding private land values is summarily dismissed. At the very least, it could hinder area sales. Empirical data is insufficient to determine "no substantial effect".

Response

Impacts on property values are discussed in Section 4-15 of the DEIS.

Comment Number 176

Comment

These projects aren't necessarily "beneficial" to local communities. We need ways to make them more "friendly and welcomed". Chevron could be the lead in devising a method to "arrange" the purchase of materials in San Bernardino County – with sales tax benefiting the county – and ideally – the ½ cent Measure I (road tax) portion dedicated to Lucerne Valley roads that get hammered by all the truck traffic associated with these projects.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 177

Comment

We invite the applicant to a LVEDA meeting to better explain the project's tax revenue benefit – specifically the annual taxes from its "leasehold interest". Property taxes are not generated from public lands. How do these projects' tax incentives affect property tax revenue normally based on the assessed values of the facilities? Would the annual "leasehold interest" revenue be deducted from what the county receives from BLM as "payment in lieu of taxes" (PILT)?

Response

CES attended a meeting with LVEDA in August 2010.

Comment Number 178

Comment

We request a meeting with the applicant and BLM prior to finalization of the EIS and a decision on the permit.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process. CES and BLM attended a meeting with LVEDA in August 2010.

Comment Number 179

Comment

Our revised site phasing plan (Figure 2.1) and site layout plans (Figures 2.2a & 2.2b) will be sent out to you on a CD for overnight delivery. The phasing has been revised during detailed engineering to defer construction of the eastern portion of the site until Phase 2. This defers the design and construction costs in the area susceptible to the greatest surface water flows, as well as the potential impacts and mitigation associated with grading and development of this area. Additionally, should the transmission line capacity not be upgraded by SCE, this portion of the site would not be developed, avoiding the potential impacts all together. The revised site layout plans have been revised to reflect both fixed tilt and single axis tracker systems.

Response

The description of all action alternatives has been modified in the Final EIS to incorporate this information.

Comment Number 180

Comment

During detailed engineering, we have concluded that cutting vegetation at four inches above the ground would not be practical for construction. In all likelihood, the vegetation would be removed and 420 acres of the site would be rough graded. The DEIS states that the vegetation on the site would be cut to 4-inches above the ground. Since this area would then be shaded by solar panels after construction is complete, this would essential result in the loss of all vegetation on the developed portion of the site (as acknowledged in Section 4.6.2.2 of the EIS). Consequently, the change to rough grading this area would not result in new or different impacts as compared to what has been evaluated in the EIS.

Response

The description of all action alternatives has been modified in the Final EIS to incorporate this information.

Comment Number 181

Comment

We disagree with the conclusion in the water resources section that states: "Therefore, it is not possible at this time to estimate what the potential flood risk is at the site and the possible effects." The project would maintain existing flow patterns and velocity for surface water run-off from the site, and the potential for flooding would not change as a result of the project. The effects related to flooding would most likely be limited to damage to Project equipment placed in areas where high velocity flooding would occur. A finalized hydrology study will also be included on the CD.

Response

The Hydrology Study for the Lucerne Solar Project (January 2010), prepared by Westwood Professional Service, Inc., has been submitted to BLM and is included in Appendix O of the Final EIS.

Comment Number 182

Comment

Please accept this as a formal request to revise the above referenced document to reflect these changes. Thank you in advance for your review and consideration. Please contact us with any questions or comments.

Response

Your comment is included in the public record and will be taken into account by the Authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 183

Comment

This letter is to clarify the comments made to the above documents in our previous letter dated May 18, 2010. Where it reads "the site would be rough graded", as applicant, we would like to explain the intent embodied in the terms "rough graded": through the grubbing and scarifying process, it is expected that the contours of the site will be modified while the general slope and undulations of the site will be preserved.

Response

The description of all action alternatives has been modified in the Final EIS to incorporate this information.

Comment Number 184

Comment

EPA is concerned about the potential impacts to the ephemeral water segments located within the project area. The DEIS provides basic hydrologic information on the location of washes in the project area, but does not include a detailed map nor analysis of the origin and termini of these ephemeral waters.

Response

A detailed discussion, including modeling, maps, and analysis can be found in the Hydrology Study (Appendix O).

Comment Number 185

Comment

Include a more detailed discussion and map of the water resources and hydrographic basins surrounding the proposed project.

Response

See Response to Comment 184.

Comment Number 186

Comment

Include information on the functions and locations of ephemeral washes in the project area.

Response

See Response to Comment 184.

Comment Number 187

Comment

The DEIS states that the project site is prone to intense flooding events, including flash flooding (p. 3.5-5), however no floodplain studies nor mapping exercises have been conducted to assess flood hazards. In addition, the document states that "No hydrologic modeling has been done at this stage." (p. 2-16). Considering the lack of information regarding site hydrology and flood danger, it is impossible to properly assess the risks that the proposed project poses to local and regional hydrology, water quality, and human health.

Response

See Response for Comment 134, 181, and 184.

Comment Number 188

Comment

Demonstrate that downstream flows will not be disrupted due to proposed site development.

Response

The project grading and construction plan is designed to have minimal impact on natural flow paths that cross the project site. A detailed discussion, including modeling, maps, and analysis can be found in the Hydrology Study (Appendix O).

Comment Number 189

Comment

Include a functional assessment of the waters on the proposed project site and describe the changes to the function of those waters that would result from the proposed project.

Response

There are no surface waters found on the project site except during storm events. The function of groundwater at the site will not be altered by the proposed project. A detailed discussion of the site hydrology, including modeling, maps, and analysis can be found in the Hydrology Study (Appendix O).

Comment Number 190

Comment

The DEIS does not provide information about fencing' (pg. 2-16) nor the effects of fencing on drainage systems. As previously discussed, storms in this region can be sudden and severe, resulting in flash flooding. Fence design must address hydrologic criteria, as well as security performance criteria. The National Park Service recently published an article I on the effects of the international boundary pedestrian fence on drainage systems and infrastructure. We recommend that BLM review this article to ensure that such issues are adequately addressed with this project.

Response

As outlined in the Storm Water Pollution Prevention Plan (Appendix I), fencing across washes on the project site is expected to wash away during severe storm events and be replaced. This will prevent the accumulation of debris, sediment, and additional scour points. Additional analysis of the magnitude and potential for stormflow on this site is provided in the Hydrology Study (Appendix O).

Comment Number 191

Comment

Provide more detailed information about fencing and potential effects of fencing on drainage systems within the FEIS. Ensure that the fencing proposed for this project will meet appropriate hydrologic performance standards.

Response

See Response to Comment 191.

Comment Number 192

Comment

The DEIS includes a Modified Site Layout Alternative (Alternative 4). This alternative would redirect drainage on the site to a vegetated screen designed to screen views of the project for nearby residents and drivers on Santa Fe Fire Road (p. 2-24). This alternative is chosen as the BLM "Preferred Alternative" (p. 2-36). By rerouting drainage, this alternative would alter site hydrology, potentially impacting water quality, groundwater recharge, soil erosion, vegetation, and wildlife. The potential for such consequences is not addressed, however. In addition, insufficient information is provided on specifically how and where drainage would be rerouted.

Response

An overall design intent for this alternative is to minimize impacts. Altering the drainage onsite was anticipated to be minor, and only included altering the drainage around the maintenance building to the

vegetation strip. It was not anticipated as a large scale redirection of drainage water. The current preferred alternative does not include this redirected drainage. Additional analysis of the magnitude and potential for stormflow drainage at this location is provided in the Hydrology Study (Appendix O).

Comment Number 193

Comment

Provide details on where and how drainage would be rerouted across the site under Alternative 4: Modified Site Layout.

Response

The exact pathway and method of redirecting the drainage would have been in the Streambed Alteration Agreement. Since this is no longer a part of the preferred alternative, this agreement would not be fully developed. See Response to Comment 192.

Comment Number 194

Comment

Analyze the potential impacts of Alternative 4 in greater detail, in particular considering impacts to hydrology, water quality, groundwater, soil, vegetation and wildlife.

Response

The amount of redirected drainage was anticipated to be very minor. The analyses are accurate as written.

Comment Number 195

Comment

We are concerned with possible impacts on waters of the U.S. (WUS). We understand the project proponent is re-evaluating whether or not any of the washes flowing through the proposed site may qualify as WUS. We encourage BLM to consult with the Army Corps of Engineers regardless of the outcome of that analysis. A jurisdictional determination of waters of the United States must be completed in order to determine whether waters of the US will be impacted by the proposed project. In addition, we understand from our correspondence with BLM that the washes that flow through the site terminate before reaching any known waters of the US; however, this is not discussed in detail in the document and this information should be provided in the interest of public disclosure.

Response

Lucerne Valley Wash receives all surface flow from the proposed project site. This wash terminates in the closed basin / dry lake bed of Lucerne Lake. The source and fate of water flow at the project site is discussed in the Hydrology Study (Appendix O). Consultation with the Army Corp of Engineers is ongoing.

Comment Number 196

Comment

Consult with the Army Corp of Engineers regarding a jurisdictional determination for the proposed project site, and include the results of that determination in the FEIS.

Response

Consultation with the Army Corp of Engineers is ongoing. A final determination related to jurisdictional water is expected prior to BLM issuing a Record of Decision. A right of way, if issued, would be contingent upon CES obtaining all required permits from other agencies.

Comment Number 197

Comment

According to the DEIS, construction of the proposed Project is expected to result in direct loss of 18 acres of land characterized as desert wash communities (p. 3.6-7). In addition, the proposed Project will degrade the functions of waters throughout the site through the placement of road crossings, fencing, and photovoltaic cell posts. As noted above (see Hydrology and Water Resources, Ephemeral Washes)

natural washes perform a diversity of hydrologic and biogeochemical functions that directly affect the integrity and functional condition of higher order waters downstream, and ephemeral washes support unique plant populations and provide habitat for breeding, shelter, foraging, and movement of wildlife. Desert wash ecosystems are highly sensitive to disruption, and impacts to their natural state may be impossible to remediate.

Response

BLM agrees with this comment.

Comment Number 198

Comment

Avoid and minimize direct and indirect impacts to desert washes to the maximum extent practicable. Impacts to be accounted for and minimized include erosion, migration of channels, and local scour.

Response

Analysis in the Hydrology Study (Appendix O) includes the potential for erosion, channel migration, and scour. The project has avoided and minimized direct and indirect impacts to desert washes. Also see the Storm Water Pollution Prevention Plan (Appendix I).

Comment Number 199

Comment

Minimize the number of road crossings over washes in order to minimize erosion, migration of channels, and scour. Road crossings should be designed to provide adequate flow through during large storm events.

Response

Arizona crossings will be used where roads intersect washes within the proposed project site. The number of these crossings has been minimized to the greatest practical extent.

Comment Number 200

Comment

Commit to the use of natural washes, in their present location and natural form and including adequate natural buffers, for flood control to the maximum extent practicable.

Response

The project grading and construction plan is designed to have minimal impact on natural flow paths that cross the project site. A detailed discussion, including modeling, maps, and analysis can be found in the Hydrology Study (Appendix O).

Comment Number 201

Comment

Demonstrate that downstream flows will not be disrupted due to proposed changes to any natural washes.

Response

The project grading and construction plan is designed to have minimal impact on natural flow paths that cross the project site. A detailed discussion, including modeling, maps, and analysis can be found in the Hydrology Study (Appendix O).

Comment Number 202

Comment

The proposed project and any of the BLM action alternatives would result in direct impacts to vegetation and wildlife, including a number of special status species. EPA recommends that the FEIS and ROD contain specific and binding commitments to the mitigation measures put forth in the Biological Assessment (BA) and DEIS. Furthermore, additional details regarding the mitigation measures to be employed would assist in the assessment of impacts to biological resources. For instance, mitigation

measure MM BIO-12 (p. 4.6-15) would offset impacts to desert tortoises by preserving off-site desert tortoise habitat. Further details regarding the location and nature of this off-site compensatory mitigation should be provided, as available. In addition, we recommend that the BLM consider applying compensatory mitigation at a ratio higher than the 1: 1 ratio put forth in the DEIS. As stated in the DEIS, the impacts to desert tortoise would likely extend beyond the project boundaries due to sensitivity to noise, vibrations, invasive species introduction, and collision with vehicles traveling to and from the site. We therefore recommend that compensatory mitigation be expanded to account for these additional impacts. Lastly, in the interest of full public disclosure, EPA recommends that the FEIS include the most up to date information available regarding the status of consultation with U.S. Fish and Wildlife Service and California Department of Fish and Game.

Response

See Response for Comment 160.

Comment Number 203

Comment

The FEIS and ROD should include specific and binding commitments to mitigation measures put forth in the BA and DEIS.

Response

The mitigation measures in the BA are identified in the FEIS in Section 4.6. These required mitigation measures will be carried forward into the ROD.

Comment Number 204

Comment

Consider the implementation of compensatory mitigation under MM BIO-12 that exceeds the 1: 1 ratio discussed in the DEIS.

Response

See Response for Comment 038.

Comment Number 205

Comment

The FEIS should include the most up to date information available regarding the status of consultation with the US FWS and CDFG.

Response

The FEIS provides a copy of the Biological Opinion in Appendix K, which concludes consultation with the US FWS. Consultation with CDFG is ongoing. If a right of way is issued, it would be contingent on CES completing consultation with CDFG.

Comment Number 206

Comment

The DEIS contains a brief discussion of biological soil crusts or cryptobiotic crusts (p. 3.4-2). The analysis dismisses these crusts as not serving a critical role in dust suppression on the proposed project site, however no further details are provided. EPA recommends that this discussion be expanded to include details regarding the extent of biological soil crusts on the site, the role they play on the site, and any impacts the proposed project may have on these crusts.

Response

Cryptobiotic crusts are expected to cover less than 5% of the proposed project site. Overall site preparation is expected to include removal of vegetation, but little grading. This means that while most of the crusts on site will be disturbed during construction, the organisms and organic material that they are made of will remain present.

Comment Number 207

Comment

Expand the discussion of biological soil crusts to include details regarding their extent on the proposed project site, the role they play on the proposed project site, and possible impact resulting from BLM action alternatives.

Response

See Response for Comment 206.

Comment Number 208

Comment

The DEIS lists 3 solar projects in close proximity to the proposed project, but limits the scope of the cumulative impact analysis to only those projects occurring within 6 miles of the proposed project site. The reasoning for limiting the scope of the cumulative impact analysis to that radius is not provided. Without further information about projects in the region, it is difficult to conduct a thorough cumulative impacts analysis. The FEIS should include a more extensive analysis that defines the parameters of the analysis and the reasons for the establishment of those parameters.

Response

See Response for Comment 020 and 023.

Comment Number 209

Comment

Update the list of reasonably foreseeable projects to include all projects that may have impacts that may cumulatively affect the Lucerne Valley. In particular, the analysis should include discussions of the cumulative impacts on transmission capacity, water resources, and biological resources.

Response

See Response for Comment 023.

Comment Number 210

Comment

Evaluate site conditions at locations with existing ROW applications. Determine and disclose whether the ROW applications are active and viable.

Response

BLM does a general review of the viability of a ROW application prior to beginning the processing of the ROW application. The applications included in the cumulative affects section are all active and considered viable.

Comment Number 211

Comment

The DEIS should describe the reasonably foreseeable future land use and associated impacts that will result from the additional power supply. The document should provide an estimate of the amount of growth, likely location, and the biological and environmental resources at risk.

Response

BLM does not anticipate any future growth from this proposed project. The renewable energy projects are to change the mix of energy generation sources in the energy distribution company's portfolios. California has a requirement for a larger proportion of the energy mix to include renewable energy sources. The renewable energy projects would provide energy that would replace existing energy that is derived from non-renewable sources.

Comment Number 212

Comment

EPA believes the discussion in the DEIS regarding the purpose and need for the CES Project should be expanded. As we indicated in our scoping comments, the purpose of the proposed action is typically the

specific objectives of the activity, while the need for the proposed action may be to eliminate a broader underlying problem or take advantage of an opportunity.

Response

See Response for Comment 013 and 029.

Comment Number 213

Comment

Building upon the comment above, the Purpose and Need for a project should be stated broadly enough to spur identification of the full range of reasonable range of alternatives, regardless of what the future findings of an alternatives analysis may be. The Purpose and Need should focus on the underlying problems to address (e.g., lack of capacity to serve an increasing demand for energy, or the need to develop sufficient renewable energy to meet State renewable portfolio standards). A solar power plant may be an integral component of the potential solution to the problems identified in a Purpose and Need discussion; however, the Purpose and Need statement should allow for the analysis of a full scope of alternatives, including off-site locations, environmentally preferable on-site alternatives or other modes of renewable energy generation.

Response

The purpose and need, as stated is accurate. The 'problem to be addressed; for BLM, is to made a decision to grant, grant with modification, or deny a specific right of way application for a specific piece of land.

Comment Number 214

Comment

The DEIS eliminates all off-site and alternative technology alternatives from consideration. In addition, the analysis of potential on-site alternatives was limited to the proposed action, a single reduced project alternative and a single modified site layout alternative. This somewhat narrow range of alternatives is, in part, influenced by the Bureau of Land Management's (BLM) narrowly defined Purpose. According to the DEIS, BLM's purpose for the CES proposed action is "to approve, approve with modifications, or deny issuance of a Right-of-Way (ROW) grant to CES for the proposed solar project." (at p. 1-2). While this may be the immediate federal purpose of the project, we recommend that the FEIS use a combined BLM and Project Proponent Purpose and Need statement as the foundation upon which later sections, such as the alternatives analysis, are based. It would also be helpful to include a discussion of the types of modifications that BLM could require, the circumstances under which BLM is authorized to deny a ROW grant, and the consequences of such a denial. The purpose statement should be broad enough to allow for a reasonable range of alternatives, including environmentally preferable alternatives.

Response

See Response for Comment 014.

Comment Number 215

Comment

The FEIS should reflect a broader purpose and need statement that allows for a full evaluation of other alternatives, including off-site locations and other environmentally preferable on-site alternatives.

Response

See Response for Comment 213.

Comment Number 216

Comment

The FEIS should explain BLM's options for acting upon an application for a right-of way grant. For instance, it would be helpful if BLM would explain the extent of its authority in regards to requiring the adoption of a "modified" project alternative.

Response

BLM can modify the project by changing technology, or requiring mitigation. The right of way application is related to a specific piece of land. BLM can not change the right of way application area. See Response for Comment 213.

Comment Number 217

Comment

While the DEIS indicates that the need for the proposed action has its basis in Federal orders and laws regarding renewable energy generation, the current Purpose and Need section does not fully describe the specific Federal, State, and individual utility power provider renewable energy targets, timelines, and underlying needs to which BLM is responding. EPA believes this context is imperative for decision makers and the public to have, in light of the large number of renewable energy projects moving forward.

Response

See Response for Comment 213. Although a specific project may assist in meeting a target, the purpose and need for BLM to write an EIS is to process a specific application. If an application was not submitted, BLM would not write an EIS.

Comment Number 218

Comment

Presumably, some number of renewable energy facilities will be constructed pursuant to the joint Department of Energy (DOE) BLM Programmatic Solar DEIS effort as well as the Desert Renewable Energy Conservation Plan (DRECP) process. It would be helpful to know the likely locations, construction timing, and generation capacities of such facilities relative to the proposed Project.

Response

Specific projects developed for these programs are not currently identified. (However, the DRECP is involved in many of the existing, on-going project.)

Comment Number 219

Comment

Fully describe the specific Federal and State renewable energy targets, timelines, and underlying needs to which BLM is responding, and explain how the Project meets those needs in the context of the many renewable energy project applications in the Desert Southwest and California.

Response

The need that BLM is responding to is to process a specific application.

Comment Number 220

Comment

To the extent practicable, the FEIS should discuss how many of the total renewable energy applications received by BLM are likely to proceed pursuant to the joint Department of Energy (DOE) BLM Programmatic Solar DEIS effort and the Desert Renewable Energy Conservation Plan (DRECP) process, and the level of energy production those applications represent.

Response

All applications are being processed. A decision regarding issuing a right of way, issuing a modified right of way, or denial of a right of way would be made in the ROD.

Comment Number 221

Comment

Further describe the utility purchases of power and provide a description of how the power would be bought, sold, and used so that the reader can better evaluate the tradeoffs between resource protection and power generation.

Response

The power generated by this project, if approved, would be placed in the Southern California Edison energy portfolio and would replace energy currently created from non-renewable sources.

Comment Number 222

Comment

The FEIS should clearly demonstrate the independent utility of the Project within its current geographic limits as it relates to the need for the Project. If the Project need cannot be met without future planned improvements, such as the reconductoring or further upgrading of the Southern California Edison transmission lines proposed to serve the site, the scope of the Project should be expanded accordingly, since these would be considered connected and similar actions (40 CFR 1508.25). In that case, the NEPA evaluation should include the full extent of the planned Project, including the necessary transmission lines and how it will operate. This broader scope should be applied to the identification and evaluation of project alternatives that may be less environmentally damaging. EPA believes this is the most effective way to address indirect and cumulative environmental impacts. The DEIS indicates that a separate environmental analysis would be conducted if further renovation of the SCE transmission lines were necessary; however, if the Project cannot meet its Purpose and Need without the transmission line project (there by qualifying it as a connected action), the FEIS should address both projects together. Generally, funding or constraints of project staging and construction should not be used as a basis for segmenting the evaluation of environmental impacts under NEPA.

Response

This project does not involve and upgrades to transmission or distribution lines. All references to upgrades were removed from the FEIS. The project, if approved, would be limited to the existing capacity in the local distribution line.

Comment Number 223

Comment

The DEIS indicates that "It has not been determined if upgrades to the existing 33-kV SCE distribution line, beyond the proposed reconductoring, would be required to accommodate Phase II" (p. 2-5). EPA recommends that the FEIS describe the current capacity of the existing transmission line and perform all necessary transmission analyses before the publication of the FEIS. The FEIS should also include a discussion of the existing transmission capacity compared to the future capacity after both reconductoring and any other potentially necessary upgrades. Considering the excess capacity that is stated to exist on the current transmission line (p. 2-15), the FEIS should consider an alternative that does not rely on the upgrade.

Response

See Response for Comment 114, 115 and 222.

Comment Number 224

Comment

Demonstrate the independent utility of the Proposed Project within its current geographic limits as it relates to the need for the Project. If the Project need cannot be met without future planned improvements, the scope of the Project should be expanded accordingly by including an analysis of future improvements to the full extent of the planned Project, including the necessary transmission lines and how it will operate, since these would be considered connected and similar actions (40 CFR1508.25).

Response

See Response for Comment 222.

Comment Number 225

Comment

EPA recommends that the FEIS disclose: 1) the current available capacity of the existing Southern California Edison transmission line; 2) the estimated capacity of the transmission line following reconductoring and any other necessary renovation; and

3) to what degree the line is capable and expected to accommodate additional renewable energy generated in the Project's vicinity.

Response

See Response for Comment 222. Additionally, SCE has not yet completed its analysis of the capacity of the line. This information is not available at this point in time.

Comment Number 226

Comment

The DEIS presents an unduly limited alternatives analysis. EPA believes that the alternatives analysis needs to be expanded to include a full analysis of a reasonable range of alternatives.

Response

See Response for Comment 013.

Comment Number 227

Comment

CEQ Regulations for implementing NEP A (40 CFR, Parts 1500 - 1508) state that the alternatives section of an EIS should "rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly describe the reasons for their having been eliminated" (40 CFR, part 1502.14). All reasonable alternatives that fulfill the purpose of the project's purpose and need should be evaluated in detail, including alternatives outside the legal jurisdiction of the BLM (Council on Environmental Quality's (CEQ) Forty Questions 2 , #2a and #2b). The more alternatives considered, the greater the possibility of avoiding significant impacts. "Reasonable alternatives include those that are practical and feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant. " (CEQ Forty Questions, #2a)

Response

See Response for Comment 013.

Comment Number 228

Comment

The DEIS states that "identifying alternative land is beyond the scope of this EIS" (p. 2-32); however, as stated at 40 CFR 1502.14 (c), the NEP A analysis must include a full range of alternatives, including those that may not be within the jurisdiction of the lead agency. For reasons stated earlier, EPA believes BLM's current Purpose and Need statement is too narrow. Furthermore, when eliminating alternatives from consideration, the DEIS provides insufficient justification. Each alternative was described and a qualitative reason for elimination was provided. This qualitative discussion of the reasons for eliminating alternatives does not identify a clear set of criteria that were used to screen all alternatives in a similar manner. For example, no criteria outlining thresholds for competitively priced renewable energy, minimal plant efficiency rates, and levels of air, water, or habitat impacts were provided. If such criteria were used, the criteria and resulting quantification of impacts should be incorporated into the FEIS. The alternatives analysis should be constrained based upon specific and, as appropriate, quantifiable criteria, such that only those alternatives that do not meet these specific parameters are eliminated from further consideration.

Response

See Response for Comment 148 and 154.

Comment Number 229

Comment

Provide a clear discussion of the reasons for the elimination of alternatives that are not evaluated in detail and provide a clear set of criteria to screen all alternatives. The potential environmental impacts of each alternative should be quantified to the greatest extent practicable. For example, the FEIS should include a matrix that rates each of the alternatives on each of the selection criteria and include this information in the Executive Summary.

Response

See Response for Comment 148.

Comment Number 230

Comment

Clearly identify the economic criteria used for analyzing alternatives. As appropriate, fully consider alternatives rejected in the earlier analysis. The FEIS should also include a concise summary of any cost-benefit analyses performed in the evaluation of the Proposed Project and the various alternatives. This information should also be included in the Executive Summary.

Response

Sections 3.15 and 4.15 provide a discussion of the economic criteria and provide an analysis. Cost benefit is not a primary consideration in BLM's decision making process which places more emphasis on the traditional resource areas such as biological, water, air, and cultural resources. The level of information in the FEIS is adequate for BLM decision makers to make an informed decision.

Comment Number 231

Comment

Discuss how unquantified environmental impacts (such as a reduction in visual impacts) have been determined in the environmental analysis.

Response

See Sections 4.3, 4.9, 4.10, 4.11, and 4.12.

Comment Number 232

Comment

As additional alternatives are considered for evaluation in the FEIS, as well for future projects, EPA continues to recommend the identification of locations that have been previously disturbed or contaminated. The FEIS should discuss any methods or tools BLM has used to identify and compare locations for siting renewable energy facilities, and to ascertain whether or not any disturbed sites are available that would be suitable for the proposed project. For example, the EPA's Re-Powering America initiative works to identify disturbed and contaminated lands appropriate for renewable energy development. For more information on the project visit <http://www.epa.gov/oswercpa/>

Response

BLM also works with applicants to attempt to direct them to acceptable locations for specific activities. This is described in Section 2.3 of the FEIS. BLM does analyze the area under a specific application, once submitted by the applicant.

Comment Number 233

Comment

EPA strongly encourages BLM to promote the siting of renewable energy projects on disturbed, degraded, and contaminated sites before considering large tracts of undisturbed public lands.

Response

See Response for Comment 232.

Comment Number 234

Comment

The FEIS should include information regarding all criteria used to evaluate the CES site and alternatives.

Response

See Response for Comments 154 and 232. BLM did not choose the site, CES chose the site. BLM is processing an application for a specific piece of land. The alternatives are for the same piece of land under CES' application.

Comment Number 235

Comment

The Action Alternatives carried forward for further analysis by BLM include CES's Proposed Action Alternative, a Smaller Project Alternative and a Modified Site Layout Alternative. The Modified Site Layout Alternative is modified so as to reduce visual impacts; however, in order to do so, it increases impacts to hydrology and water resources (see below). EPA recommends that additional alternatives designed to avoid impacts to desert washes be considered in greater detail.

Response

Since Alternatives 3 and 5 did not include impacts to surface water flow, BLM believes that the alternatives analyzed provide enough choice for a decision maker. In fact, the preferred alternative for this project is a combination of Alternative 3 and Alternative 4. See Section 2.5=1 of the FEIS.

Comment Number 236

Comment

Consider additional on-site "Modified Layout" alternatives, particularly those that avoid and/or minimize impacts to sensitive desert washes and their associated communities.

Response

See Response for Comment 235.

Comment Number 237

Comment

We commend BLM for the attention given to the issue of climate change (Section 3.1). However, the DEIS does not include measures to avoid, minimize, or mitigate the effects of climate change on the proposed project, nor does it discuss the extent to which climate change may alter the impacts of the proposed project on the environment. Scientific evidence supports the concern that continued increases in greenhouse gas emissions resulting from human activities will contribute to climate change. Effects on weather patterns, sea level, ocean acidification, chemical reaction rates, and precipitation rates can be expected. These changes may affect the scope and intensity of impacts resulting from the proposed project.

Response

BLM considers these issues to be adequately covered in the EIS as follows:

- 1) The potential effects of climate change in the project area is unknown, and the project design already considers reasonable worst-case weather events, so there is no mitigation required to protect the Project from effects of Climate Change.
- 2) The project already has a number of mitigation measures to reduce criteria pollutant emissions from construction and operation, which will also reduce GHG emissions, and no other mitigation measures are needed for this type of renewable energy project that will cause a large net reduction in GHG emissions. Additionally, the BLM will be requiring a number of other mitigation measures related pollution prevention and environmental stewardship.

Comment Number 238

Comment

Consider how climate change could affect the proposed project and the affected environment, specifically within sensitive areas, and assess how the impacts of the proposed project could be exacerbated by climate change.

Response

The effects of climate change on the Preferred Alternative and the other action Alternatives are difficult to predict. One primary effect of climate change is sea level rise, which, given the location of the project site well away from the coast and the Pacific Ocean, it is unlikely that sea level rises would pose much of a threat to any solar project on the project site. Another principal affect of climate change is the potentially greater incidence of wild fires. Given the desert location of the project and the limited vegetation on the

site, it is unlikely that increased wildfires as a result of climate change will pose a threat substantially different than the existing risks associated with wildfires, Sections 3.14 and 4.14 in the FEIS. None of the other recognized potential effects of climate change are expected to pose much of a threat to the project site or a solar project on that site.

Comment Number 239

Comment

Identify strategies to more effectively monitor for climate change impacts in the surrounding area, such as monitoring groundwater change or special status species.

Response

The understanding of how and when climate change may result in noticeable effects on the different species and habitats within the desert is unknown and speculative at this time. Similarly, changes in hydrologic regimes for a specific area are unknown at this time. Based on these reasons, BLM has determined that discussion of climate change on hydrological regimes and biological resources are not necessary in this analysis.

Comment Number 240

Comment

Quantify and disclose the anticipated climate change-related benefits of solar energy. We suggest quantifying the greenhouse gas emissions that would be produced by other types of electric generating facilities (solar, geothermal, natural gas, coal burning, and nuclear) generating comparable amounts of electricity, and compiling and comparing these values.

Response

See comment response 238. Additionally, BLM considers this issue to be adequately covered in the EIS. The understanding of specific benefits related to climate change is unknown and speculative at this time. BLM has determined that a complex analysis of greenhouse gas emissions for various types of energy generation is not necessary for this FEIS.

Comment Number 241

Comment

The DEIS contains numerous inconsistencies. For example, while the text states that no intermittent streams or rivers exist on or adjacent to the site, the figures (such as 3.5-1) label hydrologic features running through the site as "intermittent stream / river". Furthermore, the discussion of the outcome of the desert tortoise survey at 3.6-21 does not agree with the data presented on figure 3.6-3. A number of such inconsistencies exist in the document. Please correct these errors.

Response

BLM corrected the issues that were identified.

Comment Number 242

Comment

Our principal concern with this project at this time relates to the source of the water that will be used in its construction and operation. Because this is a photovoltaic project, it is projected to use significantly less water than other solar technologies and most, if not all, of the water used once construction is completed will be for panel washing.

DEIS at 3.5-6. The DEIS is notably vague about the amount of water that will be necessary for this particular purpose, saying that it will be between 10,000 and 20,000 gallons for washing panels once a year in Phase 1 and between 12,000 and 25,000 gallons in Phase 2. Id. at 2-22 - 2-23. Those are very wide margins of uncertainty, and we could find no explanation for them in the draft. Is it because the company has no definite idea how often it will have to wash panels or is it because the amount of panel washing will depend on weather conditions? Or is there another possible reason not presented in the document?

Response

See Response for Comment 041 and 046.

Comment Number 243

Comment

Of even greater concern is that the source of this water is not identified. At one point, the DEIS says the needed water will be acquired from "local large industrial companies or municipal water companies," DEIS at 2-23, at another that it will come "from a permitted off-site source," id. At 4.5-3, and at still another that it might come from new or existing on-site wells or off-site sources, id. at 3.5-6, although subsequently we learn that there are no known on-site wells, see, id., Figure 3.5-1. Section 4.15 at page 372 states that the water will be from "off-site" sources but does not specify what or where those sources are. We also note that at 4.18.1.5 there is an apparent typo in the text regarding the water source which adds to the confusion around this issue: "The Proposed Action would use (emphasis added) surface water or groundwater and would instead use off-site and permitted municipal or industrial water sources for dust control and panel cleaning. Therefore, the Proposed Action would not cause an irreversible or irretrievable commitment of water resources in the project area."

Response

See Response for Comment 046.

Comment Number 244

Comment

The Bureau should not permit a development like this one to go forward without assuring itself and the public, the owners of these lands - that its proponents can fully satisfy this critical need. Rather than let Chevron lock up what appears to be an appropriate site for solar development, one that possesses "unique and extreme levels of solar radiation," id. at 2-24, without showing that it can actually follow through with the project, the BLM should require the company to prove that it has a contract or some other firm arrangement for the necessary water.

Response

BLM is aware of several sources of water that Chevron has access to utilize for this project. Chevron would like the flexibility to utilize various water sources during the 30 year life of the project.

Comment Number 245

Comment

The topic of flood risk raises a somewhat similar concern. Although the DEIS acknowledges that there is a risk of flooding at this site, see, e.g., DEIS at 2-30, it concedes that, due to lack of data, the risk cannot be estimated and, as a result, potential impacts of flooding cannot be assessed, see, e.g., id. at 4.5-2. We appreciate the frankness on this topic and hope that this "hole" will be filled in the final document.

Response

See Response for Comment 052. Additionally, BLM has requested CES to complete a more detailed hydrology study of the site. This hydrology study is not yet complete. The finding of this study will allow BLM to better evaluate specific drainage issues and potential for flooding. This study and its findings will be discussed in the Record of Decision.

Comment Number 246

Comment

Our concerns with the DEIS relate to three key issues: the purpose and need statement, the alternatives considered, and the cumulative impact analysis, all of which, unfortunately, were problems with the Bureau's first solar DEIS, the Ivanpah DEIS. In all these respects, this document is much better than the Ivanpah draft, but it could - and should - be better yet.

Response

See Response for Comment 029 and 013.

Comment Number 247

Comment

The purpose and need statement for this project is slightly broader than the one in the Ivanpah draft, but it remains too narrow. Ivanpah's purpose and need was explicitly limited to a stark dichotomy: "approve" or "deny" the company's application for a solar project and, as the result, the document addressed only the "no action" option and the "proposed project." A supplemental draft with a revised purpose and need and additional alternatives was recently issued in an attempt remedy this egregious approach to "the heart" of the process established by the National Environmental Policy Act (NEPA).

Response

See Response for Comment 013 and 029.

Comment Number 248

Comment

The draft states that the BLM's purpose and need is "to respond to" the company's ROW application, see, e.g., DEIS at 1-1, and, that in response, the agency has identified five alternatives, see, e.g., id. at ES-2.2-1. In reality though, the Bureau seems to still be "stuck" in the Ivanpah dichotomy. For example, at several points, the draft states "BLM's purpose and need is to process a ROW application." See, e.g., id. at 2-32, 2-36. The BLM should avoid both this mindset as well as too narrow a statement of purpose and need in order to help ensure that its EISs are legally defensible documents. In place of the statement that was used here, our organizations urge the adoption of the following to achieve these goals:

The purpose of the proposed action is to "facilitate environmentally responsible commercial development of solar energy projects consistent with the statutory authorities and policies applicable to the Bureau of Land Management, including those providing for contributions towards achieving the renewable energy and economic stimulus and renewable energy development objectives under the Energy Policy Act of 2005 (EPA), the American Recovery and Re- Investment Act, and Presidential and Secretarial orders. The need for this action is to implement Federal policies, orders and laws that mandate or encourage the development of renewable energy sources, including the Energy Policy Act of 2005, which requires the Department of the Interior to seek to approve at least 10,000 MW of non-hydropower renewable energy on public lands by 2015, and the Federal policy goal of producing 10% of the nation's electricity from renewable resources by 2010 and 25% by 2025; to enable effective implementation of the economic incentives for qualifying projects intended by the American Recovery and Reinvestment Act; and to support the State of California's renewable energy and climate change objectives, consistent with BLM's mandates and responsibilities.

The kind of purpose and need statement would clearly satisfy applicable legal requirements, see, National Parks Conservation Assn v. BLM, 586 F.3d 735 (9th Cir. 2009), and thus help ensure environmentally appropriate projects such as this one appears to be will not only be permitted will also be built without unnecessary delays.

Response

See Response for Comment 013 and 029.

Comment Number 249

Comment

As indicated above, the draft states that it addresses five alternatives. At the same time, its authors clearly understand that the "real" number is smaller. For example, the DEIS repeatedly points to the similarities between Alternatives 3 and 4. For example, those two options would produce the same amount of MW, have the same construction schedule, features and project components and would use the same amount of water DEIS at 4.4-3,4.5-4. Alternative 4 is "just" five acres smaller than 3. Id. at 4.4-3 - although the alteration would clearly make a difference to views of the project from SR 247 addressing one of the major local concerns about this project. See, also, id. at 2-24 ("project components, project phasing, energy generated, access roads, transmission interconnect and construction methods would be the same as those previously described for CES's Proposed Action"). Similarly, Alternatives 1 and 2 aren't really different either. See, e.g., Table ES-1, Comparison Summary of Effects of Proposed Action

and Alternatives (identical statements for each of the "alternatives" in every single category).

Response

BLM believes that the alternatives in the FEIS provide an adequate range for a decision maker to understand the potential impacts from a project and to minimize these impacts.

Comment Number 250

Comment

Alternative 5, however, is a different option and one that is significantly smaller than the proposed action - 30 MW vs. 45 MW. See, e.g., DEIS at 2-25. We commend the Barstow Field Office for including such an option. A smaller alternative is key to establishing a real range as well as to providing readers a fuller understanding of the tradeoffs inherent in the other larger "action" alternatives. Thanks to the inclusion of this option here, it appears that a smaller project would not significantly reduce the impacts of the construction and operation of the proposed project while it would definitely reduce the megawatts of renewable energy generated.

Response

See Response for Comment 249.

Comment Number 251

Comment

As for the draft's treatment of cumulative impacts, we think it could be improved. Currently it seems quite lacking in quantitative information, including quantitative information about proposed utility scale solar projects in the area. There are three applications for large scale solar projects within a six mile radius of the Lucerne Valley project see 3-18.2. Because the Bureau is the permitting agency for those projects, it should have on hand information that could be used to develop estimates to address at least some key topics such as air quality and biological resources for example. The inclusion of such information will strengthen this document and contribute to more informed decision-making.

Response

See Response for Comment 023.

Comment Number 252

Comment

In addition to the three proposed solar projects within a six mile radius of the project site, there are permitted residential and commercial projects that will also contribute to cumulative impacts. While these projects were not permitted by the Bureau, all reasonable efforts must be made to obtain information regarding their potential impacts and construction timing so that a full picture of cumulative impacts can be presented in the final EIS.

Response

See Response for Comment 020 and 023.

E-mails

Comment Number 501

Comment

I hope that if this project is approved, there will be some mechanism, such as a bond, to absolutely ensure that, when this unit reaches the end of its useful life, the area will be completely cleaned up and returned to its original condition.

Response

A bond is required and additional NEPA compliance will be completed for the reclamation plan. Section 2.2.3.6, Decommissioning of the DEIS, states "The expected life of the project would be 30 years. Given the unique and extreme levels of solar radiation at the site, it is highly plausible that new and

improved solar power generating technology would be deployed at the site to continue renewable power generation. However, should the site be removed from power generation service, the site would be made suitable for reclamation. All equipment, buildings, concrete foundations, and driven piles would be removed from the site. Consistent with BLM requirements, the Applicant will prepare a detailed decommissioning plan that includes specific decommissioning procedures that both protects public health and safety and is environmentally acceptable for approval by the BLM. The decommissioning plan must be approved by the BLM prior to permanent decommissioning. When the BLM begins to consider decommissioning, it will contact the USFWS to determine whether additional Section 7 consultation would be appropriate. Materials used on-site would be reused at other locations, sold as scrap, or recycled whenever possible.”

Comment Number 502

Comment

I feel that all BLM leases should include such a provision so that our descendants don't have to face the clean-ups that are now a problem with abandoned mines. It must be made impossible for such messes to be left for public clean-up in the future.

Response

See Response for Comment 501.

Comment Number 503

Comment

Dear Mr. Hollenbacher, I sent you a previous e-mail about a property I own in Lucerne Valley that might make a great headquarters for your project. The address is 10760 Kendall Rd. What may make this property of interest to Chevron, is that there is warehouse with 4,000 sq. ft., not including two integral storage containers providing 640 more sq. ft.,. There is also a separate building with 2,500 sq. ft of office space, with remodeled bathrooms, including two showers. The property is zoned community industrial but residence is allowed. The property is 1.5 acres, totally security fenced, with a very large parking area in front. As I am considering all my possibilities, I would appreciate hearing back from you soon. Of course, if you are not in charge of property leasing, please forward the message. I can be reached at (714) 883-8025 If you e-mail me, please also give me a quick call. Thank you for your time and consideration.
Sincerely Yours, Douglas Metcalf

Response

This information was forwarded to CES.

Public Meeting (Oral Comments)

Comment Number 901

Comment

The DEIS needs to consistently describe and specifically identify the water source for the project.

Response

See Response for Comment 041.

Comment Number 902

Comment

The DEIS also needs to specifically identify the water source so that the public can ascertain whether that source has sufficient capacity to service the project and also how the water will be conveyed from a possible off-site source to the project area.

Response

See Response for Comment 041.

Comment Number 903

Comment

The DEIS should also describe whether that will be potable water or non-potable water, and what Federal, State and local permits are required for the project to receive the water.

Response

See Response for Comment 041.

Comment Number 904

Comment

The DEIS should adequately describe the current and reasonably foreseeable project in the area. Table 3-18-1 lists three solar projects and several residential projects. But as we heard, there are other solar projects in the area, including a solar project proposed by Cannon Solar Partners, and then the Edison PV, power plan.

Response

Section 3.18 of the DEIS includes an accurate description of past, present and reasonably anticipated projects in the vicinity of the proposed action within the identified cumulative effects study areas.

Comment Number 905

Comment

An adequate description of all of the current and foreseeable future projects is necessary so that the project impacts to water supply are adequately reviewed and possibly the groundwater aquifer and subsidence.

Response

See Response to Comment 904.

Comment Number 906

Comment

The DEIS indicates that a streambed alteration agreement is required from the Department of Fish and Game and an encroachment permit from the Department of Transportation. An environmental review under the California Environmental Quality Act may be necessary for these State agencies to issue these permits.

We suggest that the BLM immediately consult with the Department of Fish and Game and the Department of Transportation to make sure that there's no duplication of the agency's resources, the public's time and resources.

Response

The Applicant is consulting with the California Department of Fish and Game regarding a Streambed Alteration Agreement and the California Department of Transportation regarding an Encroachment Permit.

Comment Number 907

Comment

Our town is being overrun with these projects. I'm bothered that so few people from Lucerne Valley are here tonight. Some of them that are even neighbors to this particular project and are very vocal and aren't here tonight, so I'm kind of wondering how the word got out about this meeting. But let me get on to my comments.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 908

Comment

They're kind of general, and they have to do with our national problems right now, and I feel that applies to this very much. This Obama care is a great example and a very parallel situation to this. We're having this stuff ram rodded on us. The public is against the government as it stands now, and the more the government -- the public wakes up, the more they're against what the government's doing, but people don't really seem to realize.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 909

Comment

We need to protest, you guys. We've got to write letters. We've got to call. We've got to attend meetings, letters to the editors. We just need to get to work, because we're being overrun by this stuff. It started basically with the global warming push. That failed. They turned it into climate change, that then turned into a scandal. That's not really being addressed.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 910

Comment

It's -- these projects are just carrying on, and climate change is in shambles. Nothing's proved doesn't mean climate change doesn't happen. We know it does. We don't know that it's manmade. We have no idea if all these projects are going to do diddly squat to change anything, except they're going to raise the cost of living and tighten up our freedoms, reduce them, and also it looks like they're going to pretty well decimate our community.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 911

Comment

So it's get up and do something now. And I, for one, am -- my comment to you guys, say no to this project and no to the rest of these solar and wind projects until something gets agreed on locally and nationally that this is even practical. Natural gas, nuclear and coal are very efficient. Wind and similar are not.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 912

Comment

So that's all I have to say. And any of you from Lucerne Valley that would like to figure out ways that we can efficiently fight this stuff, please give me your e-mail address at the store, and we'll see what we come up with.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 913

Comment

We're going to send our comments in during that -- was it 60 or 90 days?

And I appreciate you guys sending us a copy. We have one hard copy. We have one. The library has one, and I -- we have an extra disk if anybody wants to -- from the community wants to borrow it. They're welcome to it.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 914

Comment

In terms of water, you're probably aware of the fact that I think your project is sitting on top of Mojave Water Agency pipeline that goes to the Morongo Basin. It's to reach our Morongo basin in Yucca and the Joshua Tree area, and there are turnouts available, so the construction water may be able to a cut deal with the Mojave Water Agency and not have to use good ground water for that purpose.

Response

Based on a review of the data provided by the Mojave Water Agency, the "Morongo Pipeline" is north of the site, generally following the alignment of Foothill Road. The applicant is aware of this water source.

Comment Number 915

Comment

We are an adjudicated basin, and the water can be hauled within the basin. Domestic water could be hauled to the -- to the site. You shouldn't need much after construction, unless they're going to wash the panels now and then.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 916

Comment

We have asked -- LVEDA has asked the County and had a meeting to start looking at the whole of all of these projects because we're getting buried in the parts. Bill is absolutely right. We've just got too many of them. And even the ones that -- if every one of these that has been filed on and EIR's and EIS's being written on, permits are in the process, if they all get approved, we basically could likely -- very likely lose the land-use character -- our land-use configuration of this -- of our community.

Response

See Chapter four a cumulative impact analysis.

Comment Number 917

Comment

And we just did a community plan about three years ago, and we're asking the County to help us do an energy open (sic). Now, how much of that is applied on BLM land? Probably not much. But we still need to look at BLM and the private land projects in unison cumulatively to see exactly what it's going to do to us.

Response

See Response for Comment 916.

Comment Number 918

Comment

So hopefully within that context, we can give you some pretty good comments. And anything we can do to help you make this as good a project as you can, we're available.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 919

Comment

Like Bill, I too am a little disappointed that not more people from Lucerne Valley are making comments on this. But my issues with these types of projects have more to do with public land use than they have with the specific use itself, as anybody who can read and reads local newspapers knows my position on these issues.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 920

Comment

However, my issue with Chevron, for example, is, there's plenty of other projects around here on fallow private land. Hey, listen, if private landowners want to do whatever they want and it conforms with community standards, then that should be fine for communities. But we're talking public land here. This is public. So my issues for Chevron would be, why not find private land? Hey, if I had 600 acres, I'd invite solar people to come in because I would be charging them a rent.

Response

Section 2.3.1 Alternative Sites Considered by CES, states "As part of its initial study, the Applicant used several technical and business criteria to evaluate various potential sites for a solar project. These included whether the sites were located close to existing high voltage transmission lines that would allow access to the market. Because of this project's proposed generating capacity, the cost of building long interconnection lines would make it economically infeasible to construct.

"The Applicant determined that if it pursued the private land option, it would need to enter into several agreements with landowners to assemble a large enough tract to build its facility. This would have required the Applicant to enter into long-term leases without assurance that the necessary permits and approvals would be issued, which it did not believe was economically feasible. Therefore, private lands were eliminated from further consideration."

Comment Number 921

Comment

But I am not convinced, with the information that I have, that the public is going to reap any kind of viable comparative financial benefit from these programs.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 922

Comment

We -- essentially, they're getting rent practically free. We're getting 20 percent or less of installed capacity to produce energy that the taxpayers are subsidizing, and that it's going to cost us all more.

Response

Section 4.15 of the DEIS addressed the social and economic effects of the Proposed Action and its alternatives. For the action alternatives, short-term beneficial effects on the regional economy would occur due to the mobilization of manpower and spending on goods and services. Up to 45 construction personnel would be required during peak construction periods, and an estimated \$20 million would be spent directly on local goods and locally available services.

Approximately \$1.4 M in base rental fees would be generated from the project, and an additional \$5.6 M in annual capacity fees.

Comment Number 923

Comment

Now, these, I understand, are legislative imperatives, but they do not -- these projects on public land do not serve the public, in my estimation, and I think there's many other people who also feel this way. That's only one.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 924

Comment

The other thing is, I'm in the mining industry. I do not see or hear or read that these projects are going to be held to the same standards that the mining industry is held to. In the mining industry, it's -- even if this is on public land, we don't obliterate habitat, as these projects do. And when that project is done, we must -- so we have mitigation. The mitigation is one to one. One acre of land given to the government of suitable habitat or up to five, depending on what kind of habitat occupies that land prior to mining. But I don't see that these lands are going to be mitigating to anything at all. For example, if you disturb 500 acres, it's not all fallow land. If you disturb 500 acres, well then how much of that acreage are you going to have to find and give to the taxpayers, Federal government, in some way? I don't see that that's happening. "Mitigation" means -- I don't see anything here that says you have to re-vegetate. I would hope that would be in the conditions. But, in the mining industry, if you disturb land, in 20 or 30 years, when that mine is depleted, you must re-vegetate. I don't see that happening. That's a huge expense, so I hope you're planning for that.

Response

Mitigation measures for adverse impacts on air quality, noise, geology and soils, biological, cultural, and paleontological resources, recreation, transportation, and human health and safety are proposed in the DEIS. Also note that mitigation measure MM BIO-12, Desert Tortoise Off-site Mitigation, proposes to mitigate for the loss of desert tortoise habitat at a ratio of 1:1 for BLM requirements and an additional 1:1 for California Department of Fish and Game requirements.

As noted in Section 1.1.1 of the DEIS, the BLM's review of CES's application will be consistent with BLM Instructional Memorandum 2007-097 (dated April 4, 2007), Solar Energy Development Policy. In accordance with this policy, a bond would be required for solar energy development right-of-way grants to ensure compliance with the terms and conditions of the authorization and the requirements of the regulations, including reclamation.

The proposed decommissioning plan is described in Section 2.3.6 of the DEIS.

Comment Number 925

Comment

But my basic objections to these projects are, they are not economic in any way, without taxpayer subsidies. They're more expensive. They're inefficient, and they take away public use from public lands.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Public Meeting (Written Comments)

Comment Number 926

Comment

I think the lands east of the 29 Palms Marine Base would be better suited to renewable energy developers – it would cause less impact on any nearby community it is already serving for similar purposes.

Response

The DEIS considered alternative sites on BLM land, as described in Section 2.3. Two of the alternative sites are about three and four miles southwest of the proposed site. The third alternative site is in Riverside County, approximately 100 miles southeast of the proposed site (See Figure 2-6 in the DEIS).

Comment Number 927

Comment

We live here because we enjoy the desert views. I personally ask that you take your project to another area, preferably an area that is not inhabited by humans.

Response

Your comment is included in the public record and will be taken into account by the authorized officer when a Record of Decision for the project is implemented. We appreciate your input and participation in the public review process.

Comment Number 928

Comment

Along with all of the impacts considered in this project, please consider the impacts on those of us who pay property taxes for the privilege of living in this clean, beautiful desert.

Response

See Response for Comment 916.